

# Union Calendar No. 277

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7

**[Report No. 112–397]**

To authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2012

Mr. MICA (for himself and Mr. DUNCAN of Tennessee) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

FEBRUARY 13, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 31, 2012]

# **A BILL**

To authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes.

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

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

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5        *“American Energy and Infrastructure Jobs Act of 2012”.*

6        (b) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; table of contents.*

*Sec. 2. General definitions.*

*Sec. 3. Effective date.*

**TITLE I—FEDERAL-AID HIGHWAYS**

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

**Subtitle A—Authorization of Programs**

*Sec. 1101. Authorization of appropriations.*

*Sec. 1102. Highway obligation ceiling.*

*Sec. 1103. Alternative Transportation Account obligation ceiling.*

*Sec. 1104. Apportionment.*

*Sec. 1105. Federal-aid systems.*

*Sec. 1106. National Highway System program.*

*Sec. 1107. Surface transportation program.*

*Sec. 1108. Congestion mitigation and air quality improvement program.*

*Sec. 1109. Equity bonus program.*

*Sec. 1110. Project approval and oversight.*

*Sec. 1111. Emergency relief.*

*Sec. 1112. Uniform transferability of Federal-aid highway funds.*

*Sec. 1113. Ferry boats and ferry terminal facilities.*

*Sec. 1114. National highway bridge and tunnel inventory and inspection pro-*  
*gram.*

*Sec. 1115. Minimum investment in highway bridges.*

*Sec. 1116. Minimum penalties for repeat offenders for driving while intoxicated*  
*or driving under the influence.*

*Sec. 1117. Puerto Rico highway program.*

*Sec. 1118. Appalachian development highway system.*

*Sec. 1119. References to Mass Transit Account.*

**Subtitle B—Innovative Financing**

*Sec. 1201. Transportation infrastructure finance and innovation.*

*Sec. 1202. State infrastructure bank program.*

*Sec. 1203. State infrastructure bank capitalization.*

*Sec. 1204. Tolling.*

*Sec. 1205. HOV facilities.*

*Sec. 1206. Public-private partnerships.*

**Subtitle C—Highway Safety**

*Sec. 1301. Highway safety improvement program.*

*Sec. 1302. Railway-highway crossings.*

*Sec. 1303. Highway worker safety.*

*Subtitle D—Freight Mobility*

*Sec. 1401. National freight policy.*

*Sec. 1402. State freight advisory committees.*

*Sec. 1403. State freight plans.*

*Sec. 1404. Trucking productivity.*

*Sec. 1405. Study with respect to truck sizes and weights.*

*Sec. 1406. Maximum weight increase for idle reduction technology on heavy duty vehicles.*

*Subtitle E—Federal Lands and Tribal Transportation*

*Sec. 1501. Federal lands and tribal transportation programs.*

*Sec. 1502. Definitions.*

*Sec. 1503. Conforming amendments.*

*Sec. 1504. Repeals; effective date.*

*Sec. 1505. Clerical amendment.*

*Sec. 1506. Tribal transportation self-governance program.*

*Subtitle F—Program Elimination and Consolidation*

*Sec. 1601. Program elimination and consolidation.*

*Subtitle G—Miscellaneous*

*Sec. 1701. Transportation enhancement activity defined.*

*Sec. 1702. Pavement markings.*

*Sec. 1703. Rest areas.*

*Sec. 1704. Justification reports for access points on the Interstate System.*

*Sec. 1705. Patented or proprietary items.*

*Sec. 1706. Preventive maintenance.*

*Sec. 1707. Mapping.*

*Sec. 1708. Funding flexibility for transportation emergencies.*

*Sec. 1709. Budget justification.*

*Sec. 1710. Extension of over-the-road bus and public transit vehicle exemption from axle weight restrictions.*

*Sec. 1711. Repeal of requirement for Interstate System designation.*

*Sec. 1712. Retroreflectivity.*

*Sec. 1713. Engineering judgment.*

*Sec. 1714. Evacuation routes.*

*Sec. 1715. Truck parking.*

*Sec. 1716. Use of certain administrative expenses.*

*Sec. 1717. Transportation training and employment programs.*

*Sec. 1718. Engineering and design services.*

*Sec. 1719. Notice of certain grant awards.*

*Sec. 1720. Miscellaneous parking amendments.*

*Sec. 1721. Highway Buy America provisions.*

*Sec. 1722. Veterans preference in highway construction.*

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#### *TITLE V—HIGHWAY SAFETY*

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*Sec. 6201. Registration requirements.*

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*Sec. 6303. Commercial vehicle information systems and networks deployment grants.*

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*Sec. 6305. Amendments to safety fitness determination.*

*Sec. 6306. New entrant carriers.*

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*Sec. 6402. Commercial motor vehicle operator training.*

- Sec. 6403. Commercial driver's license program.*
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*Subtitle E—Motor Carrier Safety*

- Sec. 6501. Motor carrier transportation.*
- Sec. 6502. Hours of service study.*
- Sec. 6503. Electronic logging devices.*
- Sec. 6504. Motor Carrier Safety Advisory Committee.*
- Sec. 6505. Transportation of agricultural commodities and farm supplies.*
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- Sec. 6604. Report on small trucking companies.*
- Sec. 6605. Rulemaking on road visibility of agricultural equipment.*
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- Sec. 6607. Regulatory review and revision.*
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**TITLE VII—RESEARCH AND EDUCATION**

- Sec. 7001. Authorization of appropriations.*
- Sec. 7002. Obligation ceiling.*
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- Sec. 7004. Surface transportation research, development, and technology.*
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- Sec. 7008. State planning and research.*
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- Sec. 7014. National intelligent transportation systems program plan.*
- Sec. 7015. Use of funds for intelligent transportation systems activities.*
- Sec. 7016. Intelligent transportation systems program goals and purposes.*
- Sec. 7017. Intelligent transportation systems program general authorities and requirements.*
- Sec. 7018. Intelligent transportation systems research and development.*
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## TITLE VIII—RAILROADS

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- Sec. 8001. Capital grants for Class II and Class III railroads.*  
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*Sec. 8003. Intercity passenger rail capital grants to States.*

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*Sec. 8104. Inspector General of Amtrak.*  
*Sec. 8105. Amtrak management accountability.*  
*Sec. 8106. Amtrak food and beverage service.*  
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*Subtitle C—Project Development and Review*

- Sec. 8201. Project development and review.*

*Subtitle D—Railroad Rehabilitation and Improvement Financing*

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*Subtitle E—Positive Train Control*

- Sec. 8401. Positive train control.*

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- Sec. 8501. Federal Railroad Administration regulations.*

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- Sec. 8601. Miscellaneous corrections, revisions, and repeals.*

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- Sec. 8701. Application of Buy America to intercity passenger rail service corridors.*  
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## TITLE IX—HAZARDOUS MATERIAL TRANSPORTATION

- Sec. 9001. Short title.*  
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*Sec. 9003. Findings.*  
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*Sec. 9006. General regulatory authority.*  
*Sec. 9007. Inspections of motor vehicles transporting radioactive material.*  
*Sec. 9008. Hazmat employee training requirements and grants.*  
*Sec. 9009. Fees.*  
*Sec. 9010. Motor carrier safety permits.*  
*Sec. 9011. Planning and training grants, monitoring, and review.*

- Sec. 9012. Special permits and exclusions.*
- Sec. 9013. Hazardous material uniform motor carrier permit program.*
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- Sec. 9017. Safety reporting.*
- Sec. 9018. Civil penalties.*
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- Sec. 9021. Electronic shipping papers pilot program.*
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#### *TITLE X—WATERBORNE TRANSPORTATION*

- Sec. 10001. Sense of Congress on harbor maintenance.*
- Sec. 10002. Study and report on strategic ports.*

#### *TITLE XI—REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND*

- Sec. 11001. Short title.*
- Sec. 11002. Reauthorization and amendments to the Sport Fish Restoration and Boating Trust Fund.*

#### *TITLE XII—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS*

- Sec. 12001. Short title; effective date.*

##### *Subtitle A—Federal-Aid Highways*

- Sec. 12101. Extension of Federal-aid highway programs.*

##### *Subtitle B—Extension of Highway Safety Programs*

- Sec. 12201. Extension of National Highway Traffic Safety Administration highway safety programs.*
- Sec. 12202. Extension of Federal Motor Carrier Safety Administration programs.*
- Sec. 12203. Additional programs.*

##### *Subtitle C—Public Transportation Programs*

- Sec. 12301. Allocation of funds for planning programs.*
- Sec. 12302. Special rule for urbanized area formula grants.*
- Sec. 12303. Allocating amounts for capital investment grants.*
- Sec. 12304. Apportionment of formula grants for other than urbanized areas.*
- Sec. 12305. Apportionment based on fixed guideway factors.*
- Sec. 12306. Authorizations for public transportation.*
- Sec. 12307. Amendments to SAFETEA-LU.*

#### *TITLE XIII—ADDITIONAL TRANSPORTATION PROVISIONS*

- Sec. 13001. Audit of Union Station Redevelopment Corporation.*
- Sec. 13002. Prohibition on use of funds.*

1 **SEC. 2. GENERAL DEFINITIONS.**

2 *In titles I through XIII of this Act, the following defi-*  
 3 *nitions apply:*

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

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

8 **SEC. 3. EFFECTIVE DATE.**

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

12 ***TITLE I—FEDERAL-AID***  
 13 ***HIGHWAYS***

14 **SEC. 1001. AMENDMENTS TO TITLE 23, UNITED STATES**  
 15 **CODE.**

16 *Except as otherwise expressly provided, whenever in*  
 17 *this title an amendment or repeal is expressed in terms of*  
 18 *an amendment to, or a repeal of, a section or other provi-*  
 19 *sion, the reference shall be considered to be made to a section*  
 20 *or other provision of title 23, United States Code.*

21 ***Subtitle A—Authorization of***  
 22 ***Programs***

23 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

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

1           (1) *NATIONAL HIGHWAY SYSTEM PROGRAM.*—*For*  
2           *the National Highway System program under section*  
3           *119 of title 23, United States Code—*

4                     (A) \$17,400,000,000 for fiscal year 2013;

5                     (B) \$17,600,000,000 for fiscal year 2014;

6                     (C) \$17,600,000,000 for fiscal year 2015;

7                     *and*

8                     (D) \$17,750,000,000 for fiscal year 2016.

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

12                    (A) \$10,500,000,000 for fiscal year 2013;

13                    (B) \$10,550,000,000 for fiscal year 2014;

14                    (C) \$10,600,000,000 for fiscal year 2015;

15                    *and*

16                    (D) \$10,750,000,000 for fiscal year 2016.

17           (3) *HIGHWAY SAFETY IMPROVEMENT PRO-*  
18           *GRAM.*—*For the highway safety improvement pro-*  
19           *gram under section 148 of title 23, United States*  
20           *Code—*

21                    (A) \$2,600,000,000 for fiscal year 2013;

22                    (B) \$2,605,000,000 for fiscal year 2014;

23                    (C) \$2,610,000,000 for fiscal year 2015; *and*

24                    (D) \$2,630,000,000 for fiscal year 2016.

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

5           (5) *FEDERAL LANDS TRANSPORTATION PRO-*  
6           *GRAM.*—*For the Federal lands transportation pro-*  
7           *gram under section 203 of title 23, United States*  
8           *Code, \$535,000,000 for each of fiscal years 2013*  
9           *through 2016.*

10          (6) *RECREATIONAL TRAILS PROGRAM.*—*For the*  
11          *recreational trails program under section 206 of title*  
12          *23, United States Code, \$85,000,000 for each of fiscal*  
13          *years 2013 through 2016.*

14          (7) *APPALACHIAN DEVELOPMENT HIGHWAY SYS-*  
15          *TEM PROGRAM.*—*For the Appalachian development*  
16          *highway system program under section 14501 of title*  
17          *40, United States Code, \$470,000,000 for each of fis-*  
18          *cal years 2013 through 2016.*

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

23               (1) *CONGESTION MITIGATION AND AIR QUALITY*  
24               *IMPROVEMENT PROGRAM.*—*For the congestion mitiga-*  
25               *tion and air quality improvement program under sec-*

1        *tion 149 of title 23, United States Code,*  
 2        *\$2,000,000,000 for each of fiscal years 2013 through*  
 3        *2016.*

4            (2) *FERRY BOAT AND FERRY TERMINAL FACILI-*  
 5        *TIES PROGRAM.—For the ferry boat and ferry ter-*  
 6        *минаl facilities program under section 147 of title 23,*  
 7        *United States Code, \$67,000,000 for each of fiscal*  
 8        *years 2013 through 2016.*

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

13            (4) *TERRITORIAL HIGHWAY PROGRAM.—For the*  
 14        *territorial highway program under section 215 of title*  
 15        *23, United States Code, \$50,000,000 for each of fiscal*  
 16        *years 2013 through 2016.*

17        (c) *DISADVANTAGED BUSINESS ENTERPRISES.—*

18            (1) *DEFINITIONS.—In this subsection, the fol-*  
 19        *lowing definitions apply:*

20            (A) *SMALL BUSINESS CONCERN.—*

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

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

10                  (B) *SOCIALLY AND ECONOMICALLY DIS-*  
11                  *ADVANTAGED INDIVIDUALS.*—*The term “socially*  
12                  *and economically disadvantaged individuals”*  
13                  *means—*

14                         (i) *women; and*

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

21                  (2) *AMOUNTS FOR SMALL BUSINESS CON-*  
22                  *CERNS.*—*Except to the extent that the Secretary deter-*  
23                  *mines otherwise, not less than 10 percent of the*  
24                  *amounts made available for any program under titles*  
25                  *I, II, and VII of this Act and section 403(a) of title*

23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

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

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

(i) women;

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

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

(4) UNIFORM CERTIFICATION.—

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

1           (B) *INCLUSIONS.*—*The minimum uniform*  
2           *criteria established under subparagraph (A) shall*  
3           *include, with respect to a potential small busi-*  
4           *ness concern—*

- 5                     (i) *on-site visits;*
- 6                     (ii) *personal interviews with personnel;*
- 7                     (iii) *issuance or inspection of licenses;*
- 8                     (iv) *analyses of stock ownership;*
- 9                     (v) *listings of equipment;*
- 10                    (vi) *analyses of bonding capacity;*
- 11                    (vii) *listings of work completed;*
- 12                    (viii) *examination of the resumes of*  
13           *principal owners;*
- 14                    (ix) *analyses of financial capacity;*
- 15                    *and*
- 16                    (x) *analyses of the type of work pre-*  
17           *ferred.*

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

21                     (A) *information concerning disadvantaged*  
22                     *business enterprise awards, commitments, and*  
23                     *achievements; and*

24                     (B) *such other information as the Secretary*  
25                     *determines to be appropriate for the proper mon-*

1            *itoring of the disadvantaged business enterprise*  
 2            *program.*

3            (6) *COMPLIANCE WITH COURT ORDERS.*—*Noth-*  
 4            *ing in this subsection limits the eligibility of an indi-*  
 5            *vidual or entity to receive funds made available*  
 6            *under titles I, II, and VII of this Act and section*  
 7            *403(a) of title 23, United States Code, if the entity*  
 8            *or person is prevented, in whole or in part, from com-*  
 9            *plying with paragraph (2) because a Federal court*  
 10           *issues a final order in which the court finds that a*  
 11           *requirement or the implementation of paragraph (2)*  
 12           *is unconstitutional.*

13 ***SEC. 1102. HIGHWAY OBLIGATION CEILING.***

14           (a) *GENERAL LIMITATION.*—*Subject to subsection (f),*  
 15           *and notwithstanding any other provision of law, the obliga-*  
 16           *tions for Federal-aid highway and highway safety construc-*  
 17           *tion programs authorized from the Highway Trust Fund*  
 18           *(other than the Alternative Transportation Account) shall*  
 19           *not exceed—*

20           (1) *\$37,366,000,000 for fiscal year 2013;*

21           (2) *\$37,621,000,000 for fiscal year 2014;*

22           (3) *\$37,676,000,000 for fiscal year 2015; and*

23           (4) *\$38,000,000,000 for fiscal year 2016.*

24           (b) *EXCEPTIONS.*—*The limitations under subsection*

25           (a) *shall not apply to obligations under or for—*

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

2           (2) *section 147 of the Surface Transportation As-*  
3 *istance Act of 1978 (23 U.S.C. 144 note; 92 Stat.*  
4 *2714);*

5           (3) *section 9 of the Federal-Aid Highway Act of*  
6 *1981 (Public Law 97-134; 95 Stat. 1701);*

7           (4) *subsections (b) and (j) of section 131 of the*  
8 *Surface Transportation Assistance Act of 1982 (Pub-*  
9 *lic Law 97-424; 96 Stat. 2119);*

10          (5) *subsections (b) and (c) of section 149 of the*  
11 *Surface Transportation and Uniform Relocation As-*  
12 *istance Act of 1987 (Public Law 100-17; 101 Stat.*  
13 *198);*

14          (6) *sections 1103 through 1108 of the Intermodal*  
15 *Surface Transportation Efficiency Act of 1991 (Pub-*  
16 *lic Law 102-240; 105 Stat. 2027);*

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

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

23          (9) *Federal-aid highway programs for which ob-*  
24 *ligation authority was made available under the*  
25 *Transportation Equity Act for the 21st Century (Pub-*

1        *lic Law 105–178; 112 Stat. 107) or subsequent public*  
 2        *laws for multiple years or to remain available until*  
 3        *used, but only to the extent that the obligation author-*  
 4        *ity has not lapsed or been used;*

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

9            *(11) section 1603 of SAFETEA–LU (Public Law*  
 10        *109–59; 119 Stat. 1248), to the extent that funds obli-*  
 11        *gated in accordance with that section were not subject*  
 12        *to a limitation on obligations at the time at which*  
 13        *the funds were initially made available for obligation;*  
 14        *and*

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

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

21            *(1) shall not distribute obligation authority pro-*  
 22        *vided by subsection (a) for the fiscal year for amounts*  
 23        *authorized for administrative expenses and programs*  
 24        *by section 104(a) of title 23, United States Code;*

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

7           (3) shall determine the ratio that—

8                   (A) the obligation authority provided by  
9                   subsection (a) for the fiscal year, less the aggre-  
10                  gate of amounts not distributed under para-  
11                  graphs (1) and (2); bears to

12                   (B) the total of the sums authorized to be  
13                   appropriated for Federal-aid highway and high-  
14                   way safety construction programs (other than  
15                   sums authorized to be appropriated for provi-  
16                   sions of law described in paragraphs (1) through  
17                   (11) of subsection (b) and sums authorized to be  
18                   appropriated for section 105 of title 23, United  
19                   States Code, equal to the amount referred to in  
20                   subsection (b)(12) for the fiscal year), less the ag-  
21                   gregate of amounts not distributed under para-  
22                   graphs (1) and (2);

23           (4)(A) shall distribute the obligation authority  
24           provided by subsection (a) less the aggregate of  
25           amounts not distributed under paragraphs (1) and

1       (2), for section 14501 of title 40, United States Code,  
2       so that the amount of obligation authority available  
3       for that section is equal to the amount determined by  
4       multiplying—

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

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

9       (B) shall distribute \$2,000,000,000 for section  
10      105 of title 23, United States Code;

11       (5) shall distribute among the States the obliga-  
12      tion authority provided by subsection (a), less the ag-  
13      gregate amounts not distributed under paragraphs (1)  
14      and (2) and the amounts distributed under para-  
15      graph (4), for each of the programs that are allocated  
16      by the Secretary under this Act and title 23, United  
17      States Code (other than to programs to which para-  
18      graph (1) applies), by multiplying—

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

21               (B) the amounts authorized to be appro-  
22      priated for each such program for the fiscal year;  
23      and

24       (6) shall distribute the obligation authority pro-  
25      vided by subsection (a), less the aggregate of amounts

1        *not distributed under paragraphs (1) and (2) and the*  
 2        *aggregate of amounts distributed under paragraphs*  
 3        *(4) and (5), for Federal-aid highway and highway*  
 4        *safety construction programs (other than the amounts*  
 5        *apportioned for the equity bonus program, but only*  
 6        *to the extent that the amounts apportioned for the eq-*  
 7        *uity bonus program for the fiscal year are greater*  
 8        *than \$2,639,000,000, and the Appalachian develop-*  
 9        *ment highway system program) that are apportioned*  
 10       *by the Secretary under this Act and title 23, United*  
 11       *States Code, in the ratio that—*

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

15                    *(B) the total of the amounts authorized to*  
 16                    *be appropriated for the programs that are ap-*  
 17                    *portioned to all States for the fiscal year.*

18        *(d) REDISTRIBUTION OF UNUSED OBLIGATION AU-*  
 19        *THORITY.—Notwithstanding subsection (c), the Secretary*  
 20        *shall, after August 1 of each of fiscal years 2013 through*  
 21        *2016—*

22                    *(1) revise a distribution of the obligation author-*  
 23                    *ity made available under subsection (c) if an amount*  
 24                    *distributed cannot be obligated during that fiscal*  
 25                    *year; and*

1           (2) *redistribute sufficient amounts to those States*  
2           *able to obligate amounts in addition to those pre-*  
3           *viously distributed during that fiscal year, giving pri-*  
4           *ority to those States having large unobligated bal-*  
5           *ances of funds apportioned under section 104 of title*  
6           *23, United States Code, and section 144 of such title*  
7           *(as in effect on the day before the date of enactment*  
8           *of this Act).*

9           (e) *REDISTRIBUTION OF CERTAIN AUTHORIZED*  
10 *FUNDS.—*

11           (1) *IN GENERAL.—Not later than 30 days after*  
12           *the date of distribution of obligation authority under*  
13           *subsection (c) for each of fiscal years 2013 through*  
14           *2016, the Secretary shall distribute to the States any*  
15           *funds that—*

16                   (A) *are authorized to be appropriated for*  
17                   *the fiscal year for Federal-aid highway pro-*  
18                   *grams; and*

19                   (B) *the Secretary determines will not be al-*  
20                   *located to the States, and will not be available*  
21                   *for obligation, in the fiscal year due to the impo-*  
22                   *sition of any obligation limitation for the fiscal*  
23                   *year.*

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

4           (3) *AVAILABILITY.*—*Funds distributed under*  
 5           *paragraph (1) shall be available for any purpose de-*  
 6           *scribed in section 133(b) of title 23, United States*  
 7           *Code.*

8           (f) *SPECIAL LIMITATION CHARACTERISTICS.*—*Obliga-*  
 9           *tion authority distributed for a fiscal year under subsection*  
 10          *(c)(4) for the provision specified in subsection (c)(4) shall—*

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

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

17          **SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OB-**  
 18                                 **LIGATION CEILING.**

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

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

3           (1) by striking “Mass Transit Account” and in-  
4 serting “Alternative Transportation Account”; and

5           (2) by inserting “, and amounts made available  
6 from the Alternative Transportation Account to carry  
7 out the congestion mitigation and air quality im-  
8 provement program under section 149, the ferry boat  
9 and ferry terminal facilities program under section  
10 147, the Puerto Rico highway program under section  
11 165, and the territorial highway program under sec-  
12 tion 215,” before “shall be available”.

13 **SEC. 1104. APPORTIONMENT.**

14       Section 104 is amended to read as follows:

15 **“§ 104. Apportionment**

16       “(a) *ADMINISTRATIVE EXPENSES.*—

17           “(1) *IN GENERAL.*—There is authorized to be ap-  
18 propriated from the Highway Trust Fund (other than  
19 the Alternative Transportation Account) to be made  
20 available to the Secretary for administrative expenses  
21 of the Federal Highway Administration \$400,000,000  
22 for each of fiscal years 2013 through 2016.

23           “(2) *PURPOSES.*—The funds made available  
24 under paragraph (1) shall be used—

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

5           “(B) to make transfers of such sums as the  
 6           Secretary determines to be appropriate to the  
 7           Appalachian Regional Commission for adminis-  
 8           trative activities associated with the Appa-  
 9           lachian development highway system.

10          “(3) AVAILABILITY.—Funds made available  
 11          under paragraph (1) shall remain available until ex-  
 12          pended.

13          “(b) APPORTIONMENTS.—On October 1 of each fiscal  
 14          year, the Secretary, after making the set-asides authorized  
 15          by subsection (f), subsections (b) and (c) of section 140, and  
 16          section 130(e), shall apportion the remainder of the sums  
 17          authorized to be appropriated for expenditure on the Na-  
 18          tional Highway System program, the congestion mitigation  
 19          and air quality improvement program, the surface trans-  
 20          portation program, and the highway safety improvement  
 21          program among the several States in the following manner:

22                 “(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

23                 “(A) IN GENERAL.—For the National High-  
 24                 way System program, in accordance with the  
 25                 following formula:

1                   “(i) 15 percent of the apportionments  
2                   in the ratio that—

3                   “(I) the total lane miles of prin-  
4                   cipal arterial routes (excluding Inter-  
5                   state System routes) in each State;  
6                   bears to

7                   “(II) the total lane miles of prin-  
8                   cipal arterial routes (excluding Inter-  
9                   state System routes) in all States.

10                  “(ii) 15 percent of the apportionments  
11                  in the ratio that—

12                  “(I) the total vehicle miles trav-  
13                  eled on lanes on principal arterial  
14                  routes (excluding Interstate System  
15                  routes) in each State; bears to

16                  “(II) the total vehicle miles trav-  
17                  eled on lanes on principal arterial  
18                  routes (excluding Interstate System  
19                  routes) in all States.

20                  “(iii) 5 percent of the apportionments  
21                  in the ratio that—

22                  “(I) the quotient obtained by di-  
23                  viding the total lane miles on prin-  
24                  cipal arterial highways in each State

1                   *by the total population of the State;*  
2                   *bears to*

3                   “(II) *the quotient obtained by di-*  
4                   *viding the total lane miles on prin-*  
5                   *cipal arterial highways in all States*  
6                   *by the total population of all States.*

7                   “(iv) *15 percent of the apportionments*  
8                   *in the ratio that—*

9                   “(I) *the total lane miles on Inter-*  
10                  *state System routes open to traffic in*  
11                  *each State; bears to*

12                  “(II) *the total lane miles on Inter-*  
13                  *state System routes open to traffic in*  
14                  *all States.*

15                  “(v) *15 percent of the apportionments*  
16                  *in the ratio that—*

17                  “(I) *the total vehicle miles trav-*  
18                  *eled on Interstate System routes open*  
19                  *to traffic in each State; bears to*

20                  “(II) *the total vehicle miles trav-*  
21                  *eled on Interstate System routes open*  
22                  *to traffic in all States.*

23                  “(vi) *35 percent of the apportionments*  
24                  *in the ratio that—*

1                   “(I) the total of the annual con-  
 2                   tributions to the Highway Trust Fund  
 3                   (other than the Alternative Transpor-  
 4                   tation Account) attributable to com-  
 5                   mercial vehicles in each State; bears to

6                   “(II) the total of the annual con-  
 7                   tributions to the Highway Trust Fund  
 8                   (other than the Alternative Transpor-  
 9                   tation Account) attributable to com-  
 10                  mercial vehicles in all States.

11                  “(B) MINIMUM APPORTIONMENT.—Notwith-  
 12                  standing subparagraph (A), each State shall re-  
 13                  ceive a minimum of  $\frac{1}{2}$  of 1 percent of the funds  
 14                  apportioned for a fiscal year under this para-  
 15                  graph.

16                  “(2) CONGESTION MITIGATION AND AIR QUALITY  
 17                  IMPROVEMENT PROGRAM.—

18                  “(A) IN GENERAL.—For the congestion  
 19                  mitigation and air quality improvement pro-  
 20                  gram, in the ratio that—

21                  “(i) the total of all weighted nonattain-  
 22                  ment and maintenance area populations in  
 23                  each State; bears to

1                   “(ii) *the total of all weighted non-*  
 2                   *attainment and maintenance area popu-*  
 3                   *lations in all States.*

4                   “(B) *CALCULATION OF WEIGHTED NON-*  
 5                   *ATTAINMENT AND MAINTENANCE AREA POPU-*  
 6                   *LATION.—Subject to subparagraph (C), for the*  
 7                   *purpose of subparagraph (A), the weighted non-*  
 8                   *attainment and maintenance area population*  
 9                   *shall be calculated by multiplying the population*  
 10                   *of each area in a State that was a nonattain-*  
 11                   *ment area or maintenance area as described in*  
 12                   *section 149(b) for ozone or carbon monoxide by*  
 13                   *a factor of—*

14                   “(i) *1.0 if, at the time of the appor-*  
 15                   *tionment, the area is a maintenance area;*

16                   “(ii) *1.0 if, at the time of the appor-*  
 17                   *tionment, the area is classified as a mar-*  
 18                   *ginal ozone nonattainment area under sub-*  
 19                   *part 2 of part D of title I of the Clean Air*  
 20                   *Act (42 U.S.C. 7511 et seq.);*

21                   “(iii) *1.1 if, at the time of the appor-*  
 22                   *tionment, the area is classified as a mod-*  
 23                   *erate ozone nonattainment area under such*  
 24                   *subpart;*

1           “(iv) 1.2 if, at the time of the appor-  
2           tionment, the area is classified as a serious  
3           ozone nonattainment area under such sub-  
4           part;

5           “(v) 1.3 if, at the time of the appor-  
6           tionment, the area is classified as a severe  
7           ozone nonattainment area under such sub-  
8           part;

9           “(vi) 1.4 if, at the time of the appor-  
10          tionment, the area is classified as an ex-  
11          treme ozone nonattainment area under such  
12          subpart;

13          “(vii) 1.0 if, at the time of the appor-  
14          tionment, the area is not a nonattainment  
15          or maintenance area as described in section  
16          149(b) for ozone, but is classified under sub-  
17          part 3 of part D of title I of such Act (42  
18          U.S.C. 7512 et seq.) as a nonattainment  
19          area described in section 149(b) for carbon  
20          monoxide; or

21          “(viii) 1.0 if, at the time of the appor-  
22          tionment, an area is designated as non-  
23          attainment for ozone under subpart 1 of  
24          part D of title I of such Act (42 U.S.C.  
25          7501 et seq.).

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

“(D) *MINIMUM APPORTIONMENT.*—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned for a fiscal year under this paragraph.

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

“(3) *SURFACE TRANSPORTATION PROGRAM.*—

1                   “(A) *IN GENERAL.*—*For the surface trans-*  
 2                   *portation program, in accordance with the fol-*  
 3                   *lowing formula:*

4                   “(i) *15 percent of the apportionments*  
 5                   *in the ratio that—*

6                   “(I) *the total lane miles of Fed-*  
 7                   *eral-aid highways in each State; bears*  
 8                   *to*

9                   “(II) *the total lane miles of Fed-*  
 10                  *eral-aid highways in all States.*

11                  “(ii) *25 percent of the apportionments*  
 12                  *in the ratio that—*

13                  “(I) *the total vehicle miles trav-*  
 14                  *eled on lanes on Federal-aid highways*  
 15                  *in each State; bears to*

16                  “(II) *the total vehicle miles trav-*  
 17                  *eled on lanes on Federal-aid highways*  
 18                  *in all States.*

19                  “(iii) *25 percent of the apportionments*  
 20                  *in the ratio that—*

21                  “(I) *the estimated tax payments*  
 22                  *attributable to highway users in each*  
 23                  *State paid into the Highway Trust*  
 24                  *Fund (other than the Alternative*  
 25                  *Transportation Account) in the latest*

1           *fiscal year for which data are avail-*  
 2           *able; bears to*

3           “(II) *the estimated tax payments*  
 4           *attributable to highway users in all*  
 5           *States paid into the Highway Trust*  
 6           *Fund (other than the Alternative*  
 7           *Transportation Account) in the latest*  
 8           *fiscal year for which data are avail-*  
 9           *able.*

10           “(iv) *35 percent of the apportionments*  
 11           *in the ratio that—*

12           “(I) *the bridge replacement and*  
 13           *rehabilitation costs in each State (as*  
 14           *determined under subsection (c)(4));*  
 15           *bears to*

16           “(II) *the bridge replacement and*  
 17           *rehabilitation costs in all States (as*  
 18           *determined under subsection (c)(5)).*

19           “(B) *MINIMUM APPORTIONMENT.—Notwith-*  
 20           *standing subparagraph (A), each State shall re-*  
 21           *ceive a minimum of 1/2 of 1 percent of the funds*  
 22           *apportioned for a fiscal year under this para-*  
 23           *graph.*

24           “[(4) *Reserved.*]

1           “(5) *HIGHWAY SAFETY IMPROVEMENT PRO-*  
2       *GRAM.*—

3           “(A) *IN GENERAL.*—*For the highway safety*  
4       *improvement program, in accordance with the*  
5       *following formula:*

6           “(i)  $33\frac{1}{3}$  percent of the apporportion-  
7       *ments in the ratio that—*

8           “(I) *the total lane miles of Fed-*  
9       *eral-aid highways in each State; bears*  
10       *to*

11           “(II) *the total lane miles of Fed-*  
12       *eral-aid highways in all States.*

13           “(ii)  $33\frac{1}{3}$  percent of the apporportion-  
14       *ments in the ratio that—*

15           “(I) *the total vehicle miles trav-*  
16       *eled on lanes on Federal-aid highways*  
17       *in each State; bears to*

18           “(II) *the total vehicle miles trav-*  
19       *eled on lanes on Federal-aid highways*  
20       *in all States.*

21           “(iii)  $33\frac{1}{3}$  percent of the apporportion-  
22       *ments in the ratio that—*

23           “(I) *the number of fatalities on*  
24       *Federal-aid highways in each State in*

1                   *the latest fiscal year for which data are*  
2                   *available; bears to*

3                   “(II) *the number of fatalities on*  
4                   *Federal-aid highways in all States in*  
5                   *the latest fiscal year for which data are*  
6                   *available.*

7                   “(B) *MINIMUM APPORTIONMENT.—Notwith-*  
8                   *standing subparagraph (A), each State shall re-*  
9                   *ceive a minimum of  $\frac{1}{2}$  of 1 percent of the funds*  
10                  *apportioned for a fiscal year under this para-*  
11                  *graph.*

12                  “(c) *BRIDGE CALCULATION.—For each fiscal year, the*  
13                  *Secretary shall determine the bridge replacement and reha-*  
14                  *bilitation costs as follows:*

15                   “(1) *The Secretary shall identify deficient high-*  
16                   *way bridges in each State.*

17                   “(2) *The Secretary shall place each deficient*  
18                   *highway bridge into one of the following categories:*

19                           “(A) *Federal-aid highway bridges eligible*  
20                           *for replacement.*

21                           “(B) *Federal-aid highway bridges eligible*  
22                           *for rehabilitation.*

23                           “(C) *Bridges not on Federal-aid highways*  
24                           *eligible for replacement.*

1                   “(D) *Bridges not on Federal-aid highways*  
 2                   *eligible for rehabilitation.*

3                   “(3) *The Secretary shall determine—*

4                   “(A) *the deck area of deficient highway*  
 5                   *bridges in each category described in paragraph*  
 6                   *(2); and*

7                   “(B) *the respective unit price of such deck*  
 8                   *area on a State-by-State basis.*

9                   “(4) *The Secretary shall determine the bridge re-*  
 10                  *placement and rehabilitation costs for each State by*  
 11                  *multiplying the deck area of deficient bridges in the*  
 12                  *State by the respective unit price.*

13                  “(5) *The Secretary shall determine the bridge re-*  
 14                  *placement and rehabilitation costs for all States by*  
 15                  *multiplying the deck area of deficient bridges in all*  
 16                  *States by the respective unit price.*

17                  “(d) *CERTIFICATION OF APPORTIONMENTS.—*

18                  “(1) *IN GENERAL.—On October 1 of each fiscal*  
 19                  *year, the Secretary shall certify to each of the State*  
 20                  *transportation departments the sums which the Sec-*  
 21                  *retary has apportioned under this section to each*  
 22                  *State for such fiscal year. To permit the States to de-*  
 23                  *velop adequate plans for the utilization of appor-*  
 24                  *tioned sums, the Secretary shall advise each State of*  
 25                  *the amount that will be apportioned each year under*

1        *this section not later than 90 days before the begin-*  
 2        *ning of the fiscal year for which the sums to be ap-*  
 3        *portioned are authorized.*

4            “(2) *NOTICE TO STATES.*—*If the Secretary has*  
 5        *not made an apportionment under this section or sec-*  
 6        *tion 105 by the 21st day of a fiscal year beginning*  
 7        *after September 30, 2012, the Secretary shall trans-*  
 8        *mit, by such 21st day, to the Committee on Transpor-*  
 9        *tation and Infrastructure of the House of Representa-*  
 10       *tives and the Committee on Environment and Public*  
 11       *Works of the Senate a written statement of the reason*  
 12       *for not making such apportionment in a timely man-*  
 13       *ner.*

14           “(e) *AUDITS OF HIGHWAY TRUST FUND.*—*From ad-*  
 15       *ministrative funds made available under subsection (a), the*  
 16       *Secretary may reimburse the Office of Inspector General of*  
 17       *the Department of Transportation for the conduct of annual*  
 18       *audits of financial statements in accordance with section*  
 19       *3521 of title 31.*

20           “(f) *METROPOLITAN PLANNING.*—

21           “(1) *SET ASIDE.*—*On October 1 of each fiscal*  
 22       *year, the Secretary shall set aside 1.15 percent of the*  
 23       *funds authorized to be appropriated for the National*  
 24       *Highway System program and surface transportation*

1        *program authorized under this title to carry out the*  
2        *requirements of section 5203 of title 49.*

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

11                *“(3) USE OF FUNDS.—*

12                *“(A) IN GENERAL.—The funds apportioned*  
13        *to any State under paragraph (2) shall be made*  
14        *available by the State to the metropolitan plan-*  
15        *ning organizations responsible for carrying out*  
16        *the provisions of section 5203 of title 49, except*  
17        *that States receiving the minimum apportion-*  
18        *ment under paragraph (2) may, in addition,*  
19        *subject to the approval of the Secretary, use the*  
20        *funds apportioned to finance transportation*  
21        *planning outside of urbanized areas.*

22                *“(B) UNUSED FUNDS.—Any funds that are*  
23        *not used to carry out section 5203 of title 49*  
24        *may be made available by a metropolitan plan-*

1        *ning organization to the State to fund activities*  
2        *under section 5204 of such title.*

3        “(4) *DISTRIBUTION OF FUNDS WITHIN STATES.*—

4                “(A) *IN GENERAL.*—*The distribution within*  
5        *any State of the planning funds made available*  
6        *to agencies under paragraph (3) shall be in ac-*  
7        *cordance with a formula developed by each State*  
8        *and approved by the Secretary that shall con-*  
9        *sider, but not necessarily be limited to, popu-*  
10       *lation, status of planning, attainment of air*  
11       *quality standards, metropolitan area transpor-*  
12       *tation needs, and other factors necessary to pro-*  
13       *vide for an appropriate distribution of funds to*  
14       *carry out the requirements of section 5203 of*  
15       *title 49 and other applicable requirements of*  
16       *Federal law.*

17               “(B) *REIMBURSEMENT.*—*Not later than 30*  
18       *days after the date of receipt by a State of a re-*  
19       *quest for reimbursement of expenditures made by*  
20       *a metropolitan planning organization for car-*  
21       *rying out section 5203 of title 49, the State shall*  
22       *reimburse, from funds distributed under this*  
23       *paragraph to the metropolitan planning organi-*  
24       *zation by the State, the metropolitan planning*  
25       *organization for those expenditures.*

1           “(5) *DETERMINATION OF POPULATION FIG-*  
 2           *URES.—For the purposes of determining population*  
 3           *figures under this subsection, the Secretary shall use*  
 4           *the most recent estimate published by the Secretary of*  
 5           *Commerce.*

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

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

13           “(2) *the balance, as of the last day of the pre-*  
 14           *ceding fiscal year, of the unobligated apportionment*  
 15           *of each State by fiscal year under this section and*  
 16           *section 105;*

17           “(3) *the balance of unobligated sums available*  
 18           *for expenditure at the discretion of the Secretary for*  
 19           *such highways and programs for the fiscal year; and*

20           “(4) *the rates of obligation of funds apportioned*  
 21           *or set aside under this section and sections 105 and*  
 22           *133, according to—*

23           “(A) *program;*

24           “(B) *funding category or subcategory;*

25           “(C) *type of improvement;*

1                   “(D) *State; and*

2                   “(E) *sub-State geographic area, including*  
3                   *urbanized and rural areas, on the basis of the*  
4                   *population of each such area.*

5                   “(h) *TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—*

6                   “(1) *TRANSFER OF HIGHWAY FUNDS FOR TRAN-*  
7                   *SIT PROJECTS.—*

8                   “(A) *IN GENERAL.—Subject to subpara-*  
9                   *graph (B), funds made available under this title*  
10                  *for transit projects or transportation planning*  
11                  *may be transferred to and administered by the*  
12                  *Secretary in accordance with chapter 53 of title*  
13                  *49.*

14                  “(B) *NON-FEDERAL SHARE.—The provi-*  
15                  *sions of this title relating to the non-Federal*  
16                  *share shall apply to the funds transferred under*  
17                  *subparagraph (A).*

18                  “(2) *TRANSFER OF TRANSIT FUNDS FOR HIGH-*  
19                  *WAY PROJECTS.—*

20                  “(A) *IN GENERAL.—Subject to subpara-*  
21                  *graph (B), funds made available under chapter*  
22                  *53 of title 49 for highway projects or transpor-*  
23                  *tation planning may be transferred to and ad-*  
24                  *ministered by the Secretary in accordance with*  
25                  *this title.*

1           “(B) *NON-FEDERAL SHARE.*—*The provi-*  
 2           *sions of chapter 53 of title 49 relating to the*  
 3           *non-Federal share shall apply to funds trans-*  
 4           *ferred under subparagraph (A).*

5           “(3) *TRANSFER OF FUNDS AMONG STATES OR TO*  
 6           *FEDERAL HIGHWAY ADMINISTRATION.*—

7           “(A) *IN GENERAL.*—*Subject to subpara-*  
 8           *graphs (B) and (C), the Secretary, at the request*  
 9           *of a State, may transfer funds apportioned or al-*  
 10          *located under this title to the State to another*  
 11          *State, or to the Federal Highway Administra-*  
 12          *tion, for the purpose of funding one or more*  
 13          *projects that are eligible for assistance with*  
 14          *funds so apportioned or allocated.*

15          “(B) *APPORTIONMENT.*—*A transfer under*  
 16          *subparagraph (A) shall have no effect on any ap-*  
 17          *portionment of funds to a State under this sec-*  
 18          *tion or section 105.*

19          “(C) *SURFACE TRANSPORTATION PRO-*  
 20          *GRAM.*—*Funds that are apportioned or allocated*  
 21          *to a State under subsection (b)(3) and attributed*  
 22          *to an urbanized area of a State with a popu-*  
 23          *lation of over 200,000 individuals under section*  
 24          *133(d)(3) may be transferred under this para-*  
 25          *graph only if the metropolitan planning organi-*

1            *zation designated for the area concurs, in writ-*  
2            *ing, with the transfer request.*

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

8            “(i) *RECREATIONAL TRAILS PROGRAM.—*

9            “(1) *ADMINISTRATIVE COSTS.—Before appor-*  
10           *tioning sums authorized to be appropriated to carry*  
11           *out the recreational trails program under section 206,*  
12           *the Secretary shall deduct for administrative, re-*  
13           *search, technical assistance, and training expenses for*  
14           *such program \$840,000 for each fiscal year. The Sec-*  
15           *retary may enter into contracts with for-profit orga-*  
16           *nizations or contracts, partnerships, or cooperative*  
17           *agreements with other government agencies, institu-*  
18           *tions of higher learning, or nonprofit organizations to*  
19           *perform these tasks.*

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

1           “(A) 50 percent equally among eligible  
2           States.

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

7           “(3) *ELIGIBLE STATE DEFINED.*—In this sub-  
8           section, the term ‘eligible State’ means a State that  
9           meets the requirements of section 206(c).”.

10 **SEC. 1105. FEDERAL-AID SYSTEMS.**

11       Section 103(b) is amended—

12           (1) in paragraph (1)—

13               (A) in the matter preceding subparagraph  
14               (A) by inserting “and the modifications to the  
15               system approved by the Secretary before the date  
16               of enactment of the American Energy and Infra-  
17               structure Jobs Act of 2012” after “1996”; and

18               (B) in subparagraph (C) by inserting “and  
19               commerce” before the period at the end;

20           (2) in paragraph (2)—

21               (A) in subparagraph (B) by inserting “and  
22               border crossings on such routes not included on  
23               the National Highway System before the date of  
24               enactment of the American Energy and Infra-

1       *structure Jobs Act of 2012” before the period at*  
2       *the end; and*

3               *(B) in subparagraph (C) by inserting “not*  
4       *included on the National Highway System before*  
5       *the date of enactment of the American Energy*  
6       *and Infrastructure Jobs Act of 2012” before the*  
7       *period at the end; and*

8       *(3) by striking paragraphs (6) and (7) and in-*  
9       *serting the following:*

10            “(6) *REQUIREMENT FOR STATE ASSET MANAGE-*  
11       *MENT PLAN FOR NATIONAL HIGHWAY SYSTEM.—*

12               “(A) *IN GENERAL.—A State shall develop*  
13       *and implement a risk-based State asset manage-*  
14       *ment plan for managing all infrastructure assets*  
15       *in the right-of-way corridor of the National*  
16       *Highway System based on a process established*  
17       *by the Secretary. The process shall require use of*  
18       *quality information and economic and engineer-*  
19       *ing analysis to identify a sequence of mainte-*  
20       *nance, repair, and rehabilitation actions that*  
21       *will achieve and maintain a desired state of good*  
22       *repair over the lifecycle of the network at the*  
23       *least possible cost.*

24               “(B) *PERFORMANCE GOALS.—A State asset*  
25       *management plan shall include strategies lead-*

ing to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System in a manner consistent with the requirements of chapter 52 of title 49.

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

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

“(ii) *Asset management objectives and measures.*

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

“(iv) *A financial plan.*

“(v) *Investment strategies.*

“(D) *PROCESS.*—Not later than 2 years after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall establish a process by which a

1        *State shall develop and implement a risk-based*  
 2        *State asset management plan described in sub-*  
 3        *paragraph (A).*

4                *“(E) COMPLIANCE.—Notwithstanding sec-*  
 5        *tion 120, with respect to the second fiscal year*  
 6        *beginning after the date of establishment of the*  
 7        *process under subparagraph (D) or any subse-*  
 8        *quent fiscal year, if the Secretary determines*  
 9        *that a State has not developed and implemented*  
 10        *a State asset management plan in a manner*  
 11        *consistent with this section, the Federal share*  
 12        *payable on account of any project or activity*  
 13        *carried out by the State in that fiscal year under*  
 14        *section 119 shall be 70 percent.”.*

15    **SEC. 1106. NATIONAL HIGHWAY SYSTEM PROGRAM.**

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

18    **“§ 119. National Highway System program**

19        *“(a) ESTABLISHMENT.—The Secretary shall establish*  
 20        *and implement a National Highway System program*  
 21        *under this section.*

22        *“(b) PURPOSES.—The purposes of the National High-*  
 23        *way System program shall be—*

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

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

6           “(3) to ensure that investments of National  
7           Highway System program funds are directed to  
8           achievement of performance goals established in a  
9           State’s asset management plan for the National High-  
10          way System under section 103(b)(6).

11          “(c) *ELIGIBLE FACILITIES*.—Except as otherwise spe-  
12          cifically provided by this section, to be eligible for funding  
13          apportioned under section 104(b)(1) to carry out this sec-  
14          tion, a facility must be located on the National Highway  
15          System.

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

19                 “(1) on an eligible facility, as described in sub-  
20                 section (c);

21                 “(2) a project, or is a part of a program of  
22                 projects, supporting progress toward the achievement  
23                 of national performance goals under section 5206 of  
24                 title 49 for improving infrastructure condition, safety,

1        *mobility, or freight movement on the National High-*  
2        *way System;*

3                *“(3) consistent with the requirements of sections*  
4        *5203 and 5204 of title 49; and*

5                *“(4) for one or more of the purposes specified in*  
6        *subsection (e).*

7        *“(e) PROJECT PURPOSES.—A project receiving fund-*  
8        *ing under this section shall be for one or more of the fol-*  
9        *lowing purposes:*

10                *“(1) Construction, reconstruction, resurfacing,*  
11        *restoration, rehabilitation, preservation, or oper-*  
12        *ational improvements of segments of the National*  
13        *Highway System.*

14                *“(2) Construction, reconstruction, replacement*  
15        *(including replacement with fill material), rehabilita-*  
16        *tion, preservation, and protection (including scour*  
17        *countermeasures, seismic retrofits, and impact protec-*  
18        *tion measures) of bridges and tunnels on the National*  
19        *Highway System.*

20                *“(3) Inspection and evaluation, as defined in*  
21        *section 151, of bridges and tunnels on the National*  
22        *Highway System, or inspection and evaluation of*  
23        *other highway infrastructure assets on the National*  
24        *Highway System.*

1           “(4) *Training of bridge and tunnel inspectors, as*  
2           *defined in section 151.*

3           “(5) *Rehabilitation or replacement of existing*  
4           *ferry boats and ferry boat facilities, including ap-*  
5           *proaches, that connect road segments of the National*  
6           *Highway System.*

7           “(6) *Highway safety improvements for segments*  
8           *of the National Highway System.*

9           “(7) *Capital and operating costs for traffic man-*  
10          *agement and traveler information monitoring, man-*  
11          *agement, and control facilities and programs for the*  
12          *National Highway System.*

13          “(8) *Infrastructure-based intelligent transpor-*  
14          *tation systems capital improvements for the National*  
15          *Highway System.*

16          “(9) *Development and implementation of a State*  
17          *asset management plan for the National Highway*  
18          *System in accordance with section 103(b), including*  
19          *data collection, maintenance, and integration and the*  
20          *cost associated with obtaining, updating, and licens-*  
21          *ing software and equipment required for risk-based*  
22          *asset management and performance-based manage-*  
23          *ment.*

1           “(10) *Environmental mitigation efforts related*  
 2           *to projects funded under this section, as described in*  
 3           *subsection (f).*

4           “(11) *Construction of publicly owned intracity*  
 5           *or intercity bus terminals.*

6           “(12) *Environmental restoration and pollution*  
 7           *abatement associated with a project funded under this*  
 8           *section in accordance with section 328.*

9           “(f) *ENVIRONMENTAL MITIGATION.—*

10           “(1) *ELIGIBLE ACTIVITIES.—Environmental*  
 11           *mitigation efforts referred to in subsection (e)(10) in-*  
 12           *clude—*

13                   “(A) *participation in mitigation banking*  
 14                   *or other third-party mitigation arrangements,*  
 15                   *such as—*

16                           “(i) *the purchase of credits from com-*  
 17                           *mercial mitigation banks;*

18                           “(ii) *the establishment and manage-*  
 19                           *ment of agency-sponsored mitigation banks;*  
 20                           *and*

21                           “(iii) *the purchase of credits or estab-*  
 22                           *lishment of in-lieu fee mitigation programs;*

23                   “(B) *contributions to statewide and re-*  
 24                   *gional efforts to conserve, restore, enhance, and*

1           *create natural habitats, wetlands, and other re-*  
2           *sources; and*

3                     *“(C) the development of statewide and re-*  
4           *gional environmental protection plans.*

5                     *“(2) INCLUSION OF OTHER ACTIVITIES.—The*  
6           *banks, efforts, and plans described in paragraph (1)*  
7           *include any such banks, efforts, and plans developed*  
8           *in accordance with applicable law (including regula-*  
9           *tions).*

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

14                        *“(A) Contributions to the mitigation effort*  
15           *may take place concurrent with, in advance of,*  
16           *or subsequent to the construction of a project or*  
17           *projects.*

18                        *“(B) Credits from any agency-sponsored*  
19           *mitigation bank that are attributable to funding*  
20           *under this section may be used only for projects*  
21           *funded under this title unless the agency pays to*  
22           *the Secretary an amount equal to the Federal*  
23           *funds attributable to the mitigation bank credits*  
24           *the agency uses for purposes other than mitiga-*  
25           *tion of a project funded under this title.*

1           “(4) *PREFERENCE.*—*At the discretion of the*  
 2           *project sponsor, preference shall be given, to the max-*  
 3           *imum extent practicable, to mitigating an environ-*  
 4           *mental impact through the use of a mitigation bank*  
 5           *or other third-party mitigation arrangement, if the*  
 6           *use of credits from the mitigation bank for the project*  
 7           *is approved by the applicable Federal agency.*

8           “(g) *FEDERAL SHARE.*—

9           “(1) *IN GENERAL.*—*Except as provided by para-*  
 10          *graph (2), the Federal share of the cost of a project*  
 11          *payable from funds made available to carry out this*  
 12          *section shall be determined under section 120(b).*

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

17          “(b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 18          *1 is amended by striking the item relating to section 119*  
 19          *and inserting the following:*

          “119. *National Highway System program.*”.

20       **SEC. 1107. SURFACE TRANSPORTATION PROGRAM.**

21          “(a) *ELIGIBLE PROJECTS.*—*Section 133(b) is amend-*  
 22          *ed—*

23                “(1) *by striking paragraphs (1) and (15);*

24                “(2) *by redesignating paragraphs (2) through (14)*

25                *as paragraphs (5) through (17), respectively;*

1           (3) by inserting before paragraph (5) (as so re-  
2           designated) the following:

3           “(1) Construction, reconstruction, rehabilitation,  
4           resurfacing, restoration, preservation, and operational  
5           improvements for highways, including construction of  
6           designated routes of the Appalachian Development  
7           Highway System.

8           “(2) Replacement (including replacement with  
9           fill material), rehabilitation, preservation, and pro-  
10          tection (including painting, scour countermeasures,  
11          seismic retrofits, impact protection measures, security  
12          countermeasures, and protection against extreme  
13          events) for bridges and tunnels on public roads of all  
14          functional classifications.

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

17          “(4) Inspection and evaluation of bridges and  
18          tunnels and training of bridge and tunnel inspectors  
19          (as defined in section 151), and inspection and eval-  
20          uation of other highway assets (including signs, re-  
21          taining walls, and drainage structures).”; and

22          (4) by striking paragraph (14) (as so redesign-  
23          ated) and inserting the following:

24          “(14) Environmental mitigation efforts relating  
25          to projects funded under this title in the same manner

1        *and to the same extent as such activities are eligible*  
 2        *under section 119(f).”.*

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

5        *“(c) LOCATION OF PROJECTS.—Except for projects de-*  
 6        *scribed in subsections (b)(2), (b)(6), and (b)(7), surface*  
 7        *transportation program projects may not be undertaken on*  
 8        *roads functionally classified as local or rural minor collec-*  
 9        *tors unless the roads were on a Federal-aid highway system*  
 10       *on January 1, 1991, and except as approved by the Sec-*  
 11       *retary.”.*

12       *(c) ALLOCATION OF APPORTIONED FUNDS.—*

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

14            *(2) DIVISION BETWEEN URBANIZED AREAS OF*  
 15        *OVER 200,000 POPULATION AND OTHER AREAS.—Sec-*  
 16        *tion 133(d)(3) is amended—*

17                    *(A) in subparagraph (A)—*

18                            *(i) in the matter preceding clause (i)*  
 19                            *by striking “62.5 percent of the remaining*  
 20                            *90 percent” and inserting “50 percent”;*  
 21                            *and*

22                            *(ii) in matter following clause (ii) by*  
 23                            *striking “37.5 percent” and inserting “50*  
 24                            *percent”; and*

25                            *(B) by adding at the end the following:*

1                   “(E) CONSULTATION WITH RURAL PLAN-  
 2                   NING ORGANIZATIONS.—For purposes of subpara-  
 3                   graph (A)(ii), before obligating funding attrib-  
 4                   uted to an area with a population greater than  
 5                   5,000 and less than 200,000, a State shall con-  
 6                   sult with the rural planning organizations that  
 7                   represent the area, if any.”.

8                   (3) APPLICABILITY OF CERTAIN REQUIREMENTS  
 9                   TO THIRD PARTY SELLERS.—Section 133(d)(5)(A) is  
 10                  amended by striking “funded from the allocation re-  
 11                  quired under paragraph (2)”.

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

14                   “(3) PAYMENTS.—The Secretary shall make pay-  
 15                   ments to a State of costs incurred by the State for the  
 16                   surface transportation program in accordance with  
 17                   procedures to be established by the Secretary.”.

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

20                   (1) by striking “2004 through 2006” and insert-  
 21                   ing “2011 through 2013”; and

22                   (2) by striking “2007 through 2009” and insert-  
 23                   ing “2014 through 2016”.

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

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

8           (2) *SUSPENSION.*—The Secretary may suspend  
 9           the application of paragraph (1) with respect to a  
 10          State if the Secretary determines that the authority  
 11          provided under paragraph (1) is being used exces-  
 12          sively by the State.

13 **SEC. 1108. CONGESTION MITIGATION AND AIR QUALITY IM-**  
 14 **PROVEMENT PROGRAM.**

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

17          “(b) *ELIGIBLE PROJECTS.*—

18                 “(1) *IN GENERAL.*—

19                         “(A) *REQUIREMENTS FOR OBLIGATION OF*  
 20                         *FUNDS.*—A State may obligate funds appor-  
 21                         tioned to the State under section 104(b)(2) for a  
 22                         transportation project or program if the project  
 23                         or program meets the requirements of subpara-  
 24                         graph (B) and (C).

1           “(B) *AREA SERVED BY PROJECT OR PRO-*  
 2           *GRAM.—A project or program meets the require-*  
 3           *ments of this subparagraph if the project or pro-*  
 4           *gram is for an area in the State that—*

5                     “(i) *is or was designated as a non-*  
 6                     *attainment area for ozone, carbon mon-*  
 7                     *oxide, or particulate matter under section*  
 8                     *107(d) of the Clean Air Act (42 U.S.C.*  
 9                     *7407(d)) and classified pursuant to section*  
 10                    *181(a), 186(a), 188(a), or 188(b) of the*  
 11                    *Clean Air Act (42 U.S.C. 7511(a), 7512(a),*  
 12                    *7513(a), or 7513(b));*

13                   “(ii) *is or was designated as a non-*  
 14                    *attainment area under such section 107(d)*  
 15                    *after December 31, 1997; or*

16                   “(iii) *is required to prepare, and file*  
 17                    *with the Administrator of the Environ-*  
 18                    *mental Protection Agency, maintenance*  
 19                    *plans under the Clean Air Act (42 U.S.C.*  
 20                    *7505a).*

21           “(C) *PURPOSE OF PROJECT OR PROGRAM.—*  
 22            *A project or program meets the requirements of*  
 23            *this subparagraph if—*

24                    “(i) *the Secretary, after consultation*  
 25                    *with the Administrator, determines that—*

1           “(I) on the basis of information  
2           published by the Environmental Pro-  
3           tection Agency pursuant to section  
4           108(f)(1)(A) of the Clean Air Act  
5           (other than clause (xvi) of such sec-  
6           tion), the project or program is likely  
7           to contribute to—

8                     “(aa) the attainment of a na-  
9                     tional ambient air quality stand-  
10                    ard; or

11                   “(bb) the maintenance of a  
12                    national ambient air quality  
13                    standard in a maintenance area;  
14                    or

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

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

23           “(iii) the Secretary, after consultation  
24           with the Administrator, determines that the  
25           project or program is likely to contribute to

1           *the attainment of a national ambient air*  
2           *quality standard through reductions in*  
3           *travel time delay, vehicle miles traveled, or*  
4           *fuel consumption or through other factors;*  
5           *or*

6           “(iv) *the Secretary determines that the*  
7           *project or program is likely to contribute to*  
8           *the mitigation of congestion.*

9           “(2) *SPECIAL RULES.—*

10           “(A) *PROJECTS RESULTING IN NEW CAPAC-*  
11           *ITY FOR SINGLE OCCUPANT VEHICLES.—A State*  
12           *may obligate funds apportioned to the State*  
13           *under section 104(b)(2) for a project or program*  
14           *that will result in the construction of new capac-*  
15           *ity available to single occupant vehicles only if*  
16           *the project or program is likely to contribute to*  
17           *the mitigation of congestion or the improvement*  
18           *of air quality.*

19           “(B) *PROJECTS FOR PM-10 NONATTAINMENT*  
20           *AREAS.—A State may obligate funds appor-*  
21           *tioned to the State under section 104(b)(2) for a*  
22           *project or program for an area that is non-*  
23           *attainment for ozone or carbon monoxide, or*  
24           *both, and for PM-10 resulting from transpor-*  
25           *tation activities, without regard to any limita-*

tion of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

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

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

(1) by striking subsection (f); and

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

**SEC. 1109. EQUITY BONUS PROGRAM.**

Section 105 is amended to read as follows:

**“§ 105. Equity bonus program**

“(a) *PROGRAM*.—

“(1) *IN GENERAL*.—Subject to subsections (c), (d), and (e), for fiscal year 2013 and each fiscal year thereafter, the Secretary shall apportion among the States amounts sufficient to ensure that no State re-

1        *ceives a percentage of the total apportionments for the*  
2        *fiscal year for the programs specified in paragraph*  
3        *(2) that is less than the percentage calculated under*  
4        *subsection (b).*

5                *“(2) SPECIFIED PROGRAMS.—The programs re-*  
6        *ferred to in paragraph (1) are—*

7                *“(A) the metropolitan planning programs*  
8        *under section 104(f);*

9                *“(B) the equity bonus program under this*  
10        *section;*

11                *“(C) the National Highway System pro-*  
12        *gram under section 119;*

13                *“(D) the rail-highway grade crossing pro-*  
14        *gram under section 130;*

15                *“(E) the surface transportation program*  
16        *under section 133;*

17                *“(F) the highway safety improvement pro-*  
18        *gram under section 148;*

19                *“(G) the recreational trails programs under*  
20        *section 206;*

21                *“(H) the State infrastructure bank capital-*  
22        *ization program under section 611; and*

23                *“(I) the Appalachian development highway*  
24        *system program under section 14501 of title 40.*

1       “(b) *STATE PERCENTAGE.*—For each of fiscal years  
 2   2013 through 2016, the percentage referred to in subsection  
 3   (a) for each State shall be 94 percent of the quotient ob-  
 4   tained by dividing—

5               “(1) the estimated tax payments attributable to  
 6       highway users in the State paid into the Highway  
 7       Trust Fund in the most recent fiscal year for which  
 8       data are available; by

9               “(2) the estimated tax payments attributable to  
 10      highway users in all States paid into the Highway  
 11      Trust Fund for the fiscal year.

12      “(c) *MINIMUM AMOUNT.*—

13              “(1) *IN GENERAL.*—For each fiscal year, before  
 14      making the apportionments under subsection (a)(1),  
 15      the Secretary shall apportion among the States  
 16      amounts sufficient to ensure that each State receives  
 17      a combined total apportionment for the programs  
 18      specified in subsection (a)(2) and the congestion miti-  
 19      gation and air quality improvement program under  
 20      section 149 that equals or exceeds the combined  
 21      amount that the State was apportioned for fiscal year  
 22      2012 for the programs specified in section 105(a)(2)  
 23      of this title (other than the high priority projects pro-  
 24      gram under subparagraph (H) of such section), as in  
 25      effect on the day before the date of enactment of the

1     *American Energy and Infrastructure Jobs Act of*  
2     *2012.*

3             “(2) *SPECIAL RULE.—In determining a State’s*  
4     *combined apportionment for fiscal year 2012 for pur-*  
5     *poses of paragraph (1), the Secretary shall not con-*  
6     *sider amounts apportioned to the State for such fiscal*  
7     *year under the following:*

8             “(A) *Section 111(d)(1) of the Surface*  
9     *Transportation Extension Act of 2011, Part II*  
10    *(Public Law 112–30; 125 Stat. 344).*

11            “(B) *Section 111(d)(3) of the Surface*  
12    *Transportation Extension Act of 2011, Part II*  
13    *(Public Law 112–30; 125 Stat. 345).*

14            “(d) *NO NEGATIVE ADJUSTMENT.—No negative ad-*  
15    *justment shall be made under subsection (a)(1) to the ap-*  
16    *portionment of any State.*

17            “(e) *TREATMENT OF FUNDS.—*

18            “(1) *PROGRAMMATIC DISTRIBUTION.—The Sec-*  
19    *retary shall apportion the amounts made available*  
20    *under this section that exceed \$2,639,000,000 so that*  
21    *the amount apportioned to each State under this sec-*  
22    *tion for each program referred to in subparagraphs*  
23    *(C) and (E) of subsection (a)(2) is equal to the*  
24    *amount determined by multiplying the amount to be*

1        *apportioned to such State under this section by the*  
 2        *ratio that—*

3                *“(A) the amount of funds apportioned to*  
 4                *such State for each program referred to in sub-*  
 5                *paragraphs (C) and (E) of subsection (a)(2) for*  
 6                *a fiscal year; bears to*

7                *“(B) the total amount of funds apportioned*  
 8                *to such State for all such programs for such fis-*  
 9                *cal year.*

10              *“(2) REMAINING DISTRIBUTION.—The Secretary*  
 11              *shall administer the remainder of funds made avail-*  
 12              *able under this section to the States in accordance*  
 13              *with section 133, except that section 133(d)(3) and*  
 14              *section 1115(a) of the American Energy and Infra-*  
 15              *structure Jobs Act of 2012 shall not apply to the*  
 16              *amounts administered pursuant to this paragraph.*

17              *“(f) METROPOLITAN PLANNING SET-ASIDE.—Notwith-*  
 18              *standing section 104(f), no set aside provided for under that*  
 19              *section shall apply to funds allocated under this section.*

20              *“(g) AUTHORIZATION OF APPROPRIATIONS.—*

21              *“(1) IN GENERAL.—Subject to paragraphs (2)*  
 22              *and (3), there is authorized to be appropriated from*  
 23              *the Highway Trust Fund (other than the Alternative*  
 24              *Transportation Account) to carry out this section*

1       \$3,900,000,000 for each of fiscal years 2013 through  
2       2016.

3               “(2) *UPWARD ADJUSTMENT.*—If the amount au-  
4       thorized by paragraph (1) for a fiscal year is less  
5       than the minimum amount required to ensure that  
6       each State receives the minimum percentage of total  
7       apportionments required under subsection (a)(1) and  
8       the minimum amount required under subsection  
9       (c)(1) for the fiscal year—

10              “(A) the amount authorized by paragraph  
11       (1) for the fiscal year shall be increased by the  
12       amount of the shortfall, so as to equal such min-  
13       imum amount; and

14              “(B) the amounts authorized by section  
15       1101(a)(2) of the American Energy and Infra-  
16       structure Jobs Act of 2012 for the surface trans-  
17       portation program for the fiscal year shall be de-  
18       creased by the amount of the shortfall.

19               “(3) *DOWNWARD ADJUSTMENT.*—If the amount  
20       authorized by paragraph (1) for a fiscal year is more  
21       than the minimum amount required to ensure that  
22       each State receives the minimum percentage of total  
23       apportionments required under subsection (a)(1) and  
24       the minimum amount required under subsection  
25       (c)(1) for the fiscal year—

1           “(A) the amount authorized by paragraph  
 2           (1) for the fiscal year shall be decreased by the  
 3           amount of the excess, so as to equal such min-  
 4           imum amount; and

5           “(B) the amounts authorized by section  
 6           1101(a)(1) of the American Energy and Infra-  
 7           structure Jobs Act of 2012 for the National  
 8           Highway System program for the fiscal year  
 9           shall be increased by the amount of the excess.”.

10 **SEC. 1110. PROJECT APPROVAL AND OVERSIGHT.**

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

14           “(1) *NHS PROJECTS.*—For projects under this  
 15 *title that are on the National Highway System, in-*  
 16 *cluding projects on the Interstate System, the State*  
 17 *may assume the responsibility of the Secretary under*  
 18 *this title for design, plans, specifications, estimates,*  
 19 *contract awards, and inspections with respect to such*  
 20 *projects unless the Secretary determines that such as-*  
 21 *sumption is not appropriate.”.*

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

24           (1) *in paragraph (2)(A)—*

1           (A) by striking “Federal-aid system” and  
 2           inserting “National Highway System receiving  
 3           Federal assistance”; and

4           (B) by striking “\$25,000,000” and inserting  
 5           “\$50,000,000”;

6           (2) in paragraph (2)(B)—

7           (A) by inserting “on the National Highway  
 8           System receiving Federal assistance” after  
 9           “project”; and

10          (B) by striking “\$20,000,000” and inserting  
 11          “\$40,000,000”; and

12          (3) by adding at the end the following:

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

17          (c) *MAJOR PROJECTS*.—Section 106(h)(3) is amend-  
 18          ed—

19               (1) in subparagraph (A) by striking “and”;

20               (2) in subparagraph (B) by striking the period  
 21               and inserting “; and”; and

22               (3) by adding at the end the following:

23               “(C) assess the appropriateness of a public-  
 24               private partnership to deliver the project.”.

1       (d) *USE OF ADVANCED MODELING TECHNOLOGIES.*—

2       Section 106 is amended by adding at the end the following:

3       “(j) *USE OF ADVANCED MODELING TECHNOLOGIES.*—

4               “(1) *IN GENERAL.*—With respect to transpor-  
 5       tation projects that receive Federal funding, the Sec-  
 6       retary shall encourage the use of advanced modeling  
 7       technologies during environmental, planning, finan-  
 8       cial management, design, simulation, and construc-  
 9       tion processes related to the projects.

10              “(2) *ACTIVITIES.*—In carrying out paragraph  
 11       (1), the Secretary shall—

12                      “(A) compile information relating to ad-  
 13       vanced modeling technologies, including industry  
 14       best practices with respect to the use of the tech-  
 15       nologies;

16                      “(B) disseminate to States information re-  
 17       lating to advanced modeling technologies, includ-  
 18       ing industry best practices with respect to the  
 19       use of the technologies; and

20                      “(C) promote the use of advanced modeling  
 21       technologies.

22              “(3) *COMPREHENSIVE PLAN.*—The Secretary  
 23       shall develop and publish on the Internet Web site of  
 24       the Department of Transportation a detailed and

1        *comprehensive plan for the implementation of para-*  
 2        *graph (1).*

3                “(4) *ADVANCED MODELING TECHNOLOGY DE-*  
 4        *FINED.—The term ‘advanced modeling technology’*  
 5        *means an available or developing technology, includ-*  
 6        *ing 3-dimensional digital modeling, that can accel-*  
 7        *erate and improve the environmental review process,*  
 8        *increase effective public participation, enhance the de-*  
 9        *tail and accuracy of project designs, increase safety,*  
 10       *accelerate construction and reduce construction costs,*  
 11       *or otherwise expedite project delivery with respect to*  
 12       *transportation projects that receive Federal funding.”.*

13        *(e) REVIEW OF OVERSIGHT PROGRAM.—*

14                *(1) IN GENERAL.—The Secretary shall review the*  
 15        *oversight program established under section 106(g) of*  
 16        *title 23, United States Code, to determine the efficacy*  
 17        *of the program in monitoring the effective and effi-*  
 18        *cient use of funds authorized to carry out title 23,*  
 19        *United States Code.*

20                *(2) MINIMUM REQUIREMENTS FOR REVIEW.—At*  
 21        *a minimum, the review under paragraph (1) shall as-*  
 22        *sess the capability of the program to—*

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

1                   (B) *evaluate the extent of such overruns.*

2                   (3) *REPORT TO CONGRESS.*—Not later than 2  
3                   *years after the date of enactment of this Act, the Sec-*  
4                   *retary shall transmit to the Committee on Transpor-*  
5                   *tation and Infrastructure of the House of Representa-*  
6                   *tives and the Committee on Environment and Public*  
7                   *Works of the Senate a report on the results of the re-*  
8                   *view conducted under paragraph (1), which shall in-*  
9                   *clude recommendations for legislative changes to im-*  
10                  *prove the oversight program established under section*  
11                  *106(g) of title 23, United States Code.*

12                  (f) *TRANSPARENCY AND ACCOUNTABILITY.*—

13                  (1) *DATA COLLECTION.*—The Secretary shall  
14                  *compile and make available to the public on the*  
15                  *Internet Web site of the Department the annual ex-*  
16                  *penditure data for funds made available under title*  
17                  *23 and chapter 53 of title 49, United States Code.*

18                  (2) *REQUIREMENTS.*—In carrying out para-  
19                  *graph (1), the Secretary shall ensure that the data*  
20                  *made available on the Internet Web site of the De-*  
21                  *partment—*

22                         (A) *is organized by project and State;*

23                         (B) *to the maximum extent possible, is up-*  
24                         *dated regularly to reflect the current status of ob-*

1            *ligations, expenditures, and Federal-aid projects;*  
 2            *and*

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

5            *(3) REPORT TO CONGRESS.—The Secretary shall*  
 6            *transmit, annually, to the Committee on Transpor-*  
 7            *tation and Infrastructure of the House of Representa-*  
 8            *tives and the Committee on Environment and Public*  
 9            *Works and the Committee on Banking, Housing, and*  
 10           *Urban Affairs of the Senate a report containing a*  
 11           *summary of the data described in paragraph (1) for*  
 12           *the 1-year period ending on the date on which the re-*  
 13           *port is submitted.*

14 **SEC. 1111. EMERGENCY RELIEF.**

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

17           *“(d) ELIGIBILITY.—*

18           *“(1) IN GENERAL.—Subject to the requirements*  
 19           *of this subsection, the Secretary may expend funds*  
 20           *from the emergency fund authorized by this section*  
 21           *for the repair or reconstruction of Federal-aid high-*  
 22           *ways in accordance with the provisions of this chap-*  
 23           *ter.*

24           *“(2) MAXIMUM TOTAL PROJECT COSTS.—*

1           “(A) *IN GENERAL.*—*The total cost of a*  
 2           *project carried out under this section may not*  
 3           *exceed the cost of repair or reconstruction of a*  
 4           *comparable facility.*

5           “(B) *COMPARABLE FACILITY DEFINED.*—*In*  
 6           *this paragraph, the term ‘comparable facility’*  
 7           *means a facility that meets the current geometric*  
 8           *and construction standards required for the*  
 9           *types and volume of traffic that the facility will*  
 10          *carry over its design life.*

11          “(3) *DEBRIS REMOVAL.*—*The costs of debris re-*  
 12          *moval shall be an eligible expense under this section*  
 13          *only for—*

14               “(A) *an event not declared a major disaster*  
 15               *or emergency by the President under the Robert*  
 16               *T. Stafford Disaster Relief and Emergency As-*  
 17               *sistance Act (42 U.S.C. 5121 et seq.); or*

18               “(B) *an event declared a major disaster or*  
 19               *emergency by the President under that Act if the*  
 20               *debris removal is not eligible for assistance pur-*  
 21               *suant to section 403, 407, or 502 of that Act (42*  
 22               *U.S.C. 5170b, 5173, 5192).*

23          “(4) *TERRITORIES.*—*The total obligations for*  
 24          *projects under this section in a fiscal year in the Vir-*  
 25          *gin Islands, Guam, American Samoa, and the Com-*

1        *monwealth of the Northern Mariana Islands may not*  
 2        *exceed \$20,000,000.*

3                “(5) *TEMPORARY SUBSTITUTE HIGHWAY TRAFFIC*  
 4        *SERVICE.—Notwithstanding any other provision of*  
 5        *this chapter, actual and necessary costs of mainte-*  
 6        *nance and operation of ferryboats or additional tran-*  
 7        *sit service providing temporary substitute highway*  
 8        *traffic service, less the amount of fares charged, may*  
 9        *be expended from the emergency fund under this sec-*  
 10        *tion authorized for Federal-aid highways.*

11               “(6) *APPLICATIONS; EMERGENCY DECLARA-*  
 12        *TIONS.—Except as to highways, roads, and trails re-*  
 13        *ferred to in subsection (e), no funds may be expended*  
 14        *under this section unless—*

15               “(A) *a declaration is made—*

16                        “(i) *by the Governor of the State and*  
 17                        *concurred in by the Secretary, that an*  
 18                        *emergency exists; or*

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

23                        “(B) *not later than 2 years after a declara-*  
 24                        *tion is made under subparagraph (A), the Sec-*  
 25                        *retary has received an application for assistance*

1           *from the State transportation department that*  
 2           *includes a comprehensive list of potentially eligi-*  
 3           *ble project sites and repair costs.”.*

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

7           ***“(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS, AND***  
 8           ***PUBLIC ROADS ON FEDERAL LANDS.—***

9           ***“(1) USE OF EMERGENCY FUND.—****Notwith-*  
 10          *standing subsection (d)(1), the Secretary may expend*  
 11          *funds from the emergency fund authorized by this sec-*  
 12          *tion, either independently or in cooperation with any*  
 13          *other branch of the Government, a State agency, trib-*  
 14          *al organization, organization, or person, for the re-*  
 15          *pair or reconstruction of tribal roads, Federal lands*  
 16          *highways, and other federally owned roads that are*  
 17          *open to public travel, whether or not such roads are*  
 18          *Federal-aid highways.*

19          ***“(2) REIMBURSEMENTS.—****The Secretary may re-*  
 20          *imburse Federal agencies, State (including political*  
 21          *subdivisions of the States) agencies, and Indian tribal*  
 22          *governments for expenditures made on projects deter-*  
 23          *mined eligible under this section, including expendi-*  
 24          *tures for emergency repairs made before a determina-*  
 25          *tion of eligibility. Such reimbursements to Federal*

1        *agencies and Indian tribal governments shall be*  
 2        *transferred to the account from which the expenditure*  
 3        *was made, or to a similar account that remains*  
 4        *available for obligation, and the budget authority as-*  
 5        *sociated with the expenditure shall be restored to the*  
 6        *agency from which it was derived and shall be avail-*  
 7        *able for obligation until the end of the fiscal year fol-*  
 8        *lowing the year in which the transfer occurs.*

9            *“(3) OPEN TO PUBLIC TRAVEL DEFINED.—In*  
 10        *this subsection, the term ‘open to public travel’ means*  
 11        *that, except during scheduled periods, extreme weather*  
 12        *conditions, or emergencies, the road is open to the*  
 13        *general public for use with a standard passenger*  
 14        *auto, without restrictive gates or prohibitive signs or*  
 15        *regulations, other than for general traffic control or*  
 16        *restrictions based on size, weight, or class of registra-*  
 17        *tion.”.*

18        *(c) RULEMAKING.—Not later than 6 months after the*  
 19        *date of enactment of this Act, the Secretary shall initiate*  
 20        *a rulemaking to update regulations governing the emer-*  
 21        *gency relief program under section 125 of title 23, United*  
 22        *States Code, to—*

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

1           (2) *determine whether to raise the threshold for*  
 2           *an eligible event and raise such threshold if war-*  
 3           *ranted; and*

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

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

8           (1) *improve training for Federal and State offi-*  
 9           *cials on emergency relief requirements and processes;*

10          (2) *establish an Internet Web site containing in-*  
 11          *formation on best practices for the implementation of*  
 12          *the emergency relief program;*

13          (3) *address program differences with the disaster*  
 14          *assistance program of the Federal Emergency Man-*  
 15          *agement Agency; and*

16          (4) *provide guidance on performing a benefit-*  
 17          *cost analysis to justify cases in which a betterment is*  
 18          *eligible for funding under the emergency relief pro-*  
 19          *gram.*

20   **SEC. 1112. UNIFORM TRANSFERABILITY OF FEDERAL-AID**  
 21                           **HIGHWAY FUNDS.**

22           *Section 126 is amended to read as follows:*

1 **“§ 126. Uniform transferability of Federal-aid high-**  
 2 **way funds**

3 “(a) *GENERAL RULE.*—Notwithstanding any other  
 4 provision of law, but subject to subsection (b), a State may  
 5 transfer not to exceed 25 percent of the State’s appor-  
 6 tionment under paragraph (1), (3), or (5) of section 104(b) for  
 7 a fiscal year to any other apportionment of the State under  
 8 any of those paragraphs for that fiscal year.

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

12 **SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILI-**  
 13 **TIES.**

14 *Section 147 is amended—*

15 (1) *in subsection (b) by striking “ferry boats,*  
 16 *ferry terminals, and ferry maintenance facilities”*  
 17 *and inserting “ferry boats and ferry terminals”;*

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

20 “(c) *APPORTIONMENT OF FUNDS.*—The Secretary shall  
 21 apportion the sums authorized to be appropriated for ex-  
 22 penditure on the construction of ferry boats and ferry ter-  
 23 minal facilities for each fiscal year among eligible States  
 24 in the following manner:

1           “(1) 35 percent based on the total annual num-  
 2           ber of vehicles carried by ferry systems operating in  
 3           each eligible State.

4           “(2) 35 percent based on the total annual num-  
 5           ber of passengers (including passengers in vehicles)  
 6           carried by ferry systems operating in each eligible  
 7           State.

8           “(3) 30 percent based on the total nautical route  
 9           miles serviced by ferry systems operating in each eli-  
 10          gible State.

11          “(d) *ELIGIBLE STATE DEFINED.*—In this section, the  
 12          term ‘eligible State’ means a State that has a ferry system  
 13          operating in the State or between the State and another  
 14          State.”; and

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

17          **SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-**  
 18                         **VENTORY AND INSPECTION PROGRAM.**

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

21          **“§ 151. National highway bridge and tunnel inventory**  
 22                         **and inspection program**

23          “(a) *NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-*  
 24          *VENTORY.*—The Secretary, in consultation with the States

1 *and Federal agencies with jurisdiction over highway*  
2 *bridges and tunnels, shall—*

3           “(1) *inventory all bridges on public roads, on*  
4           *and off Federal-aid highways, including tribally*  
5           *owned and federally owned bridges, that are over wa-*  
6           *terways, other topographical barriers, other highways,*  
7           *and railroads;*

8           “(2) *inventory all tunnels on public roads, on*  
9           *and off Federal-aid highways, including tribally*  
10          *owned and federally owned tunnels;*

11          “(3) *identify each bridge or tunnel inventoried*  
12          *under paragraph (1) or (2) that is structurally defi-*  
13          *cient or functionally obsolete;*

14          “(4) *assign a risk-based priority for replacement*  
15          *or rehabilitation of each structurally deficient bridge*  
16          *or tunnel identified under paragraph (3) after consid-*  
17          *eration of safety, serviceability, and essentiality for*  
18          *public use, including the potential impacts to emer-*  
19          *gency evacuation routes and to regional and national*  
20          *freight and passenger mobility if the serviceability of*  
21          *the bridge or tunnel is diminished; and*

22          “(5) *determine the cost of replacing each struc-*  
23          *turally deficient bridge or tunnel identified under*  
24          *paragraph (3) with a comparable facility or the cost*  
25          *of rehabilitating the bridge or tunnel.*

1       “(b) *NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-*  
2 *SPECTION STANDARDS.*—

3               “(1) *IN GENERAL.*—*The Secretary shall establish*  
4 *and maintain inspection standards for the proper*  
5 *safety inspection and evaluation of all highway*  
6 *bridges and tunnels described in subsections (a)(1)*  
7 *and (a)(2). The standards shall be designed to ensure*  
8 *uniformity in the conduct of such inspections and*  
9 *evaluations.*

10              “(2) *MINIMUM REQUIREMENTS FOR INSPECTION*  
11 *STANDARDS.*—*At a minimum, the standards estab-*  
12 *lished under paragraph (1) shall—*

13                      “(A) *specify, in detail, the method by which*  
14 *inspections will be carried out by States, Federal*  
15 *agencies, and tribal governments;*

16                      “(B) *establish the maximum time period be-*  
17 *tween inspections;*

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

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

23                              “(i) *written reports on the results of*  
24 *highway bridge and tunnel inspections, to-*  
25 *gether with notations of any action taken*

1           *pursuant to the findings of such inspections;*  
2           *and*

3           *“(ii) inventory data for all highway*  
4           *bridges and tunnels described in subsections*  
5           *(a)(1) and (a)(2) under the jurisdiction of*  
6           *the State, Federal agency, or tribal govern-*  
7           *ment that reflect the findings of the most re-*  
8           *cent highway bridge and tunnel inspections;*

9           *“(E) establish a procedure for national cer-*  
10          *tification of highway bridge and tunnel inspec-*  
11          *tors;*

12          *“(F) establish, in consultation with the*  
13          *States, Federal agencies, and interested and*  
14          *knowledgeable private organizations and indi-*  
15          *viduals, procedures for the Secretary to conduct*  
16          *reviews of State and Federal agency compliance*  
17          *with the standards established under this sub-*  
18          *section; and*

19          *“(G) establish, in consultation with the*  
20          *States, Federal agencies, and interested and*  
21          *knowledgeable private organizations and indi-*  
22          *viduals, procedures for the States to follow in re-*  
23          *porting to the Secretary—*

1                   “(i) *critical findings relating to struc-*  
2                   *tural safety-related deficiencies of highway*  
3                   *bridges and tunnels; and*

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

7                   “(3) *COMPLIANCE REQUIREMENTS.—*

8                   “(A) *REVIEWS OF STATE COMPLIANCE.—*  
9                   *The Secretary shall annually review State com-*  
10                  *pliance with the standards established under this*  
11                  *section.*

12                  “(B) *FINDINGS OF NONCOMPLIANCE.—If the*  
13                  *Secretary identifies noncompliance by a State in*  
14                  *conducting an annual review under subpara-*  
15                  *graph (A), the Secretary shall issue a report de-*  
16                  *tailing the noncompliance by December 31 of the*  
17                  *calendar year in which the review is conducted*  
18                  *and shall provide the State an opportunity to*  
19                  *address the noncompliance by—*

20                       “(i) *developing a corrective action plan*  
21                       *to remedy the noncompliance; or*

22                       “(ii) *resolving the noncompliance with-*  
23                       *in 45 days of receiving notification of the*  
24                       *noncompliance.*

25                  “(4) *PENALTY FOR NONCOMPLIANCE.—*

1                   “(A) *FUNDING REQUIREMENT.*—If the Sec-  
2                   retary identifies noncompliance by a State in  
3                   conducting an annual review under paragraph  
4                   (3)(A) in a calendar year, and the State fails to  
5                   address the noncompliance in the manner de-  
6                   scribed in paragraph (3)(B) by August 1 of the  
7                   succeeding year, on October 1 of such succeeding  
8                   year, and each year thereafter as necessary, the  
9                   Secretary shall require the State to dedicate  
10                  funds apportioned to the State under sections  
11                  104(b)(1) and 104(b)(3) to correct the non-  
12                  compliance.

13                  “(B) *AMOUNT.*—The amount of the funds  
14                  dedicated to correcting the noncompliance in ac-  
15                  cordance with subparagraph (A) shall—

16                         “(i) be determined by the State based  
17                         on an analysis of the actions needed to ad-  
18                         dress the noncompliance; and

19                         “(ii) require approval by the Sec-  
20                         retary.

21                  “(c) *TRAINING PROGRAM FOR BRIDGE AND TUNNEL*  
22                  *INSPECTORS.*—The Secretary, in cooperation with State  
23                  transportation departments, shall establish a program de-  
24                  signed to train appropriate personnel to carry out highway  
25                  bridge and tunnel inspections.

1       “(d) *AVAILABILITY OF FUNDS.—In carrying out this*  
2 *section—*

3               “(1) *the Secretary may use funds made available*  
4 *to the Secretary under sections 104(a) and 503;*

5               “(2) *a State may use amounts apportioned to*  
6 *the State under sections 104(b)(1), 104(b)(3), and*  
7 *104(b)(5);*

8               “(3) *an Indian tribe may use funds made avail-*  
9 *able to the Indian tribe under section 502; and*

10              “(4) *a Federal agency may use funds made*  
11 *available to the agency under section 503.”.*

12       (b) *CLERICAL AMENDMENT.—The analysis for chapter*  
13 *1 is amended by striking the item relating to section 151*  
14 *and inserting the following:*

*“151. National highway bridge and tunnel inventory and inspection program.”.*

15   **SEC. 1115. MINIMUM INVESTMENT IN HIGHWAY BRIDGES.**

16       (a) *MINIMUM INVESTMENT REQUIREMENTS.—*

17              (1) *NATIONAL HIGHWAY SYSTEM BRIDGES.—Out*  
18 *of amounts apportioned to a State for a fiscal year*  
19 *under each of sections 104(b)(1) and 104(b)(3) of title*  
20 *23, United States Code, an amount equal to 10 per-*  
21 *cent of such amounts shall be available to the State*  
22 *only for eligible projects on highway bridges on the*  
23 *National Highway System if the Secretary determines*  
24 *under paragraph (3) for the fiscal year that more*  
25 *than 10 percent of the total deck area of highway*

1 *bridges in the State on the National Highway System*  
 2 *is located on highway bridges that have been classified*  
 3 *as structurally deficient.*

4 (2) *BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—*  
 5 *Out of amounts apportioned to a State for a fiscal*  
 6 *year under section 104(b)(3) of title 23, United States*  
 7 *Code, an amount equal to 110 percent of the amount*  
 8 *that the State was required to expend for fiscal year*  
 9 *2009 on projects under section 144(f)(2) of such title*  
 10 *(as in effect on the day before the date of enactment*  
 11 *of this Act) shall be available to the State only for eli-*  
 12 *gible projects on highway bridges not on Federal-aid*  
 13 *highways if the Secretary determines under para-*  
 14 *graph (3) for the fiscal year that—*

15 (A) *more than 15 percent of the total deck*  
 16 *area of highway bridges not on Federal-aid high-*  
 17 *ways in the State is located on highway bridges*  
 18 *not on Federal-aid highways that have been clas-*  
 19 *sified as structurally deficient; or*

20 (B) *more than 2,000 highway bridges not*  
 21 *on Federal-aid highways in the State are classi-*  
 22 *fied as structurally deficient.*

23 (3) *USE OF DATA IN NATIONAL BRIDGE AND TUN-*  
 24 *NEL INVENTORY.—The Secretary shall make the deter-*  
 25 *minations under paragraphs (1) and (2) with respect*

1       to a State for a fiscal year based on an average of  
 2       the final data concerning highway bridges in the  
 3       State contained in the national bridge and tunnel in-  
 4       ventory for the most recent 3 calendar years for which  
 5       such data are available.

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

9           (5) *DEFINITIONS.*—In this subsection, the fol-  
 10      lowing definitions apply:

11           (A) *ELIGIBLE PROJECT.*—The term “eligible  
 12      project” means a project to replace (including re-  
 13      placement with fill material), rehabilitate, pre-  
 14      serve, or protect (including through painting,  
 15      scour countermeasures, seismic retrofits, impact  
 16      protection measures, security countermeasures,  
 17      and protection against extreme events) a bridge  
 18      or tunnel on a public road of any functional  
 19      classification.

20           (B) *NATIONAL BRIDGE AND TUNNEL INVEN-*  
 21      *TORY.*—The term “national bridge and tunnel  
 22      inventory” means the national bridge and tunnel  
 23      inventory established under section 151 of title  
 24      23, United States Code (as amended by this  
 25      title).

1       (b) *BRIDGE REHABILITATION AND REPLACEMENT.*—  
 2       Section 217(e) is amended by striking “then such bridge”  
 3       and all that follows before the period at the end and insert-  
 4       ing “the State carrying out the rehabilitation or replace-  
 5       ment is encouraged to provide such safe accommodations  
 6       as part of the rehabilitation or replacement”.

7       **SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS**  
 8                               **FOR DRIVING WHILE INTOXICATED OR DRIV-**  
 9                               **ING UNDER THE INFLUENCE.**

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

11               (1) by striking paragraph (3);

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

14               (3) in paragraph (4), as so redesignated by  
 15       paragraph (2) of this subsection, by amending sub-  
 16       paragraph (A) to read as follows:

17                       “(A) receive—

18                               “(i) a suspension of all driving privi-  
 19       leges for not less than 1 year; or

20                               “(ii) a suspension of unlimited driving  
 21       privileges for 1 year with limited driving  
 22       privileges permitted (subject to requirements  
 23       established under State law) if an ignition  
 24       interlock device is installed for not less than

1                   1 year on each motor vehicle owned or oper-  
 2                   ated, or both, by the individual;”.

3           (b) *TRANSFER OF FUNDS.*—Section 164(b)(1)(A) is  
 4 amended by striking “alcohol-impaired driving counter-  
 5 measures” and inserting “projects and activities addressing  
 6 impaired driving (as such term is defined in section  
 7 402(p)(11))”.

8 **SEC. 1117. PUERTO RICO HIGHWAY PROGRAM.**

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

11           “(a) *ALLOCATION OF FUNDS.*—On October 1 of each  
 12 fiscal year, the Secretary shall allocate the funds made  
 13 available for the fiscal year to carry out this section to the  
 14 Commonwealth of Puerto Rico to carry out a highway pro-  
 15 gram in the Commonwealth.

16           “(b) *APPLICABILITY OF TITLE.*—Amounts made avail-  
 17 able to carry out this section shall be available for obliga-  
 18 tion in the same manner as if such funds were apportioned  
 19 under this chapter.”.

20           (b) *CONFORMING AMENDMENT.*—Section 165 is  
 21 amended—

22                   (1) in subsection (c)(1) by striking “sections  
 23 104(b) and 144” and inserting “section 104(b)”; and

24                   (2) in subsection (d) by striking “sections 104  
 25 and 144” and inserting “section 104”.

1 **SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

2       (a) *APPORTIONMENT.*—*The Secretary shall apportion*  
3 *funds made available under section 1101(a) for the Appa-*  
4 *lachian development highway system program for each of*  
5 *fiscal years 2013 through 2016 among the States in the*  
6 *ratio that—*

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

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

13       (b) *MINIMUM AND MAXIMUM APPORTIONMENT.*—*Not-*  
14 *withstanding subsection (a), each State that receives an ap-*  
15 *portionment under subsection (a) shall receive—*

16           (1) *not less than 1 percent of the funds appor-*  
17 *tioned under this section; and*

18           (2) *not more than 25 percent of the funds appor-*  
19 *tioned under this section.*

20       (c) *APPLICABILITY OF TITLE 23.*—*Funds made avail-*  
21 *able under section 1101(a) of this Act for the Appalachian*  
22 *development highway system program shall be available for*  
23 *obligation in the same manner as if such funds were appor-*  
24 *tioned under chapter 1 of title 23, United States Code, ex-*  
25 *cept that the Federal share of the cost of any project under*  
26 *this section shall be determined in accordance with section*

1 14501 of title 40, United States Code, and such funds shall  
 2 be available to construct highways and access roads under  
 3 such section 14501 and shall remain available until ex-  
 4 pended.

5 (d) CREDIT FOR NON-FEDERAL SHARE.—Section  
 6 120(j)(1)(A) is amended by striking “and the Appalachian  
 7 development highway system program under section 14501  
 8 of title 40”.

9 **SEC. 1119. REFERENCES TO MASS TRANSIT ACCOUNT.**

10 Any reference to the Mass Transit Account of the High-  
 11 way Trust Fund in title 23 or 49, United States Code, or  
 12 in any other provision of law shall be deemed to refer to  
 13 the Alternative Transportation Account of the Highway  
 14 Trust Fund.

15 **Subtitle B—Innovative Financing**

16 **SEC. 1201. TRANSPORTATION INFRASTRUCTURE FINANCE**  
 17 **AND INNOVATION.**

18 (a) DEFINITIONS.—

19 (1) ELIGIBLE PROJECT COSTS.—Section  
 20 601(a)(1) is amended in the matter preceding sub-  
 21 paragraph (A) by inserting “(regardless of when in-  
 22 curred)” after “including the cost”.

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

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

6           (B) by inserting after paragraph (1) the fol-  
 7           lowing:

8           “(2) *CONTINGENT COMMITMENT.*—The term ‘con-  
 9           tingent commitment’ means a commitment to obligate  
 10          an amount from future available budget authority,  
 11          but is not an obligation of the Federal Government.”.

12          (3) *MASTER CREDIT AGREEMENT.*—Section  
 13          601(a) (as amended by paragraph (2)(A) of this sub-  
 14          section) is further amended by inserting after para-  
 15          graph (7) the following:

16          “(8) *MASTER CREDIT AGREEMENT.*—The term  
 17          ‘master credit agreement’ means an agreement entered  
 18          into by and between the Secretary and an obligor for  
 19          a project that—

20                 “(A) makes contingent commitments of one  
 21                 or more secured loans or other Federal credit in-  
 22                 struments at future dates, subject to the provi-  
 23                 sion of future budget authority;

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

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

8           “(D) provides for the obligation of funds for  
9           such a secured loan or other Federal credit in-  
10          strument, subject to the provision of future budg-  
11          et authority, for a project included in the agree-  
12          ment after all requirements under this section  
13          have been met for the project.”.

14          (4) OBLIGOR.—Section 601(a)(9) (as redesign-  
15          ated by paragraph (2)(A) of this subsection) is  
16          amended by inserting “limited liability company,”  
17          after “corporation,”.

18          (5) PROJECT.—Section 601(a)(10) (as redesign-  
19          ated by paragraph (2)(A) of this subsection) is  
20          amended—

21                  (A) by striking “and” at the end of sub-  
22                  paragraph (C);

23                  (B) by striking the period at the end of sub-  
24                  paragraph (D) and inserting a semicolon; and

25                  (C) by adding at the end the following:

1                   “(E) a program of related transportation  
2                   projects that—

3                   “(i) are coordinated to achieve a com-  
4                   mon transportation goal;

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

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

12                  “(F) a highway, transit, or pedestrian  
13                  project, or grouping of projects, that—

14                  “(i) improves mobility; and

15                  “(ii) is located within the station area  
16                  of a transit, passenger rail, or intercity bus  
17                  station.”.

18                  (6) *RURAL INFRASTRUCTURE PROJECT*.—Section  
19                  601(a) (as amended by paragraph (2)(A) of this sub-  
20                  section) is further amended by inserting after para-  
21                  graph (12) the following:

22                  “(13) *RURAL INFRASTRUCTURE PROJECT*.—The  
23                  term ‘rural infrastructure project’ means a surface  
24                  transportation infrastructure project located in any

1        *area other than an urbanized area that has a popu-*  
 2        *lation of greater than 250,000 inhabitants.”.*

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

8        (b) *PROJECT APPLICATIONS AND DETERMINATIONS OF*  
 9        *ELIGIBILITY.*—

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

12        **“§ 602. Project applications and determinations of eli-**  
 13            ***gibility***

14            “(a) *PROJECT APPLICATIONS.*—

15            “(1) *IN GENERAL.*—*A State, local government,*  
 16        *agency or instrumentality of a State or local govern-*  
 17        *ment, public authority, private party to a public-pri-*  
 18        *vate partnership, or any other legal entity under-*  
 19        *taking a project may submit to the Secretary an ap-*  
 20        *plication requesting financial assistance under this*  
 21        *chapter for the project.*

22            “(2) *MASTER CREDIT AGREEMENTS.*—*An appli-*  
 23        *cation submitted under paragraph (1) may request*  
 24        *that financial assistance under this chapter be pro-*  
 25        *vided under a master credit agreement.*

1           “(3) *APPLICATIONS WHERE OBLIGOR WILL BE*  
 2           *IDENTIFIED LATER.*—A State, local government, agen-  
 3           *cy or instrumentality of a State or local government,*  
 4           *or public authority may submit an application to the*  
 5           *Secretary under paragraph (1) under which a private*  
 6           *party to a public-private partnership will be the obli-*  
 7           *gor and will be identified later through completion of*  
 8           *a procurement and selection of the private party.*

9           “(b) *ELIGIBILITY.*—

10           “(1) *APPROVAL.*—The Secretary shall approve  
 11           *an application submitted under subsection (a)(1) for*  
 12           *each project that meets the criteria specified in para-*  
 13           *graph (2).*

14           “(2) *CRITERIA.*—To be eligible to receive finan-  
 15           *cial assistance under this chapter, a project shall meet*  
 16           *the following criteria:*

17           “(A) *INCLUSION IN TRANSPORTATION PLANS*  
 18           *AND PROGRAMS.*—The project shall satisfy the  
 19           *applicable planning and programmatic require-*  
 20           *ments of sections 5203 and 5204 of title 49—*

21           “(i) *in the case of an application for*  
 22           *financial assistance to be provided under a*  
 23           *master credit agreement, at such time as*  
 24           *credit assistance is provided for the project*

1           *pursuant to the master credit agreement;*  
 2           *and*

3           “(ii) *in the case of any other project*  
 4           *application, at such time as an agreement*  
 5           *to make available a Federal credit instru-*  
 6           *ment is entered into under this chapter.*

7           “(B) *CREDITWORTHINESS.—*

8           “(i) *IN GENERAL.—The project shall*  
 9           *satisfy applicable creditworthiness stand-*  
 10          *ards, including, at a minimum—*

11           “(I) *a rate covenant, if applicable;*

12           “(II) *adequate coverage require-*  
 13          *ments to ensure repayment;*

14           “(III) *an investment grade rating*  
 15          *from at least 2 rating agencies on debt*  
 16          *senior to the Federal credit instrument;*  
 17          *and*

18           “(IV) *a rating from at least 2 rat-*  
 19          *ing agencies on the Federal credit in-*  
 20          *strument.*

21           “(ii)     *AMOUNTS     LESS     THAN*  
 22          *\$75,000,000.—Notwithstanding     clauses*  
 23          *(i)(III) and (i)(IV), if the senior debt and*  
 24          *Federal credit instrument is for an amount*  
 25          *less than \$75,000,000, 1 rating agency*

1           *opinion for each of the senior debt and Fed-*  
2           *eral credit instrument shall be sufficient.*

3           “(iii) *FEDERAL CREDIT INSTRUMENTS*  
4           *THAT ARE THE SENIOR DEBT.*—*Notwith-*  
5           *standing clauses (i)(III) and (i)(IV), in a*  
6           *case in which the Federal credit instrument*  
7           *is the senior debt, the Federal credit instru-*  
8           *ment shall be required to receive an invest-*  
9           *ment grade rating from at least 2 rating*  
10          *agencies.*

11          “(C) *ELIGIBLE PROJECT COSTS.*—*The eligi-*  
12          *ble costs of the project—*

13               “(i) *in the case of a project described*  
14               *in section 601(a)(9)(F) or a project prin-*  
15               *cipally involving the installation of an in-*  
16               *telligent transportation system, shall be rea-*  
17               *sonably anticipated to equal or exceed*  
18               *\$15,000,000;*

19               “(ii) *in the case of a project for which*  
20               *financial assistance will be provided under*  
21               *a master credit agreement, shall be reason-*  
22               *ably anticipated to equal or exceed*  
23               *\$1,000,000,000;*

1                   “(iii) in the case of a rural infrastruc-  
 2                   ture project, shall be reasonably anticipated  
 3                   to equal or exceed \$25,000,000; and

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

7                   “(I) \$50,000,000; or

8                   “(II)  $33\frac{1}{3}$  percent of the amount  
 9                   apportioned, out of amounts made  
 10                  available from the Highway Trust  
 11                  Fund (other than the Alternative  
 12                  Transportation Account), to the State  
 13                  in which the project is located for Fed-  
 14                  eral-aid highway and highway safety  
 15                  construction programs for the most re-  
 16                  cently completed fiscal year.

17                  “(D) DEDICATED REVENUE SOURCES.—The  
 18                  Federal credit instrument for the project shall be  
 19                  repayable, in whole or in part, from tolls, user  
 20                  fees, payments owing to the obligor under a pub-  
 21                  lic-private partnership, or other dedicated rev-  
 22                  enue sources that also secure or fund the project  
 23                  obligations.

24                  “(E) REGIONAL SIGNIFICANCE.—The project  
 25                  shall be regionally significant (as defined in reg-

1        *ulations implementing sections 134 and 135 (as*  
2        *in effect on the day before the date of enactment*  
3        *of the American Energy and Infrastructure Jobs*  
4        *Act of 2012)) or otherwise significantly enhance*  
5        *the national transportation system.*

6                *“(F) PUBLIC SPONSORSHIP OF PRIVATE EN-*  
7        *TITIES.—In the case of a project undertaken by*  
8        *an entity that is not a State or local government*  
9        *(or an agency or instrumentality of a State or*  
10       *local government), the project shall be publicly*  
11       *sponsored as provided under subsection (a).*

12               *“(G) BENEFICIAL EFFECTS.—The Secretary*  
13       *shall determine that financial assistance for the*  
14       *project under this chapter will—*

15               *“(i) foster an innovative public-private*  
16       *partnership and attract private debt or eq-*  
17       *uity investment for the project;*

18               *“(ii) enable the project to proceed at*  
19       *an earlier date than the project would other-*  
20       *wise be able to proceed or reduce the*  
21       *project’s life cycle costs, including debt serv-*  
22       *ice costs; and*

23               *“(iii) reduce the contribution of Fed-*  
24       *eral grant assistance for the project.*

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

7           “(c) *PRELIMINARY RATING OPINION LETTER.*—*For*  
 8           *purposes of subsection (b)(2)(B), the Secretary shall require*  
 9           *each applicant for a project to provide a preliminary rating*  
 10          *opinion letter from at least 1 rating agency indicating that*  
 11          *the project’s senior obligations, which may consist, in whole*  
 12          *or in part, of the Federal credit instrument, have the poten-*  
 13          *tial to achieve an investment-grade rating.*

14          “(d) *APPROVAL OF APPLICATIONS AND FUNDING.*—

15                 “(1) *IN GENERAL.*—*The Secretary shall—*

16                         “(A) *approve applications for projects that*  
 17                         *meet the criteria specified in subsection (b)(2) in*  
 18                         *the order in which the Secretary receives the ap-*  
 19                         *plications; and*

20                         “(B) *commit or conditionally commit budg-*  
 21                         *et authority for projects, out of amounts made*  
 22                         *available to carry out this chapter for a fiscal*  
 23                         *year, in the order in which the Secretary ap-*  
 24                         *proves the applications for such projects.*

1           “(2) *INSUFFICIENT FUNDS.*—*If the Secretary ap-*  
 2           *proves an application submitted under subsection*  
 3           *(a)(1) for a project in a fiscal year, but is unable to*  
 4           *provide financial assistance for the project in that fis-*  
 5           *cal year as a result of prior commitments or condi-*  
 6           *tional commitments of budget authority under this*  
 7           *chapter, the Secretary shall provide the project spon-*  
 8           *sor with the option of receiving such financial assist-*  
 9           *ance as soon as sufficient budget authority is made*  
 10           *available to carry out this chapter in a subsequent*  
 11           *fiscal year.*

12           “(e) *PROCEDURES FOR DETERMINING PROJECT ELIGI-*  
 13           *BILITY.*—

14           “(1) *ESTABLISHMENT.*—*The Secretary shall es-*  
 15           *tablish procedures for—*

16                   “(A) *processing applications received under*  
 17                   *subsection (a)(1) requesting financial assistance*  
 18                   *for projects; and*

19                   “(B) *approving or disapproving the appli-*  
 20                   *cations based on whether the projects meet the*  
 21                   *criteria specified in subsection (b)(2).*

22           “(2) *APPLICATION PROCESSING PROCEDURES.*—  
 23           *The procedures shall meet the following requirements:*

24                   “(A) *The procedures may not restrict when*  
 25                   *applications may be filed.*

1           “(B) *The procedures shall ensure that—*

2                     “(i) *the Secretary will provide written*  
3                     *notice to an applicant, on or before the 15th*  
4                     *day following the date of receipt of the ap-*  
5                     *plicant’s application, informing the appli-*  
6                     *cant of whether the application is complete;*

7                     “(ii) *if the application is complete, the*  
8                     *Secretary will provide written notice to the*  
9                     *applicant, on or before the 60th day fol-*  
10                    *lowing the date of issuance of written notice*  
11                    *for the application under clause (i), inform-*  
12                    *ing the applicant of whether the Secretary*  
13                    *has approved or disapproved the applica-*  
14                    *tion;*

15                    “(iii) *if the application is not com-*  
16                    *plete, the Secretary will provide written no-*  
17                    *tice to the applicant, together with the writ-*  
18                    *ten notice issued for the application under*  
19                    *clause (i), informing the applicant of the*  
20                    *information and materials needed to com-*  
21                    *plete the application; and*

22                    “(iv) *if the Secretary does not provide*  
23                    *written notice to an applicant under clause*  
24                    *(i) in the 15-day period specified in clause*  
25                    *(i)—*

1                   “(I) the applicant’s application is  
2                   deemed complete; and

3                   “(II) the Secretary will provide  
4                   written notice to the applicant, on or  
5                   before the 60th day following the last  
6                   day of such 15-day period, informing  
7                   the applicant of whether the Secretary  
8                   has approved or disapproved the appli-  
9                   cation.

10                  “(C) The procedures may not use eligibility  
11                  criteria that are supplemental to those estab-  
12                  lished by this chapter.

13                  “(D) In accordance with subsection (b)(1),  
14                  the procedures shall require approval of an ap-  
15                  plication if the project meets the eligibility cri-  
16                  teria specified in subsection (b)(2).

17                  “(E) The procedures shall require that any  
18                  written notice of disapproval of an application  
19                  identify the eligibility criteria that were not sat-  
20                  isfied and contain an explanation of the defi-  
21                  ciencies that resulted in failure to meet such cri-  
22                  teria.

23                  “(3) SPECIAL RULES FOR MASTER CREDIT  
24                  AGREEMENTS.—The Secretary shall issue special rules  
25                  for—

1           “(A) processing applications under which  
 2           financial assistance will be provided under a  
 3           master credit agreement; and

4           “(B) approving or disapproving such appli-  
 5           cations based on whether the proposed project or  
 6           program of related projects meets the applicable  
 7           eligibility criteria specified in section 601(a)(7).

8           “(f) *APPLICATION APPROVAL.*—Approval of an appli-  
 9           cation for a project under subsection (a)(1) qualifies the  
 10          project for execution of a conditional term sheet establishing  
 11          a conditional commitment of credit assistance.

12          “(g) *FEDERAL REQUIREMENTS.*—In addition to the  
 13          requirements of this title for highway projects, chapter 53  
 14          of title 49 for public transportation projects, and section  
 15          5333(a) of title 49 for rail projects, the following provisions  
 16          of law shall apply to funds made available under this chap-  
 17          ter and projects assisted with the funds:

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

20               “(2) *The National Environmental Policy Act of*  
 21               *1969 (42 U.S.C. 4321 et seq.).*

22               “(3) *The Uniform Relocation Assistance and*  
 23               *Real Property Acquisition Policies Act of 1970 (42*  
 24               *U.S.C. 4601 et seq.).*

1       “(h) *DEVELOPMENT PHASE ACTIVITIES.*—Any credit  
 2   instrument secured under this chapter may be used to fi-  
 3   nance 100 percent of the cost of development phase activities  
 4   as described in section 601(a)(1)(A) if the total amount of  
 5   the credit instrument does not exceed the maximum amount  
 6   for such instrument prescribed in this chapter.”.

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

“602. *Project applications and determinations of eligibility.*”.

10       (c) *SECURED LOANS.*—

11           (1) *IN GENERAL.*—

12               (A) *APPROVAL OF PROJECTS.*—Section  
 13   603(1) is amended by striking “selected” each  
 14   place it appears and inserting “approved”.

15               (B) *AGREEMENTS.*—Section 603(a)(1) is  
 16   amended in the matter preceding subparagraph  
 17   (A) by inserting “, including master credit  
 18   agreements,” after “agreements”.

19               (C) *RISK ASSESSMENT.*—Section 603(a)(3)  
 20   is amended by striking “602(b)(2)(B)” and in-  
 21   serting “602(c)”.

22       (2) *TERMS AND LIMITATIONS.*—

23           (A) *IN GENERAL.*—Section 603(b)(1) is  
 24   amended by inserting “are consistent with this

1           *chapter and its purpose and that” before “the*  
 2           *Secretary determines appropriate.”.*

3                   (B)       MAXIMUM       AMOUNTS.—Section  
 4           603(b)(2) *is amended to read as follows:*

5           “(2) MAXIMUM AMOUNTS.—The amount of the  
 6           secured loan may not exceed 49 percent of the reason-  
 7           ably anticipated eligible project costs.”.

8                   (C) PAYMENT.—Section 603(b)(3)(A)(i) *is*  
 9           *amended by inserting “payments owing to the*  
 10          *obligor under a public-private partnership,” be-*  
 11          *fore “or other dedicated revenue sources”.*

12                   (D)       NONSUBORDINATION.—Section  
 13          603(b)(6) *is amended by inserting after “project*  
 14          *obligations” the following: “entered into after the*  
 15          *date on which the agreement to provide the se-*  
 16          *cured loan is entered into under this section (ex-*  
 17          *cept that such obligations do not include project*  
 18          *obligations issued to refund prior project obliga-*  
 19          *tions or project obligations not contemplated by*  
 20          *the parties at the time)”.*

21          (d) LINES OF CREDIT.—

22                   (1) APPROVAL OF PROJECTS.—Section 604(a)(1)  
 23          *is amended by striking “selected” and inserting “ap-*  
 24          *proved”.*

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

4           (3) *TERMS AND LIMITATIONS.*—

5                 (A) *IN GENERAL.*—Section 604(b)(1) is  
 6           amended by inserting “are consistent with this  
 7           chapter and its purpose and that” before “the  
 8           Secretary determines appropriate.”.

9                 (B)         *MAXIMUM AMOUNTS.*—Section  
 10          604(b)(2) is amended to read as follows:

11                 “(2) *MAXIMUM AMOUNTS.*—The total amount of  
 12          the line of credit may not exceed 49 percent of the  
 13          reasonably anticipated eligible project costs.”.

14                 (C) *SECURITY.*—Section 604(b)(5)(A)(i) is  
 15          amended by inserting “payments owing to the  
 16          obligor under a public-private partnership,” be-  
 17          fore “or other dedicated revenue sources”.

18                 (D)         *NONSUBORDINATION.*—Section  
 19          604(b)(8) is amended by inserting after “project  
 20          obligations” the following: “entered into after the  
 21          date on which the agreement to provide the di-  
 22          rect loan is entered into under this section (ex-  
 23          cept that such obligations do not include project  
 24          obligations issued to refund prior project obliga-

1            *tions or project obligations not contemplated by*  
 2            *the parties at the time)”.*

3            *(E) RELATIONSHIP TO OTHER CREDIT IN-*  
 4            *STRUMENTS.—Section 604(b)(10) is amended by*  
 5            *striking “33 percent” and inserting “49 per-*  
 6            *cent”.*

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

9            *“(e) EXPEDITED PROCESSING.—The Secretary shall*  
 10           *implement procedures and measures to economize the time*  
 11           *and cost involved in obtaining approval and the issuance*  
 12           *of credit assistance under this chapter.”.*

13           *(f) FUNDING.—*

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

16           *“(1) IN GENERAL.—There is authorized to be ap-*  
 17           *propriated from the Highway Trust Fund (other than*  
 18           *the Alternative Transportation Account) to carry out*  
 19           *this chapter \$1,000,000,000 for each of fiscal years*  
 20           *2013 through 2016.”.*

21           *(2) ADMINISTRATIVE COSTS.—Section 608(a)(3)*  
 22           *is amended by striking “\$2,200,000 for each of fiscal*  
 23           *years 2005 through 2009” and inserting “\$3,250,000*  
 24           *for each of fiscal years 2013 through 2016”.*

1           (3) *PROJECTS UNDER A MASTER CREDIT AGREE-*  
 2           *MENT.—Section 608(a) is amended by adding at the*  
 3           *end the following:*

4           “(4) *PROJECTS UNDER A MASTER CREDIT*  
 5           *AGREEMENT.—The Secretary may commit or condi-*  
 6           *tionally commit to projects covered by master credit*  
 7           *agreements not more than 15 percent of the amount*  
 8           *of budget authority for each fiscal year under para-*  
 9           *graph (1). This limitation does not apply to a project*  
 10           *under a master credit agreement that has received*  
 11           *final credit approval.”.*

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

14           “(c) *EXHAUSTION OF AVAILABILITY.—*

15           “(1) *NOTICE OF EXHAUSTION.—Whenever the*  
 16           *Secretary fully commits budget authority available in*  
 17           *a fiscal year under subparagraph (a)(1), the Sec-*  
 18           *retary shall—*

19           “(A) *publish notice of that fact in the Fed-*  
 20           *eral Register; and*

21           “(B) *deliver written notice of that fact to*  
 22           *the applicants under all approved and pending*  
 23           *applications.*

24           “(2) *ELECTION TO USE OTHER SOURCES FOR*  
 25           *SUBSIDY AMOUNT.—An applicant may elect in its ap-*

1      *plication or at any time after receipt of such notice*  
 2      *to pay the subsidy amount from available sources*  
 3      *other than the budget authority available in a fiscal*  
 4      *year under subparagraph (a)(1), including from Fed-*  
 5      *eral assistance available to the applicant under this*  
 6      *title or chapter 53 of title 49.*

7      *“(d) USE OF UNALLOCATED FUNDS.—*

8            *“(1) DISTRIBUTION AMONG STATES.—On Sep-*  
 9      *tember 1 of each fiscal year, the Secretary shall dis-*  
 10     *tribute any remaining budget authority made avail-*  
 11     *able in subsection (a)(1) among the States in the*  
 12     *ratio that—*

13            *“(A) the amount authorized to be appor-*  
 14     *tioned, out of amounts made available from the*  
 15     *Highway Trust Fund (other than the Alternative*  
 16     *Transportation Account), to each State for the*  
 17     *National Highway System program, the surface*  
 18     *transportation program, and highway safety im-*  
 19     *provement program for the fiscal year; bears to*

20            *“(B) the amount authorized to be appor-*  
 21     *tioned, out of amounts made available from the*  
 22     *Highway Trust Fund (other than the Alternative*  
 23     *Transportation Account), to all States for the*  
 24     *National Highway System program, the surface*

1           *transportation program, and highway safety im-*  
 2           *provement program for the fiscal year.*

3           “(2) *ELIGIBLE PURPOSES.*—*Such budget author-*  
 4           *ity shall be available for any purpose eligible for*  
 5           *funding under section 133.”.*

6   **SEC. 1202. STATE INFRASTRUCTURE BANK PROGRAM.**

7           *(a) FUNDING.*—

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

9                   *(A) by striking “fiscal years 2005 through*  
 10                  *2009” each place that it appears and inserting*  
 11                  *“fiscal years 2013 through 2016”; and*

12                  *(B) by striking “10 percent” each place that*  
 13                  *it appears and inserting “15 percent”.*

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

16                   *(A) in subparagraph (A) by striking “and”*  
 17                  *at the end;*

18                   *(B) in subparagraph (B) by striking the pe-*  
 19                  *riod at the end and inserting “; and”; and*

20                   *(C) by adding at the end the following:*

21                   *“(C) 100 percent of the funds apportioned*  
 22                  *to the State for each of fiscal years 2013 through*  
 23                  *2016 under section 611.”.*

1       (b) *PROGRAM ADMINISTRATION.*—Section 610(k) is  
 2       amended by striking “fiscal years 2005 through 2009” and  
 3       inserting “fiscal years 2013 through 2016”.

4       **SEC. 1203. STATE INFRASTRUCTURE BANK CAPITALIZA-**  
 5                               **TION.**

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

8       **“§ 611. State infrastructure bank capitalization**

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

13               “(1) the amount authorized to be apportioned,  
 14       out of amounts made available from the Highway  
 15       Trust Fund (other than the Alternative Transpor-  
 16       tation Account), to each State for the National High-  
 17       way System program, the surface transportation pro-  
 18       gram, and highway safety improvement program for  
 19       the fiscal year; bears to

20               “(2) the amount authorized to be apportioned,  
 21       out of amounts made available from the Highway  
 22       Trust Fund (other than the Alternative Transpor-  
 23       tation Account), to all States for the National High-  
 24       way System program, the surface transportation pro-

1        *gram, and highway safety improvement program for*  
 2        *the fiscal year.*

3        “(b) *ELIGIBLE USES OF FUNDING.*—

4                “(1) *IN GENERAL.*—*Except as provided in para-*  
 5        *graph (2), funds apportioned to a State under sub-*  
 6        *section (a) shall be used by the State to make capital-*  
 7        *ization grants to the highway account of the State’s*  
 8        *infrastructure bank established under section 610.*

9                “(2) *FISCAL YEARS 2013 AND 2014.*—*Funds ap-*  
 10        *portioned to a State under subsection (a) for fiscal*  
 11        *years 2013 and 2014 may be used by the State for*  
 12        *eligible projects on the National Highway System, as*  
 13        *described in section 119(d).*

14        “(c) *REAPPORTIONMENT OF FUNDS.*—*For fiscal year*  
 15        *2015 and each fiscal year thereafter, if by August 1 of the*  
 16        *fiscal year a State does not obligate the funds apportioned*  
 17        *to the State for the fiscal year under subsection (a) for pro-*  
 18        *viding capitalization grants described in subsection (b), the*  
 19        *Secretary shall reapportion the remaining funds among*  
 20        *those States that—*

21                “(1) *did obligate before such date all of the funds*  
 22        *apportioned to the State for the fiscal year under sub-*  
 23        *section (a); and*

24                “(2) *certify to the Secretary that the State will*  
 25        *use the additional funds to make capitalization*

1        *grants described in subsection (b) before the end of the*  
 2        *fiscal year.*

3        “(d) *LIMITATION.—Any reapportionment of funds*  
 4        *pursuant to subsection (d) shall not require a recalculation*  
 5        *of percentages under section 105.*

6        “(e) *APPLICABILITY OF FEDERAL LAW.—The require-*  
 7        *ments referred to in section 610(h) shall apply to any funds*  
 8        *apportioned under this section.*

9        “(f) *FUNDING.—*

10            “(1) *IN GENERAL.—There is authorized to be ap-*  
 11            *propriated out of the Highway Trust Fund (other*  
 12            *than the Alternative Transportation Account) to*  
 13            *carry out this section \$750,000,000 for each of fiscal*  
 14            *years 2013 through 2016.*

15            “(2) *CONTRACT AUTHORITY.—Funds made avail-*  
 16            *able under paragraph (1) shall be available for obli-*  
 17            *gation in the same manner as if the funds were ap-*  
 18            *portioned under chapter 1.”.*

19        (b) *CLERICAL AMENDMENT.—The analysis for chapter*  
 20        *6 is amended by adding at the end the following:*

      “611. *State infrastructure bank capitalization.*”.

21        **SEC. 1204. TOLLING.**

22        (a) *AMENDMENT TO TOLLING PROVISION.—Section*  
 23        *129(a) is amended to read as follows:*

24        “(a) *BASIC PROGRAM.—*

1           “(1) *AUTHORIZATION FOR FEDERAL PARTICIPA-*  
2           *TION.—Subject to the provisions of this section, Fed-*  
3           *eral participation shall be permitted on the same*  
4           *basis and in the same manner as construction of toll-*  
5           *free highways is permitted under this chapter in*  
6           *the—*

7                     “(A) *initial construction of a toll highway,*  
8                     *bridge, or tunnel or approach thereto;*

9                     “(B) *initial construction of one or more*  
10                    *lanes or other improvements that increase capac-*  
11                    *ity of a highway, bridge, or tunnel (other than*  
12                    *a highway on the Interstate System) and conver-*  
13                    *sion of that highway, bridge, or tunnel to a*  
14                    *tolled facility;*

15                    “(C) *initial construction of one or more*  
16                    *lanes or other improvements that increase the ca-*  
17                    *pacity of a highway, bridge, or tunnel on the*  
18                    *Interstate System and conversion of that high-*  
19                    *way, bridge, or tunnel to a tolled facility, if the*  
20                    *number of toll-free non-HOV lanes, excluding*  
21                    *auxiliary lanes, after such construction is not*  
22                    *less than the number of toll-free non-HOV lanes,*  
23                    *excluding auxiliary lanes, before such construc-*  
24                    *tion;*

1           “(D) reconstruction, resurfacing, restora-  
2           tion, rehabilitation, or replacement of a toll  
3           highway, bridge, or tunnel or approach thereto;

4           “(E) reconstruction or replacement of a toll-  
5           free bridge or tunnel and conversion of the bridge  
6           or tunnel to a toll facility;

7           “(F) reconstruction, restoration, or rehabili-  
8           tation of a toll-free Federal-aid highway (other  
9           than a highway on the Interstate System) and  
10          conversion of the highway to a toll facility;

11          “(G) reconstruction, restoration, or rehabili-  
12          tation of a highway on the Interstate System if  
13          the number of toll-free non-HOV lanes, excluding  
14          auxiliary lanes, after reconstruction, restoration,  
15          or rehabilitation is not less than the number of  
16          toll-free non-HOV lanes, excluding auxiliary  
17          lanes, before reconstruction, restoration or reha-  
18          bilitation;

19          “(H) conversion of a high occupancy vehicle  
20          lane on a highway, bridge, or tunnel to a toll fa-  
21          cility; and

22          “(I) preliminary studies to determine the  
23          feasibility of a toll facility for which Federal  
24          participation is authorized under this para-  
25          graph.

1           “(2) *OWNERSHIP.—Each highway, bridge, tun-*  
 2           *nel, or approach thereto constructed under this sub-*  
 3           *section must—*

4                     “(A) *be publicly owned; or*

5                     “(B) *be privately owned if the public au-*  
 6           *thority with jurisdiction over the highway,*  
 7           *bridge, tunnel, or approach has entered into a*  
 8           *contract with a private person or persons to de-*  
 9           *sign, finance, construct, and operate the facility*  
 10          *and the public authority will be responsible for*  
 11          *complying with all applicable requirements of*  
 12          *this title with respect to the facility.*

13           “(3) *LIMITATIONS ON USE OF REVENUES.—*

14                     “(A) *IN GENERAL.—A public authority*  
 15          *with jurisdiction over a toll facility shall use all*  
 16          *toll revenues received from operation of the toll*  
 17          *facility only for—*

18                     “(i) *debt service with respect to the*  
 19          *projects on or for which the tolls are author-*  
 20          *ized, including funding of reasonable re-*  
 21          *serves and debt service on refinancing;*

22                     “(ii) *reasonable return on investment*  
 23          *of any private person financing the project,*  
 24          *as determined by the State or interstate*  
 25          *compact of States concerned;*

1           “(iii) any costs necessary for the im-  
2           provement and proper operation and main-  
3           tenance of the toll facility, including recon-  
4           struction, resurfacing, restoration, and re-  
5           habilitation;

6           “(iv) if the toll facility is subject to a  
7           public-private partnership agreement, pay-  
8           ments that the party holding the right to  
9           toll revenues owes to the other party under  
10          the public-private partnership agreement;  
11          and

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

18          “(B) ANNUAL AUDIT.—A public authority  
19          with jurisdiction over a toll facility shall conduct  
20          or have an independent auditor conduct an an-  
21          nual audit of toll facility records to verify ade-  
22          quate maintenance and compliance with sub-  
23          paragraph (A), and report the results of such au-  
24          dits to the Secretary. Upon reasonable notice, the  
25          public authority shall make all records of the

1        *public authority pertaining to the toll facility*  
2        *available for audit by the Secretary.*

3                “(C) *NONCOMPLIANCE.*—*If the Secretary*  
4        *concludes that a public authority has not com-*  
5        *plied with the limitations on the use of revenues*  
6        *described in subparagraph (A), the Secretary*  
7        *may require the public authority to discontinue*  
8        *collecting tolls until an agreement with the Sec-*  
9        *retary is reached to achieve compliance with the*  
10       *limitation on the use of revenues described in*  
11       *subparagraph (A).*

12               “(4) *LIMITATIONS ON CONVERSION OF HIGH OC-*  
13       *CUPANCY VEHICLE FACILITIES ON INTERSTATE SYS-*  
14       *TEM.*—

15               “(A) *IN GENERAL.*—*A public authority*  
16       *with jurisdiction over a high occupancy vehicle*  
17       *facility on the Interstate System may undertake*  
18       *reconstruction, restoration, or rehabilitation*  
19       *under subsection (a)(1)(G) on the facility, and*  
20       *may levy tolls on vehicles, excluding high occu-*  
21       *pancy vehicles, using the reconstructed, restored,*  
22       *or rehabilitated facility, if the public author-*  
23       *ity—*

24               “(i) *in the case of a high occupancy ve-*  
25       *hicle facility that affects a metropolitan*

1            *area, submits to the Secretary a written as-*  
2            *surance that the metropolitan planning or-*  
3            *ganization designated under section 5203 of*  
4            *title 49 for the area has been consulted con-*  
5            *cerning the placement and amount of tolls*  
6            *on the converted facility;*

7            *“(ii) develops, manages, and maintains*  
8            *a system that will automatically collect the*  
9            *toll; and*

10           *“(iii) establishes policies and proce-*  
11           *dures to—*

12           *“(I) manage the demand to use*  
13           *the facility by varying the toll amount*  
14           *that is charged; and*

15           *“(II) enforce sanctions for viola-*  
16           *tions of use of the facility.*

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

22           *“(5) SPECIAL RULE FOR FUNDING.—In the case*  
23           *of a toll facility under the jurisdiction of a public au-*  
24           *thority of a State (other than the State transportation*  
25           *department), upon request of the State transportation*

1        *department and subject to such terms and conditions*  
2        *as such department and public authority may agree,*  
3        *the Secretary, working through the State department*  
4        *of transportation, shall reimburse such public author-*  
5        *ity for the Federal share of the costs of construction*  
6        *of the project carried out on the toll facility under*  
7        *this subsection in the same manner and to the same*  
8        *extent as such department would be reimbursed if*  
9        *such project was being carried out by such depart-*  
10       *ment. The reimbursement of funds under this para-*  
11       *graph shall be from sums apportioned to the State*  
12       *under this chapter and available for obligations on*  
13       *projects on the Federal-aid system in such State on*  
14       *which the project is being carried out.*

15            “(6) *LIMITATION ON FEDERAL SHARE.—The*  
16        *Federal share payable for a project described in para-*  
17        *graph (1) shall be a percentage determined by the*  
18        *State but not to exceed 80 percent.*

19            “(7) *MODIFICATIONS.—If a public authority (in-*  
20        *cluding a State transportation department) with ju-*  
21        *risdiction over a toll facility subject to an agreement*  
22        *under this section or section 119(e), as in effect on the*  
23        *day before the effective date of title I of the Inter-*  
24        *modal Surface Transportation Efficiency Act of 1991,*  
25        *requests modification of such agreement, the Secretary*

1       *shall modify such agreement to allow the continuation*  
2       *of tolls in accordance with paragraph (3) without re-*  
3       *payment of Federal funds.*

4               “(8) *LOANS.—*

5               “(A) *IN GENERAL.—Using amounts made*  
6       *available under this title, a State may loan to*  
7       *a public or private entity constructing or pro-*  
8       *posing to construct under this section a toll facil-*  
9       *ity or non-toll facility with a dedicated revenue*  
10       *source an amount equal to all or part of the Fed-*  
11       *eral share of the cost of the project if the project*  
12       *has a revenue source specifically dedicated to it.*  
13       *Dedicated revenue sources for non-toll facilities*  
14       *include excise taxes, sales taxes, motor vehicle use*  
15       *fees, tax on real property, tax increment financ-*  
16       *ing, and such other dedicated revenue sources as*  
17       *the Secretary determines appropriate.*

18               “(B) *COMPLIANCE WITH FEDERAL LAWS.—*

19       *As a condition of receiving a loan under this*  
20       *paragraph, the public or private entity that re-*  
21       *ceives the loan shall ensure that the project will*  
22       *be carried out in accordance with this title and*  
23       *any other applicable Federal law, including any*  
24       *applicable provision of a Federal environmental*  
25       *law.*

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

5           “(D) *OBLIGATION OF FUNDS LOANED.*—  
6           *Funds loaned under this paragraph may only be*  
7           *obligated for projects under this paragraph.*

8           “(E) *REPAYMENT.*—*The repayment of a*  
9           *loan made under this paragraph shall commence*  
10          *not later than 5 years after date on which the fa-*  
11          *cility that is the subject of the loan is open to*  
12          *traffic.*

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

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

22          “(H) *REUSE OF FUNDS.*—*Amounts repaid*  
23          *to a State from a loan made under this para-*  
24          *graph may be obligated—*

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

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

9                   “(I) *GUIDELINES.*—The Secretary shall es-  
10                  tablish procedures and guidelines for making  
11                  loans under this paragraph.

12                  “(9) *STATE LAW PERMITTING TOLLING.*—If a  
13                  State does not have a highway, bridge, or tunnel toll  
14                  facility as of the date of enactment of the American  
15                  Energy and Infrastructure Jobs Act of 2012, before  
16                  commencing any activity authorized under this sec-  
17                  tion, the State must have in effect a law that permits  
18                  tolling on a highway, bridge, or tunnel.

19                  “(10) *DEFINITIONS.*—In this subsection, the fol-  
20                  lowing definitions apply:

21                         “(A) *HIGH OCCUPANCY VEHICLE; HOV.*—  
22                         The term ‘high occupancy vehicle’ or ‘HOV’  
23                         means a vehicle with no fewer than 2 occupants.

24                         “(B) *INITIAL CONSTRUCTION.*—The term  
25                         ‘initial construction’ means the construction of a

1 highway, bridge, tunnel, or other facility at any  
 2 time before it is open to traffic and does not in-  
 3 clude any improvement to a highway, bridge,  
 4 tunnel, or other facility after it is open to traffic.

5 “(C) *PUBLIC AUTHORITY*.—The term ‘public  
 6 authority’ means a State, interstate compact of  
 7 States, or public entity designated by a State.

8 “(D) *TOLL FACILITY*.—The term ‘toll facil-  
 9 ity’ means a toll highway, bridge, or tunnel or  
 10 approach thereto constructed under this sub-  
 11 section.”.

12 (b) *ELECTRONIC TOLL COLLECTION INTEROPER-*  
 13 *ABILITY REQUIREMENTS*.—Not later than 2 years after the  
 14 date of enactment of this Act, all toll facilities on the Fed-  
 15 eral-aid highways shall implement technologies or business  
 16 practices that provide for the interoperability of electronic  
 17 toll collection programs.

18 **SEC. 1205. HOV FACILITIES.**

19 (a) *HOV EXCEPTIONS*.—Section 166(b)(5) is amend-  
 20 ed—

21 (1) in subparagraphs (A) and (B) by striking  
 22 “2009” and inserting “2016”; and

23 (2) in subparagraph (C)—

24 (A) by striking “subparagraph (B)” and in-  
 25 serting “this paragraph”; and

1                   (B) by inserting “or equal to” after “less  
2                   than”.

3           (b) *REQUIREMENTS APPLICABLE TO TOLLS.*—Section  
4 166(c)(3) is amended to read as follows:

5                   “(3) *TOLL REVENUE.*—Toll revenue collected  
6                   under this section is subject to the requirements of sec-  
7                   tion 129(a)(3).”.

8           (c) *HOV FACILITY MANAGEMENT, OPERATION, MONI-*  
9 *TORING, AND ENFORCEMENT.*—Section 166(d)(2) is amend-  
10 ed by adding at the end the following:

11                   “(D) *MAINTENANCE OF OPERATING PER-*  
12 *FORMANCE.*—Not later than 6 months after a fa-  
13 *cility has been determined to be degraded pursu-*  
14 *ant to the standard specified in subparagraph*  
15 *(B), the State agency with jurisdiction over the*  
16 *facility shall bring the facility into compliance*  
17 *with the minimum average operating speed per-*  
18 *formance standard through changes to operation*  
19 *of the facility, including—*

20                   “(i) *increasing the occupancy require-*  
21 *ment for HOV lanes;*

22                   “(ii) *varying the toll charged to vehi-*  
23 *cles allowed under subsection (b) to reduce*  
24 *demand;*

1                   “(iii) discontinuing allowing non-HOV  
 2                   vehicles to use HOV lanes under subsection  
 3                   (b); or  
 4                   “(iv) increasing the available capacity  
 5                   of the HOV facility.”.

6 **SEC. 1206. PUBLIC-PRIVATE PARTNERSHIPS.**

7           (a) *BEST PRACTICES.*—The Secretary shall compile,  
 8           and make available to the public on the Internet Web site  
 9           of the Department, best practices on how States, public  
 10          transportation agencies, and other public officials can work  
 11          with the private sector in the development, financing, con-  
 12          struction, and operation of transportation facilities.

13          (b) *CONTENTS.*—The best practices shall include po-  
 14          lices and techniques to ensure that the interests of the trav-  
 15          eling public and State and local governments are protected  
 16          in any agreement entered into with the private sector for  
 17          the development, financing, construction, and operation of  
 18          transportation facilities.

19          (c) *TECHNICAL ASSISTANCE.*—The Secretary, upon re-  
 20          quest, may provide technical assistance to States, public  
 21          transportation agencies, and other public officials regard-  
 22          ing proposed public-private partnership agreements for the  
 23          development, financing, construction, and operation of  
 24          transportation facilities, including assistance in analyzing  
 25          whether the use of a public-private partnership agreement

1 *would provide value compared with traditional public de-*  
 2 *livery methods.*

3 *(d) STANDARD TRANSACTION CONTRACTS.—*

4 *(1) DEVELOPMENT.—Not later than 18 months*  
 5 *after the date of enactment of this Act, the Secretary*  
 6 *shall develop standard public-private partnership*  
 7 *transaction model contracts for the most popular*  
 8 *types of public-private partnerships for the develop-*  
 9 *ment, financing, construction, and operation of trans-*  
 10 *portation facilities.*

11 *(2) USE.—The Secretary shall encourage States,*  
 12 *public transportation agencies, and other public offi-*  
 13 *cial to use the model contracts as a base template*  
 14 *when developing their own public-private partnership*  
 15 *agreements for the development, financing, construc-*  
 16 *tion, and operation of transportation facilities.*

## 17 ***Subtitle C—Highway Safety***

### 18 ***SEC. 1301. HIGHWAY SAFETY IMPROVEMENT PROGRAM.***

19 *Section 148 is amended to read as follows:*

#### 20 ***“§ 148. Highway safety improvement program***

21 *“(a) DEFINITIONS.—In this section, the following defi-*  
 22 *nitions apply:*

23 *“(1) HIGHWAY SAFETY IMPROVEMENT PRO-*  
 24 *GRAM.—The term ‘highway safety improvement pro-*

1        *gram’ means the program carried out under this sec-*  
 2        *tion.*

3                “(2)        *HIGHWAY        SAFETY        IMPROVEMENT*  
 4        *PROJECT.—The term ‘highway safety improvement*  
 5        *project’ means a project consistent with an applicable*  
 6        *State strategic highway safety plan that—*

7                        “(A) *corrects or improves a roadway feature*  
 8                        *that constitutes a hazard to any road users; or*

9                        “(B) *addresses any other highway safety*  
 10                      *problem.*

11                “(3) *PROJECT TO MAINTAIN MINIMUM LEVELS OF*  
 12        *RETROREFLECTIVITY.—The term ‘project to maintain*  
 13        *minimum levels of retroreflectivity’ means a project*  
 14        *undertaken pursuant to the provisions of the Manual*  
 15        *on Uniform Traffic Control Devices that require the*  
 16        *use of an assessment or management method designed*  
 17        *to maintain highway sign or pavement marking*  
 18        *retroreflectivity at or above minimum levels pre-*  
 19        *scribed in the Manual.*

20                “(4) *ROAD USERS.—The term ‘road users’ means*  
 21        *motor vehicle drivers and passengers, public transpor-*  
 22        *tation operators and users, truck drivers, bicyclists,*  
 23        *motorcyclists, and pedestrians, including persons with*  
 24        *disabilities.*

1           “(5) *SAFETY DATA.*—*The term ‘safety data’ in-*  
2           *cludes crash, roadway, driver licensing, and traffic*  
3           *data with respect to all public roads and, for high-*  
4           *way-rail grade crossings, data on the characteristics*  
5           *of highway and train traffic.*

6           “(6) *SAFETY PROJECT UNDER ANY OTHER SEC-*  
7           *TION.*—

8                   “(A) *IN GENERAL.*—*The term ‘safety project*  
9                   *under any other section’ means a project carried*  
10                  *out for the purpose of safety under any other sec-*  
11                  *tion of this title.*

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

14                           “(i) *projects consistent with an appli-*  
15                           *cable State strategic highway safety plan*  
16                           *that promote the awareness of the public*  
17                           *and educate the public concerning highway*  
18                           *safety matters (including motorcycle safety);*

19                           “(ii) *projects to enforce highway safety*  
20                           *laws; and*

21                           “(iii) *projects to provide infrastructure*  
22                           *and equipment to support emergency serv-*  
23                           *ices.*

24           “(7) *STATE HIGHWAY SAFETY IMPROVEMENT*  
25           *PROGRAM.*—*The term ‘State highway safety improve-*

1        *ment program’ means a program of highway safety*  
 2        *improvement projects carried out as part of the state-*  
 3        *wide transportation improvement program under sec-*  
 4        *tion 5204(g) of title 49.*

5            “(8) *STATE STRATEGIC HIGHWAY SAFETY*  
 6        *PLAN.*—*The term ‘State strategic highway safety*  
 7        *plan’ means a comprehensive, data-driven safety plan*  
 8        *developed in accordance with subsection (c)(2).*

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

13           “(c) *STATE HIGHWAY SAFETY IMPROVEMENT PRO-*  
 14        *GRAMS.*—

15           “(1) *IN GENERAL.*—*To obligate funds appor-*  
 16        *tioned under section 104(b)(5) to carry out this sec-*  
 17        *tion, a State shall have in effect a State highway safe-*  
 18        *ty improvement program that—*

19                    “(A) *includes a set of projects that are con-*  
 20                    *sistent with the State strategic highway safety*  
 21                    *plan of the State;*

22                    “(B) *satisfies the requirements of this sec-*  
 23                    *tion; and*

1           “(C) is consistent with the State’s statewide  
2           transportation improvement program under sec-  
3           tion 5204(g) of title 49.

4           “(2) *STRATEGIC HIGHWAY SAFETY PLAN*.—As  
5           part of the State highway safety improvement pro-  
6           gram of the State, each State shall have in effect, up-  
7           date at least every 2 years, and submit to the Sec-  
8           retary a State strategic highway safety plan that—

9           “(A) is developed after consultation with—

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

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

15           “(iii) representatives of major modes of  
16           transportation;

17           “(iv) State and local traffic enforce-  
18           ment officials;

19           “(v) representatives of entities con-  
20           ducting a Federal or State motor carrier  
21           safety program;

22           “(vi) motor vehicle administration  
23           agencies;

1           “(vii) a highway-rail grade crossing  
2           safety representative of the Governor of the  
3           State; and

4           “(viii) other major Federal, State, trib-  
5           al, regional, and local safety stakeholders;

6           “(B) is approved by the Governor of the  
7           State or a responsible State agency;

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

11          “(D) addresses engineering, management,  
12          operation, education, enforcement, and emer-  
13          gency services elements of highway safety (in-  
14          cluding integrated, interoperable emergency com-  
15          munications) as key factors in evaluating high-  
16          way projects;

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

21          “(F) considers the results of Federal, State,  
22          regional, and local transportation and highway  
23          safety planning processes; and

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

1           “(3) *IMPLEMENTATION.*—

2                   “(A) *IDENTIFICATION AND ANALYSIS OF*  
3                   *HIGHWAY SAFETY PROBLEMS AND OPPORTUNI-*  
4                   *TIES.*—*As part of the State highway safety im-*  
5                   *provement program of the State, each State*  
6                   *shall, including through use of the safety data*  
7                   *system required under subsection (e)—*

8                           “(i) *identify roadway features that*  
9                           *constitute a hazard to road users;*

10                           “(ii) *identify highway safety improve-*  
11                           *ment projects on the basis of crash history*  
12                           *(including crash rates), crash potential, or*  
13                           *other data-supported means;*

14                           “(iii) *establish the relative severity of*  
15                           *the risks of roadway features based on*  
16                           *crash, injury, fatality, traffic volume, and*  
17                           *other relevant data (including the number*  
18                           *and rates of crashes, injuries, and fatali-*  
19                           *ties);*

20                           “(iv) *identify the 100 most dangerous*  
21                           *roads in the State, including specific inter-*  
22                           *sections and sections of roads, based on the*  
23                           *risk factors described in clause (iii);*

1           “(v) consider whether highway safety  
2           improvement projects maximize opportuni-  
3           ties to advance safety; and

4           “(vi) in conjunction with the National  
5           Highway Traffic Safety Administration  
6           and the Federal Motor Carrier Safety Ad-  
7           ministration, evaluate the progress made  
8           each year in achieving State safety goals  
9           identified in the State strategic highway  
10          safety plan.

11          “(B) SCHEDULE OF HIGHWAY SAFETY IM-  
12          PROVEMENT PROJECTS.—As part of the State  
13          highway safety improvement program of the  
14          State, each State shall, including through use of  
15          the safety data system required under subsection  
16          (e)—

17               “(i) identify highway safety improve-  
18               ment projects;

19               “(ii) determine priorities for the cor-  
20               rection of roadway features that constitute a  
21               hazard to road users as identified through  
22               safety data analysis; and

23               “(iii) establish and implement a sched-  
24               ule of highway safety improvement projects

1           to address roadway features identified as  
2           constituting a hazard to road users.

3           “(4) *ELIGIBLE PROJECTS.*—

4           “(A) *IN GENERAL.*—A State may obligate  
5           funds apportioned to the State under section  
6           104(b)(5) to carry out—

7                   “(i) any highway safety improvement  
8                   project on any public road or publicly  
9                   owned pathway or trail;

10                   “(ii) any project to put in effect or im-  
11                   prove the safety data system required under  
12                   subsection (e), without regard to whether the  
13                   project is included in an applicable State  
14                   strategic highway safety plan;

15                   “(iii) any project to maintain min-  
16                   imum levels of retroreflectivity with respect  
17                   to a public road, without regard to whether  
18                   the project is included in an applicable  
19                   State strategic highway safety plan;

20                   “(iv) any project for roadway safety  
21                   infrastructure improvements consistent with  
22                   the recommendations included in the publi-  
23                   cation of the Federal Highway Administra-  
24                   tion entitled ‘Highway Design Handbook  
25                   for Older Drivers and Pedestrians’ (Publi-

1            *cation number FHWA RD-01-103), or any*  
 2            *successor publication; or*

3            “(v) *as provided in subsection (d),*  
 4            *other projects.*

5            “(B) *USE OF OTHER FUNDING FOR SAFETY*  
 6            *IMPROVEMENT PROJECTS.—*

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

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

18           “(C) *AUTOMATED TRAFFIC ENFORCEMENT*  
 19           *SYSTEMS.—*

20           “(i) *PROHIBITION.—A State may not*  
 21           *obligate funds apportioned to the State*  
 22           *under section 104(b) to carry out any pro-*  
 23           *gram to purchase, operate, or maintain an*  
 24           *automated traffic enforcement system.*

1                   “(ii) *AUTOMATED TRAFFIC ENFORCE-*  
2                   *MENT SYSTEM DEFINED.*—*In this subpara-*  
3                   *graph, the term ‘automated traffic enforce-*  
4                   *ment system’ means automated technology*  
5                   *that monitors compliance with traffic laws.*

6                   “(5) *UPDATED STATE STRATEGIC HIGHWAY*  
7                   *SAFETY PLAN REQUIRED.*—

8                   “(A) *IN GENERAL.*—*A State may obligate*  
9                   *funds apportioned to the State under section*  
10                  *104(b)(5) for the second fiscal year beginning*  
11                  *after the date of enactment of the American En-*  
12                  *ergy and Infrastructure Jobs Act of 2012 only if*  
13                  *the State has in effect and has submitted to the*  
14                  *Secretary an updated State strategic highway*  
15                  *safety plan that satisfies requirements under this*  
16                  *subsection.*

17                  “(B) *TRANSITION.*—*Before the second fiscal*  
18                  *year beginning after the date of enactment of the*  
19                  *American Energy and Infrastructure Jobs Act of*  
20                  *2012, a State may obligate funds apportioned to*  
21                  *the State under section 104(b)(5) in a manner*  
22                  *consistent with a State strategic highway safety*  
23                  *plan of the State developed before such date of*  
24                  *enactment.*

1       “(d) *FLEXIBLE FUNDING.*—To further the implemen-  
 2       tation of a State strategic highway safety plan and the  
 3       achievement of performance measures established under sec-  
 4       tion 5206 of title 49, a State may use not more than 10  
 5       percent of the funds apportioned to the State under section  
 6       104(b)(5) for a fiscal year to carry out safety projects under  
 7       any other section if—

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

10              “(2) the State certifies to the Secretary that the  
 11       funds are being used for the most effective projects for  
 12       making progress toward achieving performance meas-  
 13       ures established under section 5206 of title 49.

14       “(e) *SAFETY DATA SYSTEM.*—

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

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

1           “(B) advance the capabilities of the State  
2           with respect to safety data collection, analysis,  
3           and integration;

4           “(C) identify roadway features that con-  
5           stitute a hazard to road users; and

6           “(D) perform safety problem identification  
7           and countermeasure analysis.

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

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

14          “(B) the ability of the State to integrate all  
15          safety data collected throughout the State;

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

18          “(D) the ability of the Secretary to observe  
19          and analyze national trends in crash rates, out-  
20          comes, and circumstances; and

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

23          “(3) EVALUATION OF IMPROVEMENT EFFORTS.—  
24          Each State shall collect and maintain a record of  
25          projects undertaken to improve the safety data system

1        *of the State and shall evaluate the effectiveness of such*  
 2        *projects.*

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

6                “(1) *the Internet Web site of the State transpor-*  
 7        *tation department of the State; or*

8                “(2) *such other means as the Secretary deter-*  
 9        *mines to be appropriate.*

10        “(g) *DISCOVERY AND ADMISSION INTO EVIDENCE OF*  
 11        *CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Not-*  
 12        *withstanding any other provision of law, reports, surveys,*  
 13        *schedules, lists, or data compiled or collected for any pur-*  
 14        *pose directly relating to this section, or published in accord-*  
 15        *ance with subsection (f), shall not be subject to discovery*  
 16        *or admitted into evidence in a Federal or State court pro-*  
 17        *ceeding or considered for other purposes in any action for*  
 18        *damages arising from any occurrence at a location identi-*  
 19        *fied or addressed in such reports, surveys, schedules, lists,*  
 20        *or other data.*

21        “(h) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVE-*  
 22        *MENT PROJECTS.—The Federal share of the cost of a high-*  
 23        *way safety improvement project carried out with funds ap-*  
 24        *portioned to a State under section 104(b)(5) shall be 90 per-*

1 *cent, unless a Federal share exceeding 90 percent would*  
 2 *apply to the project under section 120 or 130.”.*

3 **SEC. 1302. RAILWAY-HIGHWAY CROSSINGS.**

4 *(a) TRANSPARENCY OF STATE SURVEYS AND SCHED-*  
 5 *ULES WITH RESPECT TO RAILWAY-HIGHWAY CROSSINGS.—*

6 *(1) SURVEY AND SCHEDULE OF PROJECTS.—Sec-*  
 7 *tion 130(d) is amended by adding at the end the fol-*  
 8 *lowing: “Each State shall make the surveys conducted*  
 9 *and schedules implemented under this subsection*  
 10 *available to the public on an appropriate Internet*  
 11 *Web site of the State.”.*

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

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

17 *“(m) RAILWAY-HIGHWAY CROSSING INFORMATION.—*

18 *“(1) PRIORITY LISTS AND ACTION PLANS.—*

19 *“(A) IN GENERAL.—Not later than 1 year*  
 20 *after the date of enactment of this subsection,*  
 21 *each State shall compile and submit to the Sec-*  
 22 *retary a report that includes—*

23 *“(i) a list of the 10 railway-highway*  
 24 *crossings in the State that have the greatest*  
 25 *need for safety improvements;*

1           “(ii) an action plan that identifies  
2           projects and activities the State plans to  
3           carry out to improve safety at those rail-  
4           way-highway crossings; and

5           “(iii) a list of projects and activities  
6           the State carried out to improve safety at  
7           those railway-highway crossings during the  
8           2-year period ending on the date on which  
9           the report is submitted to the Secretary.

10          “(B) *UPDATES.*—Each State shall update  
11          and submit to the Secretary, at least once every  
12          2 years, the report of that State under subpara-  
13          graph (A).

14          “(2) *PUBLICATION OF REPORTS ON U.S. DOT WEB*  
15          *SITE.*—The Secretary shall make the reports sub-  
16          mitted under paragraph (1) available to the public on  
17          the Internet Web site of the Department of Transpor-  
18          tation.

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

23          “(4) *LIMITATION ON USE OF DATA IN JUDICIAL*  
24          *PROCEEDINGS.*—Notwithstanding any other provision  
25          of law, any report, review, survey, schedule, list, data,

1        *information, or document of any kind compiled or*  
 2        *collected pursuant to this subsection, including for the*  
 3        *purpose of identifying, evaluating, or planning the*  
 4        *safety enhancement of a potential accident site or*  
 5        *railway-highway crossing pursuant to this section,*  
 6        *shall not be subject to discovery or admitted into evi-*  
 7        *dence in a Federal or State court proceeding or con-*  
 8        *sidered for other purposes in any action for damages*  
 9        *arising from any occurrence at a location mentioned*  
 10       *or addressed in such report, review, survey, schedule,*  
 11       *list, data, information, or document.*

12                “(5) *NONCOMPLIANCE.—If the Secretary deter-*  
 13        *mines that a State is not in compliance with require-*  
 14        *ments under this subsection, the Secretary may with-*  
 15        *hold funding that would otherwise be apportioned to*  
 16        *that State under this section.*”.

17    **SEC. 1303. HIGHWAY WORKER SAFETY.**

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

22                (1) *at a minimum, positive protective measures*  
 23        *are used to separate workers on highway construction*  
 24        *projects from motorized traffic in all work zones*  
 25        *where traffic is present and where workers have no*

1       *means of escape, including tunnels and bridges, unless*  
2       *an engineering analysis determines such measures are*  
3       *not necessary;*

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

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

13               *(B) the project is located—*

14                       *(i) in a State with a population den-*  
15                       *sity of 20 or fewer persons per square mile;*

16                       *(ii) outside of an urbanized area; and*

17                       *(iii) on a roadway with an annual av-*  
18                       *erage daily traffic load that is less than 100*  
19                       *vehicles per hour; and*

20               *(3) when positive protective measures are nec-*  
21       *essary for a highway construction project, such meas-*  
22       *ures are paid for on a unit pay basis, unless doing*  
23       *so would create a conflict with innovative contracting*  
24       *approaches, including a design-build contract or a*  
25       *performance-based contract, under which the con-*

1        *tractor is paid to assume a certain risk allocation*  
 2        *and payment is generally made on a lump sum basis.*

3        *(b) APPAREL.—Not later than 180 days after the date*  
 4        *of enactment of this Act, the Secretary shall modify regula-*  
 5        *tions issued pursuant to section 1402 of SAFETEA-LU (23*  
 6        *U.S.C. 401 note)—*

7                *(1) to allow fire services personnel, who are sub-*  
 8        *ject to the regulations, to wear apparel meeting the*  
 9        *high visibility requirements set forth in NFPA 1971–*  
 10        *2007 (Standard on Protective Ensembles for Struc-*  
 11        *tural Fire Fighting and Proximity Fire Fighting);*  
 12        *and*

13                *(2) to not require such personnel to wear apparel*  
 14        *meeting requirements set forth in ANSI/ISEA 107–*  
 15        *2004.*

## 16        ***Subtitle D—Freight Mobility***

### 17        ***SEC. 1401. NATIONAL FREIGHT POLICY.***

18        *(a) DEVELOPMENT.—Not later than 1 year after the*  
 19        *date of enactment of this Act, and every 5 years thereafter,*  
 20        *the Secretary, in consultation with interested public and*  
 21        *private sector freight stakeholders, including representatives*  
 22        *of ports, shippers, carriers, freight-related associations, the*  
 23        *freight industry workforce, State transportation depart-*  
 24        *ments, and local governments, shall develop a 5-year Na-*  
 25        *tional Freight Policy. Such policy shall be consistent with*

1 *the State performance management process under section*  
2 *5206(e)(1) of title 49, United States Code.*

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

4 (1) *specify goals, objectives, and milestones with*  
5 *respect to the expansion of freight transportation ca-*  
6 *capacity and the improvement of freight transportation*  
7 *infrastructure in the United States;*

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

11 (3) *specify the manner in which the programs,*  
12 *strategies, and projects specified under paragraph (2)*  
13 *will achieve the goals, objectives, and milestones speci-*  
14 *fied under paragraph (1), including with respect to a*  
15 *5-year timeframe for meeting the goals, objectives,*  
16 *and milestones;*

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

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

22 (c) *GOALS.—In developing the National Freight Pol-*  
23 *icy, the Secretary shall consider the goals of—*

24 (1) *investing in freight transportation infra-*  
25 *structure to strengthen the economic competitiveness*

1       *of the United States, reduce congestion, and increase*  
2       *productivity, particularly with respect to domestic in-*  
3       *dustries and businesses that create high-value jobs;*

4               *(2) improving and maintaining existing freight*  
5       *transportation infrastructure to ensure that infra-*  
6       *structure meets appropriate standards;*

7               *(3) improving the capacity of freight infrastruc-*  
8       *ture across different modes of transportation, reduc-*  
9       *ing congestion, and increasing freight throughput;*

10              *(4) incorporating concepts of performance, inno-*  
11       *vation, competition, and accountability into the oper-*  
12       *ation and maintenance of freight transportation in-*  
13       *frastructure;*

14              *(5) increasing the usage and number of strategi-*  
15       *cally-located, multi-modal freight transportation fa-*  
16       *cilities to reduce congestion and emissions relating to*  
17       *highways in the United States;*

18              *(6) improving the safety of freight transpor-*  
19       *tation;*

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

23              *(8) improving methods for incorporating inter-*  
24       *national trade estimates into transportation plan-*  
25       *ning; and*

1           (9) *advancing the development of aerotropolis*  
 2           *transportation systems, which are planned and co-*  
 3           *ordinated multimodal freight and passenger transpor-*  
 4           *tation networks that, as determined by the Secretary,*  
 5           *provide efficient, cost-effective, sustainable, and inter-*  
 6           *modal connectivity to a defined region of economic*  
 7           *significance centered around a major airport.*

8           (d) *REPORTING.—The Secretary shall include the Na-*  
 9           *tional Freight Policy in the National Strategic Transpor-*  
 10          *tation Plan developed under section 5205 of title 49, United*  
 11          *States Code.*

12          (e) *COMMODITY FLOW SURVEY.—The Secretary, in*  
 13          *consultation with other relevant Federal agencies, shall*  
 14          *make changes to the commodity flow survey (conducted by*  
 15          *the Bureau of Transportation Statistics pursuant to section*  
 16          *111(c)(5) of title 49, United States Code) that the Secretary*  
 17          *determines will reduce identified freight data gaps and defi-*  
 18          *ciencies and assist in the evaluation of forecasts of transpor-*  
 19          *tation demand.*

20          **SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.**

21          (a) *IN GENERAL.—The Secretary shall encourage each*  
 22          *State to establish a freight advisory committee consisting*  
 23          *of a representative cross-section of public and private sector*  
 24          *freight stakeholders, including representatives of ports, ship-*  
 25          *pers, carriers, freight-related associations, the freight indus-*

1 *try workforce, the State's transportation department, and*  
 2 *local governments.*

3 (b) *ROLE OF COMMITTEE.*—*A freight advisory com-*  
 4 *mittee described in subsection (a) shall—*

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

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

9 (3) *communicate and coordinate regional prior-*  
 10 *ities with other organizations;*

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

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

15 **SEC. 1403. STATE FREIGHT PLANS.**

16 (a) *IN GENERAL.*—*The Secretary shall encourage each*  
 17 *State to develop a freight plan that provides a comprehen-*  
 18 *sive plan for the State's immediate and long-range plan-*  
 19 *ning activities and investments with respect to freight.*

20 (b) *PLAN CONTENTS.*—*A freight plan described in sub-*  
 21 *section (a) shall include, at a minimum—*

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

24 (2) *a description of the freight policies, strate-*  
 25 *gies, and performance measures that will guide the*

1        *State’s freight-related transportation investment deci-*  
 2        *sions;*

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

8            *(4) evidence of consideration of innovative tech-*  
 9        *nologies and operational strategies, including intel-*  
 10       *ligent transportation systems, that improve the safety*  
 11       *and efficiency of freight movement; and*

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

17        *(c) RELATIONSHIP TO LONG-RANGE PLAN.—A freight*  
 18        *plan described in subsection (a) may be developed separate*  
 19        *from or incorporated into the statewide strategic long-range*  
 20        *transportation plan required by section 5204 of title 49,*  
 21        *United States Code.*

22        **SEC. 1404. TRUCKING PRODUCTIVITY.**

23           *(a) WEIGHT LIMITATIONS.—Section 127(a) is amend-*  
 24        *ed by adding at the end the following:*

25            *“(13) PILOT PROGRAM.—*

1           “(A) *IN GENERAL.*—*The Secretary may*  
2           *carry out a pilot program under which the Sec-*  
3           *retary may authorize up to 3 States to allow, by*  
4           *special permit, the operation of vehicles with a*  
5           *gross vehicle weight of up to 126,000 pounds on*  
6           *segments on the Interstate System in the State.*

7           “(B) *REQUIREMENTS.*—*A State authorized*  
8           *under the pilot program under subparagraph (A)*  
9           *shall—*

10           “(i) *identify and submit to the Sec-*  
11           *retary for approval the segments on the*  
12           *Interstate System to be subject to the pro-*  
13           *gram and the configurations of vehicles to*  
14           *be allowed to operate under a special per-*  
15           *mit;*

16           “(ii) *allow vehicles subject to the pro-*  
17           *gram to operate on not more than 3 seg-*  
18           *ments, which may be contiguous, of up to*  
19           *25 miles each;*

20           “(iii) *require the loads of vehicles oper-*  
21           *ating under a special permit to conform to*  
22           *such single axle, tandem axle, tridem axle,*  
23           *and bridge formula limits applicable in the*  
24           *State; and*

1                   “(iv) *establish and collect a fee for ve-*  
 2                   *hicles operating under a special permit.*

3                   “(C) *PROHIBITIONS.—The Secretary may*  
 4                   *prohibit the operation of a vehicle under a spe-*  
 5                   *cial permit if the Secretary determines that the*  
 6                   *operation poses an unreasonable safety risk*  
 7                   *based on an analysis of engineering data, safety*  
 8                   *data, or other applicable data.*

9                   “(D) *DURATION.—The Secretary may au-*  
 10                  *thorize a State under the pilot program under*  
 11                  *subparagraph (A) for a period not to exceed 4*  
 12                  *years.”.*

13                  “(b) *ADDITIONAL VEHICLE WEIGHT PROVISIONS.—Sec-*  
 14                  *tion 127 is amended by adding at the end the following:*

15                  “(i) *SPECIAL PERMITS DURING PERIODS OF EMER-*  
 16                  *GENCY.—*

17                  “(1) *IN GENERAL.—A State may issue special*  
 18                  *permits with respect to a major disaster or emergency*  
 19                  *declared under the Robert T. Stafford Disaster Relief*  
 20                  *and Emergency Assistance Act (42 U.S.C. 5121 et*  
 21                  *seq.) to overweight vehicles and loads that can be eas-*  
 22                  *ily dismantled or divided allowing operations on the*  
 23                  *Interstate System that would otherwise be prohibited*  
 24                  *under subsection (a), if—*

1           “(A) the permits are issued in accordance  
2           with State law; and

3           “(B) the permits are issued exclusively to  
4           vehicles and loads that are delivering relief sup-  
5           plies in response to the major disaster or emer-  
6           gency.

7           “(2) EXPIRATION.—A permit issued with respect  
8           to a major disaster or emergency under paragraph  
9           (1) shall expire not later than 120 days after the date  
10          of the declaration of the major disaster or emergency  
11          as described in paragraph (1).

12          “(j) EMERGENCY VEHICLES.—

13               “(1) IN GENERAL.—Notwithstanding subsection  
14               (a), a State may not enforce against an emergency  
15               vehicle a weight limit of—

16                       “(A) less than 24,000 pounds on a single  
17                       steering axle;

18                       “(B) less than 33,500 pounds on a single  
19                       drive axle;

20                       “(C) less than 62,000 pounds on a tandem  
21                       axle; or

22                       “(D) less than 52,000 pounds on a tandem  
23                       rear drive steer axle, up to a maximum gross ve-  
24                       hicle weight of 86,000 pounds.

1           “(2) *EMERGENCY VEHICLE DEFINED.*—*In this*  
 2           *subsection, the term ‘emergency vehicle’ means a vehi-*  
 3           *cle designed to be used under emergency conditions—*

4                     *“(A) to transport personnel and equipment;*  
 5                     *and*

6                     *“(B) to support the suppression of fires or*  
 7                     *mitigation of other hazardous situations.”.*

8           *(c) WAIVER OF HIGHWAY FUNDING REDUCTION.*—*The*  
 9           *total amount of funds apportioned to a State under section*  
 10          *104(b)(1) of title 23, United States Code, for any period*  
 11          *may not be reduced under section 127(a) of such title on*  
 12          *the basis that the State authorizes a vehicle to operate on*  
 13          *the Interstate System in the State in accordance with the*  
 14          *amendments made by this section.*

15          *(d) LENGTH LIMITATIONS.*—*Section 31111 of title 49,*  
 16          *United States Code, is amended—*

17                     *(1) in subsection (a) by adding at the end the*  
 18                     *following:*

19                     *“(5) TRAILER TRANSPORTER TOWING UNIT.*—*The*  
 20                     *term ‘trailer transporter towing unit’ means a power*  
 21                     *unit that is not used to carry property when oper-*  
 22                     *ating in a towaway trailer transporter combination.*

23                     *“(6) TOWAWAY TRAILER TRANSPORTER COMBINA-*  
 24                     *TION.*—*The term ‘towaway trailer transporter com-*  
 25                     *bination’ means a combination of vehicles consisting*

1       *of a trailer transporter towing unit and 2 trailers or*  
2       *semitrailers—*

3               *“(A) with a total weight that does not ex-*  
4               *ceed 26,000 pounds; and*

5               *“(B) in which the trailers or semitrailers*  
6               *carry no property and constitute inventory prop-*  
7               *erty of a manufacturer, distributor, or dealer of*  
8               *such trailers or semitrailers.”; and*

9       *(2) in subsection (b)(1)—*

10               *(A) by striking subparagraph (A) and in-*  
11               *serting the following:*

12               *“(A) imposes a vehicle length limitation, on any*  
13               *segment of the Dwight D. Eisenhower System of*  
14               *Interstate and Defense Highways (except a segment*  
15               *exempted under subsection (f)) and those classes of*  
16               *qualifying Federal-aid primary system highways des-*  
17               *ignated by the Secretary of Transportation under*  
18               *subsection (e), of—*

19                       *“(i) less than 45 feet on a bus;*

20                       *“(ii) less than 53 feet on a semitrailer oper-*  
21                       *ating in a truck tractor-semitrailer combination;*

22                       *or*

23                       *“(iii) notwithstanding section 31112, less*  
24                       *than 33 feet on a semitrailer or trailer operating*

1           *in a truck tractor-semitrailer-trailer combina-*  
 2           *tion;”;*

3                   *(B) in subparagraph (E) by striking “; or”*  
 4           *and inserting a semicolon;*

5                   *(C) in subparagraph (F) by striking the pe-*  
 6           *riod at the end and inserting a semicolon; and*

7                   *(D) by adding at the end the following:*

8                   *“(G) imposes a vehicle length limitation of less*  
 9           *than 80 feet on a stinger steered automobile trans-*  
 10          *porter with a rear overhand of less than 6 feet;*

11                   *“(H) has the effect of imposing an overall length*  
 12          *limitation of less than 82 feet on a towaway trailer*  
 13          *transporter combination;*

14                   *“(I) imposes a limitation of less than 46 feet on*  
 15          *the distance from the kingpin to the center of the rear*  
 16          *axle on a trailer used exclusively or primarily for the*  
 17          *transport of livestock; or*

18                   *“(J) has the effect of prohibiting the use of a de-*  
 19          *vice designed by a bus manufacturer to affix to the*  
 20          *rear of an intercity bus purchased after October 1,*  
 21          *2012, for use in carrying passenger baggage, if the de-*  
 22          *vice does not result in the bus exceeding 47 feet in*  
 23          *total length.”.*

24          (e) ACCESS TO INTERSTATE SYSTEM.—Section  
 25          31114(a)(2) of title 49, United States Code, is amended by

1 inserting “a towaway trailer transporter combination as  
2 defined in section 31111(a),” before “or any”.

3 **SEC. 1405. STUDY WITH RESPECT TO TRUCK SIZES AND**  
4 **WEIGHTS.**

5 (a) *STUDY*.—

6 (1) *IN GENERAL*.—*The Secretary shall conduct a*  
7 *study with respect to truck sizes and weights in ac-*  
8 *cordance with this section.*

9 (2) *SCOPE*.—*In conducting the study, the Sec-*  
10 *retary shall examine, in accordance with paragraph*  
11 *(3), the effect on principal arterial routes and Na-*  
12 *tional Highway System intermodal connectors that*  
13 *allowing nationwide operation of each covered truck*  
14 *configuration would have.*

15 (3) *CONTENTS*.—*In conducting the study, the*  
16 *Secretary shall—*

17 (A) *evaluate the effect on safety that allow-*  
18 *ing each covered truck configuration to operate*  
19 *would have, with consideration given to—*

20 (i) *vehicle operating characteristics*  
21 *under various conditions likely to be experi-*  
22 *enced during commercial operation;*

23 (ii) *changes in vehicle miles traveled*  
24 *due to increased vehicle hauling capacity;*

1                   (iii) shifts in freight between transpor-  
2                   tation modes;

3                   (iv) crash rates; and

4                   (v) vehicle stability and control;

5                   (B) estimate—

6                   (i) the effect on pavement performance  
7                   that allowing each covered truck configura-  
8                   tion to operate would have;

9                   (ii) the effect on bridge reliability and  
10                  service life that allowing each covered truck  
11                  configuration to operate would have; and

12                  (iii) the ability of each covered truck  
13                  configuration to comply with the Federal  
14                  bridge formula (as specified in section  
15                  127(a)(2) of title 23, United States Code);

16                  (C) estimate the full cost responsibility asso-  
17                  ciated with allowing each covered truck configu-  
18                  ration to operate, including all costs relating to  
19                  pavement and bridges, and examine methods  
20                  available for recovering such cost responsibility;

21                  (D) examine the ability of a representative  
22                  sample of regions to meet repair and reconstruc-  
23                  tion needs related to allowing each covered truck  
24                  configuration to operate;

25                  (E) estimate—

1           (i) the extent to which freight would be  
2           diverted from other surface transportation  
3           modes to principal arterial routes and Na-  
4           tional Highway System intermodal connec-  
5           tors if each covered truck configuration is  
6           allowed to operate and the effect that any  
7           such diversion would have on other modes of  
8           transportation;

9           (ii) the effect that any such diversion  
10          would have on public safety, infrastructure,  
11          cost responsibility, fuel efficiency, and the  
12          environment;

13          (iii) the effect on the transportation  
14          network of the United States that allowing  
15          each covered truck configuration to operate  
16          would have; and

17          (iv) whether allowing each covered  
18          truck configuration to operate would result  
19          in an increase or decrease in the total num-  
20          ber of trucks operating on principal arterial  
21          routes and National Highway System inter-  
22          modal connectors; and

23          (F) identify all Federal rules and regula-  
24          tions impacted by changes in truck size and  
25          weight limits.

1       (b) *REPORT TO CONGRESS.*—Not later than 3 years  
 2 after the date of enactment of this Act, the Secretary shall  
 3 submit to Congress a report on the results of the study con-  
 4 ducted under subsection (a).

5       (c) *COVERED TRUCK CONFIGURATION DEFINED.*—In  
 6 this section, the term “covered truck configuration” means  
 7 each of the following:

8           (1) *A combination truck tractor-semitrailer—*

9               (A) *with 5 axles; and*

10              (B) *a gross weight of 88,000 pounds.*

11          (2) *A combination truck tractor-semitrailer—*

12              (A) *with 6 axles; and*

13              (B) *a gross weight of 97,000 pounds.*

14          (3) *Longer combination vehicles (as such term is*  
 15 *defined in section 127(d)(4) of title 23, United States*  
 16 *Code).*

17          (4) *Any other truck configuration the Secretary*  
 18 *determines appropriate.*

19 **SEC. 1406. MAXIMUM WEIGHT INCREASE FOR IDLE REDUC-**  
 20 **TION TECHNOLOGY ON HEAVY DUTY VEHI-**  
 21 **CLES.**

22       Section 127(a)(12) is amended—

23           (1) *in subparagraph (B) by striking “400” and*  
 24 *inserting “550”; and*

1           (2) in subparagraph (C)(ii) by striking “400-  
2           pound” and inserting “550-pound”.

3           ***Subtitle E—Federal Lands and***  
4           ***Tribal Transportation***

5   ***SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION***  
6           ***PROGRAMS.***

7           Chapter 2 is amended by striking sections 201 through  
8   203 and inserting the following:

9   ***“§ 201. General provisions***

10          “(a) *PURPOSE.—Recognizing the need for all Federal*  
11 *lands transportation facilities and tribal transportation fa-*  
12 *cilities to be treated under uniform policies similar to the*  
13 *policies that apply to Federal-aid highways and other pub-*  
14 *lic road and transit facilities constructed with Federal as-*  
15 *sistance, the Secretary, in consultation with the Secretary*  
16 *of each Federal land management agency, shall establish*  
17 *and coordinate, in accordance with the requirements of this*  
18 *section, a uniform policy for all transportation facilities*  
19 *constructed under a covered program.*

20          “(b) *COVERED PROGRAM DEFINED.—In this section,*  
21 *the term ‘covered program’ means—*

22               “(1) *the tribal transportation program estab-*  
23 *lished under section 202; and*

24               “(2) *the Federal lands transportation program*  
25 *established under section 203.*

1       “(c) *AVAILABILITY OF FUNDS.*—

2               “(1) *AVAILABILITY.*—*Funds made available to*  
3       *carry out a covered program shall be available for*  
4       *contract—*

5               “(A) *upon apportionment; or*

6               “(B) *if no apportionment is required, on*  
7       *October 1 of the fiscal year for which authorized.*

8               “(2) *PERIOD OF AVAILABILITY.*—*Funds appor-*  
9       *tioned or allocated to carry out a covered program*  
10       *shall remain available for obligation for a period of*  
11       *3 years after the last day of the fiscal year for which*  
12       *the funds are authorized. Any amounts so appor-*  
13       *tioned or allocated that remain unobligated at the end*  
14       *of that period shall lapse.*

15              “(3) *AUTHORITY OF DEPARTMENT SECRE-*  
16       *TARIES.*—

17              “(A) *AUTHORITY TO INCUR OBLIGATIONS,*  
18       *APPROVE PROJECTS, AND ENTER INTO CON-*  
19       *TRACTS.*—*The Secretary of a Department*  
20       *charged with the administration of funds made*  
21       *available to carry out a covered program may*  
22       *incur obligations, approve projects, and enter*  
23       *into contracts with respect to such funds.*

24              “(B) *CONTRACTUAL OBLIGATIONS.*—*A Sec-*  
25       *retary’s action under subparagraph (A) shall be*

1        *deemed to be a contractual obligation of the*  
 2        *United States to pay the cost thereof, and the*  
 3        *funds subject to the action shall be deemed to*  
 4        *have been expended when so obligated.*

5        *“(4) EXPENDITURE.—Any funds made available*  
 6        *to carry out a covered program for a fiscal year shall*  
 7        *be deemed to have been expended if a sum equal to*  
 8        *the total of the sums appropriated for the fiscal year*  
 9        *and previous fiscal years have been obligated. Any of*  
 10       *such funds released by payment of final voucher or*  
 11       *modification of project authorizations shall be cred-*  
 12       *ited to the balance of unobligated appropriations and*  
 13       *be immediately available for expenditure.*

14       *“(5) AUTHORITY OF SECRETARY.—*

15       *“(A) OBLIGATING FUNDS FOR COVERED*  
 16       *PROGRAMS.—Notwithstanding any other provi-*  
 17       *sion of law, either of the following actions shall*  
 18       *be deemed to constitute a contractual obligation*  
 19       *of the United States to pay the total eligible cost*  
 20       *of any construction project funded under a cov-*  
 21       *ered program:*

22       *“(i) The authorization by the Sec-*  
 23       *retary, or the Secretary of a Department*  
 24       *charged with the administration of funds*  
 25       *made available to carry out a covered pro-*

1            *gram, of engineering and related work for*  
2            *the development, design, and acquisition as-*  
3            *sociated with the project, whether performed*  
4            *by contract or agreement authorized by law.*

5            *“(ii) The approval by the Secretary, or*  
6            *the Secretary of a Department charged with*  
7            *the administration of funds made available*  
8            *to carry out a covered program, of plans,*  
9            *specifications, and estimates for the project.*

10          *“(B) LIMITATION ON STATUTORY CON-*  
11          *STRUCTION.—Nothing in this paragraph may be*  
12          *construed to affect the application of the Federal*  
13          *share associated with a project undertaken under*  
14          *a covered program or to modify the point of obli-*  
15          *gation associated with Federal salaries and ex-*  
16          *penses.*

17          *“(6) REDISTRIBUTION OF UNUSED OBLIGATION*  
18          *AUTHORITY.—To the extent that the Secretary is oth-*  
19          *erwise required to redistribute unused obligation au-*  
20          *thority appropriated for purposes other than section*  
21          *202, a minimum of 10 percent of such unused obliga-*  
22          *tion authority shall be allocated and distributed by*  
23          *the Secretary to entities eligible to receive funds under*  
24          *such section for purposes of funding competitively*  
25          *awarded high priority projects ensuring greater safe*

1     *access to markets for American Indian and Alaska*  
2     *Native communities that are, relative to other Amer-*  
3     *ican Indian and Alaska Native communities, more*  
4     *remotely located from product and essential service*  
5     *markets.*

6     “(d) *FEDERAL SHARE.*—

7         “(1) *IN GENERAL.*—*Except as provided by para-*  
8     *graph (2), the Federal share payable on account of a*  
9     *project carried out under a covered program shall be*  
10    *100 percent of the total cost of the project.*

11        “(2) *OPERATING ASSISTANCE.*—*The Federal*  
12    *share payable, with amounts made available to carry*  
13    *out this chapter, on account of operating expenses for*  
14    *a project carried out under the Federal lands trans-*  
15    *portation program established under section 203 may*  
16    *not exceed 50 percent of the net operating costs, as de-*  
17    *termined by the Secretary.*

18    “(e) *TRANSPORTATION PLANNING.*—

19        “(1) *TRANSPORTATION PLANNING PROCE-*  
20    *DURES.*—*In consultation with the Secretary of each*  
21    *Federal land management agency, the Secretary shall*  
22    *implement transportation planning procedures for*  
23    *tribal transportation facilities and Federal lands*  
24    *transportation facilities that are consistent with the*

1 *planning processes required under sections 5203 and*  
 2 *5204 of title 49.*

3 “(2) *APPROVAL OF TRANSPORTATION IMPROVE-*  
 4 *MENT PROGRAM.*—*A transportation improvement pro-*  
 5 *gram developed as a part of the transportation plan-*  
 6 *ning process under this subsection shall be subject to*  
 7 *approval by the Secretary, acting in coordination*  
 8 *with the Secretary of the appropriate Federal land*  
 9 *management agency.*

10 “(3) *INCLUSION IN OTHER PLANS.*—*Any project*  
 11 *under a covered program that is regionally signifi-*  
 12 *cant shall—*

13 “(A) *be developed in cooperation with ap-*  
 14 *propriate States and metropolitan planning or-*  
 15 *ganizations; and*

16 “(B) *be included in—*

17 “(i) *plans for the covered program;*

18 “(ii) *appropriate State and metropoli-*  
 19 *tan long-range transportation plans; and*

20 “(iii) *appropriate State and metro-*  
 21 *politan transportation improvement pro-*  
 22 *grams.*

23 “(4) *INCLUSION IN STATE PROGRAMS.*—*A trans-*  
 24 *portation improvement program that is approved by*  
 25 *the Secretary as a part of the transportation plan-*

1        *ning process under this subsection shall be included*  
2        *in appropriate plans and programs of States and*  
3        *metropolitan planning organizations without further*  
4        *action on the transportation improvement program.*

5                *“(5) ASSET MANAGEMENT.—The Secretary and*  
6        *the Secretary of each Federal land management agen-*  
7        *cy, to the extent appropriate, shall have in effect safe-*  
8        *ty, bridge, pavement, and congestion management*  
9        *systems in support of asset management for highways*  
10       *funded under a covered program.*

11                *“(6) DATA COLLECTION.—*

12                *“(A) IN GENERAL.—The Secretary of each*  
13        *Federal land management agency shall collect*  
14        *and report on the data that is necessary to im-*  
15        *plement a covered program, including at a min-*  
16        *imum—*

17                        *“(i) inventory and condition informa-*  
18                        *tion on tribal roads and Federal lands*  
19                        *highways; and*

20                        *“(ii) bridge inspection and inventory*  
21                        *information on any Federal bridge that is*  
22                        *open to the public.*

23                *“(B) STANDARDS.—The Secretary, in co-*  
24        *ordination with the Secretary of each Federal*  
25        *land management agency, shall define collection*

1           *and reporting data standards for purposes of*  
 2           *subparagraph (A).*

3           “(C) *TRIBAL TRANSPORTATION PROGRAM.*—  
 4           *Each Secretary collecting data under this para-*  
 5           *graph relating to the tribal transportation pro-*  
 6           *gram established under section 202 shall collect*  
 7           *such data consistent with the requirements of the*  
 8           *Indian Self-Determination and Education As-*  
 9           *sistance Act (25 U.S.C. 450 et seq.).*

10          “(7) *ADMINISTRATIVE EXPENSES.*—*The Sec-*  
 11          *retary may use up to 5 percent of the funds made*  
 12          *available to carry out section 203 for a fiscal year for*  
 13          *purposes of implementing the activities described in*  
 14          *this subsection, including direct support of transpor-*  
 15          *tation planning activities among Federal land man-*  
 16          *agement agencies.*

17          “(f) *REFERENCES TO SECRETARIES OF FEDERAL*  
 18          *LAND MANAGEMENT AGENCIES.*—*In this chapter, the term*  
 19          *‘Secretary’, when used in connection with a Federal land*  
 20          *management agency, means the Secretary of the department*  
 21          *that contains the agency.*

22          **“§ 202. Tribal transportation program**

23          “(a) *IN GENERAL.*—*The Secretary shall carry out a*  
 24          *tribal transportation program in accordance with the re-*  
 25          *quirements of this section.*

1 “(b) *USE OF FUNDS.*—

2 “(1) *IN GENERAL.*—*Funds made available to*  
3 *carry out the tribal transportation program shall be*  
4 *used by the Secretary and the Secretary of the Inte-*  
5 *rior to pay for the following:*

6 “(A) *The covered costs of—*

7 “(i) *tribal roads;*

8 “(ii) *vehicular parking areas adjacent*  
9 *to tribal roads (which may include electric*  
10 *vehicle charging stations);*

11 “(iii) *pedestrian walkways and bicycle*  
12 *transportation facilities (as defined in sec-*  
13 *tion 217) on tribal lands; and*

14 “(iv) *roadside rest areas, including*  
15 *sanitary and water facilities, on tribal*  
16 *lands.*

17 “(B) *The costs of transportation projects eli-*  
18 *gible for assistance under this title that are with-*  
19 *in, or provide access to, tribal lands.*

20 “(C) *The costs of public transportation*  
21 *projects eligible for assistance under section*  
22 *5311(b)(1) of title 49 that are within, or provide*  
23 *access to, tribal lands (without regard to whether*  
24 *the project is located in an urbanized area).*

1           “(D) *The costs of rehabilitation, restoration,*  
2           *and construction of interpretive signage at tribal*  
3           *roads.*

4           “(E) *The costs of acquisition of necessary*  
5           *scenic easements and scenic or historic sites asso-*  
6           *ciated with tribal roads.*

7           “(2) *COVERED COSTS DEFINED.—In paragraph*  
8           *(1), the term ‘covered costs’ means the costs of trans-*  
9           *portation planning, research, preventive maintenance,*  
10          *engineering, rehabilitation, restoration, construction,*  
11          *and reconstruction.*

12          “(3) *CONTRACT.—In connection with an activity*  
13          *described in paragraph (1), the Secretary and the*  
14          *Secretary of the Interior may enter into a contract or*  
15          *other appropriate agreement with respect to such ac-*  
16          *tivity with—*

17                 “(A) *a State (including a political subdivi-*  
18                 *sion of a State); or*

19                 “(B) *an Indian tribe.*

20          “(4) *INDIAN LABOR.—Indian labor may be em-*  
21          *ployed, in accordance with such rules and regulations*  
22          *as may be promulgated by the Secretary of the Inte-*  
23          *rior, to carry out any construction or other activity*  
24          *described in paragraph (1).*

1           “(5) *FEDERAL EMPLOYMENT.*—No maximum  
 2           *limitation on Federal employment shall apply to con-*  
 3           *struction or improvement of tribal transportation fa-*  
 4           *cilities.*

5           “(6) *ADMINISTRATIVE EXPENSES.*—

6           “(A) *IN GENERAL.*—Of the funds made  
 7           *available to carry out the tribal transportation*  
 8           *program for a fiscal year, up to 5 percent may*  
 9           *be used by the Secretary or the Secretary of the*  
 10           *Interior for program management and oversight*  
 11           *and project-related administrative expenses.*

12           “(B) *RESERVATION OF FUNDS.*—The Sec-  
 13           *retary of the Interior may reserve funds from ad-*  
 14           *ministrative funds of the Bureau of Indian Af-*  
 15           *airs that are associated with the tribal transpor-*  
 16           *tation program to fund tribal technical assist-*  
 17           *ance centers under section 504(b).*

18           “(7) *MAINTENANCE.*—

19           “(A) *USE OF FUNDS.*—Notwithstanding  
 20           *any other provision of this title, of the funds al-*  
 21           *located to an Indian tribe under the tribal trans-*  
 22           *portation program for a fiscal year, the Indian*  
 23           *tribe, or the Secretary with the consent of the af-*  
 24           *ected Indian tribe, may use for the purpose of*  
 25           *maintenance (excluding road sealing, which shall*

1           *not be subject to any limitation) an amount that*  
 2           *does not exceed the greater of—*

3                     “(i) 25 percent of the funds; or

4                     “(ii) \$500,000.

5                     “(B) *ROAD MAINTENANCE PROGRAMS ON IN-*  
 6           *DIAN RESERVATIONS.—*

7                     “(i) *BIA RESPONSIBILITY.—The Bu-*  
 8           *reau of Indian Affairs shall continue to re-*  
 9           *tain primary responsibility, including an-*  
 10          *annual funding request responsibility, for road*  
 11          *maintenance programs on Indian reserva-*  
 12          *tions.*

13                    “(ii) *FUNDING.—The Secretary of the*  
 14          *Interior shall ensure that funding made*  
 15          *available under this paragraph for mainte-*  
 16          *nance of tribal transportation facilities for*  
 17          *a fiscal year is supplementary to and not*  
 18          *in lieu of any obligation of funds by the*  
 19          *Bureau of Indian Affairs for road mainte-*  
 20          *nance programs on Indian reservations.*

21                    “(C) *TRIBAL-STATE ROAD MAINTENANCE*  
 22          *AGREEMENTS.—*

23                    “(i) *AUTHORITY TO ENTER INTO*  
 24          *AGREEMENTS.—An Indian tribe and a*  
 25          *State may enter into a road maintenance*

1           *agreement under which the Indian tribe as-*  
 2           *sumes the responsibilities of the State for*  
 3           *tribal transportation facilities.*

4           “(ii) *NEGOTIATIONS.—Agreements en-*  
 5           *tered into under clause (i)—*

6                     *“(I) shall be negotiated between*  
 7                     *the State and the Indian tribe; and*

8                     *“(II) shall not require the ap-*  
 9                     *proval of the Secretary.*

10          “(8) *COOPERATION OF STATES AND COUNTIES.—*

11                     *“(A) IN GENERAL.—The cooperation of*  
 12                     *States, counties, and other political subdivisions*  
 13                     *of States may be accepted in construction and*  
 14                     *improvement of tribal transportation facilities.*

15                     *“(B) CREDITING OF FUNDS.—Any funds re-*  
 16                     *ceived from a State, county, or other political*  
 17                     *subdivision of a State for construction or im-*  
 18                     *provement of tribal transportation facilities shall*  
 19                     *be credited to appropriations available for the*  
 20                     *tribal transportation program.*

21                     *“(C) STATE USE OF FEDERAL FUNDS FOR*  
 22                     *TRIBAL TRANSPORTATION FACILITIES.—*

23                     *“(i) IN GENERAL.—A State may pro-*  
 24                     *vide a portion of Federal funds apportioned*  
 25                     *to the State under chapter 1 to an Indian*

1           *tribe for an eligible tribal transportation fa-*  
2           *cility.*

3           “(ii) *PROCEDURE.*—*If a State elects to*  
4           *provide funds to an Indian tribe under*  
5           *clause (i), the State shall transfer the funds*  
6           *back to the Secretary and the Secretary*  
7           *shall transfer the funds to the Indian tribe*  
8           *constructing or maintaining the eligible*  
9           *tribal transportation facility under an*  
10          *agreement pursuant to this paragraph.*

11          “(iii)    *CONSTRUCTION    RESPONSI-*  
12          *BILITY.*—*Notwithstanding any other provi-*  
13          *sion of law, if a State provides funds re-*  
14          *ferred to in clause (i) to an Indian tribe—*

15                “(I) *the State shall not be respon-*  
16                *sible for constructing or maintaining a*  
17                *project carried out using the funds or*  
18                *for administering or supervising the*  
19                *project or funds during the applicable*  
20                *statute of limitations period of such*  
21                *State with respect to actions related to*  
22                *the construction of the project; and*

23                “(II) *the Indian tribe receiving*  
24                *the funds shall be responsible for con-*  
25                *structing and maintaining a project*

1                   *carried out using the funds and for ad-*  
2                   *ministering and supervising the project*  
3                   *and funds in accordance with this sec-*  
4                   *tion during the period referred to in*  
5                   *subclause (I).*

6                   “(9) *COMPETITIVE BIDDING.*—

7                   “(A) *IN GENERAL.*—Construction of a  
8                   *project under the tribal transportation program*  
9                   *shall be performed pursuant to a contract*  
10                  *awarded by competitive bidding or other pro-*  
11                  *curement process authorized under the Indian*  
12                  *Self-Determination and Education Assistance*  
13                  *Act (25 U.S.C. 450 et seq.) unless the Secretary*  
14                  *or the Secretary of the Interior affirmatively*  
15                  *finds that, under the circumstances relating to*  
16                  *the project, some other method is in the public*  
17                  *interest.*

18                  “(B) *APPLICABILITY OF OTHER LAWS.*—

19                  *Notwithstanding subparagraph (A), section 23 of*  
20                  *the Act of June 25, 1910 (36 Stat. 861; known*  
21                  *as the Buy Indian Act) and section 7(b) of the*  
22                  *Indian Self-Determination and Education As-*  
23                  *sistance Act (88 Stat. 2205) shall apply to all*  
24                  *funds administered by the Secretary of the Inte-*

1           rior that are appropriated for the construction  
2           and improvement of tribal roads.

3           “(c) *FUNDS DISTRIBUTION.*—

4                 “(1) *IN GENERAL.*—All funds authorized to be  
5           appropriated for the tribal transportation program  
6           shall be allocated among Indian tribes in accordance  
7           with the formula maintained by the Secretary of the  
8           Interior under paragraph (4).

9                 “(2) *NATIONAL TRIBAL TRANSPORTATION FACIL-*  
10           *ITY INVENTORY.*—

11                 “(A) *IN GENERAL.*—The Secretary of the  
12           Interior, in cooperation with the Secretary, shall  
13           maintain a comprehensive national inventory of  
14           tribal transportation facilities that are eligible  
15           for assistance under the tribal transportation  
16           program. The Secretary of the Interior, in co-  
17           operation with the Secretary, by September 30,  
18           2012, and by September 30 of every second year  
19           thereafter, shall accept into the comprehensive  
20           national inventory those tribal transportation  
21           facilities proposed by Indian tribes under the  
22           regulations.

23                 “(B) *TRANSPORTATION FACILITIES IN-*  
24           *CLUDED IN THE INVENTORY.*—For purposes of  
25           identifying the tribal transportation system and

1       *determining the relative transportation needs*  
2       *among Indian tribes, the Secretary shall include*  
3       *in the comprehensive national inventory, at a*  
4       *minimum, transportation facilities that are eli-*  
5       *gible for assistance under the tribal transpor-*  
6       *tation program that a tribe has requested, in-*  
7       *cluding facilities that—*

8               *“(i) were included in the Bureau of In-*  
9               *dian Affairs system inventory prior to Octo-*  
10              *ber 1, 2004;*

11              *“(ii) are owned by an Indian tribal*  
12              *government;*

13              *“(iii) are owned by the Bureau of In-*  
14              *dian Affairs;*

15              *“(iv) were constructed or reconstructed*  
16              *with funds from the Highway Trust Fund*  
17              *under the Indian reservation roads program*  
18              *since 1983;*

19              *“(v) are community streets or bridges*  
20              *within the exterior boundary of Indian res-*  
21              *ervations, Alaska native villages, or other*  
22              *recognized Indian communities (including*  
23              *communities in former Indian reservations*  
24              *in Oklahoma) in which the majority of resi-*

1           *dents are American Indians or Alaska Na-*  
2           *tives; or*

3           “(vi) *are primary access routes pro-*  
4           *posed by tribal governments, including*  
5           *roads between villages, roads to landfills,*  
6           *roads to drinking water sources, roads to*  
7           *natural resources identified for economic de-*  
8           *velopment, and roads that provide access to*  
9           *intermodal terminals, such as airports, har-*  
10          *bors, or boat landings.*

11          “(C) *LIMITATION ON PRIMARY ACCESS*  
12          *ROUTES.—For purposes of this paragraph, a*  
13          *proposed primary access route is the shortest*  
14          *practicable route connecting 2 points of the pro-*  
15          *posed route.*

16          “(D) *ADDITIONAL FACILITIES.—Nothing in*  
17          *this paragraph shall preclude the Secretary of*  
18          *the Interior from including additional transpor-*  
19          *tation facilities that are eligible for funding*  
20          *under the tribal transportation program in the*  
21          *inventory if such additional facilities are in-*  
22          *cluded in the inventory in a uniform and con-*  
23          *sistent manner nationally.*

24          “(E) *BRIDGES.—All bridges in the inven-*  
25          *tory shall be recorded in the national bridge in-*

1           *ventory administered by the Secretary under sec-*  
2           *tion 151.*

3           “(3) *REGULATIONS.*—*Notwithstanding sections*  
4           *563(a) and 565(a) of title 5, the Secretary of the Inte-*  
5           *rior shall maintain regulations governing the tribal*  
6           *transportation program and the funding formula*  
7           *under paragraph (4) in accordance with established*  
8           *policies and procedures.*

9           “(4) *BASIS FOR FUNDING FORMULA FACTORS.*—

10           “(A) *IN GENERAL.*—*The funding formula*  
11           *established under this paragraph shall be based*  
12           *on factors that reflect—*

13                   “(i) *the relative needs among the In-*  
14                   *dian tribes, and reservation or tribal com-*  
15                   *munities, for transportation assistance; and*

16                   “(ii) *the relative administration capac-*  
17                   *ities of, and challenges faced by, various In-*  
18                   *dian tribes, including the cost of road con-*  
19                   *struction in each Bureau of Indian Affairs*  
20                   *area, geographic isolation, and difficulty in*  
21                   *maintaining all-weather access to employ-*  
22                   *ment, commerce, health, safety, and edu-*  
23                   *cational resources.*

24           “(B) *TRIBAL HIGH PRIORITY PROJECTS.*—

25           *The tribal high priority projects program as in-*

1 *cluded in the tribal transportation allocation*  
2 *methodology of part 170 of title 25, Code of Fed-*  
3 *eral Regulations (as in effect on the date of en-*  
4 *actment of the American Energy and Infrastruc-*  
5 *ture Jobs Act of 2012), shall continue in effect.*

6 “(5) *DISTRIBUTION OF FUNDS TO INDIAN*  
7 *TRIBES.*—

8 “(A) *IN GENERAL.*—*Not later than 30 days*  
9 *after the date on which funds are made available*  
10 *to the Secretary or the Secretary of the Interior*  
11 *for a fiscal year to carry out the tribal transpor-*  
12 *tation program, the funds shall be distributed to,*  
13 *and available for immediate use by, eligible In-*  
14 *dian tribes in accordance with the formula*  
15 *maintained by the Secretary of the Interior*  
16 *under paragraph (4).*

17 “(B) *USE OF FUNDS.*—*Notwithstanding*  
18 *any other provision of this section, funds made*  
19 *available to Indian tribes for tribal transpor-*  
20 *tation facilities shall be expended on projects*  
21 *identified in a transportation improvement pro-*  
22 *gram approved by the Secretary.*

23 “(6) *HEALTH AND SAFETY ASSURANCES.*—*Not-*  
24 *withstanding any other provision of law, an Indian*  
25 *tribal government may approve plans, specifications,*

1       *and estimates for, and may commence, a project for*  
2       *construction of a tribal transportation facility with*  
3       *funds made available to carry out the tribal transpor-*  
4       *tation program through a contract or agreement en-*  
5       *tered into under the Indian Self-Determination and*  
6       *Education Assistance Act (25 U.S.C. 450 et seq.) if*  
7       *the Indian tribal government—*

8               “(A) provides assurances in the contract or  
9               agreement that the construction will meet or ex-  
10              ceed applicable health and safety standards;

11              “(B) obtains the advance review of the  
12              plans and specifications for the project from a  
13              State-licensed civil engineer that has certified  
14              that the plans and specifications meet or exceed  
15              the applicable health and safety standards;

16              “(C) provides a copy of the certification  
17              under subparagraph (A) to the Deputy Assistant  
18              Secretary for Tribal Government Affairs of the  
19              Department of Transportation or the Assistant  
20              Secretary of Indian Affairs of the Department of  
21              the Interior, as appropriate; and

22              “(D) except with respect to a transportation  
23              facility owned by the Bureau of Indian Affairs  
24              or an Indian tribe, obtains the advance written  
25              approval of the plans, specifications, and esti-

1        *mates from the facility owner or public authority*  
2        *having maintenance responsibility for the facil-*  
3        *ity and provides a copy of the approval to the*  
4        *officials referred to in subparagraph (C).*

5        *“(7) CONTRACTS AND AGREEMENTS WITH INDIAN*  
6        *TRIBES FOR PROGRAM COSTS.—*

7                *“(A) IN GENERAL.—Notwithstanding any*  
8        *other provision of law or any interagency agree-*  
9        *ment, program guideline, manual, or policy di-*  
10        *rective, all funds made available under this*  
11        *chapter and section 125(e) for tribal transpor-*  
12        *tation facilities to pay for the costs of programs,*  
13        *services, functions, and activities, or portions*  
14        *thereof, that are specifically or functionally re-*  
15        *lated to the cost of any tribal transportation fa-*  
16        *cility that provides access to or is located within*  
17        *the reservation or community of an Indian tribe*  
18        *shall be made available, upon request of the In-*  
19        *dian tribal government, to the Indian tribal gov-*  
20        *ernment for contracts and agreements for such*  
21        *planning, research, engineering, and construc-*  
22        *tion in accordance with the Indian Self-Deter-*  
23        *mination and Education Assistance Act (25*  
24        *U.S.C. 450 et seq.).*

1           “(B) *EXCLUSION OF AGENCY PARTICIPA-*  
2           *TION.—Funds for programs, functions, services,*  
3           *or activities, or portions thereof (including sup-*  
4           *portive administrative functions that are other-*  
5           *wise contractible to which subparagraph (A) ap-*  
6           *plies) shall be paid in accordance with subpara-*  
7           *graph (A) without regard to the organizational*  
8           *level at which the Department of Transportation*  
9           *or the Department of the Interior has previously*  
10           *carried out such programs, functions, services, or*  
11           *activities.*

12           “(8) *CONTRACTS AND AGREEMENTS WITH INDIAN*  
13           *TRIBES FOR TRIBAL TRANSPORTATION FACILITY PRO-*  
14           *GRAMS AND PROJECTS.—*

15           “(A) *IN GENERAL.—Notwithstanding any*  
16           *other provision of law or any interagency agree-*  
17           *ment, program guideline, manual, or policy di-*  
18           *rective, all funds made available to an Indian*  
19           *tribal government under this title or chapter 53*  
20           *of title 49 for a tribal transportation facility*  
21           *program or project that is located on an Indian*  
22           *reservation or provides access to the reservation*  
23           *or a community of an Indian tribe shall be made*  
24           *available, on the request of the Indian tribal gov-*  
25           *ernment, to the Indian tribal government for use*

1       *in carrying out, in accordance with the Indian*  
2       *Self-Determination and Education Assistance*  
3       *Act (25 U.S.C. 450 et seq.), contracts, agree-*  
4       *ments, and grants for the planning, research, de-*  
5       *sign, engineering, construction, and maintenance*  
6       *relating to the program or project.*

7               “(B) *EXCLUSION OF AGENCY PARTICIPA-*  
8       *TION.—In accordance with subparagraph (A),*  
9       *all funds for a program or project to which sub-*  
10       *paragraph (A) applies shall be paid to the In-*  
11       *Indian tribal government without regard to the or-*  
12       *ganizational level at which the Department of*  
13       *the Interior has previously carried out, or the*  
14       *Department of Transportation has previously*  
15       *carried out, the programs, functions, services, or*  
16       *activities involved.*

17               “(C) *CONSORTIA.—Two or more Indian*  
18       *tribes that are otherwise eligible to participate in*  
19       *a program or project to which this chapter ap-*  
20       *plies may form a consortium to be considered as*  
21       *a single Indian tribe for the purpose of partici-*  
22       *pating in the project under this section.*

23               “(D) *SECRETARY AS SIGNATORY.—Notwith-*  
24       *standing any other provision of law, the Sec-*  
25       *retary is authorized to enter into a funding*

1       *agreement with an Indian tribal government in*  
2       *accordance with and governed by the Indian*  
3       *Self-Determination and Education Assistance*  
4       *Act (25 U.S.C. 450 et seq.) to carry out a tribal*  
5       *transportation facility program or project under*  
6       *subparagraph (A) that is located on an Indian*  
7       *reservation or provides access to the reservation*  
8       *or a community of the Indian tribe.*

9               “(E) *FUNDING.*—*The amount an Indian*  
10       *tribal government receives for a program or*  
11       *project under subparagraph (A) shall equal the*  
12       *sum of the funding that the Indian tribal gov-*  
13       *ernment would otherwise receive for the program*  
14       *or project in accordance with the funding for-*  
15       *mula established under this subsection and such*  
16       *additional amounts as the Secretary determines*  
17       *equal the amounts that would have been withheld*  
18       *for the costs of the Bureau of Indian Affairs for*  
19       *administration of the program or project.*

20               “(F) *ELIGIBILITY.*—

21               “(i) *IN GENERAL.*—*Subject to clause*  
22       *(ii), funds may be made available under*  
23       *subparagraph (A) to an Indian tribal gov-*  
24       *ernment for a program or project in a fiscal*  
25       *year only if the Indian tribal government*

1           *requesting the funds demonstrates to the sat-*  
2           *isfaction of the Secretary financial stability*  
3           *and financial management capability dur-*  
4           *ing the 3 fiscal years immediately preceding*  
5           *the fiscal year for which the request is*  
6           *made.*

7                   “(ii) *CRITERIA FOR DETERMINING FI-*  
8           *NANCIAL STABILITY AND FINANCIAL MAN-*  
9           *AGEMENT CAPABILITY.*—*If an Indian tribal*  
10          *government did not have an uncorrected*  
11          *significant and material audit exception in*  
12          *a required annual audit of the Indian trib-*  
13          *al government’s self-determination contracts*  
14          *or self-governance funding agreements with*  
15          *a Federal agency during the 3-fiscal year*  
16          *period referred in clause (i), the Indian*  
17          *tribe shall be treated as having conclusive*  
18          *evidence of its financial stability and finan-*  
19          *cial management capability for purposes of*  
20          *clause (i).*

21                   “(G) *ASSUMPTION OF FUNCTIONS AND DU-*  
22          *TIES.*—*An Indian tribal government receiving*  
23          *funding under subparagraph (A) for a program*  
24          *or project shall assume all functions and duties*  
25          *that the Secretary or the Secretary of the Inte-*

1        *rior would have performed with respect to a pro-*  
2        *gram or project under this chapter, other than*  
3        *those functions and duties that inherently cannot*  
4        *be legally transferred under the Indian Self-De-*  
5        *termination and Education Assistance Act (25*  
6        *U.S.C. 450 et seq.).*

7                *“(H) POWERS.—An Indian tribal govern-*  
8        *ment receiving funding under subparagraph (A)*  
9        *for a program or project shall have all powers*  
10       *that the Secretary or the Secretary of the Inte-*  
11       *rior would have exercised in administering the*  
12       *funds transferred to the Indian tribal govern-*  
13       *ment for such program or project under this sec-*  
14       *tion if the funds had not been transferred, except*  
15       *to the extent that such powers are powers that*  
16       *inherently cannot be legally transferred under*  
17       *the Indian Self-Determination and Education*  
18       *Assistance Act (25 U.S.C. 450 et seq.).*

19                *“(I) DISPUTE RESOLUTION.—In the event of*  
20       *a disagreement between the Secretary or the Sec-*  
21       *retary of the Interior and an Indian tribe over*  
22       *whether a particular function, duty, or power*  
23       *may be lawfully transferred under the Indian*  
24       *Self-Determination and Education Assistance*  
25       *Act (25 U.S.C. 450 et seq.), the Indian tribe*

1       *shall have the right to pursue all alternative dis-*  
 2       *pute resolutions and appeal procedures author-*  
 3       *ized by such Act, including regulations issued to*  
 4       *carry out such Act.*

5               “(J) *TERMINATION OF CONTRACT OR*  
 6       *AGREEMENT.—On the date of the termination of*  
 7       *a contract or agreement under this section by an*  
 8       *Indian tribal government, the Secretary shall*  
 9       *transfer all funds that would have been allocated*  
 10       *to the Indian tribal government under the con-*  
 11       *tract or agreement to the Secretary of the Inte-*  
 12       *rior to provide continued transportation services*  
 13       *in accordance with applicable law.*

14       “(d) *PLANNING BY INDIAN TRIBAL GOVERNMENTS.—*

15               “(1) *IN GENERAL.—Of the funds made available*  
 16       *for a fiscal year to carry out the tribal transportation*  
 17       *program, the greater of 2 percent or \$35,000 may be*  
 18       *allocated to Indian tribal governments that have been*  
 19       *authorized to conduct transportation planning pursu-*  
 20       *ant to the Indian Self-Determination and Education*  
 21       *Assistance Act (25 U.S.C. 450 et seq.).*

22               “(2) *COOPERATION.—An Indian tribal govern-*  
 23       *ment described in paragraph (1), in cooperation with*  
 24       *the Secretary of the Interior, and as appropriate with*  
 25       *a State, local government, or metropolitan planning*

1       organization, shall carry out a transportation plan-  
2       ning process in accordance with section 201(e).

3               “(3) *APPROVAL.*—Projects selected by an Indian  
4       tribal government described in paragraph (1) from a  
5       transportation improvement program shall be subject  
6       to the approval of the Secretary of the Interior and  
7       the Secretary.

8               “(e) *FEDERAL-AID ELIGIBLE PROJECT.*—Before ap-  
9       proving as a project on a tribal transportation facility any  
10      project eligible funds apportioned under section 104 in a  
11      State, the Secretary shall determine that the obligation of  
12      funds for such project is supplementary to and not in lieu  
13      of the obligation, for projects on tribal transportation facili-  
14      ties, of a fair and equitable share of funds apportioned to  
15      such State under section 104.

16              “(f) *ELIGIBILITY FOR DISCRETIONARY AND COMPETI-*  
17      *TIVE GRANTS.*—Notwithstanding any other provision of  
18      law, an Indian tribe may directly apply for and receive  
19      any discretionary or competitive grant made available to  
20      a State or a political subdivision of a State under this title  
21      or chapter 53 of title 49 in the same manner and under  
22      the same circumstances as a State or a political subdivision  
23      of a State.

1 **“§ 203. Federal lands transportation program**

2 “(a) *IN GENERAL.*—*The Secretary shall carry out a*  
3 *Federal lands transportation program in accordance with*  
4 *the requirements of this section.*

5 “(b) *USE OF FUNDS.*—

6 “(1) *IN GENERAL.*—*Funds made available to*  
7 *carry out the Federal lands transportation program*  
8 *shall be used by the Secretary and the Secretaries of*  
9 *Federal land management agencies to pay for the fol-*  
10 *lowing:*

11 “(A) *The covered costs of—*

12 “(i) *Federal lands highways;*

13 “(ii) *vehicular parking areas adjacent*  
14 *to Federal lands highways (which may in-*  
15 *clude electric vehicle charging stations);*

16 “(iii) *pedestrian walkways and bicycle*  
17 *transportation facilities (as defined in sec-*  
18 *tion 217) on Federal lands; and*

19 “(iv) *roadside rest areas, including*  
20 *sanitary and water facilities, on Federal*  
21 *lands.*

22 “(B) *The costs of transportation projects on*  
23 *public roads or trails eligible for assistance*  
24 *under this title that are within, or provide access*  
25 *to, Federal lands.*

1           “(C) *The costs of public transportation*  
2           *projects eligible for assistance under section*  
3           *5311(b)(1) of title 49 that are within, or provide*  
4           *access to, Federal lands (without regard to*  
5           *whether the project is located in an urbanized*  
6           *area).*

7           “(D) *The costs of rehabilitation, restoration,*  
8           *and construction of interpretive signage at Fed-*  
9           *eral lands highways.*

10           “(E) *The costs of acquisition of necessary*  
11           *scenic easements and scenic or historic sites asso-*  
12           *ciated with Federal lands highways.*

13           “(2) *COVERED COSTS DEFINED.—In paragraph*  
14           *(1), the term ‘covered costs’ means the costs of pro-*  
15           *gram administration, transportation planning, re-*  
16           *search, preventive maintenance, engineering, rehabili-*  
17           *tation, restoration, construction, and reconstruction.*

18           “(3) *CONTRACT.—In connection with an activity*  
19           *described in paragraph (1), the Secretary and the*  
20           *Secretary of the appropriate Federal land manage-*  
21           *ment agency may enter into a contract or other ap-*  
22           *propriate agreement with respect to such activity*  
23           *with—*

24           “(A) *a State (including a political subdivi-*  
25           *sion of a State); or*

1                   “(B) *an Indian tribe.*

2                   “(4) *ADMINISTRATION.—All appropriations for*  
3                   *the construction and improvement of Federal lands*  
4                   *transportation facilities shall be administered in con-*  
5                   *formity with regulations and agreements jointly ap-*  
6                   *proved by the Secretary and the Secretary of the ap-*  
7                   *propriate Federal land management agency.*

8                   “(5) *COOPERATION.—*

9                   “(A) *IN GENERAL.—The cooperation of*  
10                  *States and political subdivisions of States may*  
11                  *be accepted in construction and improvement of*  
12                  *Federal lands transportation facilities.*

13                  “(B) *CREDITING OF FUNDS.—Any funds re-*  
14                  *ceived from a State or a political subdivision of*  
15                  *a State for such construction or improvement of*  
16                  *Federal lands transportation facilities shall be*  
17                  *credited to appropriations available for the class*  
18                  *of Federal lands transportation facilities to*  
19                  *which funds were contributed.*

20                  “(6) *COMPETITIVE BIDDING.—Construction of a*  
21                  *project under the Federal lands transportation pro-*  
22                  *gram shall be performed pursuant to a contract*  
23                  *awarded by competitive bidding unless the Secretary*  
24                  *or the Secretary of the appropriate Federal land*  
25                  *management agency affirmatively finds that, under*

1       *the circumstances relating to the project, some other*  
 2       *method is in the public interest.*

3       “(c) *AGENCY PROGRAM DISTRIBUTIONS.*—

4               “(1) *IN GENERAL.*—On October 1 of each fiscal  
 5       *year, the Secretary shall allocate the funds made*  
 6       *available to carry out the Federal lands transpor-*  
 7       *tation program for the fiscal year on the basis of ap-*  
 8       *plications of need, as determined by the Secretary,*  
 9       *and in coordination with the transportation plans re-*  
 10       *quired by section 201(e), of the respective transpor-*  
 11       *tation systems of the Federal land management agen-*  
 12       *cies.*

13              “(2) *MINIMUM ALLOCATIONS.*—When making an  
 14       *allocation of funds under paragraph (1) for a fiscal*  
 15       *year, the Secretary shall ensure that, of the total*  
 16       *amount of funds subject to the allocation—*

17                   “(A) *the National Park Service receives, at*  
 18               *a minimum, 38 percent;*

19                   “(B) *the Forest Service receives, at a min-*  
 20               *imum, 32 percent; and*

21                   “(C) *the United States Fish and Wildlife*  
 22               *Service receives, at a minimum, 4.5 percent.*

23       “(3) *APPLICATIONS.*—

24               “(A) *IN GENERAL.*—The Secretary of a Fed-  
 25       *eral land management agency may submit to the*

1        *Secretary an application for assistance under the*  
2        *Federal lands transportation program.*

3                “(B) *CONTENTS.—An application submitted*  
4        *by the Secretary of a Federal land management*  
5        *agency under subparagraph (A) shall contain*  
6        *such information as the Secretary may require,*  
7        *including a description of any proposed program*  
8        *for which the agency is seeking assistance and*  
9        *the potential funding levels for the program.*

10              “(C) *CONSIDERATIONS.—In reviewing a*  
11        *proposed program described in an application*  
12        *submitted by the Secretary of a Federal land*  
13        *management agency under subparagraph (A),*  
14        *the Secretary shall consider the extent to which*  
15        *the program supports—*

16                      “(i) *a state of good repair of transpor-*  
17                      *tation facilities across the agency’s inven-*  
18                      *tory;*

19                      “(ii) *a reduction of deficient bridges*  
20                      *across the agency’s inventory;*

21                      “(iii) *improvement of safety across the*  
22                      *agency’s inventory;*

23                      “(iv) *high use Federal recreation sites*  
24                      *or Federal economic generators; and*

1                   “(v) *the resource management goals of*  
2                   *the Secretary of the respective Federal land*  
3                   *management agency.*

4           “(d) *NATIONAL FEDERAL LANDS HIGHWAYS INVEN-*  
5 *TORY.—*

6                   “(1) *IN GENERAL.—The Secretaries of the Fed-*  
7                   *eral land management agencies, in cooperation with*  
8                   *the Secretary, shall maintain a comprehensive na-*  
9                   *tional inventory of Federal lands highways.*

10                   “(2) *HIGHWAYS INCLUDED IN THE INVENTORY.—*  
11                   *For purposes of identifying the Federal lands trans-*  
12                   *portation system and determining the relative trans-*  
13                   *portation needs among Federal land management*  
14                   *agencies, the inventory shall include, at a minimum,*  
15                   *highways that—*

16                   “(A) *provide access to high use Federal*  
17                   *recreation sites or Federal economic generators,*  
18                   *as determined by the Secretary in coordination*  
19                   *with the Secretaries of the Federal land manage-*  
20                   *ment agencies; and*

21                   “(B) *are administered by a Federal land*  
22                   *management agency.*

23                   “(3) *AVAILABILITY.—The Secretary of each Fed-*  
24                   *eral land management agency shall maintain an in-*  
25                   *ventory of the Federal lands highways administered*

1       *by the agency and make the inventory available to the*  
 2       *Secretary.*

3               “(4) *UPDATES.*—*The Secretary of each Federal*  
 4       *land management agency shall update its inventory*  
 5       *referred to in paragraph (3) as determined by the*  
 6       *Secretary.*

7               “(5) *REVIEW.*—*A decision to add or remove a*  
 8       *highway from an inventory referred to in paragraph*  
 9       *(1) or (4) shall not be considered a Federal action for*  
 10       *purposes of review under the National Environmental*  
 11       *Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.*

12   **SEC. 1502. DEFINITIONS.**

13       (a) *REPEALS.*—*Paragraphs (7), (9), (12), (19), (20),*  
 14       *(24), (25), (26), and (28) of section 101(a) are repealed.*

15       (b) *DEFINITIONS RELATING TO FEDERAL LANDS AND*  
 16       *TRIBAL TRANSPORTATION PROGRAMS.*—*Section 101(a) is*  
 17       *amended by adding at the end the following:*

18               “(40) *FEDERAL LAND MANAGEMENT AGENCY.*—  
 19       *The term ‘Federal land management agency’ means*  
 20       *each of the following:*

21                       “(A) *The National Park Service.*

22                       “(B) *The Forest Service.*

23                       “(C) *The United States Fish and Wildlife*  
 24       *Service.*

25                       “(D) *The Corps of Engineers.*

1                   “(E) *The Bureau of Land Management.*

2                   “(41) *FEDERAL LANDS.—The term ‘Federal*  
3                   *lands’ means lands administered by a Federal land*  
4                   *management agency.*

5                   “(42) *FEDERAL LANDS HIGHWAY.—The term*  
6                   *‘Federal lands highway’ means a public road, high-*  
7                   *way, bridge, or trail that is located on, is adjacent to,*  
8                   *or provides access to Federal lands and appears on*  
9                   *the national inventory of Federal lands highways*  
10                  *maintained under section 203(d).*

11                  “(43) *FEDERAL LANDS TRANSPORTATION FACIL-*  
12                  *ITY.—The term ‘Federal lands transportation facility’*  
13                  *means a transportation facility eligible for assistance*  
14                  *under section 203(b).*

15                  “(44) *TRIBAL ROAD.—The term ‘tribal road’*  
16                  *means a public road, highway, bridge, or trail that*  
17                  *is located on or provides access to tribal lands and*  
18                  *appears on the national inventory of tribal roads*  
19                  *maintained under section 202(c).*

20                  “(45) *TRIBAL TRANSPORTATION FACILITY.—The*  
21                  *term ‘tribal transportation facility’ means a trans-*  
22                  *portation facility eligible for assistance under section*  
23                  *202(b).”.*

1 **SEC. 1503. CONFORMING AMENDMENTS.**

2 (a) *FEDERAL SHARE PAYABLE.*—Section 120 is  
3 amended—

4 (1) in subsection (e) by striking “forest high-  
5 ways, forest development roads and trails, park roads  
6 and trails, parkways, public lands highways, public  
7 lands development roads and trails, and Indian res-  
8 ervation roads” and inserting “tribal roads and Fed-  
9 eral lands highways”; and

10 (2) in subsection (l)—

11 (A) in the subsection heading by striking  
12 “FEDERAL LANDS HIGHWAYS PROGRAM” and  
13 inserting “TRIBAL TRANSPORTATION PROGRAM  
14 AND FEDERAL LANDS TRANSPORTATION PRO-  
15 GRAM”; and

16 (B) by striking “the Federal lands highways  
17 program under section 204” and inserting “the  
18 tribal transportation program under section 202  
19 and the Federal lands transportation program  
20 under section 203”.

21 (b) *PRESERVATION OF PARKLANDS.*—Section 138(a) is  
22 amended by striking “park road or parkway under section  
23 204 of this title” and inserting “Federal lands transpor-  
24 tation facility under section 203”.

1       (c) *EFFICIENT ENVIRONMENTAL REVIEWS FOR*  
 2 *PROJECT DECISIONMAKING.*—Section 139(j)(3) is amend-  
 3 *ed—*

4           (1) *in the paragraph heading by striking “USE*  
 5 *OF FEDERAL LANDS HIGHWAY FUNDS” and inserting*  
 6 *“USE OF TRIBAL TRANSPORTATION PROGRAM AND*  
 7 *FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS”;*  
 8 *and*

9           (2) *by striking “section 204” and inserting “sec-*  
 10 *tions 202 and 203”.*

11       (d) *BICYCLE TRANSPORTATION AND PEDESTRIAN*  
 12 *WALKWAYS.*—Section 217(c) is amended—

13           (1) *in the subsection heading by striking “FED-*  
 14 *ERAL LANDS HIGHWAYS” and inserting “TRIBAL*  
 15 *TRANSPORTATION PROGRAM AND FEDERAL LANDS*  
 16 *TRANSPORTATION PROGRAM FUNDS”;* and

17           (2) *by striking “Funds authorized for” and all*  
 18 *that follows through “public lands highways” and in-*  
 19 *serting “Funds authorized for tribal transportation*  
 20 *facilities and Federal lands transportation facilities”.*

21       (e) *RULES, REGULATIONS, AND RECOMMENDATIONS.*—  
 22 *Section 315 is amended by striking “sections 204(f) and*  
 23 *205(a) of this title” and inserting “sections 203(b)(4) and*  
 24 *205(a)”.*

1 **SEC. 1504. REPEALS; EFFECTIVE DATE.**

2 (a) *IN GENERAL.*—Sections 204 and 214, and the  
3 items relating to such sections in the analysis for chapter  
4 2, are repealed.

5 (b) *EXISTING FUNDS.*—A repeal or amendment made  
6 by this subtitle shall not affect funds apportioned or allo-  
7 cated (or funds awarded but not yet allocated) before the  
8 effective date of the repeal or amendment.

9 **SEC. 1505. CLERICAL AMENDMENT.**

10 *The analysis for chapter 2 is amended by striking the*  
11 *items relating to sections 201 through 203 and inserting*  
12 *the following:*

“201. General provisions.

“202. Tribal transportation program.

“203. Federal lands transportation program.”.

13 **SEC. 1506. TRIBAL TRANSPORTATION SELF-GOVERNANCE**  
14 **PROGRAM.**

15 (a) *IN GENERAL.*—Chapter 2 is amended by inserting  
16 after section 206 the following:

17 **“§ 207. Tribal transportation self-governance program**

18 “(a) *ESTABLISHMENT.*—Subject to the requirements of  
19 this section, the Secretary shall establish and carry out a  
20 program to be known as the tribal transportation self-gov-  
21 ernance program. The Secretary may delegate responsibil-  
22 ities for administration of the program as the Secretary de-  
23 termines appropriate.

24 “(b) *ELIGIBILITY.*—

1           “(1) *IN GENERAL.*—*An Indian tribe shall be eli-*  
2           *gible to participate in the program if the Indian*  
3           *tribe—*

4                     “(A) *requests participation in the program*  
5                     *by resolution or other official action by the gov-*  
6                     *erning body of the Indian tribe; and*

7                     “(B) *demonstrates, for the preceding 3 fiscal*  
8                     *years, financial stability and financial manage-*  
9                     *ment capability.*

10           “(2) *CRITERIA FOR DETERMINING FINANCIAL*  
11           *STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—*  
12           *For the purposes of paragraph (1)(B), evidence that,*  
13           *during the preceding 3 fiscal years, an Indian tribe*  
14           *had no uncorrected significant and material audit ex-*  
15           *ceptions in the required annual audit of the Indian*  
16           *tribe’s self-determination contracts or self-governance*  
17           *funding agreements with any Federal agency shall be*  
18           *conclusive evidence of the required stability and capa-*  
19           *bility.*

20           “(c) *COMPACTS.—*

21                     “(1) *COMPACT REQUIRED.*—*Upon the request of*  
22                     *an eligible Indian tribe, and subject to the require-*  
23                     *ments of this section, the Secretary shall negotiate*  
24                     *and enter into a written compact with the Indian*

1        *tribe for the purpose of providing for the participa-*  
2        *tion of the Indian tribe in the program.*

3                “(2) *CONTENTS.—A compact entered into under*  
4        *paragraph (1) shall set forth the general terms of the*  
5        *government-to-government relationship between the*  
6        *Indian tribe and the United States under the pro-*  
7        *gram and other terms that will continue to apply in*  
8        *future fiscal years.*

9                “(3) *AMENDMENTS.—A compact entered into*  
10       *with an Indian tribe under paragraph (1) may be*  
11       *amended only by mutual agreement of the Indian*  
12       *tribe and the Secretary.*

13               “(d) *ANNUAL FUNDING AGREEMENTS.—*

14               “(1) *FUNDING AGREEMENT REQUIRED.—After*  
15       *entering into a compact with an Indian tribe under*  
16       *subsection (c), the Secretary shall negotiate and enter*  
17       *into a written annual funding agreement with the In-*  
18       *dian tribe.*

19               “(2) *CONTENTS.—*

20               “(A) *IN GENERAL.—*

21               “(i) *DISCRETIONARY AND COMPETITIVE*  
22       *GRANTS.—A funding agreement entered into*  
23       *with an Indian tribe shall authorize the In-*  
24       *dian tribe, as determined by the Indian*  
25       *tribe, to plan, conduct, consolidate, admin-*

1            *ister, and receive full tribal share funding*  
 2            *and funding to tribes from discretionary*  
 3            *and competitive grants administered by the*  
 4            *Department for all programs, services, func-*  
 5            *tions, and activities (or portions thereof)*  
 6            *that are made available to Indian tribes to*  
 7            *carry out tribal transportation programs*  
 8            *and programs, services, functions, and ac-*  
 9            *tivities (or portions thereof) administered*  
 10           *by the Secretary that are otherwise avail-*  
 11           *able to Indian tribes.*

12           “(ii) *TRANSFERS OF STATE FUNDS.—*

13                  *“(I) INCLUSION OF TRANSFERRED*  
 14                  *FUNDS IN FUNDING AGREEMENT.—A*  
 15                  *funding agreement entered into with*  
 16                  *an Indian tribe shall include Federal-*  
 17                  *aid funds apportioned to a State under*  
 18                  *chapter 1 if the State elects to provide*  
 19                  *a portion of such funds to the Indian*  
 20                  *tribe for a project eligible under section*  
 21                  *202(b).*

22           “(II) *METHOD FOR TRANSFERS.—*

23                  *If a State elects to provide funds de-*  
 24                  *scribed in subclause (I) to an Indian*  
 25                  *tribe, the State shall transfer the funds*

1                   *back to the Secretary and the Secretary*  
2                   *shall transfer the funds to the Indian*  
3                   *tribe in accordance with this section.*

4                   “(III)     *RESPONSIBILITY     FOR*  
5                   *TRANSFERRED             FUNDS.—Notwith-*  
6                   *standing any other provision of law, if*  
7                   *a State provides funds described in*  
8                   *subclause (I) to an Indian tribe—*

9                   “*(aa) the State shall not be*  
10                  *responsible for constructing or*  
11                  *maintaining a project carried out*  
12                  *using the funds or for admin-*  
13                  *istering or supervising the project*  
14                  *or funds during the applicable*  
15                  *statute of limitations period re-*  
16                  *lated to the construction of the*  
17                  *project; and*

18                  “*(bb) the Indian tribe shall*  
19                  *be responsible for constructing*  
20                  *and maintaining a project carried*  
21                  *out using the funds and for ad-*  
22                  *ministering and supervising the*  
23                  *project and funds in accordance*  
24                  *with this section during the appli-*  
25                  *cable statute of limitations period*

1                   *related to the construction of the*  
2                   *project.*

3                   “(B)   ADMINISTRATION   OF   TRIBAL  
4                   SHARES.—*The tribal shares referred to in sub-*  
5                   *paragraph (A) shall be provided without regard*  
6                   *to the agency or office of the Department within*  
7                   *which the program, service, function, or activity*  
8                   *(or portion thereof) is performed.*

9                   “(C)   FLEXIBLE AND INNOVATIVE FINANC-  
10                  ING.—

11                  “(i)   IN GENERAL.—*A funding agree-*  
12                  *ment entered into with an Indian tribe*  
13                  *under paragraph (1) shall include provi-*  
14                  *sions pertaining to flexible and innovative*  
15                  *financing if agreed upon by the parties.*

16                  “(ii)   TERMS AND CONDITIONS.—

17                  “(I)   AUTHORITY TO ISSUE REGU-  
18                  LATIONS.—*The Secretary may issue*  
19                  *regulations to establish the terms and*  
20                  *conditions relating to the flexible and*  
21                  *innovative financing provisions re-*  
22                  *ferred to in clause (i).*

23                  “(II)   TERMS AND CONDITIONS IN  
24                  ABSENCE OF REGULATIONS.—*If the*  
25                  *Secretary does not issue regulations*

1           *under subclause (I), the terms and con-*  
2           *ditions relating to the flexible and in-*  
3           *novative financing provisions referred*  
4           *to in clause (i) shall be consistent*  
5           *with—*

6                     *“(aa) agreements entered*  
7                     *into by the Department under sec-*  
8                     *tion 202(c)(8) before the date of*  
9                     *enactment of the American En-*  
10                    *ergy and Infrastructure Jobs Act*  
11                    *of 2012; or*

12                    *“(bb) regulations of the De-*  
13                    *partment of the Interior relating*  
14                    *to flexible financing contained in*  
15                    *part 170 of title 25, Code of Fed-*  
16                    *eral Regulations, as in effect on*  
17                    *the date of enactment of such Act.*

18            “(3)    DISCRETIONARY    AND    COMPETITIVE  
19            GRANTS.—*Notwithstanding any other provision of*  
20            *law, an Indian tribe shall be eligible to directly apply*  
21            *for and receive the discretionary and competitive*  
22            *grants made available under transportation programs*  
23            *that States or political subdivisions of States are eli-*  
24            *gible to apply for and receive.*

1           “(4) *TERMS.*—A funding agreement shall set  
2       *forth—*

3                   “(A) *terms that generally identify the pro-*  
4                   *grams, services, functions, and activities (or por-*  
5                   *tions thereof) to be performed or administered by*  
6                   *the Indian tribe; and*

7                   “(B) *for items identified in subparagraph*  
8                   *(A)—*

9                           “(i) *the general budget category as-*  
10                          *signed;*

11                           “(ii) *the funds to be provided, includ-*  
12                          *ing those funds to be provided on a recur-*  
13                          *ring basis;*

14                           “(iii) *the time and method of transfer*  
15                          *of the funds;*

16                           “(iv) *the responsibilities of the Sec-*  
17                          *retary and the Indian tribe; and*

18                           “(v) *any other provision agreed to by*  
19                          *the Indian tribe and the Secretary.*

20           “(5) *SUBSEQUENT FUNDING AGREEMENTS.—*

21                   “(A) *APPLICABILITY OF EXISTING AGREE-*  
22                   *MENT.—Absent notification from an Indian tribe*  
23                   *that the Indian tribe is withdrawing from or ret-*  
24                   *roceding the operation of one or more programs,*  
25                   *services, functions, or activities (or portions*

1       *thereof) identified in a funding agreement, or*  
2       *unless otherwise agreed to by the parties, each*  
3       *funding agreement shall remain in full force and*  
4       *effect until a subsequent funding agreement is ex-*  
5       *ecuted.*

6               “(B) *EFFECTIVE DATE OF SUBSEQUENT*  
7       *AGREEMENT.—The terms of the subsequent fund-*  
8       *ing agreement shall be retroactive to the end of*  
9       *the term of the preceding funding agreement.*

10              “(6) *CONSENT OF INDIAN TRIBE REQUIRED.—*  
11       *The Secretary shall not revise, amend, or require ad-*  
12       *ditional terms in a new or subsequent funding agree-*  
13       *ment without the consent of the Indian tribe that is*  
14       *subject to the agreement unless such terms are re-*  
15       *quired by Federal law.*

16              “(e) *GENERAL PROVISIONS.—*

17              “(1) *REDESIGN AND CONSOLIDATION.—*

18              “(A) *IN GENERAL.—An Indian tribe, in*  
19       *any manner that the Indian tribe considers to be*  
20       *in the best interest of the Indian community*  
21       *being served, may—*

22              “(i) *redesign or consolidate programs,*  
23       *services, functions, and activities (or por-*  
24       *tions thereof) included in a funding agree-*  
25       *ment; and*

1           “(ii) *reallocate or redirect funds for*  
2           *such programs, services, functions, and ac-*  
3           *tivities (or portions thereof), if the funds*  
4           *are—*

5                     “(I) *expended on projects identi-*  
6                     *fied in a transportation improvement*  
7                     *program approved by the Secretary;*  
8                     *and*

9                     “(II) *used in accordance with ap-*  
10                    *propriations Acts and other applicable*  
11                    *statutory limitations.*

12           “(B) *EXCEPTION.—Notwithstanding sub-*  
13           *paragraph (A), if, pursuant to subsection (d), an*  
14           *Indian tribe receives a discretionary or competi-*  
15           *tive grant from the Secretary or receives State*  
16           *apportioned funds, the Indian tribe shall use the*  
17           *funds for the purpose for which the funds were*  
18           *originally authorized.*

19           “(2) *RETROCESSION.—*

20                     “(A) *IN GENERAL.—*

21                     “(i) *AUTHORITY OF INDIAN TRIBES.—*  
22                     *An Indian tribe may retrocede (fully or*  
23                     *partially) to the Secretary programs, serv-*  
24                     *ices, functions, or activities (or portions*

1           *thereof) included in a compact or funding*  
2           *agreement.*

3           “(ii) *REASSUMPTION OF REMAINING*  
4           *FUNDS.—Following a retrocession described*  
5           *in clause (i), the Secretary may—*

6                     “(I) *reassume the remaining*  
7                     *funding associated with the retroceded*  
8                     *programs, functions, services, and ac-*  
9                     *tivities (or portions thereof) included*  
10                    *in the applicable compact or funding*  
11                    *agreement;*

12                   “(II) *out of such remaining funds,*  
13                   *transfer funds associated with Depart-*  
14                   *ment of Interior programs, services,*  
15                   *functions, or activities (or portions*  
16                   *thereof) to the Secretary of the Interior*  
17                   *to carry out transportation services*  
18                   *provided by the Secretary of the Inte-*  
19                   *rior; and*

20                   “(III) *distribute funds not trans-*  
21                   *ferred under subclause (II) in accord-*  
22                   *ance with applicable law.*

23           “(iii) *CORRECTION OF PROGRAMS.—If*  
24           *the Secretary makes a finding under sub-*  
25           *section (f)(2)(B) and no funds are available*

1                   under subsection (f)(2)(A)(ii), the Secretary  
2                   shall not be required to provide additional  
3                   funds to complete or correct any programs,  
4                   functions, or activities (or portions thereof).

5                   “(B) *EFFECTIVE DATE.*—Unless the Indian  
6                   tribe rescinds a request for retrocession, the ret-  
7                   rocession shall become effective within the time-  
8                   frame specified by the parties in the compact or  
9                   funding agreement. In the absence of such a spec-  
10                  ification, the retrocession shall become effective  
11                  on—

12                  “(i) the earlier of—

13                         “(I) 1 year after the date of sub-  
14                         mission of the request; or

15                         “(II) the date on which the fund-  
16                         ing agreement expires; or

17                  “(ii) such date as may be mutually  
18                  agreed upon by the parties and, with re-  
19                  spect to Department of the Interior pro-  
20                  grams, functions, services, and activities (or  
21                  portions thereof), the Secretary of the Inte-  
22                  rior.

23                  “(f) *PROVISIONS RELATING TO THE SECRETARY.*—

24                         “(1) *DECISIONMAKER.*—A decision that con-  
25                         stitutes a final agency action and relates to an appeal

1       *of the rejection of a final offer by the Department*  
 2       *shall be made either—*

3               “(A) *by an official of the Department who*  
 4               *holds a position at a higher organizational level*  
 5               *within the Department than the level of the de-*  
 6               *partmental agency in which the decision that is*  
 7               *the subject of the appeal was made; or*

8               “(B) *by an administrative judge.*

9               “(2) *TERMINATION OF COMPACT OR FUNDING*  
 10       *AGREEMENT.—*

11               “(A) *AUTHORITY TO TERMINATE.—*

12               “(i) *PROVISION TO BE INCLUDED IN*  
 13               *COMPACT OR FUNDING AGREEMENT.—A*  
 14               *compact or funding agreement shall include*  
 15               *a provision authorizing the Secretary, if the*  
 16               *Secretary makes a finding described in sub-*  
 17               *paragraph (B), to—*

18                       “(I) *terminate the compact or*  
 19                       *funding agreement (or a portion there-*  
 20                       *of); and*

21                       “(II) *reassume the remaining*  
 22                       *funding associated with the reassumed*  
 23                       *programs, functions, services, and ac-*  
 24                       *tivities included in the compact or*  
 25                       *funding agreement.*

1                   “(ii) *TRANSFERS OF FUNDS.*—Out of  
2                   any funds reassumed under clause (i)(II),  
3                   the Secretary may transfer the funds associ-  
4                   ated with Department of the Interior pro-  
5                   grams, functions, services, and activities (or  
6                   portions thereof) to the Secretary of the In-  
7                   terior to provide continued transportation  
8                   services in accordance with applicable law.

9                   “(B) *FINDINGS RESULTING IN TERMI-*  
10                  *NATION.*—The finding referred to in subpara-  
11                  graph (A) is a specific finding of—

12                   “(i) *imminent jeopardy to a trust*  
13                   *asset, natural resources, or public health*  
14                   *and safety that is caused by an act or omis-*  
15                   *sion of the Indian tribe and that arises out*  
16                   *of a failure to carry out the compact or*  
17                   *funding agreement, as determined by the*  
18                   *Secretary; or*

19                   “(ii) *gross mismanagement with re-*  
20                   *spect to funds or programs transferred to*  
21                   *the Indian tribe under the compact or fund-*  
22                   *ing agreement, as determined by the Sec-*  
23                   *retary in consultation with the Inspector*  
24                   *General of the Department, as appropriate.*

1           “(C) *PROHIBITION.*—*The Secretary shall*  
2           *not terminate a compact or funding agreement*  
3           *(or portion thereof) unless—*

4                     “(i) *the Secretary has first provided*  
5                     *written notice and a hearing on the record*  
6                     *to the Indian tribe that is subject to the*  
7                     *compact or funding agreement; and*

8                     “(ii) *the Indian tribe has not taken*  
9                     *corrective action to remedy the mismanage-*  
10                    *ment of funds or programs or the imminent*  
11                    *jeopardy to a trust asset, natural resource,*  
12                    *or public health and safety.*

13           “(D) *EXCEPTION.*—

14                    “(i) *IN GENERAL.*—*Notwithstanding*  
15                    *subparagraph (C), the Secretary, upon*  
16                    *written notification to an Indian tribe that*  
17                    *is subject to a compact or funding agree-*  
18                    *ment, may immediately terminate the com-*  
19                    *compact or funding agreement (or portion*  
20                    *thereof) if—*

21                             “(I) *the Secretary makes a find-*  
22                             *ing of imminent substantial and irrepa-*  
23                             *vable jeopardy to a trust asset, nat-*  
24                             *ural resource, or public health and*  
25                             *safety; and*

1                   “(II) the jeopardy arises out of a  
2                   failure to carry out the compact or  
3                   funding agreement.

4                   “(ii) *HEARINGS.*—If the Secretary ter-  
5                   minates a compact or funding agreement  
6                   (or portion thereof) under clause (i), the  
7                   Secretary shall provide the Indian tribe  
8                   subject to the compact or agreement with a  
9                   hearing on the record not later than 10  
10                  days after the date of such termination.

11                  “(E) *BURDEN OF PROOF.*—In any hearing  
12                  or appeal involving a decision to terminate a  
13                  compact or funding agreement (or portion there-  
14                  of) under this paragraph, the Secretary shall  
15                  have the burden of proof in demonstrating by  
16                  clear and convincing evidence the validity of the  
17                  grounds for the termination.

18                  “(g) *COST PRINCIPLES.*—In administering funds re-  
19                  ceived under this section, an Indian tribe shall apply cost  
20                  principles under the applicable Office of Management and  
21                  Budget circular, except as modified by section 106 of the  
22                  Indian Self-Determination and Education Assistance Act  
23                  (25 U.S.C. 450j–1), other provisions of law, or by any ex-  
24                  emptions to applicable Office of Management and Budget  
25                  circulars subsequently granted by the Office of Management

1 *and Budget. No other audit or accounting standards shall*  
2 *be required by the Secretary. Any claim by the Federal Gov-*  
3 *ernment against the Indian tribe relating to funds received*  
4 *under a funding agreement based on any audit conducted*  
5 *pursuant to this subsection shall be subject to the provisions*  
6 *of section 106(f) of such Act (25 U.S.C. 450j-1(f)).*

7       “(h) *TRANSFER OF FUNDS.—The Secretary shall pro-*  
8 *vide funds to an Indian tribe under a funding agreement*  
9 *in an amount equal to—*

10               “(1) *the sum of the funding that the Indian tribe*  
11 *would otherwise receive for the program, function,*  
12 *service, or activity in accordance with a funding for-*  
13 *mula or other allocation method established under*  
14 *this title or chapter 53 of title 49; and*

15               “(2) *such additional amounts as the Secretary*  
16 *determines equal the amounts that would have been*  
17 *withheld for the costs of the Bureau of Indian Affairs*  
18 *for administration of the program or project.*

19       “(i) *CONSTRUCTION PROGRAMS.—*

20               “(1) *STANDARDS.—Construction projects carried*  
21 *out under programs administered by an Indian tribe*  
22 *with funds transferred to the Indian tribe pursuant*  
23 *to a funding agreement entered into under this sec-*  
24 *tion shall be constructed pursuant to the construction*  
25 *program standards set forth in applicable regulations*

1       or as specifically approved by the Secretary (or the  
2       Secretary's designee).

3               “(2) *MONITORING.*—Construction programs shall  
4       be monitored by the Secretary in accordance with ap-  
5       plicable regulations.

6               “(j) *FACILITATION.*—

7               “(1) *SECRETARIAL INTERPRETATION.*—Except as  
8       otherwise provided by law, the Secretary shall inter-  
9       pret all Federal laws, Executive orders, and regula-  
10      tions in a manner that will facilitate—

11              “(A) the inclusion of programs, services,  
12      functions, and activities (or portions thereof)  
13      and funds associated therewith, in compacts and  
14      funding agreements; and

15              “(B) the implementation of the compacts  
16      and funding agreements.

17              “(2) *REGULATION WAIVER.*—

18              “(A) *IN GENERAL.*—An Indian tribe may  
19      submit to the Secretary a written request to  
20      waive application of a regulation promulgated  
21      under this section with respect to a compact or  
22      funding agreement. The request shall identify the  
23      regulation sought to be waived and the basis for  
24      the request.

25              “(B) *APPROVALS AND DENIALS.*—

1           “(i) *IN GENERAL.*—Not later than 90  
2           days after the date of receipt of a written  
3           request under subparagraph (A), the Sec-  
4           retary shall approve or deny the request in  
5           writing.

6           “(ii) *DENIALS.*—The Secretary may  
7           deny a request under clause (i) only if the  
8           Secretary finds that the identified language  
9           in the regulation may not be waived be-  
10          cause the waiver is prohibited by Federal  
11          law.

12          “(iii) *DEEMED APPROVAL.*—If the Sec-  
13          retary does not approve or deny a request  
14          submitted under subparagraph (A) on or be-  
15          fore the last day of the 90-day period re-  
16          ferred to in clause (i), the request shall be  
17          deemed approved.

18          “(iv) *FINALITY OF DECISIONS.*—A de-  
19          cision by the Secretary under this subpara-  
20          graph shall be final for the Department.

21          “(k) *DISCLAIMERS.*—

22                 “(1) *EXISTING AUTHORITY.*—Notwithstanding  
23                 any other provision of law, upon the election of an  
24                 Indian tribe, the Secretary shall—

1                   “(A) maintain current Federal Highway  
2                   Administration Indian reservation roads pro-  
3                   gram and funding agreements; or

4                   “(B) enter into new agreements under the  
5                   authority of section 202(c)(8).

6                   “(2) LIMITATION ON STATUTORY CONSTRUC-  
7                   TION.—Nothing in this section may be construed to  
8                   impair or diminish the authority of the Secretary  
9                   under section 202(c)(8).

10                  “(l) APPLICABILITY OF INDIAN SELF-DETERMINATION  
11                  AND EDUCATION ASSISTANCE ACT.—Except to the extent  
12                  in conflict with this section (as determined by the Sec-  
13                  retary), the following provisions of the Indian Self-Deter-  
14                  mination and Education Assistance Act shall apply to com-  
15                  pact and funding agreements (except that references to the  
16                  Secretary of the Interior in such provisions shall treated  
17                  as a references to the Secretary of Transportation):

18                   “(1) Subsections (a), (b), (d), (g), and (h) of sec-  
19                   tion 506 of such Act (25 U.S.C. 458aaa–5), relating  
20                   to general provisions.

21                   “(2) Subsections (b) through (e) and (g) of sec-  
22                   tion 507 of such Act (25 U.S.C.458aaa–6), relating to  
23                   provisions relating to the Secretary of Health and  
24                   Human Services.

1           “(3) Subsections (a), (b), (d), (e), (g), (h), (i),  
2           and (k) of section 508 of such Act (25 U.S.C. 458aaa–  
3           7), relating to transfer of funds.

4           “(4) Section 510 of such Act (25 U.S.C. 458aaa–  
5           9), relating to Federal procurement laws and regula-  
6           tions.

7           “(5) Section 511 of such Act (25 U.S.C. 458aaa–  
8           10), relating to civil actions.

9           “(6) Subsections (a)(1), (a)(2), and (c) through  
10          (f) of section 512 of such Act (25 U.S.C. 458aaa–11),  
11          relating to facilitation, except that subsection (c)(1) of  
12          that section shall be applied by substituting ‘trans-  
13          portation facilities and other facilities’ for ‘school  
14          buildings, hospitals, and other facilities’.

15          “(7) Subsections (a) and (b) of section 515 of  
16          such Act (25 U.S.C. 458aaa–14), relating to dis-  
17          claimers.

18          “(8) Subsections (a) and (b) of section 516 of  
19          such Act (25 U.S.C. 458aaa–15), relating to applica-  
20          tion of title I provisions.

21          “(9) Section 518 of such Act (25 U.S.C. 458aaa–  
22          17), relating to appeals.

23          “(m) DEFINITIONS.—

1           “(1) *IN GENERAL.*—*In this section, the following*  
2           *definitions apply (except as otherwise expressly pro-*  
3           *vided):*

4                   “(A) *COMPACT.*—*The term ‘compact’ means*  
5                   *a compact between the Secretary and an Indian*  
6                   *tribe entered into under subsection (c).*

7                   “(B) *DEPARTMENT.*—*The term ‘Depart-*  
8                   *ment’ means the Department of Transportation.*

9                   “(C) *ELIGIBLE INDIAN TRIBE.*—*The term*  
10                  *‘eligible Indian tribe’ means an Indian tribe*  
11                  *that is eligible to participate in the program, as*  
12                  *determined under subsection (b).*

13                  “(D) *FUNDING AGREEMENT.*—*The term*  
14                  *‘funding agreement’ means a funding agreement*  
15                  *between the Secretary and an Indian tribe en-*  
16                  *tered into under subsection (d).*

17                  “(E) *INDIAN TRIBE.*—*The term ‘Indian*  
18                  *tribe’ means any Indian or Alaska Native tribe,*  
19                  *band, nation, pueblo, village, or community that*  
20                  *the Secretary of the Interior acknowledges to*  
21                  *exist as an Indian tribe under the Federally Rec-*  
22                  *ognized Indian Tribe List Act of 1994 (25*  
23                  *U.S.C. 479a). In any case in which an Indian*  
24                  *tribe has authorized another Indian tribe, an*  
25                  *inter-tribal consortium, or a tribal organization*

1           to plan for or carry out programs, services, func-  
2           tions, or activities (or portions thereof) on its be-  
3           half under this part, the authorized Indian tribe,  
4           inter-tribal consortium, or tribal organization  
5           shall have the rights and responsibilities of the  
6           authorizing Indian tribe (except as otherwise  
7           provided in the authorizing resolution or in this  
8           title). In such event, the term ‘Indian tribe’ as  
9           used in this part shall include such other author-  
10          ized Indian tribe, inter-tribal consortium, or  
11          tribal organization.

12               “(F) PROGRAM.—The term ‘program’  
13           means the tribal transportation self-governance  
14           program established under this section.

15               “(G) SECRETARY.—The term ‘Secretary’  
16           means the Secretary of Transportation.

17               “(H) TRANSPORTATION PROGRAMS.—The  
18           term ‘transportation programs’ means all pro-  
19           grams administered or financed by the Depart-  
20           ment under this title and chapter 53 of title 49.

21               “(2) APPLICABILITY OF OTHER DEFINITIONS.—  
22           In this section, the definitions set forth in sections 4  
23           and 505 of the Indian Self-Determination and Edu-  
24           cation Assistance Act (25 U.S.C. 450b; 458aaa)

1       *apply, except as otherwise expressly provided in this*  
2       *section.*

3       “(n) *REGULATIONS.*—

4               “(1) *IN GENERAL.*—

5                       “(A) *PROMULGATION.*—*Not later than 90*  
6                       *days after the date of enactment of the American*  
7                       *Energy and Infrastructure Jobs Act of 2012, the*  
8                       *Secretary shall initiate procedures under sub-*  
9                       *chapter III of chapter 5 of title 5 to negotiate*  
10                      *and promulgate such regulations as are nec-*  
11                      *essary to carry out this section.*

12                     “(B) *PUBLICATION OF PROPOSED REGULA-*  
13                     *TIONS.*—*Proposed regulations to implement this*  
14                     *section shall be published in the Federal Register*  
15                     *by the Secretary not later than 21 months after*  
16                     *such date of enactment.*

17                     “(C) *EXPIRATION OF AUTHORITY.*—*The au-*  
18                     *thority to promulgate regulations under this*  
19                     *paragraph shall expire 30 months after such date*  
20                     *of enactment.*

21                     “(D) *EXTENSION OF DEADLINES.*—*A dead-*  
22                     *line set forth in subparagraph (B) or (C) may*  
23                     *be extended up to 180 days if the negotiated rule-*  
24                     *making committee referred to in paragraph (2)*  
25                     *concludes that the committee cannot meet the*

1 *deadline and the Secretary so notifies the appro-*  
2 *priate committees of Congress.*

3 *“(2) COMMITTEE.—*

4 *“(A) IN GENERAL.—A negotiated rule-*  
5 *making committee established pursuant to sec-*  
6 *tion 565 of title 5 to carry out this subsection*  
7 *shall have as its members only Federal and trib-*  
8 *al government representatives, a majority of*  
9 *whom shall be nominated by and be representa-*  
10 *tives of Indian tribes with funding agreements*  
11 *under this title.*

12 *“(B) REQUIREMENTS.—The committee shall*  
13 *confer with, and accommodate participation by,*  
14 *representatives of Indian tribes, inter-tribal con-*  
15 *sortia, tribal organizations, and individual trib-*  
16 *al members.*

17 *“(C) ADAPTATION OF PROCEDURES.—The*  
18 *Secretary shall adapt the negotiated rulemaking*  
19 *procedures to the unique context of self-govern-*  
20 *ance and the government-to-government relation-*  
21 *ship between the United States and Indian*  
22 *tribes.*

23 *“(3) EFFECT.—The lack of promulgated regula-*  
24 *tions shall not limit the effect of this section.*

1           “(4) *EFFECT OF CIRCULARS, POLICIES, MANU-*  
 2           *ALS, GUIDANCE, AND RULES.—Unless expressly agreed*  
 3           *to by the participating Indian tribe in the compact*  
 4           *or funding agreement, the participating Indian tribe*  
 5           *shall not be subject to any agency circular, policy,*  
 6           *manual, guidance, or rule adopted by the Department*  
 7           *of Transportation, except regulations promulgated*  
 8           *under this section.”.*

9           (b) *CLERICAL AMENDMENT.—The analysis for such*  
 10          *chapter is amended by inserting after the item relating to*  
 11          *section 206 the following:*

          “207. *Tribal transportation self-governance program.”.*

12          ***Subtitle F—Program Elimination***  
 13                               ***and Consolidation***

14          ***SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.***

15           (a) *GENERAL PROVISIONS.—*

16                   (1) *EXISTING FUNDS.—A repeal or amendment*  
 17                   *made by this section shall not affect funds appor-*  
 18                   *tioned or allocated before the effective date of the re-*  
 19                   *peal.*

20                   (2) *AMENDATORY PROVISIONS.—A repeal made*  
 21                   *by this section of a provision that contains an*  
 22                   *amendment to or repeal of another law shall not be*  
 23                   *construed to affect that law. The amendment to or re-*  
 24                   *peal of that law shall remain in effect as if this sec-*  
 25                   *tion had not been enacted.*

1       (b) *REVENUE ALIGNED BUDGET AUTHORITY*.—Section  
2       tion 110, and the item relating to that section in the anal-  
3       ysis for chapter 1, are repealed.

4       (c) *HIGH PRIORITY PROJECTS PROGRAM*.—Section  
5       117, and the item relating to that section in the analysis  
6       for chapter 1, are repealed.

7       (d) *SET ASIDES FOR INTERSTATE DISCRETIONARY*  
8       *PROJECTS*.—Section 118(c) is repealed.

9       (e) *CONTROL OF JUNKYARDS*.—Section 136, and the  
10      item relating to that section in the analysis for chapter 1,  
11      are repealed.

12      (f) *HIGHWAY BRIDGE PROGRAM*.—Section 144, and  
13      the item relating to that section in the analysis for chapter  
14      1, are repealed.

15      (g) *HAZARD ELIMINATION PROGRAM*.—Section 152,  
16      and the item relating to that section in the analysis for  
17      chapter 1, are repealed.

18      (h) *SAFETY INCENTIVE GRANTS FOR THE USE OF*  
19      *SEAT BELTS*.—Section 157, and the item relating to that  
20      section in the analysis for chapter 1, are repealed.

21      (i) *ACCESS HIGHWAYS TO PUBLIC RECREATION*  
22      *AREAS ON CERTAIN LAKES*.—Section 155, and the item re-  
23      lating to that section in the analysis for chapter 1, are re-  
24      pealed.

1       (j) *REIMBURSEMENT FOR SEGMENTS OF THE INTER-*  
 2 *STATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSIST-*  
 3 *ANCE.*—Section 160, and the item relating to that section  
 4 *in the analysis for chapter 1, are repealed.*

5       (k) *NATIONAL SCENIC BYWAYS PROGRAM.*—Section  
 6 162, and the item relating to that section in the analysis  
 7 *for chapter 1, are repealed.*

8       (l) *INTER-AMERICAN HIGHWAY.*—Section 212, and the  
 9 *item relating to that section in the analysis for chapter 2,*  
 10 *are repealed.*

11       (m) *DARIEN GAP HIGHWAY.*—Section 216, and the  
 12 *item relating to that section in the analysis for chapter 2,*  
 13 *are repealed.*

14       (n) *STATE COORDINATORS.*—Section 217 (as amended  
 15 *by this Act) is further amended—*

16               (1) *by striking subsection (d); and*

17               (2) *by redesignating subsections (e) through (j)*  
 18 *as subsections (d) through (i), respectively.*

19       (o) *ALASKA HIGHWAY.*—Section 218 is amended—

20               (1) *in subsection (a)—*

21                       (A) *by striking the first 2 sentences;*

22                       (B) *in the third sentence—*

23                               (i) *by striking “, in addition to such*  
 24 *funds,”; and*

1 (ii) by striking “such highway or”;

2 and

3 (C) by striking “No expenditures” and all  
4 that follows through the period at the end;

5 (2) by striking subsection (b); and

6 (3) by redesignating subsection (c) as subsection  
7 (b).

8 (p) *MANAGEMENT SYSTEMS*.—Section 303, and the  
9 item relating to that section in the analysis for chapter 3,  
10 are repealed.

11 (q) *COOPERATION WITH OTHER AMERICAN REPUB-*  
12 *LICS*.—Section 309, and the item relating to that section  
13 in the analysis for chapter 3, are repealed.

14 (r) *LANDSCAPING AND SCENIC ENHANCEMENT*.—Sec-  
15 tion 319 is amended—

16 (1) by striking “(a) *LANDSCAPE AND ROADSIDE*  
17 *DEVELOPMENT*.—”; and

18 (2) by striking subsection (b).

19 (s) *MAGNETIC LEVITATION TRANSPORTATION TECH-*  
20 *NOLOGY DEPLOYMENT PROGRAM*.—Section 322, and the  
21 item relating to that section in the analysis for chapter 3,  
22 are repealed.

23 (t) *TRANSPORTATION, COMMUNITY, AND SYSTEM*  
24 *PRESERVATION PROGRAM*.—Section 1117 of *SAFETEA-*  
25 *LU* (119 Stat. 1177), and the item relating to that section

1 *in the table of contents contained in section 1(b) of that*  
2 *Act, are repealed.*

3       (u) PROJECTS OF NATIONAL AND REGIONAL SIGNIFI-  
4 *CANCE.—Section 1301 of SAFETEA–LU (119 Stat. 1198),*  
5 *and the item relating to that section in the table of contents*  
6 *contained in section 1(b) of that Act, are repealed.*

7       (v) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVE-  
8 *MENT PROGRAM.—Section 1302 of SAFETEA–LU (119*  
9 *Stat. 1204), and the item relating to that section in the*  
10 *table of contents contained in section 1(b) of that Act, are*  
11 *repealed.*

12       (w) TRUCK PARKING FACILITIES.—Section 1305 of  
13 *SAFETEA–LU (119 Stat. 1214), and the item relating to*  
14 *that section in the table of contents contained in section*  
15 *1(b) of that Act, are repealed.*

16       (x) FREIGHT INTERMODAL DISTRIBUTION PILOT  
17 *GRANT PROGRAM.—Section 1306 of SAFETEA–LU (119*  
18 *Stat. 1215), and the item relating to that section in the*  
19 *table of contents contained in section 1(b) of that Act, are*  
20 *repealed.*

21       (y) DEPLOYMENT OF MAGNETIC LEVITATION TRANS-  
22 *PORTATION PROJECTS.—Section 1307 of SAFETEA–LU*  
23 *(119 Stat. 1217), and the item relating to that section in*  
24 *the table of contents contained in section 1(b) of that Act,*  
25 *are repealed.*

1       (z) *DELTA REGION TRANSPORTATION DEVELOPMENT*  
 2 *PROGRAM.*—Section 1308 of SAFETEA-LU (119 Stat.  
 3 1218), and the item relating to that section in the table  
 4 of contents contained in section 1(b) of that Act, are re-  
 5 pealed.

6       (aa) *SAFE ROUTES TO SCHOOL PROGRAM.*—Section  
 7 1404 of SAFETEA-LU (119 Stat. 1228), and the item re-  
 8 lating to that section in the table of contents contained in  
 9 section 1(b) of that Act, are repealed.

10       (bb) *NATIONAL WORK ZONE SAFETY INFORMATION*  
 11 *CLEARINGHOUSE.*—Section 1410 of SAFETEA-LU (119  
 12 Stat. 1233), and the item relating to that section in the  
 13 table of contents contained in section 1(b) of that Act, are  
 14 repealed.

15       (cc) *ROADWAY SAFETY.*—Section 1411(b) of  
 16 SAFETEA-LU (119 Stat. 1234) is repealed.

17       (dd) *HIGHWAYS FOR LIFE PILOT PROGRAM.*—Section  
 18 1502 of SAFETEA-LU (119 Stat. 1236), and the item re-  
 19 lating to that section in the table of contents contained in  
 20 section 1(b) of that Act, are repealed.

21       (ee) *EXPRESS LANES DEMONSTRATION PROGRAM.*—  
 22 Section 1604(b) of SAFETEA-LU (119 Stat. 1250) is re-  
 23 pealed.

1       (ff) *INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT*  
 2 *PROGRAM.—Section 1604(c) of SAFETEA–LU (119 Stat.*  
 3 *1253) is repealed.*

4       (gg) *AMERICA’S BYWAYS RESOURCE CENTER.—Sec-*  
 5 *tion 1803 of SAFETEA–LU (119 Stat. 1458), and the item*  
 6 *relating to that section in the table of contents contained*  
 7 *in section 1(b) of that Act, are repealed.*

8       (hh) *NATIONAL HISTORIC COVERED BRIDGE PRESER-*  
 9 *VATION.—Section 1804 of SAFETEA–LU (119 Stat. 1458),*  
 10 *and the item relating to that section in the table of contents*  
 11 *contained in section 1(b) of that Act, are repealed.*

12       (ii) *NONMOTORIZED TRANSPORTATION PILOT PRO-*  
 13 *GRAM.—Section 1807 of SAFETEA–LU (119 Stat. 1460),*  
 14 *and the item relating to that section in the table of contents*  
 15 *contained in section 1(b) of that Act, are repealed.*

16       (jj) *GRANT PROGRAM TO PROHIBIT RACIAL*  
 17 *PROFILING.—Section 1906 of SAFETEA–LU (119 Stat.*  
 18 *1468), and the item relating to that section in the table*  
 19 *of contents contained in section 1(b) of that Act, are re-*  
 20 *pealed.*

21       (kk) *PAVEMENT MARKING SYSTEMS DEMONSTRATION*  
 22 *PROJECTS.—Section 1907 of SAFETEA–LU (119 Stat.*  
 23 *1469), and the item relating to that section in the table*  
 24 *of contents contained in section 1(b) of that Act, are re-*  
 25 *pealed.*

1        (ll) *LIMITATION ON PROJECT APPROVAL.*—Section  
 2    1958 of SAFETEA-LU (119 Stat. 1515), and the item re-  
 3    lating to that section in the table of contents contained in  
 4    section 1(b) of that Act, are repealed.

5                    ***Subtitle G—Miscellaneous***

6    **SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DE-**  
 7                    ***FINED.***

8        *Section 101(a)(35) is amended—*

9                    (1) *by striking subparagraphs (C), (F), (G), (H),*  
 10        *and (L); and*

11                    (2) *by redesignating subparagraphs (D), (E), (I),*  
 12        *(J), and (K) as subparagraphs (C), (D), (E), (F), and*  
 13        *(G), respectively.*

14    **SEC. 1702. PAVEMENT MARKINGS.**

15        *Section 109 is amended by adding at the end the fol-*  
 16        *lowing:*

17        “(r) *PAVEMENT MARKINGS.*—*The Secretary may not*  
 18        *approve any pavement markings project that includes the*  
 19        *use of glass beads containing more than 200 parts per mil-*  
 20        *lion of arsenic or lead.”.*

21    **SEC. 1703. REST AREAS.**

22        (a) *AGREEMENTS RELATING TO USE OF AND ACCESS*  
 23        *TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.*—*Section 111*  
 24        *is amended—*

1           (1) *in subsection (a) in the second sentence by*  
2           *striking the period and inserting “and will not*  
3           *change the boundary of any right-of-way on the Inter-*  
4           *state System to accommodate construction of, or af-*  
5           *ford access to, an automotive service station or other*  
6           *commercial establishment.”;*

7           (2) *by redesignating subsections (b) and (c) as*  
8           *subsections (c) and (d), respectively; and*

9           (3) *by inserting after subsection (a) the fol-*  
10          *lowing:*

11          “(b) *REST AREAS.*—

12           “(1) *IN GENERAL.*—*Notwithstanding subsection*  
13          *(a), the Secretary shall permit a State to acquire,*  
14          *construct, operate, and maintain a rest area along a*  
15          *highway on the Interstate System in such State.*

16           “(2) *ELIGIBLE ACTIVITIES.*—*The Secretary shall*  
17          *permit a rest area under paragraph (1) to include*  
18          *commercial activities that provide goods, services, and*  
19          *information serving the traveling public and the com-*  
20          *mercial motor carrier industry. Such commercial ac-*  
21          *tivities shall be limited to—*

22           “(A) *commercial advertising and media dis-*  
23          *plays if such advertising and displays are—*

24           “(i) *exhibited solely within any facility*  
25          *constructed in the rest area; and*

1                   “(ii) not legible from the main traveled  
2                   way;

3                   “(B) State promotional or tourism items;

4                   “(C) tourism-related merchandise and prod-  
5                   ucts, including electronics and clothing;

6                   “(D) historical or tourism-related entertain-  
7                   ment items, including event or attraction tickets;

8                   “(E) travel-related information, including  
9                   maps, travel booklets, and hotel coupon booklets;

10                  “(F) automatic teller machines; and

11                  “(G) lottery machines.

12                  “(3) PRIVATE OPERATORS.—A State may permit  
13                  a private party to operate such commercial activities.

14                  “(4) LIMITATION ON USE OF REVENUES.—A  
15                  State shall use any revenues received from the com-  
16                  mercial activities in a rest area under this section to  
17                  cover the costs of acquiring, constructing, operating,  
18                  and maintaining rest areas in the State.”.

19                  (b) CONTROL OF OUTDOOR ADVERTISING.—Section  
20                  131(i) is amended by adding at the end the following: “A  
21                  State may permit the installation of signs that acknowledge  
22                  the sponsorship of rest areas within such rest areas or along  
23                  the main traveled way of the system, provided that such  
24                  signs shall not affect the safe and efficient utilization of the  
25                  Interstate System and the primary system. The Secretary

1 *shall establish criteria for the installation of such signs on*  
 2 *the main traveled way, including criteria pertaining to the*  
 3 *placement of rest area sponsorship acknowledgment signs*  
 4 *in relation to the placement of advance guide signs for rest*  
 5 *areas.”.*

6 **SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS**  
 7 **ON THE INTERSTATE SYSTEM.**

8 *Section 111 is amended by adding at the end the fol-*  
 9 *lowing:*

10 *“(e) JUSTIFICATION REPORTS.—If the Secretary re-*  
 11 *quests or requires a justification report for a project that*  
 12 *would add a point of access to, or exit from, the Interstate*  
 13 *System, the Secretary may permit a State transportation*  
 14 *department to approve such report.”.*

15 **SEC. 1705. PATENTED OR PROPRIETARY ITEMS.**

16 *Section 112 is amended by adding at the end the fol-*  
 17 *lowing:*

18 *“(h) USE OF PATENTED OR PROPRIETARY ITEMS.—*  
 19 *The Secretary shall approve the use, by a State, of Federal*  
 20 *funds made available to carry out this chapter to pay for*  
 21 *patented or proprietary items if the State transportation*  
 22 *department certifies, based on the documented analysis and*  
 23 *professional judgment of qualified State transportation offi-*  
 24 *cials, that—*

25 *“(1) no equally suitable alternative item exists;*

1           “(2) any specified patented or proprietary item  
2           will be clearly identified as a patented or proprietary  
3           item in bid documents; and

4           “(3) any specified patented or proprietary item  
5           will be available in sufficient quantity to complete  
6           any project identified in bid documents.”.

7   **SEC. 1706. PREVENTIVE MAINTENANCE.**

8           Section 116 is amended by adding at the end the fol-  
9   lowing:

10          “(e) *DEFINITIONS.*—In this section, the following defi-  
11   nitions apply:

12           “(1) *PREVENTIVE MAINTENANCE.*—The term  
13           ‘preventive maintenance’ includes pavement preserva-  
14           tion programs and activities.

15           “(2) *PAVEMENT PRESERVATION PROGRAMS AND*  
16           *ACTIVITIES.*—The term ‘pavement preservation pro-  
17           grams and activities’ means programs and activities  
18           employing a network level, long-term strategy that en-  
19           hances pavement performance by using an integrated,  
20           cost-effective set of practices that extend pavement life,  
21           improve safety, and meet road user expectations.”.

22   **SEC. 1707. MAPPING.**

23           (a) *IN GENERAL.*—Section 306 is amended—

24           (1) in subsection (a) by striking “may” and in-  
25           serting “shall”;

1           (2) *in subsection (b) by striking “State and”*  
 2           *and inserting “State government and”; and*

3           (3) *by adding at the end the following:*

4           “(c) **IMPLEMENTATION.**—*The Secretary shall develop a*  
 5 *process for the oversight and monitoring, on an annual*  
 6 *basis, of the compliance of each State with the guidance*  
 7 *issued under subsection (b).”.*

8           (b) **SURVEY.**—*Not later than 2 years after the date of*  
 9 *enactment of this Act, the Secretary shall conduct a survey*  
 10 *of all States to determine what percentage of projects car-*  
 11 *ried out under title 23, United States Code, in each State*  
 12 *utilize private sector sources for surveying and mapping*  
 13 *services.*

14 **SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION**  
 15 **EMERGENCIES.**

16           (a) **IN GENERAL.**—*Chapter 3 is amended by adding*  
 17 *at the end the following:*

18 **“§ 330. Funding flexibility for transportation emer-**  
 19 **gencies**

20           “(a) **IN GENERAL.**—*Notwithstanding any other provi-*  
 21 *sion of law, the chief executive of a State, after declaring*  
 22 *an emergency with respect to a transportation facility*  
 23 *under subsection (b), may use any covered funds of the*  
 24 *State to repair or replace the transportation facility.*

1       “(b) *DECLARATION OF EMERGENCY.*—To declare an  
2   *emergency with respect to a transportation facility for pur-*  
3   *poses of subsection (a), the chief executive of a State shall*  
4   *provide to the Secretary written notice of the declaration,*  
5   *which shall specify—*

6               “(1) *the emergency;*

7               “(2) *the affected transportation facility; and*

8               “(3) *the repair or replacement activities to be*  
9   *carried out.*

10       “(c) *DEFINITIONS.*—In this section, the following defi-  
11   *initions apply:*

12               “(1) *COVERED FUNDS.*—The term ‘covered funds’  
13   *means any amounts apportioned to a State under*  
14   *this title, including any such amounts required to be*  
15   *set aside for a purpose other than the repair or re-*  
16   *placement of a transportation facility under this sec-*  
17   *tion.*

18               “(2) *EMERGENCY.*—The term ‘emergency’ means  
19   *any unexpected event or condition that—*

20                       “(A) *may cause, or has caused, the cata-*  
21                       *strophic failure of a transportation facility; and*

22                       “(B) *is determined to be an emergency by*  
23                       *the chief executive of a State.*

1           “(3) *TRANSPORTATION FACILITY.*—*The term*  
 2           *‘transportation facility’ means any component of the*  
 3           *National Highway System.*

4           “(d) *LIMITATION ON STATUTORY CONSTRUCTION.*—  
 5           *Nothing in this section may be construed to allow a State*  
 6           *to change the division of surface transportation program*  
 7           *funding under section 133(d)(3).’.*

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

*“330. Funding flexibility for transportation emergencies.”.*

10   **SEC. 1709. BUDGET JUSTIFICATION.**

11           (a) *IN GENERAL.*—*Subchapter I of chapter 3 of title*  
 12           *49, United States Code, is amended by adding at the end*  
 13           *the following:*

14   **“§ 310. Budget justification**

15           *“The Secretary of Transportation and the head of each*  
 16           *modal administration of the Department of Transportation*  
 17           *shall submit to the Committee on Transportation and In-*  
 18           *frastructure of the House of Representatives and the Com-*  
 19           *mittee on Environment and Public Works and the Com-*  
 20           *mittee on Banking, Housing, and Urban Affairs of the Sen-*  
 21           *ate a budget justification concurrently with the President’s*  
 22           *annual budget submission to Congress.”.*

1       (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 2   3 *is amended by inserting after the item relating to section*  
 3   309 *the following:*

“310. *Budget justification.*”.

4   **SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND PUB-**  
 5                   **LIC TRANSIT VEHICLE EXEMPTION FROM**  
 6                   **AXLE WEIGHT RESTRICTIONS.**

7       Section 1023(h) of the Intermodal Surface Transpor-  
 8   tation Efficiency Act of 1991 (23 U.S.C. 127 note) is  
 9   amended—

10           (1) *in the heading of paragraph (1) by striking*  
 11       “*TEMPORARY EXEMPTION*” *and inserting “EXEMP-*  
 12       *TION*”;

13           (2) *in paragraph (1)—*

14               (A) *in the matter preceding subparagraph*  
 15       (A) *by striking “, for the period beginning on*  
 16       *October 6, 1992, and ending on October 1,*  
 17       *2009,”;*

18               (B) *in subparagraph (A) by striking “or”*  
 19       *at the end;*

20               (C) *in subparagraph (B) by striking the pe-*  
 21       *riod at the end and inserting “; or”; and*

22               (D) *by adding at the end the following:*

23               “*(C) any motor home (as such term is de-*  
 24       *fined in section 571.3 of title 49, Code of Federal*  
 25       *Regulations).*”; *and*

1           (3) in paragraph (2)(A) by striking “For the pe-  
 2           riod beginning on the date of enactment of this sub-  
 3           paragraph and ending on September 30, 2009, a”  
 4           and inserting “A”.

5   **SEC. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE**  
 6                           **SYSTEM DESIGNATION.**

7           Section 1105(e)(5)(A) of the Intermodal Surface  
 8   Transportation Efficiency Act of 1991 is amended by strik-  
 9   ing “that the segment” and all that follows through the pe-  
 10   riod at the end and inserting “that the segment meets the  
 11   Interstate System design standards approved by the Sec-  
 12   retary under section 109(b) of title 23, United States  
 13   Code.”.

14   **SEC. 1712. RETROREFLECTIVITY.**

15           Not later than 1 year after the date of enactment of  
 16   this Act, the Secretary shall amend the Manual on Uniform  
 17   Traffic Control Devices to remove compliance dates with re-  
 18   spect to retroreflectivity standards for regulatory, warning,  
 19   and other post-mounted guide signs and for street name and  
 20   other overhead guide signs.

21   **SEC. 1713. ENGINEERING JUDGMENT.**

22           Not later than 90 days after the date of enactment of  
 23   this Act, the Secretary shall issue guidance to State trans-  
 24   portation departments clarifying that the standards, guid-  
 25   ance, and options for design and application of traffic con-

1 *trol devices provided in the Manual on Uniform Traffic*  
2 *Control Devices should not be considered a substitute for*  
3 *engineering judgment.*

4 **SEC. 1714. EVACUATION ROUTES.**

5 *Each State shall give adequate consideration to the*  
6 *needs of evacuation routes when allocating funds appor-*  
7 *tioned to the State under title 23, Unites States Code, for*  
8 *the construction of Federal-aid highways.*

9 **SEC. 1715. TRUCK PARKING.**

10 *(a) TRUCK PARKING SURVEY.—*

11 *(1) REQUIREMENT.—Not later than 18 months*  
12 *after the date of enactment of this Act, the Secretary,*  
13 *in consultation with appropriate State motor carrier*  
14 *safety personnel, shall conduct a survey of each*  
15 *State—*

16 *(A) to develop a system of metrics to meas-*  
17 *ure the adequacy of commercial motor vehicle*  
18 *parking facilities in the State;*

19 *(B) to assess the volume of commercial*  
20 *motor vehicle traffic in the State; and*

21 *(C) to evaluate the capability of the State to*  
22 *provide adequate parking and rest facilities for*  
23 *commercial motor vehicles engaged in interstate*  
24 *transportation.*

1           (2) *PUBLICATION OF RESULTS.*—*The Secretary*  
2           *shall make available to the public on the Internet Web*  
3           *site of the Department the results of surveys conducted*  
4           *under paragraph (1).*

5           (3) *PERIODIC UPDATES.*—*The Secretary shall*  
6           *periodically update surveys conducted under para-*  
7           *graph (1).*

8           (b) *TRUCK PARKING PROJECTS.*—*A State may obli-*  
9           *gate funds apportioned to the State under paragraph (1),*  
10          *(2), (3), or (5) of section 104(b) of title 23, United States*  
11          *Code, for the following, if serving the National Highway*  
12          *System:*

13               (1) *Constructing a safety rest area (as defined in*  
14               *section 120(c) of such title) that includes parking for*  
15               *commercial motor vehicles.*

16               (2) *Constructing a commercial motor vehicle*  
17               *parking facility adjacent to a commercial truck stop*  
18               *or travel plaza.*

19               (3) *Making a facility available to commercial*  
20               *motor vehicle parking, including an inspection and*  
21               *weigh station or a park-and-ride facility.*

22               (4) *Promoting the availability of publicly or pri-*  
23               *vately provided commercial motor vehicle parking*  
24               *using intelligent transportation systems and other*  
25               *means.*

1           (5) *Constructing a turnout for commercial motor*  
2       *vehicles.*

3           (6) *Making capital improvements to a seasonal*  
4       *public commercial motor vehicle parking facility to*  
5       *allow the facility to remain open throughout the year.*

6           (7) *Improving the geometric design of an inter-*  
7       *change to improve access to a commercial motor vehi-*  
8       *cle parking facility.*

9       (c) *ELECTRIC VEHICLE INFRASTRUCTURE.—A State*  
10   *may establish electric vehicle charging stations for the use*  
11   *of battery powered trucks or other motor vehicles at any*  
12   *parking facility funded or authorized under this Act or title*  
13   *23, United States Code. Such charging stations shall be eli-*  
14   *gible for the same funds as are available for the parking*  
15   *facilities in which they are located.*

16   **SEC. 1716. USE OF CERTAIN ADMINISTRATIVE EXPENSES.**

17       (a) *IN GENERAL.—Out of the funds made available*  
18   *under section 104(a) of title 23, United States Code, the*  
19   *Secretary may use not to exceed a total of \$2,000,000 each*  
20   *fiscal year—*

21           (1) *to operate the national work zone safety in-*  
22       *formation clearinghouse authorized by section*  
23       *358(b)(2) of the National Highway System Designa-*  
24       *tion Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625);*

1           (2) *to operate a public road safety clearinghouse*  
 2           *under section 1411(a) of SAFETEA-LU (23 U.S.C.*  
 3           *402 note; 119 Stat. 1234); and*

4           (3) *to provide work zone safety grants under sub-*  
 5           *sections (a) and (b) of section 1409 of SAFETEA-LU*  
 6           *(23 U.S.C. 401 note; 119 Stat. 1232).*

7           (b) *CONFORMING AMENDMENTS.—*

8           (1) *ROADWAY SAFETY.—Section 1411(a) of*  
 9           *SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1234)*  
 10          *is amended by striking paragraph (2) and inserting*  
 11          *the following:*

12           “(2) *FUNDING.—Funding for activities under*  
 13          *this subsection may be made available as described in*  
 14          *section 1716(a) of the American Energy and Infra-*  
 15          *structure Jobs Act of 2012.”.*

16          (2) *WORK ZONE SAFETY GRANTS.—Section 1409*  
 17          *of SAFETEA-LU (23 U.S.C. 401 note; 119 Stat.*  
 18          *1232) is amended by striking subsection (c)(1) and*  
 19          *inserting the following:*

20           “(1) *IN GENERAL.—Funding for activities under*  
 21          *this section may be made available as described in*  
 22          *section 1716(a) of the American Energy and Infra-*  
 23          *structure Jobs Act of 2012.”.*

1 **SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYMENT**  
2 **PROGRAMS.**

3 *To encourage the development of careers in the trans-*  
4 *portation field, the Secretary of Education and the Sec-*  
5 *retary of Labor are encouraged to use funds for training*  
6 *and employment education programs to develop such pro-*  
7 *grams for transportation-related careers and trades, and to*  
8 *work with the Secretary of Transportation to carry out such*  
9 *programs.*

10 **SEC. 1718. ENGINEERING AND DESIGN SERVICES.**

11 *(a) IN GENERAL.—For projects carried out under title*  
12 *23, United States Code, a State transportation department*  
13 *shall utilize, to the maximum extent practicable, commer-*  
14 *cial enterprises for the delivery of engineering and design*  
15 *services.*

16 *(b) REPORTING REQUIREMENT.—Not later than 1 year*  
17 *after the date of enactment of this Act, each State transpor-*  
18 *tation department shall submit to the Secretary a report*  
19 *documenting the extent to which the State utilizes commer-*  
20 *cial enterprises for the delivery of engineering and design*  
21 *services for projects carried out under title 23, United*  
22 *States Code, which shall include, at a minimum—*

23 *(1) the number and types of engineering and de-*  
24 *sign activities for which commercial enterprises were*  
25 *utilized in the preceding year; and*

1           (2) *the policies or procedures utilized by the*  
 2           *State transportation department to increase the*  
 3           *amount of engineering and design services for which*  
 4           *commercial enterprises were utilized.*

5           (c) *STATE TRANSPORTATION DEPARTMENT DE-*  
 6           *FINED.—In this section, the term “State transportation de-*  
 7           *partment” has the meaning given that term under section*  
 8           *101 of title 23, United States Code.*

9           **SEC. 1719. NOTICE OF CERTAIN GRANT AWARDS.**

10          (a) *IN GENERAL.—Except to the extent otherwise ex-*  
 11          *pressly provided in another provision of law, at least 3*  
 12          *business days before a covered grant award is announced,*  
 13          *the Secretary shall provide to the Committee on Transpor-*  
 14          *tation and Infrastructure of the House of Representatives*  
 15          *written notice of the covered grant award.*

16          (b) *COVERED GRANT AWARD DEFINED.—The term*  
 17          *“covered grant award” means a grant award—*

18                 (1) *made—*

19                         (A) *by the Department; and*

20                         (B) *with funds made available under this*  
 21                         *Act; and*

22                 (2) *in an amount equal to or greater than*  
 23                 *\$500,000.*

1 **SEC. 1720. MISCELLANEOUS PARKING AMENDMENTS.**

2 (a) *FRINGE AND CORRIDOR PARKING FACILITIES.*—  
 3 Section 137(a) is amended by adding at the end the fol-  
 4 lowing: “The addition of electric vehicle charging stations  
 5 to new or previously funded parking facilities shall be eligi-  
 6 ble for funding under this section.”.

7 (b) *PUBLIC TRANSPORTATION.*—Section 142(a)(1) is  
 8 amended by inserting “(which may include electric vehicle  
 9 charging stations)” after “parking facilities”.

10 (c) *FOREST DEVELOPMENT ROADS AND TRAILS.*—Sec-  
 11 tion 205(d) is amended by inserting “(which may include  
 12 electric vehicle charging stations)” after “parking areas”.

13 **SEC. 1721. HIGHWAY BUY AMERICA PROVISIONS.**

14 Section 313 is amended by adding at the end the fol-  
 15 lowing:

16 “(g) *APPLICATION.*—The requirements of this section  
 17 apply to all contracts for a project carried out within the  
 18 scope of the applicable finding, determination, or decision  
 19 under the National Environmental Policy Act of 1969 (42  
 20 U.S.C. 4321 et seq.), regardless of the funding source of such  
 21 contracts, if at least one contract for the project is funded  
 22 with amounts made available to carry out this title.

23 “(h) *WAIVER REQUIREMENTS.*—

24 “(1) *IN GENERAL.*—If the Secretary receives a  
 25 request for a waiver under this section, the Secretary  
 26 shall provide notice of and an opportunity for public

1       *comment on the request at least 30 days before mak-*  
 2       *ing a finding based on the request.*

3               “(2) *NOTICE REQUIREMENTS.*—*A notice pro-*  
 4       *vided under paragraph (1) shall include the informa-*  
 5       *tion available to the Secretary concerning the request*  
 6       *and shall be provided by electronic means, including*  
 7       *on the official public Internet Web site of the Depart-*  
 8       *ment of Transportation.*

9               “(3) *DETAILED JUSTIFICATION.*—*If the Sec-*  
 10       *retary issues a waiver under this subsection, the Sec-*  
 11       *retary shall publish in the Federal Register a detailed*  
 12       *justification for the waiver that addresses the public*  
 13       *comments received under paragraph (1) and shall en-*  
 14       *sure that such justification is published before the*  
 15       *waiver takes effect.”.*

16   **SEC. 1722. VETERANS PREFERENCE IN HIGHWAY CON-**  
 17       **STRUCTION.**

18       *Section 114 is amended by adding at the end the fol-*  
 19       *lowing:*

20               “(d) *VETERANS EMPLOYMENT.*—*Recipients of Federal*  
 21       *financial assistance under this chapter shall ensure that*  
 22       *contractors working on a highway project funded using such*  
 23       *assistance give preference in the hiring or referral of labor-*  
 24       *ers on any project for the construction of a highway to vet-*  
 25       *erans, as defined in section 2108 of title 5, who have the*

1 *requisite skills and abilities to perform the construction*  
 2 *work required under the contract. This subsection shall not*  
 3 *apply to projects subject to section 140(d).”.*

4 **SEC. 1723. REAL-TIME RIDESHARING.**

5 *Section 101(a)(2) is amended—*

6 *(1) by striking “and” after “devices,”; and*

7 *(2) by inserting before the period at the end the*  
 8 *following: “, and real-time ridesharing projects (where*  
 9 *drivers, using an electronic transfer of funds, recover*  
 10 *costs directly associated with the trip provided using*  
 11 *location technology to quantify the direct costs associ-*  
 12 *ated with the trip, if the cost recovered does not exceed*  
 13 *the cost of the trip provided)”.*

14 **SEC. 1724. STATE AUTONOMY FOR CULVERT PIPE SELEC-**  
 15 **TION.**

16 *Not later than 180 days after the date of enactment*  
 17 *of this Act, the Secretary shall modify section 635.411 of*  
 18 *title 23, Code of Federal Regulations (as in effect on the*  
 19 *date of enactment of this Act), to ensure that States have*  
 20 *the autonomy to determine culvert and storm sewer mate-*  
 21 *rial types to be included in the construction of a project*  
 22 *on a Federal-aid highway.*

23 **SEC. 1725. EQUAL OPPORTUNITY ASSESSMENT.**

24 *(a) IN GENERAL.—In accordance with this section, the*  
 25 *Secretary shall assess, throughout the United States, the ex-*

1 *tent to which nondiscrimination and equal opportunity*  
2 *exist in the construction and operation of federally funded*  
3 *transportation projects, programs, and activities.*

4 (b) *SUPPORTING INFORMATION.*—*In conducting the*  
5 *assessment under subsection (a), the Secretary shall—*

6 (1) *review all demographic data, discrimination*  
7 *complaints, reports, and other relevant information*  
8 *collected or prepared by a recipient of Federal finan-*  
9 *cial assistance or the Department pursuant to an ap-*  
10 *plicable civil rights statute, regulation, or other obli-*  
11 *gation; and*

12 (2) *coordinate with the Secretary of Labor, as*  
13 *necessary, to obtain information regarding equitable*  
14 *employment and contracting opportunities.*

15 (c) *REPORT.*—*Not later than 4 years after the date of*  
16 *enactment of this Act, and every 4 years thereafter, the Sec-*  
17 *retary shall submit to Congress and publish on the Web site*  
18 *of the Department a report on the results of the assessment*  
19 *under subsection (a). The report shall include the following:*

20 (1) *A specification of the impediments to non-*  
21 *discrimination and equal opportunity in federally*  
22 *funded transportation projects, programs, and activi-*  
23 *ties.*

24 (2) *Recommendations for overcoming the impedi-*  
25 *ments specified under paragraph (1).*

1           (3) *Information upon which the assessment is*  
 2     *based.*

3           (d) *COLLECTION AND REPORTING PROCEDURES.—*

4           (1) *PUBLIC AVAILABILITY.—The Secretary shall*  
 5     *ensure, to the extent appropriate, that all information*  
 6     *reviewed or collected for the assessment under sub-*  
 7     *section (a) is made available to the public through the*  
 8     *prompt and ongoing publication of the information,*  
 9     *including a summary of the information, on the Web*  
 10    *site of the Department.*

11          (2) *REGULATIONS.—The Secretary shall issue*  
 12    *regulations for the collection and reporting of infor-*  
 13    *mation necessary to carry out this section.*

14          (e) *COORDINATION.—In carrying out this section, the*  
 15    *Secretary shall coordinate with the Director of the Bureau*  
 16    *of Transportation Statistics, the Director of the Depart-*  
 17    *mental Office of Civil Rights, the Secretary of Labor, and*  
 18    *the heads of such other agencies as may contribute to the*  
 19    *assessment under subsection (a).*

20                           ***TITLE II—PUBLIC***  
 21                           ***TRANSPORTATION***

22    ***SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49,***  
 23                           ***UNITED STATES CODE.***

24          (a) *SHORT TITLE.—This title may be cited as the*  
 25    *“Public Transportation Act of 2012”.*

1       (b) *AMENDMENTS TO TITLE 49, UNITED STATES*  
 2 *CODE.—Except as otherwise expressly provided, whenever*  
 3 *in this title an amendment or repeal is expressed in terms*  
 4 *of an amendment to, or a repeal of, a section or other provi-*  
 5 *sion, the reference shall be considered to be made to a section*  
 6 *or other provision of title 49, United States Code.*

7 **SEC. 2002. DEFINITIONS.**

8       *Section 5302(a) is amended—*

9               (1) *in paragraph (1)(I) by striking “10 percent”*  
 10 *and inserting “15 percent”;*

11              (2) *by redesignating paragraphs (12) through*  
 12 *(17) as paragraphs (13) through (18), respectively;*  
 13 *and*

14              (3) *by inserting after paragraph (11) the fol-*  
 15 *lowing:*

16              “(12) *RURAL AREA.—The term ‘rural area’*  
 17 *means an area encompassing a population of less*  
 18 *than 50,000 people that has not been designated in*  
 19 *the most recent decennial census as an ‘urbanized*  
 20 *area’ by the Secretary of Commerce.”.*

21 **SEC. 2003. PLANNING PROGRAMS.**

22       *Section 5305 is amended—*

23              (1) *in the heading for subsection (d) by inserting*  
 24 *“TRANSPORTATION” before “PLANNING”;*

(2) in paragraph (d)(2), by striking “designated under this section” and inserting “responsible for carrying out the provisions of section 5203 of this title”;

(3) in subsection (e)—

(A) in the subsection heading by striking “STATE” and inserting “STATEWIDE TRANSPORTATION”; and

(B) in paragraph (1)(A) by striking “5315,”; and

(4) in subsection (g) by striking “section 5338(c)” and inserting “section 5338(a)(2)”.

**SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.**

Section 5306(a) is amended by striking “, as determined by local policies, criteria, and decisionmaking,”.

**SEC. 2005. URBANIZED AREA FORMULA GRANTS.**

(a) GRANTS.—Section 5307(b)(1) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

“(F) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least

1           200,000 if the State or regional authority pro-  
 2           viding public transportation for the urbanized  
 3           area is operating—

4                   “(i) 75 buses or fewer in fixed-route  
 5                   service during peak service hours, not to ex-  
 6                   ceed 50 percent of the net project cost of the  
 7                   project for operating expenses; and

8                   “(ii) more than 75 but fewer than 100  
 9                   buses in fixed-route service during peak  
 10                  service hours, not to exceed 25 percent of the  
 11                  net project cost of the project for operating  
 12                  expenses; and”.

13       (b) *GENERAL AUTHORITY.*—Section 5307(b)(3) is  
 14       amended—

15               (1) by inserting “TRANSPORTATION MANAGE-  
 16       MENT AREAS.—” before “In a”; and

17               (2) by moving the text 2 ems to the right.

18       (c) *GRANT RECIPIENT REQUIREMENTS.*—Section  
 19       5307(d)(1) is amended—

20               (1) in subparagraph (D)—

21                   (A) by striking “elderly and handicapped  
 22                   individuals, or an” and inserting “elderly indi-  
 23                   viduals, individuals with disabilities, and any”;  
 24                   and

1                   (B) by striking the comma before “will be  
2                   charged”;

3                   (2) in subparagraph (H) by striking “section  
4                   5301(a), section 5301(d),” and inserting “section  
5                   5301”;

6                   (3) in subparagraph (I) by adding “and” at the  
7                   end;

8                   (4) in subparagraph (J)(ii) by striking “; and”  
9                   and inserting a period; and

10                  (5) by striking subparagraph (K).

11 **SEC. 2006. CAPITAL INVESTMENT GRANTS.**

12                  (a) *IN GENERAL.*—Section 5309 is amended to read  
13 *as follows:*

14 **“§ 5309. Capital investment grants**

15                  “(a) *DEFINITIONS.*—In this section, the following defi-  
16 *nitions apply:*

17                         “(1) *NEW FIXED GUIDEWAY CAPITAL PROJECT.*—  
18                         *The term ‘new fixed guideway capital project’ means*  
19                         *an operable segment of a capital project for a new*  
20                         *fixed guideway system or extension to an existing*  
21                         *fixed guideway system.*

22                         “(2) *NEW START PROJECT.*—*The term ‘new start*  
23                         *project’ means a new fixed guideway capital project*  
24                         *for which the Federal assistance provided or to be*  
25                         *provided under this section is \$75,000,000 or more.*

1           “(3) *SMALL START PROJECT.*—*The term ‘small*  
2           *start project’ means a new fixed guideway capital*  
3           *project for which—*

4                     “(A) *the Federal assistance provided or to*  
5                     *be provided under this section is less than*  
6                     *\$75,000,000; and*

7                     “(B) *the total estimated net capital cost is*  
8                     *less than \$250,000,000.*

9           “(b) *GENERAL AUTHORITY.*—*The Secretary may make*  
10           *grants under this section to assist State and local govern-*  
11           *mental authorities in financing—*

12                    “(1) *new fixed guideway capital projects under*  
13                    *subsections (d) and (e), including the acquisition of*  
14                    *real property, the initial acquisition of rolling stock*  
15                    *for the systems, the acquisition of rights-of-way, and*  
16                    *relocation assistance, for fixed guideway corridor de-*  
17                    *velopment for projects in the advanced stages of plan-*  
18                    *ning or in project development; and*

19                    “(2) *the development of corridors to support new*  
20                    *fixed guideway capital projects under subsections (d)*  
21                    *and (e), including protecting rights-of-way through*  
22                    *acquisition, construction of dedicated bus and high*  
23                    *occupancy vehicle lanes, park and ride lots, and other*  
24                    *nonvehicular capital improvements that the Secretary*

1        *may determine would result in increased public*  
2        *transportation usage in the corridor.*

3        “(c) *GRANT REQUIREMENTS.*—

4                “(1) *IN GENERAL.*—*The Secretary may not ap-*  
5        *prove a grant under this section unless the Secretary*  
6        *determines that—*

7                “(A) *the project is part of an approved*  
8                *long-range transportation plan and program of*  
9                *projects required under sections 5203, 5204, and*  
10               *5306; and*

11               “(B) *the applicant has, or will have—*

12               “(i) *the legal, financial, and technical*  
13               *capacity to carry out the project, including*  
14               *safety and security aspects of the project;*

15               “(ii) *satisfactory continuing control*  
16               *over the use of the equipment or facilities;*  
17               *and*

18               “(iii) *the capability and willingness to*  
19               *maintain the equipment or facilities.*

20               “(2) *CERTIFICATION.*—*An applicant that has*  
21        *submitted the certifications required under subpara-*  
22        *graphs (A), (B), (C), and (H) of section 5307(d)(1)*  
23        *shall be deemed to have provided sufficient informa-*  
24        *tion upon which the Secretary may make the deter-*  
25        *minations required under this subsection.*

1           “(3) *GRANTEE REQUIREMENTS.*—*The Secretary*  
 2           *shall require that any grant awarded under this sec-*  
 3           *tion to a recipient be subject to all terms, conditions,*  
 4           *requirements, and provisions that the Secretary deter-*  
 5           *mines to be necessary or appropriate for the purposes*  
 6           *of this section, including requirements for the disposi-*  
 7           *tion of net increases in the value of real property re-*  
 8           *sulting from the project assisted under this section.*

9           “(d) *NEW START PROJECTS.*—

10           “(1) *FULL FUNDING GRANT AGREEMENT.*—

11           “(A) *IN GENERAL.*—*A new start project*  
 12           *shall be carried out through a full funding grant*  
 13           *agreement.*

14           “(B) *CRITERIA.*—*The Secretary shall enter*  
 15           *into a full funding grant agreement, based on the*  
 16           *evaluations and ratings required under this sub-*  
 17           *section, with each grantee receiving assistance*  
 18           *for a new start project that—*

19           “(i) *is authorized for project develop-*  
 20           *ment; and*

21           “(ii) *has been rated as high, medium-*  
 22           *high, or medium, in accordance with para-*  
 23           *graph (5).*

24           “(2) *APPROVAL OF GRANTS.*—*The Secretary may*  
 25           *approve a grant under this section for a new start*

1     *project only if the Secretary, based upon evaluations*  
2     *and considerations set forth in paragraph (3), deter-*  
3     *mines that the project—*

4             *“(A) has been adopted as the locally pre-*  
5             *ferred alternative as part of the long-range*  
6             *transportation plan required under section 5203;*

7             *“(B) is based on the results of an evaluation*  
8             *of the benefits of the project as set forth in para-*  
9             *graph (3); and*

10            *“(C) is supported by an acceptable degree of*  
11            *local financial commitment (including evidence*  
12            *of stable and dependable financing sources) to*  
13            *construct, maintain, and operate the system or*  
14            *extension, and maintain and operate the entire*  
15            *public transportation system without requiring a*  
16            *reduction in existing public transportation serv-*  
17            *ices or level of service to operate the project.*

18            *“(3) EVALUATION OF BENEFITS AND FEDERAL*  
19            *INVESTMENT.—In making a determination for a new*  
20            *start project under paragraph (2)(B), the Secretary*  
21            *shall analyze, evaluate, and consider the following*  
22            *evaluation criteria for the project (as compared to a*  
23            *no-action alternative):*

24            *“(A) The cost effectiveness of the project.*

1           “(B) *The mobility and accessibility benefits*  
 2           *of the project, including direct intermodal*  
 3           *connectivity with other modes of transportation.*

4           “(C) *The degree of congestion relief antici-*  
 5           *pated as a result of the project.*

6           “(D) *The reductions in energy consumption*  
 7           *and air pollution associated with the project.*

8           “(E) *The economic development effects asso-*  
 9           *ciated with the project.*

10          “(F) *The private contributions to the*  
 11          *project, including cost-effective project delivery,*  
 12          *management or transfer of project risks, expe-*  
 13          *dited project schedule, financial partnering, and*  
 14          *other public-private strategies.*

15          “(4) *EVALUATION OF LOCAL FINANCIAL COMMIT-*  
 16          *MENT.—In making a determination for a new start*  
 17          *project under paragraph (2)(C), the Secretary shall—*

18               “(A) *require that the proposed project plan*  
 19               *provide for the availability of contingency*  
 20               *amounts that the Secretary determines to be rea-*  
 21               *sonable to cover unanticipated cost increases;*

22               “(B) *require that each proposed local source*  
 23               *of capital and operating financing is stable, reli-*  
 24               *able, and available within the project timetable;*

1           “(C) consider private contributions to the  
2           project, including cost-effective project delivery,  
3           management or transfer of project risks, expedited project schedule, financial partnering, and  
4           other public-private partnership strategies;  
5

6           “(D) consider the extent to which the project  
7           has a local financial commitment that exceeds  
8           the required non-Federal share of the cost of the  
9           project; and

10          “(E) consider the elements of the overall  
11          proposed public transportation system advanced  
12          with 100 percent non-Federal funds.

13          “(5) RATINGS.—In carrying out paragraphs (3)  
14          and (4) for a new start project, the Secretary shall  
15          evaluate and rate the project on a 5-point scale (high,  
16          medium-high, medium, medium-low, or low) based on  
17          an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the  
18          degree of local financial commitment, as required  
19          under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project  
20          rating, individual ratings for each of the criteria established by this subsection and shall give comparable,  
21          but not necessarily equal, numerical weight  
22  
23  
24

1       to the benefits that the project will bring to the com-  
 2       munity in calculating the overall project rating.

3       “(e) *SMALL START PROJECTS.*—

4               “(1) *IN GENERAL.*—

5                       “(A) *APPLICABILITY OF REQUIREMENTS.*—

6               *Except as provided by subparagraph (B), a*  
 7       *small start project shall be subject to the require-*  
 8       *ments of this subsection.*

9                       “(B) *PROJECTS RECEIVING LESS THAN*  
 10       *\$25,000,000 IN FEDERAL ASSISTANCE.*—*If the as-*  
 11       *sistance provided under this section for a small*  
 12       *start project is less than \$25,000,000—*

13                       “(i) *the requirements of this subsection*  
 14       *shall not apply to the project if determined*  
 15       *appropriate by the Secretary; and*

16                       “(ii) *the Secretary shall utilize special*  
 17       *warrants described in subsection (n) to ad-*  
 18       *vance the project and provide Federal as-*  
 19       *sistance as appropriate.*

20               “(2) *SELECTION CRITERIA.*—*The Secretary may*  
 21       *provide Federal assistance for a small start project*  
 22       *under this subsection only if the Secretary determines*  
 23       *that the project—*

1           “(A) has been adopted as the locally pre-  
 2           ferred alternative as part of the long-range  
 3           transportation plan required under section 5203;

4           “(B) is based on the results of an analysis  
 5           of the benefits of the project as set forth in para-  
 6           graph (3); and

7           “(C) is supported by an acceptable degree of  
 8           local financial commitment.

9           “(3) *EVALUATION OF BENEFITS AND FEDERAL*  
 10          *INVESTMENT.—In making a determination for a*  
 11          *small start project under paragraph (2)(B), the Sec-*  
 12          *retary shall analyze, evaluate, and consider the fol-*  
 13          *lowing evaluation criteria for the project (as com-*  
 14          *pared to a no-action alternative):*

15               “(A) *The cost effectiveness of the project.*

16               “(B) *The mobility and accessibility benefits*  
 17               *of the project, including direct intermodal*  
 18               *connectivity with other modes of transportation.*

19               “(C) *The degree of congestion relief antici-*  
 20               *pated as a result of the project.*

21               “(D) *The economic development effects asso-*  
 22               *ciated with the project.*

23           “(4) *EVALUATION OF LOCAL FINANCIAL COMMIT-*  
 24          *MENT.—For purposes of paragraph (2)(C), the Sec-*  
 25          *retary shall require that each proposed local source of*

1       *capital and operating financing is stable, reliable,*  
2       *and available within the proposed project timetable.*

3           “(5) *RATINGS.*—*In carrying out paragraphs (3)*  
4       *and (4) for a small start project, the Secretary shall*  
5       *evaluate and rate the project on a 5-point scale (high,*  
6       *medium-high, medium, medium-low, or low) based on*  
7       *an evaluation of the benefits of the project as com-*  
8       *pared to the Federal assistance to be provided and the*  
9       *degree of local financial commitment, as required*  
10       *under this subsection. In rating the projects, the Sec-*  
11       *retary shall provide, in addition to the overall project*  
12       *rating, individual ratings for each of the criteria es-*  
13       *tablished by this subsection and shall give com-*  
14       *parable, but not necessarily equal, numerical weight*  
15       *to the benefits that the project will bring to the com-*  
16       *munity in calculating the overall project rating.*

17           “(6) *GRANTS AND EXPEDITED GRANT AGREE-*  
18       *MENTS.*—

19           “(A) *IN GENERAL.*—*The Secretary, to the*  
20       *maximum extent practicable, shall provide Fed-*  
21       *eral assistance under this subsection in a single*  
22       *grant. If the Secretary cannot provide such a*  
23       *single grant, the Secretary may execute an expe-*  
24       *ditied grant agreement in order to include a com-*

1        *mitment on the part of the Secretary to provide*  
2        *funding for the project in future fiscal years.*

3                “(B) *TERMS OF EXPEDITED GRANT AGREE-*  
4        *MENTS.—In executing an expedited grant agree-*  
5        *ment under this subsection, the Secretary may*  
6        *include in the agreement terms similar to those*  
7        *established under subsection (g)(2)(A).*

8                “(C) *NOTICE OF PROPOSED GRANTS AND*  
9        *EXPEDITED GRANT AGREEMENTS.—At least 10*  
10        *days before making a grant award or entering*  
11        *into a grant agreement for a project under this*  
12        *subsection, the Secretary shall notify, in writing,*  
13        *the Committee on Transportation and Infra-*  
14        *structure and the Committee on Appropriations*  
15        *of the House of Representatives and the Com-*  
16        *mittee on Banking, Housing, and Urban Affairs*  
17        *and the Committee on Appropriations of the*  
18        *Senate of the proposed grant or expedited grant*  
19        *agreement, as well as the evaluations and ratings*  
20        *for the project.*

21                “(7) *INCLUSION OF CORRIDOR-BASED CAPITAL*  
22        *PROJECTS.—In this subsection, the term ‘small start*  
23        *project’ includes a corridor-based capital project if—*

1           “(A) a majority of the project operates in a  
2           separate right-of-way dedicated for transit use  
3           during peak hour operations; or

4           “(B) the project represents a substantial in-  
5           vestment in a defined corridor as demonstrated  
6           by investment in fixed transit facilities and  
7           equipment such as substantial transit stations,  
8           intelligent transportation systems technology,  
9           traffic signal priority, off-board fare collection,  
10          and other direct investments in the corridor.

11          “(f) *PREVIOUSLY ISSUED LETTER OF INTENT OR*  
12          *GRANT AGREEMENT.*—Subsections (d) and (e) do not apply  
13          to projects for which the Secretary has issued a letter of  
14          intent, entered into an early systems work agreement or a  
15          full funding grant agreement, or has been approved to enter  
16          final design before the date of enactment of the Public  
17          Transportation Act of 2012.

18          “(g) *LETTERS OF INTENT, FULL FUNDING GRANT*  
19          *AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-*  
20          *MENTS.*—

21                 “(1) *LETTERS OF INTENT.*—

22                 “(A) *AMOUNTS INTENDED TO BE OBLI-*  
23                 *GATED.*—The Secretary may issue a letter of in-  
24                 tent to an applicant announcing an intention to  
25                 obligate, for a new start project, an amount from

1 *future available budget authority specified in*  
2 *law that is not more than the amount stipulated*  
3 *as the financial participation of the Secretary in*  
4 *the project.*

5 “(B) *TREATMENT.*—*The issuance of a letter*  
6 *under subparagraph (A) is deemed not to be an*  
7 *obligation under section 1108(c), 1108(d), 1501,*  
8 *or 1502(a) of title 31 or an administrative com-*  
9 *mitment.*

10 “(2) *FULL FUNDING GRANT AGREEMENTS.*—

11 “(A) *TERMS.*—*The Secretary may enter*  
12 *into a full funding grant agreement with an ap-*  
13 *plicant for a grant under this section for a new*  
14 *start project. The agreement shall—*

15 “(i) *establish the terms of participa-*  
16 *tion by the Government in the project;*

17 “(ii) *establish the maximum amount of*  
18 *Government financial assistance for the*  
19 *project;*

20 “(iii) *cover the period of time for com-*  
21 *pleting the project, including, if necessary,*  
22 *a period extending beyond the period of an*  
23 *authorization;*

1           “(iv) *make timely and efficient man-*  
2           *agement of the project easier according to*  
3           *the laws of the United States; and*

4           “(v) *establish terms requiring the ap-*  
5           *plicant to repay all Government payments*  
6           *made under the agreement (plus such rea-*  
7           *sonable interest and penalty charges as are*  
8           *established by the Secretary in the agree-*  
9           *ment) if the applicant does not carry out*  
10          *the project for reasons within the control of*  
11          *the applicant.*

12          “(B) *SPECIAL FINANCIAL RULES.—*

13               “(i) *IN GENERAL.—A full funding*  
14               *grant agreement under this paragraph obli-*  
15               *gates an amount of available budget author-*  
16               *ity specified in law and may include a*  
17               *commitment (contingent on amounts to be*  
18               *specified in law in advance for commit-*  
19               *ments under this paragraph) to obligate an*  
20               *additional amount from future available*  
21               *budget authority specified in law.*

22               “(ii) *STATEMENT OF CONTINGENT COM-*  
23               *MITMENT.—The full funding grant agree-*  
24               *ment shall state that the contingent commit-*

1            *ment is not an obligation of the Govern-*  
2            *ment.*

3            “(iii) *INTEREST AND OTHER FINANC-*  
4            *ING COSTS.—Interest and other financing*  
5            *costs of efficiently carrying out a part of the*  
6            *project within a reasonable time are a cost*  
7            *of carrying out the project under a full*  
8            *funding grant agreement, except that eligi-*  
9            *ble costs may not be more than the cost of*  
10           *the most favorable financing terms reason-*  
11           *ably available for the project at the time of*  
12           *borrowing. The applicant shall certify, in a*  
13           *way satisfactory to the Secretary, that the*  
14           *applicant has shown reasonable diligence in*  
15           *seeking the most favorable financing terms.*

16           “(iv) *COMPLETION OF OPERABLE SEG-*  
17           *MENT.—The amount stipulated in a full*  
18           *funding grant agreement for a new start*  
19           *project shall be sufficient to complete at*  
20           *least one operable segment.*

21           “(C) *BEFORE AND AFTER STUDY.—*

22           “(i) *IN GENERAL.—A full funding*  
23           *grant agreement under this paragraph shall*  
24           *require the applicant to conduct a study*  
25           *that—*

1           “(I) describes and analyzes the  
2           impacts of the new start project on  
3           transit services and transit ridership;

4           “(II) evaluates the consistency of  
5           predicted and actual project character-  
6           istics and performance; and

7           “(III) identifies sources of dif-  
8           ferences between predicted and actual  
9           outcomes.

10          “(ii) INFORMATION COLLECTION AND  
11          ANALYSIS PLAN.—

12               “(I) SUBMISSION OF PLAN.—An  
13               applicant seeking a full funding grant  
14               agreement under this paragraph shall  
15               submit to the Secretary a complete  
16               plan for the collection and analysis of  
17               information to identify the impacts of  
18               the new start project and the accuracy  
19               of the forecasts prepared during the de-  
20               velopment of the project. Preparation  
21               of the plan shall be included in the  
22               agreement as an eligible activity.

23               “(II) CONTENTS OF PLAN.—The  
24               plan submitted under subclause (I)  
25               shall provide for—

1                   “(aa) the collection of data  
2                   on the current transit system of  
3                   the applicant regarding transit  
4                   service levels and ridership pat-  
5                   terns, including origins and des-  
6                   tinations, access modes, trip pur-  
7                   poses, and rider characteristics;

8                   “(bb) documentation of the  
9                   predicted scope, service levels, cap-  
10                  ital costs, operating costs, and  
11                  ridership of the project;

12                  “(cc) collection of data on the  
13                  transit system of the applicant 2  
14                  years after the opening of the new  
15                  start project, including analogous  
16                  information on transit service lev-  
17                  els and ridership patterns and in-  
18                  formation on the as-built scope  
19                  and capital costs of the project;  
20                  and

21                  “(dd) an analysis of the con-  
22                  sistency of predicted project char-  
23                  acteristics with the data collected  
24                  under item (cc).

1           “(D) *COLLECTION OF DATA ON CURRENT*  
2           *SYSTEM.—To be eligible to enter into a full fund-*  
3           *ing grant agreement under this paragraph for a*  
4           *new start project, an applicant shall have col-*  
5           *lected data on the current transit system of the*  
6           *applicant, according to the plan required under*  
7           *subparagraph (C)(ii), before the beginning of*  
8           *construction of the project. Collection of the data*  
9           *shall be included in the full funding grant agree-*  
10          *ment as an eligible activity.*

11          “(3) *EARLY SYSTEMS WORK AGREEMENTS.—*

12                 “(A) *CONDITIONS.—The Secretary may*  
13                 *enter into an early systems work agreement with*  
14                 *an applicant for a new start project if a record*  
15                 *of decision under the National Environmental*  
16                 *Policy Act of 1969 (42 U.S.C. 4321 et seq.) has*  
17                 *been issued on the project and the Secretary*  
18                 *finds there is reason to believe a full funding*  
19                 *grant agreement for the project will be made.*

20                 “(B) *CONTENTS.—*

21                         “(i) *IN GENERAL.—A work agreement*  
22                         *under this paragraph for a new start*  
23                         *project obligates an amount of available*  
24                         *budget authority specified in law and shall*  
25                         *provide for reimbursement of preliminary*

1 costs of carrying out the project, including  
2 land acquisition, timely procurement of sys-  
3 tem elements for which specifications are  
4 decided, and other activities the Secretary  
5 decides are appropriate to make efficient,  
6 long-term project management easier.

7 “(ii) *PERIOD COVERED.*—A work  
8 agreement under this paragraph shall cover  
9 the period of time the Secretary considers  
10 appropriate. The period may extend beyond  
11 the period of current authorization.

12 “(iii) *INTEREST AND OTHER FINANC-*  
13 *ING COSTS.*—Interest and other financing  
14 costs of efficiently carrying out the work  
15 agreement within a reasonable time are a  
16 cost of carrying out the agreement, except  
17 that eligible costs may not be more than the  
18 cost of the most favorable financing terms  
19 reasonably available for the project at the  
20 time of borrowing. The applicant shall cer-  
21 tify, in a manner satisfactory to the Sec-  
22 retary, that the applicant has shown rea-  
23 sonable diligence in seeking the most favor-  
24 able financing terms.

1                   “(iv) *FAILURE TO CARRY OUT*  
2                   *PROJECT.—If, after entering into a work*  
3                   *agreement under this paragraph for a new*  
4                   *start project, an applicant does not carry*  
5                   *out the project for reasons within the con-*  
6                   *trol of the applicant, the applicant shall*  
7                   *repay all Government payments made*  
8                   *under the work agreement plus reasonable*  
9                   *interest and penalty charges the Secretary*  
10                  *establishes in the agreement.*

11                  “(4) *LIMITATION ON AMOUNTS.—*

12                   “(A) *NEW START GRANTS CONTINGENT COM-*  
13                   *MITMENT AUTHORITY.—The total estimated*  
14                   *amount of future obligations of the Government*  
15                   *and contingent commitments to incur obligations*  
16                   *covered by all outstanding letters of intent, full*  
17                   *funding grant agreements, and early systems*  
18                   *work agreements under this subsection for new*  
19                   *start projects may be not more than the greater*  
20                   *of the amount authorized under section 5338(b)*  
21                   *for such projects or an amount equivalent to the*  
22                   *last 3 fiscal years of funding allocated under*  
23                   *subsections (m)(2)(B) for such projects, less an*  
24                   *amount the Secretary reasonably estimates is*  
25                   *necessary for grants under this section for the*

1        *projects that are not covered by a letter or agree-*  
2        *ment. The total amount covered by new letters*  
3        *and contingent commitments included in full*  
4        *funding grant agreements and early systems*  
5        *work agreements for such projects may be not*  
6        *more than a limitation specified in law.*

7                *“(B) APPROPRIATION REQUIRED.—An obli-*  
8        *gation may be made under this subsection only*  
9        *when amounts are appropriated for the obliga-*  
10       *tion.*

11               *“(5) NOTIFICATION OF CONGRESS.—At least 10*  
12       *days before issuing a letter of intent or an early sys-*  
13       *tems work agreement under this section, and at least*  
14       *21 days before entering into a full funding grant*  
15       *agreement under this section, the Secretary shall no-*  
16       *tify, in writing, the Committee on Transportation*  
17       *and Infrastructure and the Committee on Appropria-*  
18       *tions of the House of Representatives and the Com-*  
19       *mittee on Banking, Housing, and Urban Affairs and*  
20       *the Committee on Appropriations of the Senate of the*  
21       *proposed letter or agreement. The Secretary shall in-*  
22       *clude with the notification a copy of the proposed let-*  
23       *ter or agreement as well as the evaluations and rat-*  
24       *ings for the project.*

1       “(h) *GOVERNMENT’S SHARE OF NET PROJECT*  
2 *COST.*—

3               “(1) *IN GENERAL.*—*Based on engineering stud-*  
4 *ies, studies of economic feasibility, and information*  
5 *on the expected use of equipment or facilities, the Sec-*  
6 *retary shall estimate the net capital project cost of a*  
7 *new fixed guideway capital project. A grant under*  
8 *this section for the project shall be for 80 percent of*  
9 *the net capital project cost unless the grant recipient*  
10 *requests a lower grant percentage.*

11              “(2) *ADJUSTMENT FOR COMPLETION UNDER*  
12 *BUDGET.*—*The Secretary may adjust the final net*  
13 *project cost of a new fixed guideway capital project*  
14 *evaluated under subsections (d) and (e) to include the*  
15 *cost of eligible activities not included in the originally*  
16 *defined project if the Secretary determines that the*  
17 *originally defined project has been completed at a cost*  
18 *that is significantly below the original estimate.*

19              “(3) *REMAINDER OF NET PROJECT COST.*—*The*  
20 *remainder of net project costs shall be provided from*  
21 *an undistributed cash surplus, a replacement or de-*  
22 *preciation cash fund or reserve, or new capital from*  
23 *public or private sources.*

24              “(4) *LIMITATION ON STATUTORY CONSTRUC-*  
25 *TION.*—*Nothing in this section shall be construed as*

1        *authorizing the Secretary to request or require a non-*  
2        *Federal financial commitment for a project that is*  
3        *more than 20 percent of the net capital project cost.*

4                “(5) *SPECIAL RULE FOR ROLLING STOCK*  
5        *COSTS.—In addition to amounts allowed pursuant to*  
6        *paragraph (1), a planned extension to a fixed guide-*  
7        *way system may include the cost of rolling stock pre-*  
8        *viously purchased if the applicant satisfies the Sec-*  
9        *retary that only amounts other than amounts of the*  
10       *Government were used and that the purchase was*  
11       *made for use on the extension. A refund or reduction*  
12       *of the remainder may be made only if a refund of a*  
13       *proportional amount of the grant of the Government*  
14       *is made at the same time.*

15        “(i) *UNDERTAKING PROJECTS IN ADVANCE.—*

16                “(1) *IN GENERAL.—The Secretary may pay the*  
17        *Government’s share of the net capital project cost to*  
18        *a State or local governmental authority that carries*  
19        *out any part of a project described in this section*  
20        *without the aid of amounts of the Government and*  
21        *according to all applicable procedures and require-*  
22        *ments if—*

23                        “(A) *the State or local governmental au-*  
24        *thority applies for the payment;*

1           “(B) the Secretary approves the payment;  
2           and

3           “(C) before carrying out the part of the  
4           project, the Secretary approves the plans and  
5           specifications for the part in the same manner as  
6           other projects under this section.

7           “(2) *FINANCING COSTS.*—

8           “(A) *IN GENERAL.*—The cost of carrying  
9           out part of a project includes the amount of in-  
10          terest earned and payable on bonds issued by the  
11          State or local governmental authority to the ex-  
12          tent proceeds of the bonds are expended in car-  
13          rying out the part.

14          “(B) *LIMITATION ON AMOUNT OF INTER-*  
15          *EST.*—The amount of interest under this para-  
16          graph may not be more than the most favorable  
17          interest terms reasonably available for the project  
18          at the time of borrowing.

19          “(C) *CERTIFICATION.*—The applicant shall  
20          certify, in a manner satisfactory to the Sec-  
21          retary, that the applicant has shown reasonable  
22          diligence in seeking the most favorable financial  
23          terms.

24          “(j) *AVAILABILITY OF AMOUNTS.*—An amount made  
25          available or appropriated under section 5338(b) for new

1 *fixed guideway capital projects shall remain available for*  
 2 *a period of 3 fiscal years after the fiscal year in which the*  
 3 *amount is made available or appropriated. Any of such*  
 4 *amount that is unobligated at the end of such period shall*  
 5 *be rescinded and deposited in the general fund of the Treas-*  
 6 *ury, where such amounts shall be dedicated for the sole pur-*  
 7 *pose of deficit reduction and prohibited from use as an offset*  
 8 *for other spending increases or revenue reductions.*

9 “(k) *REPORTS ON NEW START PROJECTS.*—

10 “(1) *ANNUAL REPORT ON FUNDING REC-*  
 11 *OMMENDATIONS.*—*Not later than the first Monday in*  
 12 *February of each year, the Secretary shall submit to*  
 13 *the Committee on Transportation and Infrastructure*  
 14 *and the Committee on Appropriations of the House of*  
 15 *Representatives and the Committee on Banking,*  
 16 *Housing, and Urban Affairs and the Committee on*  
 17 *Appropriations of the Senate a report that includes—*

18 “(A) *a proposal of allocations of amounts to*  
 19 *be available to finance grants for new fixed*  
 20 *guideway capital projects among applicants for*  
 21 *these amounts;*

22 “(B) *evaluations and ratings, as required*  
 23 *under subsections (d) and (e), for each such*  
 24 *project that is authorized by the Public Trans-*  
 25 *portation Act of 2012; and*

1           “(C) recommendations of such projects for  
 2           funding based on the evaluations and ratings  
 3           and on existing commitments and anticipated  
 4           funding levels for the next 3 fiscal years based on  
 5           information currently available to the Secretary.

6           “(2) *BIENNIAL GAO REVIEW.*—Beginning 2 years  
 7           after the date of enactment of the Public Transpor-  
 8           tation Act of 2012, the Comptroller General of the  
 9           United States shall—

10           “(A) conduct a biennial review of—

11                   “(i) the processes and procedures for  
 12                   evaluating, rating, and recommending new  
 13                   fixed guideway capital projects; and

14                   “(ii) the Secretary’s implementation of  
 15                   such processes and procedures; and

16           “(B) on a biennial basis, report to Congress  
 17           on the results of such review by May 31.

18           “(l) *BEFORE AND AFTER STUDY REPORT.*—Not later  
 19           than the first Monday of August of each year, the Secretary  
 20           shall submit to the committees referred to in subsection  
 21           (k)(1) a report containing a summary of the results of the  
 22           studies conducted under subsection (g)(2)(C).

23           “(m) *LIMITATIONS.*—

24                   “(1) *LIMITATION ON GRANTS.*—The Secretary  
 25                   may make a grant or enter into a grant agreement

1     *for a new fixed guideway capital project under this*  
 2     *section only if the project has been rated as high, me-*  
 3     *dium-high, or medium or the Secretary has issued a*  
 4     *special warrant described in subsection (n) in lieu of*  
 5     *such ratings.*

6             “(2) *FISCAL YEARS 2013 THROUGH 2016.*—*Of the*  
 7     *amounts made available or appropriated for fiscal*  
 8     *years 2013 through 2016 under section 5338(b)*—

9             “(A) *\$150,000,000 for each fiscal year shall*  
 10     *be allocated for small start projects in accord-*  
 11     *ance with subsection (e); and*

12             “(B) *the remainder shall be allocated for*  
 13     *new start projects in accordance with subsection*  
 14     *(d).*

15             “(3) *LIMITATION ON EXPENDITURES.*—*None of*  
 16     *the amounts made available or appropriated under*  
 17     *section 5338(b) may be expended on a project that has*  
 18     *not been adopted as the locally preferred alternative*  
 19     *as part of a long-range transportation plan.*

20             “(n) *EXPEDITED PROJECT ADVANCEMENT.*—

21             “(1) *WARRANTS.*—*The Secretary, to the max-*  
 22     *imum extent practicable, shall develop and utilize*  
 23     *special warrants to advance projects and provide Fed-*  
 24     *eral assistance under this section. Special warrants*  
 25     *may be utilized to advance new fixed guideway*

1 *projects under this section without requiring evalua-*  
2 *tions and ratings described under subsections (d)(5)*  
3 *and (e)(5). Such warrants shall be—*

4 *“(A) based on current transit ridership, cor-*  
5 *ridor characteristics, and service on existing*  
6 *alignments;*

7 *“(B) designed to assess distinct categories of*  
8 *projects, such as proposed new service enhance-*  
9 *ments on existing alignments, new line haul*  
10 *service, and new urban circulator service; and*

11 *“(C) based on the benefits for proposed*  
12 *projects as set forth in subsections (d)(3) and*  
13 *(e)(3) for the Federal assistance provided or to be*  
14 *provided under this subsection.*

15 *“(2) NEW PROJECT DEVELOPMENT.—*

16 *“(A) IN GENERAL.—A project sponsor who*  
17 *requests Federal funding under this section shall*  
18 *apply to the Secretary to begin new project de-*  
19 *velopment after a proposed new fixed guideway*  
20 *capital project has been adopted as the locally*  
21 *preferred alternative as part of the metropolitan*  
22 *long-range transportation plan required under*  
23 *section 5303, and funding options for the non-*  
24 *Federal funding share have been identified. The*  
25 *application for new project development shall*

1       *specify whether the project sponsor is seeking*  
2       *Federal assistance under subsection (d) or (e).*

3               “(B) *APPLICATIONS.*—

4               “(i) *NOTICE TO CONGRESS.*—Not later  
5       *than 10 days after the date of receipt of an*  
6       *application for new project development*  
7       *under subparagraph (A), the Secretary shall*  
8       *provide written notice of the application to*  
9       *the Committee on Transportation and In-*  
10      *frastructure of the House of Representatives*  
11      *and the Committee on Banking, Housing,*  
12      *and Urban Affairs of the Senate.*

13              “(ii) *APPROVAL OR DISAPPROVAL.*—On  
14      *the 11th day following the date on which the*  
15      *Secretary provides written notice of an ap-*  
16      *plication for new project development under*  
17      *clause (i), the Secretary shall approve or*  
18      *disapprove the application.*

19              “(C) *PROJECT AUTHORIZATION.*—Upon ap-  
20      *proval of an application to begin new project de-*  
21      *velopment, the proposed new fixed guideway cap-*  
22      *ital project shall be authorized and eligible for*  
23      *Federal funding under this section.*

24              “(3) *LETTERS OF INTENT AND EARLY SYSTEMS*  
25      *WORK AGREEMENTS.*—The Secretary, to the max-

1        *imum extent practicable, shall issue letters of intent*  
 2        *and make early systems work agreements upon*  
 3        *issuance of a record of decision under the National*  
 4        *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*  
 5        *seq.).*

6            “(4) *FUNDING AGREEMENTS.*—*The Secretary*  
 7        *shall enter into a full funding grant agreement, expe-*  
 8        *dited grant agreement, or grant, as appropriate, be-*  
 9        *tween the Government and the project sponsor as soon*  
 10       *as the Secretary determines that the project meets the*  
 11       *requirements of subsection (d) or (e).*

12           “(5) *RECORDS RETENTION.*—*The Secretary shall*  
 13        *adhere to a uniform records retention policy regard-*  
 14        *ing all documentation related to new fixed guideway*  
 15        *capital projects.*

16           “(o) *REGULATIONS.*—*Not later than 240 days after the*  
 17        *date of enactment of the Public Transportation Act of 2012,*  
 18        *the Secretary shall issue regulations establishing new pro-*  
 19        *gram requirements for the programs created under this sec-*  
 20        *tion, including new evaluation and rating processes for pro-*  
 21        *posed projects under this section.”.*

22           (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 23        *53 is amended by striking the item relating to section 5309*  
 24        *and inserting the following:*

“5309. *Capital investment grants.*”.

1 **SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.**

2 (a) *IN GENERAL.*—Section 5310 is amended to read  
3 as follows:

4 **“§ 5310. Bus and bus facilities formula grants**

5 “(a) *GENERAL AUTHORITY.*—The Secretary may make  
6 grants under this section to assist States and local govern-  
7 mental authorities in financing capital projects—

8 “(1) to replace, rehabilitate, and purchase buses  
9 and related equipment; and

10 “(2) to construct bus-related facilities.

11 “(b) *GRANT REQUIREMENTS.*—The requirements of  
12 subsections (c) and (d) of section 5307 apply to recipients  
13 of grants made under this section.

14 “(c) *ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.*—

15 “(1) *RECIPIENTS.*—Eligible recipients under this  
16 section are providers of public transportation in ur-  
17 banized areas that operate fixed route bus services  
18 and that do not operate heavy rail, commuter rail, or  
19 light rail services.

20 “(2) *SUBRECIPIENTS.*—A recipient that receives  
21 a grant under this section may allocate the amounts  
22 provided to subrecipients that are public agencies,  
23 private companies engaged in public transportation,  
24 or private nonprofit organizations.

1       “(d) *DISTRIBUTION OF GRANT FUNDS.*—*Grants under*  
 2 *this section shall be distributed pursuant to the formula set*  
 3 *forth in section 5336 other than subsection (b).*

4       “(e) *GOVERNMENT’S SHARE OF COSTS.*—

5               “(1) *CAPITAL PROJECTS.*—*A grant for a capital*  
 6 *project, as defined in section 5302(a)(1), shall be for*  
 7 *80 percent of the net project cost of the project. The*  
 8 *recipient may provide additional local matching*  
 9 *amounts.*

10              “(2) *REMAINING COSTS.*—*The remainder of the*  
 11 *net project cost shall be provided—*

12                      “(A) *in cash from non-Government sources*  
 13 *other than revenues from providing public trans-*  
 14 *portation services;*

15                      “(B) *from revenues derived from the sale of*  
 16 *advertising and concessions;*

17                      “(C) *from an undistributed cash surplus, a*  
 18 *replacement or depreciation cash fund or reserve,*  
 19 *or new capital; and*

20                      “(D) *from amounts received under a service*  
 21 *agreement with a State or local social service*  
 22 *agency or private social service organization.*

23       “(f) *PERIOD OF AVAILABILITY TO RECIPIENTS.*—*A*  
 24 *grant made available under this section may be obligated*  
 25 *by the recipient for 3 years after the fiscal year in which*

1 *the amount is apportioned. Not later than 30 days after*  
 2 *the end of the 3-year period, an amount that is not obli-*  
 3 *gated at the end of that period shall be added to the amount*  
 4 *that may be apportioned under this section in the next fis-*  
 5 *cal year.*

6 “(g) *TRANSFERS OF APPORTIONMENTS.*—

7 “(1) *TRANSFER TO CERTAIN AREAS.*—*The chief*  
 8 *executive officer of a State may transfer any part of*  
 9 *the State’s funds made available under this section to*  
 10 *urbanized areas of less than 200,000 in population or*  
 11 *to rural areas in the State, after consulting with re-*  
 12 *sponsible local officials and publicly owned operators*  
 13 *of public transportation in each area for which the*  
 14 *amount originally was provided under this section.*

15 “(2) *TRANSFER TO STATE.*—*A designated recipi-*  
 16 *ent for an urbanized area with a population of at*  
 17 *least 200,000 may transfer a part of its grant funds*  
 18 *provided under this section to the chief executive offi-*  
 19 *cer of a State. The chief executive officer shall dis-*  
 20 *tribute the transferred amounts to urbanized areas of*  
 21 *less than 200,000 in population or to rural areas in*  
 22 *the State.*

23 “(h) *APPLICATION OF OTHER SECTIONS.*—*Sections*  
 24 *5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and 5333*  
 25 *apply to this section and to a grant made with funds appor-*

tioned under this section. Except as provided in this section,  
no other provision of this chapter applies to this section  
or to a grant under this section.”.

(b) *CLERICAL AMENDMENT.*—The analysis for chapter  
53 is amended by striking the item relating to section 5310  
and inserting the following:

“5310. *Bus and bus facilities formula grants.*”.

**SEC. 2008. RURAL AREA FORMULA GRANTS.**

(a) *AMENDMENT TO SECTION HEADING.*—Section  
5311 is amended by striking the section designation and  
heading and inserting the following:

**“§5311. Rural area formula grants”.**

(b) *PROGRAM GOALS.*—Section 5311(b) is amended by  
adding at the end the following:

“(5) *PROGRAM GOALS.*—The goals of this section  
are—

“(A) to enhance the mobility and access of  
people in rural areas by assisting in the develop-  
ment, construction, operation, improvement,  
maintenance, and use of public transportation  
systems and services in rural areas;

“(B) to increase the intermodalism of and  
connectivity among public transportation sys-  
tems and services within rural areas and to  
urban areas by providing for maximum coordi-  
nation of programs and services;

1                   “(C) to increase the state of good repair of  
2                   rural public transportation assets; and

3                   “(D) to enhance the mobility and access of  
4                   people in rural areas by assisting in the develop-  
5                   ment and support of intercity bus transpor-  
6                   tation.”.

7           (c) *PROJECTS OF NATIONAL SCOPE.*—Section  
8 5311(b)(3)(C) is amended by adding at the end the fol-  
9 lowing: “In carrying out such projects, the Secretary shall  
10 enter into a competitively selected contract to provide on-  
11 site technical assistance to local and regional governments,  
12 public transit agencies, and public transportation-related  
13 nonprofit and for-profit organizations in rural areas for  
14 the purpose of developing training materials and providing  
15 necessary training assistance to local officials and agencies  
16 in rural areas.”.

17           (d) *APPORTIONMENTS.*—Section 5311(c)(2) is amend-  
18 ed—

19                   (1) by striking “and” at the end of subpara-  
20 graph (A);

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

23                           “(B) 70 percent shall be apportioned to the  
24 States in accordance with paragraph (4); and”;  
25                   and

1           (3) *by adding at the end the following:*

2                   “(C) 10 percent shall be apportioned to the  
3           States in accordance with paragraph (5).”.

4           (e) *APPORTIONMENTS BASED ON PUBLIC TRANSPOR-*  
5 *TATION SERVICES PROVIDED IN RURAL AREAS.—Section*  
6 *5311(c) is amended by adding at the end the following:*

7                   “(5) *APPORTIONMENTS BASED ON PUBLIC*  
8 *TRANSPORTATION SERVICES PROVIDED IN RURAL*  
9 *AREAS.—The Secretary shall apportion to each State*  
10 *an amount equal to the amount apportioned under*  
11 *paragraph (2)(C) as follows:*

12                   “(A)  $\frac{1}{2}$  of such amount multiplied by the  
13           ratio that—

14                   “(i) *the number of public transpor-*  
15 *tation revenue vehicle-miles operated in or*  
16 *attributable to rural areas in that State, as*  
17 *determined by the Secretary; bears to*

18                   “(ii) *the total number of all public*  
19 *transportation revenue vehicle-miles oper-*  
20 *ated in or attributable to rural areas in all*  
21 *States; and*

22                   “(B)  $\frac{1}{2}$  of such amount multiplied by the  
23           ratio that—

24                   “(i) *the number of public transpor-*  
25 *tation unlinked passenger trips operated in*

1                   or attributable to rural areas in that State,  
 2                   as determined by the Secretary; bears to  
 3                   “(ii) the total number of all public  
 4                   transportation unlinked passenger trips op-  
 5                   erated in or attributable to rural areas in  
 6                   all States.”.

7           (f) *USE FOR ADMINISTRATIVE, PLANNING, AND TECH-*  
 8           *NICAL ASSISTANCE.*—Section 5311(e) is amended by strik-  
 9           ing “15 percent” and inserting “10 percent”.

10          (g) *INTERCITY BUS TRANSPORTATION.*—Section  
 11          5311(f)(1) is amended—

12                   (1) in subparagraph (B) by striking “shelters”  
 13                   and inserting “facilities”; and

14                   (2) in subparagraph (C) by striking “stops and  
 15                   depots” and inserting “facilities”.

16          (h) *NON-FEDERAL SHARE.*—Section 5311(g)(3) is  
 17          amended—

18                   (1) in subparagraph (B) by striking “and” at  
 19                   the end;

20                   (2) in subparagraph (C) by striking the period  
 21                   at the end and inserting “; and”; and

22                   (3) by adding at the end the following:

23                               “(D) may be derived from the costs of a pri-  
 24                               vate operator’s intercity bus service as an in-  
 25                               kind match for the operating costs of connecting

1        *rural intercity bus feeder service funded under*  
 2        *subsection (f), except that this subparagraph*  
 3        *shall apply only if the project includes both feed-*  
 4        *er service and a connecting unsubsidized inter-*  
 5        *city route segment and if the private operator*  
 6        *agrees in writing to the use of its unsubsidized*  
 7        *costs as an in-kind match.”.*

8        (i) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 9        *53 is amended by striking the item relating to section 5311*  
 10        *and inserting the following:*

*“5311. Rural area formula grants.”.*

11        **SEC. 2009. TRANSIT RESEARCH.**

12        (a) *AMENDMENT TO SECTION HEADING.*—*Section*  
 13        *5312 is amended by striking the section designation and*  
 14        *heading and inserting the following:*

15        **“§ 5312. Transit research”.**

16        (b) *RESEARCH PROJECTS.*—*Section 5312(a) is amend-*  
 17        *ed by adding at the end the following:*

18                *“(4) FUNDING.*—*The amounts made available*  
 19                *under section 5338(c) are available to the Secretary*  
 20                *for grants, contracts, cooperative agreements, or other*  
 21                *agreements for the purposes of this section and sec-*  
 22                *tions 5305 and 5322, as the Secretary considers ap-*  
 23                *propriate.”.*

1       (c) *JOINT PARTNERSHIP PROGRAM.*—Section  
 2   5312(b)(5) is amended by striking “Mass Transit Account”  
 3   and inserting “Alternative Transportation Account”.

4       (d) *TRANSIT COOPERATIVE RESEARCH PROGRAM.*—  
 5   Section 5312(c) is amended to read as follows:

6       “(c) *TRANSIT COOPERATIVE RESEARCH PROGRAM.*—

7               “(1) *IN GENERAL.*—The Secretary shall carry  
 8       out a public transportation cooperative research pro-  
 9       gram using amounts made available under section  
 10      5338(c).

11              “(2) *INDEPENDENT GOVERNING BOARD.*—The  
 12      Secretary shall establish an independent governing  
 13      board for the program. The board shall recommend  
 14      public transportation research, development, and tech-  
 15      nology transfer activities to be carried out under the  
 16      program.

17              “(3) *GRANTS AND COOPERATIVE AGREEMENTS.*—  
 18      The Secretary may make grants to, and enter into co-  
 19      operative agreements with, the National Academy of  
 20      Sciences to carry out activities under this subsection  
 21      that the Secretary determines appropriate.”.

22       (e) *GOVERNMENT SHARE.*—Section 5312 is amended  
 23   by adding at the end the following:

24       “(d) *GOVERNMENT SHARE.*—If there would be a clear  
 25   and direct financial benefit to an entity under a grant or

1 *contract financed under this section, the Secretary shall es-*  
 2 *tablish a Government share consistent with that benefit.”.*

3 (f) *CLERICAL AMENDMENT.—The analysis for chapter*  
 4 *53 is amended by striking the item relating to section 5312*  
 5 *and inserting the following:*

*“5312. Transit research.”.*

6 **SEC. 2010. COORDINATED ACCESS AND MOBILITY PROGRAM**

7 **FORMULA GRANTS.**

8 (a) *IN GENERAL.—Section 5317 is amended to read*  
 9 *as follows:*

10 **“§ 5317. Coordinated access and mobility program for-**  
 11 **mula grants**

12 *“(a) DEFINITIONS.—In this section, the following defi-*  
 13 *initions apply:*

14 *“(1) ELDERLY INDIVIDUAL.—The term ‘elderly*  
 15 *individual’ means an individual who is age 65 or*  
 16 *older.*

17 *“(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The*  
 18 *term ‘eligible low-income individual’ means an indi-*  
 19 *vidual whose family income is at or below 150 per-*  
 20 *cent of the poverty line (as that term is defined in*  
 21 *section 673 of the Community Services Block Grant*  
 22 *Act (42 U.S.C. 9902), including any revision required*  
 23 *by that section) for a family of the size involved.*

24 *“(3) JOB ACCESS AND REVERSE COMMUTE*  
 25 *PROJECT.—The term ‘job access and reverse commute*

1     *project’ means a transportation project to finance*  
2     *planning, capital, and operating costs that support*  
3     *the development and maintenance of transportation*  
4     *services designed to transport welfare recipients and*  
5     *eligible low-income individuals to and from jobs and*  
6     *activities related to their employment, including*  
7     *transportation projects that facilitate the provision of*  
8     *public transportation services from urbanized areas*  
9     *and rural areas to suburban employment locations.*

10         “(4) *RECIPIENT.*—*The term ‘recipient’ means a*  
11         *designated recipient (as defined in section 5307(a))*  
12         *and a State that directly receives a grant under this*  
13         *section.*

14         “(5) *SUBRECIPIENT.*—*The term ‘subrecipient’*  
15         *means a State or local governmental authority, non-*  
16         *profit organization, or private operator of public*  
17         *transportation services that receives a grant under*  
18         *this section indirectly through a recipient.*

19         “(6) *WELFARE RECIPIENT.*—*The term ‘welfare*  
20         *recipient’ means an individual who has received as-*  
21         *sistance under a State or tribal program funded*  
22         *under part A of title IV of the Social Security Act (42*  
23         *U.S.C. 601 et seq.) at any time during the 3-year pe-*  
24         *riod before the date on which the applicant applies*  
25         *for a grant under this section.*

1       “(b) *GOALS.—The goals of the program established*  
2 *under this section are to—*

3               “(1) *improve the accessibility of the Nation’s*  
4 *public transportation systems and services;*

5               “(2) *improve the mobility of or otherwise meet*  
6 *the special needs of elderly individuals, eligible low-*  
7 *income individuals, and individuals with disabilities;*  
8 *and*

9               “(3) *improve the coordination among all pro-*  
10 *viders of public transportation and human services*  
11 *transportation.*

12       “(c) *GENERAL AUTHORITY.—*

13               “(1) *GRANTS.—The Secretary may make grants*  
14 *under this section to recipients for the following pur-*  
15 *poses:*

16                       “(A) *For public transportation projects*  
17 *planned, designed, and carried out to meet the*  
18 *special needs of elderly individuals and individ-*  
19 *uals with disabilities.*

20                       “(B) *For job access and reverse commute*  
21 *projects carried out by the recipient or a sub-*  
22 *recipient.*

23                       “(C) *For new public transportation services,*  
24 *and for public transportation alternatives be-*  
25 *yond those required by the Americans with Dis-*

1           abilities Act of 1990 (42 U.S.C. 12101 et seq.),  
 2           that assist individuals with disabilities with  
 3           transportation, including transportation to and  
 4           from jobs and employment support services.

5           “(2) *ACQUIRING PUBLIC TRANSPORTATION SERV-*  
 6           *ICES.—A public transportation capital project under*  
 7           *this section may include acquisition of public trans-*  
 8           *portation services as an eligible capital expense.*

9           “(3) *ADMINISTRATIVE EXPENSES.—A recipient*  
 10          *may use not more than 10 percent of the amounts ap-*  
 11          *portioned to the recipient under this section to ad-*  
 12          *minister, plan, and provide technical assistance for a*  
 13          *project funded under this section.*

14          “(d) *APPORTIONMENTS.—*

15                 “(1) *FORMULA.—The Secretary, using the most*  
 16                 *recent decennial census data, shall apportion amounts*  
 17                 *made available for a fiscal year to carry out this sec-*  
 18                 *tion as follows:*

19                         “(A) *50 percent of the funds shall be appor-*  
 20                         *tioned among designated recipients (as defined*  
 21                         *in section 5307(a)) for urbanized areas with a*  
 22                         *population of 200,000 or more in the ratio*  
 23                         *that—*

24                                 “(i) *the number of elderly individuals,*  
 25                                 *individuals with disabilities, eligible low-in-*

1           *come individuals, and welfare recipients in*  
2           *each such urbanized area; bears to*

3           “(ii) *the number of elderly individuals,*  
4           *individuals with disabilities, eligible low-in-*  
5           *come individuals, and welfare recipients in*  
6           *all such urbanized areas.*

7           “(B) *25 percent of the funds shall be appor-*  
8           *tioned among the States in the ratio that—*

9           “(i) *the number of elderly individuals,*  
10          *individuals with disabilities, eligible low-in-*  
11          *come individuals, and welfare recipients in*  
12          *urbanized areas with a population of less*  
13          *than 200,000 in each State; bears to*

14          “(ii) *the number of elderly individuals,*  
15          *individuals with disabilities, eligible low-in-*  
16          *come individuals, and welfare recipients in*  
17          *urbanized areas with a population of less*  
18          *than 200,000 in all States.*

19          “(C) *25 percent of the funds shall be appor-*  
20          *tioned among the States in the ratio that—*

21          “(i) *the number of elderly individuals,*  
22          *individuals with disabilities, eligible low-in-*  
23          *come individuals, and welfare recipients in*  
24          *rural areas with a population of less than*  
25          *50,000 in each State; bears to*

1                   “(ii) the number of elderly individuals,  
2                   individuals with disabilities, eligible low-in-  
3                   come individuals, and welfare recipients in  
4                   rural areas with a population of less than  
5                   50,000 in all States.

6                   “(2) *USE OF APPORTIONED FUNDS.—Except as*  
7                   *provided in paragraph (3)—*

8                   “(A) funds apportioned under paragraph  
9                   (1)(A) shall be used for projects serving urban-  
10                  ized areas with a population of 200,000 or more;

11                  “(B) funds apportioned under paragraph  
12                  (1)(B) shall be used for projects serving urban-  
13                  ized areas with a population of less than  
14                  200,000; and

15                  “(C) funds apportioned under paragraph  
16                  (1)(C) shall be used for projects serving rural  
17                  areas.

18                  “(3) *EXCEPTIONS.—A State may use funds ap-*  
19                  *portioned under paragraph (1)(B) or (1)(C)—*

20                  “(A) for projects serving areas other than  
21                  the area specified in paragraph (2)(B) or (2)(C),  
22                  as the case may be, if the Governor of the State  
23                  certifies that all of the objectives of this section  
24                  are being met in the specified area; or

1           “(B) for projects anywhere in the State if  
 2           the State has established a statewide program for  
 3           meeting the objectives of this section.

4           “(4) MINIMUM APPORTIONMENT.—

5           “(A) IN GENERAL.—The Secretary may es-  
 6           tablish a minimum apportionment for States  
 7           and territories under paragraph (1).

8           “(B) LIMITATION.—A minimum apportion-  
 9           ment received by a State or territory under this  
 10          paragraph for a fiscal year may not exceed the  
 11          total of the fiscal year 2012 apportionments re-  
 12          ceived by the State or territory under sections  
 13          5310, 5316, and 5317 (as in effect on the day be-  
 14          fore the date of enactment of the Public Trans-  
 15          portation Act of 2012).

16          “(e) COMPETITIVE PROCESS FOR GRANTS TO SUB-  
 17          RECIPIENTS.—

18          “(1) AREAWIDE SOLICITATIONS.—A recipient of  
 19          funds apportioned under subsection (d)(1)(A) shall  
 20          conduct, in cooperation with the appropriate metro-  
 21          politan planning organization, an areawide sollicita-  
 22          tion for applications for grants to the recipient and  
 23          subrecipients under this section.

24          “(2) STATEWIDE SOLICITATION.—A recipient of  
 25          funds apportioned under subsection (d)(1)(B) or

1       (d)(1)(C) shall conduct a statewide solicitation for  
2       applications for grants to the recipient and subrecipi-  
3       ents under this section.

4               “(3) *SPECIAL RULE.*—A recipient of a grant  
5       under this section may allocate the amounts provided  
6       under the grant to—

7               “(A) a nonprofit organization or private  
8       operator of public transportation, if the public  
9       transportation service provided under subsection  
10      (c)(1) is unavailable, insufficient, or inappro-  
11      priate; or

12              “(B) in the case of a grant to provide the  
13      services described in subsection (c)(1)(A), a gov-  
14      ernmental authority that—

15              “(i) is approved by the recipient to co-  
16      ordinate services for elderly individuals and  
17      individuals with disabilities; or

18              “(ii) certifies that there are not any  
19      nonprofit organizations or private operators  
20      of public transportation services readily  
21      available in the area to provide the services  
22      described in subsection (c)(1)(A).

23              “(4) *APPLICATION.*—Recipients and subrecipi-  
24      ents seeking to receive a grant from funds apportioned  
25      under subsection (d) shall submit to the recipient an

1       *application in such form and in accordance with such*  
2       *requirements as the recipient shall establish.*

3               “(5) *GRANT AWARDS.*—*The recipient shall award*  
4       *grants under paragraphs (1) and (2) on a competitive*  
5       *basis.*

6               “(6) *FAIR AND EQUITABLE DISTRIBUTION.*—*A*  
7       *recipient of a grant under this section shall certify to*  
8       *the Secretary that allocations of the grant to sub-*  
9       *recipients will be distributed on a fair, equitable, and*  
10       *competitive basis.*

11              “(f) *GRANT REQUIREMENTS.*—*With respect to a grant*  
12       *made to provide services described in subsection (c), the Sec-*  
13       *retary shall apply grant requirements that are consistent*  
14       *with requirements for activities authorized under sections*  
15       *5310, 5316, and 5317 (as such sections were in effect on*  
16       *the day before the date of enactment of the Public Transpor-*  
17       *tation Act of 2012).*

18              “(g) *COORDINATION.*—

19               “(1) *IN GENERAL.*—*The Secretary shall coordi-*  
20       *nate activities under this section with related activi-*  
21       *ties under programs of other Federal departments and*  
22       *agencies.*

23               “(2) *PROJECT SELECTION AND PLANNING.*—*A re-*  
24       *cipient of funds under this section shall certify to the*  
25       *Secretary that—*

1           “(A) the projects selected to receive funding  
 2           under this section were derived from a locally de-  
 3           veloped, coordinated public transportation-  
 4           human services transportation plan;

5           “(B) the plan was developed through a  
 6           process that included participation by represent-  
 7           atives of public, private, and nonprofit transpor-  
 8           tation and human services providers and par-  
 9           ticipation by the public and appropriate advo-  
 10          cacy organizations; and

11          “(C) the planning process provided for con-  
 12          sideration of projects and strategies to create or  
 13          improve regional transportation services that  
 14          connect multiple jurisdictions.

15          “(h) GOVERNMENT’S SHARE OF COSTS.—

16               “(1) CAPITAL PROJECTS.—

17                   “(A) IN GENERAL.—Except as provided in  
 18                   subparagraph (B), a grant for a capital project  
 19                   under this section shall be for 80 percent of the  
 20                   net capital costs of the project, as determined by  
 21                   the Secretary. The recipient may provide addi-  
 22                   tional local matching amounts.

23                   “(B) EXCEPTION.—A State described in sec-  
 24                   tion 120(b) of title 23 shall receive an increased

1           *Government share in accordance with the for-*  
2           *mula under such section.*

3           “(2) *OPERATING ASSISTANCE.*—

4                 “(A) *IN GENERAL.*—*Except as provided in*  
5                 *subparagraph (B), a grant made under this sec-*  
6                 *tion for operating assistance may not exceed 50*  
7                 *percent of the net operating costs of the project,*  
8                 *as determined by the Secretary.*

9                 “(B) *EXCEPTION.*—*A State described in sec-*  
10                *tion 120(b) of title 23 shall receive a Government*  
11                *share of the net operating costs that equals 62.5*  
12                *percent of the Government share provided for*  
13                *under paragraph (1)(B).*

14           “(3) *REMAINDER.*—*The remainder of the net*  
15           *project costs—*

16                 “(A) *may be provided from an undistrib-*  
17                 *uted cash surplus, a replacement or depreciation*  
18                 *cash fund or reserve, a service agreement with a*  
19                 *State or local social service agency or a private*  
20                 *social service organization, or new capital;*

21                 “(B) *may be derived from amounts appro-*  
22                 *priated to or made available to a department or*  
23                 *agency of the Government (other than the De-*  
24                 *partment of Transportation) that are eligible to*  
25                 *be expended for transportation; and*

1           “(C) notwithstanding subparagraph (B),  
 2           may be derived from amounts made available to  
 3           carry out the Federal lands transportation pro-  
 4           gram established by section 203 of title 23.

5           “(4) *USE OF CERTAIN FUNDS.*—For purposes of  
 6           paragraph (3)(B), the prohibitions on the use of funds  
 7           for matching requirements under section  
 8           403(a)(5)(C)(vii) of the Social Security Act (42  
 9           U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal  
 10          or State funds to be used for transportation purposes.

11          “(5) *LIMITATION ON OPERATING ASSISTANCE.*—  
 12          A recipient carrying out a program of operating as-  
 13          sistance under this section may not limit the level or  
 14          extent of use of the Government grant for the payment  
 15          of operating expenses.

16          “(i) *LEASING VEHICLES.*—Vehicles and equipment ac-  
 17          quired under this section may be leased to a recipient or  
 18          subrecipient to improve transportation services designed to  
 19          meet the special needs of elderly individuals, eligible low-  
 20          income individuals, and individuals with disabilities.

21          “(j) *MEAL DELIVERY FOR HOMEBOUND INDIVID-*  
 22          *UALS.*—Public transportation service providers receiving  
 23          assistance under this section or section 5311(c) may coordi-  
 24          nate and assist in regularly providing meal delivery service  
 25          for homebound individuals if the delivery service does not

1 *conflict with providing public transportation service or re-*  
 2 *duce service to public transportation passengers.*

3       “(k) *TRANSFERS OF FACILITIES AND EQUIPMENT.*—

4 *With the consent of the recipient in possession of a facility*  
 5 *or equipment acquired with a grant under this section, a*  
 6 *State may transfer the facility or equipment to any recipi-*  
 7 *ent eligible to receive assistance under this chapter if the*  
 8 *facility or equipment will continue to be used as required*  
 9 *under this section.*

10       “(l) *PROGRAM EVALUATION.*—*Not later than 2 years*  
 11 *after the date of enactment of the Public Transportation*  
 12 *Act of 2012, and not later than 2 years thereafter, the*  
 13 *Comptroller General of the United States shall—*

14               “(1) *conduct a study to evaluate the grant pro-*  
 15 *gram authorized by this section, including a descrip-*  
 16 *tion of how grant recipients have coordinated activi-*  
 17 *ties carried out under this section with transportation*  
 18 *activities carried out by recipients using grants*  
 19 *awarded under title III of the Older Americans Act*  
 20 *of 1965 (42 U.S.C. 3021 et seq.); and*

21               “(2) *transmit to the Committee on Transpor-*  
 22 *tation and Infrastructure of the House of Representa-*  
 23 *tives and the Committee on Banking, Housing, and*  
 24 *Urban Affairs of the Senate a report describing the*  
 25 *results of the study under subparagraph (A).”.*

1       (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 2   53 *is amended by striking the item relating to section 5317*  
 3   *and inserting the following:*

*“5317. Coordinated access and mobility program formula grants.”.*

4   **SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PRO-**  
 5                           **GRAMS.**

6       (a) *AMENDMENT TO SECTION HEADING.*—*Section*  
 7   5322 *is amended by striking the section designation and*  
 8   *heading and inserting the following:*

9   **“§ 5322. Training and technical assistance programs”.**

10       (b) *TRAINING AND OUTREACH.*—*Section 5322(a) is*  
 11   *amended—*

12               (1) *by striking “programs that address” and all*  
 13       *that follows before the period at the end of the first*  
 14       *sentence and inserting “programs that address train-*  
 15       *ing and outreach needs as they apply to public trans-*  
 16       *portation activities, and programs that provide pub-*  
 17       *lic transportation-related technical assistance to pro-*  
 18       *viders of public transportation services”;*

19               (2) *by striking “and” at the end of paragraph*  
 20       (3);

21               (3) *by striking the period at the end of para-*  
 22       *graph (4) and inserting “; and”; and*

23               (4) *by adding at the end the following:*

24               *“(5) technical assistance provided through na-*  
 25       *tional nonprofit organizations with demonstrated ca-*

1        *capacity and expertise in a particular area of public*  
 2        *transportation policy.”.*

3        (c) *NATIONAL TRANSIT INSTITUTE, TECHNICAL AS-*  
 4        *SISTANCE, AND FUNDING.*—*Section 5322 is amended by*  
 5        *adding at the end the following:*

6        “(c) *NATIONAL TRANSIT INSTITUTE.*—

7                “(1) *GRANTS AND CONTRACTS.*—*The Secretary*  
 8        *may award grants or enter into contracts with a pub-*  
 9        *lic university to establish a National Transit Insti-*  
 10        *tute to support training and educational programs*  
 11        *for Federal, State, and local transportation employees*  
 12        *engaged or to be engaged in Government-aid public*  
 13        *transportation work.*

14                “(2) *EDUCATION AND TRAINING.*—*The National*  
 15        *Transit Institute shall provide education and train-*  
 16        *ing to employees of State and local governments at no*  
 17        *cost when the education and training is related to a*  
 18        *responsibility under a Government program.*

19        “(d) *TECHNICAL ASSISTANCE.*—*The Secretary may*  
 20        *provide public transportation-related technical assistance*  
 21        *under this section as follows:*

22                “(1) *To help public transportation providers*  
 23        *comply with the Americans with Disabilities Act of*  
 24        *1990 (42 U.S.C. 12101 et seq.) through a competi-*  
 25        *tively selected contract or cooperative agreement with*

1       *a national nonprofit organization serving individuals*  
2       *with disabilities that has a demonstrated capacity to*  
3       *carry out technical assistance, demonstration pro-*  
4       *grams, research, public education, and other activities*  
5       *related to complying with such Act.*

6               “(2) To help public transportation providers  
7       *comply with human services transportation coordina-*  
8       *tion requirements and to enhance the coordination of*  
9       *Federal resources for human services transportation*  
10       *with those of the Department of Transportation*  
11       *through a competitively selected contract or coopera-*  
12       *tive agreement with a national nonprofit organiza-*  
13       *tion that has a demonstrated capacity to carry out*  
14       *technical assistance, training, and support services*  
15       *related to complying with such requirements.*

16               “(3) To help public transportation providers  
17       *meet the transportation needs of elderly individuals*  
18       *through a competitively selected contract or coopera-*  
19       *tive agreement with a national nonprofit organiza-*  
20       *tion serving elderly individuals that has a dem-*  
21       *onstrated capacity to carry out such activities.*

22               “(4) To provide additional technical assistance,  
23       *mobility management services, volunteer support serv-*  
24       *ices, training, and research that the Secretary deter-*

1        *mines will assist public transportation providers meet*  
 2        *the goals of this section.*

3        “(e) *FUNDING.—Training and outreach programs and*  
 4        *technical assistance activities performed under this section*  
 5        *shall be paid for with administrative funds made available*  
 6        *under section 5338(c).”.*

7        (d) *CLERICAL AMENDMENT.—The analysis for chapter*  
 8        *53 is amended by striking the item relating to section 5322*  
 9        *and inserting the following:*

*“5322. Training and technical assistance programs.”.*

10    **SEC. 2012. GENERAL PROVISIONS.**

11        (a) *GOVERNMENT’S SHARE OF COSTS FOR CERTAIN*  
 12        *PROJECTS.—Section 5323(i) is amended by adding at the*  
 13        *end the following:*

14                “(3) *COSTS INCURRED BY PROVIDERS OF PUBLIC*  
 15        *TRANSPORTATION BY VANPOOL.—*

16                “(A) *LOCAL MATCHING SHARE.—The local*  
 17        *matching share provided by a recipient of assist-*  
 18        *ance for a capital project under this chapter*  
 19        *may include any amounts expended by a pro-*  
 20        *vider of public transportation by vanpool for the*  
 21        *acquisition of rolling stock to be used by such*  
 22        *provider in the recipient’s service area, excluding*  
 23        *any amounts the provider may have received in*  
 24        *Federal, State, or local government assistance for*  
 25        *such acquisition.*

1           “(B) *USE OF REVENUES.*—A private pro-  
 2           vider of public transportation by vanpool may  
 3           use revenues it receives in the provision of public  
 4           transportation service in the service area of a re-  
 5           cipient of assistance under this chapter that are  
 6           in excess of the provider’s operating costs for the  
 7           purpose of acquiring rolling stock, if the private  
 8           provider enters into a legally binding agreement  
 9           with the recipient that requires the provider to  
 10          use the rolling stock in the recipient’s service  
 11          area.

12           “(C) *DEFINITIONS.*—In this paragraph, the  
 13          following definitions apply:

14           “(i) *PRIVATE PROVIDER OF PUBLIC*  
 15           *TRANSPORTATION BY VANPOOL.*—The term  
 16           ‘private provider of public transportation  
 17           by vanpool’ means a private entity pro-  
 18           viding vanpool services in the service area  
 19           of a recipient of assistance under this chap-  
 20           ter using a commuter highway vehicle or  
 21           vanpool vehicle.

22           “(ii) *COMMUTER HIGHWAY VEHICLE;*  
 23           *VANPOOL VEHICLE.*—The term ‘commuter  
 24           highway vehicle’ or ‘vanpool vehicle’ means  
 25           any vehicle—

1                   “(I) the seating capacity of which  
2                   is at least 6 adults (not including the  
3                   driver); and

4                   “(II) at least 80 percent of the  
5                   mileage use of which can be reasonably  
6                   expected to be for the purposes of trans-  
7                   porting commuters in connection with  
8                   travel between their residences and  
9                   their place of employment.

10               “(4) INCENTIVES FOR COMPETITIVELY CON-  
11               TRACTED SERVICE.—

12               “(A) ELIGIBILITY.—Subject to subpara-  
13               graph (C), a recipient of assistance under this  
14               chapter that meets the targets under subpara-  
15               graph (B) for competitively contracted service  
16               shall be eligible, at the request of the recipient,  
17               for a Federal share of 90 percent for the capital  
18               cost of buses and bus-related facilities and equip-  
19               ment purchased with financial assistance made  
20               available under this chapter.

21               “(B) TARGET.—To qualify for the competi-  
22               tively contracted service incentive program under  
23               this paragraph, a public transit agency or gov-  
24               ernmental unit shall competitively contract for  
25               at least 20 percent of its fixed route bus service.

1       *The percentage of competitively contracted serv-*  
2       *ice shall be calculated by determining the ratio*  
3       *of competitively contracted service vehicles oper-*  
4       *ated in annual maximum service to total vehicles*  
5       *operated in annual maximum service.*

6               “(C) *MAINTENANCE OF EFFORT.*—*A public*  
7       *transit agency or governmental unit shall be eli-*  
8       *gible for an increased Federal share under this*  
9       *paragraph only if the amount of State and local*  
10       *funding provided to the affected public transit*  
11       *agency or governmental unit for the capital cost*  
12       *of buses and bus-related facilities and equipment*  
13       *will not be less than the average amount of fund-*  
14       *ing for such purposes provided during the 3 fis-*  
15       *cal years preceding the date of enactment of this*  
16       *paragraph.*

17               “(D) *DEFINITIONS.*—*In this paragraph, the*  
18       *following definitions apply:*

19                       “(i)   *COMPETITIVELY    CONTRACTED*  
20       *SERVICE.*—*The term ‘competitively con-*  
21       *tracted service’ means fixed route bus trans-*  
22       *portation service purchased by a public*  
23       *transit agency or governmental unit from a*  
24       *private transportation provider based on a*  
25       *written contract.*

1                   “(ii) *VEHICLES OPERATED IN ANNUAL*  
 2                   *MAXIMUM SERVICE.*—*The term ‘vehicles op-*  
 3                   *erated in annual maximum service’ means*  
 4                   *the number of transit vehicles operated to*  
 5                   *meet the annual maximum service require-*  
 6                   *ment during the peak season of the year, on*  
 7                   *the week and day that maximum service is*  
 8                   *provided.’.*”

9           (b) *REASONABLE ACCESS TO PUBLIC TRANSPOR-*  
 10       *TATION FACILITIES.*—*Section 5323 is amended by adding*  
 11       *at the end the following:*

12           “(q) *REASONABLE ACCESS TO PUBLIC TRANSPOR-*  
 13       *TATION FACILITIES.*—*A recipient of assistance under this*  
 14       *chapter may not deny reasonable access for a private inter-*  
 15       *city or charter transportation operator to federally funded*  
 16       *public transportation facilities, including intermodal facili-*  
 17       *ties, park and ride lots, and bus-only highway lanes.’.*”

18           (c) *SPECIAL CONDITION ON CHARTER BUS TRANSPOR-*  
 19       *TATION SERVICE.*—*If, in any fiscal year, the Secretary is*  
 20       *prohibited by law from enforcing regulations related to*  
 21       *charter bus service under part 604 of title 49, Code of Fed-*  
 22       *eral Regulations, for any transit agency that during fiscal*  
 23       *year 2008 was both initially granted a 60-day period to*  
 24       *come into compliance with part 604, and then was subse-*  
 25       *quently granted an exception from such part—*

1           (1) *the transit agency shall be precluded from re-*  
 2           *ceiving its allocation of urbanized area formula grant*  
 3           *funds for that fiscal year; and*

4           (2) *any amounts withheld pursuant to para-*  
 5           *graph (1) shall be added to the amount that the Sec-*  
 6           *retary may apportion under section 5336 of title 49,*  
 7           *United States Code, in the following fiscal year.*

8   **SEC. 2013. CONTRACT REQUIREMENTS.**

9           *Section 5325(h) is amended by striking “Federal Pub-*  
 10          *lic Transportation Act of 2005” and inserting “Public*  
 11          *Transportation Act of 2012”.*

12   **SEC. 2014. VETERANS PREFERENCE IN TRANSIT CONSTRUC-**  
 13          **TION.**

14          *Section 5325 is amended by adding at the end the fol-*  
 15          *lowing:*

16          “(k) *VETERANS EMPLOYMENT.—Recipients and sub-*  
 17          *recipients of Federal financial assistance under this chapter*  
 18          *shall ensure that contractors working on a capital project*  
 19          *funded using such assistance give a preference in the hiring*  
 20          *or referral of laborers to veterans, as defined in section 2108*  
 21          *of title 5, who have the requisite skills and abilities to per-*  
 22          *form the construction work required under the contract.”.*

23   **SEC. 2015. PRIVATE SECTOR PARTICIPATION.**

24          (a) *IN GENERAL.—Chapter 53 is amended by insert-*  
 25          *ing after section 5325 the following:*

1 **“§ 5326. Private sector participation**

2 “(a) *GENERAL PURPOSES.—In the interest of fulfilling*  
3 *the general purposes of this chapter under section 5301(f),*  
4 *the Secretary shall—*

5 “(1) *better coordinate public and private sector-*  
6 *provided public transportation services; and*

7 “(2) *promote more effective utilization of private*  
8 *sector expertise, financing, and operational capacity*  
9 *to deliver costly and complex new fixed guideway*  
10 *capital projects.*

11 “(b) *ACTIONS TO PROMOTE BETTER COORDINATION*  
12 *BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF*  
13 *PUBLIC TRANSPORTATION.—The Secretary shall—*

14 “(1) *provide technical assistance to recipients of*  
15 *Federal transit grant assistance on practices and*  
16 *methods to best utilize private providers of public*  
17 *transportation; and*

18 “(2) *educate recipients of Federal transit grant*  
19 *assistance on laws and regulations under this chapter*  
20 *that impact private providers of public transpor-*  
21 *tation.*

22 “(c) *ACTIONS TO PROVIDE TECHNICAL ASSISTANCE*  
23 *FOR ALTERNATIVE PROJECT DELIVERY METHODS.—Upon*  
24 *request by a sponsor of a new fixed guideway capital*  
25 *project, the Secretary shall—*

1           “(1) identify best practices for public-private  
2           partnerships models in the United States and in other  
3           countries;

4           “(2) develop standard public-private partnership  
5           transaction model contracts; and

6           “(3) perform financial assessments that include  
7           the calculation of public and private benefits of a pro-  
8           posed public-private partnership transaction.”.

9           (b) *CLERICAL AMENDMENT.*—The analysis for such  
10          chapter is amended by inserting after the item relating to  
11          section 5325 the following:

          “5326. *Private sector participation.*”.

12          (c) *PUBLIC-PRIVATE PARTNERSHIP PROCEDURES AND*  
13          *APPROACHES.*—

14               (1) *IDENTIFY IMPEDIMENTS.*—The Secretary  
15          shall—

16                       (A) except as provided in paragraph (4),  
17                       identify any provisions of chapter 53 of title 49,  
18                       United States Code, and any regulations or  
19                       practices thereunder, that impede greater use of  
20                       public-private partnerships and private invest-  
21                       ment in public transportation capital projects;

22                       (B) develop and implement on a project  
23                       basis procedures and approaches that—

24                               (i) address such impediments in a  
25                               manner similar to the Special Experi-

1                    *mental Project Number 15 of the Federal*  
2                    *Highway Administration (commonly re-*  
3                    *ferred to as “SEP-15”); and*

4                    *(ii) protect the public interest and any*  
5                    *public investment in covered projects.*

6                    *(2) REPORT.—Not later than 4 years after the*  
7                    *date of enactment of this Act, the Secretary shall sub-*  
8                    *mit to Congress a report on the status of the proce-*  
9                    *dures and approaches developed and implemented*  
10                   *under paragraph (1).*

11                   *(3) RULEMAKING.—Not later than 1 year after*  
12                   *the date of enactment of this Act, the Secretary shall*  
13                   *issue rules to carry out the procedures and ap-*  
14                   *proaches developed under paragraph (1).*

15                   *(4) RULE OF CONSTRUCTION.—Nothing in this*  
16                   *subsection may be construed to allow the Secretary to*  
17                   *waive any requirement under—*

18                   *(A) section 5333 of title 49, United States*  
19                   *Code;*

20                   *(B) the National Environmental Policy Act*  
21                   *of 1969 (42 U.S.C. 4321 et seq.); or*

22                   *(C) any other provision of Federal law not*  
23                   *described in paragraph (2)(A).*

24                   *(d) CONTRACTING OUT STUDY.—*

1           (1) *IN GENERAL.*—Not later than 1 year after  
2           the date of enactment of this Act, the Comptroller  
3           General of the United States shall submit to the Com-  
4           mittee on Transportation and Infrastructure of the  
5           House of Representatives and the Committee on  
6           Banking, Housing, and Urban Affairs of the Senate  
7           a comprehensive report on the effect of contracting out  
8           public transportation operations and administrative  
9           functions on cost, availability and level of service, ef-  
10          ficiency, and quality of service.

11          (2) *CONSIDERATIONS.*—In developing the report,  
12          the Comptroller General shall consider—

13                (A) the number of grant recipients that  
14                have contracted out services and the types of  
15                public transportation services that are performed  
16                under contract, including paratransit service,  
17                fixed route bus service, commuter rail operations,  
18                and administrative functions;

19                (B) the size of the populations served by  
20                such grant recipients;

21                (C) the basis for decisions regarding con-  
22                tracting out such services;

23                (D) comparative costs of providing service  
24                under contract to providing the same service  
25                through public transit agency employees, using

1           *to the greatest extent possible a standard cost al-*  
 2           *location model;*

3                   *(E) the extent of unionization among pri-*  
 4           *vately contracted employees; and*

5                   *(F) barriers to contracting out public trans-*  
 6           *portation operations and administrative func-*  
 7           *tions.*

8           *(e) GUIDANCE ON DOCUMENTING COMPLIANCE.—Not*  
 9           *later than 1 year after the date of enactment of this Act,*  
 10          *the Secretary shall publish in the Federal Register policy*  
 11          *guidance regarding how to best document compliance by re-*  
 12          *cipients of Federal assistance under chapter 53 of title 49,*  
 13          *United States Code, with the requirements regarding pri-*  
 14          *vate enterprise participation in public transportation plan-*  
 15          *ning and transportation improvement programs under sec-*  
 16          *tions 5203(g)(6) (as added by title IV of this Act), and sec-*  
 17          *tions 5306(a) and 5307(c) of this title.*

18   **SEC. 2016. PROJECT MANAGEMENT OVERSIGHT.**

19          *Section 5327(c)(1) is amended—*

20                   *(1) by striking “to make contracts”; and*

21                   *(2) by striking subparagraph (F) and inserting*  
 22          *the following:*

23                           *“(F) 1 percent of amounts made available*  
 24                   *to carry out section 5337.*

1                   “(G) 0.75 percent of amounts made avail-  
2                   able to carry out section 5317.”.

3 **SEC. 2017. STATE SAFETY OVERSIGHT.**

4           (a) *GENERAL AUTHORITY.*—Section 5330(b) is amend-  
5 ed to read as follows:

6           “(b) *GENERAL AUTHORITY.*—The Secretary may re-  
7 quire that up to 100 percent of the amount required to be  
8 appropriated for use in a State or urbanized area in the  
9 State under section 5307 for a fiscal year beginning after  
10 September 30, 2013, be utilized on capital safety improve-  
11 ment and state of good repair projects for the benefit of fixed  
12 guideway transportation systems in such State or urban-  
13 ized area in the State before any other transit capital  
14 project is undertaken, if—

15                   “(1) the State in the prior fiscal year has not  
16 met the requirements of subsection (c); or

17                   “(2) the Secretary has certified that the State  
18 safety oversight agency (as defined in section  
19 5336(k)(1)(B)) does not have adequate technical ca-  
20 pacity, personnel resources, and authority under rel-  
21 evant State law to perform the agency’s responsibil-  
22 ities described in that section.”.

1 **SEC. 2018. APPORTIONMENT OF APPROPRIATIONS FOR**  
 2 **FORMULA GRANTS.**

3 (a) *APPORTIONMENTS.*—Section 5336(i) is amended to  
 4 read as follows:

5 “(i) *APPORTIONMENTS.*—Of the amounts made avail-  
 6 able for each fiscal year under section 5338(a)(2)(B)—

7 “(1) 2 percent shall be apportioned to certain ur-  
 8 banized areas with populations of less than 200,000  
 9 in accordance with subsection (j);

10 “(2) 1 percent shall be apportioned to applicable  
 11 States for operational support and training costs of  
 12 State safety oversight agencies and personnel em-  
 13 ployed by or under contract to such agencies in ac-  
 14 cordance with subsection (k); and

15 “(3) any amount not apportioned under para-  
 16 graphs (1) and (2) shall be apportioned to urbanized  
 17 areas in accordance with subsections (a) through  
 18 (c).”.

19 (b) *STATE SAFETY OVERSIGHT AGENCIES.*—Section  
 20 5336(k) is amended to read as follows:

21 “(k) *STATE SAFETY OVERSIGHT AGENCIES FOR-*  
 22 *MULA.*—

23 “(1) *DEFINITIONS.*—In this subsection, the fol-  
 24 lowing definitions apply:

25 “(A) *APPLICABLE STATES.*—The term ‘ap-  
 26 plicable States’ means States that—

1           “(i) have rail fixed guideway public  
2           transportation systems that are not subject  
3           to regulation by the Federal Railroad Ad-  
4           ministration; or

5           “(ii) are designing or constructing rail  
6           fixed guideway public transportation sys-  
7           tems that will not be subject to regulation  
8           by the Federal Railroad Administration.

9           “(B) STATE SAFETY OVERSIGHT AGEN-  
10          CIES.—The term ‘State safety oversight agency’  
11          means a designated State authority that has re-  
12          sponsibility—

13               “(i) for requiring, reviewing, approv-  
14               ing, and monitoring safety program plans  
15               under section 5330(c)(1);

16               “(ii) for investigating hazardous condi-  
17               tions and accidents on fixed guideway pub-  
18               lic transportation systems that are not sub-  
19               ject to regulation by the Federal Railroad  
20               Administration; and

21               “(iii) for requiring action to correct or  
22               eliminate those conditions.

23          “(2) APPORTIONMENT.—

24               “(A) APPORTIONMENT FORMULA.—The  
25          amount to be apportioned under subsection (i)(2)

1        *shall be apportioned among applicable States*  
2        *under a formula to be established by the Sec-*  
3        *retary. Such formula shall take into account fac-*  
4        *tors of fixed guideway revenue vehicle miles,*  
5        *fixed guideway route miles, and fixed guideway*  
6        *vehicle passenger miles attributable to all rail*  
7        *fixed guideway systems not subject to regulation*  
8        *by the Federal Railroad Administration within*  
9        *each applicable State.*

10        “(B)    *RECIPIENTS    OF    APPORTIONED*  
11        *AMOUNTS.—Amounts apportioned under the for-*  
12        *mula established pursuant to subparagraph (A)*  
13        *shall be made available as grants to State safety*  
14        *oversight agencies. Such grants are subject to*  
15        *uniform administrative requirements for grants*  
16        *and cooperative agreements to State and local*  
17        *governments under part 18 of title 49, Code of*  
18        *Federal Regulations, and are subject to the re-*  
19        *quirements of this chapter as the Secretary deter-*  
20        *mines appropriate.*

21        “(C)    *USE OF FUNDS.—A State safety over-*  
22        *sight agency may use funds apportioned under*  
23        *subparagraph (A) for program operational and*  
24        *administrative expenses, including employee*  
25        *training activities, that assist the agency in car-*

1            *rying out its responsibilities described in para-*  
 2            *graph (1)(B).*

3            *“(D) CERTIFICATION PROCESS.—*

4            *“(i) DETERMINATIONS.—The Secretary*  
 5            *shall determine whether or not each State*  
 6            *safety oversight agency has adequate tech-*  
 7            *nical capacity, personnel resources, and au-*  
 8            *thority under relevant State law to perform*  
 9            *the agency’s defined responsibilities de-*  
 10           *scribed in paragraph (1)(B).*

11           *“(ii) ISSUANCE OF CERTIFICATIONS*  
 12           *AND DENIALS.—The Secretary shall—*

13           *“(I) issue a certification to each*  
 14           *State safety oversight agency that the*  
 15           *Secretary determines under clause (i)*  
 16           *has adequate technical capacity, per-*  
 17           *sonnel resources, and authority; and*

18           *“(II) issue a denial of certifi-*  
 19           *cation to each State safety oversight*  
 20           *agency that the Secretary determines*  
 21           *under clause (i) does not have adequate*  
 22           *technical capacity, personnel resources,*  
 23           *and authority, and provide the agency*  
 24           *with a written explanation of the rea-*  
 25           *sons for the denial.*

“(E) *ANNUAL REPORT*.—On or before July 1 of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

“(i) the amount of funds apportioned to each applicable State; and

“(ii) the certification status of each State safety oversight agency, including what steps an agency that has been denied certification must take in order to be so certified.”.

(c) *CONFORMING AMENDMENT*.—Section 5336(d)(1) is amended by striking “subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338” and inserting “section 5338(a)(2)(B)”.

**SEC. 2019. FIXED GUIDEWAY MODERNIZATION FORMULA GRANTS.**

(a) *AMENDMENT TO SECTION HEADING*.—Section 5337 is amended—

(1) by striking the section designation and heading and inserting the following:

**“§ 5337. Fixed guideway modernization program”.**

(b) *PROGRAM GOALS*.—Section 5337 is amended—

1           (1) *by redesignating subsections (a) through (f)*  
 2           *as subsections (c) through (h), respectively; and*

3           (2) *by inserting before subsection (c) (as so redesi-*  
 4           *gnated) the following:*

5           “(a) *PROGRAM GOALS.—The goals of the fixed guide-*  
 6           *way modernization program are—*

7                 “(1) *to rehabilitate, maintain, and preserve the*  
 8                 *Nation’s fixed guideway public transportation sys-*  
 9                 *tems;*

10               “(2) *to reduce the maintenance backlog and in-*  
 11               *crease the state of good repair of the Nation’s fixed*  
 12               *guideway public transportation systems; and*

13               “(3) *to increase the overall ridership on fixed*  
 14               *guideway public transportation systems.*

15           “(b) *GENERAL AUTHORITY.—The Secretary may make*  
 16           *grants to eligible recipients under this section to assist State*  
 17           *and local government authorities in financing capital*  
 18           *projects to modernize eligible fixed guideway systems.”.*

19           (c) *DISTRIBUTION.—Section 5337(c) (as redesignated*  
 20           *by subsection (b)(1) of this section) is amended by striking*  
 21           *“under section 5309” and all that follows before paragraph*  
 22           *(1) and inserting “for a fiscal year as follows:”.*

23           (d) *AVAILABILITY OF AMOUNTS.—Section 5337(f) (as*  
 24           *redesignated by subsection (b)(1) of this section) is amended*  
 25           *to read as follows:*

1       “(f) *AVAILABILITY OF AMOUNTS.*—An amount appro-  
 2       priated under this section shall remain available for a pe-  
 3       riod of 3 fiscal years after the fiscal year in which the  
 4       amount is appropriated. Any of such amount that is unob-  
 5       ligated at the end of such period shall be reapportioned for  
 6       the next fiscal year among eligible recipients in accordance  
 7       with subsection (c).”.

8       (e) *GRANT REQUIREMENTS.*—Section 5337 is amended  
 9       by adding at the end the following:

10       “(i) *UNDERTAKING PROJECTS IN ADVANCE.*—

11               “(1) *IN GENERAL.*—When a recipient obligates  
 12       all amounts apportioned to it under this section and  
 13       then carries out a part of a project described in this  
 14       section without amounts of the Government and ac-  
 15       cording to all applicable procedures and requirements  
 16       (except to the extent the procedures and requirements  
 17       limit a State to carrying out a project with amounts  
 18       of the Government previously apportioned to it), the  
 19       Secretary may pay to the recipient the Government’s  
 20       share of the cost of carrying out that part when addi-  
 21       tional amounts are apportioned to the recipient under  
 22       this section if—

23               “(A) the recipient applies for the payment;

24               “(B) the Secretary approves the payment;

25               and

1           “(C) before carrying out that part, the Sec-  
2           retary approves the plans and specifications for  
3           the part in the same way as for other projects  
4           under this section.

5           “(2) *REQUIREMENT FOR APPROVAL OF APPLICA-*  
6           *TIONS.*—The Secretary may approve an application  
7           under paragraph (1) only if an authorization for this  
8           section is in effect for the fiscal year to which the ap-  
9           plication applies.

10          “(3) *INTEREST PAYMENTS.*—The cost of carrying  
11          out that part of a project includes the amount of in-  
12          terest earned and payable on bonds issued by the re-  
13          cipient to the extent proceeds of the bonds are ex-  
14          pended in carrying out this part. However, the  
15          amount of interest allowed under this paragraph may  
16          not be more than the most favorable financing terms  
17          reasonably available for the project at the time of bor-  
18          rowing. The applicant shall certify, in a manner sat-  
19          isfactory to the Secretary, that the applicant has  
20          shown reasonable diligence in seeking the most favor-  
21          able financing terms.

22          “(j) *GRANT REQUIREMENTS.*—A grant under this sec-  
23          tion shall be subject to the requirements of subsections (c),  
24          (d), (e), (h), (i), and (m) of section 5307.”.

1       (f) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 2 *53 is amended by striking the item relating to section 5337*  
 3 *and inserting the following:*

*“5337. Fixed guideway modernization program.”.*

4 **SEC. 2020. AUTHORIZATIONS.**

5       (a) *IN GENERAL.*—*Section 5338 is amended to read*  
 6 *as follows:*

7 **“§ 5338. Authorizations**

8       “(a) *FORMULA AND BUS GRANTS.*—

9               “(1) *IN GENERAL.*—*There shall be available from*  
 10 *the Alternative Transportation Account of the High-*  
 11 *way Trust Fund to carry out sections 5305, 5307,*  
 12 *5310, 5311, 5317, 5330, 5335, and 5337*  
 13 *\$8,400,000,000 for each of fiscal years 2013 through*  
 14 *2016.*

15              “(2) *ALLOCATION OF FUNDS.*—*Amounts made*  
 16 *available under paragraph (1) shall be allocated as*  
 17 *follows:*

18                      “(A) *\$126,000,000 for each of fiscal years*  
 19 *2013 through 2016 shall be available to carry*  
 20 *out section 5305.*

21                      “(B) *\$4,578,000,000 for each of fiscal years*  
 22 *2013 through 2016 shall be allocated in accord-*  
 23 *ance with section 5336 to provide financial as-*  
 24 *sistance for urbanized areas and State safety*

1        *oversight agencies under sections 5307 and*  
2        *5336(k).*

3                *“(C) \$840,000,000 for each of fiscal years*  
4        *2013 through 2016 shall be available to provide*  
5        *financial assistance for States and local govern-*  
6        *mental authorities to replace, rehabilitate, and*  
7        *purchase buses and related equipment and to*  
8        *construct bus-related facilities under section*  
9        *5310. Of such amount, \$3,000,000 shall be avail-*  
10       *able for each fiscal year for bus testing under*  
11       *section 5318.*

12               *“(D) \$672,000,000 for each of fiscal years*  
13       *2013 through 2016 shall be available to provide*  
14       *financial assistance for rural areas under section*  
15       *5311.*

16               *“(E) \$504,000,000 for each of fiscal years*  
17       *2013 through 2016 shall be available to provide*  
18       *financial assistance for recipients and subrecipi-*  
19       *ents to provide coordinated access and mobility*  
20       *public transportation projects and services under*  
21       *section 5317.*

22               *“(F) \$3,500,000 for each of fiscal years*  
23       *2013 through 2016 shall be available to carry*  
24       *out section 5335. Such amount shall be made*  
25       *available from funds allocated in accordance*

1           *with section 5336 before the apportionments*  
 2           *under subsection 5336(i) are carried out.*

3           “(G) \$1,680,000,000 for each of fiscal years  
 4           2013 through 2016 shall be made available and  
 5           allocated in accordance with section 5337 to pro-  
 6           vide financial assistance for State and local gov-  
 7           ernment authorities to finance capital projects to  
 8           modernize eligible fixed guideway systems.

9           “(b) *CAPITAL INVESTMENT GRANTS.*—*There is author-*  
 10          *ized to be appropriated to carry out section 5309(m)(2)*  
 11          *\$1,955,000,000 for each of fiscal years 2013 through 2016.*

12          “(c) *RESEARCH, TRAINING AND OUTREACH, AND*  
 13          *TECHNICAL ASSISTANCE.*—*There is authorized to be appro-*  
 14          *priated to carry out the transit research program under sec-*  
 15          *tion 5312 and the training and outreach, National Transit*  
 16          *Institute, and technical assistance activities authorized by*  
 17          *section 5322, \$45,000,000 for each of fiscal years 2013*  
 18          *through 2016. Such amounts shall remain available until*  
 19          *expended.*

20          “(d) *ADMINISTRATION.*—*There is authorized to be ap-*  
 21          *propriated to carry out sections 5326 and 5334 \$98,000,000*  
 22          *for each of fiscal years 2013 through 2016.*

23          “(e) *GRANTS AS CONTRACTUAL OBLIGATIONS.*—

24                  “(1) *GRANTS FINANCED FROM HIGHWAY TRUST*  
 25          *FUND.*—*A grant or contract that is approved by the*

1        *Secretary and financed with amounts made available*  
 2        *from the Alternative Transportation Account of the*  
 3        *Highway Trust Fund pursuant to this section is a*  
 4        *contractual obligation of the Government to pay the*  
 5        *Federal share of the cost of the project.*

6                “(2) *GRANTS FINANCED FROM GENERAL FUND.*—  
 7        *A grant or contract that is approved by the Secretary*  
 8        *and financed with amounts appropriated in advance*  
 9        *from the General Fund of the Treasury pursuant to*  
 10        *this section is a contractual obligation of the Govern-*  
 11        *ment to pay the Federal share of the cost of the*  
 12        *project only to the extent that amounts are appro-*  
 13        *priated for such purpose by an Act of Congress.”.*

14        (b) *CONFORMING AMENDMENT.*—Section 5333(b)(1) is  
 15        *amended by striking “5338(b)” and inserting “5338(a)”*  
 16        *each place it appears.*

17        **SEC. 2021. OBLIGATION LIMITS.**

18        *The total of all obligations from amounts made avail-*  
 19        *able from the Alternative Transportation Account of the*  
 20        *Highway Trust Fund by, and amounts appropriated under,*  
 21        *subsections (a) through (d) of section 5338 of title 49,*  
 22        *United States Code, shall not exceed \$10,498,000,000 in*  
 23        *each of fiscal years 2013 through 2016, of which not more*  
 24        *than \$8,400,000,000 shall be from the Alternative Transpor-*  
 25        *tation Account.*

1 **SEC. 2022. PROGRAM ELIMINATION AND CONSOLIDATION.**

2 (a) *GENERAL PROVISION.*—A repeal or amendment  
3 made by this section shall not affect funds apportioned or  
4 allocated before the effective date of the repeal.

5 (b) *CLEAN FUELS DISCRETIONARY GRANT PRO-*  
6 *GRAM.*—Section 5308, and the item relating to that section  
7 in the analysis for chapter 53, are repealed.

8 (c) *CONFORMING AMENDMENTS REGARDING FORMULA*  
9 *GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS*  
10 *AND INDIVIDUALS WITH DISABILITIES.*—

11 (1) Section 5327(c) is amended by striking  
12 “5310” each place it appears and inserting “5317”.

13 (2) Section 31138(e)(4) is amended by striking  
14 “section 5307, 5310, or 5311” and inserting “section  
15 5307, 5311, or 5317”.

16 (d) *PUBLIC TRANSPORTATION ON INDIAN RESERVA-*  
17 *TIONS.*—Section 5311(c)(1) is repealed.

18 (e) *TRANSIT COOPERATIVE RESEARCH PROGRAM.*—  
19 Section 5313, and the item relating to that section in the  
20 analysis for chapter 53, are repealed.

21 (f) *NATIONAL RESEARCH PROGRAMS.*—Section 5314,  
22 and the item relating to that section in the analysis for  
23 chapter 53, are repealed.

24 (g) *NATIONAL TRANSIT INSTITUTE.*—

1           (1) *REPEAL*.—Section 5315, and the item relat-  
 2           ing to that section in the analysis for chapter 53, are  
 3           repealed.

4           (2)       *CONFORMING        AMENDMENT*.—Section  
 5           5307(k)(1) is amended by striking “5315(c),”.

6           (h) *BICYCLE FACILITIES*.—Section 5319 is amended  
 7           by striking the last sentence.

8           (i) *JOB ACCESS AND REVERSE COMMUTE FORMULA*  
 9           *GRANTS*.—

10           (1) *REPEAL*.—Section 5316, and the item relat-  
 11           ing to that section in the analysis for chapter 53, are  
 12           repealed.

13           (2) *CONFORMING AMENDMENT*.—Chapter 53 is  
 14           amended in section 5333(b)(1) by striking “5316,”  
 15           each place it appears.

16           (j) *PAUL S. SARBANES TRANSIT IN THE PARKS PRO-*  
 17           *GRAM*.—

18           (1) *REPEAL*.—Section 5320, and the item relat-  
 19           ing to that section in the analysis for chapter 53, are  
 20           repealed.

21           (2)       *CONFORMING        AMENDMENT*.—Section  
 22           5327(c)(2)(B) is amended by striking “5311, and  
 23           5320” and inserting “and 5311”.

1       (k) *REPEAL OF DEBT SERVICE RESERVE PILOT PRO-*  
 2 *GRAM.*—Section 5323(e) is amended by striking paragraph  
 3 (4).

4       (l) *PROGRAM OF INTERRELATED PROJECTS.*—Section  
 5 5328 is amended by striking subsection (c).

6       (m) *ALTERNATIVES ANALYSIS.*—Section 5339, and the  
 7 item relating to that section in the analysis for chapter 53,  
 8 are repealed.

9       (n) *APPORTIONMENTS BASED ON GROWING STATES*  
 10 *AND HIGH DENSITY STATES FORMULA FACTORS.*—Section  
 11 5340, and the item relating to that section in the analysis  
 12 for chapter 53, are repealed.

13       (o) *CONTRACTED PARATRANSIT PILOT.*—Section 3009  
 14 of SAFETEA-LU (119 Stat. 1572) is amended by striking  
 15 subsection (i).

16       (p) *ELDERLY INDIVIDUALS AND INDIVIDUALS WITH*  
 17 *DISABILITIES PILOT PROGRAM.*—Section 3012(b) of  
 18 SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1591) is  
 19 repealed.

20       (q) *NATIONAL FUEL CELL BUS TECHNOLOGY DEVEL-*  
 21 *OPMENT PROGRAM.*—Section 3045 of SAFETEA-LU (49  
 22 U.S.C. 5308 note; 119 Stat. 1705), and the item relating  
 23 to that section in the table of contents contained in section  
 24 1(b) of that Act, are repealed.

1       (r) *ALLOCATIONS FOR NATIONAL RESEARCH AND*  
 2 *TECHNOLOGY PROGRAMS.*—Section 3046 of SAFETEA-LU  
 3 (49 U.S.C. 5338 note; 119 Stat. 1706), and the item relat-  
 4 ing to that section in the table of contents contained in sec-  
 5 tion 1(b) of that Act, are repealed.

6       (s) *OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.*—  
 7 Section 3038 of the Transportation Equity Act for the 21st  
 8 Century (49 U.S.C. 5310 note; 112 Stat. 392), and the item  
 9 relating to that section in the table of contents contained  
 10 in section 1(b) of that Act, are repealed.

11 **SEC. 2023. EVALUATION AND REPORT.**

12       (a) *EVALUATION.*—The Comptroller General of the  
 13 United States shall evaluate the progress and effectiveness  
 14 of the Federal Transit Administration in assisting recipi-  
 15 ents of assistance under chapter 53 of title 49, United States  
 16 Code, to comply with section 5332(b) of such title, includ-  
 17 ing—

18               (1) *by reviewing discrimination complaints, re-*  
 19 *ports, and other relevant information collected or pre-*  
 20 *pared by the Federal Transit Administration or re-*  
 21 *cipients of assistance from the Federal Transit Ad-*  
 22 *ministration pursuant to any applicable civil rights*  
 23 *statute, regulation, or other requirement; and*

1           (2) *by reviewing the process that the Federal*  
2           *Transit Administration uses to resolve discrimination*  
3           *complaints filed by members of the public.*

4           (b) *REPORT.*—*Not later than 1 year after the date of*  
5           *enactment of this Act, the Comptroller General shall submit*  
6           *to the Committee on Banking, Housing, and Urban Affairs*  
7           *of the Senate and the Committee on Transportation and*  
8           *Infrastructure of the House of Representatives a report con-*  
9           *cerning the evaluation under subsection (a) that includes—*

10           (1) *a description of the ability of the Federal*  
11           *Transit Administration to address discrimination*  
12           *and foster equal opportunities in federally funded*  
13           *public transportation projects, programs, and activi-*  
14           *ties;*

15           (2) *recommendations for improvements if the*  
16           *Comptroller General determines that improvements*  
17           *are necessary; and*

18           (3) *information upon which the evaluation*  
19           *under subsection (a) is based.*

20   **SEC. 2024. TRANSIT BUY AMERICA PROVISIONS.**

21           *Section 5323(j) is amended by adding at the end the*  
22           *following:*

23           “(10) *APPLICATION OF BUY AMERICA TO TRANSIT*  
24           *PROGRAMS.*—*The requirements of this subsection*  
25           *apply to all contracts for a project carried out within*

1     *the scope of the applicable finding, determination, or*  
2     *decision under the National Environmental Policy*  
3     *Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the*  
4     *funding source of such contracts, if at least one con-*  
5     *tract for the project is funded with amounts made*  
6     *available to carry out this chapter.*

7             “(11) *ADDITIONAL WAIVER REQUIREMENTS.*—

8             “(A) *IN GENERAL.*—*If the Secretary receives*  
9     *a request for a waiver under this section, the*  
10    *Secretary shall provide notice of and an oppor-*  
11    *tunity for public comment on the request at least*  
12    *30 days before making a finding based on the re-*  
13    *quest.*

14            “(B) *NOTICE REQUIREMENTS.*—*A notice*  
15    *provided under subparagraph (A) shall include*  
16    *the information available to the Secretary con-*  
17    *cerning the request and shall be provided by elec-*  
18    *tronic means, including on the official public*  
19    *Internet Web site of the Department of Transpor-*  
20    *tation*

21            “(C) *DETAILED JUSTIFICATION.*—*If the Sec-*  
22    *retary issues a waiver under this subsection, the*  
23    *Secretary shall publish in the Federal Register a*  
24    *detailed justification for the waiver that address-*  
25    *es the public comments received under subpara-*

1           graph (A) and shall ensure that such justifica-  
 2           tion is published before the waiver takes effect.”.

3           **TITLE III—ENVIRONMENTAL**  
 4           **STREAMLINING**

5   **SEC. 3001. AMENDMENTS TO TITLE 23, UNITED STATES**  
 6           **CODE.**

7           *Except as otherwise expressly provided, whenever in*  
 8   *this title an amendment or repeal is expressed in terms of*  
 9   *an amendment to, or a repeal of, a section or other provi-*  
 10   *sion, the reference shall be considered to be made to a section*  
 11   *or other provision of title 23, United States Code.*

12   **SEC. 3002. DECLARATION OF POLICY.**

13           *(a) EXPEDITED PROJECT DELIVERY.—Section 101(b)*  
 14   *is amended by adding at the end the following:*

15                   *“(4) EXPEDITED PROJECT DELIVERY.—Congress*  
 16           *declares that it is in the national interest to expedite*  
 17           *the delivery of surface transportation projects by sub-*  
 18           *stantially reducing the average length of the environ-*  
 19           *mental review process. Accordingly, it is the policy of*  
 20           *the United States that—*

21                           *“(A) the Secretary shall have the lead role*  
 22           *among Federal agencies in carrying out the en-*  
 23           *vironmental review process for surface transpor-*  
 24           *tation projects;*

1           “(B) each Federal agency shall cooperate  
2           with the Secretary to expedite the environmental  
3           review process for surface transportation  
4           projects;

5           “(C) there shall be a presumption that the  
6           mode, facility type, and corridor location for a  
7           surface transportation project will be determined  
8           in the transportation planning process, as estab-  
9           lished in sections 5203 and 5204 of title 49;

10          “(D) project sponsors shall not be prohibited  
11          from carrying out pre-construction project devel-  
12          opment activities concurrently with the environ-  
13          mental review process;

14          “(E) programmatic approaches shall be  
15          used, to the maximum extent possible, to reduce  
16          the need for project-by-project reviews and deci-  
17          sions by Federal agencies; and

18          “(F) the Secretary shall actively support in-  
19          creased opportunities for project sponsors to as-  
20          sume responsibilities of the Secretary in carrying  
21          out the environmental review process.”.

22   **SEC. 3003. EXEMPTION IN EMERGENCIES.**

23          If any road, highway, or bridge is in operation or  
24          under construction when damaged by an emergency de-  
25          clared by the Governor of the State and concurred in by

1 *the Secretary, or declared by the President pursuant to the*  
2 *Robert T. Stafford Disaster Relief and Emergency Assist-*  
3 *ance Act (42 U.S.C. 5121), and is reconstructed in the same*  
4 *location with the same capacity, dimensions, and design as*  
5 *before the emergency, then that reconstruction project shall*  
6 *be exempt from any further environmental reviews, approv-*  
7 *als, licensing, and permit requirements under—*

8           *(1) the National Environmental Policy Act of*  
9           *1969 (42 U.S.C. 4321 et seq.);*

10           *(2) sections 402 and 404 of the Federal Water*  
11           *Pollution Control Act (33 U.S.C. 1342, 1344);*

12           *(3) the National Historic Preservation Act (16*  
13           *U.S.C. 470 et seq.);*

14           *(4) the Migratory Bird Treaty Act (16 U.S.C.*  
15           *703 et seq.);*

16           *(5) the Wild and Scenic Rivers Act (16 U.S.C.*  
17           *1271 et seq.);*

18           *(6) the Fish and Wildlife Coordination Act (16*  
19           *U.S.C. 661 et seq.);*

20           *(7) the Endangered Species Act of 1973 (16*  
21           *U.S.C. 1531 et seq.), except when the reconstruction*  
22           *occurs in designated critical habitat for threatened*  
23           *and endangered species;*

24           *(8) Executive Order 11990 (42 U.S.C. 4321 note;*  
25           *relating to the protection of wetlands); and*

1           (9) *any Federal law (including regulations) re-*  
 2           *quiring no net loss of wetlands.*

3   **SEC. 3004. ADVANCE ACQUISITION OF REAL PROPERTY IN-**  
 4           **TERESTS.**

5           (a) *REAL PROPERTY INTERESTS.*—Section 108 is  
 6   *amended—*

7           (1) *by striking “real property” each place it ap-*  
 8           *pears and inserting “real property interests”;*

9           (2) *by striking “right-of-way” each place it ap-*  
 10          *pears and inserting “real property interest”; and*

11          (3) *by striking “rights-of-way” each place it ap-*  
 12          *pears and inserting “real property interests”.*

13          (b) *STATE-FUNDED EARLY ACQUISITION OF REAL*  
 14   *PROPERTY INTERESTS.*—Section 108(c) is amended—

15          (1) *in the subsection heading by striking “EARLY*  
 16          *ACQUISITION OF RIGHTS-OF-WAY” and inserting*  
 17          *“STATE-FUNDED EARLY ACQUISITION OF REAL*  
 18          *PROPERTY INTERESTS”;*

19          (2) *by redesignating paragraphs (1) and (2) as*  
 20          *paragraphs (2) and (3), respectively;*

21          (3) *in paragraph (2), as redesignated—*

22                  (A) *in the heading by striking “GENERAL*  
 23                  *RULE” and inserting “ELIGIBILITY FOR REIM-*  
 24                  *BURSEMENT”; and*

1                   (B) by striking “Subject to paragraph (2)”  
 2                   and inserting “Subject to paragraph (3)”;

3                   (4) by inserting before paragraph (2), as redesign-  
 4                   nated, the following:

5                   “(1) *IN GENERAL*.—A State may carry out, at  
 6                   the expense of the State, acquisitions of interests in  
 7                   real property for a project before completion of the re-  
 8                   view process required for the project under the Na-  
 9                   tional Environmental Policy Act of 1969 (42 U.S.C.  
 10                  4321 *et seq.*) without affecting subsequent approvals  
 11                  required for the project by the State or any Federal  
 12                  agency.”; and

13                  (5) in paragraph (3), as redesignated—

14                   (A) in the matter preceding subparagraph  
 15                   (A) by striking “in paragraph (1)” and insert-  
 16                   ing “in paragraph (2)”;

17                   (B) in subparagraph (G) by striking “both  
 18                   the Secretary and the Administrator of the Envi-  
 19                   ronmental Protection Agency have concurred”  
 20                   and inserting “the Secretary has determined”.

21                  (c) *FEDERALLY FUNDED ACQUISITION OF REAL PROP-*  
 22                  *ERTY INTERESTS*.—Section 108 is further amended by add-  
 23                  ing at the end the following:

24                  “(d) *FEDERALLY FUNDED EARLY ACQUISITION OF*  
 25                  *REAL PROPERTY INTERESTS*.—

1           “(1) *IN GENERAL.*—*The Secretary may authorize*  
2           *the use of Federal funds for the acquisition of a real*  
3           *property interest by a State. For purposes of this sub-*  
4           *section, an acquisition of a real property interest in-*  
5           *cludes the acquisition of any interest in land, includ-*  
6           *ing the acquisition of a contractual right to acquire*  
7           *any interest in land, or any other similar action to*  
8           *acquire or preserve rights-of-way for a transportation*  
9           *facility.*

10           “(2) *STATE CERTIFICATION.*—*A State requesting*  
11           *Federal funding for an acquisition of a real property*  
12           *interest shall certify in writing that—*

13                   “(A) *the State has authority to acquire the*  
14                   *real property interest under State law;*

15                   “(B) *the acquisition of the real property in-*  
16                   *terest is for a transportation purpose; and*

17                   “(C) *the State acknowledges that early ac-*  
18                   *quisition will not be considered by the Secretary*  
19                   *in the environmental assessment of a project, the*  
20                   *decision relative to the need to construct a*  
21                   *project, or the selection of a project design or lo-*  
22                   *cation.*

23           “(3) *ENVIRONMENTAL COMPLIANCE.*—*Before au-*  
24           *thorizing Federal funding for an acquisition of a real*  
25           *property interest, the Secretary shall complete for the*

1        *acquisition the review process under the National En-*  
2        *vironmental Policy Act of 1969 (42 U.S.C. 4321 et*  
3        *seq.). For purposes of the review process, the acquisi-*  
4        *tion of a real property interest shall be treated as*  
5        *having independent utility and does not limit consid-*  
6        *eration of alternatives for future transportation im-*  
7        *provements with respect to the real property interest.*

8                *“(4) PROGRAMMING.—The acquisition of a real*  
9        *property interest for which Federal funding is re-*  
10       *quested shall be included as a project in an applicable*  
11       *transportation improvement program under sections*  
12       *5203 and 5204 of title 49. The acquisition project*  
13       *may be included in the transportation improvement*  
14       *program on its own, without including the future*  
15       *construction project for which the real property inter-*  
16       *est is being acquired. The acquisition project may*  
17       *consist of the acquisition of a specific parcel, a por-*  
18       *tion of a transportation corridor, or an entire trans-*  
19       *portation corridor.*

20                *“(5) OTHER REQUIREMENTS.—The acquisition*  
21       *of a real property interest shall be carried out in*  
22       *compliance with all requirements applicable to the ac-*  
23       *quisition of real property interests for federally fund-*  
24       *ed transportation projects.*

1       “(e) *CONSIDERATION OF LONG-RANGE TRANSPORTATION NEEDS.*—*The Secretary shall encourage States and*  
 2       *other public authorities, if practicable, to acquire transportation real property interests that are sufficient to accom-*  
 3       *modate long-range transportation needs and, if possible, to*  
 4       *do so through the acquisition of broad real property inter-*  
 5       *ests that have the capacity for expansion over a 50- to 100-*  
 6       *year period and the potential to accommodate one or more*  
 7       *transportation modes.”.*

10   **SEC. 3005. STANDARDS.**

11       *Section 109 (as amended by title I of this Act) is fur-*  
 12       *ther amended by adding at the end the following:*

13       “(s) *UNDERTAKING DESIGN ACTIVITIES BEFORE COM-*  
 14       *PLETION OF ENVIRONMENTAL REVIEW PROCESS.*—

15               “(1) *IN GENERAL.*—*A State may carry out, at*  
 16       *the expense of the State, design activities at any level*  
 17       *of detail for a project before completion of the review*  
 18       *process required for the project under the National*  
 19       *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*  
 20       *seq.) without affecting subsequent approvals of the*  
 21       *project.*

22               “(2) *ELIGIBILITY FOR REIMBURSEMENT.*—*Sub-*  
 23       *ject to paragraph (3), funds apportioned to a State*  
 24       *under this title may be used to participate in the*  
 25       *payment of costs incurred by the State for design ac-*

1        *tivities, if the results of the activities are subsequently*  
 2        *incorporated (in whole or in substantial part) into a*  
 3        *project eligible for surface transportation program*  
 4        *funds.*

5            “(3) *TERMS AND CONDITIONS.—The Federal*  
 6        *share payable of the costs described in paragraph (2)*  
 7        *shall be eligible for reimbursement out of funds appor-*  
 8        *tioned to a State under this title when the design ac-*  
 9        *tivities are incorporated (in whole or in substantial*  
 10       *part) into a project eligible for surface transportation*  
 11       *program funds, if the State demonstrates to the Sec-*  
 12       *retary and the Secretary finds that—*

13            “(A) *before the time that the cost incurred*  
 14        *by a State is approved for Federal participation,*  
 15        *environmental compliance pursuant to the Na-*  
 16        *tional Environmental Policy Act of 1969 (42*  
 17        *U.S.C. 4321 et seq.) has been completed for the*  
 18        *project for which the design activities were con-*  
 19        *ducted by the State; and*

20            “(B) *the design activities conducted pursu-*  
 21        *ant to this subsection did not preclude the con-*  
 22        *sideration of alternatives to the project.”.*

23    **SEC. 3006. LETTING OF CONTRACTS.**

24        (a) *BIDDING REQUIREMENTS.—Section 112(b)(1) is*  
 25        *amended to read as follows:*

1 “(1) *IN GENERAL.*—

2 “(A) *COMPETITIVE BIDDING REQUIRE-*  
3 *MENT.*—*Subject to paragraphs (2), (3), and (4),*  
4 *construction of each project, subject to the provi-*  
5 *sions of subsection (a), shall be performed by*  
6 *contract awarded by competitive bidding, unless*  
7 *the State transportation department dem-*  
8 *onstrates, to the satisfaction of the Secretary,*  
9 *that some other method is more cost effective or*  
10 *that an emergency exists.*

11 “(B) *BASIS OF AWARD.*—

12 “(i) *IN GENERAL.*—*Contracts for the*  
13 *construction of each project shall be award-*  
14 *ed only on the basis of the lowest responsive*  
15 *bid submitted by a bidder meeting estab-*  
16 *lished criteria of responsibility.*

17 “(ii) *PROHIBITION.*—*No requirement*  
18 *or obligation shall be imposed as a condi-*  
19 *tion precedent to the award of a contract to*  
20 *such bidder for a project, or to the Sec-*  
21 *retary’s concurrence in the award of a con-*  
22 *tract to such bidder, unless such require-*  
23 *ment or obligation is otherwise lawful and*  
24 *is specifically set forth in the advertised*  
25 *specifications.”.*

1       (b) *DESIGN-BUILD CONTRACTING.—Section 112(b)(3)*  
2 *is amended—*

3           (1) *in subparagraph (A) by striking “subpara-*  
4 *graph (C)” and inserting “subparagraph (B)”;*

5           (2) *by striking subparagraph (B);*

6           (3) *by redesignating subparagraphs (C) through*  
7 *(E) as subparagraphs (B) through (D), respectively;*  
8 *and*

9           (4) *in subparagraph (C), as redesignated—*

10               (A) *in the matter preceding clause (i) by*  
11 *striking “of the SAFETEA-LU” and inserting*  
12 *“of the American Energy and Infrastructure*  
13 *Jobs Act of 2012”;*

14               (B) *in clause (ii) by striking “and” at the*  
15 *end;*

16               (C) *in clause (iii)—*

17                   (i) *by striking “final design or”; and*

18                   (ii) *by striking the period at the end*

19 *and inserting “; and”; and*

20               (D) *by adding at the end the following:*

21                   “(iv) *permit the State transportation*

22 *department, the local transportation agency,*

23 *and the design-build contractor to proceed,*

24 *at the expense of one or more of those enti-*

25 *ties, with design activities at any level of*

1 detail for a project before completion of the  
 2 review process required for the project under  
 3 the National Environmental Policy Act of  
 4 1969 (42 U.S.C. 4321 et seq.) without af-  
 5 fecting subsequent approvals required for  
 6 the project. Design activities carried out  
 7 under this clause shall be eligible for Fed-  
 8 eral reimbursement as a project expense in  
 9 accordance with the requirements under sec-  
 10 tion 109(s).”.

11 (c) *EFFICIENCIES IN CONTRACTING*.—Section 112(b)  
 12 is amended by adding at the end the following:

13 “(4) *METHOD OF CONTRACTING*.—

14 “(A) *IN GENERAL*.—

15 “(i) *TWO-PHASE CONTRACT*.—A con-  
 16 tracting agency may award a two-phase  
 17 contract for preconstruction and construc-  
 18 tion services.

19 “(ii) *PRE-CONSTRUCTION SERVICES*  
 20 *PHASE*.—In the pre-construction services  
 21 phase, the contractor shall provide the con-  
 22 tracting agency with advice for scheduling,  
 23 work sequencing, cost engineering,  
 24 constructability, cost estimating, and risk  
 25 identification.

1           “(iii) *AGREEMENT.*—Prior to the start  
2           of the construction services phase, the con-  
3           tracting agency and the contractor may  
4           agree to a price and other factors specified  
5           in regulation for the construction of the  
6           project or a portion of the project.

7           “(iv) *CONSTRUCTION PHASE.*—If an  
8           agreement is reached under clause (iii), the  
9           contractor shall be responsible for the con-  
10          struction of the project or portion of the  
11          project at the negotiated price and other  
12          factors specified in regulation.

13          “(B) *SELECTION.*—A contract shall be  
14          awarded to a contractor using a competitive se-  
15          lection process based on qualifications, experi-  
16          ence, best value, or any other combination of fac-  
17          tors considered appropriate by the contracting  
18          agency.

19          “(C) *TIMING.*—

20                 “(i) *RELATIONSHIP TO NEPA PROC-*  
21                 *ESS.*—Prior to the completion of the process  
22                 required under section 102 of the National  
23                 Environmental Policy Act of 1969 (42  
24                 U.S.C. 4332), a contracting agency may—

25                         “(I) issue requests for proposals;

1                   “(II) proceed with the award of a  
2                   contract for preconstruction services  
3                   under subparagraph (A); and

4                   “(III) issue notices to proceed  
5                   with a preliminary design and any  
6                   work related to preliminary design.

7                   “(ii)    PRECONSTRUCTION    SERVICES  
8                   PHASE.—If the preconstruction services  
9                   phase of a contract under subparagraph  
10                  (A)(ii) focuses primarily on one alternative,  
11                  the Secretary shall require that the contract  
12                  include appropriate provisions to achieve  
13                  the objectives of section 102 of the National  
14                  Environmental Policy Act of 1969 (42  
15                  U.S.C. 4332) and comply with other appli-  
16                  cable Federal laws and regulations.

17                  “(iii)   CONSTRUCTION       SERVICES  
18                  PHASE.—A contracting agency may not  
19                  proceed with the award of the construction  
20                  services phase of a contract under subpara-  
21                  graph (A)(iv) and may not proceed, or per-  
22                  mit any consultant or contractor to proceed,  
23                  with construction until completion of the  
24                  process required under section 102 of the

1           *National Environmental Policy Act of 1969*  
2           *(42 U.S.C. 4332).*

3           “(iv) *APPROVAL REQUIREMENT.*—Prior  
4           to authorizing construction activities, the  
5           Secretary shall approve the contracting  
6           agency’s price estimate for the entire  
7           project, as well as any price agreement with  
8           the general contractor for the project or a  
9           portion of the project.

10          “(v) *DESIGN ACTIVITIES.*—A con-  
11          tracting agency may proceed, at its expense,  
12          with design activities at any level of detail  
13          for a project before completion of the review  
14          process required for the project under the  
15          National Environmental Policy Act of 1969  
16          (42 U.S.C. 4321 et seq.) without affecting  
17          subsequent approvals required for the  
18          project. Design activities carried out under  
19          this clause shall be eligible for Federal reim-  
20          bursement as a project expense in accord-  
21          ance with the requirements under section  
22          109(s).”.

1 **SEC. 3007. ELIMINATION OF DUPLICATION IN HISTORIC**  
2 **PRESERVATION REQUIREMENTS.**

3 (a) *PRESERVATION OF PARKLANDS.*—Section 138 is  
4 amended by adding at the end the following:

5 “(c) *ELIMINATION OF DUPLICATION FOR HISTORIC*  
6 *SITES AND PROPERTIES.*—The requirements of this section  
7 shall be considered to be satisfied for an historic site or  
8 property where its treatment has been agreed upon in a  
9 memorandum of agreement by invited and mandatory sig-  
10 natories, including the Advisory Council on Historic Pres-  
11 ervation, if participating, in accordance with section 106  
12 of the National Historic Preservation Act (16 U.S.C.  
13 470f).”.

14 (b) *POLICY ON LANDS, WILDLIFE AND WATERFOWL*  
15 *REFUGES, AND HISTORIC SITES.*—Section 303 of title 49,  
16 United States Code, is amended by adding at the end the  
17 following:

18 “(e) *ELIMINATION OF DUPLICATION FOR HISTORIC*  
19 *SITES AND PROPERTIES.*—The requirements of this section  
20 shall be considered to be satisfied for an historic site or  
21 property where its treatment has been agreed upon in a  
22 memorandum of agreement by invited and mandatory sig-  
23 natories, including the Advisory Council on Historic Pres-  
24 ervation, if participating, in accordance with section 106  
25 of the National Historic Preservation Act (16 U.S.C.  
26 470f).”.

1 **SEC. 3008. FUNDING THRESHOLD.**

2 *Section 139(b) is amended by adding at the end the*  
 3 *following:*

4 “(3) *FUNDING THRESHOLD.*—*The Secretary’s*  
 5 *approval of a project receiving funds under this title*  
 6 *or under chapter 53 of title 49 shall not be considered*  
 7 *a Federal action for the purposes of the National En-*  
 8 *vironmental Policy Act of 1969 if such funds—*

9 “(A) *constitute 15 percent or less of the*  
 10 *total estimated project costs; or*

11 “(B) *are less than \$10,000,000.*”.

12 **SEC. 3009. EFFICIENT ENVIRONMENTAL REVIEWS FOR**  
 13 **PROJECT DECISIONMAKING.**

14 (a) *FLEXIBILITY.*—*Section 139(b) is further amend-*  
 15 *ed—*

16 (1) *in paragraph (2) by inserting “, and any re-*  
 17 *quirements established in this section may be satis-*  
 18 *fied,” after “exercised”; and*

19 (2) *by adding after paragraph (3), as added by*  
 20 *this Act, the following:*

21 “(4) *PROGRAMMATIC COMPLIANCE.*—*At the re-*  
 22 *quest of a State, the Secretary may modify the proce-*  
 23 *dures developed under this section to encourage pro-*  
 24 *grammatic approaches and strategies with respect to*  
 25 *environmental programs and permits (in lieu of*  
 26 *project-by-project reviews).*”.

1       (b) *FEDERAL LEAD AGENCY*.—Section 139(c) is  
 2   *amended—*

3           (1) *in paragraph (1) by adding at the end the*  
 4   *following: “If the project requires approval from more*  
 5   *than one modal administration within the Depart-*  
 6   *ment, the Secretary shall designate a single modal ad-*  
 7   *ministration to serve as the Federal lead agency for*  
 8   *the Department in the environmental review process*  
 9   *for the project.”;*

10          (2) *in paragraph (3) by inserting “or other ap-*  
 11   *provals by the Secretary” after “chapter 53 of title*  
 12   *49”; and*

13          (3) *by striking paragraph (5) and inserting the*  
 14   *following:*

15           “(5) *ADOPTION AND USE OF DOCUMENTS*.—Any  
 16   *environmental document prepared in accordance with*  
 17   *this subsection shall be adopted and used by any Fed-*  
 18   *eral agency in making any approval of a project sub-*  
 19   *ject to this section as the document required to be*  
 20   *completed under the National Environmental Policy*  
 21   *Act of 1969.”.*

22       (c) *PARTICIPATING AGENCIES*.—

23           (1) *EFFECT OF DESIGNATION*.—Section  
 24   139(d)(4) *is amended to read as follows:*

25           “(4) *EFFECT OF DESIGNATION*.—

1           “(A) *REQUIREMENT.*—A participating  
2           agency shall comply with the requirements of  
3           this section and any schedule established under  
4           this section.

5           “(B) *IMPLICATION.*—Designation as a par-  
6           ticipating agency under this subsection shall not  
7           imply that the participating agency—

8                     “(i) supports a proposed project; or

9                     “(ii) has any jurisdiction over, or spe-  
10           cial expertise with respect to evaluation of,  
11           the project.”.

12           (2) *CONCURRENT REVIEWS.*—Section 139(d)(7)  
13           is amended to read as follows:

14           “(7) *CONCURRENT REVIEWS.*—Each partici-  
15           pating agency and cooperating agency shall—

16                     “(A) carry out obligations of that agency  
17           under other applicable law concurrently, and in  
18           conjunction, with the review required under the  
19           National Environmental Policy Act of 1969 (42  
20           U.S.C. 4321 *et seq.*); and

21                     “(B) formulate and implement administra-  
22           tive, policy, and procedural mechanisms to en-  
23           able the agency to ensure completion of the envi-  
24           ronmental review process in a timely, coordi-

1           nated, and environmentally responsible man-  
2           ner.”.

3           (d) *PROJECT INITIATION*.—Section 139(e) is amended  
4 by adding at the end the following: “The project sponsor  
5 may satisfy this requirement by submitting to the Secretary  
6 a draft notice for publication in the Federal Register an-  
7 nouncing the preparation of an environmental impact  
8 statement for the project.”.

9           (e) *ALTERNATIVES ANALYSIS*.—Section 139(f) is  
10 amended—

11           (1) in paragraph (4)—

12               (A) by amending subparagraph (B) to read  
13 as follows

14               “(B) *RANGE OF ALTERNATIVES*.—

15                   “(i) *IN GENERAL*.—Following partici-  
16 pation under paragraph (1), the lead agen-  
17 cy shall determine the range of alternatives  
18 for consideration in any document which  
19 the lead agency is responsible for preparing  
20 for the project.

21                   “(ii) *LIMITATION*.—The range of alter-  
22 natives shall be limited to alternatives that  
23 are—

24                       “(I) consistent with the transpor-  
25 tation mode and general design of the

1           *project described in the long-range*  
2           *transportation plan or transportation*  
3           *improvement program prepared pursu-*  
4           *ant to section 5203 or 5204 of title 49;*  
5           *and*

6                     *“(II) consistent with the funding*  
7                     *identified for the project under the fis-*  
8                     *cal constraint requirements of section*  
9                     *5203 or 5204 of title 49.*

10                    *“(iii) RESTRICTION.—A Federal agen-*  
11                    *cy may not require the evaluation of any*  
12                    *alternative that was evaluated, but not*  
13                    *adopted—*

14                             *“(I) in any prior State or Federal*  
15                             *environmental document with regard*  
16                             *to the applicable long-range transpor-*  
17                             *tation plan or transportation improve-*  
18                             *ment program; or*

19                             *“(II) after the preparation of a*  
20                             *programmatic or tiered environmental*  
21                             *document that evaluated alternatives to*  
22                             *the project.*

23                             *“(iv) LEGAL SUFFICIENCY.—The eval-*  
24                             *uation of the range of alternatives shall be*  
25                             *deemed legally sufficient if the environ-*

1           *mental document complies with the require-*  
2           *ments of this paragraph.”;*

3           *(B) in subparagraph (C)—*

4                     *(i) by striking “(C) METHODOLO-*  
5                     *GIES.—The lead agency” and inserting the*  
6                     *following:*

7                     *“(C) METHODOLOGIES.—*

8                             *“(i) IN GENERAL.—The lead agency”;*

9                             *(ii) by striking “in collaboration with*  
10                     *participating agencies at appropriate times*  
11                     *during the study process” and inserting*  
12                     *“after consultation with participating agen-*  
13                     *cies as part of the scoping process”; and*

14                     *(iii) by adding at the end the fol-*  
15                     *lowing:*

16                     *“(ii) COMMENTS.—Each participating*  
17                     *agency shall limit comments on such meth-*  
18                     *odologies to those issues that are within the*  
19                     *authority and expertise of such partici-*  
20                     *pating agency.*

21                     *“(iii) STUDIES.—The lead agency may*  
22                     *not conduct studies proposed by any par-*  
23                     *ticipating agency that are not within the*  
24                     *authority or expertise of such participating*  
25                     *agency.”; and*

1                   (C) by adding at the end the following:

2                   “(E) *LIMITATIONS ON THE EVALUATION OF*  
3                   *IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL*  
4                   *DOCUMENTS.*—

5                   “(i) *IN GENERAL.*—*The lead agency*  
6                   *may not reevaluate, and a Federal agency*  
7                   *may not require the reevaluation of, cumu-*  
8                   *lative impacts or growth-inducing impacts*  
9                   *where such impacts were previously evalu-*  
10                  *ated in—*

11                  “(I) *a long-range transportation*  
12                  *plan or transportation improvement*  
13                  *program developed pursuant to section*  
14                  *5203 or 5204 of title 49;*

15                  “(II) *a prior environmental docu-*  
16                  *ment approved by the Secretary; or*

17                  “(III) *a prior State environ-*  
18                  *mental document approved pursuant to*  
19                  *a State law that is substantially equiv-*  
20                  *alent to section 102(2)(C) of the Na-*  
21                  *tional Environmental Policy Act of*  
22                  *1969 (42 U.S.C. 4332(2)(C)).*

23                  “(ii) *LEGAL SUFFICIENCY.*—*The eval-*  
24                  *uation of cumulative impacts and growth*  
25                  *inducing impacts shall be deemed legally*

1           *sufficient if the environmental document*  
2           *complies with the requirements of this para-*  
3           *graph.”; and*

4           *(2) by adding at the end the following:*

5           “(5) *EFFECTIVE DECISIONMAKING.—*

6                   “(A) *CONCURRENCE.—At the discretion of*  
7           *the lead agency, a participating agency shall be*  
8           *presumed to concur in the determinations made*  
9           *by the lead agency under this subsection unless*  
10          *the participating agency submits an objection to*  
11          *the lead agency in writing within 30 days after*  
12          *receiving notice of the lead agency’s determina-*  
13          *tion and specifies the statutory basis for the ob-*  
14          *jection.*

15                  “(B) *ADOPTION OF DETERMINATION.—If the*  
16          *participating agency concurs or does not object*  
17          *within the 30-day period, the participating*  
18          *agency shall adopt the lead agency’s determina-*  
19          *tion for purposes of any reviews, approvals, or*  
20          *other actions taken by the participating agency*  
21          *as part of the environmental review process for*  
22          *the project.”.*

23          (f) *COORDINATION PLAN.—Section 139(g) is amend-*  
24          *ed—*

1           (1) in paragraph (1)(A) by striking “project or  
2           category of projects” and inserting “project, category  
3           of projects, or program of projects”;

4           (2) by amending paragraph (3) to read as fol-  
5           lows:

6           “(3) *DEADLINES FOR DECISIONS UNDER OTHER*  
7           *LAWS.—*

8                     “(A) *PRIOR APPROVAL DEADLINE.—If a*  
9                     *participating agency is required to make a de-*  
10                    *termination regarding or otherwise approve or*  
11                    *disapprove the project prior to the record of deci-*  
12                    *sion or finding of no significant impact of the*  
13                    *lead agency, such participating agency shall*  
14                    *make such determination or approval not later*  
15                    *than 30 days after the lead agency publishes no-*  
16                    *tice of the availability of a final environmental*  
17                    *impact statement or other final environmental*  
18                    *document, or not later than such other date that*  
19                    *is otherwise required by law, whichever occurs*  
20                    *first.*

21                    “(B) *OTHER DEADLINES.—With regard to*  
22                    *any determination or approval of a partici-*  
23                    *parting agency that is not subject to subpara-*  
24                    *graph (A), each participating agency shall make*  
25                    *any required determination regarding or other-*

1        *wise approve or disapprove the project not later*  
2        *than 90 days after the date that the lead agency*  
3        *approves the record of decision or finding of no*  
4        *significant impact for the project, or not later*  
5        *than such other date that is otherwise required*  
6        *by law, whichever occurs first.*

7                “(C) *DEEMED APPROVED.*—*In the event*  
8        *that any participating agency fails to make a*  
9        *determination or approve or disapprove the*  
10       *project within the applicable deadline described*  
11       *in subparagraphs (A) and (B), the project shall*  
12       *be deemed approved by such participating agen-*  
13       *cy, and such approval shall be deemed to comply*  
14       *with the applicable requirements of Federal law.*

15                “(D) *JUDICIAL REVIEW.*—

16                        “(i) *IN GENERAL.*—*An approval of a*  
17        *project under subparagraph (C) shall not be*  
18        *subject to judicial review.*

19                        “(ii) *WRITTEN FINDING.*—*The Sec-*  
20        *retary may issue a written finding*  
21        *verifying the approval made in accordance*  
22        *with this paragraph.”; and*

23        *(3) by striking paragraph (4).*

1        *(g) ISSUE IDENTIFICATION AND RESOLUTION.—Sec-*  
 2        *tion 139(h)(4) is amended by adding at the end the fol-*  
 3        *lowing:*

4                        *“(C) RESOLUTION FINAL.—*

5                        *“(i) IN GENERAL.—The lead agency*  
 6                        *and participating agencies may not recon-*  
 7                        *sider the resolution of any issue agreed to*  
 8                        *by the relevant agencies in a meeting under*  
 9                        *subparagraph (A).*

10                      *“(ii) COMPLIANCE WITH APPLICABLE*  
 11                      *LAW.—Any such resolution shall be deemed*  
 12                      *to comply with applicable law notwith-*  
 13                      *standing that the agencies agreed to such*  
 14                      *resolution prior to the approval of the envi-*  
 15                      *ronmental document.”.*

16        *(h) STREAMLINED DOCUMENTATION AND DECISION-*  
 17        *MAKING.—Section 139 (as amended by title I of this Act)*  
 18        *is further amended—*

19                      *(1) by redesignating subsections (i) through (l)*  
 20                      *as subsections (k) through (n), respectively; and*

21                      *(2) by inserting after subsection (h) the fol-*  
 22        *lowing:*

23        *“(i) STREAMLINED DOCUMENTATION AND DECISION-*  
 24        *MAKING.—*

1           “(1) *IN GENERAL.*—*The lead agency in the envi-*  
2           *ronmental review process for a project, in order to re-*  
3           *duce paperwork and expedite decisionmaking, shall*  
4           *prepare a condensed final environmental impact*  
5           *statement.*

6           “(2) *CONDENSED FORMAT.*—*A condensed final*  
7           *environmental impact statement for a project in the*  
8           *environmental review process shall consist only of—*

9                   “(A) *an incorporation by reference of the*  
10           *draft environmental impact statement;*

11                   “(B) *any updates to specific pages or sec-*  
12           *tions of the draft environmental impact state-*  
13           *ment as appropriate; and*

14                   “(C) *responses to comments on the draft en-*  
15           *vironmental impact statement and copies of the*  
16           *comments.*

17           “(3) *TIMING OF DECISION.*—*Notwithstanding*  
18           *any other provision of law, in conducting the envi-*  
19           *ronmental review process for a project, the lead agen-*  
20           *cy shall combine a final environmental impact state-*  
21           *ment and a record of decision for the project into a*  
22           *single document if—*

23                   “(A) *the alternative approved in the record*  
24           *of decision is either a preferred alternative that*  
25           *was identified in the draft environmental impact*

1 *statement or is a modification of such preferred*  
2 *alternative that was developed in response to*  
3 *comments on the draft environmental impact*  
4 *statement;*

5 *“(B) the Secretary has received a certifi-*  
6 *cation from a State under section 128, if such a*  
7 *certification is required for the project; and*

8 *“(C) the Secretary determines that the lead*  
9 *agency, participating agency, or the project*  
10 *sponsor has committed to implement the meas-*  
11 *ures applicable to the approved alternative that*  
12 *are identified in the final environmental impact*  
13 *statement.*

14 *“(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND*  
15 *RE-EVALUATION.—*

16 *“(1) SUPPLEMENTAL ENVIRONMENTAL RE-*  
17 *VIEW.—After the approval of a record of decision or*  
18 *finding of no significant impact with regard to a*  
19 *project, an agency may not require the preparation of*  
20 *a subsequent environmental document for such project*  
21 *unless the lead agency determines that—*

22 *“(A) changes to the project will result in*  
23 *new significant impacts that were not evaluated*  
24 *in the environmental document; or*

1           “(B) new information has become available  
 2           or changes in circumstances have occurred after  
 3           the lead agency approval of the project that will  
 4           result in new significant impacts that were not  
 5           evaluated in the environmental document.

6           “(2) RE-EVALUATIONS.—The Secretary may only  
 7           require the re-evaluation of a document prepared  
 8           under the National Environmental Policy Act of 1969  
 9           (42 U.S.C. 4321 et seq.) if—

10           “(A) the Secretary determines that the  
 11           events in paragraph (1)(A) or (1)(B) apply; and

12           “(B) more than 5 years has elapsed since  
 13           the Secretary’s prior approval of the project or  
 14           authorization of project funding.

15           “(3) CHANGE TO RECORD OF DECISION.—After  
 16           the approval of a record of decision, the Secretary  
 17           may not require the record of decision to be changed  
 18           solely because of a change in the fiscal circumstances  
 19           surrounding the project.”.

20           “(i) REGULATIONS.—Section 139(m) (as redesignated  
 21           by subsection (h)(1) of this section) is further amended to  
 22           read as follows:

23           “(m) REGULATIONS.—

24           “(1) IN GENERAL.—Not later than 1 year after  
 25           the date of enactment of the American Energy and

1       *Infrastructure Jobs Act of 2012, the Secretary, by reg-*  
2       *ulation, shall—*

3               “(A) *implement this section; and*

4               “(B) *establish methodologies and procedures*  
5       *for evaluating the environmental impacts, in-*  
6       *cluding cumulative impacts and growth-induc-*  
7       *ing impacts, of transportation projects subject to*  
8       *this section.*

9               “(2) *COMPLIANCE WITH APPLICABLE LAW.—Any*  
10      *environmental document that utilizes the methodolo-*  
11      *gies and procedures established under this subsection*  
12      *shall be deemed to comply with the applicable require-*  
13      *ments of—*

14              “(A) *the National Environmental Policy*  
15      *Act of 1969 (42 U.S.C. 4321 et seq.) or its imple-*  
16      *menting regulations; or*

17              “(B) *any other Federal environmental stat-*  
18      *ute applicable to transportation projects.”.*

19      (j) *LIMITATIONS ON CLAIMS.—Section 139(n) (as re-*  
20      *designated by subsection (h)(1) of this section) is further*  
21      *amended—*

22              (1) *in paragraph (1) by striking “180 days” and*  
23      *inserting “90 days”; and*

24              (2) *by striking paragraph (2) and inserting the*  
25      *following:*

1           “(2) *NEW INFORMATION.*—*The preparation of a*  
2           *supplemental environmental impact statement or*  
3           *other environmental document when required by this*  
4           *section shall be considered a separate final agency ac-*  
5           *tion and the deadline for filing a claim for judicial*  
6           *review of such action shall be 90 days after the date*  
7           *of publication of a notice in the Federal Register an-*  
8           *nouncing such action.*”.

9           *(k) LIMITATIONS ON JUDICIAL RELIEF.*—*Section 139*  
10          *is further amended by adding at the end the following:*

11          “(o) *LIMITATIONS ON JUDICIAL RELIEF.*—*Notwith-*  
12          *standing any other provision of law, the following limita-*  
13          *tions shall apply to actions brought before a court in con-*  
14          *nection with a project under this section:*

15                 “(1) *Venue for any action shall be where the*  
16                 *project is located.*

17                 “(2) *A specific property interest impacted by the*  
18                 *transportation project in question must exist in order*  
19                 *to have standing to bring an action.*

20                 “(3) *No action may be commenced by any person*  
21                 *alleging a violation of—*

22                         “(A) *the National Environmental Policy*  
23                         *Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5*  
24                         *and 7 of title 5, or any other Federal law appli-*  
25                         *cable to the evaluation, avoidance, or mitigation*

1       *of environmental impacts of the project if such*  
 2       *Federal law is identified in the draft environ-*  
 3       *mental impact statement, unless such person*  
 4       *provided written notice to the lead agency of the*  
 5       *alleged violation of law, and the facts supporting*  
 6       *such claim, during the public comment period on*  
 7       *the draft environmental impact statement; or*

8               *“(B) any other law with regard to the*  
 9       *project unless such person provided written no-*  
 10       *tice to the applicable approving agency of the al-*  
 11       *leged violation of law, and the facts supporting*  
 12       *such claim, during the public comment period on*  
 13       *such agency approval.*

14               *“(4) Elected or appointed officials working for*  
 15       *the Government or a State government may not be*  
 16       *named in their individual capacities in an action if*  
 17       *they are acting within the scope of their official du-*  
 18       *ties.”.*

19   **SEC. 3010. DISPOSAL OF HISTORIC PROPERTIES.**

20       *(a) DISPOSAL OF HISTORIC PROPERTIES.—Section*  
 21       *156 is amended—*

22               *(1) by striking the section heading and inserting*

23       **“Sale or lease of real property”**; *and*

24               *(2) by adding at the end the following:*

1       “(d) *ASSESSMENT OF ADVERSE EFFECTS.*—Notwith-  
 2       standing part 800 of title 36, Code of Federal Regulations,  
 3       the sale or lease by a State of any historic property that  
 4       is not listed in the National Register of Historic Places shall  
 5       not be considered an adverse effect to the property within  
 6       any consultation process carried out under section 106 of  
 7       the National Historic Preservation Act (16 U.S.C. 470f).”.

8       (b) *CLERICAL AMENDMENT.*—The analysis for chapter  
 9       1 is amended by striking the item relating to section 156  
 10      and inserting the following:

      “156. Sale or lease of real property.”.

11      **SEC. 3011. INTEGRATION OF PLANNING AND ENVIRON-**  
 12                                   **MENTAL REVIEW.**

13      (a) *IN GENERAL.*—Chapter 1 is amended by adding  
 14      at the end the following:

15      **“§ 167. Integration of planning and environmental re-**  
 16                                   **view**

17      “(a) *DEFINITIONS.*—In this section, the following defi-  
 18      nitions apply:

19                   “(1) *ENVIRONMENTAL REVIEW PROCESS.*—

20                           “(A) *IN GENERAL.*—The term ‘environ-  
 21                   mental review process’ means the process for pre-  
 22                   paring for a project an environmental impact  
 23                   statement, environmental assessment, categorical  
 24                   exclusion, or other document prepared under the

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

3               “(B) *INCLUSIONS.*—*The term ‘environ-*  
4       *mental review process’ includes the process for*  
5       *and completion of any environmental permit,*  
6       *approval, review, or study required for a project*  
7       *under any Federal law other than the National*  
8       *Environmental Policy Act of 1969 (42 U.S.C.*  
9       *4321 et seq.).*

10              “(2) *PLANNING PRODUCT.*—*The term ‘planning*  
11       *product’ means any decision, analysis, study, or other*  
12       *documented result of an evaluation or decisionmaking*  
13       *process carried out during transportation planning.*

14              “(3) *PROJECT.*—*The term ‘project’ means any*  
15       *highway project or program of projects, public trans-*  
16       *portation capital project or program of projects, or*  
17       *multimodal project or program of projects that re-*  
18       *quires the approval of the Secretary.*

19              “(4) *PROJECT SPONSOR.*—*The term ‘project*  
20       *sponsor’ means the agency or other entity, including*  
21       *any private or public-private entity, that seeks ap-*  
22       *proval of the Secretary for a project.*

23              “(b) *PURPOSE AND FINDINGS.*—

24              “(1) *PURPOSE.*—*The purpose of this section is to*  
25       *establish the authority and provide procedures for*

1       *achieving integrated planning and environmental re-*  
2       *view processes to—*

3               “(A) *enable statewide and metropolitan*  
4               *planning processes to more effectively serve as*  
5               *the foundation for project decisions;*

6               “(B) *foster better decisionmaking;*

7               “(C) *reduce duplication in work;*

8               “(D) *avoid delays in transportation im-*  
9               *provements; and*

10              “(E) *better transportation and environ-*  
11              *mental results for communities and the United*  
12              *States.*

13              “(2) *FINDINGS.—Congress finds the following:*

14                      “(A) *This section is consistent with and is*  
15                      *adopted in furtherance of sections 101 and 102*  
16                      *of the National Environmental Policy Act of*  
17                      *1969 (42 U.S.C. 4331 and 4332) and section 109*  
18                      *of this title.*

19                      “(B) *This section should be broadly con-*  
20                      *strued and may be applied to any project, class*  
21                      *of projects, or program of projects carried out*  
22                      *under this title or chapter 53 of title 49.*

23              “(c) *ADOPTION OF PLANNING PRODUCTS FOR USE IN*  
24       *NEPA PROCEEDINGS.—*

1           “(1) *IN GENERAL.*—*Notwithstanding any other*  
2           *provision of law and subject to the conditions set forth*  
3           *in subsection (e), the Federal lead agency for a*  
4           *project, at the request of the project sponsors, may*  
5           *adopt and use a planning product in proceedings re-*  
6           *lating to any class of action in the environmental re-*  
7           *view process of the project.*

8           “(2) *PARTIAL ADOPTION OF PLANNING PROD-*  
9           *UCTS.*—*The Federal lead agency may adopt a plan-*  
10          *ning product under paragraph (1) in its entirety or*  
11          *may select portions for adoption.*

12          “(3) *TIMING.*—*A determination under para-*  
13          *graph (1) with respect to the adoption of a planning*  
14          *product shall be made at the time the lead agencies*  
15          *decide the appropriate scope of environmental review*  
16          *for the project.*

17          “(d) *APPLICABILITY.*—

18          “(1) *PLANNING DECISIONS.*—*Planning decisions*  
19          *that may be adopted pursuant to this section in-*  
20          *clude—*

21                 “(A) *a purpose and need or goals and objec-*  
22                 *tives statement for the project, including with re-*  
23                 *spect to whether tolling, private financial assist-*  
24                 *ance, or other special financial measures are nec-*  
25                 *essary to implement the project;*

1           “(B) a decision with respect to travel cor-  
2           ridor location, including project termini;

3           “(C) a decision with respect to modal  
4           choice, including a decision to implement cor-  
5           ridor or subarea study recommendations to ad-  
6           vance different modal solutions as separate  
7           projects with independent utility;

8           “(D) a decision with respect to the elimi-  
9           nation of unreasonable alternatives and the selec-  
10          tion of the range of reasonable alternatives for  
11          detailed study during the environmental review  
12          process;

13          “(E) a basic description of the environ-  
14          mental setting;

15          “(F) a decision with respect to methodolo-  
16          gies for analysis; and

17          “(G) identifications of programmatic level  
18          mitigation for potential impacts that the Federal  
19          lead agency, in consultation with Federal, State,  
20          local, and tribal resource agencies, determines  
21          are most effectively addressed at a regional or  
22          national program level, including—

23                 “(i) system-level measures to avoid,  
24                 minimize, or mitigate impacts of proposed  
25                 transportation investments on environ-

1                    *mental resources, including regional eco-*  
2                    *system and water resources; and*

3                    *“(ii) potential mitigation activities, lo-*  
4                    *cations, and investments.*

5                    *“(2) PLANNING ANALYSES.—Planning analyses*  
6                    *that may be adopted pursuant to this section include*  
7                    *studies with respect to—*

8                    *“(A) travel demands;*

9                    *“(B) regional development and growth;*

10                   *“(C) local land use, growth management,*  
11                   *and development;*

12                   *“(D) population and employment;*

13                   *“(E) natural and built environmental con-*  
14                   *ditions;*

15                   *“(F) environmental resources and environ-*  
16                   *mentally sensitive areas;*

17                   *“(G) potential environmental effects, includ-*  
18                   *ing the identification of resources of concern and*  
19                   *potential cumulative effects on those resources,*  
20                   *identified as a result of a statewide or regional*  
21                   *cumulative effects assessment; and*

22                   *“(H) mitigation needs for a proposed ac-*  
23                   *tion, or for programmatic level mitigation, for*  
24                   *potential effects that the Federal lead agency de-*

1           *termines are most effectively addressed at a re-*  
2           *gional or national program level.*

3           “(e) *CONDITIONS.—Adoption and use of a planning*  
4           *product under this section is subject to a determination by*  
5           *the Federal lead agency, in consultation with joint lead*  
6           *agencies and project sponsors as appropriate, that the fol-*  
7           *lowing conditions have been met:*

8           “(1) *The planning product was developed*  
9           *through a planning process conducted pursuant to*  
10          *applicable Federal law.*

11          “(2) *The planning process included broad multi-*  
12          *disciplinary consideration of systems-level or cor-*  
13          *ridor-wide transportation needs and potential effects.*

14          “(3) *During the planning process, notice was*  
15          *provided through publication or other means to Fed-*  
16          *eral, State, and local government agencies and tribal*  
17          *governments that might have an interest in the pro-*  
18          *posed project, and to members of the general public,*  
19          *of the planning products that the planning process*  
20          *might produce and that might be relied on during the*  
21          *environmental review process, and such entities have*  
22          *been provided an appropriate opportunity to partici-*  
23          *pate in the planning process leading to such planning*  
24          *product.*

1           “(4) *Prior to determining the scope of environ-*  
2           *mental review for the project, the joint lead agencies*  
3           *have made documentation relating to the planning*  
4           *product available to Federal, State, and local govern-*  
5           *mental agencies and tribal governments that may*  
6           *have an interest in the proposed action, and to mem-*  
7           *bers of the general public.*

8           “(5) *There is no significant new information or*  
9           *new circumstance that has a reasonable likelihood of*  
10          *affecting the continued validity or appropriateness of*  
11          *the planning product.*

12          “(6) *The planning product is based on reliable*  
13          *and reasonably current data and reasonable and sci-*  
14          *entifically acceptable methodologies.*

15          “(7) *The planning product is documented in suf-*  
16          *ficient detail to support the decision or the results of*  
17          *the analysis and to meet requirements for use of the*  
18          *information in the environmental review process.*

19          “(8) *The planning product is appropriate for*  
20          *adoption and use in the environmental review process*  
21          *for the project.*

22          “(f) *EFFECT OF ADOPTION.—Notwithstanding any*  
23          *other provision of law, any planning product adopted by*  
24          *the Federal lead agency in accordance with this section*  
25          *shall not be reconsidered or made the subject of additional*

1 *interagency consultation during the environmental review*  
2 *process of the project unless the Federal lead agency, in con-*  
3 *sultation with joint lead agencies and project sponsors as*  
4 *appropriate, determines that there is significant new infor-*  
5 *mation or new circumstances that affect the continued va-*  
6 *lidity or appropriateness of the adopted planning product.*  
7 *Any planning product adopted by the Federal lead agency*  
8 *in accordance with this section may be relied upon and used*  
9 *by other Federal agencies in carrying out reviews of the*  
10 *project.*

11       “(g) *RULE OF CONSTRUCTION.—This section may not*  
12 *be construed to make the National Environmental Policy*  
13 *Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to*  
14 *the transportation planning process conducted under chap-*  
15 *ter 52 of title 49. Initiation of the National Environmental*  
16 *Policy Act of 1969 process as a part of, or concurrently*  
17 *with, transportation planning activities does not subject*  
18 *transportation plans and programs to the National Envi-*  
19 *ronmental Policy Act of 1969 process. This section may not*  
20 *be construed to affect the use of planning products in the*  
21 *National Environmental Policy Act of 1969 process pursu-*  
22 *ant to other authorities under law or to restrict the initi-*  
23 *ation of the National Environmental Policy Act of 1969*  
24 *process during planning.*”.

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

*“167. Integration of planning and environmental review.”.*

3 **SEC. 3012. DEVELOPMENT OF PROGRAMMATIC MITIGATION**  
 4 **PLANS.**

5       (a) *IN GENERAL.*—*Chapter 1 (as amended by this*  
 6 *title) is further amended by adding at the end the following:*

7 **“§ 168. Development of programmatic mitigation**  
 8 **plans**

9       “(a) *IN GENERAL.*—*As part of the statewide or metro-*  
 10 *politan transportation planning process, a State or metro-*  
 11 *politan planning organization may develop one or more*  
 12 *programmatic mitigation plans to address the potential en-*  
 13 *vironmental impacts of future transportation projects.*

14       “(b) *SCOPE.*—

15               “(1) *SCALE.*—*A programmatic mitigation plan*  
 16 *may be developed on a regional, ecosystem, watershed,*  
 17 *or statewide scale.*

18               “(2) *RESOURCES.*—*The plan may encompass*  
 19 *multiple environmental resources within a defined ge-*  
 20 *ographic area or may focus on a specific resource,*  
 21 *such as aquatic resources, parklands, or wildlife habi-*  
 22 *tat.*

23               “(3) *PROJECT IMPACTS.*—*The plan may address*  
 24 *impacts from all projects in a defined geographic area*

1       or may focus on a specific type of project, such as  
2       bridge replacements.

3               “(4) CONSULTATION.—The scope of the plan  
4       shall be determined by the State or metropolitan  
5       planning organization, as appropriate, in consulta-  
6       tion with the agency or agencies with jurisdiction  
7       over the resources being addressed in the mitigation  
8       plan.

9               “(c) CONTENTS.—A programmatic mitigation plan  
10      may include—

11              “(1) an assessment of the condition of environ-  
12      mental resources in the geographic area covered by the  
13      plan, including an assessment of recent trends and  
14      any potential threats to those resources;

15              “(2) an assessment of potential opportunities to  
16      improve the overall quality of environmental resources  
17      in the geographic area covered by the plan, through  
18      strategic mitigation for impacts of transportation  
19      projects;

20              “(3) standard measures for mitigating certain  
21      types of impacts;

22              “(4) parameters for determining appropriate  
23      mitigation for certain types of impacts, such as miti-  
24      gation ratios or criteria for determining appropriate  
25      mitigation sites;

1           “(5) *adaptive management procedures, such as*  
2           *protocols that involve monitoring predicted impacts*  
3           *over time and adjusting mitigation measures in re-*  
4           *sponse to information gathered through the moni-*  
5           *toring; and*

6           “(6) *acknowledgment of specific statutory or reg-*  
7           *ulatory requirements that must be satisfied when de-*  
8           *termining appropriate mitigation for certain types of*  
9           *resources.*

10          “(d) *PROCESS.—Before adopting a programmatic*  
11          *mitigation plan, a State or metropolitan planning organi-*  
12          *zation shall—*

13               “(1) *consult with the agency or agencies with ju-*  
14               *risdiction over the environmental resources considered*  
15               *in the programmatic mitigation plan;*

16               “(2) *make a draft of the plan available for re-*  
17               *view and comment by applicable environmental re-*  
18               *source agencies and the public;*

19               “(3) *consider any comments received from such*  
20               *agencies and the public on the draft plan; and*

21               “(4) *address such comments in the final plan.*

22          “(e) *INTEGRATION WITH OTHER PLANS.—A pro-*  
23          *grammatic mitigation plan may be integrated with other*  
24          *plans, including watershed plans, ecosystem plans, species*

1 *recovery plans, growth management plans, and land use*  
 2 *plans.*

3 “(f) *CONSIDERATION IN PROJECT DEVELOPMENT AND*  
 4 *PERMITTING.*—If a programmatic mitigation plan has been  
 5 developed pursuant to this section, any Federal agency re-  
 6 sponsible for environmental reviews, permits, or approvals  
 7 for a transportation project shall give substantial weight  
 8 to the recommendations in a programmatic mitigation plan  
 9 when carrying out their responsibilities under applicable  
 10 laws.

11 “(g) *PRESERVATION OF EXISTING AUTHORITIES.*—  
 12 Nothing in this section limits the use of programmatic ap-  
 13 proaches to reviews under the National Environmental Pol-  
 14 icy Act of 1969 (42 U.S.C. 4321 et seq.).”.

15 (b) *CLERICAL AMENDMENT.*—The analysis for such  
 16 chapter (as amended by this title) is further amended by  
 17 adding at the end the following:

“168. Development of programmatic mitigation plans.”.

18 **SEC. 3013. STATE ASSUMPTION OF RESPONSIBILITY FOR**  
 19 **CATEGORICAL EXCLUSIONS.**

20 *Section 326(a) is amended—*

21 (1) *in paragraph (2) by striking “and only for*  
 22 *types of activities specifically designated by the Sec-*  
 23 *retary” and inserting “and for any type of activity*  
 24 *for which a categorical exclusion classification is ap-*  
 25 *propriate”; and*

1           (2) *by adding at the end the following:*

2           “(4) *PRESERVATION OF FLEXIBILITY.—The Sec-*  
 3           *retary shall not require a State, as a condition of as-*  
 4           *suming responsibility under this section, to forego*  
 5           *project delivery methods that are otherwise permis-*  
 6           *sible for highway projects.”.*

7   **SEC. 3014. SURFACE TRANSPORTATION PROJECT DELIVERY**  
 8           **PROGRAM.**

9           (a) *PROGRAM NAME.—Section 327 is amended—*

10           (1) *in the section heading by striking “**pilot**”;*  
 11           *and*

12           (2) *in subsection (a)(1) by striking “pilot”.*

13           (b) *ASSUMPTION OF RESPONSIBILITY.—Section*  
 14           *327(a)(2) is amended—*

15           (1) *in subparagraph (A) by striking “highway”;*

16           (2) *in subparagraph (B) by striking clause (ii)*  
 17           *and inserting the following:*

18                       *“(ii) the Secretary may not assign any*  
 19                       *responsibility imposed on the Secretary by*  
 20                       *section 5203 or 5204 of title 49.”; and*

21           (3) *by adding at the end the following:*

22                       *“(F) PRESERVATION OF FLEXIBILITY.—The*  
 23                       *Secretary may not require a State, as a condi-*  
 24                       *tion of participation in the program, to forego*

1           *project delivery methods that are otherwise per-*  
2           *missible for projects.”.*

3           (c) *STATE PARTICIPATION.*—Section 327(b) is amend-  
4 *ed—*

5           (1) *by amending paragraph (1) to read as fol-*  
6           *lows:*

7           “(1) *PARTICIPATING STATES.*—All States are eli-  
8           *gible to participate in the program.”; and*

9           (2) *in paragraph (2) by striking “this section,*  
10          *the Secretary shall promulgate” and inserting*  
11          *“amendments to this section by the American Energy*  
12          *and Infrastructure Jobs Act of 2012, the Secretary*  
13          *shall amend, as appropriate,”.*

14          (d) *WRITTEN AGREEMENT.*—Section 327(c) is amend-  
15 *ed—*

16          (1) *in paragraph (3)(D) by striking the period*  
17          *at the end and inserting a semicolon; and*

18          (2) *by adding at the end the following:*

19                  *“(4) have a term of not more than 5 years; and*

20                  *“(5) be renewable.”.*

21          (e) *CONFORMING AMENDMENT.*—Section 327(e) is  
22 *amended by striking “subsection (i)” and inserting “sub-*  
23 *section (j)”.*

1       (f) *AUDITS.*—Section 327(g)(1)(B) is amended by  
 2 striking “subsequent year” and inserting “of the third and  
 3 fourth years”.

4       (g) *MONITORING.*—Section 327 is further amended—

5           (1) by redesignating subsections (h) and (i) as  
 6 subsections (i) and (j), respectively; and

7           (2) by inserting after subsection (g) the fol-  
 8 lowing:

9       “(h) *MONITORING.*—After the fourth year of the par-  
 10 ticipation of a State in the program, the Secretary shall  
 11 monitor compliance by the State with the written agree-  
 12 ment, including the provision by the State of financial re-  
 13 sources to carry out the written agreement.”.

14       (h) *TERMINATION.*—Section 327(j) (as redesignated by  
 15 subsection (g)(1) of this section) is amended to read as fol-  
 16 lows:

17       “(j) *TERMINATION.*—The Secretary may terminate the  
 18 participation of any State in the program if—

19           “(1) the Secretary determines that the State is  
 20 not adequately carrying out the responsibilities as-  
 21 signed to the State;

22           “(2) the Secretary provides to the State—

23               “(A) notification of the determination of  
 24 noncompliance; and

1           “(B) a period of at least 30 days during  
2           which to take such corrective action as the Sec-  
3           retary determines is necessary to comply with  
4           the applicable agreement; and

5           “(3) the State, after the notification and period  
6           provided under paragraph (2), fails to take satisfac-  
7           tory corrective action, as determined by the Sec-  
8           retary.”.

9           (i) *DEFINITIONS.*—Section 327 is amended by adding  
10          at the end the following:

11          “(k) *DEFINITIONS.*—In this section, the following defi-  
12          nitions apply:

13                 “(1) *MULTIMODAL PROJECT.*—The term  
14                 ‘multimodal project’ means a project funded, in whole  
15                 or in part, under this title or chapter 53 of title 49  
16                 and involving the participation of more than one De-  
17                 partment of Transportation administration or agen-  
18                 cy.

19                 “(2) *PROJECT.*—The term ‘project’ means any  
20                 highway project, public transportation capital  
21                 project, or multimodal project that requires the ap-  
22                 proval of the Secretary.”.

23           (j) *CLERICAL AMENDMENT.*—The analysis for chapter  
24          3 is amended by striking the item relating to section 327  
25          and inserting the following:

“327. Surface transportation project delivery program.”.

1 **SEC. 3015. PROGRAM FOR ELIMINATING DUPLICATION OF**  
2 **ENVIRONMENTAL REVIEWS.**

3 (a) *IN GENERAL.*—Chapter 3 (as amended by title I  
4 of this Act) is further amended by adding at the end the  
5 following:

6 **“§ 331. Program for eliminating duplication of envi-**  
7 **ronmental reviews**

8 “(a) *ESTABLISHMENT.*—

9 “(1) *IN GENERAL.*—The Secretary shall establish  
10 a program to eliminate duplicative environmental re-  
11 views and approvals under State and Federal law of  
12 projects. Under this program, a State may use State  
13 laws and procedures to conduct reviews and make ap-  
14 provals in lieu of Federal environmental laws and  
15 regulations, consistent with the provisions of this sec-  
16 tion.

17 “(2) *PARTICIPATING STATES.*—All States are eli-  
18 gible to participate in the program.

19 “(3) *SCOPE OF ALTERNATIVE REVIEW AND AP-*  
20 *PROVAL PROCEDURES.*—For purposes of this section,  
21 alternative environmental review and approval proce-  
22 dures may include one or more of the following:

23 “(A) *Substitution of one or more State envi-*  
24 *ronmental laws for one or more Federal environ-*  
25 *mental laws, if the Secretary determines in ac-*  
26 *cordance with this section that the State environ-*

1        *mental laws provide environmental protection*  
2        *and opportunities for public involvement that*  
3        *are substantially equivalent to the applicable*  
4        *Federal environmental laws.*

5                *“(B) Substitution of one or more State reg-*  
6        *ulations for Federal regulations implementing*  
7        *one or more Federal environmental laws, if the*  
8        *Secretary determines in accordance with this sec-*  
9        *tion that the State regulations provide environ-*  
10       *mental protection and opportunities for public*  
11       *involvement that are substantially equivalent to*  
12       *the Federal regulations.*

13        *“(b) APPLICATION.—To participate in the program, a*  
14       *State shall submit to the Secretary an application con-*  
15       *taining such information as the Secretary may require, in-*  
16       *cluding—*

17                *“(1) a full and complete description of the pro-*  
18       *posed alternative environmental review and approval*  
19       *procedures of the State;*

20                *“(2) for each State law or regulation included in*  
21       *the proposed alternative environmental review and*  
22       *approval procedures of the State, an explanation of*  
23       *the basis for concluding that the law or regulation*  
24       *meets the requirements under subsection (a)(3); and*

1           “(3) evidence of having sought, received, and ad-  
2       dressed comments on the proposed application from  
3       the public and appropriate Federal environmental re-  
4       source agencies.

5       “(c) *REVIEW OF APPLICATION.*—*The Secretary shall—*

6           “(1) review an application submitted under sub-  
7       section (b);

8           “(2) approve or disapprove the application in  
9       accordance with subsection (d) not later than 90 days  
10      after the date of the receipt of the application; and

11          “(3) transmit to the State notice of the approval  
12      or disapproval, together with a statement of the rea-  
13      sons for the approval or disapproval.

14      “(d) *APPROVAL OF STATE PROGRAMS.*—

15          “(1) *IN GENERAL.*—*The Secretary shall approve*  
16      *each such application if the Secretary finds that the*  
17      *proposed alternative environmental review and ap-*  
18      *proval procedures of the State are substantially equiv-*  
19      *alent to the applicable Federal environmental laws*  
20      *and Federal regulations.*

21          “(2) *EXCLUSION.*—*The National Environmental*  
22      *Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the*  
23      *Endangered Species Act of 1973 (16 U.S.C. 1531 et*  
24      *seq.) shall not apply to any decision by the Secretary*

1       to approve or disapprove any application submitted  
2       pursuant to this section.

3       “(e) *COMPLIANCE WITH PERMITS.*—Compliance with  
4 a permit or other approval of a project issued pursuant to  
5 a program approved by the Secretary under this section  
6 shall be deemed compliance with the Federal laws and regu-  
7 lations identified in the program approved by the Secretary  
8 pursuant to this section.

9       “(f) *REVIEW AND TERMINATION.*—

10           “(1) *REVIEW.*—All State alternative environ-  
11 mental review and approval procedures approved  
12 under this section shall be reviewed by the Secretary  
13 not less than once every 5 years.

14           “(2) *PUBLIC NOTICE AND COMMENT.*—In con-  
15 ducting the review process under paragraph (1), the  
16 Secretary shall provide notice and an opportunity for  
17 public comment.

18           “(3) *EXTENSIONS AND TERMINATIONS.*—At the  
19 conclusion of the review process, the Secretary may  
20 extend the State alternative environmental review and  
21 approval procedures for an additional 5-year period  
22 or terminate the State program.

23       “(g) *REPORT TO CONGRESS.*—Not later than 2 years  
24 after the date of enactment of this section and annually

1 *thereafter, the Secretary shall submit to Congress a report*  
 2 *that describes the administration of the program.*

3 “(h) *DEFINITIONS.—For purposes of this section:*

4 “(1) *ENVIRONMENTAL LAW.—The term ‘environ-*  
 5 *mental law’ includes any law that provides proce-*  
 6 *dural or substantive protection, as applicable, for the*  
 7 *natural or built environment with regard to the con-*  
 8 *struction and operation of projects.*

9 “(2) *FEDERAL ENVIRONMENTAL LAWS.—The*  
 10 *term ‘Federal environmental laws’ means laws gov-*  
 11 *erning the review of environmental impacts of, and*  
 12 *issuance of permits and other approvals for, the con-*  
 13 *struction and operation of projects, including section*  
 14 *102(2)(C) of the National Environmental Policy Act*  
 15 *of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the*  
 16 *Federal Water Pollution Control Act (33 U.S.C.*  
 17 *1344), section 106 of the National Historic Preserva-*  
 18 *tion Act (16 U.S.C. 470f), and sections 7(a)(2),*  
 19 *9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-*  
 20 *cies Act of 1973 (16 U.S.C. 1536(a)(2),*  
 21 *1538(a)(1)(B), 1539(a)(1)(B)).*

22 “(3) *MULTIMODAL PROJECT.—The term*  
 23 *‘multimodal project’ means a project funded, in whole*  
 24 *or in part, under this title or chapter 53 of title 49*  
 25 *and involving the participation of more than one De-*

1        *partment of Transportation administration or agen-*  
 2        *cy.*

3                “(4) *PROJECT.*—*The term ‘project’ means any*  
 4        *highway project, public transportation capital*  
 5        *project, or multimodal project that requires the ap-*  
 6        *proval of the Secretary.’”.*

7        (b) *CLERICAL AMENDMENT.*—*The analysis for such*  
 8        *chapter (as amended by title I of this Act) is further amend-*  
 9        *ed by adding at the end the following:*

*“331. Program for eliminating duplication of environmental reviews.”.*

10    ***SEC. 3016. STATE PERFORMANCE OF LEGAL SUFFICIENCY***  
 11                ***REVIEWS.***

12        (a) *IN GENERAL.*—*Chapter 3 (as amended by this*  
 13        *title) is further amended by adding at the end the following:*

14    ***“§ 332. State performance of legal sufficiency reviews***

15        “(a) *IN GENERAL.*—*At the request of any State trans-*  
 16        *portation department, the Federal Highway Administra-*  
 17        *tion shall enter into an agreement with the State transpor-*  
 18        *tation department to authorize the State to carry out the*  
 19        *legal sufficiency reviews for environmental impact state-*  
 20        *ments and environmental assessments under the National*  
 21        *Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*  
 22        *in accordance with this section.*

23        “(b) *TERMS OF AGREEMENT.*—*An agreement author-*  
 24        *izing a State to carry out legal sufficiency reviews for Fed-*

1 eral-aid highway projects shall contain the following provi-  
2 sions:

3 “(1) A finding by the Federal Highway Admin-  
4 istration that the State has the capacity to carry out  
5 legal sufficiency reviews that are equivalent in qual-  
6 ity and consistency to the reviews that would other-  
7 wise be conducted by attorneys employed by such Ad-  
8 ministration.

9 “(2) An oversight process, including periodic re-  
10 views conducted by attorneys employed by such Ad-  
11 ministration, to evaluate the quality of the legal suffi-  
12 ciency reviews carried out by the State transportation  
13 department under the agreement.

14 “(3) A requirement for the State transportation  
15 department to submit a written finding of legal suffi-  
16 ciency to the Federal Highway Administration con-  
17 currently with the request by the State for Federal  
18 approval of the National Environmental Policy Act of  
19 1969 (42 U.S.C. 4321 et seq.) document.

20 “(4) An opportunity for the Federal Highway  
21 Administration to conduct an additional legal suffi-  
22 ciency review for any project, for not more than 30  
23 days, if considered necessary by the Federal Highway  
24 Administration.

1           “(5) *Procedures allowing either party to the*  
 2           *agreement to terminate the agreement for any reason*  
 3           *with 30 days notice to the other party.*

4           “(c) *EFFECT OF AGREEMENT.—A legal sufficiency re-*  
 5           *view carried out by a State transportation department*  
 6           *under this section shall be deemed by the Federal Highway*  
 7           *Administration to satisfy the requirement for a legal suffi-*  
 8           *ciency review in sections 771.125(b) and 774.7(d) of title*  
 9           *23, Code of Federal Regulations, or other applicable regula-*  
 10          *tions issued by the Federal Highway Administration.”.*

11          (b) *CLERICAL AMENDMENT.—The analysis for such*  
 12          *chapter (as amended by this title) is further amended by*  
 13          *adding at the end the following:*

          “332. *State performance of legal sufficiency reviews.”.*

14       **SEC. 3017. CATEGORICAL EXCLUSIONS.**

15          (a) *IN GENERAL.—The Secretary shall treat an activ-*  
 16          *ity carried out under title 23, United States Code, or project*  
 17          *within a right-of-way as a class of action categorically ex-*  
 18          *cluded from the requirements relating to environmental as-*  
 19          *sessments or environmental impact statements under sec-*  
 20          *tion 771.117(c) of title 23, Code of Federal Regulations.*

21          (b) *DEFINITIONS.—In this section, the following defi-*  
 22          *nitions apply:*

23               (1) *MULTIMODAL PROJECT.—The term*  
 24               *“multimodal project” means a project funded, in*  
 25               *whole or in part, under title 23, United States Code,*

1       or chapter 53 of title 49 of such Code and involving  
2       the participation of more than one Department of  
3       Transportation administration or agency.

4               (2) *PROJECT*.—The term “project” means any  
5       highway project, public transportation capital  
6       project, or multimodal project that requires the ap-  
7       proval of the Secretary.

8       **SEC. 3018. ENVIRONMENTAL REVIEW PROCESS DEADLINE.**

9               (a) *IN GENERAL*.—

10              (1) *DEADLINE*.—Notwithstanding any other pro-  
11       vision of law, the environmental review process for a  
12       project shall be completed not later than 270 days  
13       after the date on which the notice of project initiation  
14       under section 139(e) of title 23, United States Code,  
15       is published in the Federal Register.

16              (2) *CONSEQUENCES OF MISSED DEADLINE*.—If  
17       the environmental review process for a project is not  
18       completed in accordance with paragraph (1)—

19                      (A) the project shall be considered to have  
20       no significant impact to the human environment  
21       for purposes of the National Environmental Pol-  
22       icy Act of 1969 (42 U.S.C. 4321 et seq.); and

23                      (B) that classification shall be considered to  
24       be a final agency action.

1       (b) *APPEAL.*—*In this section, the following rules shall*  
2 *apply:*

3           (1) *There shall be a single administrative appeal*  
4 *for the environmental review process carried out pur-*  
5 *suant to this section.*

6           (2) *Upon resolution of the administrative ap-*  
7 *peal, judicial review of the final agency decision after*  
8 *exhaustion of administrative remedies shall lie with*  
9 *the United States Court of Appeals for the District of*  
10 *Columbia Circuit.*

11          (3) *An appeal to the court specified in para-*  
12 *graph (2) shall be based only on the administrative*  
13 *record.*

14          (4) *After an agency has made a final decision*  
15 *with respect to the environmental review process car-*  
16 *ried out under this section, that decision shall be ef-*  
17 *fective during the course of any subsequent appeal to*  
18 *a court specified in paragraph (2).*

19          (5) *All civil actions arising under this section*  
20 *shall be considered to arise under the laws of the*  
21 *United States.*

22       (c) *DEFINITIONS.*—*In this section, the following defi-*  
23 *nitions apply:*

24           (1) *ENVIRONMENTAL REVIEW PROCESS.*—

1           (A) *IN GENERAL.*—The term “environ-  
2           mental review process” means the process for  
3           preparing for a project an environmental impact  
4           statement, environmental assessment, categorical  
5           exclusion, or other document prepared under the  
6           National Environmental Policy Act of 1969 (42  
7           U.S.C. 4321 *et seq.*).

8           (B) *INCLUSIONS.*—The term “environmental  
9           review process” includes the process for and com-  
10          pletion of any environmental permit, approval,  
11          review, or study required for a project under any  
12          Federal law other than the National Environ-  
13          mental Policy Act of 1969 (42 U.S.C. 4321 *et*  
14          *seq.*).

15          (2) *LEAD AGENCY.*—The term “lead agency”  
16          means the Department of Transportation and, if ap-  
17          plicable, any State or local governmental entity serv-  
18          ing as a joint lead agency pursuant to this section.

19          (3) *MULTIMODAL PROJECT.*—The term  
20          “multimodal project” means a project funded, in  
21          whole or in part, under title 23, United States Code,  
22          or chapter 53 of title 49 of such Code and involving  
23          the participation of more than one Department of  
24          Transportation administration or agency.

1           (4) *PROJECT*.—The term “project” means any  
 2           highway project, public transportation capital  
 3           project, or multimodal project that requires the ap-  
 4           proval of the Secretary.

5   **SEC. 3019. RELOCATION ASSISTANCE.**

6           (a) *ALTERNATIVE RELOCATION PAYMENT PROCESS*.—

7           (1) *ESTABLISHMENT*.—For the purpose of identi-  
 8           fying improvements in the timeliness of providing re-  
 9           location assistance to persons displaced as a result of  
 10          Federal or federally-assisted programs and projects,  
 11          the Secretary shall establish an alternative relocation  
 12          payment process under which payments to displaced  
 13          persons eligible for relocation assistance pursuant to  
 14          the Uniform Relocation Assistance and Real Property  
 15          Acquisition Policies Act of 1970 (42 U.S.C. 4601 et  
 16          seq.), are calculated based on reasonable estimates  
 17          and paid in advance of the physical displacement of  
 18          the displaced person.

19          (2) *PAYMENTS*.—

20                (A) *TIMING OF PAYMENTS*.—Relocation as-  
 21                sistance payments may be provided to the dis-  
 22                placed person at the same time as payments of  
 23                just compensation for real property acquired for  
 24                a program or project of the State.

1           (B) *COMBINED PAYMENT.*—*Payments for*  
 2           *relocation and just compensation may be com-*  
 3           *bined into a single unallocated amount.*

4           (3) *CONDITIONS FOR STATE USE OF ALTER-*  
 5           *NATIVE PROCESS.*—

6           (A) *IN GENERAL.*—*After public notice and*  
 7           *an opportunity to comment, the Secretary shall*  
 8           *adopt criteria for States to use the alternative*  
 9           *relocation payment process established by the*  
 10          *Secretary.*

11          (B) *MEMORANDUM OF AGREEMENT.*—*In*  
 12          *order to use the alternative relocation payment*  
 13          *process, a State shall enter into a memorandum*  
 14          *of agreement with the Secretary that includes*  
 15          *provisions relating to—*

16               (i) *the selection of projects or programs*  
 17               *within the State to which the alternative re-*  
 18               *location payment process will be applied;*

19               (ii) *program and project-level moni-*  
 20               *toring;*

21               (iii) *performance measurement;*

22               (iv) *reporting requirements; and*

23               (v) *the circumstances under which the*  
 24          *Secretary may terminate or suspend the au-*

1            *thority of the State to use the alternative re-*  
2            *location payment process.*

3            (C) *REQUIRED INFORMATION.*—A State  
4            *may use the alternative relocation payment proc-*  
5            *ess only after the displaced persons affected by a*  
6            *program or project—*

7            *(i) are informed in writing—*

8            *(I) that the relocation payments*  
9            *the displaced persons receive under the*  
10           *alternative relocation payment process*  
11           *may be higher or lower than the*  
12           *amount that the displaced persons*  
13           *would have received under the stand-*  
14           *ard relocation assistance process; and*

15           *(II) of their right not to partici-*  
16           *pate in the alternative relocation pay-*  
17           *ment process; and*

18           *(ii) agree in writing to the alternative*  
19           *relocation payment process.*

20           (D) *ELECTION NOT TO PARTICIPATE.*—The  
21           *displacing agency shall provide any displaced*  
22           *person who elects not to participate in the alter-*  
23           *native relocation payment process with reloca-*  
24           *tion assistance in accordance with the Uniform*  
25           *Relocation Assistance and Real Property Acqui-*

1            *sition Policies Act of 1970 (42 U.S.C. 4601 et*  
2            *seq.).*

3            (4) *PROTECTIONS AGAINST INCONSISTENT*  
4            *TREATMENT.—If other Federal agencies plan displace-*  
5            *ments in or adjacent to an area of a project using the*  
6            *alternative relocation payment process within the*  
7            *same time period as a project acquisition and reloca-*  
8            *tion action of the project, the Secretary shall adopt*  
9            *measures to protect against inconsistent treatment of*  
10           *displaced persons. Such measures may include a de-*  
11           *termination that the alternative relocation payment*  
12           *process authority may not be used on a specific*  
13           *project.*

14           (5) *REPORT.—*

15           (A) *IN GENERAL.—The Secretary shall sub-*  
16           *mit to Congress an annual report on the imple-*  
17           *mentation of the alternative relocation payment*  
18           *process.*

19           (B) *CONTENTS.—The report shall include*  
20           *an evaluation of the merits of the alternative re-*  
21           *location payment process, including the effects of*  
22           *the alternative relocation payment process on—*

23           (i) *displaced persons and the protec-*  
24           *tions afforded to such persons by the Uni-*  
25           *form Relocation Assistance and Real Prop-*

1                    *erty Acquisition Policies Act of 1970 (42*  
 2                    *U.S.C. 4601 et seq.);*

3                    *(ii) the efficiency of the delivery of*  
 4                    *Federal-aid highway projects and overall ef-*  
 5                    *fects on the Federal-aid highway program;*  
 6                    *and*

7                    *(iii) the achievement of the purposes of*  
 8                    *the Uniform Relocation Assistance and Real*  
 9                    *Property Acquisition Policies Act of 1970*  
 10                   *(42 U.S.C. 4601 et seq.).*

11                (6) *LIMITATION.—The alternative relocation*  
 12                *payment process under this section may be used only*  
 13                *on projects funded under title 23, United States Code,*  
 14                *in cases in which the funds are administered by the*  
 15                *Federal Highway Administration.*

16                (7) *NEPA APPLICABILITY.—Notwithstanding*  
 17                *any other provision of law, the use of the alternative*  
 18                *relocation payment process established under this sec-*  
 19                *tion on a project funded under title 23, United States*  
 20                *Code, and administered by the Federal Highway Ad-*  
 21                *ministration is not a major Federal action requiring*  
 22                *analysis or approval under the National Environ-*  
 23                *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

24                (b) *UNIFORM RELOCATION ASSISTANCE ACT AMEND-*  
 25                *MENTS.—*

(1) *MOVING AND RELATED EXPENSES.*—Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amended—

(A) in subsection (a)(4) by striking “\$10,000” and inserting “\$25,000, as adjusted by regulation, in accordance with section 213(d)”; and

(B) in the second sentence of subsection (c) by striking “\$20,000” and inserting “\$40,000, as adjusted by regulation, in accordance with section 213(d)”.

(2) *REPLACEMENT HOUSING FOR HOME-OWNERS.*—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended by—

(A) striking “\$22,500” and inserting “\$31,000, as adjusted by regulation, in accordance with section 213(d),”; and

(B) striking “one hundred and eighty days prior to” and inserting “90 days before”.

(3) *REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.*—Section 204 of the Uniform Relo-

1        *cation Assistance and Real Property Acquisition Poli-*  
2        *cies Act of 1970 (42 U.S.C. 4624) is amended—*

3                *(A) in the second sentence of subsection (a)*  
4                *by striking “\$5,250” and inserting “\$7,200, as*  
5                *adjusted by regulation, in accordance with sec-*  
6                *tion 213(d)”;* and

7                *(B) in the second sentence of subsection (b)*  
8                *by striking “, except” and all that follows*  
9                *through the end of the subsection and inserting*  
10               *a period.*

11        *(4) DUTIES OF LEAD AGENCY.—Section 213 of*  
12        *the Uniform Relocation Assistance and Real Property*  
13        *Acquisition Policies Act of 1970 (42 U.S.C. 4633) is*  
14        *amended—*

15               *(A) in subsection (b)—*

16               *(i) in paragraph (2) by striking*  
17               *“and”;*

18               *(ii) in paragraph (3) by striking the*  
19               *period and inserting “; and”;* and

20               *(iii) by adding at the end the fol-*  
21               *lowing:*

22               *“(4) that each Federal agency that has programs*  
23               *or projects requiring the acquisition of real property*  
24               *or causing a displacement from real property subject*  
25               *to the provisions of this Act shall provide to the lead*

1        *agency an annual summary report that describes the*  
 2        *activities conducted by the Federal agency.”; and*

3                        *(B) by adding at the end the following:*

4        *“(d) ADJUSTMENT OF PAYMENTS.—The head of the*  
 5        *lead agency may adjust, by regulation, the amounts of relo-*  
 6        *cation payments provided under sections 202(a)(4), 202(c),*  
 7        *203(a), and 204(a) if the head of the lead agency determines*  
 8        *that cost of living, inflation, or other factors indicate that*  
 9        *the payments should be adjusted to meet the policy objec-*  
 10       *tives of this Act.”.*

11                    *(5) AGENCY COORDINATION.—Title II of the Uni-*  
 12        *form Relocation Assistance and Real Property Acqui-*  
 13        *sition Policies Act of 1970 (42 U.S.C. 4601 et seq.)*  
 14        *is amended by inserting after section 213 (42 U.S.C.*  
 15        *4633) the following:*

16        **“SEC. 214. AGENCY COORDINATION.**

17        *“(a) AGENCY CAPACITY.—Each Federal agency re-*  
 18        *sponsible for funding or carrying out relocation and acqui-*  
 19        *sition activities shall have adequately trained personnel*  
 20        *and such other resources as are necessary to manage and*  
 21        *oversee the relocation and acquisition program of the Fed-*  
 22        *eral agency in accordance with this Act.*

23        *“(b) INTERAGENCY AGREEMENTS.—Not later than 1*  
 24        *year after the date of the enactment of this section, each*  
 25        *Federal agency responsible for funding relocation and ac-*

1 *quisition activities (other than the agency serving as the*  
2 *lead agency) shall enter into a memorandum of under-*  
3 *standing with the lead agency that—*

4       “(1) *provides for periodic training of the per-*  
5 *sonnel of the Federal agency, which in the case of a*  
6 *Federal agency that provides Federal financial assist-*  
7 *ance, may include personnel of any displacing agency*  
8 *that receives Federal financial assistance;*

9       “(2) *addresses ways in which the lead agency*  
10 *may provide assistance and coordination to the Fed-*  
11 *eral agency relating to compliance with this Act on*  
12 *a program or project basis; and*

13       “(3) *addresses the funding of the training, assist-*  
14 *ance, and coordination activities provided by the lead*  
15 *agency, in accordance with subsection (c).*

16       “(c) *INTERAGENCY PAYMENTS.—*

17       “(1) *IN GENERAL.—For the fiscal year that be-*  
18 *gins 1 year after the date of the enactment of this sec-*  
19 *tion, and each fiscal year thereafter, each Federal*  
20 *agency responsible for funding relocation and acquisi-*  
21 *tion activities (other than the agency serving as the*  
22 *lead agency) shall transfer to the lead agency for the*  
23 *fiscal year, such funds as are necessary, but not less*  
24 *than \$35,000, to support the training, assistance, and*

1       *coordination activities of the lead agency described in*  
2       *subsection (b).*

3               “(2) *INCLUDED COSTS.*—*The cost to a Federal*  
4       *agency of providing the funds described in paragraph*  
5       *(1) shall be included as part of the cost of 1 or more*  
6       *programs or projects undertaken by the Federal agen-*  
7       *cy or with Federal financial assistance that result in*  
8       *the displacement of persons or the acquisition of real*  
9       *property.”.*

10       “(c) *COOPERATION WITH FEDERAL AGENCIES.*—*Sec-*  
11       *tion 308(a) is amended to read as follows:*

12               “(a) *AUTHORIZED ACTIVITIES.*—

13               “(1) *IN GENERAL.*—*The Secretary may perform,*  
14       *by contract or otherwise, authorized engineering or*  
15       *other services in connection with the survey, construc-*  
16       *tion, maintenance, or improvement of highways for*  
17       *other Federal agencies, cooperating foreign countries,*  
18       *and State cooperating agencies.*

19               “(2) *INCLUSIONS.*—*Services authorized under*  
20       *paragraph (1) may include activities authorized*  
21       *under section 214 of the Uniform Relocation Assist-*  
22       *ance and Real Property Acquisition Policies Act of*  
23       *1970 (42 U.S.C. 4601 et seq.).*

24               “(3) *REIMBURSEMENT.*—*Reimbursement for*  
25       *services carried out under this subsection, including*

1       *depreciation on engineering and road-building equip-*  
 2       *ment, shall be credited to the applicable appropria-*  
 3       *tion.”.*

4       ***TITLE IV—TRANSPORTATION***  
 5       ***PLANNING***

6       ***SEC. 4001. TRANSPORTATION PLANNING.***

7       *(a) IN GENERAL.—Subtitle III of title 49, United*  
 8       *States Code, is amended by inserting after chapter 51 the*  
 9       *following:*

10       ***“CHAPTER 52—TRANSPORTATION***  
 11       ***PLANNING***

*“Sec.*

*“5201. Policy.*

*“5202. Definitions.*

*“5203. Metropolitan transportation planning.*

*“5204. Statewide transportation planning.*

*“5205. National strategic transportation plan.*

*“5206. National performance management system.*

12       ***“§ 5201. Policy***

13       *“(a) IN GENERAL.—It is in the national interest to—*  
 14       *“(1) encourage and promote the safe and effi-*  
 15       *cient management, operation, and development of sur-*  
 16       *face transportation systems that will serve the mobil-*  
 17       *ity needs of people and freight and foster economic*  
 18       *growth and development within and between States*  
 19       *and urbanized areas, while minimizing transpor-*  
 20       *tation-related fuel consumption and air pollution*  
 21       *through metropolitan and statewide transportation*  
 22       *planning processes identified in this chapter; and*

1           “(2) *encourage the continued improvement and*  
 2           *evolution of the metropolitan and statewide transpor-*  
 3           *tation planning processes by metropolitan planning*  
 4           *organizations, State departments of transportation,*  
 5           *and public transportation operators as guided by the*  
 6           *planning factors identified in sections 5203(f) and*  
 7           *5204(d).*

8           “(b) *COMMON TRANSPORTATION PLANNING PRO-*  
 9           *GRAM.—This chapter provides a common transportation*  
 10          *planning program to be administered by the Federal High-*  
 11          *way Administration and the Federal Transit Administra-*  
 12          *tion.*

13       **“§ 5202. Definitions**

14          *“In this chapter, the following definitions apply:*

15               “(1) *METROPOLITAN PLANNING AREA.—The term*  
 16               *‘metropolitan planning area’ means the geographic*  
 17               *area determined by agreement between the metropoli-*  
 18               *tan planning organization for the area and the Gov-*  
 19               *ernor under section 5203(c).*

20               “(2) *METROPOLITAN LONG-RANGE TRANSPOR-*  
 21               *TATION PLAN.—The term ‘metropolitan long-range*  
 22               *transportation plan’ means a long-range transpor-*  
 23               *tation plan developed by an MPO under section 5203*  
 24               *for a metropolitan planning area.*

1           “(3) *METROPOLITAN PLANNING ORGANIZATION;*  
 2           *MPO.—The term ‘metropolitan planning organization’*  
 3           *or ‘MPO’ means the policy board of an organization*  
 4           *created as a result of the designation process in sec-*  
 5           *tion 5203(b).*

6           “(4) *METROPOLITAN TRANSPORTATION IMPROVE-*  
 7           *MENT PROGRAM; METROPOLITAN TIP.—The term ‘met-*  
 8           *ropolitan transportation improvement program’ or*  
 9           *‘metropolitan TIP’ means a transportation improve-*  
 10          *ment program developed by an MPO under section*  
 11          *5203 for a metropolitan planning area.*

12          “(5) *NONMETROPOLITAN AREA.—The term ‘non-*  
 13          *metropolitan area’ means a geographic area outside*  
 14          *designated metropolitan planning areas.*

15          “(6) *NONMETROPOLITAN LOCAL OFFICIAL.—The*  
 16          *term ‘nonmetropolitan local official’ means elected*  
 17          *and appointed officials of general purpose local gov-*  
 18          *ernment in a nonmetropolitan area with responsi-*  
 19          *bility for transportation.*

20          “(7) *REGIONAL TRANSPORTATION PLANNING OR-*  
 21          *GANIZATION.—The term ‘regional transportation*  
 22          *planning organization’ means a policy board of an*  
 23          *organization created as the result of a designation*  
 24          *under section 5204(k).*

1           “(8) *SECRETARY*.—The term ‘Secretary’ means  
2           the Secretary of Transportation.

3           “(9) *STATE*.—The term ‘State’ means any of the  
4           50 States, the District of Columbia, or Puerto Rico.

5           “(10) *STATEWIDE STRATEGIC LONG-RANGE*  
6           *TRANSPORTATION PLAN*.—The term ‘statewide stra-  
7           tegic long-range transportation plan’ means a stra-  
8           tegic long-range transportation plan developed by a  
9           State under section 5204 for all areas of the State.

10          “(11) *STATEWIDE TRANSPORTATION IMPROVE-*  
11          *MENT PROGRAM; STATEWIDE TIP*.—The term ‘state-  
12          wide transportation improvement program’ or ‘state-  
13          wide TIP’ means a transportation improvement pro-  
14          gram developed by a State under section 5204 for all  
15          areas of the State.

16          “(12) *URBANIZED AREA*.—The term ‘urbanized  
17          area’ means a geographic area with a population of  
18          50,000 or more, as designated by the Bureau of the  
19          Census.

20       **“§ 5203. Metropolitan transportation planning**

21          “(a) *GENERAL REQUIREMENTS*.—

22               “(1) *DEVELOPMENT OF METROPOLITAN LONG-*  
23               *RANGE PLANS AND TIPS*.—To accomplish the objec-  
24               tives set forth in section 5201, metropolitan planning  
25               organizations designated under subsection (b), in co-

1        *operation with the State and public transportation*  
2        *operators, shall develop metropolitan long-range*  
3        *transportation plans and transportation improvement*  
4        *programs for metropolitan planning areas of the*  
5        *State.*

6                “(2) *CONTENTS.—Metropolitan long-range trans-*  
7        *portation plans and TIPs shall provide for the devel-*  
8        *opment and integrated management and operation of*  
9        *transportation systems and facilities (including acces-*  
10       *sible pedestrian walkways, bicycle transportation fa-*  
11       *cilities, and intermodal facilities that support inter-*  
12       *city transportation, including intercity buses and*  
13       *intercity bus facilities) that will function as an inter-*  
14       *modal transportation system for the metropolitan*  
15       *planning area and as an integral part of an inter-*  
16       *modal transportation system for the State and the*  
17       *United States.*

18                “(3) *PROCESS OF DEVELOPMENT.—The process*  
19        *for developing metropolitan long-range transportation*  
20        *plans and TIPs shall provide for consideration of all*  
21        *modes of transportation and shall be continuing, co-*  
22        *operative, and comprehensive to the degree appro-*  
23        *priate, based on the complexity of the transportation*  
24        *problems to be addressed.*

25                “(b) *DESIGNATION OF MPOS.—*

1           “(1) *IN GENERAL.*—To carry out the transpor-  
2           tation planning process required by this section, an  
3           MPO shall be designated for an urbanized area with  
4           a population of more than 100,000 individuals—

5                   “(A) *by agreement between the Governor*  
6                   *and units of general purpose local government*  
7                   *that together represent at least 75 percent of the*  
8                   *affected population (including the largest incor-*  
9                   *porated city (based on population) as named by*  
10                  *the Bureau of the Census); or*

11                  “(B) *in accordance with procedures estab-*  
12                  *lished by applicable State or local law.*

13           “(2) *STRUCTURE.*—An MPO that serves an area  
14           designated as a transportation management area,  
15           when designated or redesignated under this sub-  
16           section, shall consist of—

17                   “(A) *local elected officials;*

18                   “(B) *officials of public agencies that admin-*  
19                   *ister or operate major modes of transportation in*  
20                   *the metropolitan area; and*

21                   “(C) *appropriate State officials.*

22           “(3) *LIMITATION ON STATUTORY CONSTRUC-*  
23           *TION.*—Nothing in this subsection may be construed  
24           to interfere with the authority, under any State law

1       *in effect on December 18, 1991, of a public agency*  
2       *with multimodal transportation responsibilities to—*

3               “(A) *develop metropolitan long-range trans-*  
4               *portation plans or TIPs for adoption by an*  
5               *MPO; and*

6               “(B) *develop long-range capital plans, co-*  
7               *ordinate public transportation services or*  
8               *projects, or carry out other activities pursuant to*  
9               *State law.*

10              “(4) *CONTINUING DESIGNATION.—A designation*  
11              *of an MPO under this subsection or any other provi-*  
12              *sion of law shall remain in effect until the MPO is*  
13              *redesignated under paragraph (5) or revoked by*  
14              *agreement among the Governor and units of general*  
15              *purpose local government that together represent at*  
16              *least 75 percent of the affected population or as other-*  
17              *wise provided under State or local procedures.*

18              “(5) *REDESIGNATION PROCEDURES.—An MPO*  
19              *may be redesignated by agreement between the Gov-*  
20              *ernor and units of general purpose local government*  
21              *that together represent at least 75 percent of the exist-*  
22              *ing planning area population (including the largest*  
23              *incorporated city (based on population) as named by*  
24              *the Bureau of the Census) as appropriate to carry out*  
25              *this section.*

1           “(6) *DESIGNATION OF MULTIPLE MPOS.*—*More*  
 2           *than 1 MPO may be designated within an existing*  
 3           *metropolitan planning area only if the Governor and*  
 4           *the existing MPO determine that the size and com-*  
 5           *plexity of the existing metropolitan planning area*  
 6           *make designation of more than 1 MPO for the area*  
 7           *appropriate.*

8           “(c) *METROPOLITAN PLANNING AREA BOUNDARIES.*—

9           “(1) *IN GENERAL.*—*For the purposes of this sec-*  
 10          *tion, the boundaries of a metropolitan planning area*  
 11          *shall be determined by agreement between the MPO*  
 12          *and the Governor.*

13          “(2) *INCLUDED AREA.*—*A metropolitan planning*  
 14          *area—*

15               “(A) *shall encompass at least the existing*  
 16               *urbanized area and the contiguous area expected*  
 17               *to become urbanized within a 20-year forecast*  
 18               *period for the metropolitan long-range transpor-*  
 19               *tation plan; and*

20               “(B) *may encompass the entire metropoli-*  
 21               *tan statistical area or consolidated metropolitan*  
 22               *statistical area, as defined by the Bureau of the*  
 23               *Census.*

24          “(3) *IDENTIFICATION OF NEW URBANIZED AREAS*  
 25          *WITHIN EXISTING PLANNING AREA BOUNDARIES.*—*The*

1      *designation by the Bureau of the Census of new ur-*  
 2      *banized areas within an existing metropolitan plan-*  
 3      *ning area shall not require the redesignation of the*  
 4      *existing MPO.*

5            *“(4) EXISTING METROPOLITAN PLANNING AREAS*  
 6      *IN NONATTAINMENT.—Notwithstanding paragraph*  
 7      *(2), in the case of an urbanized area designated as a*  
 8      *nonattainment area for ozone or carbon monoxide*  
 9      *under the Clean Air Act (42 U.S.C. 7401 et seq.) as*  
 10     *of August 10, 2005, the boundaries of the metropoli-*  
 11     *tan planning area in existence as of such date shall*  
 12     *be retained, except that the boundaries may be ad-*  
 13     *justed by agreement of the Governor and affected*  
 14     *MPOs in the manner described in subsection (b)(5).*

15           *“(5) NEW METROPOLITAN PLANNING AREAS IN*  
 16      *NONATTAINMENT.—In the case of an urbanized area*  
 17      *designated after August 10, 2005, as a nonattainment*  
 18      *area for ozone or carbon monoxide, the boundaries of*  
 19      *the metropolitan planning area—*

20            *“(A) shall be established in the manner de-*  
 21            *scribed in subsection (b)(1);*

22            *“(B) shall encompass the areas described in*  
 23            *subsection (c)(2)(A);*

24            *“(C) may encompass the areas described in*  
 25            *subsection (c)(2)(B); and*

1           “(D) may address any nonattainment area  
 2           identified under the Clean Air Act for ozone or  
 3           carbon monoxide.

4           “(d) COORDINATION IN MULTISTATE AREAS.—

5           “(1) IN GENERAL.—The Secretary shall encour-  
 6           age a Governor with responsibility for a portion of a  
 7           multistate metropolitan area and the appropriate  
 8           MPOs to provide coordinated transportation planning  
 9           for the entire metropolitan area.

10          “(2) INTERSTATE COMPACTS.—The consent of  
 11          Congress is granted to any 2 or more States—

12               “(A) to enter into agreements or compacts,  
 13               not in conflict with any law of the United  
 14               States, for cooperative efforts and mutual assist-  
 15               ance in support of activities authorized under  
 16               this section as the activities pertain to interstate  
 17               areas and localities within the States; and

18               “(B) to establish such agencies, joint or oth-  
 19               erwise, as the States may determine desirable for  
 20               making the agreements and compacts effective.

21          “(3) RESERVATION OF RIGHTS.—The right to  
 22          alter, amend, or repeal interstate compacts entered  
 23          into under this subsection is expressly reserved.

24          “(e) MPO CONSULTATION IN PLAN AND TIP COORDI-  
 25          NATION.—

1           “(1) *NONATTAINMENT AREAS.*—If more than 1  
 2           *MPO has authority within a metropolitan area or an*  
 3           *area that is designated as a nonattainment area for*  
 4           *ozone or carbon monoxide under the Clean Air Act,*  
 5           *each MPO shall consult with the other MPOs des-*  
 6           *ignated for such area and the State in the coordina-*  
 7           *tion of metropolitan long-range transportation plans*  
 8           *and TIPs.*

9           “(2) *TRANSPORTATION IMPROVEMENTS LOCATED*  
 10          *IN AREAS REPRESENTED BY MULTIPLE MPOS.*—If a  
 11          *transportation improvement, funded from the High-*  
 12          *way Trust Fund or authorized under chapter 53 of*  
 13          *this title, is located within the boundaries of more*  
 14          *than 1 metropolitan planning area, the MPOs shall*  
 15          *coordinate metropolitan long-range transportation*  
 16          *plans and TIPs regarding the transportation im-*  
 17          *provement.*

18          “(3) *RELATIONSHIP WITH OTHER PLANNING OF-*  
 19          *FICIALS.*—The Secretary shall encourage an MPO to  
 20          *consult with officials responsible for other types of*  
 21          *planning activities that are affected by transportation*  
 22          *in the area (including State and local planned*  
 23          *growth, economic development, environmental protec-*  
 24          *tion, airport operations, and freight movements) or to*  
 25          *coordinate its planning process, to the maximum ex-*

1        *tent practicable, with such planning activities. Under*  
2        *the metropolitan planning process, metropolitan long-*  
3        *range transportation plans and TIPs shall be devel-*  
4        *oped with due consideration of other related planning*  
5        *activities within the metropolitan area, and the proc-*  
6        *ess shall provide for the design and delivery of trans-*  
7        *portation services within the metropolitan area that*  
8        *are provided by—*

9                *“(A) recipients of assistance under chapter*  
10              *53;*

11              *“(B) governmental agencies and nonprofit*  
12              *organizations (including representatives of the*  
13              *agencies and organizations) that receive Federal*  
14              *assistance from a source other than the Depart-*  
15              *ment of Transportation to provide nonemergency*  
16              *transportation services; and*

17              *“(C) recipients of assistance under sections*  
18              *202 and 203 of title 23.*

19        *“(f) SCOPE OF PLANNING PROCESS.—*

20              *“(1) IN GENERAL.—The metropolitan planning*  
21              *process for a metropolitan planning area under this*  
22              *section shall provide for consideration of projects and*  
23              *strategies that will—*

1           “(A) support the economic vitality of the  
2           metropolitan area, especially by enabling global  
3           competitiveness, productivity, and efficiency;

4           “(B) increase the safety of the transpor-  
5           tation system for motorized and nonmotorized  
6           users;

7           “(C) increase the security of the transpor-  
8           tation system for motorized and nonmotorized  
9           users;

10          “(D) increase the accessibility and mobility  
11          of people and for freight;

12          “(E) protect and enhance the environment,  
13          promote energy conservation, improve the qual-  
14          ity of life, and promote consistency between  
15          transportation improvements and State and  
16          local planned growth and economic development  
17          patterns;

18          “(F) enhance the integration and  
19          connectivity of the transportation system, across  
20          and between modes, for people and freight;

21          “(G) promote efficient system management  
22          and operation, including through the use of in-  
23          telligent transportation systems;

24          “(H) emphasize the preservation of the ex-  
25          isting transportation system; and

1                   “(I) support intermodal facilities or facili-  
2                   tate regional growth.

3                   “(2) *FAILURE TO CONSIDER FACTORS.*—*The fail-*  
4                   *ure to consider any factor specified in paragraph (1)*  
5                   *shall not be reviewable by any court under title 23,*  
6                   *chapter 53 of this title, subchapter II of chapter 5 of*  
7                   *title 5, or chapter 7 of title 5 in any matter affecting*  
8                   *a metropolitan long-range transportation plan or*  
9                   *TIP, a project or strategy, or the certification of a*  
10                  *planning process.*

11                  “(g) *DEVELOPMENT OF LONG-RANGE TRANSPOR-*  
12                  *TATION PLAN.*—

13                   “(1) *IN GENERAL.*—

14                   “(A) *EXISTING AND FORMER NONATTAIN-*  
15                   *MENT AREAS.*—*An MPO shall prepare and up-*  
16                   *date a metropolitan long-range transportation*  
17                   *plan for its metropolitan planning area in ac-*  
18                   *cordance with the requirements of this sub-*  
19                   *section. The MPO shall prepare and update the*  
20                   *plan every 4 years (or more frequently, if the*  
21                   *MPO elects to update more frequently) in the*  
22                   *case of each of the following:*

23                   “(i) *Any area designated as nonattain-*  
24                   *ment, as defined in section 107(d) of the*  
25                   *Clean Air Act (42 U.S.C. 7407(d)).*

1                   “(ii) *Any area that was nonattainment*  
2                   *and subsequently designated to attainment*  
3                   *in accordance with section 107(d)(3) of that*  
4                   *Act (42 U.S.C. 7407(d)(3)) and that is sub-*  
5                   *ject to a maintenance plan under section*  
6                   *175A of that Act (42 U.S.C. 7505a).*

7                   “(B) *OTHER AREAS.—In the case of any*  
8                   *other area required to have a metropolitan long-*  
9                   *range transportation plan, the MPO shall pre-*  
10                  *pare and update the plan every 5 years unless*  
11                  *the MPO elects to update more frequently.*

12                  “(2) *LONG-RANGE TRANSPORTATION PLAN.—A*  
13                  *metropolitan long-range transportation plan shall be*  
14                  *in a form that the Secretary determines to be appro-*  
15                  *priate and shall contain, at a minimum, the fol-*  
16                  *lowing:*

17                  “(A) *IDENTIFICATION OF TRANSPORTATION*  
18                  *FACILITIES.—An identification of transportation*  
19                  *facilities (including major roadways, public*  
20                  *transportation facilities, intercity bus facilities,*  
21                  *multimodal and intermodal facilities, and inter-*  
22                  *modal connectors) that should function as an in-*  
23                  *tegrated metropolitan transportation system, giv-*  
24                  *ing emphasis to those facilities that serve impor-*  
25                  *tant national and regional transportation func-*

1        *tions. In formulating the plan, the MPO shall*  
2        *consider factors described in subsection (f) and*  
3        *other relevant data and factors disseminated by*  
4        *the Secretary pursuant to section 5205(b) as*  
5        *such factors relate to a 20-year forecast period.*

6            *“(B) MITIGATION ACTIVITIES.—*

7            *“(i) IN GENERAL.—A metropolitan*  
8            *long-range transportation plan shall include*  
9            *a discussion of types of potential environ-*  
10          *mental mitigation activities and potential*  
11          *areas to carry out these activities, including*  
12          *activities that may have the greatest poten-*  
13          *tial to restore and maintain the environ-*  
14          *mental functions affected by the plan.*

15          *“(ii) CONSULTATION.—The discussion*  
16          *shall be developed in consultation with Fed-*  
17          *eral, State, and tribal wildlife, land man-*  
18          *agement, and regulatory agencies.*

19          *“(C) FINANCIAL PLAN.—*

20          *“(i) IN GENERAL.—A financial plan*  
21          *that—*

22                  *“(I) demonstrates how the adopted*  
23                  *metropolitan long-range transportation*  
24                  *plan can be implemented;*

1                   “(II) indicates resources from  
2                   public and private sources that are  
3                   reasonably expected to be made avail-  
4                   able to carry out the metropolitan  
5                   long-range transportation plan;

6                   “(III) recommends any additional  
7                   financing strategies for needed projects  
8                   and programs; and

9                   “(IV) may include, for illustrative  
10                  purposes, additional projects that  
11                  would be included in the adopted met-  
12                  ropolitan long-range transportation  
13                  plan if reasonable additional resources  
14                  beyond those identified in the financial  
15                  plan were available.

16                  “(ii) *ESTIMATES OF FUNDS.*—For the  
17                  purpose of developing the metropolitan long-  
18                  range transportation plan, the MPO, public  
19                  transportation operator, and State shall co-  
20                  operatively develop estimates of funds that  
21                  will be available to support plan implemen-  
22                  tation.

23                  “(D) *OPERATIONAL AND MANAGEMENT*  
24                  *STRATEGIES.*—Operational and management  
25                  strategies to improve the performance of existing

1        *transportation facilities to relieve vehicular con-*  
2        *gestion and maximize the safety and mobility of*  
3        *people and goods.*

4                “(E) *CAPITAL INVESTMENT AND OTHER*  
5        *STRATEGIES.*—*Capital investment and other*  
6        *strategies to preserve the existing and projected*  
7        *future metropolitan transportation infrastruc-*  
8        *ture and provide for multimodal capacity in-*  
9        *creases based on regional priorities and needs.*

10              “(3) *INTERCITY BUS.*—*A metropolitan long-*  
11        *range transportation plan shall consider the role*  
12        *intercity buses may play in reducing congestion, pol-*  
13        *lution, and energy consumption in a cost-effective*  
14        *manner and strategies and investments that preserve*  
15        *and enhance intercity bus systems, including systems*  
16        *that are privately owned and operated.*

17              “(4) *COORDINATION WITH CLEAN AIR ACT AGEN-*  
18        *CIES.*—*In metropolitan areas that are in nonattain-*  
19        *ment for ozone or carbon monoxide under the Clean*  
20        *Air Act, the MPO shall coordinate the development of*  
21        *a metropolitan long-range transportation plan with*  
22        *the process for development of the transportation con-*  
23        *trol measures of the State implementation plan re-*  
24        *quired by that Act.*

25              “(5) *CONSULTATION; COMPARISONS.*—

1           “(A) *CONSULTATION.*—A metropolitan long-  
2           range transportation plan shall be developed, as  
3           appropriate, in consultation with State and  
4           local agencies responsible for land use manage-  
5           ment, natural resources, environmental protec-  
6           tion, conservation, and historic preservation.

7           “(B) *COMPARISONS.*—Consultation under  
8           subparagraph (A) shall involve, as appropriate,  
9           a comparison of the metropolitan long-range  
10          transportation plan—

11                 “(i) to State conservation plans and  
12                 maps, if available; and

13                 “(ii) to inventories of natural and his-  
14                 toric resources, if available.

15          “(6) *PARTICIPATION BY INTERESTED PARTIES.*—

16                 “(A) *IN GENERAL.*—An MPO shall provide  
17                 citizens, affected public agencies, representatives  
18                 of public transportation employees, freight ship-  
19                 pers, providers of freight transportation services,  
20                 private providers of transportation, including  
21                 intercity bus services, representatives of users of  
22                 public transportation, representatives of users of  
23                 pedestrian walkways and bicycle transportation  
24                 facilities, representatives of the disabled, and  
25                 other interested parties with a reasonable oppor-

1           *tunity to comment on its metropolitan long-*  
2           *range transportation plan.*

3           “(B) *CONTENTS OF PARTICIPATION PLAN.*—

4           *A participation plan shall—*

5                     “(i) *be developed in consultation with*  
6                     *all interested parties; and*

7                     “(ii) *provide that all interested parties*  
8                     *have reasonable opportunities to comment*  
9                     *on the contents of the metropolitan long-*  
10                    *range transportation plan.*

11           “(C) *METHODS.*—*In carrying out subpara-*  
12           *graph (A), the MPO shall, to the maximum ex-*  
13           *tent practicable—*

14                    “(i) *hold any public meetings at con-*  
15                    *venient and accessible locations and times;*

16                    “(ii) *employ visualization techniques*  
17                    *to describe plans; and*

18                    “(iii) *make public information avail-*  
19                    *able in electronically accessible format and*  
20                    *means, such as the Internet, as appropriate*  
21                    *to afford a reasonable opportunity for con-*  
22                    *sideration of public information under sub-*  
23                    *paragraph (A).*

24           “(7) *PUBLICATION.*—*A metropolitan long-range*  
25           *transportation plan involving Federal participation*

1     *shall be published or otherwise made readily available*  
 2     *by the MPO for public review (including to the max-*  
 3     *imum extent practicable in electronically accessible*  
 4     *formats and means, such as the Internet) approved by*  
 5     *the MPO, and submitted for information purposes to*  
 6     *the Governor, at such times and in such manner as*  
 7     *the Secretary shall establish.*

8             “(8) *SELECTION OF PROJECTS FROM ILLUS-*  
 9     *TRATIVE LIST.—Notwithstanding paragraph (2)(C), a*  
 10    *State or MPO shall not be required to select any*  
 11    *project from the illustrative list of additional projects*  
 12    *included in the financial plan under such paragraph.*

13           “(h) *METROPOLITAN TIP.—*

14           “(1) *DEVELOPMENT.—*

15           “(A) *IN GENERAL.—In cooperation with the*  
 16    *State and any affected public transportation op-*  
 17    *erator, the MPO designated for a metropolitan*  
 18    *area shall develop a metropolitan TIP for the*  
 19    *area for which the organization is designated.*

20           “(B) *OPPORTUNITY FOR COMMENT.—In de-*  
 21    *veloping the metropolitan TIP, the MPO, in co-*  
 22    *operation with the State and any affected public*  
 23    *transportation operator, shall provide an oppor-*  
 24    *tunity for participation by interested parties in*

1        *the development of the program, in accordance*  
2        *with subsection (g)(6).*

3                *“(C) FUNDING ESTIMATES.—For the pur-*  
4        *pose of developing the metropolitan TIP, the*  
5        *MPO, public transportation agency, and State*  
6        *shall cooperatively develop estimates of funds*  
7        *that are reasonably expected to be available to*  
8        *support program implementation.*

9                *“(D) UPDATING AND APPROVAL.—The met-*  
10        *ropolitan TIP shall be updated at least once*  
11        *every 4 years and shall be approved by the MPO*  
12        *and the Governor.*

13                *“(2) CONTENTS.—*

14                *“(A) PRIORITY LIST.—The metropolitan*  
15        *TIP shall include a priority list of proposed fed-*  
16        *erally supported projects and strategies to be car-*  
17        *ried out within each 4-year period after the ini-*  
18        *tial adoption of the metropolitan TIP.*

19                *“(B) FINANCIAL PLAN.—The metropolitan*  
20        *TIP shall include a financial plan that—*

21                        *“(i) demonstrates how the metropolitan*  
22        *TIP can be implemented;*

23                        *“(ii) indicates resources from public*  
24        *and private sources that are reasonably ex-*

1           pected to be available to carry out the met-  
2           ropolitan TIP;

3           “(iii) identifies innovative financing  
4           techniques to finance projects, programs,  
5           and strategies; and

6           “(iv) may include, for illustrative pur-  
7           poses, additional projects that would be in-  
8           cluded in the approved metropolitan TIP if  
9           reasonable additional resources beyond those  
10          identified in the financial plan were avail-  
11          able.

12          “(C) DESCRIPTIONS.—A project in the met-  
13          ropolitan TIP shall include sufficient descriptive  
14          material (such as type of work, termini, length,  
15          and other similar factors) to identify the project  
16          or phase of the project.

17          “(3) INCLUDED PROJECTS.—

18               “(A) PROJECTS UNDER TITLE 23 AND CHAP-  
19               TER 53 OF THIS TITLE.—A metropolitan TIP for  
20               an area shall include the projects within the area  
21               that are proposed for funding under chapter 1 of  
22               title 23 and chapter 53 of this title.

23               “(B) PROJECTS UNDER CHAPTER 2 OF  
24               TITLE 23.—

1                   “(i)       REGIONALLY       SIGNIFICANT  
2                   PROJECTS.—Regionally significant projects  
3                   proposed for funding under chapter 2 of  
4                   title 23 shall be identified individually in  
5                   the metropolitan TIP.

6                   “(ii) OTHER PROJECTS.—Projects pro-  
7                   posed for funding under such chapter that  
8                   are not determined to be regionally signifi-  
9                   cant shall be grouped in one line item or  
10                  identified individually in the metropolitan  
11                  TIP.

12               “(C)   CONSISTENCY   WITH   LONG-RANGE  
13               TRANSPORTATION PLAN.—A project shall be con-  
14               sistent with the metropolitan long-range trans-  
15               portation plan for the area.

16               “(D) REQUIREMENT OF ANTICIPATED FULL  
17               FUNDING.—The program shall include a project,  
18               or the identified phase of a project, only if full  
19               funding can reasonably be anticipated to be  
20               available for the project or the identified phase  
21               within the time period contemplated for comple-  
22               tion of the project or the identified phase.

23               “(E) TIP MODIFICATIONS BY GOVERNOR.—

24                   “(i)   IN   GENERAL.—Notwithstanding  
25                   any other provisions of this section or sec-

tion 5204, if a State and an MPO fail to agree on programming a project of statewide significance on the Interstate System (as defined in section 101(a) of title 23) into a metropolitan TIP, the Governor may modify the metropolitan TIP to add the project without approval or endorsement by the MPO.

“(ii) CONFORMING AMENDMENTS TO METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—If the Governor modifies a metropolitan TIP under clause (i), the MPO shall amend its metropolitan long-range transportation plan to be consistent with the modified metropolitan TIP.

“(4) NOTICE AND COMMENT.—Before approving a metropolitan TIP, an MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(5).

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the metropolitan TIP development required

under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out from the approved metropolitan TIP—

“(i) by—

“(I) in the case of projects under title 23, the State; and

“(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

“(ii) in cooperation with the MPO.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved metropolitan TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

1           “(B) *REQUIRED ACTION BY THE SEC-*  
2           *RETARY.—Action by the Secretary shall be re-*  
3           *quired for a State or MPO to select any project*  
4           *from the illustrative list of additional projects*  
5           *included in the financial plan under paragraph*  
6           *(2)(B)(iv) for inclusion in an approved metro-*  
7           *politan TIP.*

8           “(7) *PUBLICATION.—*

9           “(A) *PUBLICATION OF TIPS.—A metropoli-*  
10          *tan TIP involving Federal participation shall be*  
11          *published or otherwise made readily available,*  
12          *including on the Internet, by the MPO for public*  
13          *review.*

14          “(B) *PUBLICATION OF ANNUAL LISTINGS OF*  
15          *PROJECTS.—An annual listing of projects (in-*  
16          *cluding investments in pedestrian walkways, bi-*  
17          *cycle transportation facilities, and intermodal*  
18          *facilities that support intercity transportation)*  
19          *for which Federal funds have been obligated in*  
20          *the preceding year shall be published or other-*  
21          *wise made available, including on the Internet,*  
22          *by the cooperative effort of the State, public*  
23          *transportation operator, and MPO for public re-*  
24          *view. The listing shall be consistent with the cat-*  
25          *egories identified in the metropolitan TIP.*

1 “(i) *TRANSPORTATION MANAGEMENT AREAS.*—

2 “(1) *IDENTIFICATION AND DESIGNATION.*—

3 “(A) *REQUIRED IDENTIFICATION.*—*The Sec-*  
4 *retary shall identify as a transportation man-*  
5 *agement area each urbanized area (as defined by*  
6 *the Bureau of the Census) with a population of*  
7 *over 200,000 individuals.*

8 “(B) *DESIGNATIONS ON REQUEST.*—*The*  
9 *Secretary shall designate any additional area as*  
10 *a transportation management area on the re-*  
11 *quest of the Governor and the MPO designated*  
12 *for the area.*

13 “(2) *LONG-RANGE TRANSPORTATION PLANS.*—*In*  
14 *a transportation management area, metropolitan*  
15 *long-range transportation plans shall be based on a*  
16 *continuing and comprehensive transportation plan-*  
17 *ning process carried out by the MPO in cooperation*  
18 *with the State and public transportation operators.*

19 “(3) *CONGESTION MANAGEMENT PROCESS.*—  
20 *Within a metropolitan planning area serving a trans-*  
21 *portation management area, the transportation plan-*  
22 *ning process under this section shall address conges-*  
23 *tion management through a process that provides for*  
24 *effective management and operation, based on a coop-*  
25 *eratively developed and implemented metropolitan-*

1 *wide strategy, of new and existing transportation fa-*  
 2 *cilities eligible for funding under title 23 and chapter*  
 3 *53 of this title through the use of travel demand re-*  
 4 *duction, intelligent transportation systems, and oper-*  
 5 *ational management strategies. The Secretary shall*  
 6 *establish an appropriate phase-in schedule for compli-*  
 7 *ance with the requirements of this section but not*  
 8 *sooner than 1 year after the identification of a trans-*  
 9 *portation management area.*

10 “(4) *SELECTION OF PROJECTS.*—

11 “(A) *IN GENERAL.*—*All federally funded*  
 12 *projects carried out within the boundaries of a*  
 13 *metropolitan planning area serving a transpor-*  
 14 *tation management area under title 23 (exclud-*  
 15 *ing projects carried out on the National High-*  
 16 *way System under such title) or under chapter*  
 17 *53 of this title shall be selected for implementa-*  
 18 *tion from the approved metropolitan TIP by the*  
 19 *MPO designated for the area in consultation*  
 20 *with the State and any affected public transpor-*  
 21 *tation operator.*

22 “(B) *NATIONAL HIGHWAY SYSTEM*  
 23 *PROJECTS.*—*Projects carried out within the*  
 24 *boundaries of a metropolitan planning area serv-*  
 25 *ing a transportation management area on the*

1        *National Highway System under title 23 shall be*  
2        *selected for implementation from the approved*  
3        *metropolitan TIP by the State in cooperation*  
4        *with the MPO designated for the area.*

5        “(5) CERTIFICATION.—

6                “(A) IN GENERAL.—The Secretary shall—

7                        “(i) ensure that the metropolitan plan-  
8                        *ning process of an MPO serving a transpor-*  
9                        *tation management area is being carried*  
10                       *out in accordance with applicable provi-*  
11                       *sions of Federal law; and*

12                       “(ii) subject to subparagraph (B), cer-  
13                       *tify, not less often than once every 4 years,*  
14                       *that the requirements of this paragraph are*  
15                       *met with respect to the metropolitan plan-*  
16                       *ning process.*

17                “(B) REQUIREMENTS FOR CERTIFI-  
18        *CATION.—The Secretary may make the certifi-*  
19        *cation under subparagraph (A) if—*

20                       “(i) the transportation planning proc-  
21                       *ess complies with the requirements of this*  
22                       *section and other applicable requirements of*  
23                       *Federal law; and*

24                       “(ii) there is a metropolitan TIP for  
25        *the metropolitan planning area that has*

1           *been approved by the MPO and the Gov-*  
2           *ernor.*

3           “(C) *EFFECT OF FAILURE TO CERTIFY.*—

4                 “(i)   *WITHHOLDING    OF    PROJECT*  
5           *FUNDS.*—*If the metropolitan planning proc-*  
6           *ess of an MPO serving a transportation*  
7           *management area is not certified, the Sec-*  
8           *retary may withhold up to 20 percent of the*  
9           *funds attributable to the metropolitan plan-*  
10          *ning area of the MPO for projects funded*  
11          *under title 23 and chapter 53 of this title.*

12                 “(ii)   *RESTORATION   OF   WITHHELD*  
13           *FUNDS.*—*The withheld funds shall be re-*  
14           *stored to the metropolitan planning area at*  
15           *such time as the metropolitan planning*  
16           *process is certified by the Secretary.*

17                 “(D) *REVIEW OF CERTIFICATION.*—*In mak-*  
18           *ing certification determinations under this para-*  
19           *graph, the Secretary shall provide for public in-*  
20           *volvement appropriate to the metropolitan area*  
21           *under review.*

22                 “(j) *ABBREVIATED PLANS FOR CERTAIN AREAS.*—

23                 “(1) *IN GENERAL.*—*Subject to paragraph (2), in*  
24           *the case of a metropolitan area not designated as a*  
25           *transportation management area under this section,*

1     *the Secretary may provide for the development of an*  
 2     *abbreviated metropolitan long-range transportation*  
 3     *plan and TIP for the metropolitan planning area*  
 4     *that the Secretary determines is appropriate to*  
 5     *achieve the purposes of this section, taking into ac-*  
 6     *count the complexity of transportation problems in*  
 7     *the area.*

8             “(2) *NONATTAINMENT AREAS.*—*The Secretary*  
 9     *may not permit abbreviated plans or TIPs for a met-*  
 10    *ropolitan area that is in nonattainment for ozone or*  
 11    *carbon monoxide under the Clean Air Act.*

12            “(k) *ADDITIONAL REQUIREMENTS FOR CERTAIN NON-*  
 13    *ATTAINMENT AREAS.*—

14            “(1) *IN GENERAL.*—*Notwithstanding any other*  
 15    *provision of title 23, this chapter, or chapter 53 of*  
 16    *this title, for transportation management areas classi-*  
 17    *fied as nonattainment for ozone or carbon monoxide*  
 18    *pursuant to the Clean Air Act, Federal funds may not*  
 19    *be advanced in such area for any highway project*  
 20    *that will result in a significant increase in the car-*  
 21    *rying capacity for single-occupant vehicles unless the*  
 22    *project is addressed through a congestion management*  
 23    *process.*

24            “(2) *APPLICABILITY.*—*This subsection applies to*  
 25    *a nonattainment area within the metropolitan plan-*

1        *ning area boundaries determined under subsection*  
 2        *(c).*

3        “(l) *LIMITATION ON STATUTORY CONSTRUCTION.—*  
 4        *Nothing in this section may be construed to confer on an*  
 5        *MPO the authority to impose legal requirements on any*  
 6        *transportation facility, provider, or project not eligible*  
 7        *under title 23 or chapter 53 of this title.*

8        “(m) *FUNDING.—Funds set aside under section 104(f)*  
 9        *of title 23 or section 5305(g) of this title shall be available*  
 10       *to carry out this section.*

11       “(n) *CONTINUATION OF CURRENT REVIEW PRAC-*  
 12       *TICE.—Since metropolitan long-range transportation plans*  
 13       *and TIPs are subject to a reasonable opportunity for public*  
 14       *comment, since individual projects included in such plans*  
 15       *and TIPs are subject to review under the National Environ-*  
 16       *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and*  
 17       *since decisions by the Secretary concerning such plans and*  
 18       *TIPs have not been reviewed under that Act as of January*  
 19       *1, 1997, any decision by the Secretary concerning such*  
 20       *plans and TIPs shall not be considered to be a Federal ac-*  
 21       *tion subject to review under that Act.*

22       **“§ 5204. Statewide transportation planning**

23       “(a) *GENERAL REQUIREMENTS.—*

24                “(1) *DEVELOPMENT OF PLANS AND PROGRAMS.—*

25        *To accomplish the objectives stated in section 5201, a*

1     *State shall develop a statewide strategic long-range*  
2     *transportation plan and a statewide transportation*  
3     *improvement program for all areas of the State, sub-*  
4     *ject to section 5203.*

5             “(2) *CONTENTS.—Statewide strategic long-range*  
6     *transportation plans and TIPs shall provide for the*  
7     *development and integrated management and oper-*  
8     *ation of transportation systems and facilities (includ-*  
9     *ing accessible pedestrian walkways, bicycle transpor-*  
10    *tation facilities, and intermodal facilities that sup-*  
11    *port intercity transportation, including intercity*  
12    *buses and intercity bus facilities) that will function*  
13    *as an intermodal transportation system for the State*  
14    *and an integral part of an intermodal transportation*  
15    *system for the United States.*

16            “(3) *PROCESS OF DEVELOPMENT.—The process*  
17    *for developing statewide strategic long-range trans-*  
18    *portation plans and TIPs shall provide for consider-*  
19    *ation of all modes of transportation and the policies*  
20    *stated in section 5201, and shall be continuing, coop-*  
21    *erative, and comprehensive to the degree appropriate,*  
22    *based on the complexity of the transportation prob-*  
23    *lems to be addressed.*

24            “(b) *COORDINATION WITH METROPOLITAN PLANNING;*  
25    *STATE IMPLEMENTATION PLAN.—A State shall—*

1           “(1) coordinate planning carried out under this  
 2           section with the transportation planning activities  
 3           carried out under section 5203 for metropolitan areas  
 4           of the State and with statewide trade and economic  
 5           development planning activities and related  
 6           multistate planning efforts; and

7           “(2) develop the transportation portion of the  
 8           State implementation plan as required by the Clean  
 9           Air Act (42 U.S.C. 7401 et seq.).

10          “(c) *INTERSTATE AGREEMENTS.*—

11           “(1) *IN GENERAL.*—The consent of Congress is  
 12           granted to 2 or more States entering into agreements  
 13           or compacts, not in conflict with any law of the  
 14           United States, for cooperative efforts and mutual as-  
 15           sistance in support of activities authorized under this  
 16           section related to interstate areas and localities in the  
 17           States and establishing authorities the States consider  
 18           desirable for making the agreements and compacts ef-  
 19           fective.

20           “(2) *RESERVATION OF RIGHTS.*—The right to  
 21           alter, amend, or repeal interstate compacts entered  
 22           into under this subsection is expressly reserved.

23          “(d) *SCOPE OF PLANNING PROCESS.*—

24           “(1) *IN GENERAL.*—A State shall carry out a  
 25           statewide transportation planning process that pro-

1        *vides for consideration and implementation of*  
2        *projects, strategies, and services that will—*

3                *“(A) support the economic vitality of the*  
4                *United States, the States, nonmetropolitan areas,*  
5                *and metropolitan areas, especially by enabling*  
6                *global competitiveness, productivity, and effi-*  
7                *ciency;*

8                *“(B) increase the safety of the transpor-*  
9                *tation system for motorized and nonmotorized*  
10               *users;*

11               *“(C) increase the security of the transpor-*  
12               *tation system for motorized and nonmotorized*  
13               *users;*

14               *“(D) increase the accessibility and mobility*  
15               *of people and freight;*

16               *“(E) protect and enhance the environment,*  
17               *promote energy conservation, improve the qual-*  
18               *ity of life, and promote consistency between*  
19               *transportation improvements and State and*  
20               *local planned growth and economic development*  
21               *patterns;*

22               *“(F) enhance the integration and*  
23               *connectivity of the transportation system, across*  
24               *and between modes throughout the State, for peo-*  
25               *ple and freight;*

1           “(G) promote efficient system management  
 2           and operation, including through the use of in-  
 3           telligent transportation systems; and

4           “(H) emphasize the preservation of the ex-  
 5           isting transportation system.

6           “(2) *FAILURE TO CONSIDER FACTORS.*—The fail-  
 7           ure to consider any factor specified in paragraph (1)  
 8           shall not be reviewable by any court under title 23,  
 9           chapter 53 of this title, subchapter II of chapter 5 of  
 10          title 5, or chapter 7 of title 5 in any matter affecting  
 11          a statewide strategic long-range transportation plan  
 12          or TIP, a project or strategy, or the certification of  
 13          a planning process.

14          “(e) *ADDITIONAL REQUIREMENTS.*—In carrying out  
 15          planning under this section, a State shall, at a minimum—

16               “(1) with respect to nonmetropolitan areas, co-  
 17               operate with affected nonmetropolitan local officials  
 18               or, if applicable, through regional transportation  
 19               planning organizations described in subsection (k);

20               “(2) consider the concerns of Indian tribal gov-  
 21               ernments and Federal land management agencies that  
 22               have jurisdiction over land within the boundaries of  
 23               the State; and

24               “(3) coordinate statewide long-range transpor-  
 25               tation plans and TIPs and planning activities with

1        *related planning activities being carried out outside*  
 2        *of metropolitan planning areas and between States.*

3        “(f) *STATEWIDE STRATEGIC LONG-RANGE TRANSPOR-*  
 4        *TATION PLAN.—*

5                “(1) *DEVELOPMENT.—*

6                        “(A) *IN GENERAL.—A State shall develop a*  
 7                        *statewide strategic long-range transportation*  
 8                        *plan, with a minimum 20-year forecast period*  
 9                        *for all areas of the State, that provides for the*  
 10                        *development and implementation of the inter-*  
 11                        *modal interconnected transportation system of*  
 12                        *the State.*

13                        “(B) *STATEWIDE STRATEGIC LONG-RANGE*  
 14                        *TRANSPORTATION PLAN REQUIREMENTS.—*

15                        “(i) *NATIONAL TRANSPORTATION STA-*  
 16                        *TISTICS.—In developing a statewide stra-*  
 17                        *tegic long-range transportation plan, the*  
 18                        *State shall consider the data and factors*  
 19                        *disseminated by the Secretary pursuant to*  
 20                        *section 5205(b) for that particular State.*

21                        “(ii) *TRANSPORTATION PROJECTS*  
 22                        *THAT ARE OF STATEWIDE, REGIONAL, AND*  
 23                        *NATIONAL IMPORTANCE.—The State shall*  
 24                        *identify transportation projects across all*  
 25                        *modes of transportation in the State that*

1           *have statewide, regional, and national sig-*  
2           *nificance. In identifying these projects, the*  
3           *State shall consider the factors described in*  
4           *section 5205(b).*

5           “(iii) *STATES WITH CONGESTED AIR-*  
6           *PORTS.—If a State has an airport in its ju-*  
7           *risdiction that had at least 1 percent of all*  
8           *delayed aircraft operations in the United*  
9           *States, as identified by the Federal Aviation*  
10          *Administration’s Airport Capacity Bench-*  
11          *mark Report, the statewide strategic long-*  
12          *range transportation plan shall include*  
13          *measures to alleviate congestion at that air-*  
14          *port either through expansion or the devel-*  
15          *opment of additional facilities.*

16          “(iv) *STATES WITH CONGESTED*  
17          *FREIGHT RAIL CORRIDORS.—If data from*  
18          *the Department of Transportation and the*  
19          *freight railroad industry project that a*  
20          *State has freight railroad corridors that op-*  
21          *erate at levels of service that are at or ex-*  
22          *ceed capacity, the statewide strategic long-*  
23          *range transportation plan shall include*  
24          *measures by which the State department of*

1           *transportation and the freight railroads*  
2           *provide relief for the congested corridors.*

3           “(v) *STATES WITH DEEP DRAFT*  
4           *PORTS.—If a State has a deep draft port,*  
5           *the statewide strategic long-range transpor-*  
6           *tation plan shall take into account any*  
7           *plan for expansion at that port and any*  
8           *projected increase in shipping traffic at that*  
9           *port.*

10          “(vi) *STATES WITH NAVIGABLE INLAND*  
11          *WATERWAYS.—A State that has navigable*  
12          *inland waterways shall include in its state-*  
13          *wide strategic long-range transportation*  
14          *plan any plans to use those waterways to*  
15          *facilitate the efficient and reliable transpor-*  
16          *tation of freight and people.*

17          “(vii) *PROJECT INTERCONNECTIVITY.—*  
18          *In developing a statewide strategic long-*  
19          *range transportation plan, the State shall*  
20          *ensure interconnectivity for freight and pas-*  
21          *sengers between different facilities and be-*  
22          *tween different modes of transportation.*

23          “(viii) *COST ESTIMATES FOR*  
24          *PROJECTS THAT ARE OF STATEWIDE, RE-*  
25          *GIONAL, AND NATIONAL IMPORTANCE.—In*

1           *developing the statewide strategic long-range*  
2           *transportation plan, the State shall include*  
3           *estimates of the costs of each of the projects*  
4           *identified in clause (ii).*

5           “(2) CONSULTATION WITH GOVERNMENTS.—

6           “(A) METROPOLITAN AREAS.—*The state-*  
7           *wide strategic long-range transportation plan*  
8           *shall be developed for each metropolitan area in*  
9           *the State in cooperation with the metropolitan*  
10          *planning organization designated for the metro-*  
11          *politan area under section 5203.*

12          “(B) NONMETROPOLITAN AREAS.—*With re-*  
13          *spect to nonmetropolitan areas, the statewide*  
14          *strategic long-range transportation plan shall be*  
15          *developed in cooperation with affected nonmetro-*  
16          *politan local officials or, if applicable, through*  
17          *regional transportation planning organizations*  
18          *described in subsection (k).*

19          “(C) INDIAN TRIBAL AREAS.—*With respect*  
20          *to an area of the State under the jurisdiction of*  
21          *an Indian tribal government, the statewide stra-*  
22          *tegic long-range transportation plan shall be de-*  
23          *veloped in consultation with the tribal govern-*  
24          *ment and the Secretary of the Interior.*

25          “(D) CONSULTATION; COMPARISONS.—

1                   “(i)    CONSULTATION.—A    *statewide*  
2                   *strategic long-range transportation plan*  
3                   *shall be developed, as appropriate, in con-*  
4                   *sultation with State, tribal, regional, and*  
5                   *local agencies responsible for land use man-*  
6                   *agement, natural resources, environmental*  
7                   *protection, conservation, and historic pres-*  
8                   *ervation.*

9                   “(ii)    COMPARISONS.—*Consultation*  
10                  *under clause (i) shall involve, as appro-*  
11                  *priate, comparison of statewide strategic*  
12                  *long-range transportation plans—*

13                       “(I) *to State and tribal conserva-*  
14                       *tion plans and maps, if available; and*

15                       “(II) *to inventories of natural*  
16                       *and historic resources, if available.*

17                  “(3) *PARTICIPATION BY INTERESTED PARTIES.—*

18                       “(A) *IN GENERAL.—The State shall provide*  
19                       *citizens, affected public agencies, representatives*  
20                       *of public transportation employees, freight ship-*  
21                       *pers, providers of freight transportation services,*  
22                       *private providers of transportation, including*  
23                       *intercity bus services, representatives of users of*  
24                       *public transportation, representatives of users of*  
25                       *pedestrian walkways and bicycle transportation*

1        *facilities, representatives of the disabled, and*  
2        *other interested parties with a reasonable oppor-*  
3        *tunity to comment on the statewide strategic*  
4        *long-range transportation plan.*

5                *“(B) METHODS.—In carrying out subpara-*  
6        *graph (A), the State shall, to the maximum ex-*  
7        *tent practicable—*

8                    *“(i) hold any public meetings at con-*  
9                    *venient and accessible locations and times;*

10                   *“(ii) employ visualization techniques*  
11                   *to describe plans; and*

12                   *“(iii) make public information avail-*  
13                   *able in electronically accessible format and*  
14                   *means, such as the Internet, as appropriate*  
15                   *to afford a reasonable opportunity for con-*  
16                   *sideration of public information under sub-*  
17                   *paragraph (A).*

18                *“(4) MITIGATION ACTIVITIES.—*

19                   *“(A) IN GENERAL.—A statewide strategic*  
20        *long-range transportation plan shall include a*  
21        *discussion of potential environmental mitigation*  
22        *activities and potential areas to carry out these*  
23        *activities, including activities that may have the*  
24        *greatest potential to restore and maintain the*  
25        *environmental functions affected by the plan.*

1           “(B) *CONSULTATION.*—*The discussion shall*  
2           *be developed in consultation with Federal, State,*  
3           *and tribal wildlife, land management, and regu-*  
4           *latory agencies.*

5           “(5) *FINANCIAL PLAN.*—*The statewide strategic*  
6           *long-range transportation plan may include a finan-*  
7           *cial plan that—*

8                   “(A) *demonstrates how the adopted state-*  
9                   *wide strategic long-range transportation plan*  
10                  *can be implemented;*

11                  “(B) *indicates resources from public and*  
12                  *private sources that are reasonably expected to be*  
13                  *made available to carry out the statewide stra-*  
14                  *tegic long-range transportation plan;*

15                  “(C) *recommends any additional financing*  
16                  *strategies for needed projects and programs; and*

17                  “(D) *may include, for illustrative purposes,*  
18                  *additional projects that would be included in the*  
19                  *adopted statewide strategic long-range transpor-*  
20                  *tation plan if reasonable additional resources be-*  
21                  *yond those identified in the financial plan were*  
22                  *available.*

23           “(6) *SELECTION OF PROJECTS FROM ILLUS-*  
24           *TRATIVE LIST.*—*A State shall not be required to select*  
25           *any project from the illustrative list of additional*

1        *projects included in the financial plan described in*  
2        *paragraph (5).*

3                “(7) *EXISTING SYSTEM.*—*A statewide strategic*  
4        *long-range transportation plan should include cap-*  
5        *ital, operations, and management strategies, invest-*  
6        *ments, procedures, and other measures to ensure the*  
7        *preservation and most efficient use of the existing*  
8        *transportation system.*

9                “(8) *INTERCITY BUS.*—*A statewide strategic*  
10       *long-range transportation plan shall consider the role*  
11       *intercity buses may play in reducing congestion, pol-*  
12       *lution, and energy consumption in a cost-effective*  
13       *manner and strategies and investments that preserve*  
14       *and enhance intercity bus systems, including systems*  
15       *that are privately owned and operated.*

16               “(9) *PUBLICATION OF STATEWIDE STRATEGIC*  
17       *LONG-RANGE TRANSPORTATION PLANS.*—*A statewide*  
18       *strategic long-range transportation plan prepared by*  
19       *a State shall be published or otherwise made avail-*  
20       *able, including to the maximum extent practicable in*  
21       *electronically accessible formats and means, such as*  
22       *the Internet.*

23               “(g) *STATEWIDE TIP.*—

24               “(1) *DEVELOPMENT.*—*A State shall develop a*  
25       *statewide TIP for all areas of the State. Such pro-*

1        *gram shall cover a period of 4 years and be updated*  
2        *every 4 years or more frequently if the Governor elects*  
3        *to update more frequently.*

4            “(2) *CONSULTATION WITH GOVERNMENTS.—*

5            “(A) *METROPOLITAN AREAS.—With respect*  
6        *to a metropolitan area in the State, the program*  
7        *shall be developed in cooperation with the MPO*  
8        *designated for the metropolitan area under sec-*  
9        *tion 5203.*

10          “(B) *NONMETROPOLITAN AREAS.—With re-*  
11        *spect to a nonmetropolitan area in the State, the*  
12        *program shall be developed in cooperation with*  
13        *affected nonmetropolitan local officials or, if ap-*  
14        *plicable, through regional transportation plan-*  
15        *ning organizations described in subsection (k).*

16          “(C) *INDIAN TRIBAL AREAS.—With respect*  
17        *to an area of the State under the jurisdiction of*  
18        *an Indian tribal government, the program shall*  
19        *be developed in consultation with the tribal gov-*  
20        *ernment and the Secretary of the Interior.*

21          “(3) *PARTICIPATION BY INTERESTED PARTIES.—*

22        *In developing the program, the State shall provide*  
23        *citizens, affected public agencies, representatives of*  
24        *public transportation employees, freight shippers, pri-*  
25        *vate providers of transportation, providers of freight*

1     *transportation services, representatives of users of*  
 2     *public transportation, representatives of users of pe-*  
 3     *destrian walkways and bicycle transportation facili-*  
 4     *ties, representatives of the disabled, and other inter-*  
 5     *ested parties with a reasonable opportunity to com-*  
 6     *ment on the proposed program.*

7             “(4) *INCLUDED PROJECTS.*—

8                 “(A) *IN GENERAL.*—*A statewide TIP devel-*  
 9                 *oped for a State shall include federally supported*  
 10                *surface transportation expenditures within the*  
 11                *boundaries of the State.*

12               “(B) *LISTING OF PROJECTS.*—*An annual*  
 13                *listing of projects for which funds have been obli-*  
 14                *gated in the preceding year in each metropolitan*  
 15                *planning area shall be published or otherwise*  
 16                *made available by the cooperative effort of the*  
 17                *State, public transportation operator, and the*  
 18                *MPO for public review. The listing shall be con-*  
 19                *sistent with the funding categories identified in*  
 20                *each metropolitan TIP.*

21               “(C) *PROJECTS UNDER CHAPTER 2 OF*  
 22                *TITLE 23.*—

23                   “(i)     *REGIONALLY        SIGNIFICANT*  
 24                    *PROJECTS.*—*Regionally significant projects*  
 25                    *proposed for funding under chapter 2 of*

1           *title 23 shall be identified individually in*  
2           *the statewide TIP.*

3           “(ii) *OTHER PROJECTS.—Projects pro-*  
4           *posed for funding under such chapter that*  
5           *are not determined to be regionally signifi-*  
6           *cant shall be grouped in one line item or*  
7           *identified individually in the statewide*  
8           *TIP.*

9           “(D) *CONSISTENCY WITH STATEWIDE STRA-*  
10          *TEGIC LONG-RANGE TRANSPORTATION PLAN.—A*  
11          *project shall be—*

12           “(i) *consistent with the statewide stra-*  
13           *tegic long-range transportation plan devel-*  
14           *oped under this section for the State;*

15           “(ii) *identical to the project or phase of*  
16           *the project as described in an approved met-*  
17           *ropolitan long-range transportation plan;*

18           “(iii) *identical to the project or phase*  
19           *of the project as described in a metropolitan*  
20           *TIP approved by the Governor; and*

21           “(iv) *in conformance with the applica-*  
22           *ble State air quality implementation plan*  
23           *developed under the Clean Air Act, if the*  
24           *project is carried out in an area designated*

1           *as nonattainment for ozone, particulate*  
2           *matter, or carbon monoxide under that Act.*

3           “(E) *REQUIREMENT OF ANTICIPATED FULL*  
4           *FUNDING.—The statewide TIP shall include a*  
5           *project, or the identified phase of a project, only*  
6           *if full funding can reasonably be anticipated to*  
7           *be available for the project or the identified*  
8           *phase within the time period contemplated for*  
9           *completion of the project or the identified phase.*

10           “(F) *FINANCIAL PLAN.—The statewide TIP*  
11           *may include a financial plan that—*

12                   “(i) *demonstrates how the approved*  
13                   *statewide TIP can be implemented;*

14                   “(ii) *indicates resources from public*  
15                   *and private sources that are reasonably ex-*  
16                   *pected to be made available to carry out the*  
17                   *statewide TIP;*

18                   “(iii) *recommends any additional fi-*  
19                   *nancing strategies for needed projects and*  
20                   *programs; and*

21                   “(iv) *may include, for illustrative pur-*  
22                   *poses, additional projects that would be in-*  
23                   *cluded in the adopted statewide TIP if rea-*  
24                   *sonable additional resources beyond those*

1                   *identified in the financial plan were avail-*  
 2                   *able.*

3                   “(G) *SELECTION OF PROJECTS FROM ILLUS-*  
 4                   *TRATIVE LIST.—*

5                   “(i) *NO REQUIRED SELECTION.—Not-*  
 6                   *withstanding subparagraph (F), a State*  
 7                   *shall not be required to select any project*  
 8                   *from the illustrative list of additional*  
 9                   *projects included in the financial plan*  
 10                   *under subparagraph (F).*

11                   “(ii) *REQUIRED ACTION BY THE SEC-*  
 12                   *RETARY.—An action by the Secretary shall*  
 13                   *be required for a State to select any project*  
 14                   *from the illustrative list of additional*  
 15                   *projects included in the financial plan*  
 16                   *under subparagraph (F) for inclusion in an*  
 17                   *approved statewide TIP.*

18                   “(H) *PRIORITIES.—The statewide TIP shall*  
 19                   *reflect the priorities for programming and ex-*  
 20                   *penditures of funds required by title 23, this*  
 21                   *chapter, and chapter 53 of this title.*

22                   “(5) *PROJECT SELECTION FOR AREAS WITHOUT*  
 23                   *MPOS.—*

24                   “(A) *IN GENERAL.—Except as provided by*  
 25                   *subparagraph (B), projects carried out in areas*

1        *without a designated MPO shall be selected from*  
 2        *the approved statewide TIP by the State in co-*  
 3        *operation with affected nonmetropolitan local of-*  
 4        *ficials or, if applicable, through regional trans-*  
 5        *portation planning organizations described in*  
 6        *subsection (k).*

7                *“(B) NHS PROJECTS.—Projects carried out*  
 8        *on the National Highway System under title 23*  
 9        *or under sections 5311 and 5317 of this title in*  
 10        *areas without a designated MPO shall be selected*  
 11        *from the approved statewide TIP by the State in*  
 12        *consultation with affected nonmetropolitan local*  
 13        *officials.*

14                *“(6) TIP APPROVAL.—Every 4 years, a statewide*  
 15        *TIP shall be reviewed and approved by the Secretary*  
 16        *if based on a current planning finding.*

17                *“(7) PLANNING FINDING.—A finding shall be*  
 18        *made by the Secretary at least once every 4 years that*  
 19        *the transportation planning process through which*  
 20        *statewide strategic long-range transportation plans*  
 21        *and TIPs are developed is consistent with this section*  
 22        *and section 5203.*

23                *“(8) MODIFICATIONS TO PROJECT PRIORITY.—*  
 24        *Notwithstanding any other provision of law, action*  
 25        *by the Secretary shall not be required to advance a*

1        *project included in the approved statewide TIP in*  
2        *place of another project in the program.*

3        “(h) *FUNDING.—Funds set aside pursuant to sections*  
4        *104(f) and 505 of title 23 and section 5305(g) of this title*  
5        *shall be available to carry out this section.*

6        “(i) *TREATMENT OF CERTAIN STATE LAWS AS CON-*  
7        *GESTION MANAGEMENT PROCESSES.—For purposes of this*  
8        *section and section 5203, State laws, rules, or regulations*  
9        *pertaining to congestion management systems or programs*  
10       *may constitute the congestion management process under*  
11       *this section and section 5203 if the Secretary finds that the*  
12       *State laws, rules, or regulations are consistent with, and*  
13       *fulfill the intent of, the purposes of this section and section*  
14       *5203, as appropriate.*

15       “(j) *CONTINUATION OF CURRENT REVIEW PRAC-*  
16       *TICE.—Since statewide strategic long-range transportation*  
17       *plans and TIPs are subject to a reasonable opportunity for*  
18       *public comment, individual projects included in such plans*  
19       *and TIPs are subject to review under the National Environ-*  
20       *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and*  
21       *decisions by the Secretary concerning such plans and TIPs*  
22       *have not been reviewed under that Act as of January 1,*  
23       *1997, any decision by the Secretary concerning such plans*  
24       *and TIPS shall not be considered to be a Federal action*  
25       *subject to review under that Act.*

1       “(k) *DESIGNATION OF REGIONAL TRANSPORTATION*  
2 *PLANNING ORGANIZATIONS.*—

3               “(1) *IN GENERAL.*—*To carry out the transpor-*  
4 *tation planning process required by this section, a*  
5 *State may establish and designate regional transpor-*  
6 *tation planning organizations to enhance the plan-*  
7 *ning, coordination, and implementation of statewide*  
8 *strategic long-range transportation plans and TIPs,*  
9 *with an emphasis on addressing the needs of non-*  
10 *metropolitan areas of the State.*

11              “(2) *STRUCTURE.*—*A regional transportation*  
12 *planning organization shall be established as a multi-*  
13 *jurisdictional organization of volunteers from non-*  
14 *metropolitan local officials or their designees and rep-*  
15 *resentatives of local transportation systems.*

16              “(3) *REQUIREMENTS.*—*A regional transpor-*  
17 *tation planning organization shall establish, at a*  
18 *minimum—*

19                   “(A) *a policy committee, the majority of*  
20 *which shall consist of nonmetropolitan local offi-*  
21 *cials, or their designees, and which shall also in-*  
22 *clude, as appropriate, additional representatives*  
23 *from the State, private business, transportation*  
24 *service providers, economic development practi-*  
25 *tioners, and the public in the region; and*

1           “(B) a fiscal and administrative agent,  
2           such as an existing regional planning and devel-  
3           opment organization, to provide professional  
4           planning, management, and administrative sup-  
5           port.

6           “(4) DUTIES.—The duties of a regional trans-  
7           portation planning organization shall include—

8           “(A) developing and maintaining, in co-  
9           operation with the State, regional long-range  
10          multimodal transportation plans;

11          “(B) developing a regional transportation  
12          improvement program for consideration by the  
13          State;

14          “(C) fostering the coordination of local  
15          planning, land use, and economic development  
16          plans with State, regional, and local transpor-  
17          tation plans and programs;

18          “(D) providing technical assistance to local  
19          officials;

20          “(E) participating in national, multistate,  
21          and State policy and planning development  
22          processes to ensure the regional and local input  
23          of nonmetropolitan areas;

1           “(F) providing a forum for public partici-  
 2           pation in the statewide and regional transpor-  
 3           tation planning processes;

4           “(G) considering and sharing plans and  
 5           programs with neighboring regional transpor-  
 6           tation planning organizations, MPOs, and,  
 7           where appropriate, tribal organizations; and

8           “(H) conducting other duties, as necessary,  
 9           to support and enhance the statewide planning  
 10          process under subsection (d).

11          “(5) STATES WITHOUT REGIONAL TRANSPOR-  
 12          TATION PLANNING ORGANIZATIONS.—If a State choos-  
 13          es not to establish or designate a regional transpor-  
 14          tation planning organization, the State shall consult  
 15          with affected nonmetropolitan local officials to deter-  
 16          mine projects that may be of regional significance.

17      **“§ 5205. National strategic transportation plan**

18          “(a) DEVELOPMENT OF NATIONAL STRATEGIC TRANS-  
 19          PORTATION PLAN.—

20              “(1) DEVELOPMENT OF PLAN.—

21                  “(A) IN GENERAL.—The Secretary, in con-  
 22                  sultation with State departments of transpor-  
 23                  tation, shall develop a national strategic trans-  
 24                  portation plan (in this section referred to as the

1       ‘national plan’) in accordance with the require-  
2       ments of this section.

3               “(B) SOLICITATION.—Not later than 30  
4       days after the date of enactment of this section,  
5       the Secretary shall publish in the Federal Reg-  
6       ister a solicitation requesting each State depart-  
7       ment of transportation to submit to the Sec-  
8       retary, not later than 90 days after such date of  
9       enactment, a list of projects that the State rec-  
10      ommends for inclusion in the national plan.

11              “(C) STATE SELECTION OF PROJECTS.—In  
12      selecting projects under subparagraph (B), a  
13      State department of transportation shall con-  
14      sider the elements of the national plan described  
15      in paragraph (2).

16              “(D) FAILURE TO SUBMIT RECOMMENDA-  
17      TIONS.—If a State does not submit a list of rec-  
18      ommended projects in accordance with this para-  
19      graph, the Secretary shall select projects in the  
20      State that will be considered for inclusion in the  
21      national plan.

22              “(E) SELECTION OF PROJECTS.—Not later  
23      than 60 days after the date on which the Sec-  
24      retary receives a list of recommended projects  
25      from a State department of transportation under

1        *this paragraph, the Secretary shall review the*  
2        *list and select projects from the list for inclusion*  
3        *in the national plan.*

4                *“(F) BASIS FOR SELECTION.—In selecting*  
5        *projects for inclusion in the national plan, the*  
6        *Secretary shall consider, at a minimum—*

7                *“(i) the projects recommended by State*  
8        *departments of transportation under this*  
9        *paragraph;*

10               *“(ii) the ability of projects to improve*  
11       *mobility by increasing transportation op-*  
12       *tions for passengers and freight;*

13               *“(iii) the degree to which projects cre-*  
14       *ate intermodal links between different modes*  
15       *of transportation, including passenger and*  
16       *freight rail, public transportation, intercity*  
17       *bus, airports, seaports, and navigable in-*  
18       *land waterways; and*

19               *“(iv) the ability of projects to generate*  
20       *national economic benefits, including—*

21               *“(I) improvements to economic*  
22       *productivity through congestion relief;*  
23       *and*

24               *“(II) improvements to passenger*  
25       *and freight movement.*

1 “(2) *ELEMENTS OF NATIONAL PLAN.*—

2 “(A) *ROLE OF STATEWIDE STRATEGIC*  
3 *LONG-RANGE TRANSPORTATION PLANS.*—*The na-*  
4 *tional plan shall be modeled after the statewide*  
5 *strategic long-range transportation plans devel-*  
6 *oped under section 5204(f).*

7 “(B) *NATIONAL AND REGIONAL TRANSPOR-*  
8 *TATION PROJECTS.*—*Giving emphasis to the fa-*  
9 *cilities that serve important national and re-*  
10 *gional transportation functions, the national*  
11 *plan shall include an identification of transpor-*  
12 *tation projects (including major roadways, pub-*  
13 *lic transportation facilities, intercity bus facili-*  
14 *ties, multimodal and intermodal facilities, and*  
15 *intermodal connectors) that facilitate the devel-*  
16 *opment of—*

17 “(i) *a national transportation system;*

18 *and*

19 “(ii) *an integrated regional transpor-*  
20 *tation system.*

21 “(C) *INTERCONNECTIVITY BETWEEN STATES*  
22 *AND REGIONS.*—*The national plan shall ensure a*  
23 *level of interconnectivity among transportation*  
24 *facilities and strategies at State and regional*  
25 *borders.*

1           “(D) *IDENTIFICATION OF POTENTIAL HIGH-*  
2           *SPEED INTERCITY RAIL CORRIDORS AND SHIP-*  
3           *PING ROUTES.*—*In developing the national plan,*  
4           *the Secretary, in consultation with State depart-*  
5           *ments of transportation, shall identify potential*  
6           *high-speed passenger rail projects and potential*  
7           *short seas shipping routes.*

8           “(E) *INTERCITY BUS NETWORK.*—*The na-*  
9           *tional plan shall identify projects to preserve*  
10          *and expand the Nation’s intercity bus network*  
11          *and provide interconnectivity to other forms of*  
12          *intercity and local transportation.*

13          “(F) *AEROTROPOLIS TRANSPORTATION SYS-*  
14          *TEMS.*—*The national plan shall identify*  
15          *aerotropolis transportation systems that will en-*  
16          *hance economic competitiveness and exports in*  
17          *the United States by providing efficient, cost-ef-*  
18          *fective, sustainable, and intermodal connectivity*  
19          *to a defined region of economic significance for*  
20          *freight and passenger transportation.*

21          “(G) *COST ESTIMATES FOR PROJECTS.*—*In*  
22          *developing the national plan, the Secretary shall*  
23          *include estimates of the costs of each of the*  
24          *projects and strategies identified in the national*

1           *plan and a total cost of all of the projects and*  
2           *strategies identified in the national plan.*

3           “(3) *ISSUANCE AND UPDATING OF NATIONAL*  
4           *PLAN.—*

5                     “(A) *ISSUANCE.—Not later than April 30,*  
6           *2014, the Secretary shall submit to the Com-*  
7           *mittee on Transportation and Infrastructure of*  
8           *the House of Representatives and the Committee*  
9           *on Environment and Public Works, the Com-*  
10          *mittee on Banking, Housing, and Urban Affairs,*  
11          *and the Committee on Commerce, Science, and*  
12          *Transportation of the Senate the national plan*  
13          *developed under this section.*

14                    “(B) *UPDATES.—At least once every 2 years*  
15          *after the date of submission of the national plan*  
16          *under subparagraph (A), the Secretary—*

17                             “(i) *in consultation with State depart-*  
18                             *ments of transportation, shall update the*  
19                             *national plan; and*

20                             “(ii) *shall submit the updated national*  
21                             *plan to the committees referred to in sub-*  
22                             *paragraph (A).*

23           “(b) *DISSEMINATION OF TRANSPORTATION DATA AND*  
24          *STATISTICS FOR DEVELOPMENT OF STRATEGIC LONG-*  
25          *RANGE TRANSPORTATION PLANS.—*

1           “(1) *IN GENERAL.*—*The Secretary shall develop,*  
 2           *and disseminate to the States, relevant long-range*  
 3           *transportation data and statistics that a State or the*  
 4           *Secretary, as the case may be, shall use in the devel-*  
 5           *opment of statewide, regional, and national strategic*  
 6           *long-range transportation plans.*

7           “(2) *TYPES OF TRANSPORTATION DATA AND STA-*  
 8           *TISTICS TO BE DEVELOPED.*—*The data and statistics*  
 9           *referred to in paragraph (1) shall include, at a min-*  
 10          *imum, 20-year projections—*

11                 “(A) *of population growth in each State;*

12                 “(B) *from the Department of Transpor-*  
 13                 *tation’s Freight Analysis Framework (referred to*  
 14                 *in this paragraph as ‘FAF’), including projec-*  
 15                 *tions for annual average daily truck flow on spe-*  
 16                 *cific highway routes;*

17                 “(C) *from the Department of Transpor-*  
 18                 *tation’s Highway Performance Monitoring Sys-*  
 19                 *tem (referred to in this paragraph as ‘HPMS’)*  
 20                 *of estimated peak period congestion on major*  
 21                 *highway routes or segments of routes and in met-*  
 22                 *ropolitan areas;*

23                 “(D) *from HPMS and FAF of estimated*  
 24                 *traffic volumes on segments of highway that are*

1       *projected to be classified as moderately or highly*  
2       *congested;*

3               “(E) *from HPMS and FAF for highway*  
4       *bottlenecks;*

5               “(F) *of public transportation use in urban-*  
6       *ized areas, including for each urbanized area a*  
7       *comparison of estimated ridership growth and*  
8       *estimated public transportation revenue vehicle*  
9       *miles to available system capacity and current*  
10       *service levels;*

11              “(G) *of aviation passenger enplanements*  
12       *and cargo ton miles flown;*

13              “(H) *of increases in unmanned aerial sys-*  
14       *tem and general aviation active aircraft and*  
15       *hours flown;*

16              “(I) *of capacity-constrained airports and*  
17       *congested air traffic routes;*

18              “(J) *of passenger demand for suborbital*  
19       *space tourism;*

20              “(K) *of demand on major freight rail lines;*

21              “(L) *of shipping traffic at United States*  
22       *ports; and*

23              “(M) *of intercity bus and passenger rail*  
24       *ridership demand.*

1 **“§ 5206. National performance management system**

2 “(a) *ESTABLISHMENT OF NATIONAL PERFORMANCE*  
3 *MANAGEMENT SYSTEM.*—

4 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*  
5 *tablish a national performance management system to*  
6 *track the Nation’s progress toward broad national*  
7 *performance goals for the Nation’s highway and pub-*  
8 *lic transportation systems.*

9 “(2) *COMPONENTS.*—*The National Performance*  
10 *Management System shall include the following com-*  
11 *ponents:*

12 “(A) *A national performance management*  
13 *goal.*

14 “(B) *Core performance measures.*

15 “(C) *Technical guidance.*

16 “(D) *A State performance management*  
17 *process, including—*

18 “(i) *performance targets;*

19 “(ii) *strategies; and*

20 “(iii) *reporting requirements.*

21 “(b) *NATIONAL PERFORMANCE MANAGEMENT GOAL.*—

22 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*  
23 *tablish, in broad qualitative terms, a national per-*  
24 *formance management goal for the Nation’s highway*  
25 *and public transportation systems to ensure economic*  
26 *growth, safety improvement, and increased mobility.*

1           “(2) *CONSISTENCY WITH NATIONAL STRATEGIC*  
 2           *TRANSPORTATION PLAN.*—*The national strategic*  
 3           *transportation plan, to the greatest extent practicable,*  
 4           *shall be consistent with the national performance*  
 5           *management goal.*

6           “(c) *CORE PERFORMANCE MEASURES.*—

7           “(1) *ESTABLISHMENT.*—*Not later than 2 years*  
 8           *after the date of enactment of this section, the Sec-*  
 9           *retary, in collaboration with the States, metropolitan*  
 10          *planning organizations, and public transportation*  
 11          *agencies through the process described in paragraph*  
 12          *(4) shall establish core performance measures.*

13          “(2) *IMPLEMENTATION.*—*A State shall be re-*  
 14          *quired to implement the core performance measures as*  
 15          *part of the State’s performance management process*  
 16          *established in subsection (e).*

17          “(3) *CATEGORIES.*—*The core performance meas-*  
 18          *ures shall include not more than 2 measures from*  
 19          *each of the following categories:*

20                 “(A) *Pavement condition on the National*  
 21                 *Highway System.*

22                 “(B) *Bridge condition on the National*  
 23                 *Highway System.*

24                 “(C) *Highway and motor carrier safety.*

1           “(D) *Highway safety infrastructure asset*  
2           *management.*

3           “(E) *Bike and pedestrian safety.*

4           “(F) *Highway congestion.*

5           “(G) *Air emissions and energy consump-*  
6           *tion.*

7           “(H) *Freight mobility.*

8           “(I) *Public transportation state of good re-*  
9           *pair.*

10          “(J) *Public transportation service avail-*  
11          *ability.*

12          “(K) *Rural connectivity.*

13          “(4) *PROCESS.—The core performance measures*  
14          *shall be established under the following process:*

15               “(A) *At any time after the date of enact-*  
16               *ment of this section, the State departments of*  
17               *transportation (in consultation with metropoli-*  
18               *tan planning organizations and public transpor-*  
19               *tation agencies), acting through their national*  
20               *organization, may jointly submit to the Sec-*  
21               *retary a complete set of recommended core per-*  
22               *formance measures for use in statewide transpor-*  
23               *tation planning.*

24               “(B) *The Secretary shall give substantial*  
25               *weight to the recommendations submitted by the*

1        *State departments of transportation, if such rec-*  
2        *ommendations are submitted not later than 18*  
3        *months after enactment of this section.*

4                *“(C) After consultation with the State de-*  
5        *partments of transportation regarding the rec-*  
6        *ommendations, the Secretary shall issue a notice*  
7        *in the Federal Register announcing the Sec-*  
8        *retary’s proposed set of core performance meas-*  
9        *ures and providing an opportunity for comment.*

10               *“(D) After considering any comments, the*  
11        *Secretary shall publish a notice in the Federal*  
12        *Register not later than 2 years after the date of*  
13        *enactment of this section announcing the final*  
14        *set of core performance measures.*

15        *“(d) TECHNICAL GUIDANCE.—*

16               *“(1) IN GENERAL.—Not later than 6 months*  
17        *after the Secretary publishes the final set of core per-*  
18        *formance measures in the Federal Register under sub-*  
19        *section (c)(4)(D), the Secretary shall issue technical*  
20        *guidance, including a uniform methodology for col-*  
21        *lecting data, for use by the States in applying the*  
22        *core performance measures.*

23               *“(2) DEVELOPMENT.—The Secretary shall—*

1           “(A) develop the technical guidance in col-  
2           laboration with the State departments of trans-  
3           portation;

4           “(B) give substantial weight to any rec-  
5           ommendations submitted by the State depart-  
6           ments of transportation through their national  
7           organization, if such recommendations are sub-  
8           mitted not later than 3 months after the Sec-  
9           retary publishes the final set of core performance  
10          measures in the Federal Register under sub-  
11          section (c)(4)(D); and

12          “(C) provide a reasonable opportunity for  
13          State departments of transportation to comment  
14          on the technical guidance before it is issued.

15          “(e) STATE PERFORMANCE MANAGEMENT PROCESS.—

16                 “(1) ESTABLISHMENT OF PERFORMANCE TAR-  
17          GETS.—

18                 “(A) INITIAL TARGETS.—Not later than 1  
19          year after the Secretary publishes the final set of  
20          core performance measures in the Federal Reg-  
21          ister under subsection (c)(4)(D), a State shall  
22          amend its statewide strategic long-range trans-  
23          portation plan to include a target level of per-  
24          formance for each of the core performance meas-  
25          ures.

1           “(B) *REVISIONS TO TARGETS.*—A State  
 2           may revise its performance targets for the core  
 3           performance measures at any time by amending  
 4           its statewide strategic long-range transportation  
 5           plan and resubmitting the plan to the Secretary.

6           “(2) *REPORTING REQUIREMENTS.*—

7           “(A) *IN GENERAL.*—In order to improve the  
 8           outcomes of the transportation planning process,  
 9           the States shall implement a national perform-  
 10          ance reporting process in accordance with sub-  
 11          paragraphs (B) and (C).

12          “(B) *BASELINE REPORT.*—Not later than 6  
 13          months after adopting its initial performance  
 14          targets for the core performance measures pursu-  
 15          ant to paragraph (1)(A), a State shall publish a  
 16          baseline report including data from the most re-  
 17          cent year for which data is available for the full  
 18          set of core performance measures.

19          “(C) *ANNUAL PROGRESS REPORTS.*—Not  
 20          later than 18 months after publication of the  
 21          baseline report, and annually thereafter, a State  
 22          shall publish a report documenting the progress  
 23          that the State has made in meeting its perform-  
 24          ance targets for the core performance measures.”.

25          (b) *CONFORMING AMENDMENTS.*—

1           (1) *SUBTITLE ANALYSIS.*—*The analysis for sub-*  
 2           *title III of title 49, United States Code, is amended*  
 3           *by inserting after the item relating to chapter 51 the*  
 4           *following:*

**“52. Transportation Planning ..... 5201”.**

5           (2) *METROPOLITAN TRANSPORTATION PLAN-*  
 6           *NING.*—

7                   (A) *TITLE 23.*—*Section 134 of title 23,*  
 8           *United States Code, is amended to read as fol-*  
 9           *lows:*

10   **“§ 134. Metropolitan transportation planning**

11           *“Metropolitan transportation planning programs*  
 12           *funded under section 104(f) shall be carried out in accord-*  
 13           *ance with the metropolitan planning provisions of section*  
 14           *5203 of title 49.”.*

15                   (B) *CHAPTER 53 OF TITLE 49.*—*Section*  
 16           *5303 of title 49, United States Code, is amended*  
 17           *to read as follows:*

18   **“§ 5303. Metropolitan transportation planning**

19           *“Metropolitan transportation planning programs*  
 20           *funded under section 5305 shall be carried out in accord-*  
 21           *ance with the metropolitan planning provisions of section*  
 22           *5203.”.*

23           (3) *STATEWIDE TRANSPORTATION PLANNING.*—

1                   (A) *TITLE 23.—Section 135 of title 23,*  
 2                   *United States Code, is amended to read as fol-*  
 3                   *lows:*

4   **“§ 135. Statewide transportation planning**

5                   *“Statewide transportation planning programs funded*  
 6                   *under sections 104(f) and 505 shall be carried out in ac-*  
 7                   *cordance with the metropolitan planning provisions of sec-*  
 8                   *tion 5204 of title 49.”.*

9                   (B) *CHAPTER 53 OF TITLE 49.—Section*  
 10                   *5304 of title 49, United States Code, is amended*  
 11                   *to read as follows:*

12   **“§ 5304. Statewide transportation planning**

13                   *“Statewide transportation planning programs funded*  
 14                   *under section 5305 shall be carried out in accordance with*  
 15                   *the metropolitan planning provisions of section 5204.”.*

16   **SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN**  
 17                   **PLANNING ORGANIZATIONS.**

18                   (a) *CONTINUATION OF APPLICABILITY OF SECTION*  
 19                   *134.—A metropolitan planning organization that serves an*  
 20                   *urbanized area with a population of more than 50,000 and*  
 21                   *less than 100,000 and that is subject to the provisions of*  
 22                   *section 134 of title 23, United States Code, and section 5303*  
 23                   *of title 49, United States Code (as in effect on the day before*  
 24                   *the date of enactment of this Act), shall continue to be des-*  
 25                   *ignated as a metropolitan planning organization subject to*

1 *section 5203 of title 49, United States Code (as added by*  
 2 *this title), unless the Governor and units of general purpose*  
 3 *local government that together represent at least 75 percent*  
 4 *of the affected population, including the largest incor-*  
 5 *porated city (based on population) as determined by the*  
 6 *Bureau of the Census, agree to terminate the designation.*

7       **(b) TREATMENT.**—*A metropolitan planning organiza-*  
 8 *tion described in paragraph (1) shall be treated, for pur-*  
 9 *poses of title 23, United States Code, and chapters 52 and*  
 10 *53 of title 49, United States Code, the Transportation Eq-*  
 11 *uity Act for the 21st Century (Public Law 105–178), and*  
 12 *SAFETEA–LU (Public Law 109–59) as a metropolitan*  
 13 *planning organization that is subject to the provisions of*  
 14 *section 5203 of title 49, United States Code (as added by*  
 15 *this title).*

16 **SEC. 4003. FINANCIAL PLANS.**

17       *Not later than 90 days after the date of enactment of*  
 18 *this Act, the Secretary shall issue revised regulations under*  
 19 *sections 5203 and 5204 of title 49, United States Code (as*  
 20 *added by this title), to clarify that—*

21               *(1) a financial plan for a long-range transpor-*  
 22 *tation plan or transportation improvement program*  
 23 *is required to be updated not more than once every*  
 24 *4 years;*

1           (2) *an amendment to a long-range transpor-*  
 2           *tation plan or transportation improvement program*  
 3           *does not require a review of the entire financial plan,*  
 4           *but rather requires only a plan for covering any in-*  
 5           *cremental costs associated with the amendment;*

6           (3) *project costs and revenue estimates used in*  
 7           *developing a financial plan for a long-range plan*  
 8           *should be based on long-term trends, and need not be*  
 9           *adjusted to reflect short-term fluctuations;*

10          (4) *the Department shall defer to the judgment*  
 11          *of State and local governments regarding the mag-*  
 12          *nitude of potential State and local revenue streams,*  
 13          *including the likelihood that State or local govern-*  
 14          *ments will approve tax increases, tolling, bonding, or*  
 15          *other measures to increase revenues; and*

16          (5) *the requirement for a financial plan does not*  
 17          *give the Secretary the authority or responsibility to*  
 18          *determine the adequacy of a State or metropolitan*  
 19          *area's funding levels for operation and maintenance*  
 20          *of the transportation system.*

21 **SEC. 4004. PLAN UPDATE.**

22          *Not later than September 30, 2012, a State shall up-*  
 23          *date its statewide strategic long-range transportation plan*  
 24          *to comply with the requirements of section 5205 of title 49,*  
 25          *United States Code.*

1 **SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR**  
 2 **TITLE 23.**

3 *Section 505 of title 23, United States Code, is amend-*  
 4 *ed—*

5 *(1) in subsection (a)(5) by inserting “intercity*  
 6 *bus,” after “public transportation,”; and*

7 *(2) in subsection (b)(1) by inserting “intercity*  
 8 *bus,” after “public transportation,”.*

9 **SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.**

10 *(a) STUDY.—The Secretary shall enter into appro-*  
 11 *priate arrangements with the National Academy of Sciences*  
 12 *to conduct a study on the implementation of section 5206*  
 13 *of title 49, United States Code (as added by this title).*

14 *(b) CONTENTS.—The study shall—*

15 *(1) report on the timeliness of implementation,*  
 16 *the quality and consistency of performance measure-*  
 17 *ment practices, the costs of compliance, and impact*  
 18 *on the transportation planning process;*

19 *(2) include recommendations for changes to im-*  
 20 *prove implementation; and*

21 *(3) include recommendations for future additions*  
 22 *or changes to the performance categories as described*  
 23 *in this section.*

24 *(c) CONSULTATION.—The National Academy of*  
 25 *Sciences shall conduct the study required under this section*  
 26 *in consultation with the Federal Highway Administration,*

1 *Federal Transit Administration, American Association of*  
 2 *State Highway and Transportation Officials, American*  
 3 *Public Transit Association, and Association of Metropoli-*  
 4 *tan Planning Organizations.*

5 (d) *COMPLETION IN PHASES.*—

6 (1) *IN GENERAL.*—*The National Academy of*  
 7 *Sciences shall complete the study in 2 phases, cor-*  
 8 *responding to the major stages of implementation of*  
 9 *section 5206 of title 49, United States Code.*

10 (2) *PHASE I.*—*Phase 1 of the study shall—*

11 (A) *address implementation of performance*  
 12 *measures; and*

13 (B) *be completed not later than 3 years*  
 14 *after the date of enactment of this Act.*

15 (3) *PHASE II.*—*Phase 2 of the study shall—*

16 (A) *address implementation of performance*  
 17 *targets, as well as performance measures; and*

18 (B) *be completed not later than 5 years*  
 19 *after the date of enactment of this Act.*

20 **SEC. 4007. CONGESTION RELIEF.**

21 *The Secretary shall—*

22 (1) *encourage States and metropolitan planning*  
 23 *organizations to prioritize congestion relief projects in*  
 24 *transportation improvement programs in order to im-*

1        *prove the flow of commerce and the productivity of*  
 2        *the Federal-aid system; and*

3            *(2) provide technical assistance and educational*  
 4        *materials to States to quantify the economic, environ-*  
 5        *mental, and quality-of-life damage caused by traffic*  
 6        *congestion as well as identify multiple options for so-*  
 7        *lutions, including new roads and lanes, bottleneck re-*  
 8        *moval, congestion reducing and, if applicable, energy*  
 9        *efficient intelligent transportation systems, and low-*  
 10       *cost congestion relief projects.*

## 11        ***TITLE V—HIGHWAY SAFETY***

### 12       ***SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES*** 13            ***CODE.***

14        *Except as otherwise expressly provided, whenever in*  
 15        *this title an amendment or repeal is expressed in terms of*  
 16        *an amendment to, or a repeal of, a section or other provi-*  
 17        *sion, the reference shall be considered to be made to a section*  
 18        *or other provision of title 23, United States Code.*

### 19       ***SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.***

20        *(a) IN GENERAL.—The following sums are authorized*  
 21        *to be appropriated out of the Highway Trust Fund (other*  
 22        *than the Alternative Transportation Account):*

23            *(1) HIGHWAY SAFETY PROGRAMS.—For carrying*  
 24        *out section 402 of title 23, United States Code,*

1       \$493,312,000 for each of fiscal years 2013 through  
2       2016.

3           (2) *NATIONAL DRIVER REGISTER.*—*For the Na-*  
4       *tional Highway Traffic Safety Administration to*  
5       *carry out chapter 303 of title 49, United States Code,*  
6       *\$4,116,000 for each of fiscal years 2013 through 2016.*

7           (3) *ADMINISTRATIVE EXPENSES.*—*For adminis-*  
8       *trative and related operating expenses of the National*  
9       *Highway Traffic Safety Administration in carrying*  
10      *out chapter 4 of title 23, United States Code, and this*  
11      *title (including the amendments made by this title)*  
12      *\$162,572,000 for each of fiscal years 2013 through*  
13      *2016.*

14          (b) *PROHIBITION ON OTHER USES.*—*Except as other-*  
15      *wise provided in chapter 4 of title 23, United States Code,*  
16      *and this title (including the amendments made by this*  
17      *title), the amounts made available from the Highway Trust*  
18      *Fund (other than the Alternative Transportation Account)*  
19      *for a program under that chapter shall be used only to*  
20      *carry out such program and may not be used by States*  
21      *or local governments for construction purposes.*

22          (c) *APPLICABILITY OF CHAPTER 1.*—*Except as other-*  
23      *wise provided in chapter 4 of title 23, United States Code,*  
24      *and this title (including the amendments made by this*  
25      *title), the amounts made available under subsection (a) for*

1 *each of fiscal years 2013 through 2016 shall be available*  
 2 *for obligation in the same manner as if such funds were*  
 3 *apportioned under chapter 1 of title 23, United States Code.*

4 **SEC. 5003. HIGHWAY SAFETY PROGRAMS.**

5 *(a) IN GENERAL.—Section 402(a) is amended to read*  
 6 *as follows:*

7 *“(a) STATE HIGHWAY SAFETY PROGRAMS.—*

8 *“(1) IN GENERAL.—Each State shall have a*  
 9 *highway safety program that is subject to approval by*  
 10 *the Secretary and is designed to reduce traffic crashes*  
 11 *and the fatalities, injuries, and property damage re-*  
 12 *sulting therefrom.*

13 *“(2) UNIFORM GUIDELINES.—A State’s highway*  
 14 *safety program under paragraph (1) shall be estab-*  
 15 *lished and carried out in accordance with uniform*  
 16 *guidelines promulgated by the Secretary, which shall*  
 17 *be expressed in terms of performance criteria and*  
 18 *shall include programs—*

19 *“(A) to reduce injuries and fatalities result-*  
 20 *ing from motor vehicles being driven in excess of*  
 21 *posted speed limits;*

22 *“(B) to encourage the proper use of occu-*  
 23 *pant protection devices (including the use of seat*  
 24 *belts and child restraints) by occupants of motor*  
 25 *vehicles;*

1           “(C) to reduce fatalities and injuries result-  
2           ing from persons driving motor vehicles while  
3           impaired by alcohol or a controlled substance;

4           “(D) to prevent crashes and reduce fatalities  
5           and injuries resulting from crashes involving  
6           motor vehicles and motorcycles;

7           “(E) to reduce crashes resulting from unsafe  
8           driving behavior (including aggressive or fa-  
9           tigated driving and distracted driving arising  
10          from the use of electronic devices in vehicles);

11          “(F) to improve law enforcement activities  
12          relating to motor vehicle crash prevention, traffic  
13          supervision, and postcrash procedures;

14          “(G) to improve the timeliness, accuracy,  
15          completeness, uniformity, and accessibility of the  
16          safety data of States that is needed—

17               “(i) for activities relating to perform-  
18               ance targets established under subsection  
19               (m);

20               “(ii) to identify priorities for national,  
21               State, and local highway and traffic safety  
22               programs; and

23               “(iii) to improve the compatibility and  
24               interoperability of the data systems of each

1           *State with national data systems and the*  
2           *data systems of other States;*

3           “(H) to improve driver performance, in-  
4           cluding through driver education, driver testing  
5           to determine proficiency to operate motor vehi-  
6           cles, driver examinations (both physical and  
7           mental), and driver licensing; and

8           “(I) to improve pedestrian and bicycle safe-  
9           ty.

10          “(3) *RECORD SYSTEM.*—*The uniform guidelines*  
11          *promulgated under paragraph (2) shall include provi-*  
12          *sions for an effective record system of—*

13               “(A) *traffic crashes, including injuries and*  
14               *fatalities resulting therefrom;*

15               “(B) *crash investigation activities carried*  
16               *out to determine the probable causes of crashes,*  
17               *injuries, and fatalities;*

18               “(C) *vehicle registration, operation, and in-*  
19               *spection activities;*

20               “(D) *highway design and maintenance ac-*  
21               *tivities, including lighting, markings, and sur-*  
22               *face treatment activities;*

23               “(E) *traffic surveillance activities relating*  
24               *to the detection and correction of locations with*  
25               *a significant potential for crashes; and*

1                   “(F) emergency services.

2                   “(4) *APPLICABILITY OF GUIDELINES.*—The uni-  
3                   *form guidelines applicable to State highway safety*  
4                   *programs shall, to the extent determined appropriate*  
5                   *by the Secretary, be applicable to federally adminis-*  
6                   *tered areas where a Federal department or agency*  
7                   *controls the highways or supervises traffic oper-*  
8                   *ations.”.*

9                   (b) *ADMINISTRATION OF STATE PROGRAMS.*—Section  
10                  402(b) is amended—

11                   (1) in paragraph (1)—

12                   (A) in subparagraph (D) by striking “and”  
13                   at the end;

14                   (B) in subparagraph (E)—

15                   (i) in clause (i) by striking “national  
16                   law enforcement mobilizations” and insert-  
17                   ing “any national traffic safety law enforce-  
18                   ment mobilizations coordinated by the Sec-  
19                   retary”; and

20                   (ii) by striking the period at the end  
21                   and inserting a semicolon; and

22                   (C) by adding at the end the following:

23                   “(F) demonstrate that the State has estab-  
24                   lished a highway safety data and traffic records  
25                   coordinating committee with a multidisciplinary

1 membership that includes, among others, man-  
2 agers, collectors, and users of traffic records and  
3 public health and injury control data systems;

4 “(G) demonstrate that the State has devel-  
5 oped a multiyear highway safety data and traf-  
6 fic records system strategic plan that—

7 “(i) addresses existing deficiencies in  
8 the State’s highway safety data and traffic  
9 records system;

10 “(ii) is approved by the State’s high-  
11 way safety data and traffic records coordi-  
12 nating committee;

13 “(iii) specifies how existing deficiencies  
14 in the State’s highway safety data and traf-  
15 fic records system were identified;

16 “(iv) prioritizes, on the basis of the  
17 identified highway safety data and traffic  
18 records system deficiencies of the State, the  
19 highway safety data and traffic records sys-  
20 tem needs and goals of the State;

21 “(v) identifies performance-based meas-  
22 ures by which progress toward those goals  
23 will be determined; and

24 “(vi) specifies how funds apportioned  
25 to the State under subsection (c) and any

1            *other funds of the State are to be used to*  
 2            *address needs and goals identified in the*  
 3            *multiyear plan; and*

4            *“(H) demonstrate that an assessment or*  
 5            *audit of the State’s highway safety data and*  
 6            *traffic records system was conducted or updated*  
 7            *during the 5-year period ending on the date on*  
 8            *which such State highway safety program is sub-*  
 9            *mitted to the Secretary for approval.”; and*  
 10          *(2) by striking paragraph (3).*

11          *(c) APPORTIONMENT OF FUNDS.—Section 402(c) is*  
 12          *amended to read as follows:*

13          *“(c) APPORTIONMENT OF FUNDS.—*

14            *“(1) IN GENERAL.—Funds made available to*  
 15            *carry out this section shall be used to aid States in*  
 16            *conducting the highway safety programs approved*  
 17            *under subsection (a).*

18            *“(2) APPORTIONMENT FORMULA.—Funds de-*  
 19            *scribed in paragraph (1) shall be apportioned among*  
 20            *the States each fiscal year in the following manner:*

21            *“(A) 62.5 percent in the ratio that the pop-*  
 22            *ulation of each State bears to the total popu-*  
 23            *lation of all States, as shown by the latest avail-*  
 24            *able Federal census.*

1           “(B) 20 percent in the ratio that the public  
2           road mileage in each State bears to the total  
3           public road mileage in all States.

4           “(C) 10 percent only to States that have en-  
5           acted and are enforcing a primary safety belt  
6           use law, in the ratio that the population of each  
7           such State bears to the total population of all  
8           such States, as shown by the latest available Fed-  
9           eral census.

10          “(D) 5 percent only to States that have en-  
11          acted and are enforcing an ignition interlock  
12          law, in the ratio that the population of each such  
13          State bears to the total population of all such  
14          States, as shown by the latest available Federal  
15          census.

16          “(E) 2.5 percent only to States that have  
17          enacted and are enforcing a graduated drivers li-  
18          censing law, in the ratio that the population of  
19          each such State bears to the total population of  
20          all such States, as shown by the latest available  
21          Federal census.

22          “(3) MINIMUM APPORTIONMENT.—The annual  
23          apportionment under paragraph (2) to each State  
24          shall not be less than three-quarters of 1 percent of the  
25          total apportionment under that paragraph in the ap-

1     *plicable fiscal year, except that the apportionment to*  
2     *the Secretary of the Interior shall not be less than 1.5*  
3     *percent of the total apportionment and the apportion-*  
4     *ments to the Virgin Islands, Guam, American Samoa,*  
5     *and the Commonwealth of the Northern Mariana Is-*  
6     *lands shall not be less than one-quarter of 1 percent*  
7     *of the total apportionment.*

8             “(4) *IMPLEMENTATION OF APPROVED HIGHWAY*  
9     *SAFETY PROGRAMS.—*

10            “(A) *REQUIREMENT FOR RECEIVING APPOR-*  
11     *TIONMENTS.—The Secretary shall not apportion*  
12     *any funds under this section to any State that*  
13     *is not implementing a highway safety program*  
14     *approved by the Secretary under this section.*

15            “(B) *LIMITATIONS ON REQUIREMENTS RE-*  
16     *LATING TO MOTORCYCLE SAFETY HELMETS.—A*  
17     *highway safety program approved by the Sec-*  
18     *retary shall not include any requirement that a*  
19     *State implement such program by adopting or*  
20     *enforcing any law, rule, or regulation based on*  
21     *a guideline promulgated by the Secretary under*  
22     *this section that requires any motorcycle oper-*  
23     *ator 18 years of age or older or passenger 18*  
24     *years of age or older to wear a safety helmet*

1       *when operating or riding a motorcycle on the*  
2       *streets and highways of that State.*

3               “(C) COMPLIANCE WITH IMPLEMENTATION  
4       REQUIREMENTS.—*Implementation of a highway*  
5       *safety program under this section shall not be*  
6       *construed to require the Secretary to require*  
7       *compliance with every uniform guideline pro-*  
8       *mulgated under this section, or with every ele-*  
9       *ment of every uniform guideline, in every State.*

10              “(D) MINIMUM REQUIREMENTS FOR IM-  
11       PAIRED DRIVING HIGH RANGE STATES.—*An im-*  
12       *paired driving high range State shall expend in*  
13       *a fiscal year, on projects and activities address-*  
14       *ing impaired driving, at least 30 percent of the*  
15       *funds apportioned to that State under para-*  
16       *graph (2) for that fiscal year.*

17              “(E) AUTOMATED TRAFFIC ENFORCEMENT  
18       SYSTEMS.—

19                      “(i) PROHIBITION.—*A State may not*  
20                      *expend funds apportioned to that State*  
21                      *under paragraph (2) to carry out any pro-*  
22                      *gram to purchase, operate, or maintain an*  
23                      *automated traffic enforcement system.*

24                      “(ii) AUTOMATED TRAFFIC ENFORCE-  
25                      MENT SYSTEM DEFINED.—*In this subpara-*

graph, the term ‘automated traffic enforcement system’ means automated technology that monitors compliance with traffic laws.”.

(d) MISCELLANEOUS.—Section 402 is amended—

(1) in subsection (d) by striking “(d) All provisions” and inserting “(d) APPLICABILITY OF CERTAIN PROVISIONS.—All provisions”;

(2) in subsection (e) by striking “(e) Uniform guidelines” and inserting “(e) COOPERATION.—Uniform guidelines”;

(3) in subsection (f) by striking “(f) The Secretary” and inserting “(f) DEPARTMENT AND AGENCY PARTICIPATION.—The Secretary”;

(4) in subsection (g)—

(A) by striking “(g) Nothing in” and inserting “(g) LIMITATION ON FUNDS.—Nothing in”;

(B) by striking “for (1) highway construction” and inserting “for highway construction”;  
and

(C) by striking “guidelines) or” and all that follows before the period at the end and inserting “guidelines) or for any purpose for which funds are authorized under section 403(a)”;

(5) by striking subsection (k); and

1           (6) by redesignating subsections (l) and (m) as  
2           subsections (k) and (l), respectively.

3           (e) *HIGHWAY SAFETY PERFORMANCE MANAGE-*  
4 *MENT.*—Section 402 (as amended by this Act) is further  
5 amended by adding at the end the following:

6           “(m) *ESTABLISHMENT OF PERFORMANCE TARGETS.*—

7           “(1) *IN GENERAL.*—The Governor of each State  
8 shall establish quantifiable performance targets for  
9 their State—

10           “(A) to be incorporated into the highway  
11 safety plan of the State under subsection (n)  
12 each year; and

13           “(B) with respect to, at a minimum—

14           “(i) the average number of fatalities in  
15 the State resulting from traffic crashes per  
16 100,000,000 vehicle miles traveled;

17           “(ii) the average number of serious in-  
18 juries in the State resulting from traffic  
19 crashes per 100,000,000 vehicle miles trav-  
20 eled;

21           “(iii) the average number of traffic fa-  
22 talities in the State involving drivers or  
23 motorcycle operators with a blood alcohol  
24 content of .08 or above per 100,000,000 ve-  
25 hicle miles traveled;

1           “(iv) the average number of traffic  
2           crashes in the State involving drivers or  
3           motorcycle operators with a blood alcohol  
4           content of .08 or above per 100,000,000 ve-  
5           hicle miles traveled;

6           “(v) the average number of unre-  
7           strained motor vehicle occupant fatalities,  
8           for all seat positions, in the State resulting  
9           from traffic crashes per 100,000,000 vehicle  
10          miles traveled; and

11          “(vi) the average number of motorcy-  
12          clist fatalities in the State resulting from  
13          traffic crashes per 100,000,000 vehicle miles  
14          traveled.

15          “(2) CONSIDERATIONS IN ESTABLISHING PER-  
16          FORMANCE TARGETS.—In establishing performance  
17          targets for a State under this subsection, a Governor  
18          shall consider, at a minimum—

19               “(A) the number of fatalities in the State  
20               resulting from traffic crashes during the pre-  
21               ceding 3 years;

22               “(B) the number of serious injuries in the  
23               State resulting from traffic crashes during the  
24               preceding 3 years;

1           “(C) *the extent to which vehicle miles trav-*  
 2           *eled in the State may impact the number of fa-*  
 3           *talities and serious injuries in the State result-*  
 4           *ing from traffic crashes; and*

5           “(D) *data available from the Fatality Anal-*  
 6           *ysis Reporting System of the National Highway*  
 7           *Traffic Safety Administration.*

8           “(n) *HIGHWAY SAFETY PLAN AND REPORTING RE-*  
 9           *QUIREMENTS.—*

10           “(1) *IN GENERAL.—With respect to fiscal year*  
 11           *2014, and each fiscal year thereafter, the Secretary*  
 12           *shall require the Governor of each State, as a condi-*  
 13           *tion of the approval of the State’s highway safety pro-*  
 14           *gram for that fiscal year, to develop and submit to*  
 15           *the Secretary for approval a highway safety plan ap-*  
 16           *plicable to that fiscal year in accordance with this*  
 17           *subsection. The plan required under this paragraph*  
 18           *may be incorporated into any other document re-*  
 19           *quired to be submitted under this section.*

20           “(2) *TIMING.—Each Governor shall submit to*  
 21           *the Secretary the highway safety plan of their State*  
 22           *not later than September 1 of the fiscal year pre-*  
 23           *ceding the fiscal year to which the plan applies.*

24           “(3) *CONTENTS.—A State’s highway safety plan*  
 25           *shall include, at a minimum—*

1           “(A) current data with respect to each per-  
2           formance target established for the State under  
3           subsection (m);

4           “(B) for the fiscal year preceding the fiscal  
5           year to which the plan applies, a description of  
6           the State’s performance regarding each perform-  
7           ance target category described in subsection  
8           (m)(1)(B);

9           “(C) for the fiscal year preceding the fiscal  
10          year to which the plan applies, a description of  
11          the projects and activities for which the State ob-  
12          ligated funding apportioned to the State under  
13          this section;

14          “(D) for the fiscal year to which the plan  
15          applies, the State’s strategy for using funds ap-  
16          portioned to the State under this section for  
17          projects and activities that will allow the State  
18          to meet the performance targets established for  
19          the State under subsection (m);

20          “(E) data and data analysis supporting the  
21          effectiveness of projects and activities proposed in  
22          the strategy under subparagraph (D);

23          “(F) a description of any Federal, State,  
24          local, or private funds that the State plans to  
25          use, in addition to funds apportioned to the

1       *State under this section, to carry out the State’s*  
2       *strategy under subparagraph (D); and*

3               “(G) *a certification that the State will*  
4       *maintain its aggregate expenditures for highway*  
5       *safety activities, from sources other than funds*  
6       *apportioned to the State under this section, at or*  
7       *above the average level of such expenditures in*  
8       *the 2 fiscal years preceding the date of enactment*  
9       *of this subsection.*

10       “(4) *REVIEW OF HIGHWAY SAFETY PLANS.—*

11               “(A) *IN GENERAL.—Not later than 60 days*  
12       *after the date on which the Secretary receives a*  
13       *State’s highway safety plan, the Secretary shall*  
14       *approve or disapprove the plan.*

15               “(B) *APPROVALS AND DISAPPROVALS.—The*  
16       *Secretary shall approve or disapprove a State’s*  
17       *highway safety plan based on a review of the*  
18       *plan, including an evaluation of whether, in the*  
19       *Secretary’s judgment, the plan is evidence-based,*  
20       *is supported by data and analysis, and, if im-*  
21       *plemented, will allow the State to meet the per-*  
22       *formance targets established for the State under*  
23       *subsection (m). The Secretary shall disapprove a*  
24       *State’s highway safety plan if the plan does not,*  
25       *in the Secretary’s judgment, provide for the evi-*

1        *denced-based use of funding in a manner suffi-*  
2        *cient to allow the State to meet performance tar-*  
3        *gets.*

4                “(C) *ACTIONS UPON DISAPPROVAL.—If the*  
5        *Secretary disapproves a State’s highway safety*  
6        *plan, the Secretary shall inform the Governor of*  
7        *the State of the reasons for the disapproval and*  
8        *require the Governor to resubmit the plan with*  
9        *such modifications as the Secretary determines*  
10       *necessary.*

11               “(D) *REVIEW OF RESUBMITTED PLANS.—If*  
12       *the Secretary requires a Governor to resubmit a*  
13       *highway safety plan with modifications, the Sec-*  
14       *retary shall approve or disapprove the modified*  
15       *plan not later than 30 days after the date on*  
16       *which the modified plan is submitted to the Sec-*  
17       *retary.*

18               “(E) *FUNDING ALLOCATIONS.—If a State*  
19       *failed to accomplish, as determined by the Sec-*  
20       *retary, a performance target established for that*  
21       *State under subsection (m) in the fiscal year*  
22       *preceding the fiscal year to which a State high-*  
23       *way safety plan under review applies, the Sec-*  
24       *retary shall require the following to be included*  
25       *in the highway safety plan under review:*

1           “(i) If the State failed to accomplish a  
2           performance target established under sub-  
3           section (m)(1)(B)(iii) or (m)(1)(B)(iv), a  
4           certification that the State will expend  
5           funds apportioned to the State under this  
6           section, during the fiscal year to which the  
7           plan applies, for projects and activities ad-  
8           dressing impaired driving in an amount  
9           that is at least 5 percent more than the  
10          amount expended on such projects and ac-  
11          tivities in the preceding fiscal year using  
12          such funds.

13          “(ii) If the State failed to accomplish  
14          a performance target established under sub-  
15          section (m)(1)(B)(v), a certification that the  
16          State will expend funds apportioned to the  
17          State under this section, during the fiscal  
18          year to which the plan applies, for projects  
19          and activities addressing occupant protec-  
20          tion in an amount that is at least 5 percent  
21          more than the amount expended on such  
22          projects and activities in the preceding fis-  
23          cal year using such funds.

24          “(iii) If the State failed to accomplish  
25          a performance target established under sub-

1            *section (m)(1)(B)(vi), a certification that*  
 2            *the State will expend funds apportioned to*  
 3            *the State under this section, during the fis-*  
 4            *cal year to which the plan applies, for*  
 5            *projects and activities addressing motor-*  
 6            *cycle safety in an amount that is at least*  
 7            *5 percent more than the amount expended*  
 8            *on such projects and activities in the pre-*  
 9            *ceding fiscal year using such funds.*

10          *“(F) DATA.—*

11            *“(i) FATALITIES DATA.—A State’s*  
 12            *compliance with performance targets relat-*  
 13            *ing to fatalities shall be determined using*  
 14            *the most recent data from the Fatality*  
 15            *Analysis Reporting System of the National*  
 16            *Highway Traffic Safety Administration.*

17            *“(ii) CRASH DATA.—A State’s compli-*  
 18            *ance with performance targets relating to*  
 19            *serious injuries shall be determined using*  
 20            *State crash data files.*

21            *“(G) PUBLIC NOTICE.—A State shall make*  
 22            *each highway safety plan of the State available*  
 23            *to the public.*

24            *“(o) ANNUAL REPORT TO CONGRESS.—Not later than*  
 25            *October 1, 2015, and annually thereafter, the Secretary*

1 *shall submit to the Committee on Transportation and In-*  
 2 *frastructure of the House of Representatives and the Com-*  
 3 *mittee on Commerce, Science, and Transportation of the*  
 4 *Senate a report containing—*

5           “(1) *an evaluation of each State’s performance*  
 6           *with respect to the State’s highway safety plan under*  
 7           *subsection (n) and performance targets under sub-*  
 8           *section (m); and*

9           “(2) *such recommendations as the Secretary may*  
 10          *have for improvements to activities carried out under*  
 11          *subsections (m) and (n).*

12          “(p) *DEFINITIONS.—In this section, the following defi-*  
 13          *nitions apply:*

14               “(1) *CHILD RESTRAINT.—The term ‘child re-*  
 15               *straint’ means any product designed to provide re-*  
 16               *straint to a child in a motor vehicle (including boost-*  
 17               *er seats and other products used with a lap and*  
 18               *shoulder belt assembly) that meets applicable Federal*  
 19               *motor vehicle safety standards prescribed by the Na-*  
 20               *tional Highway Traffic Safety Administration.*

21               “(2) *CONTROLLED SUBSTANCE.—The term ‘con-*  
 22               *trolled substance’ has the meaning given that term in*  
 23               *section 102 of the Controlled Substances Act (21*  
 24               *U.S.C. 802).*

1           “(3) *DRIVING WHILE INTOXICATED; DRIVING*  
2           *UNDER THE INFLUENCE.*—*The terms ‘driving while*  
3           *intoxicated’ and ‘driving under the influence’ have the*  
4           *meaning given those terms in section 164.*

5           “(4) *GRADUATED DRIVERS LICENSING LAW.*—  
6           *The term ‘graduated drivers licensing law’ means a*  
7           *law enacted by a State that requires, before the grant-*  
8           *ing of an unrestricted driver’s license to individuals*  
9           *under the age of 21 years, a 2-stage licensing process*  
10           *that includes the following:*

11                   “(A) *A learner’s permit stage that—*

12                           “(i) *allows for the acquisition of a*  
13                           *learner’s permit by an individual not ear-*  
14                           *lier than the date on which that individual*  
15                           *attains 15 years and 6 months of age;*

16                           “(ii) *is at least 6 months in duration;*

17                           “(iii) *requires an individual with a*  
18                           *learner’s permit to complete at least 30*  
19                           *hours of driving supervised by a licensed*  
20                           *driver who is 21 years of age or older;*

21                           “(iv) *requires an individual with a*  
22                           *learner’s permit to be accompanied and su-*  
23                           *pervised by a licensed driver who is 21*  
24                           *years of age or older at all times when oper-*  
25                           *ating a motor vehicle; and*

1           “(v) is in effect until the commence-  
2           ment of the intermediate stage or until the  
3           date on which the applicable individual at-  
4           tains 18 years of age.

5           “(B) An intermediate stage that—

6           “(i) applies to an individual imme-  
7           diately after the expiration of the learner’s  
8           permit stage for that individual;

9           “(ii) is at least 6 months in duration;

10          “(iii) prohibits the operation of a  
11          motor vehicle by an individual to whom the  
12          stage applies, if that individual is trans-  
13          porting more than one nonfamilial pas-  
14          senger under the age of 18 years and there  
15          is no licensed driver 21 years of age or older  
16          present in the motor vehicle; and

17          “(iv) prohibits an individual to whom  
18          the stage applies from operating a motor ve-  
19          hicle between the hours of midnight and 4  
20          a.m., unless such individual is accompanied  
21          and supervised by a licensed driver who is  
22          21 years of age or older.

23          “(5) IMPAIRED DRIVING HIGH RANGE STATE.—

24          The term ‘impaired driving high range State’ means  
25          a State that averaged more than .50 alcohol impaired

1     *driving fatalities per 100,000,000 vehicle miles trav-*  
 2     *eled, as determined using data from the Fatality*  
 3     *Analysis Reporting System of the National Highway*  
 4     *Traffic Safety Administration, for the most recent 3*  
 5     *years for which data are available.*

6             “(6) *IGNITION INTERLOCK DEVICE.*—*The term*  
 7     *‘ignition interlock device’ means an in-vehicle device*  
 8     *that requires a driver to provide a breath sample*  
 9     *prior to a motor vehicle starting and that prevents a*  
 10    *motor vehicle from starting if the blood alcohol con-*  
 11    *tent of the driver is above the legal limit.*

12            “(7) *IGNITION INTERLOCK LAW.*—*The term ‘igni-*  
 13    *tion interlock law’ means a law enacted by a State*  
 14    *that requires throughout the State the installation of*  
 15    *an ignition interlock device, for a minimum of 6*  
 16    *months, on each motor vehicle operated by an indi-*  
 17    *vidual who is convicted of driving while intoxicated*  
 18    *or driving under the influence.*

19            “(8) *MOTOR VEHICLE.*—*The term ‘motor vehicle’*  
 20    *has the meaning given that term in section 157.*

21            “(9) *MOTORCYCLIST SAFETY TRAINING.*—*The*  
 22    *term ‘motorcyclist safety training’ means a formal*  
 23    *program of instruction that is approved for use in a*  
 24    *State by the designated State authority having juris-*  
 25    *isdiction over motorcyclist safety issues, which may in-*

1 *clude a State motorcycle safety administrator or a*  
2 *motorcycle advisory council appointed by the Gov-*  
3 *ernor of the State.*

4 “(10) *PRIMARY SAFETY BELT USE LAW.*—*The*  
5 *term ‘primary safety belt use law’ means a law en-*  
6 *acted by a State that—*

7 “(A) *requires all occupants in the front seat*  
8 *of a motor vehicle to utilize a seat belt when the*  
9 *motor vehicle is being driven; and*

10 “(B) *allows for a law enforcement officer to*  
11 *stop a vehicle solely for the purpose of issuing a*  
12 *citation for a violation of the requirement in*  
13 *subparagraph (A) in the absence of evidence of*  
14 *another offense.*

15 “(11) *PROJECTS AND ACTIVITIES ADDRESSING*  
16 *IMPAIRED DRIVING.*—*The term ‘projects and activities*  
17 *addressing impaired driving’ means projects and ac-*  
18 *tivities—*

19 “(A) *to develop and implement law enforce-*  
20 *ment measures and tools designed to reduce im-*  
21 *paired driving, including training, education,*  
22 *equipment, and other methods of support for law*  
23 *enforcement and criminal justice professionals;*

24 “(B) *to improve impaired driving prosecu-*  
25 *tion and adjudication, including the establish-*

1           *ment of courts that specialize in impaired driv-*  
2           *ing cases;*

3           “(C) *to carry out safety campaigns relating*  
4           *to impaired driving using paid media;*

5           “(D) *to provide inpatient and outpatient*  
6           *alcohol rehabilitation based on mandatory as-*  
7           *essment and appropriate treatment;*

8           “(E) *to establish and improve information*  
9           *systems containing data on impaired driving; or*

10          “(F) *to establish and implement an ignition*  
11          *interlock system for individuals convicted of*  
12          *driving while intoxicated or driving under the*  
13          *influence.*

14          “(12) *PROJECTS AND ACTIVITIES ADDRESSING*  
15          *MOTORCYCLE SAFETY.—The term ‘projects and activi-*  
16          *ties addressing motorcycle safety’ means projects and*  
17          *activities—*

18               “(A) *to improve the content and delivery of*  
19               *motorcyclist safety training curricula;*

20               “(B) *to support licensing, training, and*  
21               *safety education for motorcyclists, including new*  
22               *entrants;*

23               “(C) *to enhance motorcycle safety through*  
24               *public service announcements, including safety*

1           *messages on road sharing, outreach, and public*  
2           *awareness activities; or*

3           “(D) *to provide for the safety of motorcy-*  
4           *clists through the promotion of appropriate pro-*  
5           *TECTIVE equipment.*

6           “(13) *PROJECTS AND ACTIVITIES ADDRESSING*  
7           *OCCUPANT PROTECTION.—The term ‘projects and ac-*  
8           *tivities addressing occupant protection’ means*  
9           *projects and activities—*

10           “(A) *to provide for occupant protection*  
11           *training, education, equipment, and other meth-*  
12           *ods of support for law enforcement and criminal*  
13           *justice professionals;*

14           “(B) *to carry out safety campaigns relating*  
15           *to occupant protection using paid media;*

16           “(C) *to establish and improve information*  
17           *systems containing data on occupant protection;*

18           “(D) *to provide for training of firefighters,*  
19           *law enforcement officers, emergency medical serv-*  
20           *ices professionals, and others on the provision of*  
21           *community child passenger safety services; or*

22           “(E) *to purchase child restraints for low-in-*  
23           *come families.*

24           “(14) *PUBLIC ROAD.—The term ‘public road’*  
25           *means any road under the jurisdiction of and main-*

1        *tained by a public authority and open to public trav-*  
 2        *el.*

3                “(15) *PUBLIC ROAD MILEAGE.*—*The term ‘public*  
 4        *road mileage’ means the number of public road miles*  
 5        *in a State as—*

6                “(A) *determined at the end of the calendar*  
 7        *year preceding the year in which applicable*  
 8        *funds are apportioned; and*

9                “(B) *certified by the Governor of the State,*  
 10        *subject to approval by the Secretary.*

11               “(16) *SEAT BELT.*—*The term ‘seat belt’ has the*  
 12        *meaning given that term in section 157.”.*

13    **SEC. 5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR**  
 14                **ADMINISTRATIVE EXPENSES.**

15        (a) *IN GENERAL.*—*Section 403 is amended to read as*  
 16        *follows:*

17    **“§ 403. Use of certain funds made available for ad-**  
 18                **ministrative expenses**

19        “(a) *HIGHWAY SAFETY RESEARCH AND DEVELOP-*  
 20        *MENT.*—*The Secretary is authorized to carry out, using*  
 21        *funds made available out of the Highway Trust Fund (other*  
 22        *than the Alternative Transportation Account) under section*  
 23        *5002(a)(3) of the American Energy and Infrastructure Jobs*  
 24        *Act of 2012—*

1           “(1) ongoing research into driver behavior and  
2           its effect on traffic safety;

3           “(2) research on, initiatives to counter, and dem-  
4           onstration projects on fatigued driving by drivers of  
5           motor vehicles and distracted driving in such vehicles,  
6           including the effect that the use of electronic devices  
7           and other factors determined relevant by the Sec-  
8           retary have on driving;

9           “(3) training or education programs in coopera-  
10          tion with other Federal departments and agencies,  
11          States, private sector persons, highway safety per-  
12          sonnel, and law enforcement personnel;

13          “(4) research on and evaluations of the effective-  
14          ness of traffic safety countermeasures, including seat  
15          belts and impaired driving initiatives;

16          “(5) research on, evaluations of, and identifica-  
17          tion of best practices related to driver education pro-  
18          grams (including driver education curricula, instruc-  
19          tor training and certification, program administra-  
20          tion, and delivery mechanisms) and make rec-  
21          ommendations for harmonizing driver education and  
22          multistage graduated licensing systems;

23          “(6) research, training, and education programs  
24          related to older drivers;

1           “(7) *highway safety demonstration projects re-*  
2           *lated to driver behavior, including field operational*  
3           *tests for vehicle collision avoidance systems, vehicle*  
4           *voice interface systems, vehicle workload management*  
5           *systems, driver state monitoring systems, and autono-*  
6           *mous vehicles; and*

7           “(8) *research, training, and programs relating to*  
8           *motorcycle safety, including impaired driving.*

9           “(b) *HIGH VISIBILITY ENFORCEMENT PROGRAM.—*

10           “(1) *IN GENERAL.—The Administrator of the*  
11           *National Highway Traffic Safety Administration*  
12           *shall establish and administer, using funds made*  
13           *available out of the Highway Trust Fund (other than*  
14           *the Alternative Transportation Account) under sec-*  
15           *tion 5002(a)(3) of the American Energy and Infra-*  
16           *structure Jobs Act of 2012, a program under which*  
17           *at least 2 high-visibility traffic safety law enforce-*  
18           *ment campaigns will be carried out for the purpose*  
19           *specified in paragraph (2) in each of fiscal years*  
20           *2013 through 2016.*

21           “(2) *PURPOSE.—The purpose of each law en-*  
22           *forcement campaign under this subsection shall be to*  
23           *achieve one or more of the following objectives:*

24                   “(A) *Reduce alcohol-impaired or drug-im-*  
25                   *paired operation of motor vehicles.*

1           “(B) Increase the use of seat belts by occu-  
2 pants of motor vehicles.

3           “(C) Reduce distracted driving of motor ve-  
4 hicles.

5           “(3) ADVERTISING.—The Administrator may  
6 use, or authorize the use of, funds made available to  
7 carry out this subsection to pay for the development,  
8 production, and use of broadcast and print media ad-  
9 vertising in carrying out law enforcement campaigns  
10 under this subsection. Consideration shall be given to  
11 advertising directed at non-English speaking popu-  
12 lations, including those who listen to, read, or watch  
13 nontraditional media.

14           “(4) COORDINATION WITH STATES.—The Admin-  
15 istrator shall coordinate with States in carrying out  
16 law enforcement campaigns under this subsection, in-  
17 cluding advertising funded under paragraph (3), with  
18 a view toward—

19           “(A) relying on States to provide the law  
20 enforcement resources for the campaigns out of  
21 funding available under this subsection and sec-  
22 tion 402; and

23           “(B) providing out of National Highway  
24 Traffic Safety Administration resources most of  
25 the means necessary for national advertising and

1           *education efforts associated with the law enforce-*  
 2           *ment campaigns.*

3           “(5) *ANNUAL EVALUATION.*—*The Secretary shall*  
 4           *conduct an annual evaluation of the effectiveness of*  
 5           *campaigns carried out under this subsection.*

6           “(6) *STATE DEFINED.*—*In this subsection, the*  
 7           *term ‘State’ has the meaning given that term in sec-*  
 8           *tion 401.*

9           “(c) *AVAILABILITY OF FUNDS.*—*The Secretary shall*  
 10          *ensure that at least \$137,244,000 of the funds made avail-*  
 11          *able out of the Highway Trust Fund (other than the Alter-*  
 12          *native Transportation Account) under section 5002(a)(3) of*  
 13          *the American Energy and Infrastructure Jobs Act of 2012*  
 14          *each fiscal year are used for programs and activities au-*  
 15          *thorized under this section.”.*

16          (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 17          *4 is amended by striking the item relating to section 403*  
 18          *and inserting the following:*

          “403. *Use of certain funds made available for administrative expenses.”.*

19       **SEC. 5005. REPEAL OF PROGRAMS.**

20          (a) *GENERAL PROVISION.*—*A repeal made by this sec-*  
 21          *tion shall not affect funds apportioned or allocated before*  
 22          *the effective date of the repeal.*

23          (b) *OCCUPANT PROTECTION INCENTIVE GRANTS.*—  
 24          *Section 405, and the item relating to that section in the*  
 25          *analysis for chapter 4, are repealed.*

1       (c) *SAFETY BELT PERFORMANCE GRANTS*.—Section  
2   406, and the item relating to that section in the analysis  
3   for chapter 4, are repealed.

4       (d) *INNOVATIVE PROJECT GRANTS*.—Section 407, and  
5   the item relating to that section in the analysis for chapter  
6   4, are repealed.

7       (e) *STATE TRAFFIC SAFETY INFORMATION SYSTEM IM-*  
8   *PROVEMENTS*.—Section 408, and the item relating to that  
9   section in the analysis for chapter 4, are repealed.

10      (f)    *ALCOHOL-IMPAIRED     DRIVING     COUNTER-*  
11   *MEASURES*.—Section 410, and the item relating to that sec-  
12   tion in the analysis for chapter 4, are repealed.

13      (g) *STATE HIGHWAY SAFETY DATA IMPROVEMENTS*.—  
14   Section 411, and the item relating to that section in the  
15   analysis for chapter 4, are repealed.

16      (h) *HIGH VISIBILITY ENFORCEMENT PROGRAM*.—Sec-  
17   tion 2009 of *SAFETEA-LU* (23 U.S.C. 402 note; 119 Stat.  
18   1535), and the item relating to that section in the table  
19   of contents contained in section 1(b) of that Act, are re-  
20   pealed.

21      (i)    *MOTORCYCLIST     SAFETY*.—Section   2010   of  
22   *SAFETEA-LU* (23 U.S.C. 402 note; 119 Stat. 1535), and  
23   the item relating to that section in the table of contents con-  
24   tained in section 1(b) of that Act, are repealed.

1       (j) *CHILD SAFETY AND CHILD BOOSTER SEAT INCEN-*  
2 *TIVE GRANTS.*—Section 2011 of SAFETEA–LU (23 U.S.C.  
3 405 note; 119 Stat. 1538), and the item relating to that  
4 section in the table of contents contained in section 1(b)  
5 of that Act, are repealed.

6       (k) *DRUG-IMPAIRED DRIVING ENFORCEMENT.*—Sec-  
7 tion 2013 of SAFETEA–LU (23 U.S.C. 403 note; 119 Stat.  
8 1539), and the item relating to that section in the table  
9 of contents contained in section 1(b) of that Act, are re-  
10 pealed.

11       (l) *FIRST RESPONDER VEHICLE SAFETY PROGRAM.*—  
12 Section 2014 of SAFETEA–LU (23 U.S.C. 402 note; 119  
13 Stat. 1540), and the item relating to that section in the  
14 table of contents contained in section 1(b) of that Act, are  
15 repealed.

16       (m) *RURAL STATE EMERGENCY MEDICAL SERVICES*  
17 *OPTIMIZATION PILOT PROGRAM.*—Section 2016 of  
18 SAFETEA–LU (119 Stat. 1541), and the item relating to  
19 that section in the table of contents contained in section  
20 1(b) of that Act, are repealed.

21       (n) *OLDER DRIVER SAFETY; LAW ENFORCEMENT*  
22 *TRAINING.*—Section 2017 of SAFETEA–LU (119 Stat.  
23 1541), and the item relating to that section in the table  
24 of contents contained in section 1(b) of that Act, are re-  
25 pealed.

1 **SEC. 5006. DISCOVERY AND ADMISSION AS EVIDENCE OF**  
 2 **CERTAIN REPORTS AND SURVEYS.**

3 *Section 409 is amended by striking “and 148” and*  
 4 *inserting “148, and 402”.*

5 **SEC. 5007. PROHIBITION ON FUNDS TO CHECK HELMET**  
 6 **USAGE OR CREATE CHECKPOINTS FOR A MO-**  
 7 **TORCYCLE DRIVER OR PASSENGER.**

8 *The Secretary may not provide a grant or otherwise*  
 9 *make available funding to a State, Indian tribe, county,*  
 10 *municipality, or other local government to be used for any*  
 11 *program to check helmet usage or create checkpoints for a*  
 12 *motorcycle driver or passenger.*

13 **SEC. 5008. NATIONAL DRIVER REGISTER.**

14 *(a) ACCURACY OF INFORMATION.—Not later than Oc-*  
 15 *tober 1, 2013, to ensure the accuracy of information con-*  
 16 *tained in the National Driver Register established under*  
 17 *section 30302 of title 49, United States Code, the Secretary,*  
 18 *in cooperation with the States, shall—*

19 *(1) establish and implement procedures to—*

20 *(A) ensure that participating States submit*  
 21 *reports required under section 30304(a) of such*  
 22 *title with respect to a conviction not later than*  
 23 *31 days after receiving notice of the conviction,*  
 24 *as required under section 30304(c)(2) of such*  
 25 *title; and*

1           (B) verify and improve the accuracy of re-  
2           ports submitted for inclusion in the Register  
3           under section 30304 of such title; and

4           (2) establish and implement a process for—

5                 (A) the removal or modification of an in-  
6                 valid or duplicative driver record contained in  
7                 the Register; and

8                 (B) the verification of a request for the re-  
9                 moval or modification of an invalid or duplica-  
10                tive driver record contained in the Register.

11       (b) *REPORT TO CONGRESS*.—Not later than February  
12   1, 2013, and every February 1 thereafter, the Secretary  
13   shall submit to the Committee on Transportation and In-  
14   frastructure of the House of Representatives and the Com-  
15   mittee on Commerce, Science, and Transportation of the  
16   Senate a report describing—

17               (1) the timeliness and completeness of State sub-  
18               missions under section 30304 of title 49, United  
19               States Code;

20               (2) the Department's efforts to monitor and en-  
21               sure compliance with the reporting requirements  
22               under such section; and

23               (3) recommendations for improving the National  
24               Driver Register established under section 30302 of  
25               title 49, United States Code, including the accuracy

1       of information contained in the Register, and the  
 2       Problem Driver Pointer System of the American Asso-  
 3       ciation of Motor Vehicle Administrators.

4       **TITLE VI—COMMERCIAL MOTOR**  
 5       **VEHICLE SAFETY**

6       **SEC. 6001. SHORT TITLE.**

7       *This title may be cited as the “Motor Carrier Safety,*  
 8       *Efficiency, and Accountability Act of 2012”.*

9       **SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES**  
 10       **CODE.**

11       *Except as otherwise expressly provided, whenever in*  
 12       *this title an amendment or repeal is expressed in terms of*  
 13       *an amendment to, or a repeal of, a section or other provi-*  
 14       *sion, the reference shall be considered to be made to a section*  
 15       *or other provision of title 49, United States Code.*

16       **Subtitle A—Authorization of**  
 17       **Appropriations**

18       **SEC. 6101. MOTOR CARRIER SAFETY GRANTS.**

19       (a) *AUTHORIZATION OF APPROPRIATIONS.—Section*  
 20       *31104(a) is amended to read as follows:*

21       “(a) *IN GENERAL.—Subject to subsection (f), there is*  
 22       *authorized to be appropriated from the Highway Trust*  
 23       *Fund (other than the Alternative Transportation Account)*  
 24       *to carry out section 31102 \$247,000,000 for each of fiscal*  
 25       *years 2013 through 2016.”.*

1       (b) *ADMINISTRATIVE TAKEDOWN.*—

2               (1) *IN GENERAL.*—Section 31104(e) is amended  
3       to read as follows:

4       “(e) *DEDUCTION FOR ADMINISTRATIVE EXPENSES.*—

5               “(1) *IN GENERAL.*—On October 1 of each fiscal  
6       year (or as soon after that date as practicable), the  
7       Secretary may deduct, from amounts made available  
8       under subsection (a) for that fiscal year, not more  
9       than 1.25 percent of those amounts for administrative  
10      expenses incurred in carrying out section 31102 in  
11      that fiscal year.

12              “(2) *TRAINING.*—The Secretary shall use at least  
13      75 percent of the amounts deducted under paragraph  
14      (1) to train non-Government employees and to de-  
15      velop related training materials in carrying out sec-  
16      tion 31102.”.

17              (2) *REPORT TO CONGRESS.*—At the end of each  
18      fiscal year, the Secretary shall submit to Congress a  
19      report detailing the use of amounts deducted under  
20      section 31104(e) of title 49, United States Code, as  
21      amended by paragraph (1) of this subsection.

22      (c) *ALLOCATION CRITERIA.*—Section 31104(f) is  
23      amended to read as follows:

24      “(f) *ALLOCATION CRITERIA.*—

1           “(1) *IN GENERAL.*—On October 1 of each fiscal  
 2           year (or as soon after that date as practicable) and  
 3           after making the deduction under subsection (e), the  
 4           Secretary shall allocate amounts made available to  
 5           carry out section 31102 for such fiscal year among  
 6           the States that are eligible for grant funds under sec-  
 7           tion 31102(f)(2).

8           “(2) *ALLOCATION FORMULA.*—The amounts  
 9           made available to carry out section 31102 shall be al-  
 10          located among the States in the following manner:

11                   “(A) 20 percent in the ratio that—

12                           “(i) the total public road mileage in  
 13                           each State; bears to

14                           “(ii) the total public road mileage in  
 15                           all States.

16                   “(B) 20 percent in the ratio that—

17                           “(i) the total vehicle miles traveled in  
 18                           each State; bears to

19                           “(ii) the total vehicle miles traveled in  
 20                           all States.

21                   “(C) 20 percent in the ratio that—

22                           “(i) the total population of each State  
 23                           (as shown in the annual census estimates  
 24                           issued by the Bureau of the Census); bears  
 25                           to

1           “(ii) the total population of all States  
2           (as shown in the annual census estimates  
3           issued by the Bureau of the Census).

4           “(D) 20 percent in the ratio that—

5                 “(i) the total special fuel consumption  
6                 (net after reciprocity adjustment) in each  
7                 State (as determined by the Secretary);  
8                 bears to

9                 “(ii) the total special fuel consumption  
10                (net after reciprocity adjustment) in all  
11                States (as determined by the Secretary).

12           “(E) 10 percent only to those States that  
13           share a land border with another country and  
14           conduct border commercial motor vehicle safety  
15           programs and related activities (in this subpara-  
16           graph referred to as a ‘border State’), with—

17                 “(i) 70 percent of such amount to be  
18                 allocated among border States in the ratio  
19                 that—

20                 “(I) the total number of inter-  
21                 national commercial motor vehicle in-  
22                 spections conducted within the bound-  
23                 aries of each border State (as deter-  
24                 mined by the Secretary); bears to

1           “(II) the total number of inter-  
2           national commercial motor vehicle in-  
3           spections conducted within the bound-  
4           aries of all border States (as deter-  
5           mined by the Secretary); and

6           “(ii) 30 percent of such amount to be  
7           allocated among border States in the ratio  
8           that—

9           “(I) the total number of land bor-  
10          der crossing locations with State-main-  
11          tained commercial motor vehicle safety  
12          enforcement infrastructure within the  
13          boundaries of each border State (as de-  
14          termined by the Secretary); bears to

15          “(II) the total number of land  
16          border crossing locations with State-  
17          maintained commercial motor vehicle  
18          safety enforcement infrastructure with-  
19          in the boundaries of all border States  
20          (as determined by the Secretary).

21          “(F) 10 percent only to those States that re-  
22          duce the rate of large truck-involved fatal acci-  
23          dents in the State for the most recent calendar  
24          year for which data are available when com-  
25          pared to the average rate of large truck-involved

1       *fatal accidents in the State for the 10-year pe-*  
2       *riod ending on the last day preceding that cal-*  
3       *endar year (in this subparagraph referred to as*  
4       *an ‘eligible State’), with—*

5               *“(i) 25 percent of such amount to be*  
6               *allocated among eligible States in the ratio*  
7               *that—*

8                       *“(I) the total public road mileage*  
9                       *in each eligible State; bears to*

10                      *“(II) the total public road mileage*  
11                      *in all eligible States;*

12               *“(ii) 25 percent of such amount to be*  
13               *allocated among eligible States in the ratio*  
14               *that—*

15                      *“(I) the total vehicle miles trav-*  
16                      *eled in each eligible State; bears to*

17                      *“(II) the total vehicle miles trav-*  
18                      *eled in all eligible States;*

19               *“(iii) 25 percent of such amount to be*  
20               *allocated among eligible States in the ratio*  
21               *that—*

22                      *“(I) the total population of each*  
23                      *eligible State (as shown in the annual*  
24                      *census estimates issued by the Bureau*  
25                      *of the Census); bears to*

1                   “(II) the total population of all el-  
2                   igible States (as shown in the annual  
3                   census estimates issued by the Bureau  
4                   of the Census); and

5                   “(iv) 25 percent of such amount to be  
6                   allocated among eligible States in the ratio  
7                   that—

8                   “(I) the total special fuel con-  
9                   sumption (net after reciprocity adjust-  
10                  ment) in each eligible State (as deter-  
11                  mined by the Secretary); bears to

12                  “(II) the total special fuel con-  
13                  sumption (net after reciprocity adjust-  
14                  ment) in all eligible States (as deter-  
15                  mined by the Secretary).

16                  “(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

17                  “(A) MAXIMUM ALLOCATION.—The alloca-  
18                  tion under subparagraphs (A) through (D) of  
19                  paragraph (2) for a fiscal year to each State (ex-  
20                  cluding the Virgin Islands, American Samoa,  
21                  Guam, and the Northern Mariana Islands) shall  
22                  be not greater than 4.944 percent of the total al-  
23                  location under those subparagraphs in that fiscal  
24                  year.

1           “(B) *MINIMUM ALLOCATION.*—*The alloca-*  
 2           *tion under paragraph (2) for a fiscal year to*  
 3           *each State (excluding the Virgin Islands, Amer-*  
 4           *ican Samoa, Guam, and the Northern Mariana*  
 5           *Islands) shall be not less than 0.44 percent of the*  
 6           *total allocation under that paragraph in that fis-*  
 7           *cal year.*

8           “(C) *ALLOCATION TO TERRITORIES.*—*The*  
 9           *annual allocation to each of the Virgin Islands,*  
 10          *American Samoa, Guam, and the Northern Mar-*  
 11          *iana Islands shall be \$350,000.”.*

12          (d) *ADMINISTRATIVE EXPENSES.*—*Section 31104(i) is*  
 13          *amended—*

14                 *(1) by striking paragraph (1) and inserting the*  
 15                 *following:*

16                 “(1) *AUTHORIZATION OF APPROPRIATIONS.*—  
 17                 *There is authorized to be appropriated from the High-*  
 18                 *way Trust Fund (other than the Alternative Trans-*  
 19                 *portation Account) for the Secretary of Transpor-*  
 20                 *tation to pay administrative expenses of the Federal*  
 21                 *Motor Carrier Safety Administration \$244,144,000*  
 22                 *for each of fiscal years 2013 through 2016.”; and*

23                 *(2) by adding at the end the following:*

24                 “(3) *OUTREACH AND EDUCATION.*—

1           “(A) *IN GENERAL.*—Using the funds au-  
2           thorized by this subsection, the Secretary shall  
3           conduct an outreach and education program to  
4           be administered by the Administrator of the Fed-  
5           eral Motor Carrier Safety Administration in co-  
6           operation with the Administrator of the National  
7           Highway Traffic Safety Administration.

8           “(B) *PROGRAM ELEMENTS.*—The program  
9           shall include, at a minimum, the following:

10           “(i) A program to promote a more  
11           comprehensive and national effort to edu-  
12           cate commercial motor vehicle operators and  
13           passenger vehicle drivers about how such op-  
14           erators and drivers can more safely share  
15           the road with each other.

16           “(ii) A program to promote enhanced  
17           traffic enforcement efforts aimed at reducing  
18           the incidence of the most common unsafe  
19           driving behaviors that cause or contribute to  
20           crashes involving commercial motor vehicles  
21           and passenger vehicles.

22           “(iii) A program to establish a public-  
23           private partnership to provide resources  
24           and expertise for the development and dis-  
25           semination of information relating to shar-

1                    *ing the road referred to in clauses (i) and*  
 2                    *(ii) to each partner's constituents and to the*  
 3                    *general public through the use of brochures,*  
 4                    *videos, paid and public advertisements, the*  
 5                    *Internet, and other media.”.*

6 **SEC. 6102. GRANT PROGRAMS.**

7            *(a) AUTHORIZATION OF APPROPRIATIONS.—There are*  
 8            *authorized to be appropriated from the Highway Trust*  
 9            *Fund (other than the Alternative Transportation Account)*  
 10           *the following sums for the following Federal Motor Carrier*  
 11           *Safety Administration programs:*

12                    *(1) COMMERCIAL DRIVER'S LICENSE PROGRAM*  
 13                    *IMPLEMENTATION GRANTS.—For commercial driver's*  
 14                    *license program implementation grants under section*  
 15                    *31313 of title 49, United States Code, \$30,000,000 for*  
 16                    *each of fiscal years 2013 through 2016.*

17                    *(2) COMMERCIAL VEHICLE INFORMATION SYS-*  
 18                    *TEMS AND NETWORKS DEPLOYMENT.—For carrying*  
 19                    *out the commercial vehicle information systems and*  
 20                    *networks deployment program under section 4126 of*  
 21                    *SAFETEA-LU (119 Stat. 1738) \$30,000,000 for each*  
 22                    *of fiscal years 2013 through 2016.*

23            *(b) PERIOD OF AVAILABILITY.—The amounts made*  
 24            *available under this section shall remain available until ex-*  
 25            *pendent.*

1       (c) *INITIAL DATE OF AVAILABILITY.*—Amounts au-  
 2       thorized to be appropriated from the Highway Trust Fund  
 3       (other than the Alternative Transportation Account) by this  
 4       section shall be available for obligation on the date of their  
 5       apportionment or allocation or on October 1 of the fiscal  
 6       year for which they are authorized, whichever occurs first.

7       (d) *CONTRACT AUTHORITY.*—Approval by the Sec-  
 8       retary of a grant with funds made available under this sec-  
 9       tion imposes upon the United States a contractual obliga-  
 10      tion for payment of the Government’s share of costs in-  
 11      curred in carrying out the objectives of the grant.

## 12                   ***Subtitle B—Registration***

### 13   ***SEC. 6201. REGISTRATION REQUIREMENTS.***

14       (a) *GENERAL REQUIREMENTS.*—Section 13901 is  
 15      amended to read as follows:

#### 16   ***“§ 13901. Requirement for registration***

17       “(a) *IN GENERAL.*—A person may provide the fol-  
 18      lowing transportation or services only if the person is reg-  
 19      istered under this chapter to provide the transportation or  
 20      service:

21               “(1) *Transportation as a motor carrier subject to*  
 22      *jurisdiction under subchapter I of chapter 135.*

23               “(2) *Service as a freight forwarder subject to ju-*  
 24      *risdiction under subchapter III of chapter 135.*

1           “(3) *Service as a broker for transportation sub-*  
2           *ject to jurisdiction under subchapter I of chapter 135.*

3           “(b) *REGISTRATION NUMBERS.*—

4           “(1) *IN GENERAL.*—*If the Secretary registers a*  
5           *person under this chapter to provide transportation*  
6           *or service, including as a motor carrier, freight for-*  
7           *warder, or broker, the Secretary shall issue a distinc-*  
8           *tive registration number to the person for the trans-*  
9           *portation or service. In the case of a person registered*  
10          *by the Secretary to provide more than one type of*  
11          *transportation or service, the Secretary shall issue a*  
12          *separate registration number to the person for each*  
13          *authority to provide transportation or service.*

14          “(2) *TRANSPORTATION OR SERVICE TYPE INDICATOR.*—*A registration number issued under para-*  
15          *graph (1) shall include an indicator of the type of*  
16          *transportation or service for which the registration*  
17          *number is issued, including whether the registration*  
18          *number is issued for registration of a motor carrier,*  
19          *freight forwarder, or broker.*

21          “(c) *SPECIFICATION OF AUTHORITY.*—*For each agree-*  
22          *ment to provide transportation or service for which reg-*  
23          *istration is required under this chapter, the registrant shall*  
24          *specify, in writing, the authority under which the person*  
25          *is providing the transportation or service.”.*

1       (b) *AVAILABILITY OF INFORMATION.*—

2               (1) *IN GENERAL.*—Chapter 139 is amended by  
3       adding at the end the following:

4       **“§ 13909. Availability of information**

5               *“The Secretary shall make information relating to reg-*  
6       *istration and financial security required by this chapter*  
7       *publicly available on the Internet, including—*

8               *“(1) the names and addresses of the principals of*  
9       *each entity holding such registration;*

10              *“(2) the status of such registration; and*

11              *“(3) the electronic address of the entity’s surety*  
12       *provider for the submission of claims.”.*

13              (2) *CONFORMING AMENDMENT.*—The analysis for  
14       such chapter is amended by adding at the end the fol-  
15       lowing:

*“13909. Availability of information.”.*

16       **SEC. 6202. MOTOR CARRIER REGISTRATION.**

17              (a) *MOTOR CARRIER GENERALLY.*—Section 13902(a)  
18       is amended—

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

21              *“(1) IN GENERAL.—Except as provided in this*  
22       *section, the Secretary shall register a person to pro-*  
23       *vide transportation subject to jurisdiction under sub-*  
24       *chapter I of chapter 135 as a motor carrier using self-*

1       *propelled vehicles the motor carrier owns, rents, or*  
2       *leases if the Secretary finds that the person—*

3               *“(A) is willing and able to comply with—*

4                       *“(i) this part and the applicable regu-*  
5                       *lations of the Secretary and the Board;*

6                       *“(ii) any safety regulations imposed by*  
7                       *the Secretary;*

8                       *“(iii) the duties of employers and em-*  
9                       *ployees established by the Secretary under*  
10                      *section 31135;*

11                      *“(iv) the safety fitness requirements es-*  
12                      *tablished by the Secretary under section*  
13                      *31144;*

14                      *“(v) the accessibility requirements es-*  
15                      *tablished by the Secretary under subpart H*  
16                      *of part 37 of title 49, Code of Federal Regu-*  
17                      *lations, or a successor regulation, for trans-*  
18                      *portation provided by an over-the-road bus;*  
19                      *and*

20                      *“(vi) the minimum financial responsi-*  
21                      *bility requirements established by the Sec-*  
22                      *retary pursuant to sections 13906 and*  
23                      *31138;*

24               *“(B) has demonstrated, through successful*  
25       *completion of a proficiency examination, to be*

1       *developed by the Secretary by regulation, knowl-*  
 2       *edge of the requirements and regulations de-*  
 3       *scribed in subparagraph (A);*

4               *“(C) has disclosed to the Secretary any rela-*  
 5       *tionship involving common stock, common own-*  
 6       *ership, common control, common management,*  
 7       *or common familial relationship between that*  
 8       *person and any other motor carrier in the 3-year*  
 9       *period preceding the date of the filing of the ap-*  
 10       *plication for registration; and*

11               *“(D) has been issued a Department of*  
 12       *Transportation number under section 31134.”;*  
 13       *and*

14       *(2) by adding at the end the following:*

15               *“(6) SEPARATE REGISTRATION REQUIRED.—A*  
 16       *motor carrier may not broker transportation services*  
 17       *unless the motor carrier has registered as a broker*  
 18       *under this chapter.”.*

19       *(b) ENHANCED REGISTRATION PROCEDURES FOR*  
 20       *HOUSEHOLD GOODS MOTOR CARRIERS.—*

21               *(1) IN GENERAL.—Section 13902(a)(2) is*  
 22       *amended to read as follows:*

23               *“(2) REGISTRATION FOR HOUSEHOLD GOODS*  
 24       *MOTOR CARRIERS.—*

1           “(A) *ADDITIONAL REQUIREMENTS.—In ad-*  
2           *dition to meeting the requirements of paragraph*  
3           *(1), the Secretary may register a person to pro-*  
4           *vide transportation of household goods as a*  
5           *household goods motor carrier only after the per-*  
6           *son—*

7                   “(i) *provides evidence of participation*  
8                   *in an arbitration program under section*  
9                   *14708 and provides a copy of the notice of*  
10                  *the arbitration program as required by sec-*  
11                  *tion 14708(b)(2);*

12                  “(ii) *identifies the motor carrier’s tar-*  
13                  *iff and provides a copy of the notice of the*  
14                  *availability of that tariff for inspection as*  
15                  *required by section 13702(c);*

16                  “(iii) *provides evidence that the person*  
17                  *has access to, has read, is familiar with,*  
18                  *and will observe all applicable Federal laws*  
19                  *relating to consumer protection, estimating,*  
20                  *consumers’ rights and responsibilities, and*  
21                  *options for limitations of liability for loss*  
22                  *and damage;*

23                  “(iv) *discloses any relationship involv-*  
24                  *ing common stock, common ownership, com-*  
25                  *mon control, common management, or com-*

1            *mon familial relationships between the per-*  
2            *son and any other motor carrier, freight*  
3            *forwarder, or broker of household goods*  
4            *within 3 years of the proposed date of reg-*  
5            *istration;*

6            “(v) *demonstrates that the person is*  
7            *willing and able to comply with the house-*  
8            *hold goods consumer protection rules of the*  
9            *Secretary; and*

10           “(vi) *demonstrates, through successful*  
11           *completion of a proficiency examination, to*  
12           *be developed by the Secretary by regulation,*  
13           *knowledge of the requirements and regula-*  
14           *tions described in this subparagraph.*

15           “(B) *HOUSEHOLD GOODS AUDITS.—*

16           “(i) *IN GENERAL.—The Secretary shall*  
17           *require, by regulation, each registrant de-*  
18           *scribed in subparagraph (A) to undergo a*  
19           *household goods audit during the 180-day*  
20           *period beginning 1 year after the date of*  
21           *issuance of a provisional registration to the*  
22           *registrant.*

23           “(ii) *REGULATIONS.—*

24           “(I) *DEADLINE.—The Secretary*  
25           *shall issue regulations under clause (i)*

1           *not later than 2 years after the date of*  
2           *enactment of the Motor Carrier Safety,*  
3           *Efficiency, and Accountability Act of*  
4           *2012.*

5           “(II) *ISSUANCE OF STANDARDS.—*

6           *The regulations shall include standards*  
7           *for household goods audits.*

8           “(iii) *CONTENTS.—The Secretary shall*  
9           *ensure that the standards issued under*  
10          *clause (ii)(II) require evidence dem-*  
11          *onstrating that a registrant described in*  
12          *subparagraph (A)—*

13          “(I) *has consistently adhered to*  
14          *the household goods regulations of the*  
15          *Secretary;*

16          “(II) *has consistently adhered to*  
17          *the requirements of its tariff;*

18          “(III) *has not wrongfully withheld*  
19          *the household goods of a customer;*

20          “(IV) *has not had a pattern of*  
21          *substantiated customer service com-*  
22          *plaints filed against it; and*

23          “(V) *has complied with all rel-*  
24          *evant arbitration requirements.*

25          “(C) *CORRECTIVE ACTION PLAN.—*

1           “(i) *IN GENERAL.*—If a registrant de-  
2           scribed in subparagraph (A) fails a house-  
3           hold goods audit, the registrant may submit  
4           to the Secretary for approval a corrective  
5           action plan to address deficiencies identified  
6           in the audit. The registrant shall submit the  
7           plan during the 60-day period beginning on  
8           the date the registrant is notified of the re-  
9           sults of the audit.

10           “(ii) *DEADLINE FOR APPROVAL OR*  
11           *DISAPPROVAL.*—The Secretary shall approve  
12           or disapprove a corrective action plan sub-  
13           mitted under clause (i) not later than 60  
14           days after the date of submission of the  
15           plan.

16           “(iii) *ASSESSMENT OF IMPLEMENTA-*  
17           *TION OF CORRECTIVE ACTION PLAN.*—If the  
18           Secretary approves a corrective action plan  
19           submitted by a registrant under clause (i),  
20           the Secretary shall determine, during the 1-  
21           year period beginning on the date of such  
22           approval, whether the registrant has carried  
23           out the plan satisfactorily.

24           “(D) *PROVISIONAL REGISTRATION.*—

1           “(i) *IN GENERAL.*—Any registration  
 2           issued under subparagraph (A) shall be des-  
 3           ignated as a provisional registration until  
 4           the audit required by subparagraph (B) is  
 5           completed.

6           “(ii) *REQUIREMENT FOR ISSUANCE OF*  
 7           *PERMANENT REGISTRATION.*—A provisional  
 8           registration issued to a registrant under  
 9           subparagraph (A) shall become permanent  
 10          after the registrant—

11                   “(I) passes the household goods  
 12                   audit required under subparagraph  
 13                   (B); or

14                   “(II) implements to the satisfac-  
 15                   tion of the Secretary a corrective ac-  
 16                   tion plan under subparagraph (C).

17           “(iii) *REVOCATION OF PROVISIONAL*  
 18           *REGISTRATION.*—If a registrant fails a  
 19           household goods audit required under sub-  
 20           paragraph (B) or does not implement to the  
 21           satisfaction of the Secretary a corrective ac-  
 22           tion plan under subparagraph (C), the Sec-  
 23           retary shall revoke the provisional registra-  
 24           tion of the registrant.

25           “(E) *REAPPLYING FOR REGISTRATION.*—

1                   “(i) *IN GENERAL.*—Nothing in this  
 2                   paragraph permanently prohibits a person  
 3                   from reapplying for registration to provide  
 4                   transportation of household goods as a  
 5                   household goods motor carrier.

6                   “(ii) *LIMITATION.*—If the Secretary re-  
 7                   vokes the provisional registration of a per-  
 8                   son under this paragraph, the person shall  
 9                   be required to wait at least 1 year before re-  
 10                  applying for a registration to provide  
 11                  transportation of household goods as a  
 12                  household goods motor carrier.”.

13                  (2) *RULEMAKING.*—Not later than 2 years after  
 14                  the date of enactment of this Act, the Secretary shall  
 15                  issue a final rule establishing the proficiency exam-  
 16                  ination referred to in section 13902(a)(2)(A)(vi) of  
 17                  title 49, United States Code, as amended by para-  
 18                  graph (1).

19                  (c) *REGISTRATION AS FREIGHT FORWARDER OR*  
 20                  *BROKER REQUIRED.*—Section 13902 is amended—

21                         (1) by redesignating subsection (g) as subsection  
 22                         (h); and

23                         (2) by inserting after subsection (f) the following:

1       “(g) *REGISTRATION AS FREIGHT FORWARDER OR*  
 2 *BROKER REQUIRED.*—A motor carrier registered under this  
 3 chapter—

4               “(1) may only provide transportation of prop-  
 5 erty with—

6                       “(A) self-propelled motor vehicles owned or  
 7 leased by the motor carrier; or

8                       “(B) interchanges, as permitted under regu-  
 9 lations issued by the Secretary and subject to re-  
 10 quirements that the originating carrier phys-  
 11 ically transports the cargo at some point and re-  
 12 tains liability for the cargo and payment of  
 13 interchanged carriers; and

14               “(2) may not arrange such transportation unless  
 15 the motor carrier has obtained a separate registration  
 16 as a freight forwarder or broker for transportation  
 17 under section 13903 or 13904, as the case may be.”.

18 **SEC. 6203. REGISTRATION OF FREIGHT FORWARDERS AND**  
 19 **BROKERS.**

20       (a) *REGISTRATION OF FREIGHT FORWARDERS.*—Sec-  
 21 tion 13903 is amended to read as follows:

22 **“§ 13903. Registration of freight forwarders**

23       “(a) *IN GENERAL.*—The Secretary shall register a per-  
 24 son to provide service subject to jurisdiction under sub-

1 *chapter III of chapter 135 as a freight forwarder if the Sec-*  
 2 *retary finds that the person—*

3           “(1) *is qualified by experience to act as a freight*  
 4 *forwarder; and*

5           “(2) *is fit, willing, and able to provide the serv-*  
 6 *ice and to comply with this part and applicable regu-*  
 7 *lations of the Secretary.*

8           “(b) *FINANCIAL SECURITY REQUIREMENTS.—A reg-*  
 9 *istration issued under subsection (a) shall remain in effect*  
 10 *only as long as the freight forwarder is in compliance with*  
 11 *section 13906(c).*

12           “(c) *EXPERIENCE OR TRAINING REQUIREMENT.—A*  
 13 *freight forwarder shall employ, as an officer, an individual*  
 14 *who—*

15           “(1) *has at least 3 years of relevant experience;*  
 16 *or*

17           “(2) *provides the Secretary with satisfactory evi-*  
 18 *dence of completion of relevant training.*

19           “(d) *REGISTRATION AS MOTOR CARRIER RE-*  
 20 *QUIRED.—A freight forwarder may not provide transpor-*  
 21 *tation as a motor carrier unless the freight forwarder has*  
 22 *registered separately under this chapter to provide trans-*  
 23 *portation as a motor carrier.”.*

24           “(b) *REGISTRATION OF BROKERS.—Section 13904 is*  
 25 *amended to read as follows:*

1   **“§ 13904. Registration of brokers**

2           “(a) *IN GENERAL.*—The Secretary shall register a per-  
3 son to be a broker for transportation of property subject  
4 to jurisdiction under subchapter I of chapter 135, if the Sec-  
5 retary finds that the person—

6           “(1) *is qualified by experience to act as a broker*  
7 *for transportation; and*

8           “(2) *is fit, willing, and able to be a broker for*  
9 *transportation and to comply with this part and ap-*  
10 *plicable regulations of the Secretary.*

11          “(b) *FINANCIAL SECURITY REQUIREMENTS.*—A reg-  
12 istration issued under subsection (a) shall remain in effect  
13 only as long as the broker for transportation is in compli-  
14 ance with section 13906(b).

15          “(c) *EXPERIENCE OR TRAINING REQUIREMENT.*—A  
16 broker shall employ, as an officer, an individual who—

17           “(1) *has at least 3 years of relevant experience;*  
18 *or*

19           “(2) *provides the Secretary with satisfactory evi-*  
20 *dence of completion of relevant training.*

21          “(d) *REGISTRATION AS MOTOR CARRIER RE-*  
22 *QUIRED.*—

23           “(1) *IN GENERAL.*—A broker for transportation  
24 may not provide transportation as a motor carrier  
25 unless the broker has registered separately under this  
26 chapter to provide transportation as a motor carrier.

1           “(2) *LIMITATION.*—*This subsection does not*  
 2           *apply to a motor carrier registered under this chapter*  
 3           *or to an employee or agent of the motor carrier to the*  
 4           *extent the transportation is to be provided entirely by*  
 5           *the motor carrier.*

6           “(e) *REGULATIONS TO PROTECT MOTOR CARRIERS*  
 7           *AND SHIPPERS.*—*Regulations of the Secretary applicable to*  
 8           *brokers registered under this section shall provide for the*  
 9           *protection of motor carriers and shippers by motor vehicle.*

10          “(f) *BOND AND INSURANCE.*—*The Secretary may im-*  
 11          *pose on brokers for motor carriers of passengers such re-*  
 12          *quirements for bonds or insurance (or both) as the Secretary*  
 13          *determines are needed to protect passengers and carriers*  
 14          *dealing with such brokers.”.*

15   **SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.**

16          *Section 13905(c) is amended to read as follows:*

17          “(c) *EFFECTIVE PERIOD.*—

18               “(1) *IN GENERAL.*—*Except as provided in this*  
 19               *part, each registration issued under section 13902,*  
 20               *13903, or 13904 shall be effective from the date speci-*  
 21               *fied by the Secretary and shall remain in effect for*  
 22               *such period as the Secretary determines appropriate*  
 23               *by regulation.*

24               “(2) *REISSUANCE OF REGISTRATION.*—*Not later*  
 25               *than 4 years after the date of enactment of the Motor*

1       *Carrier Safety, Efficiency, and Accountability Act of*  
2       *2012, the Secretary shall require a freight forwarder*  
3       *or broker to renew its registration issued under this*  
4       *chapter. Such registration shall expire not later than*  
5       *5 years after the date of such renewal and may be*  
6       *further renewed as provided under this chapter.*

7               “(3) *REQUIREMENT FOR INFORMATION UP-*  
8       *DATE.—*

9               “(A) *IN GENERAL.—The Secretary shall re-*  
10       *quire a motor carrier, freight forwarder, or*  
11       *broker to update its registration information*  
12       *under this chapter within 30 days of any change*  
13       *in address, other contact information, officers,*  
14       *process agent, or other essential information as*  
15       *determined by the Secretary and published in the*  
16       *Federal Register.*

17               “(B) *MOTOR CARRIERS OF PASSENGERS.—*  
18       *In addition to the requirements of subparagraph*  
19       *(A), the Secretary shall require a motor carrier*  
20       *of passengers to update its registration informa-*  
21       *tion, including numbers of vehicles, annual mile-*  
22       *age, and individuals responsible for compliance*  
23       *with Federal safety regulations quarterly for the*  
24       *first 2 years after being issued a registration*  
25       *under section 13902.”.*

1 **SEC. 6205. REINCARNATED CARRIERS.**

2 (a) *DENIALS, SUSPENSIONS, AMENDMENTS, AND REV-*  
3 *OCATIONS.*—*Section 13905(d) is amended—*

4 (1) *by redesignating paragraph (2) as para-*  
5 *graph (4);*

6 (2) *by striking paragraph (1) and inserting the*  
7 *following:*

8 “(1) *APPLICATIONS.*—*On application of the reg-*  
9 *istrant, the Secretary may deny, suspend, amend, or*  
10 *revoke a registration.*

11 “(2) *COMPLAINTS AND ACTIONS ON SECRETARY’S*  
12 *OWN INITIATIVE.*—*On complaint or on the Secretary’s*  
13 *own initiative and after notice and an opportunity*  
14 *for a proceeding, the Secretary may—*

15 (A) *deny, suspend, amend, or revoke any*  
16 *part of the registration of a motor carrier,*  
17 *broker, or freight forwarder for willful failure to*  
18 *comply with—*

19 (i) *this part;*

20 (ii) *an applicable regulation or order*  
21 *of the Secretary or the Board, including the*  
22 *accessibility requirements established by the*  
23 *Secretary under subpart H of part 37 of*  
24 *title 49, Code of Federal Regulations, or a*  
25 *successor regulation, for transportation pro-*  
26 *vided by an over-the-road bus; or*

1                   “(iii) a condition of its registration;

2                   “(B) deny, suspend, amend, or revoke any  
3                   part of the registration of a motor carrier,  
4                   broker, or freight forwarder for failure to—

5                   “(i) pay a civil penalty imposed under  
6                   chapter 5, 51, 149, or 311 of this title; or

7                   “(ii) arrange and abide by an accept-  
8                   able payment plan for such civil penalty,  
9                   within 90 days of the time specified by  
10                  order of the Secretary for the payment of  
11                  such penalty; and

12                  “(C) deny, suspend, amend, or revoke any  
13                  part of a registration of a motor carrier fol-  
14                  lowing a determination by the Secretary that the  
15                  motor carrier failed to disclose in its application  
16                  for registration a material fact relevant to its  
17                  willingness and ability to comply with—

18                  “(i) this part;

19                  “(ii) an applicable regulation or order  
20                  of the Secretary or the Board; or

21                  “(iii) a condition of its registration.

22                  “(3) *LIMITATION.*—Paragraph (2)(B) shall not  
23                  apply to any person who is unable to pay a civil pen-  
24                  alty because such person is a debtor in a case under  
25                  chapter 11 of title 11.”; and

1           (3) in paragraph (4) (as redesignated by para-  
 2           graph (1)) by striking “paragraph (1)(B)” and in-  
 3           serting “paragraph (2)(B)”.

4           (b) *PROCEDURE*.—Section 13905(e) is amended by in-  
 5           serting “or if the Secretary determines that the registrant  
 6           has failed to disclose a material fact in an application for  
 7           registration in accordance with subsection (d)(2)(C)” before  
 8           the first comma.

9           (c) *DUTIES OF EMPLOYERS AND EMPLOYEES*.—Sec-  
 10          tion 31135 is amended—

11           (1) by redesignating subsection (d) as subsection  
 12           (e); and

13           (2) by inserting after subsection (c) the fol-  
 14           lowing:

15          “(d) *AVOIDING COMPLIANCE*.—

16           “(1) *IN GENERAL*.—Two or more employers shall  
 17           not use common ownership, common management,  
 18           common control, or common familial relationship to  
 19           enable any or all such employers to avoid compliance,  
 20           or mask or otherwise conceal noncompliance, or a his-  
 21           tory of noncompliance, with commercial motor vehicle  
 22           safety regulations issued under this subchapter or an  
 23           order of the Secretary issued under this subchapter or  
 24           such regulations.

1           “(2) *PENALTY.*—If the Secretary determines that  
2           actions described in the preceding sentence have oc-  
3           curred, the Secretary shall—

4                   “(A) deny, suspend, amend, or revoke all or  
5                   part of any such employer’s registration under  
6                   sections 13905 and 31134; and

7                   “(B) take into account such noncompliance  
8                   for purposes of determining civil penalty  
9                   amounts under section 521(b)(2)(D).”.

10          (d) *INFORMATION SYSTEMS.*—Section 31106(a)(3) is  
11          amended—

12                   (1) in subparagraph (F) by striking “and” at  
13          the end;

14                   (2) in subparagraph (G) by striking the period  
15          at the end and inserting “; and”; and

16                   (3) by adding at the end the following:

17                           “(H) determine whether a motor carrier is  
18                           or has been related, through common stock, com-  
19                           mon ownership, common control, common man-  
20                           agement, or common familial relationship to any  
21                           other motor carrier.”.

22   **SEC. 6206. FINANCIAL SECURITY OF BROKERS AND**  
23   **FREIGHT FORWARDERS.**

24          (a) *IN GENERAL.*—Section 13906 is amended by strik-  
25          ing subsections (b) and (c) and inserting the following:

1       “(b) *BROKER FINANCIAL SECURITY REQUIRE-*  
2 *MENTS.—*

3               “(1) *REQUIREMENTS.—*

4                       “(A) *IN GENERAL.—The Secretary may reg-*  
5 *ister a person as a broker under section 13904*  
6 *only if the person files with the Secretary a sur-*  
7 *ety bond, proof of trust fund, or other financial*  
8 *security, or a combination thereof, in a form and*  
9 *amount, and from a provider, determined by the*  
10 *Secretary to be adequate to ensure financial re-*  
11 *sponsibility.*

12                      “(B) *USE OF A GROUP SURETY BOND,*  
13 *TRUST FUND, OR OTHER SURETY.—In imple-*  
14 *menting the standards established by subpara-*  
15 *graph (A), the Secretary may authorize the use*  
16 *of a group surety bond, trust fund, or other fi-*  
17 *nancial security, or a combination thereof, that*  
18 *meets the requirements of this subsection.*

19                      “(C) *SURETY BONDS.—A surety bond ob-*  
20 *tained under this section may only be obtained*  
21 *from a bonding company that has been approved*  
22 *by the Secretary of the Treasury.*

23                      “(D) *PROOF OF TRUST OR OTHER FINAN-*  
24 *CIAL SECURITY.—For purposes of subparagraph*  
25 *(A), a trust fund or other financial security may*

1        *be acceptable to the Secretary only if the trust*  
 2        *fund or other financial security consists of assets*  
 3        *readily available to pay claims without resort to*  
 4        *personal guarantees or collection of pledged ac-*  
 5        *counts receivable.*

6        “(2) *SCOPE OF FINANCIAL RESPONSIBILITY.*—

7                “(A) *PAYMENT OF CLAIMS.*—*A surety bond,*  
 8        *trust fund, or other financial security obtained*  
 9        *under paragraph (1) shall be available to pay*  
 10        *any claim against a broker arising from its fail-*  
 11        *ure to pay freight charges under its contracts,*  
 12        *agreements, or arrangements for transportation*  
 13        *subject to jurisdiction under chapter 135 if—*

14                “(i) *subject to the review by the surety*  
 15        *provider, the broker consents to the pay-*  
 16        *ment;*

17                “(ii) *in the case the broker does not re-*  
 18        *spond to adequate notice to address the va-*  
 19        *lidity of the claim, the surety provider de-*  
 20        *termines the claim is valid; or*

21                “(iii) *the claim is not resolved within*  
 22        *a reasonable period of time following a rea-*  
 23        *sonable attempt by the claimant to resolve*  
 24        *the claim under clauses (i) and (ii) and the*

1                   *claim is reduced to a judgment against the*  
2                   *broker.*

3                   “(B) *RESPONSE OF SURETY PROVIDERS TO*  
4                   *CLAIMS.—If a surety provider receives notice of*  
5                   *a claim described in subparagraph (A), the sur-*  
6                   *ety provider shall—*

7                   “(i) *respond to the claim on or before*  
8                   *the 30th day following receipt of the notice;*  
9                   *and*

10                  “(ii) *in the case of a denial, set forth*  
11                  *in writing for the claimant the grounds for*  
12                  *the denial.*

13                  “(C) *COSTS AND ATTORNEYS FEES.—In any*  
14                  *action against a surety provider to recover on a*  
15                  *claim described in subparagraph (A), the pre-*  
16                  *vailing party shall be entitled to recover its rea-*  
17                  *sonable costs and attorneys fees.*

18                  “(3) *MINIMUM FINANCIAL SECURITY.—A broker*  
19                  *subject to the requirements of this section shall pro-*  
20                  *vide financial security of \$100,000, regardless of the*  
21                  *number of branch offices or sales agents of the broker.*

22                  “(4) *CANCELLATION NOTICE.—If a financial se-*  
23                  *curity required under this subsection is canceled—*

24                  “(A) *the holder of the financial security*  
25                  *shall provide electronic notification to the Sec-*

1           *retary of the cancellation not later than 30 days*  
2           *before the effective date of the cancellation; and*

3           “(B) *the Secretary shall immediately post*  
4           *such notification on the public Internet Web site*  
5           *of the Department of Transportation.*

6           “(5) *SUSPENSION.—The Secretary shall imme-*  
7           *diately suspend the registration of a broker issued*  
8           *under this chapter if the available financial security*  
9           *of the broker falls below the amount required under*  
10          *this subsection.*

11          “(6) *PAYMENT OF CLAIMS IN CASES OF FINAN-*  
12          *CIAL FAILURE OR INSOLVENCY.—If a broker registered*  
13          *under this chapter experiences financial failure or in-*  
14          *solvency, the surety provider of the broker shall—*

15               “(A) *submit a notice to cancel the financial*  
16               *security to the Administrator in accordance with*  
17               *paragraph (4);*

18               “(B) *publicly advertise for claims for 60*  
19               *days beginning on the date of publication by the*  
20               *Secretary of the notice to cancel the financial se-*  
21               *curity; and*

22               “(C) *pay, not later than 30 days after the*  
23               *expiration of the 60-day period for submission of*  
24               *claims—*

1           “(i) *all uncontested claims received*  
2           *during such period; or*

3           “(ii) *a pro rata share of such claims if*  
4           *the total amount of such claims exceeds the*  
5           *financial security available.*

6           “(7) *PENALTIES.—*

7           “(A) *CIVIL ACTIONS.—Either the Secretary*  
8           *or the Attorney General may bring a civil action*  
9           *in an appropriate district court of the United*  
10          *States to enforce the requirements of this sub-*  
11          *section or a regulation prescribed or order issued*  
12          *under this subsection. The court may award ap-*  
13          *propriate relief, including injunctive relief.*

14          “(B) *CIVIL PENALTIES.—If the Secretary*  
15          *determines, after notice and opportunity for a*  
16          *hearing, that a surety provider of a broker reg-*  
17          *istered under this chapter has violated the re-*  
18          *quirements of this subsection or a regulation pre-*  
19          *scribed under this subsection, the surety provider*  
20          *shall be liable to the United States for a civil*  
21          *penalty in an amount not to exceed \$10,000.*

22          “(C) *ELIGIBILITY.—If the Secretary deter-*  
23          *mines, after notice and opportunity for a hear-*  
24          *ing, that a surety provider of a broker registered*  
25          *under this chapter has violated the requirements*

1       *of this subsection or a regulation prescribed*  
 2       *under this subsection, the surety provider shall*  
 3       *be ineligible to provide the financial security of*  
 4       *a broker for 5 years.*

5       “(8) *DEDUCTION OF COSTS PROHIBITED.—The*  
 6       *amount of the financial security required under this*  
 7       *subsection may not be reduced by deducting attorney’s*  
 8       *fees or administrative costs.*

9       “(9) *FINANCIAL SECURITY AMOUNT ASSESS-*  
 10       *MENT.—Every 5 years, the Secretary shall review,*  
 11       *with public notice and comment, the amounts of the*  
 12       *financial security required under this subsection to*  
 13       *determine whether the amounts are sufficient to pro-*  
 14       *vide adequate financial security, and shall be author-*  
 15       *ized to increase the amounts, if necessary, based upon*  
 16       *that determination.*

17       “(c) *FREIGHT FORWARDER FINANCIAL SECURITY RE-*  
 18       *QUIREMENTS.—*

19       “(1) *REQUIREMENTS.—*

20       “(A) *IN GENERAL.—The Secretary may reg-*  
 21       *ister a person as a freight forwarder under sec-*  
 22       *tion 13903 only if the person files with the Sec-*  
 23       *retary a surety bond, proof of trust fund, or*  
 24       *other financial security, or a combination there-*  
 25       *of, in a form and amount, and from a provider,*

1       *determined by the Secretary to be adequate to*  
2       *ensure financial responsibility.*

3               “(B) *USE OF A GROUP SURETY BOND,*  
4       *TRUST FUND, OR OTHER FINANCIAL SECURITY.—*  
5       *In implementing the standards established by*  
6       *subparagraph (A), the Secretary may authorize*  
7       *the use of a group surety bond, trust fund, or*  
8       *other financial security, or a combination there-*  
9       *of, that meets the requirements of this subsection.*

10              “(C) *SURETY BONDS.—A surety bond ob-*  
11       *tained under this section may only be obtained*  
12       *from a bonding company that has been approved*  
13       *by the Secretary of the Treasury.*

14              “(D) *PROOF OF TRUST OR OTHER FINAN-*  
15       *CIAL SECURITY.—For purposes of subparagraph*  
16       *(A), a trust fund or other financial security may*  
17       *be acceptable to the Secretary only if the trust*  
18       *fund or other financial security consists of assets*  
19       *readily available to pay claims without resort to*  
20       *personal guarantees or collection of pledged ac-*  
21       *counts receivable.*

22              “(2) *SCOPE OF FINANCIAL RESPONSIBILITY.—*

23              “(A) *PAYMENT OF CLAIMS.—A surety bond,*  
24       *trust fund, or other financial security obtained*  
25       *under paragraph (1) shall be available to pay*

1        *any claim against a freight forwarder arising*  
2        *from its failure to pay freight charges under its*  
3        *contracts, agreements, or arrangements for trans-*  
4        *portation subject to jurisdiction under chapter*  
5        *135 if—*

6                *“(i) subject to the review by the surety*  
7                *provider, the freight forwarder consents to*  
8                *the payment;*

9                *“(ii) in the case the freight forwarder*  
10                *does not respond to adequate notice to ad-*  
11                *dress the validity of the claim, the surety*  
12                *provider determines the claim is valid; or*

13                *“(iii) the claim is not resolved within*  
14                *a reasonable period of time following a rea-*  
15                *sonable attempt by the claimant to resolve*  
16                *the claim under clauses (i) and (ii) and the*  
17                *claim is reduced to a judgment against the*  
18                *freight forwarder.*

19                *“(B) RESPONSE OF SURETY PROVIDERS TO*  
20                *CLAIMS.—If a surety provider receives notice of*  
21                *a claim described in subparagraph (A), the sur-*  
22                *ety provider shall—*

23                *“(i) respond to the claim on or before*  
24                *the 30th day following receipt of the notice;*  
25                *and*

1                   “(ii) in the case of a denial, set forth  
2                   in writing for the claimant the grounds for  
3                   the denial.

4                   “(C) *COSTS AND ATTORNEYS FEES.*—In any  
5                   action against a surety provider to recover on a  
6                   claim described in subparagraph (A), the pre-  
7                   vailing party shall be entitled to recover its rea-  
8                   sonable costs and attorneys fees.

9                   “(3) *FREIGHT FORWARDER INSURANCE.*—

10                  “(A) *IN GENERAL.*—The Secretary may reg-  
11                  ister a person as a freight forwarder under sec-  
12                  tion 13903 only if the person files with the Sec-  
13                  retary a surety bond, insurance policy, or other  
14                  type of financial security that meets standards to  
15                  be prescribed by the Secretary.

16                  “(B) *LIABILITY INSURANCE.*—A financial  
17                  security filed by a freight forwarder under sub-  
18                  paragraph (A) shall be sufficient to pay an  
19                  amount, not to exceed the amount of the finan-  
20                  cial security, for each final judgment against the  
21                  freight forwarder for—

22                         “(i) bodily injury to, or death of, an  
23                         individual, or

1                   “(ii) loss of, or damage to, property  
 2                   (other than property referred to in subpara-  
 3                   graph (C)),  
 4                   resulting from the negligent operation, mainte-  
 5                   nance, or use of motor vehicles by, or under the  
 6                   direction and control of, the freight forwarder  
 7                   when providing transfer, collection, or delivery  
 8                   service under this part.

9                   “(C) CARGO INSURANCE.—The Secretary  
 10                  may require a registered freight forwarder to file  
 11                  with the Secretary a surety bond, insurance pol-  
 12                  icy, or other type of financial security approved  
 13                  by the Secretary that will pay an amount, not  
 14                  to exceed the amount of the financial security,  
 15                  for loss of, or damage to, property for which the  
 16                  freight forwarder provides service.

17                  “(4) MINIMUM FINANCIAL SECURITY.—Each  
 18                  freight forwarder subject to the requirements of this  
 19                  section shall provide financial security of \$100,000,  
 20                  regardless of the number of branch offices or sales  
 21                  agents of the freight forwarder.

22                  “(5) CANCELLATION NOTICE.—If a financial se-  
 23                  curity required under this subsection is canceled—

24                         “(A) the holder of the financial security  
 25                         shall provide electronic notification to the Sec-

1           retary of the cancellation not later than 30 days  
2           before the effective date of the cancellation; and

3           “(B) the Secretary shall immediately post  
4           such notification on the public Internet Web site  
5           of the Department of Transportation.

6           “(6) *SUSPENSION.*—The Secretary shall imme-  
7           diately suspend the registration of a freight forwarder  
8           issued under this chapter if the available financial se-  
9           curity of the freight forwarder falls below the amount  
10          required under this subsection.

11          “(7) *PAYMENT OF CLAIMS IN CASES OF FINAN-*  
12          *CIAL FAILURE OR INSOLVENCY.*—If a freight for-  
13          warder registered under this chapter experiences fi-  
14          nancial failure or insolvency, the surety provider of  
15          the freight forwarder shall—

16               “(A) submit a notice to cancel the financial  
17               security to the Administrator in accordance with  
18               paragraph (5);

19               “(B) publicly advertise for claims for 60  
20               days beginning on the date of publication by the  
21               Secretary of the notice to cancel the financial se-  
22               curity; and

23               “(C) pay, not later than 30 days after the  
24               expiration of the 60-day period for submission of  
25               claims—

1                   “(i) *all uncontested claims received*  
2                   *during such period; or*

3                   “(ii) *a pro rata share of such claims if*  
4                   *the total amount of such claims exceeds the*  
5                   *financial security available.*

6                   “(8) *PENALTIES.—*

7                   “(A) *CIVIL ACTIONS.—Either the Secretary*  
8                   *or the Attorney General may bring a civil action*  
9                   *in an appropriate district court of the United*  
10                  *States to enforce the requirements of this sub-*  
11                  *section or a regulation prescribed or order issued*  
12                  *under this subsection. The court may award ap-*  
13                  *propriate relief, including injunctive relief.*

14                  “(B) *CIVIL PENALTIES.—If the Secretary*  
15                  *determines, after notice and opportunity for a*  
16                  *hearing, that a surety provider of a freight for-*  
17                  *warder registered under this chapter has violated*  
18                  *the requirements of this subsection or a regula-*  
19                  *tion prescribed under this subsection, the surety*  
20                  *provider shall be liable to the United States for*  
21                  *a civil penalty in an amount not to exceed*  
22                  *\$10,000.*

23                  “(C) *ELIGIBILITY.—If the Secretary deter-*  
24                  *mines, after notice and opportunity for a hear-*  
25                  *ing, that a surety provider of a freight forwarder*

1           *registered under this chapter has violated the re-*  
2           *quirements of this subsection or a regulation pre-*  
3           *scribed under this subsection, the surety provider*  
4           *shall be ineligible to provide the financial secu-*  
5           *rity of a freight forwarder for 5 years.*

6           “(9) *DEDUCTION OF COSTS PROHIBITED.—The*  
7           *amount of the financial security required under this*  
8           *subsection may not be reduced by deducting attorney’s*  
9           *fees or administrative costs.*

10          “(10) *FINANCIAL SECURITY AND INSURANCE*  
11          *AMOUNT ASSESSMENT.—Every 5 years, the Secretary*  
12          *shall review, with public notice and comment, the*  
13          *amounts of the financial security and insurance re-*  
14          *quired under this subsection to determine whether the*  
15          *amounts are sufficient to provide adequate financial*  
16          *security, and shall be authorized to increase the*  
17          *amounts, if necessary, based upon that determina-*  
18          *tion.”.*

19          “(b) *RULEMAKING.—Not later than 1 year after the date*  
20          *of enactment of this Act, the Secretary shall issue regula-*  
21          *tions to implement and enforce the requirements of sub-*  
22          *sections (b) and (c) of section 13906 of title 49, United*  
23          *States Code, as amended by subsection (a).*

1       (c) *EFFECTIVE DATE.*—*The amendments made by sub-*  
 2 *section (a) shall take effect on the date that is 1 year after*  
 3 *the date of enactment of this Act.*

4       (d) *REVIEW OF SECURITY REQUIREMENTS.*—*Not later*  
 5 *than 15 months after the date of enactment of this Act, the*  
 6 *Inspector General of the Department of Transportation*  
 7 *shall—*

8               (1) *review the regulations and enforcement prac-*  
 9 *tices of the Secretary under subsections (b) and (c) of*  
 10 *section 13906 of title 49, United States Code, as*  
 11 *amended by this Act; and*

12              (2) *make any recommendations to the Secretary*  
 13 *that may be necessary to improve the enforcement of*  
 14 *such regulations.*

15 **SEC. 6207. REGISTRATION FEE SYSTEM.**

16       Section 13908(d)(1) is amended by striking “but shall  
 17 not exceed \$300”.

18 **SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.**

19       (a) *IN GENERAL.*—*Chapter 149 is amended by adding*  
 20 *at the end the following:*

21 **“§ 14916. Unlawful brokerage activities**

22       “(a) *PROHIBITED ACTIVITIES.*—*A person may provide*  
 23 *interstate brokerage services as a broker only if the person—*

24               “(1) *is registered under, and in compliance with,*  
 25 *section 13904; and*

1           “(2) *has satisfied the financial security require-*  
2           *ments under section 13906.*

3           “(b) *EXCEPTIONS.—Subsection (a) shall not apply*  
4           *to—*

5                 “(1) *a non-vessel-operating common carrier (as*  
6                 *defined in section 40102 of title 46);*

7                 “(2) *an ocean freight forwarder (as defined in*  
8                 *section 40102 of title 46);*

9                 “(3) *a customs broker licensed in accordance*  
10                *with section 111.2 of title 19, Code of Federal Regula-*  
11                *tions; or*

12                “(4) *an indirect air carrier holding a Standard*  
13                *Security Program approved by the Transportation*  
14                *Security Administration,*  
15                *when arranging for inland transportation as part of an*  
16                *international through movement involving ocean transpor-*  
17                *tation between the United States and a foreign port.*

18           “(c) *CIVIL PENALTIES AND PRIVATE CAUSE OF AC-*  
19           *TION.—Any person who knowingly authorizes, consents to,*  
20           *or permits, directly or indirectly, either alone or in con-*  
21           *junction with any other person, a violation of subsection*  
22           *(a) is liable—*

23                “(1) *to the United States Government for a civil*  
24                *penalty in an amount not to exceed \$10,000 for each*  
25                *violation; and*

1           “(2) to the injured party for all valid claims in-  
2           curred without regard to amount.

3           “(d) *LIABLE PARTIES.*—The liability for civil pen-  
4           alties and for claims under this section for unauthorized  
5           brokering shall apply, jointly and severally—

6           “(1) to any corporate entity or partnership in-  
7           volved; and

8           “(2) to the individual officers, directors, and  
9           principals of such entities.”.

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

“14916. Unlawful brokerage activities.”.

12          **SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT**  
13                                   **NUMBER.**

14          (a) *IN GENERAL.*—Subchapter III of chapter 311 is  
15          amended by inserting after section 31133 the following:

16          **“§31134. Requirement for registration and Depart-**  
17                                   **ment of Transportation number**

18          “(a) *IN GENERAL.*—An employer or an employee of  
19          the employer may operate a commercial motor vehicle in  
20          interstate commerce only if the Secretary of Transportation  
21          registers the employer under this section and issues the em-  
22          ployer a Department of Transportation number.

23          “(b) *REGISTRATION.*—Upon application for registra-  
24          tion and a Department of Transportation number under

1 *this section, the Secretary shall register the employer if the*  
2 *Secretary determines that—*

3           “(1) *the employer is willing and able to comply*  
4 *with the requirements of this subchapter and chapter*  
5 *51 if applicable; and*

6           “(2)(A) *during the 3-year period before the date*  
7 *of the filing of the application, the employer was not*  
8 *related through common stock, common ownership,*  
9 *common control, common management, or common*  
10 *familial relationship to any other person subject to*  
11 *safety regulations under this subchapter who, during*  
12 *such 3-year period, was unwilling or unable to com-*  
13 *ply with the requirements of this subchapter or chap-*  
14 *ter 51 if applicable; or*

15           “(B) *the employer has disclosed to the Secretary*  
16 *any relationship involving common stock, common*  
17 *ownership, common control, common management, or*  
18 *common familial relationship between that person*  
19 *and any other motor carrier.*

20           “(c) *REVOCATION OR SUSPENSION.—The Secretary*  
21 *shall revoke or suspend the registration of an employer*  
22 *issued under subsection (b) if the Secretary determines*  
23 *that—*

24           “(1) *the authority of the employer to operate as*  
25 *a motor carrier, freight forwarder, or broker pursuant*

1       to chapter 139 is revoked or suspended under section  
2       13905(d)(1) or 13905(f); or

3               “(2) the employer has willfully failed to comply  
4       with the requirements for registration set forth in sub-  
5       section (b).

6       “(d) *COMMERCIAL REGISTRATION*.—An employer reg-  
7       istered under this section may not provide transportation  
8       subject to jurisdiction under subchapter I of chapter 135  
9       unless the employer is also registered under section 13902  
10      to provide such transportation.

11      “(e) *STATE AUTHORITY*.—Nothing in this section shall  
12      be construed as affecting the authority of a State to issue  
13      a Department of Transportation number under State law  
14      to a person operating in intrastate commerce.”.

15      (b) *CLERICAL AMENDMENT*.—The analysis for chapter  
16      311 is amended by inserting after the item relating to sec-  
17      tion 31133 the following:

“31134. Requirement for registration and Department of Transportation num-  
ber.”.

## 18               ***Subtitle C—Commercial Motor*** 19               ***Vehicle Safety***

### 20      ***SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.***

21      (a) *GENERAL AUTHORITY*.—Section 31102 is amended  
22      to read as follows:

1 **“§ 31102. Motor carrier safety assistance program**

2       “(a) *GENERAL AUTHORITY.*—*The Secretary of Trans-*  
3 *portation shall administer a motor carrier safety assistance*  
4 *program to assist States with—*

5               “(1) *the development or implementation of pro-*  
6 *grams for improving motor carrier safety; and*

7               “(2) *the enforcement of Federal regulations,*  
8 *standards, and orders (and compatible State regula-*  
9 *tions, standards, and orders) on—*

10                       “(A) *commercial motor vehicle safety; and*

11                       “(B) *hazardous materials transportation*  
12 *safety.*

13       “(b) *STATE PLANS.*—

14               “(1) *PROCEDURES.*—*The Secretary shall pre-*  
15 *scribe procedures for a State to participate in the*  
16 *program, including procedures under which the State*  
17 *shall submit a plan, in writing, to the Secretary in*  
18 *which the State agrees—*

19                       “(A) *to assume responsibility for improving*  
20 *motor carrier safety in the State; and*

21                       “(B) *to adopt and enforce Federal regula-*  
22 *tions, standards, and orders (and compatible*  
23 *State regulations, standards, and orders) on—*

24                               “(i) *commercial motor vehicle safety;*  
25 *and*

1                   “(ii) hazardous materials transpor-  
2                   tation safety.

3                   “(2) CONTENTS.—A plan submitted by a State  
4                   under paragraph (1) shall—

5                   “(A) provide for implementation of per-  
6                   formance-based activities, including deployment  
7                   of technology, to enhance the efficiency and effec-  
8                   tiveness of commercial motor vehicle safety pro-  
9                   grams;

10                  “(B) provide for implementation of a border  
11                  commercial motor vehicle safety program and re-  
12                  lated enforcement activities if the State shares a  
13                  land border with another country;

14                  “(C) designate a State motor vehicle safety  
15                  agency (in this paragraph referred to as the ‘des-  
16                  ignated State agency’) responsible for admin-  
17                  istering the plan throughout the State;

18                  “(D) provide satisfactory assurances that  
19                  the designated State agency has or will have the  
20                  legal authority, resources, and qualified per-  
21                  sonnel necessary to enforce the regulations,  
22                  standards, and orders;

23                  “(E) provide satisfactory assurances that  
24                  the State will devote adequate amounts to the ad-

1        *ministration of the plan and enforcement of the*  
2        *regulations, standards, and orders;*

3                *“(F) provide a right of entry and inspection*  
4        *to carry out the plan;*

5                *“(G) provide that all reports required under*  
6        *this section be submitted to the designated State*  
7        *agency and that the designated State agency will*  
8        *make the reports available to the Secretary on*  
9        *request;*

10               *“(H) provide that the designated State*  
11        *agency will adopt the reporting requirements*  
12        *and use the forms for recordkeeping, inspections,*  
13        *and investigations the Secretary prescribes;*

14               *“(I) require registrants of commercial motor*  
15        *vehicles to make a declaration of knowledge of*  
16        *applicable safety regulations, standards, and or-*  
17        *ders of the Government and the State;*

18               *“(J) provide that the State will grant max-*  
19        *imum reciprocity for inspections conducted*  
20        *under the North American Inspection Standard*  
21        *through the use of a nationally accepted system*  
22        *that allows ready identification of previously in-*  
23        *spected commercial motor vehicles;*

24               *“(K) ensure that activities described in sub-*  
25        *section (f)(3)(B), if financed with grants under*

1        *this section, will not diminish the effectiveness of*  
2        *the development and implementation of commer-*  
3        *cial motor vehicle safety programs described in*  
4        *subsection (a);*

5                *“(L) ensure that the designated State agen-*  
6        *cy will coordinate the plan, data collection, and*  
7        *information systems with State highway safety*  
8        *programs under title 23;*

9                *“(M) ensure participation in appropriate*  
10       *Federal Motor Carrier Safety Administration in-*  
11       *formation systems and other information systems*  
12       *by all appropriate jurisdictions receiving fund-*  
13       *ing under this section;*

14               *“(N) provide satisfactory assurances that*  
15       *the State is willing and able to exchange infor-*  
16       *mation with other States in a timely manner;*

17               *“(O) provide satisfactory assurances that*  
18       *the State will undertake efforts that will empha-*  
19       *size and improve enforcement of State and local*  
20       *traffic safety laws and regulations related to*  
21       *commercial motor vehicle safety;*

22               *“(P) provide satisfactory assurances that*  
23       *the State will promote activities in support of*  
24       *national priorities, including—*

1           “(i) activities aimed at removing im-  
2           paired commercial motor vehicle drivers  
3           from the highways of the United States—

4                   “(I) through adequate enforcement  
5                   of regulations on the use of alcohol and  
6                   controlled substances; and

7                   “(II) by ensuring ready roadside  
8                   access to alcohol detection and meas-  
9                   uring equipment;

10           “(ii) activities aimed at providing an  
11           appropriate level of training to State motor  
12           carrier safety assistance program officers  
13           and employees on recognizing drivers im-  
14           paired by alcohol or controlled substances;  
15           and

16                   “(iii) interdiction activities affecting  
17                   the transportation of controlled substances  
18                   by commercial motor vehicle drivers and  
19                   training on appropriate strategies for car-  
20                   rying out those interdiction activities;

21           “(Q) provide satisfactory assurances that  
22           the State has established a program to ensure  
23           that—

1           “(i) accurate, complete, and timely  
2           motor carrier safety data is collected and  
3           reported to the Secretary; and

4           “(ii) the State will participate in a  
5           national motor carrier safety data correc-  
6           tion system prescribed by the Secretary;

7           “(R) ensure that the State will cooperate in  
8           the enforcement of financial responsibility re-  
9           quirements under sections 13906, 31138, and  
10          31139 and regulations issued thereunder;

11          “(S) ensure consistent, effective, and reason-  
12          able sanctions;

13          “(T) ensure that roadside inspections will  
14          be conducted at a location that is adequate to  
15          protect the safety of drivers and enforcement per-  
16          sonnel;

17          “(U) provide satisfactory assurances that  
18          the State will include, in the training manual  
19          for the licensing examination to drive a non-  
20          commercial motor vehicle and a commercial  
21          motor vehicle, information on best practices for  
22          driving safely in the vicinity of noncommercial  
23          and commercial motor vehicles;

24          “(V) provide satisfactory assurances that  
25          the State will enforce the registration require-

1        *ments of sections 13902 and 31134 by prohib-*  
2        *iting the operation of any vehicle discovered to*  
3        *be operated by a motor carrier—*

4                *“(i) without a registration issued*  
5                *under such sections; or*

6                *“(ii) beyond the scope of such registra-*  
7                *tion;*

8                *“(W) provide satisfactory assurances that*  
9        *the State will conduct comprehensive and highly*  
10       *visible traffic enforcement and commercial motor*  
11       *vehicle safety inspection programs in high-risk*  
12       *locations and corridors; and*

13               *“(X) provide for implementation of activi-*  
14       *ties to monitor the safety performance of motor*  
15       *carriers of passengers, including inspections of*  
16       *commercial motor vehicles designed or used to*  
17       *transport passengers; except that roadside in-*  
18       *spections must be conducted at a station, ter-*  
19       *minal, border crossing, maintenance facility,*  
20       *destination, or other location where a motor car-*  
21       *rier may make a planned stop, except in the case*  
22       *of an imminent or obvious safety hazard.*

23        *“(3) MAINTENANCE OF EFFORT.—*

24               *“(A) IN GENERAL.—A plan submitted by a*  
25       *State under this subsection shall provide that the*

total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for commercial motor vehicle safety programs and for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (f) will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

“(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, the Secretary—

“(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

“(ii) shall require the State to exclude Government amounts.

“(c) GUIDANCE AND STANDARDS.—

“(1) IN GENERAL.—Not later than October 1, 2013, the Secretary shall—

“(A) develop guidance on the effectiveness of specific enforcement and related activities in

1       *generating reductions in fatalities and crashes*  
2       *involving commercial motor vehicles; and*

3               “(B) *publish standards for data timeliness,*  
4       *accuracy, and completeness that will allow*  
5       *States to meet the objectives of this section and*  
6       *that are consistent with the standards issued*  
7       *under section 31106(a)(4).*

8               “(2) *OPTIMIZATION OF ALLOCATIONS.—The Sec-*  
9       *retary shall develop a tool for States to optimize allo-*  
10       *cations of motor carrier safety resources to carry out*  
11       *enforcement and related activities to meet the objec-*  
12       *tives of this section.*

13               “(3) *UPDATES OF GUIDANCE.—The Secretary*  
14       *shall update the guidance issued under paragraph*  
15       *(1)(A) periodically to reflect new information.*

16               “(d) *PERFORMANCE MEASURES.—*

17               “(1) *STATE TARGETS.—For fiscal year 2014,*  
18       *and each fiscal year thereafter, each State, in the*  
19       *plan submitted by that State under subsection (b),*  
20       *shall—*

21               “(A) *establish targets, in quantifiable*  
22       *metrics, for enforcement activities, data quality,*  
23       *and other benchmarks to reduce fatalities and*  
24       *crashes involving commercial motor vehicles;*

1           “(B) select target activities in accordance  
 2           with the Secretary’s latest guidance to ensure  
 3           States pursue activities likely to generate max-  
 4           imum fatality and crash reduction; and

5           “(C) meet the standards for data published  
 6           by the Secretary under subsection (c)(1)(B).

7           “(2) ANNUAL UPDATES OF STATE PLANS.—A  
 8           State shall—

9           “(A) update its plan under subsection (b)  
 10          annually to establish targets for the following fis-  
 11          cal year; and

12          “(B) submit the updated plan to the Sec-  
 13          retary.

14          “(3) REQUIREMENTS FOR TARGETS.—If a State  
 15          receives an increase in grant funds under this section  
 16          in a fiscal year as compared to the previous fiscal  
 17          year, the targets established by the State under para-  
 18          graph (1) for the fiscal year shall exceed the levels  
 19          achieved by the State in the previous fiscal year.

20          “(4) STATE REPORTS.—

21          “(A) INFORMATION ON FATALITIES AND  
 22          CRASHES INVOLVING COMMERCIAL MOTOR VEHI-  
 23          CLES.—Under the motor carrier safety assistance  
 24          program, a State shall report to the Secretary  
 25          the number and rate of fatalities and crashes in-

1           *volving commercial motor vehicles occurring in*  
 2           *the State in the previous fiscal year.*

3           “(B) *OTHER INFORMATION.*—*A State shall*  
 4           *include in the report required under subpara-*  
 5           *graph (A) information on commercial motor ve-*  
 6           *hicles registered in the State and involved in*  
 7           *crashes in such fiscal year and any other infor-*  
 8           *mation requested by the Secretary.*

9           “(5) *ASSESSMENTS.*—*As part of the annual plan*  
 10          *approval process under subsection (e), the Secretary*  
 11          *shall assess whether—*

12                 “(A) *a State met its targets in the previous*  
 13                 *fiscal year; and*

14                 “(B) *targeted activities are reducing fatali-*  
 15                 *ties and crashes involving commercial motor ve-*  
 16                 *hicles.*

17          “(e) *PLAN REVIEW.*—

18                 “(1) *APPROVAL PROCESS.*—*Before distributing*  
 19                 *grant funds under subsection (f) in a fiscal year, the*  
 20                 *Secretary shall—*

21                         “(A) *review each State plan submitted to*  
 22                         *the Secretary under subsection (b), as updated*  
 23                         *by the State under subsection (d); and*

1           “(B)(i) approve the plan if the Secretary  
 2           determines that the plan is adequate to promote  
 3           the objectives of this section; or

4           “(ii) disapprove the plan.

5           “(2) *RESUBMITTAL.*—If the Secretary dis-  
 6           approves a plan under this subsection, the Secretary  
 7           shall—

8           “(A) give the State a written explanation;  
 9           and

10          “(B) allow the State to modify and resub-  
 11          mit the plan for approval.

12          “(3) *CONTINUOUS EVALUATION OF PLANS.*—

13          “(A) *IN GENERAL.*—On the basis of reports  
 14          submitted by the motor vehicle safety agency of  
 15          a State with a plan approved under this sub-  
 16          section and the Secretary’s own investigations,  
 17          the Secretary shall make a continuing evaluation  
 18          of the way the State is carrying out the plan.

19          “(B) *WITHDRAWAL OF APPROVAL.*—

20          “(i) *IN GENERAL.*—If the Secretary  
 21          finds, after notice and opportunity for com-  
 22          ment, a State plan previously approved  
 23          under this subsection is not being followed  
 24          or has become inadequate to ensure enforce-  
 25          ment of the regulations, standards, or or-

1                   *ders, the Secretary shall withdraw approval*  
 2                   *of the plan and notify the State.*

3                   “(ii) *EFFECTIVE DATE.*—*The plan*  
 4                   *shall not be effective beginning on the date*  
 5                   *the notice is received.*

6                   “(iii) *JUDICIAL REVIEW.*—*A State ad-*  
 7                   *versely affected by a withdrawal under this*  
 8                   *subparagraph may seek judicial review*  
 9                   *under chapter 7 of title 5.*

10                  “(C) *ADMINISTRATIVE AND JUDICIAL PRO-*  
 11                  *CEEDINGS.*—*Notwithstanding a withdrawal of*  
 12                  *approval of a State plan under this paragraph,*  
 13                  *the State may retain jurisdiction in administra-*  
 14                  *tive or judicial proceedings begun before the date*  
 15                  *of the withdrawal if the issues involved are not*  
 16                  *related directly to the reasons for the with-*  
 17                  *drawal.*

18                  “(f) *GRANTS TO STATES.*—

19                   “(1) *IN GENERAL.*—*Subject to the availability of*  
 20                   *funds, the Secretary shall make grants to States for*  
 21                   *the development or implementation of programs*  
 22                   *under this section in accordance with paragraph (3).*

23                   “(2) *ELIGIBILITY.*—

24                   “(A) *IN GENERAL.*—*A State shall be eligible*  
 25                   *for a grant under this subsection in a fiscal year*

1        *in an amount equal to the State’s allocated*  
2        *amount determined under section 31104(f) if the*  
3        *State has in effect a State plan under subsection*  
4        *(b) that has been approved by the Secretary*  
5        *under subsection (e) for that fiscal year.*

6                “(B) *WITHHOLDING OF FUNDS.—In the*  
7        *case of a State that does not meet the require-*  
8        *ments of subparagraph (A) in a fiscal year, the*  
9        *Secretary may withhold grant funds from a*  
10       *State’s allocated amount determined under sec-*  
11       *tion 31104(f) for that fiscal year as follows:*

12                “(i) *The Secretary may withhold up to*  
13        *25 percent of such funds if the State had a*  
14        *plan approved under subsection (e) for the*  
15        *fiscal year preceding the fiscal year of the*  
16        *grant, but has not had a plan approved*  
17        *under subsection (e) for the fiscal year of*  
18        *the grant.*

19                “(ii) *The Secretary may withhold up*  
20        *to 50 percent of such funds if the State had*  
21        *a plan approved under subsection (e) for the*  
22        *second fiscal year preceding the fiscal year*  
23        *of the grant, but has not had a plan ap-*  
24        *proved under subsection (e) for the fiscal*

1           *year of the grant and the preceding fiscal*  
2           *year.*

3           “(iii) *The Secretary may withhold up*  
4           *to 75 percent of such funds if the State had*  
5           *a plan approved under subsection (e) for the*  
6           *third fiscal year preceding the fiscal year of*  
7           *the grant, but has not had a plan approved*  
8           *under subsection (e) for the fiscal year of*  
9           *the grant and the 2 preceding fiscal years.*

10          “(iv) *The Secretary may withhold 100*  
11          *percent of such funds if the State has not*  
12          *had a plan approved under subsection (e)*  
13          *for the fiscal year of the grant and the 3*  
14          *preceding fiscal years.*

15          “(C) *SUBSEQUENT AVAILABILITY OF WITH-*  
16          *HELD FUNDS.—The Secretary shall make avail-*  
17          *able to a State the grant funds withheld from the*  
18          *State for a fiscal year under subparagraph (B)*  
19          *if the Secretary approves the State’s plan under*  
20          *subsection (e) on or before the last day of that*  
21          *fiscal year.*

22          “(D)   *REALLOCATION        OF        WITHHELD*  
23          *FUNDS.—If the Secretary withholds grant funds*  
24          *from a State for a fiscal year under subpara-*  
25          *graph (B), and the State does not have a plan*

1       *approved under subsection (e) on or before the*  
2       *last day of that fiscal year, such funds shall be*  
3       *released to the Secretary for reallocation among*  
4       *the States under section 31104(f) in the following*  
5       *fiscal year.*

6       “(3) *USE OF GRANT FUNDS.*—

7               “(A) *IN GENERAL.*—A State receiving a  
8       *grant under this subsection shall use the grant*  
9       *funds for activities to further the State’s plan*  
10       *under subsection (b).*

11              “(B) *USE OF GRANTS TO ENFORCE OTHER*  
12       *LAWS.*—Subject to subparagraph (C), a State  
13       *may use grant funds received under this sub-*  
14       *section—*

15                   “(i) *if carried out in conjunction with*  
16       *an appropriate inspection of a commercial*  
17       *motor vehicle to enforce Federal or State*  
18       *commercial motor vehicle safety regulations,*  
19       *for—*

20                           “(I) *enforcement of commercial*  
21       *motor vehicle size and weight limita-*  
22       *tions at locations other than fixed*  
23       *weight facilities, at specific locations*  
24       *such as steep grades or mountainous*  
25       *terrains where the weight of a commer-*

1            *cial motor vehicle can significantly af-*  
2            *fect the safe operation of the vehicle, or*  
3            *at ports where intermodal shipping*  
4            *containers enter and leave the United*  
5            *States; and*

6            *“(II) detection of the unlawful*  
7            *presence of a controlled substance (as*  
8            *defined under section 102 of the Com-*  
9            *prehensive Drug Abuse Prevention and*  
10           *Control Act of 1970 (21 U.S.C. 802))*  
11           *in a commercial motor vehicle or on*  
12           *the person of any occupant (including*  
13           *the operator) of the vehicle; and*

14           *“(ii) for documented enforcement of*  
15           *State traffic laws and regulations designed*  
16           *to promote the safe operation of commercial*  
17           *motor vehicles, including documented en-*  
18           *forcement of such laws and regulations re-*  
19           *lating to noncommercial motor vehicles*  
20           *when necessary to promote the safe oper-*  
21           *ation of commercial motor vehicles.*

22           *“(C) LIMITATIONS.—*

23           *“(i) EFFECT ON COMMERCIAL MOTOR*  
24           *VEHICLE SAFETY PROGRAMS.—A State may*  
25           *use grant funds received under this sub-*

1            *section for an activity described in subpara-*  
2            *graph (B) only if the activity will not di-*  
3            *minish the effectiveness of commercial motor*  
4            *vehicle safety programs described in sub-*  
5            *section (a).*

6            *“(ii) ENFORCEMENT ACTIVITIES RE-*  
7            *LATING TO NONCOMMERCIAL MOTOR VEHI-*  
8            *CLES.—A State may not use more than 5*  
9            *percent of the total amount of grants re-*  
10           *ceived by the State under this subsection in*  
11           *a fiscal year for enforcement activities relat-*  
12           *ing to noncommercial motor vehicles de-*  
13           *scribed in subparagraph (B)(ii) unless the*  
14           *Secretary determines a higher percentage*  
15           *will result in significant increases in com-*  
16           *mercial motor vehicle safety.*

17           *“(g) ANNUAL REPORT.—The Secretary shall submit to*  
18           *the Committee on Transportation and Infrastructure of the*  
19           *House of Representatives and the Committee on Commerce,*  
20           *Science, and Transportation of the Senate an annual report*  
21           *that—*

22           *“(1) analyzes commercial motor vehicle safety*  
23           *trends among the States and documents the most ef-*  
24           *fective commercial motor vehicle safety programs im-*  
25           *plemented with grants under this section;*

(b) *CONFORMING AMENDMENT.*—Section 31103(a) is amended by striking “section 31102(b)(1)(E) of this title” and inserting “section 31102(b)(3)”.

“31102. *Motor carrier safety assistance program.*”.

15           (a) *IN GENERAL.*—Section 31109 is amended to read  
16 *as follows:*

19       “(a) *IN GENERAL.*—*The Secretary shall carry out a*  
20 *performance and registration information systems manage-*  
21 *ment program to link Federal motor carrier safety informa-*  
22 *tion systems with State commercial vehicle registration and*  
23 *licensing systems as part of the motor carrier information*  
24 *system established under section 31106.*

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1           “(1) *determine the safety fitness of a motor car-*  
2           *rier or registrant—*

3                   “(A) *when licensing or registering the motor*  
4           *carrier or registrant; or*

5                   “(B) *while the license or registration is in*  
6           *effect; and*

7           “(2) *deny, suspend, or revoke the commercial*  
8           *motor vehicle registration of a motor carrier or reg-*  
9           *istrant to whom the Secretary has issued an oper-*  
10          *ations out-of-service order.*

11          “(c) *PROGRAM PARTICIPATION.—Not later than Sep-*  
12          *tember 30, 2015, the Secretary shall require a State to par-*  
13          *ticipate in the program by—*

14                   “(1) *complying with the uniform policies, proce-*  
15          *dures, and technical and operational standards pre-*  
16          *scribed by the Secretary under section 31106(a)(4);*

17                   “(2) *having in effect a law providing the State*  
18          *with the authority to impose the sanctions described*  
19          *in paragraph (3)(A) on the basis of an out-of-service*  
20          *order issued by the Secretary; and*

21                   “(3) *establishing and implementing a process,*  
22          *approved by the Secretary, to—*

23                           “(A) *deny, suspend, or revoke the vehicle*  
24                           *registration or seize the registration plates of a*  
25                           *commercial motor vehicle registered to a motor*

1           *carrier to whom the Secretary has issued an out-*  
 2           *of-service order; and*

3           *“(B) reinstate the vehicle registration or re-*  
 4           *turn the registration plates of the commercial*  
 5           *motor vehicle subject to sanctions under subpara-*  
 6           *graph (A) if the Secretary permits such carrier*  
 7           *to resume operations after the date of issuance of*  
 8           *such order.*

9           *“(d) FUNDING.—A State may use grant funds made*  
 10          *available to the State under section 4126 of SAFETEA—*  
 11          *LU (119 Stat. 1738) for each of fiscal years 2013 through*  
 12          *2016 to meet the requirements of this section for participa-*  
 13          *tion in the program under subsection (c).”.*

14          *(b) CONFORMING AMENDMENTS.—Section 31106(b) is*  
 15          *amended—*

16                 *(1) by striking paragraphs (2) through (4);*

17                 *(2) by striking “(b) PERFORMANCE AND REG-*  
 18                 *ISTRATION INFORMATION PROGRAM.—” and all that*  
 19                 *follows through “(1) INFORMATION CLEARING-*  
 20                 *HOUSE.—The Secretary” and inserting the following:*

21                 *“(b) INFORMATION CLEARINGHOUSE.—The Sec-*  
 22                 *retary”; and*

23                 *(3) by aligning the remaining text accordingly.*

1       (c) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 2   311 *is amended by striking the item relating to section*  
 3   31109 *and inserting the following:*

*“31109. Performance and registration information systems management program.”.*

4   **SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS**  
 5                   **AND NETWORKS DEPLOYMENT GRANTS.**

6       (a) *IN GENERAL.*—*Section 4126(a) of SAFETEA-LU*  
 7   (119 Stat. 1738) *is amended—*

8               (1) *in paragraph (1) by striking “and” at the*  
 9   *end;*

10              (2) *in paragraph (2) by striking “and Federal”*  
 11   *and all that follows through the period at the end and*  
 12   *inserting a semicolon; and*

13              (3) *by adding at the end the following:*

14               “*(3) facilitate compliance with Federal and*  
 15   *State commercial motor vehicle regulatory require-*  
 16   *ments; and*

17               “*(4) provide assistance for State participation*  
 18   *in the performance and registration information sys-*  
 19   *tems management program under section 31109.”.*

20       (b) *AMOUNT OF GRANTS.*—

21              (1) *CORE DEPLOYMENT GRANTS.*—*Section*  
 22   4126(c) *of such Act (119 Stat. 1738) is amended—*

23               (A) *by striking paragraph (2); and*

1                   (B) by redesignating paragraph (3) as  
2                   paragraph (2).

3                   (2) *EXPANDED DEPLOYMENT GRANTS*.—Section  
4                   4126(d) of such Act (119 Stat. 1739) is amended—

5                   (A) by striking paragraph (3); and

6                   (B) by redesignating paragraph (4) as  
7                   paragraph (3).

8                   (c) *ELIGIBILITY*.—Section 4126(e) of such Act (119  
9                   Stat. 1739) is amended—

10                  (1) in paragraph (2)(B)—

11                   (A) by inserting “in interstate commerce”  
12                   after “efficiency”; and

13                   (B) by striking “and” at the end;

14                  (2) in paragraph (3) by striking the period at  
15                  the end and inserting “; and”; and

16                  (3) by adding at the end the following:

17                   “(4) shall be participating not later than Sep-  
18                   tember 30, 2015, in the performance and registration  
19                   information systems management program under sec-  
20                   tion 31109 of title 49, United States Code.”.

21                  (d) *FEDERAL SHARE*.—Section 4126(f) of such Act  
22                  (119 Stat. 1739) is amended—

23                   (1) by striking “The Federal” and inserting the  
24                   following:

25                   “(1) *IN GENERAL*.—The Federal”; and

1           (2) *by adding at the end the following:*

2           “(2) *PERFORMANCE AND REGISTRATION INFOR-*  
 3           *MATION SYSTEMS MANAGEMENT PROGRAM.—Notwith-*  
 4           *standing any other provision of this subsection, the*  
 5           *Federal share of the cost of a project relating to par-*  
 6           *ticipation in the performance and registration infor-*  
 7           *mation systems management program under section*  
 8           *31109 of title 49, United States Code, shall be 100*  
 9           *percent for fiscal years 2013 through 2016.”.*

10 **SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPEC-**  
 11 **TION PROGRAMS.**

12           (a) *IN GENERAL.—Section 31142(b) is amended to*  
 13 *read as follows:*

14           “(b) *INSPECTION OF VEHICLES AND RECORD RETEN-*  
 15 *TION.—*

16           “(1) *REGULATIONS ON GOVERNMENT STAND-*  
 17 *ARDS.—The Secretary of Transportation shall pre-*  
 18 *scribe regulations on Government standards for in-*  
 19 *spection of commercial motor vehicles and retention*  
 20 *by employers of records of such inspections.*

21           “(2) *CONTENTS OF STANDARDS.—The standards*  
 22 *shall provide for—*

23           “(A) *annual or more frequent inspections of*  
 24           *a commercial motor vehicle designed or used to*  
 25           *transport property unless the Secretary finds*

1           *that another inspection system is as effective as*  
 2           *an annual or more frequent inspection system;*  
 3           *and*

4                   “(B) *annual or more frequent inspections of*  
 5           *a commercial motor vehicle designed or used to*  
 6           *transport passengers.*

7           “(3) *TREATMENT OF REGULATIONS.—Regula-*  
 8           *tions prescribed under this subsection shall be treated*  
 9           *as regulations prescribed under section 31136.*

10           “(4) *SPECIAL RULES FOR INSPECTION PRO-*  
 11           *GRAM.—Any inspection required under paragraph*  
 12           *(2)(B) shall be conducted by, or under a program es-*  
 13           *tablished by, the State in which the vehicle is reg-*  
 14           *istered. A roadside inspection conducted by a State or*  
 15           *other jurisdiction shall not be considered an inspec-*  
 16           *tion for the purposes of meeting the requirements of*  
 17           *paragraph (2)(B).”.*

18           “(b) *PERIODIC REVIEW OF STATE SAFETY INSPECTION*  
 19           *PROGRAMS.—The Secretary shall periodically review State*  
 20           *safety inspection programs of commercial motor vehicles de-*  
 21           *signed or used to transport passengers.*

22           **SEC. 6305. AMENDMENTS TO SAFETY FITNESS DETERMINA-**  
 23           **TION.**

24           *On and after the date the Secretary publishes in the*  
 25           *Federal register the final rule revising the safety fitness de-*

1 *termination methodology established pursuant to 31144 of*  
2 *title 49, United States Code, to correspond with the Compli-*  
3 *ance Safety Accountability program, the Secretary shall*  
4 *consider Safety Recommendation H-99-6 of the National*  
5 *Transportation Safety Board, issued February 26, 1999,*  
6 *closed.*

7 **SEC. 6306. NEW ENTRANT CARRIERS.**

8 (a) *SAFETY REVIEW.*—Section 31144(g)(1) is amended  
9 to read as follows:

10 “(1) *SAFETY REVIEW.*—The Secretary shall re-  
11 quire, by regulation, each owner and operator issued  
12 a new registration under section 13902 or 31134 to  
13 undergo a safety review under this section—

14 “(A) except as provided by subparagraphs  
15 (B) and (C), within the first 18 months after the  
16 date on which the owner or operator begins oper-  
17 ations under such registration;

18 “(B) in the case of an owner or operator  
19 with authority to transport hazardous materials,  
20 within the first 9 months after the date on which  
21 the owner or operator begins operations under  
22 such registration; and

23 “(C) in the case of an owner or operator  
24 with authority to transport passengers, within  
25 the first 90 days after the date on which the

1           owner or operator begins operations under such  
2           registration.”.

3           (b)    NEW    ENTRANT    REGISTRATION.—Section  
4   31144(g)(4) is amended to read as follows:

5           “(4) NEW ENTRANT REGISTRATION.—

6                   “(A) IN GENERAL.—Notwithstanding any  
7           other provision of this title, any new registration  
8           issued under section 13902 or 31134 shall each  
9           be designated as new entrant registration until  
10          the safety review required by paragraph (1) is  
11          completed.

12                   “(B) REQUIREMENT FOR ISSUANCE OF PER-  
13          MANENT OPERATING AUTHORITY.—A new reg-  
14          istration issued to an owner or operator under  
15          section 13902 or 31134 shall become permanent  
16          after the owner or operator has passed the safety  
17          review required under paragraph (1).”.

18          (c) FUNDING.—Section 31144(g)(5) is amended to  
19          read as follows:

20               “(5) FUNDING.—

21                   “(A) IN GENERAL.—A State shall carry out  
22           the requirements of this section with funds allo-  
23           cated to the State under section 31104(f).

24                   “(B) DETERMINATION.—If the Secretary de-  
25           termines that a State or local government is not

1        *able to use government employees to conduct new*  
2        *entrant motor carrier safety reviews with funds*  
3        *allocated to the State under section 31104(f), the*  
4        *Secretary may conduct for the State or local gov-*  
5        *ernment the safety reviews that the State or local*  
6        *government is not able to conduct with such*  
7        *funds.”.*

8        *(d) FEDERAL SHARE.—Section 31103(b) is amended*  
9        *to read as follows:*

10        *“(b) NEW ENTRANT MOTOR CARRIER SAFETY RE-*  
11        *VIEWS.—*

12                *“(1) INCREASE IN SHARE OF COSTS.—Subject to*  
13        *paragraph (2), the Secretary may reimburse a State*  
14        *an amount that is up to 100 percent of the costs in-*  
15        *curring by the State in a fiscal year for new entrant*  
16        *motor carrier safety reviews conducted under section*  
17        *31144(g).*

18                *“(2) LIMITATION.—The increased Federal share*  
19        *provided under paragraph (1) shall apply with re-*  
20        *spect to reimbursements of costs described in para-*  
21        *graph (1) made using not more than 20 percent of the*  
22        *funds allocated to a State under section 31104(f) for*  
23        *a fiscal year. Any such reimbursements made using*  
24        *an amount in excess of 20 percent of such funds shall*

1       *be subject to the cost-sharing requirements of sub-*  
 2       *section (a).”.*

3       (e) *CONFORMING AMENDMENT.*—Section 31144(g) is  
 4       amended, in the subsection heading, by striking “SAFETY  
 5       REVIEWS OF NEW OPERATORS” and inserting “NEW EN-  
 6       TRANT MOTOR CARRIER SAFETY REVIEWS”.

7       **SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF**  
 8       **PASSENGERS.**

9       Section 31144 is amended by adding at the end the  
 10      following:

11       “(h) *SAFETY REVIEWS OF OWNERS AND OPERATORS*  
 12      *OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES*  
 13      *DESIGNED OR USED TO TRANSPORT PASSENGERS.*—

14               “(1) *IN GENERAL.*—Not later than September 30,  
 15      2015, the Secretary shall determine the safety fitness  
 16      of each owner, and each operator, of a commercial  
 17      motor vehicle designed or used to transport passengers  
 18      who the Secretary registers, on or before September  
 19      30, 2014 (including before the date of enactment of  
 20      this subsection), under section 13902 or 31134.

21               “(2) *SAFETY FITNESS RATING.*—As part of the  
 22      safety fitness determination required by paragraph  
 23      (1), the Secretary shall assign a safety fitness rating  
 24      to each owner and each operator described in para-  
 25      graph (1).

1 “(3) *PERIODIC MONITORING.*—

2 “(A) *PROCESS.*—*The Secretary shall estab-*  
3 *lish a process, by regulation, for monitoring on*  
4 *a regular basis the safety performance of an*  
5 *owner or operator of a commercial motor vehicle*  
6 *designed or used to transport passengers, fol-*  
7 *lowing the assignment of a safety rating to such*  
8 *owner or operator.*

9 “(B) *ELEMENTS OF MONITORING AND SAFE-*  
10 *TY ENFORCEMENT.*—*Regulations issued under*  
11 *subparagraph (A) shall provide for the following:*

12 “(i) *Monitoring of the safety perform-*  
13 *ance, in critical safety areas (as defined by*  
14 *the Secretary, by regulation) of an owner or*  
15 *operator of a commercial motor vehicle de-*  
16 *signed or used to transport passengers (in-*  
17 *cluding by activities conducted onsite at the*  
18 *offices of the owner or operator or offsite).*

19 “(ii) *Increasingly more stringent inter-*  
20 *ventions designed to correct unsafe practices*  
21 *of an owner or operator of a commercial*  
22 *motor vehicle designed or used to transport*  
23 *passengers.*

24 “(iii) *Periodic updates to the safety fit-*  
25 *ness rating of an owner or operator if the*

1           *Secretary determines that such update will*  
2           *improve the safety performance of the owner*  
3           *or operator.*

4           “(iv) *Enforcement action, including*  
5           *determining that the owner or operator is*  
6           *not fit and may not operate a commercial*  
7           *motor vehicle under subsection (c)(2).”.*

8   **SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.**

9           *(a) EXAMINATION REQUIREMENT FOR NATIONAL REG-*  
10          *ISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D)*  
11          *is amended to read as follows:*

12                  “(D) *develop requirements applicable to a*  
13                  *medical examiner in order for the medical exam-*  
14                  *iner to be listed in the national registry estab-*  
15                  *lished under this section, including—*

16                          “(i) *specific courses and materials that*  
17                          *must be completed;*

18                          “(ii) *at a minimum, self-certification*  
19                          *requirements to verify that the medical ex-*  
20                          *aminer has completed specific training, in-*  
21                          *cluding refresher courses, that the Secretary*  
22                          *determines are necessary; and*

23                          “(iii) *an examination developed by the*  
24                          *Secretary for which a passing grade must*  
25                          *be achieved.”.*

1       (b) *ADDITIONAL OVERSIGHT OF LICENSING AUTHORI-*  
2 *TIES.*—

3           (1) *IN GENERAL.*—Section 31149(c)(1) is amend-  
4 *ed*—

5           (A) in subparagraph (E) by striking “and”  
6 *at the end;*

7           (B) in subparagraph (F) by striking the pe-  
8 *riod at the end and inserting “; and”; and*

9           (C) by adding at the end the following:

10           “(G) review each year the implementation  
11 *of commercial driver’s license requirements of a*  
12 *minimum of 10 States to assess the accuracy, va-*  
13 *lidity, and timeliness of—*

14           “(i) submission of physical examina-  
15 *tion reports and medical certificates to*  
16 *State licensing agencies; and*

17           “(ii) the processing of such submissions  
18 *by State licensing agencies.”.*

19       (2) *INTERNAL OVERSIGHT POLICY.*—

20           (A) *IN GENERAL.*—Not later than 2 years  
21 *after the date of enactment of this Act, the Sec-*  
22 *retary shall establish an oversight policy and*  
23 *process within the Department for the purposes*  
24 *of carrying out the requirement of section*

1           31149(c)(1)(G) of title 49, United States Code,  
2           as added by paragraph (1) of this subsection.

3                   (B)           EFFECTIVE           DATE.—Section  
4           31149(c)(1)(G) of title 49, United States Code,  
5           as added by paragraph (1) of this subsection,  
6           shall take effect on the date that the oversight  
7           policy and process is established pursuant to  
8           subparagraph (A).

9           (c) DEADLINE FOR ESTABLISHMENT OF NATIONAL  
10       REGISTRY OF MEDICAL EXAMINERS.—Not later than 1  
11       year after the date of enactment of this Act, the Secretary  
12       shall establish a national registry of medical examiners as  
13       required by section 31149(d)(1) of title 49, United States  
14       Code.

15       **SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STAND-**  
16       **ARDS.**

17           (a) SAFETY STANDARDS FOR COMMERCIAL MOTOR VE-  
18       HICLES OF PROPERTY.—

19                   (1) RESEARCH.—The Secretary shall conduct re-  
20       search on the need for roof strength, pillar strength,  
21       frontal and back wall strength, and other potential  
22       occupant protection standards for commercial motor  
23       vehicles of property.

24                   (2) COMMERCIAL MOTOR VEHICLE OF PROPERTY  
25       DEFINED.—In this subsection, the term “commercial

1     *motor vehicle of property” means a motor vehicle used*  
2     *in commerce to transport property that has a gross*  
3     *vehicle weight rating or gross vehicle weight of at*  
4     *least 26,001 pounds, whichever is greater.*

5     **(b) SAFETY STANDARDS FOR MOTORCOACHES.—**

6             **(1) SAFETY STANDARDS FOR NEW**  
7     **MOTORCOACHES.—**

8             **(A) OCCUPANT PROTECTION SYSTEMS.—**

9                     **(i) IN GENERAL.—***Not later than 3*  
10                    *years after the date of enactment of this Act,*  
11                    *the Secretary shall issue standards for mo-*  
12                    *torcoach occupant protection systems that*  
13                    *account for frontal impact collisions, side*  
14                    *impact collisions, rear impact collisions,*  
15                    *and rollovers. Such standards shall not*  
16                    *eliminate or lessen the occupant protection*  
17                    *standards in effect on the date of enactment*  
18                    *of this Act and shall—*

19                             *(I) be based on sound scientific re-*  
20                             *search, extensive testing, and analysis*  
21                             *by the National Highway Traffic Safe-*  
22                             *ty Administration, consistent with the*  
23                             *recommendations of the National*  
24                             *Transportation Safety Board regard-*

1            *ing motorcoach occupant protection;*  
2            *and*

3            *(II) take into consideration the*  
4            *various types of motorcoaches and the*  
5            *various uses and configurations of the*  
6            *occupant compartment as well as local,*  
7            *State, and Federal size and weight*  
8            *limits and restrictions.*

9            *(ii) CONTENTS.—Such standards may*  
10          *include seatbelts or other occupant protec-*  
11          *tion systems, passive or otherwise, for pas-*  
12          *sengers, including those in child safety re-*  
13          *straint systems.*

14          *(iii) CONSULTATION.—Prior to issuing*  
15          *such standards, the Secretary shall consult*  
16          *with affected parties, as appropriate, on the*  
17          *proceedings leading to the issuance of the*  
18          *standards required by this subparagraph.*  
19          *Any communications concerning such con-*  
20          *sultation shall be included in the public*  
21          *record of the proceedings leading to the*  
22          *issuance of such standards and shall be sub-*  
23          *ject to public comment.*

24          *(B) ROOF STRENGTH.—*

1                   (i) *RESEARCH AND TESTING.*—*The*  
2                   *Secretary shall conduct research and testing*  
3                   *on roof strength to determine the method or*  
4                   *methods that provide adequate survival*  
5                   *space for all seating positions.*

6                   (ii) *STANDARDS.*—*Not later than 3*  
7                   *years after the date of enactment of this Act,*  
8                   *the Secretary shall issue roof strength stand-*  
9                   *ards for motorcoaches based on the results of*  
10                  *such research and testing and taking into*  
11                  *account all motorcoach window dimensions*  
12                  *and highway size and weight restrictions.*

13               (C) *WINDOW GLAZING.*—

14                  (i) *RESEARCH AND TESTING.*—*The*  
15                  *Secretary shall conduct research and testing*  
16                  *on advanced window glazing and secure-*  
17                  *ment to determine the best method or meth-*  
18                  *ods for window glazing to prevent motor-*  
19                  *coach occupant ejection.*

20                  (ii) *STANDARDS.*—*Not later than 3*  
21                  *years after the date of enactment of this Act,*  
22                  *the Secretary shall revise window glazing*  
23                  *standards for motorcoaches based on the re-*  
24                  *sults of such research and testing and tak-*  
25                  *ing into account all motorcoach window di-*

1            *mensions and highway height and weight*  
2            *restrictions.*

3            *(D) FIRE PREVENTION AND MITIGATION.—*

4                    *(i) RESEARCH AND TESTING.—The*  
5            *Secretary shall conduct research and testing*  
6            *to determine the most prevalent causes of*  
7            *motorcoach fires and the best methods to*  
8            *prevent such fires and to mitigate the effect*  
9            *of such fires, both inside and outside the*  
10           *motorcoach.*

11                   *(ii) STANDARDS.—Not later than 3*  
12           *years after the date of enactment of this Act,*  
13           *the Secretary shall issue fire prevention and*  
14           *mitigation standards for motorcoaches,*  
15           *based on the results of the Secretary's re-*  
16           *search and testing, taking into account mo-*  
17           *torcoach highway size and weight restric-*  
18           *tions.*

19           *(E) EMERGENCY EVACUATION DESIGN.—*

20                   *(i) RESEARCH AND TESTING.—The*  
21           *Secretary shall conduct research and testing*  
22           *to determine any necessary changes in mo-*  
23           *torcoach design standards, including win-*  
24           *dows and doors, to improve motorcoach*  
25           *emergency evacuation.*

1                   (ii) *STANDARDS.—Not later than 3*  
2                   *years after the date of enactment of this Act,*  
3                   *the Secretary shall issue motorcoach emer-*  
4                   *gency evacuation design standards, includ-*  
5                   *ing—*

6                   (I) *window standards that en-*  
7                   *hance the use of windows for emer-*  
8                   *gency evacuation to the maximum ex-*  
9                   *tent feasible, while not detracting from*  
10                  *the window glazing standards to be*  
11                  *issued under this paragraph; and*

12                  (II) *door standards, including de-*  
13                  *sign of the wheelchair lift door for*  
14                  *emergency evacuation use.*

15                  (iii) *MOTORCOACH HIGHWAY SIZE AND*  
16                  *WEIGHT RESTRICTIONS.—Such standards*  
17                  *shall take into account motorcoach highway*  
18                  *size and weight restrictions.*

19                  (F) *GENERAL PROVISIONS.—*

20                  (i) *EFFECT ON STATE AND LOCAL*  
21                  *LAWS.—Notwithstanding any provision of*  
22                  *chapter 301 of title 49, United States Code,*  
23                  *a State or a political subdivision of a State*  
24                  *may not adopt or enforce a law or regula-*  
25                  *tion related to a motorcoach crash avoid-*

1            *ance and occupant protection system prior*  
2            *to the effective date of the regulations issued*  
3            *pursuant to this paragraph.*

4            *(ii) APPLICABILITY OF STANDARDS.—*  
5            *The standards issued under subparagraphs*  
6            *(A) through (E) shall require motorcoaches*  
7            *manufactured after the last day of 3-year*  
8            *period beginning on the date on which such*  
9            *standards are issued to be engineered and*  
10           *equipped to meet such standards.*

11           *(iii) LIMITATION ON STATUTORY CON-*  
12           *STRUCTION.—Nothing in this subsection or*  
13           *in the regulations issued pursuant to this*  
14           *subsection may be construed as indicating*  
15           *an intention by Congress to affect, change,*  
16           *or modify in any way the liability, if any,*  
17           *of a motorcoach manufacturer or motor-*  
18           *coach owner or operator under applicable*  
19           *law to buses or motorcoaches, manufactured*  
20           *and operated with or without passenger seat*  
21           *belts or other passenger restraint systems,*  
22           *prior to the effective date of the regulations*  
23           *issued under this subsection.*

24           *(2) SAFETY STANDARDS FOR EXISTING*  
25           *MOTORCOACHES.—*

1           (A) *IN GENERAL.*—*The Secretary may issue*  
2           *standards for motorcoaches that are manufac-*  
3           *tured before the date that is 3 years after the*  
4           *date on which the standards required under*  
5           *paragraph (1) are issued, taking into account*  
6           *the limitations posed by the need to retrofit exist-*  
7           *ing motorcoaches. Such standards shall have the*  
8           *same objectives as the standards required under*  
9           *subparagraphs (A) through (E) of paragraph*  
10          *(1), but may differ from such standards based on*  
11          *what is technically feasible for existing*  
12          *motorcoaches. Such standards are technically*  
13          *feasible if the equipment can be certified by the*  
14          *original equipment manufacturer as meeting*  
15          *requisite performance requirements and if the*  
16          *equipment is readily attachable subsequent to*  
17          *initial manufacture by the operator and enforced*  
18          *through readily visible inspection requiring no*  
19          *disassembly.*

20           (B) *STANDARDS FOR COMPONENT PARTS*  
21          *AND EQUIPMENT.*—*In lieu of issuing comprehen-*  
22          *sive standards for motorcoaches under subpara-*  
23          *graph (A), the Secretary may develop standards*  
24          *for various component parts and equipment of*

1       *motorcoaches that would increase occupant pro-*  
2       *tection.*

3               (C) *EFFECTIVE DATE.*—*The effective date*  
4       *for the standards issued under this subsection*  
5       *shall be the same as the effective date for the*  
6       *standards issued under paragraph (1).*

7               (D) *CERTIFICATION.*—*The Secretary shall*  
8       *establish, by regulation, a system whereby the*  
9       *motorcoaches to which the standards issued*  
10       *under subparagraph (A) apply shall be certified*  
11       *as in compliance with such standards. Such cer-*  
12       *tification shall be carried out by the Secretary or*  
13       *by private parties at the discretion and author-*  
14       *ization of the Secretary.*

15       (3) *COMPLIANCE TIMETABLES.*—

16               (A) *EFFECTIVE DATE.*—*The effective date of*  
17       *the standards issued under paragraphs (1) and*  
18       *(2) shall be 3 years after the date on which such*  
19       *final standards are issued. All motorcoaches*  
20       *manufactured after such date shall comply with*  
21       *such standards.*

22               (B) *PHASED IN REQUIREMENTS.*—

23                       (i) *FIRST PHASE.*—*Not later than 6*  
24       *years after the effective date of the stand-*  
25       *ards issued under paragraphs (1) and (2),*

1           *a motorcoach owner or operator shall ensure*  
2           *that at least 50 percent of the motorcoaches*  
3           *used by the owner or operator comply with*  
4           *either the standards issued under paragraph*  
5           *(1) or the standards issued under para-*  
6           *graph (2), as appropriate.*

7           (ii) *SECOND PHASE.—Not later than*  
8           *12 years after the effective date of the stand-*  
9           *ards issued under paragraphs (1) and (2),*  
10          *a motorcoach owner or operator shall ensure*  
11          *that 100 percent of the motorcoaches used*  
12          *by the owner or operator comply with either*  
13          *of such standards.*

14          (C) *STATE AND LOCAL LAWS.—*

15               (i) *LIABILITY OF MOTORCOACH MANU-*  
16               *FACTURERS AND OWNERS AND OPERA-*  
17               *TORS.—Nothing in this subsection may be*  
18               *construed to affect, change, or modify in*  
19               *any way the liability, if any, of a motor-*  
20               *coach manufacturer or motorcoach owner or*  
21               *operator under applicable law to buses or*  
22               *motorcoaches unless the manufacturer or*  
23               *owner or operator is shown not to be in*  
24               *compliance with the timetables set forth in*  
25               *subparagraphs (A) and (B).*

1                   (ii) *PREEMPTION.—Notwithstanding*  
 2                   *any provision of chapter 301 of title 49,*  
 3                   *United States Code, a State or a political*  
 4                   *subdivision of a State may not adopt or en-*  
 5                   *force a law or regulation related to any of*  
 6                   *the standards required by paragraphs (1)*  
 7                   *and (2) during the time periods set forth in*  
 8                   *subparagraphs (A) and (B).*

9                   (4) *DEFINITION OF MOTORCOACH.—In this sub-*  
 10                  *section, the term “motorcoach” means an over-the-*  
 11                  *road bus, characterized by an elevated passenger deck*  
 12                  *located over a baggage compartment.*

13 **SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.**

14                  (a) *STUDY.—The Secretary shall study the effective-*  
 15                  *ness of crash avoidance technologies as countermeasures to*  
 16                  *lessen the impact of distracted driving in commercial motor*  
 17                  *vehicle crashes.*

18                  (b) *REPORT TO CONGRESS.—Not later than October*  
 19                  *1, 2013, the Secretary shall submit to the Committee on*  
 20                  *Transportation and Infrastructure of the House of Rep-*  
 21                  *resentatives and the Committee on Commerce, Science, and*  
 22                  *Transportation of the Senate a report detailing the results*  
 23                  *of the study.*

1 **SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.**

2       (a) *STUDY.*—*The Secretary shall expand the ongoing*  
 3 *study of the Department on collision mitigation systems in*  
 4 *commercial motor vehicles to include systems that can react*  
 5 *to a stopped vehicle.*

6       (b) *REPORT TO CONGRESS.*—*Not later than October*  
 7 *1, 2013, the Secretary shall submit to the Committee on*  
 8 *Transportation and Infrastructure of the House of Rep-*  
 9 *resentatives and the Committee on Commerce, Science, and*  
 10 *Transportation of the Senate a report detailing the results*  
 11 *of the study.*

12               ***Subtitle D—Commercial Motor***  
 13                       ***Vehicle Operators***

14 **SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RE-**  
 15 **LATING TO ALCOHOL AND CONTROLLED SUB-**  
 16 **STANCES TESTING OF COMMERCIAL MOTOR**  
 17 **VEHICLE OPERATORS.**

18       (a) *IN GENERAL.*—*Chapter 313 is amended by insert-*  
 19 *ing after section 31306 the following:*

20 ***“§31306a. National clearinghouse for records relat-***  
 21 ***ing to alcohol and controlled substances***  
 22 ***testing***

23       “(a) *ESTABLISHMENT.*—

24               “(1) *IN GENERAL.*—*Subject to the requirements*  
 25 *of this section, the Secretary of Transportation shall*  
 26 *establish and maintain an information system that*

1 *will serve as a national clearinghouse for records re-*  
2 *lating to the alcohol and controlled substances testing*  
3 *program applicable to operators of commercial motor*  
4 *vehicles under section 31306.*

5 “(2) *PURPOSES.—The purposes of the clearing-*  
6 *house shall be—*

7 “(A) *to improve compliance with the re-*  
8 *quirements of the testing program; and*

9 “(B) *to help prevent accidents and injuries*  
10 *resulting from the misuse of alcohol or use of*  
11 *controlled substances by operators of commercial*  
12 *motor vehicles.*

13 “(3) *CONTENTS.—The clearinghouse shall be a*  
14 *repository of records relating to violations of the test-*  
15 *ing program by individuals submitted to the Sec-*  
16 *retary in accordance with this section.*

17 “(4) *ELECTRONIC EXCHANGE OF RECORDS.—The*  
18 *Secretary shall ensure the ability for records to be*  
19 *submitted to the clearinghouse, and requested from the*  
20 *clearinghouse, on an electronic basis.*

21 “(5) *DEADLINE.—The Secretary shall establish*  
22 *the clearinghouse not later than 1 year after the date*  
23 *of enactment of this section.*

24 “(b) *EMPLOYMENT PROHIBITIONS.—*

1           “(1) *IN GENERAL.*—An employer may permit an  
2           individual to operate a commercial motor vehicle or  
3           perform any other safety sensitive function only if the  
4           employer makes a request for information from the  
5           clearinghouse at such times as the Secretary shall  
6           specify, by regulation, and the information in the  
7           clearinghouse at the time of the request indicates that  
8           the individual—

9                   “(A) has not violated the requirements of  
10           the testing program in the preceding 3-year pe-  
11           riod; or

12                   “(B) if the individual has violated the re-  
13           quirements of the testing program during that  
14           period, is eligible to return to safety sensitive du-  
15           ties pursuant to the return-to-duty process estab-  
16           lished under the testing program.

17           “(2) *VIOLATIONS.*—For purposes of paragraph  
18           (1), an individual shall be considered to have violated  
19           the requirements of the testing program if the indi-  
20           vidual—

21                   “(A) has a confirmed or verified, as appli-  
22           cable, positive alcohol or controlled substances  
23           test result under the testing program;

1           “(B) has failed or refused to submit to an  
2           alcohol or controlled substances test under the  
3           testing program; or

4           “(C) has otherwise failed to comply with the  
5           requirements of the testing program.

6           “(3) *APPLICABILITY.*—Paragraph (1) shall apply  
7           to an individual who performs a safety sensitive func-  
8           tion for an employer as a full-time regularly em-  
9           ployed driver, casual, intermittent, or occasional  
10          driver, or leased driver, or independent owner-oper-  
11          ator contractor of such employer or, as determined by  
12          the Secretary, pursuant to another arrangement.

13          “(4) *WRITTEN NOTICE THAT CLEARINGHOUSE IS*  
14          *OPERATIONAL.*—The Secretary shall issue a written  
15          notice when the Secretary determines that the clear-  
16          inghouse is operational and employers are able to use  
17          the clearinghouse to meet the requirements of section  
18          382.413 of title 49, Code of Federal Regulations, as  
19          in effect on the date of enactment of this section.

20          “(5) *EFFECTIVE DATE.*—Paragraph (1) shall  
21          take effect on a date specified by the Secretary in the  
22          written notice issued under paragraph (4) that is not  
23          later than 30 days after the date of issuance of the  
24          written notice.

1           “(6) *CONTINUED APPLICATION OF EXISTING RE-*  
2           *QUIREMENTS.*—*Following the date on which para-*  
3           *graph (1) takes effect, an employer shall continue to*  
4           *be subject to the requirements of section 382.413 of*  
5           *title 49, Code of Federal Regulations, as in effect on*  
6           *the date of enactment of this section, for a period of*  
7           *3 years or for such longer period as the Secretary de-*  
8           *termines appropriate.*

9           “(7) *NOTICE OF REQUIREMENTS APPLICABLE TO*  
10          *EMPLOYERS.*—*The Secretary shall provide notice of*  
11          *the requirements applicable to employers under this*  
12          *section through published notices in the Federal Reg-*  
13          *ister.*

14          “(c) *REPORTING OF RECORDS.*—

15               “(1) *IN GENERAL.*—*The Secretary shall require*  
16               *employers and appropriate service agents, including*  
17               *medical review officers, to submit to the Secretary for*  
18               *inclusion in the clearinghouse records of violations of*  
19               *the testing program by individuals described in sub-*  
20               *section (b)(3).*

21               “(2) *SPECIFIC REPORTING REQUIREMENTS.*—*In*  
22               *carrying out paragraph (1), the Secretary shall re-*  
23               *quire, at a minimum—*

1           “(A) a medical review officer to report  
2           promptly, as determined by the Secretary, to the  
3           clearinghouse—

4                   “(i) a verified positive controlled sub-  
5                   stances test result of an individual under  
6                   the testing program; and

7                   “(ii) a failure or refusal of an indi-  
8                   vidual to submit to a controlled substances  
9                   test in accordance with the requirements of  
10                  the testing program; and

11           “(B) an employer (or, in the case of an op-  
12           erator of a commercial motor vehicle who is self-  
13           employed, the service agent administering the  
14           operator’s testing program) to report promptly,  
15           as determined by the Secretary, to the clearing-  
16           house—

17                   “(i) a confirmed positive alcohol test  
18                   result of an individual under the testing  
19                   program; and

20                   “(ii) a failure or refusal of an indi-  
21                   vidual to provide a specimen for a con-  
22                   trolled substances test in accordance with  
23                   the requirements of the testing program.

24           “(3) *UPDATING OF RECORDS.*—The Secretary  
25           shall ensure that a record in the clearinghouse is up-

1       *dated to include a return-to-duty test result of an in-*  
2       *dividual under the testing program.*

3               “(4) *INCLUSION OF RECORDS IN CLEARING-*  
4       *HOUSE.—The Secretary shall include all records of*  
5       *violations received pursuant to this subsection in the*  
6       *clearinghouse.*

7               “(5) *MODIFICATIONS AND DELETIONS.—If the*  
8       *Secretary determines that a record contained in the*  
9       *clearinghouse is not accurate, the Secretary shall*  
10       *modify or delete the record.*

11               “(6) *NOTIFICATION OF INDIVIDUALS.—The Sec-*  
12       *retary shall establish a process to provide notification*  
13       *to an individual of—*

14                       “(A) *a submission of a record to the clear-*  
15                       *inghouse relating to the individual; and*

16                       “(B) *any modification or deletion of a*  
17                       *record in the clearinghouse pertaining to the in-*  
18                       *dividual, including the reason for the modifica-*  
19                       *tion or deletion.*

20               “(7) *TIMELY AND ACCURATE REPORTING.—The*  
21       *Secretary may establish additional requirements, as*  
22       *appropriate, to ensure timely and accurate reporting*  
23       *of records to the clearinghouse.*

24               “(8) *DELETION OF RECORDS.—The Secretary*  
25       *shall delete a record of a violation submitted to the*

1        *clearinghouse after a period of 3 years beginning on*  
2        *the date the individual is eligible to return to safety*  
3        *sensitive duties pursuant to the return-to-duty process*  
4        *established under the testing program.*

5        *“(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—*

6                *“(1) IN GENERAL.—The Secretary shall establish*  
7        *a process for an employer to request and receive*  
8        *records in the clearinghouse pertaining to an indi-*  
9        *vidual in accordance with subsection (b).*

10              *“(2) WRITTEN CONSENT OF INDIVIDUALS.—An*  
11        *employer shall obtain the written consent of an indi-*  
12        *vidual before requesting any records in the clearing-*  
13        *house pertaining to the individual.*

14              *“(3) ACCESS TO RECORDS.—Upon receipt of a*  
15        *request for records from an employer under para-*  
16        *graph (1), the Secretary shall provide the employer*  
17        *with access to the records as expeditiously as prac-*  
18        *ticable.*

19              *“(4) RECORDS OF REQUESTS.—The Secretary*  
20        *shall require an employer to maintain for a 3-year*  
21        *period—*

22                      *“(A) a record of each request made by the*  
23                      *employer for records from the clearinghouse; and*

24                      *“(B) any information received pursuant to*  
25                      *the request.*

1           “(5) *USE OF RECORDS.*—

2                   “(A) *IN GENERAL.*—*An employer—*

3                           “(i) *may obtain from the clearinghouse*  
 4                           *a record pertaining to an individual only*  
 5                           *for the purpose of determining whether a*  
 6                           *prohibition applies with respect to the indi-*  
 7                           *vidual to operate a commercial motor vehi-*  
 8                           *cle or perform any other safety sensitive*  
 9                           *function under subsection (b)(1); and*

10                           “(ii) *may use the record only for such*  
 11                           *purpose.*

12                   “(B) *PROTECTION OF PRIVACY OF INDIVID-*  
 13                   *UALS.*—*An employer that receives a record from*  
 14                   *the clearinghouse pertaining to an individual*  
 15                   *shall protect the privacy of the individual and*  
 16                   *the confidentiality of the record, including tak-*  
 17                   *ing reasonable precautions to ensure that infor-*  
 18                   *mation contained in the record is not divulged*  
 19                   *to any person who is not directly involved in de-*  
 20                   *termining whether a prohibition applies with re-*  
 21                   *spect to the individual to operate a commercial*  
 22                   *motor vehicle or perform any other safety sen-*  
 23                   *sitive function under subsection (b)(1).*

24           “(e) *ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.*—

1           “(1) *IN GENERAL.*—*The Secretary shall establish*  
2           *a process for an individual to request and receive in-*  
3           *formation from the clearinghouse—*

4                     “(A) *to learn whether a record pertaining to*  
5                     *the individual is contained in the clearinghouse;*

6                     “(B) *to verify the accuracy of the record;*

7                     “(C) *to verify updates to the individual’s*  
8                     *record, including completion of a return-to-duty*  
9                     *process under the testing program; and*

10                    “(D) *to learn of requests for information*  
11                    *from the clearinghouse regarding the individual.*

12           “(2) *DISPUTE PROCEDURE.*—*The Secretary shall*  
13           *establish a procedure, including an appeal process, for*  
14           *an individual to dispute and remedy an administra-*  
15           *tive error in a record pertaining to the individual in*  
16           *the clearinghouse, except that the appeal process shall*  
17           *not be used to dispute or remedy the validity of a*  
18           *controlled substance or alcohol test result.*

19           “(3) *ACCESS TO RECORDS.*—*Upon receipt of a*  
20           *request for records from an individual under para-*  
21           *graph (1), the Secretary shall provide the individual*  
22           *with access to the records as expeditiously as prac-*  
23           *ticable.*

24           “(f) *ACCESS TO CLEARINGHOUSE BY CHIEF COMMER-*  
25           *CIAL DRIVER LICENSING OFFICIALS.*—

1           “(1) *IN GENERAL.*—*The Secretary shall establish*  
 2           *a process for the chief commercial driver licensing of-*  
 3           *ficial of a State to request and receive records per-*  
 4           *taining to an individual from the clearinghouse.*

5           “(2) *USE OF INFORMATION.*—*The chief commer-*  
 6           *cial driver licensing official of a State may not ob-*  
 7           *tain from the clearinghouse a record pertaining to an*  
 8           *individual for any purpose other than to take an ac-*  
 9           *tion related to a commercial driver’s license for the*  
 10          *individual under applicable State law or to comply*  
 11          *with section 31311(a)(22).*

12          “(g) *USE OF CLEARINGHOUSE INFORMATION FOR EN-*  
 13          *FORCEMENT PURPOSES.*—*The Secretary may use the*  
 14          *records in the clearinghouse for the purposes of enforcement*  
 15          *activities under this chapter.*

16          “(h) *DESIGN OF CLEARINGHOUSE.*—

17                 “(1) *IN GENERAL.*—*In establishing the clearing-*  
 18                 *house, the Secretary shall develop a secure process*  
 19                 *for—*

20                         “(A) *registration, authorization, and au-*  
 21                         *thentication of a user of the clearinghouse;*

22                         “(B) *registration, authorization, and au-*  
 23                         *thentication of individuals required to report to*  
 24                         *the clearinghouse under subsection (c);*

1           “(C) preventing information from the clear-  
2           inghouse from being accessed by unauthorized  
3           users;

4           “(D) timely and accurate electronic submis-  
5           sions of data to the clearinghouse under sub-  
6           section (c);

7           “(E) timely and accurate access to records  
8           from the clearinghouse under subsections (d), (e),  
9           and (f); and

10          “(F) updates to an individual’s record re-  
11          lated to compliance with the return-to-duty proc-  
12          ess under the testing program.

13          “(2) *ARCHIVE CAPABILITY.*—The clearinghouse  
14          shall be designed to allow for an archive of the re-  
15          ceipt, modification, and deletion of records for the  
16          purposes of auditing and evaluating the timeliness,  
17          accuracy, and completeness of data in the clearing-  
18          house.

19          “(3) *SECURITY STANDARDS.*—The clearinghouse  
20          shall be designed and administered in compliance  
21          with applicable Department of Transportation infor-  
22          mation technology security standards.

23          “(4) *INTEROPERABILITY WITH OTHER SYS-*  
24          *TEMS.*—In establishing the clearinghouse and devel-  
25          oping requirements for data to be included in the

1        *clearinghouse, the Secretary, to the maximum extent*  
2        *practicable, shall take into consideration—*

3                *“(A) existing information systems con-*  
4                *taining regulatory and safety data for motor ve-*  
5                *hicle operators;*

6                *“(B) the efficacy of using or combining*  
7                *clearinghouse data with 1 or more of such sys-*  
8                *tems; and*

9                *“(C) the potential interoperability of the*  
10                *clearinghouse with existing and future informa-*  
11                *tion systems containing regulatory and safety*  
12                *data for motor vehicle operators.*

13        *“(i) PRIVACY.—*

14                *“(1) AVAILABILITY OF CLEARINGHOUSE INFOR-*  
15                *MATION.—The Secretary shall establish a process to*  
16                *make information available from the clearinghouse in*  
17                *a manner that is consistent with this section and ap-*  
18                *plicable Federal information and privacy laws, in-*  
19                *cluding regulations.*

20                *“(2) UNAUTHORIZED INDIVIDUALS.—The Sec-*  
21                *retary may not provide information from the clear-*  
22                *inghouse to an individual who is not authorized by*  
23                *this section to receive the information.*

24        *“(j) FEES.—*

25                *“(1) AUTHORITY TO COLLECT FEES.—*

1           “(A) *GENERAL AUTHORITY.*—*The Secretary*  
2           *may collect fees for requests for information from*  
3           *the clearinghouse.*

4           “(B) *AMOUNT TO BE COLLECTED.*—*Fees col-*  
5           *lected under this subsection in a fiscal year shall*  
6           *equal as nearly as possible the costs of operating*  
7           *the clearinghouse in that fiscal year, including*  
8           *personnel costs.*

9           “(C) *RECEIPTS TO BE CREDITED AS OFF-*  
10          *SETTING COLLECTIONS.*—*The amount of any fee*  
11          *collected under this subsection shall be—*

12               “(i) *credited as offsetting collections to*  
13               *the account that finances the activities and*  
14               *services for which the fee is imposed; and*

15               “(ii) *available without further appro-*  
16               *priation for such activities and services*  
17               *until expended.*

18          “(2) *LIMITATION.*—*The Secretary shall ensure*  
19          *that an individual requesting information from the*  
20          *clearinghouse in order to dispute or remedy an error*  
21          *in a record pertaining to the individual pursuant to*  
22          *subsection (e)(2) may obtain the information without*  
23          *being subject to a fee authorized by paragraph (1).*

24          “(k) *ENFORCEMENT.*—*An employer, and any person*  
25          *acting as a service agent, shall be subject to civil and crimi-*

1 *nal penalties for a violation of this section in accordance*  
 2 *with section 521(b).*

3 “(l) *DEFINITIONS.—In this section, the following defi-*  
 4 *nitions apply:*

5 “(1) *CHIEF COMMERCIAL DRIVER LICENSING OF-*  
 6 *FICIAL.—The term ‘chief commercial driver licensing*  
 7 *official’ means the official in a State who is author-*  
 8 *ized—*

9 “(A) *to maintain a record about a commer-*  
 10 *cial driver’s license issued by the State; and*

11 “(B) *to take action on a commercial driv-*  
 12 *er’s license issued by the State.*

13 “(2) *CLEARINGHOUSE.—The term ‘clearinghouse’*  
 14 *means the clearinghouse to be established under sub-*  
 15 *section (a).*

16 “(3) *EMPLOYER.—Notwithstanding section*  
 17 *31301, the term ‘employer’ means a person or entity*  
 18 *employing 1 or more employees (including an indi-*  
 19 *vidual who is self-employed) that is subject to Depart-*  
 20 *ment of Transportation requirements under the test-*  
 21 *ing program. The term does not include a service*  
 22 *agent.*

23 “(4) *MEDICAL REVIEW OFFICER.—The term*  
 24 *‘medical review officer’ means a person who is a li-*  
 25 *censed physician and who is responsible for receiving*

1       *and reviewing laboratory results generated under the*  
 2       *testing program and evaluating medical explanations*  
 3       *for certain controlled substances test results.*

4               “(5) *SAFETY SENSITIVE FUNCTION.*—*The term*  
 5       *‘safety sensitive function’ has the meaning such term*  
 6       *has under part 382 of title 49, Code of Federal Regu-*  
 7       *lations, or any successor regulation.*

8               “(6) *SERVICE AGENT.*—*The term ‘service agent’*  
 9       *means a person or entity, other than an employee of*  
 10       *an employer, who provides services covered by part 40*  
 11       *of title 49, Code of Federal Regulations, or any suc-*  
 12       *cessor regulation, to employers or employees (or both)*  
 13       *under the testing program, and the term includes a*  
 14       *medical review officer.*

15               “(7) *TESTING PROGRAM.*—*The term ‘testing pro-*  
 16       *gram’ means the alcohol and controlled substances*  
 17       *testing program established under section 31306.’’.*

18       (b) *CONFORMING AMENDMENT.*—*The analysis for such*  
 19       *chapter is amended by inserting after the item relating to*  
 20       *section 31306 the following:*

*“31306a. National clearinghouse for records relating to alcohol and controlled sub-*  
*stances testing.’’.*

21       (c) *PENALTIES.*—

22               (1) *APPLICATION OF PENALTY.*—*Section 31306(j)*  
 23       *is amended by inserting “An employer, including an*  
 24       *individual who is self-employed, shall be subject to*

1 *civil and criminal penalties in accordance with sec-*  
 2 *tion 521(b) for a violation of this section.” before*  
 3 *“This section”.*

4 (2) VIOLATIONS RELATING TO COMMERCIAL  
 5 MOTOR VEHICLE SAFETY REGULATIONS AND OPERA-  
 6 TORS.—Section 521(b) is amended—

7 (A) in paragraph (1)(A) by inserting  
 8 “31306, 31306a,” before “31310(g)(1)(A)”;

9 (B) in paragraphs (2)(A), (2)(B), and  
 10 (6)(A) by inserting “31306, 31306a, or” before  
 11 “31502”; and

12 (C) in paragraph (5)(A) by inserting  
 13 “31306, 31306a,” before “or 31502”.

14 (3) CONTROLLED SUBSTANCE OR ALCOHOL TEST-  
 15 ING.—Any person acting as a service agent under the  
 16 Secretary’s regulations in part 40 of title 49, Code of  
 17 Federal Regulations, as in effect on the date of enact-  
 18 ment of this Act, who violates the requirements pre-  
 19 scribed by the Secretary for conducting alcohol or con-  
 20 trolled substances testing under such part or any re-  
 21 lated regulation of the Department shall be liable to  
 22 the United States Government for a civil penalty of  
 23 not more than \$10,000 for each violation. Each day  
 24 that a violation continues shall constitute a separate  
 25 violation.

1 **SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR**  
2 **TRAINING.**

3 (a) *IN GENERAL.*—Not later than 2 years after the  
4 date of enactment of this Act, the Secretary shall issue final  
5 regulations establishing minimum training requirements  
6 for commercial motor vehicle operators.

7 (b) *REQUIREMENTS.*—The regulations shall—

8 (1) require commercial motor vehicle operators,  
9 before obtaining a commercial driver's license for the  
10 first time or upgrading from one class of commercial  
11 driver's license to another, to receive training that  
12 meets the requirements established by the Secretary;

13 (2) address the knowledge and skills necessary for  
14 an operator of a commercial motor vehicle to safely  
15 operate a commercial motor vehicle;

16 (3) address the specific and additional training  
17 needs of commercial motor vehicle operators seeking  
18 passenger or hazardous materials endorsements;

19 (4) require instruction that is effective for ac-  
20 quiring the knowledge and skills referred to in para-  
21 graphs (2) and (3);

22 (5) require the issuance of a certification that a  
23 commercial motor vehicle operator has met the re-  
24 quirements established by the Secretary; and

25 (6) require a training provider (including public  
26 or private driving schools, motor carriers, or owners

1       or operators of a commercial motor vehicle) offering  
 2       training that results in the issuance of a certification  
 3       to an operator under paragraph (5) to demonstrate  
 4       that such training meets the requirements of the regu-  
 5       lations, through a process established by the Sec-  
 6       retary.

7       (c) **COMMERCIAL DRIVER’S LICENSE UNIFORM STAND-**  
 8 *ARDS.*—Section 31308(1) is amended to read as follows:

9               “(1) an individual issued a commercial driver’s  
 10       license—

11               “(A) pass written and driving tests for the  
 12               operation of a commercial motor vehicle that  
 13               comply with the minimum standards prescribed  
 14               by the Secretary under section 31305(a); and

15               “(B) present certification of completion of  
 16               driver training that meets the requirements es-  
 17               tablished by the Secretary under section 4042 of  
 18               the Motor Carrier Safety, Efficiency, and Ac-  
 19               countability Act of 2012;”.

20       **SEC. 6403. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

21       (a) *IN GENERAL.*—Section 31309(e)(4)(A) is amended  
 22       by striking the period at the end and inserting “and must  
 23       use the systems to receive and submit conviction and dis-  
 24       qualification data.”.

25       (b) *REQUIREMENTS FOR STATE PARTICIPATION.*—

1           (1) *IN GENERAL.*—Section 31311(a) is amend-  
2     *ed*—

3                     (A) in paragraph (5) by striking “At least”  
4             and all that follows through “regulation),” and  
5             inserting the following: “Within the time period  
6             the Secretary prescribes by regulation,”; and

7                     (B) by adding at the end the following:

8                     “(22) Before renewing or issuing a commercial  
9             driver’s license to an individual, the State shall re-  
10            quest information pertaining to the individual from  
11            the drug and alcohol clearinghouse maintained under  
12            section 31306a.

13                    “(23) The State shall ensure that the State’s  
14            commercial driver’s license information system com-  
15            plies with applicable Federal information technology  
16            standards.”.

17            (2) *STATE COMMERCIAL DRIVER’S LICENSE PRO-*  
18     *GRAM PLAN.*—Section 31311 is amended by adding at  
19     the end the following:

20            “(d) *STATE COMMERCIAL DRIVER’S LICENSE PRO-*  
21     *GRAM PLAN.*—

22                     “(1) *IN GENERAL.*—A State shall develop and  
23             submit to the Secretary for approval a plan for com-  
24             plying with the requirements of subsection (a) in the

1        *period beginning on the date that the plan is ap-*  
 2        *proved and ending on September 30, 2017.*

3            “(2) *CONTENTS.*—*A plan submitted by a State*  
 4        *under paragraph (1) shall identify—*

5            “(A) *the actions that the State must take to*  
 6        *address any deficiencies in the State’s commer-*  
 7        *cial driver’s license program, as identified by the*  
 8        *Secretary in the most recent audit of the pro-*  
 9        *gram; and*

10          “(B) *other actions that the State must take*  
 11        *to comply with the requirements of subsection*  
 12        *(a).*

13          “(3) *PRIORITY.*—

14          “(A) *IMPLEMENTATION SCHEDULE.*—*A plan*  
 15        *submitted by a State under paragraph (1) shall*  
 16        *include a schedule for the implementation of the*  
 17        *actions identified under paragraph (2).*

18          “(B) *DEADLINE FOR COMPLIANCE WITH RE-*  
 19        *QUIREMENTS.*—*A plan submitted by a State*  
 20        *under paragraph (1) shall include assurances*  
 21        *that the State will take the necessary actions to*  
 22        *comply with the requirements of subsection (a)*  
 23        *not later than September 30, 2017.*

24          “(4) *APPROVAL AND DISAPPROVAL.*—*The Sec-*  
 25        *retary shall—*

1           “(A) review a plan submitted by a State  
2           under paragraph (1); and

3           “(B)(i) approve the plan if the Secretary  
4           determines that the plan is adequate to promote  
5           the objectives of this section; or

6           “(ii) disapprove the plan.

7           “(5) MODIFICATION OF DISAPPROVED PLANS.—If  
8           the Secretary disapproves a plan under this sub-  
9           section, the Secretary shall—

10           “(A) provide the State a written expla-  
11           nation of the disapproval; and

12           “(B) allow the State to modify and resub-  
13           mit the plan for approval.

14           “(6) PLAN UPDATES.—The Secretary may re-  
15           quire States to review and update plans, as appro-  
16           priate.”.

17           (3) ANNUAL COMPARISON OF STATE LEVELS OF  
18           COMPLIANCE.—Section 31311 is further amended by  
19           adding at the end the following:

20           “(e) ANNUAL COMPARISON OF STATE LEVELS OF COM-  
21           PLIANCE.—On an annual basis, the Secretary shall—

22           “(1) conduct a comparison of the relative levels  
23           of compliance by States with the requirements of sub-  
24           section (a); and

1           “(2) make available to the public the results of  
 2           the comparison, using a mechanism that the Sec-  
 3           retary determines appropriate.”.

4           (c) GRANTS FOR COMMERCIAL DRIVER’S LICENSE  
 5 PROGRAM IMPLEMENTATION.—

6           (1) IN GENERAL.—Section 31313(a) is amended  
 7           to read as follows:

8           “(a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE  
 9 PROGRAM IMPLEMENTATION.—

10           “(1) IN GENERAL.—The Secretary of Transpor-  
 11           tation may make a grant to a State in a fiscal year  
 12           to assist the State in complying with the requirements  
 13           of section 31311.

14           “(2) ELIGIBILITY.—A State shall be eligible for  
 15           a grant under this subsection if the State has in effect  
 16           a commercial driver’s license program plan approved  
 17           by the Secretary under section 31311(d).

18           “(3) USES OF GRANT FUNDS.—A State may use  
 19           grant funds under this subsection—

20           “(A) to comply with section 31311; and

21           “(B) in the case of a State that is making  
 22           a good faith effort toward substantial compliance  
 23           with the requirements of section 31311 and this  
 24           section, to improve its implementation of its

1           *commercial driver’s license program, including*  
2           *expenses—*

3                     *“(i) for computer hardware and soft-*  
4                     *ware;*

5                     *“(ii) for publications, testing, per-*  
6                     *sonnel, training, and quality control;*

7                     *“(iii) for commercial driver’s license*  
8                     *program coordinators; and*

9                     *“(iv) to establish and implement a sys-*  
10                    *tem to notify an employer of an operator of*  
11                    *a commercial motor vehicle of a suspension*  
12                    *or revocation of such operator’s driver’s li-*  
13                    *cense.*

14                    *“(C) PROHIBITIONS.—A State may not use*  
15                    *grant funds under this subsection to rent, lease,*  
16                    *or buy land or buildings.*

17                    *“(4) MAINTENANCE OF EXPENDITURES.—The*  
18                    *Secretary may make a grant to a State under this*  
19                    *subsection only if the State provides assurances satis-*  
20                    *factory to the Secretary that the total expenditure of*  
21                    *amounts of the State and political subdivisions of the*  
22                    *State (not including amounts of the United States)*  
23                    *for the State’s commercial driver’s license program*  
24                    *will be maintained at a level that at least equals the*  
25                    *average level of that expenditure by the State and po-*

1        *litical subdivisions of the State for the most recent 3*  
 2        *fiscal years ending before the date of enactment of the*  
 3        *Motor Carrier Safety, Efficiency, and Accountability*  
 4        *Act of 2012.”.*

5            (2) *APPORTIONMENT.*—*Section 31313 is amend-*  
 6        *ed—*

7                    (A) *by striking subsections (b) and (c);*

8                    (B) *by redesignating subsection (d) as sub-*  
 9        *section (b); and*

10                   (C) *by striking subsection (b) (as so redesign-*  
 11        *ated) and inserting the following:*

12        “(b) *APPORTIONMENT.*—

13                   “(1) *APPORTIONMENT FORMULA.*—*Subject to*  
 14        *paragraph (2), the amounts made available to carry*  
 15        *out this section for a fiscal year shall be apportioned*  
 16        *among the States in the ratio that—*

17                   “(A) *the number of commercial driver’s li-*  
 18        *censes issued in each State; bears to*

19                   “(B) *the total number of commercial driv-*  
 20        *er’s licenses issued in all States.*

21                   “(2) *MINIMUM APPORTIONMENT.*—*The appor-*  
 22        *tionment to each State that has in effect a commercial*  
 23        *driver’s license program plan approved by the Sec-*  
 24        *retary under section 31311(d) shall be not less than*

1       one-half of 1 percent of the total funds available to  
2       carry out this section.”.

3           (3) *CONFORMING AMENDMENT.*—The section  
4       heading for section 31313 is amended by striking  
5       “**improvements**” and inserting “**implementa-**  
6       **tion**”.

7           (4) *CLERICAL AMENDMENT.*—The analysis for  
8       chapter 313 is amended by striking the item relating  
9       to section 31313 and inserting the following:

“31313. Grants for commercial driver’s license program implementation.”.

10   **SEC. 6404. COMMERCIAL DRIVER’S LICENSE PASSENGER**  
11       **ENDORSEMENT REQUIREMENTS.**

12       (a) *IN GENERAL.*—Not later than 2 years after the  
13       date of enactment of this Act, the Secretary shall review  
14       and assess the current knowledge and skill testing require-  
15       ments for a commercial driver’s license passenger endorse-  
16       ment to determine what improvements to the knowledge test  
17       or examination of driving skills are necessary to ensure the  
18       safe operation of commercial motor vehicles designed or  
19       used to transport passengers.

20       (b) *REPORT.*—Not later than 120 days after comple-  
21       tion of the review and assessment under subsection (a), the  
22       Secretary shall submit to the Committee on Transportation  
23       and Infrastructure of the House of Representatives and the  
24       Committee on Commerce, Science, and Transportation of  
25       the Senate—

1           (1) *a report on the review and assessment con-*  
 2           *ducted under subsection (a);*

3           (2) *a plan to implement any changes to the*  
 4           *knowledge and skills tests; and*

5           (3) *a timeframe by which the Secretary will im-*  
 6           *plement the changes.*

7   **SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS**  
 8           **MATERIALS ENDORSEMENT EXEMPTION.**

9           (a) *IN GENERAL.*—*The Secretary may not require an*  
 10          *individual with a class A commercial driver's license to ob-*  
 11          *tain a hazardous materials endorsement under part 383 of*  
 12          *title 49, Code of Federal Regulations (or any successor regu-*  
 13          *lation), in order to operate a service vehicle carrying diesel*  
 14          *fuel in quantities of 3,785 liters (1,000 gallons) or less if—*

15               (1) *the tank containing such fuel is clearly*  
 16               *marked with a placard reading “Diesel Fuel”; and*

17               (2) *the individual is acting within the scope of*  
 18               *the individual's employment as an employee of any*  
 19               *of the following farm-related service industries:*

20                       (A) *Agri-chemical business.*

21                       (B) *Custom harvesters.*

22                       (C) *Farm retail outlets and suppliers.*

23                       (D) *Livestock feeders.*

24           (b) *IMPLEMENTATION.*—*The Secretary shall carry out*  
 25          *subsection (a) in a manner consistent with the exemption*

1 *provided to restricted commercial driver's license holders*  
 2 *under section 383.3(f) of title 49, Code of Federal Regula-*  
 3 *tions, as in effect on the date of enactment of this Act.*

4 **SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE**  
 5 **COMMERCIAL DRIVER'S LICENSES.**

6 (a) *ESTABLISHMENT.*—*Not later than 1 year after the*  
 7 *date of enactment of this Act, the Secretary, in consultation*  
 8 *with the Secretary of Defense and in cooperation with the*  
 9 *States, shall establish accelerated licensing procedures to as-*  
 10 *sist veterans to acquire commercial driver's licenses.*

11 (b) *ACCELERATED LICENSING PROCEDURES.*—*The*  
 12 *procedures established under subsection (a) shall be designed*  
 13 *to be applicable to any veteran who—*

14 (1) *is attempting to acquire a commercial driv-*  
 15 *er's license; and*

16 (2) *obtained, during military service, driving ex-*  
 17 *perience that, in the determination of the Secretary,*  
 18 *makes the use of accelerated licensing procedures ap-*  
 19 *propriate.*

20 (c) *DEFINITIONS.*—*In this section, the following defi-*  
 21 *nitions apply:*

22 (1) *COMMERCIAL DRIVER'S LICENSE.*—*The term*  
 23 *“commercial driver's license” has the meaning given*  
 24 *that term in section 31301 of title 49, United States*  
 25 *Code.*

1           (2) *STATE*.—The term “State” has the meaning  
 2           given that term in section 31301 of title 49, United  
 3           States Code.

4           (3) *VETERAN*.—The term “veteran” has the  
 5           meaning given that term in section 101 of title 38,  
 6           United States Code.

## 7       ***Subtitle E—Motor Carrier Safety***

### 8       ***SEC. 6501. MOTOR CARRIER TRANSPORTATION.***

9           Section 13506(a)(4) is amended by inserting “in inter-  
 10          state or intrastate commerce” after “a motor vehicle”.

### 11      ***SEC. 6502. HOURS OF SERVICE STUDY.***

12          (a) *HOURS OF SERVICE STUDY*.—

13               (1) *IN GENERAL*.—Not later than March 31,  
 14               2013, the Secretary shall complete a field study on the  
 15               efficacy of the restart rule published on December 27,  
 16               2011 (in this section referred to as the “2011 restart  
 17               rule”), applicable to operators of commercial motor  
 18               vehicles of property subject to maximum driving time  
 19               requirements of the Secretary.

20               (2) *REQUIREMENT*.—The study shall expand  
 21               upon the results of the laboratory-based study relating  
 22               to commercial motor vehicle driver fatigue sponsored  
 23               by the Federal Motor Carrier Safety Administration  
 24               presented in the report of December 2010 titled “In-  
 25               vestigation into Motor Carrier Practices to Achieve

1       *Optimal Commercial Motor Vehicle Driver Perform-*  
2       *ance: Phase I”.*

3           (3) *CRITERIA.—In conducting the field study,*  
4       *the Secretary shall ensure that—*

5                   (A) *the methodology for the field study is*  
6                   *consistent, to the maximum extent possible, with*  
7                   *the laboratory-based study methodology;*

8                   (B) *the data collected is representative of*  
9                   *the drivers and motor carriers affected by the*  
10                  *maximum driving time requirements;*

11                  (C) *the analysis is statistically valid; and*

12                  (D) *the field study follows the plan for the*  
13                  *“Scheduling and Fatigue Recovery Project” de-*  
14                  *veloped by the Federal Motor Carrier Safety Ad-*  
15                  *ministration.*

16       (b) *REPORT TO CONGRESS.—Not later than April 30,*  
17       *2013, the Secretary shall submit to the Committee on*  
18       *Transportation and Infrastructure of the House of Rep-*  
19       *resentatives and the Committee on Commerce, Science, and*  
20       *Transportation of the Senate a report detailing the results*  
21       *of the study.*

22       (c) *RULE MODIFICATION AND IMPLEMENTATION.—*

23               (1) *APPLICABLE RESTART RULE.—The restart*  
24       *rule published on November 19, 2008, shall remain in*

1 *effect until the Secretary completes the field study on*  
 2 *the 2011 restart rule under subsection (a).*

3 (2) *IMPLEMENTATION ON SCHEDULE.—If the*  
 4 *Secretary determines that the results of the field study*  
 5 *support the 2011 restart rule, the rule shall be imple-*  
 6 *mented beginning on the effective date established in*  
 7 *the rule.*

8 (3) *MODIFICATION.—*

9 (A) *IN GENERAL.—If the Secretary deter-*  
 10 *mines that the results of the field study do not*  
 11 *support the 2011 restart rule, the Secretary*  
 12 *shall—*

13 (i) *stay the implementation of the rule;*

14 *and*

15 (ii) *conduct a rulemaking to modify*  
 16 *the rule based on the results of the study.*

17 (B) *INTERIM RULE.—If the Secretary stays*  
 18 *the implementation of the 2011 restart rule*  
 19 *under subparagraph (A)(i), the restart rule pub-*  
 20 *lished on November 19, 2008, shall remain in ef-*  
 21 *fect until the effective date of a final rule issued*  
 22 *under subparagraph (A)(ii).*

23 **SEC. 6503. ELECTRONIC LOGGING DEVICES.**

24 (a) *IN GENERAL.—If the Secretary issues regulations*  
 25 *regarding electronic logging devices to be used to monitor*

1 *compliance with the Secretary's requirements for hours of*  
2 *service of drivers under part 395 of title 49, Code of Federal*  
3 *Regulations, the regulations shall include performance*  
4 *standards.*

5 (b) *PERFORMANCE STANDARDS AND CERTIFICATION*  
6 *CRITERIA.—*

7 (1) *PERFORMANCE STANDARDS.—Any perform-*  
8 *ance standards issued under subsection (a) shall en-*  
9 *sure, at a minimum, that an electronic logging device*  
10 *installed in a commercial motor vehicle—*

11 (A) *is synchronized to the operation of the*  
12 *vehicle engine or is capable of recognizing when*  
13 *the vehicle is being operated;*

14 (B) *is able to identify each individual who*  
15 *operates the vehicle and track the periods during*  
16 *which such individual operates the vehicle;*

17 (C) *automatically creates a record of all*  
18 *changes in duty status necessary to determine*  
19 *compliance with part 395 of title 49, Code of*  
20 *Federal Regulations;*

21 (D) *enables law enforcement personnel to*  
22 *access information contained in the recorder*  
23 *quickly and easily during a roadside inspection;*  
24 *and*

25 (E) *is tamperproof.*

1           (2) *CERTIFICATION CRITERIA.*—

2                 (A) *IN GENERAL.*—*If the Secretary issues*  
3                 *regulations described in subsection (a), the Sec-*  
4                 *retary, in issuing the regulations, shall establish*  
5                 *the criteria and a process for the certification of*  
6                 *electronic logging devices to ensure that such de-*  
7                 *vices meet the performance standards issued*  
8                 *under subsection (a).*

9                 (B) *EFFECT OF NONCERTIFICATION.*—*Elec-*  
10                *tronic logging devices that are not certified in*  
11                *accordance with the certification process estab-*  
12                *lished under subparagraph (A) shall not be ac-*  
13                *ceptable evidence of hours of service and record*  
14                *of duty status requirements under part 395 of*  
15                *title 49, Code of Federal Regulations.*

16           (3) *ADDITIONAL REQUIREMENTS.*—*If the Sec-*  
17            *retary issues regulations described in subsection (a),*  
18            *the Secretary, in issuing the regulations, shall—*

19                         (A) *define a standardized user interface to*  
20                         *aid vehicle operator compliance and law enforce-*  
21                         *ment reviews;*

22                         (B) *establish a secure process for—*

23                                 (i) *standardized and unique vehicle op-*  
24                                 *erator identification;*

25                                 (ii) *data access;*

1                   (iii) data transfer for vehicle operators  
2                   between motor vehicles;

3                   (iv) data storage for motor carriers;  
4                   and

5                   (v) data transfer and transportability  
6                   for law enforcement;

7                   (C) establish a standard security level for  
8                   electronic logging devices to be tamperproof; and

9                   (D) establish rules necessary to ensure that  
10                  electronic logging devices will not be used to har-  
11                  ass a vehicle operator.

12           (c) *ADDITIONAL CONSIDERATIONS.*—If the Secretary  
13           issues regulations described in subsection (a), the Secretary,  
14           in issuing the regulations, shall—

15                   (1) evaluate the ability of electronic logging de-  
16                   vice technologies that meet the performance standards  
17                   described in subsection (b)—

18                           (A) to record accurately the time an indi-  
19                           vidual operating a commercial motor vehicle  
20                           spends on duty but not driving, including time  
21                           spent loading and unloading; and

22                           (B) to ensure all time on duty is accounted  
23                           for and cannot be altered or otherwise tampered  
24                           with by the operator or motor carrier;

1           (2) *reduce or eliminate requirements for drivers*  
2           *and motor carriers to retain supporting documenta-*  
3           *tion associated with paper-based records of duty sta-*  
4           *tus if—*

5                     (A) *data contained in an electronic logging*  
6                     *device supplants such documentation; and*

7                     (B) *using such data without paper-based*  
8                     *records does not diminish the Secretary’s ability*  
9                     *to audit and review compliance with the Sec-*  
10                    *retary’s hours of service regulations;*

11           (3) *include such measures as the Secretary deter-*  
12           *mines are necessary to protect the privacy of individ-*  
13           *uals whose personal information is contained in an*  
14           *electronic logging device;*

15           (4) *include such measures as are necessary to en-*  
16           *sure that any information collected by the electronic*  
17           *logging device is used by enforcement personnel only*  
18           *for the purpose of determining compliance with*  
19           *hours-of-service requirements and is stored no longer*  
20           *than necessary under the rules; and*

21           (5) *include such measures as are necessary to*  
22           *prohibit public access to data collected by electronic*  
23           *logging devices.*

24           (d) *USE OF DATA.—*

1           (1) *IN GENERAL.*—*The Secretary may utilize in-*  
2           *formation contained in an electronic logging device*  
3           *only to enforce the Secretary’s motor carrier safety*  
4           *and related regulations, including record-of-duty sta-*  
5           *tus regulations.*

6           (2) *MEASURES TO PRESERVE CONFIDENTIALITY*  
7           *OF PERSONAL DATA.*—*The Secretary shall institute*  
8           *appropriate measures to preserve the confidentiality*  
9           *of any personal data contained in an electronic log-*  
10          *ging device and disclosed in the course of actions*  
11          *taken by the Secretary or law enforcement officials to*  
12          *enforce the regulations referred to in paragraph (1).*

13          (e) *DEFINITIONS.*—*In this section, the following defini-*  
14          *tions apply:*

15               (1) *COMMERCIAL MOTOR VEHICLE.*—*The term*  
16               *“commercial motor vehicle” has the meaning given*  
17               *that term in section 31132 of title 49, United States*  
18               *Code.*

19               (2) *ELECTRONIC LOGGING DEVICE.*—*The term*  
20               *“electronic logging device” means an electronic device*  
21               *that acquires and stores data showing the record of*  
22               *duty status of the vehicle operator.*

23               (3) *TAMPERPROOF.*—*The term “tamperproof”*  
24               *means to not allow any individual to cause an elec-*  
25               *tronic device to record the incorrect duty status of a*

1        *commercial motor vehicle operator under part 395 of*  
 2        *title 49, Code of Federal Regulations, or to subse-*  
 3        *quently alter the record created by that device.*

4        **SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

5        *Section 4144(d) of SAFETEA-LU (49 U.S.C. 31100*  
 6        *note; 119 Stat. 1748) is amended by striking “shall termi-*  
 7        *nate” and all that follows through the period at the end*  
 8        *and inserting “shall terminate on September 30, 2017.”.*

9        **SEC. 6505. TRANSPORTATION OF AGRICULTURAL COMMOD-**  
 10        **ITIES AND FARM SUPPLIES.**

11        *Section 229(a)(1) of the Motor Carrier Safety Im-*  
 12        *provement Act of 1999 (49 U.S.C. 31136 note) is amended*  
 13        *to read as follows:*

14                *“(1) TRANSPORTATION OF AGRICULTURAL COM-*  
 15        *MODITIES AND FARM SUPPLIES.—Regulations issued*  
 16        *by the Secretary under sections 31136 and 31502 of*  
 17        *title 49, United States Code, regarding maximum*  
 18        *driving and on-duty time for a driver used by a*  
 19        *motor carrier, shall not apply during a planting or*  
 20        *harvest period of a State, as that period is determined*  
 21        *by the State, to—*

22                *“(A) drivers transporting agricultural com-*  
 23        *modities in the State from the source of the agri-*  
 24        *cultural commodities to a location within a 150*  
 25        *air-mile radius from the source;*

1           “(B) drivers transporting farm supplies for  
 2           agricultural purposes in the State from a whole-  
 3           sale or retail distribution point of the farm sup-  
 4           plies to a farm or other location where the farm  
 5           supplies are intended to be used within a 150  
 6           air-mile radius from the distribution point; or

7           “(C) drivers transporting farm supplies for  
 8           agricultural purposes in the State from a whole-  
 9           sale distribution point of the farm supplies to a  
 10          retail distribution point of the farm supplies  
 11          within a 150 air-mile radius from the wholesale  
 12          distribution point.”.

13 **SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF**  
 14 **GRAPES DURING HARVEST PERIODS.**

15       *Regulations issued by the Secretary of Transportation*  
 16 *under sections 31136 and 31502 of title 49, United States*  
 17 *Code, regarding maximum driving and on-duty time for*  
 18 *a driver used by a motor carrier, shall not apply, beginning*  
 19 *on the date of enactment of this Act, to a driver trans-*  
 20 *porting grapes in a State if the transportation—*

21           (1) *is during a harvest period (as that period is*  
 22           *determined by the State); and*

23           (2) *is limited to an area within a 175 air-mile*  
 24           *radius from the location where the grapes are picked*  
 25           *or distributed.*

***Subtitle F—Miscellaneous***

***SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.***

*(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:*

*(1) Any requirement relating to commercial driver’s licenses established under chapter 313 of title 49, United States Code.*

*(2) Any requirement relating to drug testing established under chapter 313 of title 49, United States Code.*

*(3) Any requirement relating to medical certificates established under—*

*(A) subchapter III of chapter 311 of title 49, United States Code; or*

*(B) chapter 313 of title 49, United States Code.*

*(4) Any requirement relating to hours of service established under—*

*(A) subchapter III of chapter 311 of title 49, United States Code; or*

*(B) chapter 315 of title 49, United States Code.*

*(b) STATE REQUIREMENTS.—*

1           (1) *IN GENERAL.*—*Federal transportation fund-*  
 2           *ing to a State may not be terminated, limited, or oth-*  
 3           *erwise interfered with as a result of the State exempt-*  
 4           *ing a covered farm vehicle, including the individual*  
 5           *operating that vehicle, from any State requirement*  
 6           *relating to the operation of that vehicle.*

7           (2) *EXCEPTION.*—*Paragraph (1) does not apply*  
 8           *with respect to a covered farm vehicle transporting*  
 9           *hazardous materials that require a placard.*

10          (c) *COVERED FARM VEHICLE DEFINED.*—

11           (1) *IN GENERAL.*—*In this section, the term “cov-*  
 12           *ered farm vehicle” means a motor vehicle—*

13                   (A) *that—*

14                           (i) *is traveling in the State in which*  
 15                           *the vehicle is registered or another State;*

16                           (ii) *is operated by—*

17                                   (I) *a farm owner or operator;*

18                                   (II) *a ranch owner or operator; or*

19                                   (III) *an employee or family mem-*  
 20                                   *ber of an individual specified in sub-*  
 21                                   *clause (I) or (II);*

22                           (iii) *is transporting to or from a farm*  
 23                           *or ranch—*

24                                   (I) *agricultural commodities;*

25                                   (II) *livestock; or*

1                   (III) machinery or supplies;

2                   (iv) except as provided in paragraph  
3                   (2), is not used in the operations of a for-  
4                   hire motor carrier; and

5                   (v) is equipped with a special license  
6                   plate or other designation by the State in  
7                   which the vehicle is registered to allow for  
8                   identification of the vehicle as a farm vehi-  
9                   cle by law enforcement personnel; and

10                  (B) that has a gross vehicle weight rating or  
11                  gross vehicle weight, whichever is greater, that  
12                  is—

13                       (i) 26,001 pounds or less; or

14                       (ii) greater than 26,001 pounds and  
15                       traveling within 150 air miles of the farm  
16                       or ranch with respect to which the vehicle is  
17                       being operated.

18                  (2) *INCLUSION.*—In this section, the term “cov-  
19                  ered farm vehicle” includes a motor vehicle that meets  
20                  the requirements of paragraph (1) (other than para-  
21                  graph (1)(A)(iv)) and is—

22                       (A) operated pursuant to a crop share farm  
23                       lease agreement;

24                       (B) owned by a tenant with respect to that  
25                       agreement; and

1                   (C) transporting the landlord's portion of  
 2                   the crops under that agreement.

3 **SEC. 6602. TECHNICAL CORRECTION.**

4           Section 306(c)(2)(B) of the SAFETEA-LU Technical  
 5 Corrections Act of 2008 (29 U.S.C. 207 note; 122 Stat.  
 6 1621) is amended—

7                   (1) in clause (ii) by striking “or” at the end;

8                   (2) in clause (iii) by striking “and” at the end  
 9                   and inserting “or”; and

10                  (3) by adding at the end the following:

11                               “(iv) operating under contracts with  
 12                               rail carriers subject to part A of subtitle IV  
 13                               of title 49, United States Code, and used to  
 14                               transport employees of such rail carriers;  
 15                               and”.

16 **SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL**  
 17 **TRUCKING COMPANIES.**

18           (a) *STUDY.*—The Comptroller General of the United  
 19 States shall conduct a study to assess trends in motor car-  
 20 rier safety relating to small trucking companies and inde-  
 21 pendent operators, including the extent to which Federal  
 22 motor carrier safety regulation adversely impacts and eco-  
 23 nomically and competitively disadvantages small trucking  
 24 companies and independent operators and the extent to

1 *which there is a correlation between company size and crash*  
2 *rates and crash causation.*

3 (b) CONTENTS.—*The study shall contain the following:*

4 (1) *Overall trends in highway crashes involving*  
5 *large trucks for the past 2 decades, including a sepa-*  
6 *rate analysis of the annual number of incidents in-*  
7 *volving a large truck only, a truck and automobile,*  
8 *and more than one large truck.*

9 (2) *Crash causation factors typical in each type*  
10 *of incident described in paragraph (1), including the*  
11 *frequency of large truck crashes caused by or in which*  
12 *an automobile driver was predominately at fault, and*  
13 *the ratio of truck driver fatigue versus automobile*  
14 *driver fatigue.*

15 (3) *The correlation of—*

16 (A) *truck driver turnover and truck driver*  
17 *retention and longevity rates with a given truck-*  
18 *ing company to company crash rates, crash cau-*  
19 *sation, the severity of injuries, number of fatali-*  
20 *ties, and fault; and*

21 (B) *truck driver experience and safety*  
22 *records proportional to company size.*

23 (4) *The role of truck driver experience level, lon-*  
24 *gevity with a given trucking company, retention rate,*  
25 *high driver turnover rates, and truck driver inexperi-*

1        *ence in highway crashes involving trucks, and the de-*  
2        *gree to which each is a factor in a crash.*

3            *(5) The degree and frequency of such contrib-*  
4        *uting factors as weather conditions, traffic congestion,*  
5        *daytime or nighttime conditions, variety of road and*  
6        *vehicle types, and types of pick-up and delivery loca-*  
7        *tions (such as urban, rural, and small metropolitan*  
8        *areas) in crashes involving a truck.*

9            *(6) Impacts and incentives perceived by truck*  
10       *drivers caused by current Federal motor carrier safety*  
11       *regulations and the inflexibility in the application*  
12       *and enforcement of regulations.*

13           *(7) An assessment of the data quality of the*  
14       *Compliance, Safety, and Accountability initiative of*  
15       *the Federal Motor Carrier Safety Administration, in-*  
16       *cluding compliance with the Data Quality Act (Pub-*  
17       *lic Law 106–554; section 515 of H.R. 5658, as intro-*  
18       *duced on December 14, 2000), the number of carriers*  
19       *for which there is insufficient data, discrepancies in*  
20       *measurements and methodologies, complaints about*  
21       *data quality, and whether company size impacts data*  
22       *quality.*

23           *(c) REPORT.—Not later than 9 months after the date*  
24       *of enactment of this Act, the Comptroller General shall sub-*  
25       *mit to the Committee on Transportation and Infrastructure*

1 *of the House of Representatives and the Committee on Com-*  
2 *merce, Science, and Transportation of the Senate a report*  
3 *on the results of the study, including recommendations for*  
4 *achieving a better balance of safety with competition and*  
5 *efficiency and recommendations to reduce adverse regu-*  
6 *latory impacts on small trucking companies and inde-*  
7 *pendent operators.*

8 (d) *PROHIBITION.*—No proposed regulations from the  
9 *Federal Motor Carrier Safety Administration that relate to*  
10 *the contents of the study may become final or take effect*  
11 *before the expiration of the 180-day period beginning on*  
12 *the date the Comptroller General submits to the Committees*  
13 *the report described in subsection (c).*

14 **SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.**

15 (a) *IN GENERAL.*—Not later than 180 days after the  
16 *date of enactment of this Act, and annually thereafter, the*  
17 *Secretary shall submit to the Committee on Transportation*  
18 *and Infrastructure of the House of Representatives and the*  
19 *Committee on Commerce, Science, and Transportation of*  
20 *the Senate a report on the efforts of the Department of*  
21 *Transportation to better balance truck competition and effi-*  
22 *ciency with safety.*

23 (b) *CONTENTS.*—The report shall contain the fol-  
24 *lowing:*

1           (1) *A description of specific steps that modal ad-*  
2           *ministrations within the Department have taken and*  
3           *plan to take to reduce economic and competitive dis-*  
4           *advantages imposed by specific regulations on small*  
5           *trucking companies, their truck drivers, and inde-*  
6           *pendent operators.*

7           (2) *A description of specific performance goals,*  
8           *plans for, and performance to date on regulatory*  
9           *flexibility measures, pursuant to the Regulatory*  
10          *Flexibility Act (Public Law 96–354), the Data Qual-*  
11          *ity Act (Public Law 106–554; section 515 of H.R.*  
12          *5658, as introduced on December 14, 2000), and the*  
13          *Paperwork Reduction Act of 1980 (Public Law 96–*  
14          *511), that are affirmatively and precisely designed to*  
15          *achieve greater flexibility with respect to regulatory*  
16          *compliance, in particular detailing concrete steps to*  
17          *reasonably accommodate the needs unique to small*  
18          *trucking companies, independent operators, and spe-*  
19          *cial load haulers (such as of livestock, frozen food-*  
20          *stuffs, and automobiles), relating to hours of service*  
21          *rules, log- and recordkeeping, and the accounting of*  
22          *driver time lost due to loading and unloading, traffic,*  
23          *or weather delays.*

24          (3) *A table showing the relation of truck driver*  
25          *experience and tenure with a trucking company or as*

1        *an independent operator to incidence of being at fault*  
2        *in an accident.*

3    **SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICUL-**  
4                    **TURAL EQUIPMENT.**

5        (a) *RULEMAKING.*—Not later than 2 years after the  
6        *date of enactment of this Act, the Secretary, after consulta-*  
7        *tion with the American Society of Agricultural and Biologi-*  
8        *cal Engineers, other appropriate Federal agencies, and*  
9        *other appropriate persons, shall issue a rule to improve the*  
10       *daytime and nighttime visibility of agricultural equipment*  
11       *that may be operated on a public road. Such rule shall es-*  
12       *tablish minimum lighting and marking standards for ap-*  
13       *plicable agricultural equipment manufactured 1 year or*  
14       *more subsequent to the effective date of the rule. Such rule*  
15       *shall provide for methods, materials, specifications, or*  
16       *equipment employed, equivalent to the standard set in*  
17       *ANSI/ASAE S279.14 published in July 2008 by the Amer-*  
18       *ican Society of Agriculture and Biological Engineers and*  
19       *entitled “Lighting and Marking of Agricultural Equipment*  
20       *on Highways”, or any successor standard.*

21       (b) *REVIEW.*—The Secretary shall periodically, and  
22       *not less than once every 5 years, review the standards estab-*  
23       *lished under this section and shall revise the standards to*  
24       *reflect the provisions of the edition of ANSI/ASAE S279*  
25       *that is in effect at the time of the review.*

1       (c) *RULES OF CONSTRUCTION.*—

2           (1) *COMPLIANCE WITH SUCCESSOR STAND-*  
3       *ARDS.*—*No provision of any rule issued pursuant to*  
4       *this section shall prohibit the operation on public*  
5       *roads of agricultural equipment that is equipped ac-*  
6       *cording to any adopted edition of ANSI/ASAE S279*  
7       *that is later than the edition of such standard that*  
8       *is referenced during the issuance of the rule.*

9           (2) *NO RETROFITTING REQUIRED.*—*No provision*  
10      *of any rule issued pursuant to this section shall re-*  
11      *quire the retrofitting of agricultural equipment that is*  
12      *manufactured prior to 1 year after the date on which*  
13      *a final rule is issued pursuant to subsection (a).*

14          (3) *NO EFFECT ON ADDITIONAL MATERIALS AND*  
15      *EQUIPMENT.*—*No provision of any rule issued pursu-*  
16      *ant to this section shall prohibit the operation on*  
17      *public roads of agricultural equipment that is*  
18      *equipped with materials or equipment that are in ad-*  
19      *dition to the minimum materials and equipment*  
20      *specified by the standards established under the rule.*

21      (d) *DEFINITIONS.*—*In this section, the following defi-*  
22      *initions apply:*

23          (1) *AGRICULTURAL EQUIPMENT.*—*The term “ag-*  
24      *ricultural equipment” means “agricultural field*  
25      *equipment” as defined under the standard ANSI/*

1 *ASABE S390.4 published by the American Society of*  
 2 *Agriculture and Biological Engineers, or any suc-*  
 3 *cessor standard.*

4 (2) *PUBLIC ROAD.*—*The term “public road” has*  
 5 *the meaning given that term in section 101 of title*  
 6 *23, United States Code.*

7 **SEC. 6606. TRANSPORTATION OF HORSES.**

8 *Section 80502 of title 49, United States Code, is*  
 9 *amended—*

10 (1) *in subsection (c) by striking “This section*  
 11 *does not” and inserting “Subsections (a) and (b) do*  
 12 *not”;*

13 (2) *by redesignating subsection (d) as subsection*  
 14 *(e);*

15 (3) *by inserting after subsection (c) the fol-*  
 16 *lowing:*

17 *“(d) TRANSPORTATION OF HORSES.—*

18 *“(1) PROHIBITION.—No person may transport,*  
 19 *or cause to be transported, a horse from a place in*  
 20 *a State, the District of Columbia, or a territory or*  
 21 *possession of the United States through or to a place*  
 22 *in another State, the District of Columbia, or a terri-*  
 23 *tory or possession of the United States in a motor ve-*  
 24 *hicle containing 2 or more levels stacked on top of*  
 25 *each other.*

1           “(2) *MOTOR VEHICLE DEFINED.*—*In this sub-*  
 2           *section, the term ‘motor vehicle’ has the meaning*  
 3           *given that term in section 13102.’; and*

4           *(4) in subsection (e) (as redesignated by para-*  
 5           *graph (2) of this subsection)—*

6                     *(A) by striking “A rail carrier” and insert-*  
 7                     *ing the following:*

8                     “(1) *IN GENERAL.*—*A rail carrier*”;

9                     *(B) by striking “this section” and inserting*  
 10                    *“subsection (a) or (b)”;*

11                    *(C) by striking “On learning of a violation”*  
 12                    *and inserting the following:*

13                    “(2) *TRANSPORTATION OF HORSES IN MULTI-*  
 14                    *LEVEL TRAILER.*—

15                             “(A) *CIVIL PENALTY.*—*A person that know-*  
 16                             *ingly violates subsection (d) is liable to the*  
 17                             *United States Government for a civil penalty of*  
 18                             *at least \$100 but not more than \$500 for each*  
 19                             *violation. A separate violation occurs under sub-*  
 20                             *section (d) for each horse that is transported, or*  
 21                             *caused to be transported, in violation of sub-*  
 22                             *section (d).*

23                             “(B) *RELATIONSHIP TO OTHER LAWS.*—*The*  
 24                             *penalty provided under subparagraph (A) shall*

1           *be in addition to any penalty or remedy avail-*  
 2           *able under any other law or common law.*

3           “(3) *CIVIL ACTION.*—*On learning of a violation*  
 4           *of a provision of this section”.*

5   **SEC. 6607. REGULATORY REVIEW AND REVISION.**

6           *Not later than 12 months after the date of enactment*  
 7           *of this Act, the Secretary shall review and revise the Federal*  
 8           *motor carrier safety regulations contained in chapter III*  
 9           *of subtitle B of title 49, Code of Federal Regulations, to—*  
 10           *(1) simplify the regulations; and*  
 11           *(2) eliminate those requirements that are out-*  
 12           *moded or excessively burdensome.*

13   **SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.**

14           *The Secretary shall take such actions as may be nec-*  
 15           *essary in fiscal year 2012 to expedite the issuance of safety*  
 16           *regulations to carry out this title (and the amendments*  
 17           *made by this title) following the effective date of this title.*

18   **SEC. 6609. REPEALS.**

19           *(a) REPEAL OF HIGH-PRIORITY PROGRAM.*—*Section*  
 20           *31104(k) is repealed.*

21           *(b) BORDER ENFORCEMENT GRANTS.*—*Section 31107,*  
 22           *and the item relating to that section in the analysis for*  
 23           *chapter 311, are repealed.*

24           *(c) COMMERCIAL DRIVER’S LICENSE INFORMATION*  
 25           *SYSTEM MODERNIZATION.*—*Subsections (c), (d), and (e) of*

1 *section 4123 of SAFETEA-LU (119 Stat. 1735–1736) are*  
2 *repealed.*

3       (d) *OUTREACH AND EDUCATION.*—Section 4127 of  
4 *SAFETEA-LU (119 Stat. 1741), and the item relating to*  
5 *that section in the table of contents contained in section*  
6 *1(b) of that Act, are repealed.*

7       (e) *SAFETY DATA IMPROVEMENT PROGRAM.*—Section  
8 *4128 of SAFETEA-LU (119 Stat. 1742), and the item re-*  
9 *lating to that section in the table of contents contained in*  
10 *section 1(b) of that Act, are repealed.*

11       (f) *GRANT PROGRAM FOR COMMERCIAL MOTOR VEHI-*  
12 *CLE OPERATORS.*—Section 4134 of *SAFETEA-LU (119*  
13 *Stat. 1744), and the item relating to that section in the*  
14 *table of contents contained in section 1(b) of that Act, are*  
15 *repealed.*

16       (g) *REPORT ON MOTOR CARRIER EMPLOYEE PROTEC-*  
17 *TIONS.*—Section 4023 of the *Transportation Equity Act for*  
18 *the 21st Century (49 U.S.C. 31105 note; 112 Stat. 415),*  
19 *and the item relating to that section in the table of contents*  
20 *contained in section 1(b) of that Act, are repealed.*

1           ***TITLE VII—RESEARCH AND***  
2                           ***EDUCATION***

3   ***SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.***

4           (a) *IN GENERAL.*—*The following sums are authorized*  
5 *to be appropriated out of the Alternative Transportation*  
6 *Account of the Highway Trust Fund:*

7                   (1) *HIGHWAY RESEARCH AND DEVELOPMENT*  
8 *PROGRAM.*—*To carry out section 503 of title 23,*  
9 *United States Code, \$141,750,000 for each of fiscal*  
10 *years 2013 through 2016.*

11                   (2) *TECHNOLOGY AND INNOVATION DEPLOYMENT*  
12 *PROGRAM.*—*To carry out section 503a of title 23,*  
13 *United States Code, \$60,750,000 for each of fiscal*  
14 *years 2013 through 2016.*

15                   (3) *TRAINING AND EDUCATION.*—*To carry out*  
16 *section 504 of title 23, United States Code,*  
17 *\$25,500,000 for each of fiscal years 2013 through*  
18 *2016.*

19                   (4) *INTELLIGENT TRANSPORTATION SYSTEMS RE-*  
20 *SEARCH.*—*To carry out sections 512, 514, 515, 516,*  
21 *and 517 of title 23, United States Code, \$110,000,000*  
22 *for each of fiscal years 2013 through 2016.*

23                   (5) *UNIVERSITY TRANSPORTATION RESEARCH.*—  
24 *To carry out section 5506 of title 49, United States*

1       *Code, \$75,000,000 for each of fiscal years 2013*  
 2       *through 2016.*

3           (6) *BUREAU OF TRANSPORTATION STATISTICS.—*

4       *To carry out section 111 of title 49, United States*  
 5       *Code, \$27,000,000 for each of fiscal years 2013*  
 6       *through 2016.*

7       (b) *APPLICABILITY OF CHAPTER 1 OF TITLE 23.—*

8       *Funds authorized to be appropriated by subsection (a) shall*  
 9       *be available for obligation in the same manner as if such*  
 10       *funds were apportioned under chapter 1 of title 23, United*  
 11       *States Code, except that the Federal share of the cost of a*  
 12       *project or activity carried out using such funds shall be 80*  
 13       *percent, unless otherwise expressly provided by this Act (in-*  
 14       *cluding the amendments made by this Act) or otherwise de-*  
 15       *termined by the Secretary, and such funds shall remain*  
 16       *available until expended and shall not be transferable.*

17   **SEC. 7002. OBLIGATION CEILING.**

18       *Notwithstanding any other provision of law, the total*  
 19       *of all obligations from amounts made available from the*  
 20       *Alternative Transportation Account of the Highway Trust*  
 21       *Fund by section 7001(a) shall be \$440,000,000 for each of*  
 22       *fiscal years 2013 through 2016.*

23   **SEC. 7003. DEFINITIONS.**

24       *Section 501 of title 23, United States Code, is amend-*  
 25       *ed—*

1           (1) *by redesignating paragraph (2) as para-*  
2 *graph (7);*

3           (2) *by redesignating paragraph (1) as para-*  
4 *graph (2);*

5           (3) *by inserting before paragraph (2) (as so re-*  
6 *designated) the following:*

7           “(1) *CONNECTED VEHICLE TECHNOLOGY.—The*  
8 *term ‘connected vehicle technology’ means the utiliza-*  
9 *tion of wireless technology to enable multiple vehicles*  
10 *to communicate information to each other.’; and*

11           (4) *by inserting after paragraph (2) (as so redes-*  
12 *ignated) the following:*

13           “(3) *INCIDENT.—The term ‘incident’ means a*  
14 *crash, natural disaster, workzone activity, special*  
15 *event, or other emergency road user occurrence that*  
16 *adversely affects or impedes the normal flow of traffic.*

17           “(4) *INTELLIGENT TRANSPORTATION INFRA-*  
18 *STRUCTURE.—The term ‘intelligent transportation in-*  
19 *frastructure’ means fully integrated public sector in-*  
20 *telligent transportation system components, as defined*  
21 *by the Secretary.*

22           “(5) *INTELLIGENT TRANSPORTATION SYSTEM.—*  
23 *The term ‘intelligent transportation system’ means*  
24 *electronics, photonics, communications, or informa-*  
25 *tion processing used singly or in combination to im-*

1     *prove the efficiency or safety of a surface transpor-*  
 2     *tation system.*

3             “(6) *NATIONAL ARCHITECTURE.*—*The term ‘na-*  
 4     *tional architecture’ means the common framework for*  
 5     *interoperability that defines—*

6                 “(A) *the functions associated with intel-*  
 7     *ligent transportation system user services;*

8                 “(B) *the physical entities or subsystems*  
 9     *within which the functions reside;*

10                “(C) *the data interfaces and information*  
 11     *flows between physical subsystems; and*

12                “(D) *the communications requirements as-*  
 13     *sociated with the information flows.”.*

14     **SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVEL-**  
 15             **OPMENT, AND TECHNOLOGY.**

16             (a) *IN GENERAL.*—*Section 502 of title 23, United*  
 17     *States Code, is amended—*

18                 (1) *in the section heading by striking “re-*  
 19     *search” and inserting “research, develop-*  
 20     *ment, and technology”;*

21                 (2) *in subsection (a)—*

22                     (A) *in paragraph (2)—*

23                         (i) *by redesignating subparagraphs (B)*  
 24     *through (D) as subparagraphs (C) through*  
 25     *(E), respectively;*

1                   (ii) by inserting after subparagraph  
2                   (A) the following:

3                   “(B) addresses current or emerging needs;”;

4                   (iii) in subparagraph (C) (as redesign-  
5                   ated by clause (i) of this subparagraph) by  
6                   striking “supports research in which there  
7                   is” and inserting “delivers”;

8                   (iv) in subparagraph (D) (as redesign-  
9                   ated by clause (i) of this subparagraph) by  
10                  striking “or” after the semicolon;

11                  (v) in subparagraph (E) (as redesign-  
12                  ated by clause (i) of this subparagraph) by  
13                  striking the period at the end and inserting  
14                  a semicolon; and

15                  (vi) by adding at the end the following:

16                  “(F) presents the best means to align re-  
17                  sources with multiyear plans and priorities; or

18                  “(G) ensures the coordination of highway  
19                  research and technology transfer activities, in-  
20                  cluding those performed by the university trans-  
21                  portation centers established under subchapter I  
22                  of chapter 55 of title 49.”;

23                  (B) in paragraph (3)—

24                  (i) in subparagraph (B)—

1                   (I) by striking “support and” and  
2                   inserting “partner with State trans-  
3                   portation departments and other stake-  
4                   holders as appropriate to”; and

5                   (II) by striking “by State high-  
6                   way agencies”;

7                   (ii) in subparagraph (C)—

8                   (I) by striking “share” and insert-  
9                   ing “communicate”;

10                  (II) by inserting “on-going and”  
11                  before “completed”; and

12                  (III) by striking “and” after the  
13                  semicolon;

14                  (iii) in subparagraph (D)—

15                  (I) by striking “support and fa-  
16                  cilitate technology” and inserting “lead  
17                  efforts to coordinate areas of national  
18                  emphasis for highway research, tech-  
19                  nology,”; and

20                  (II) by striking the period at the  
21                  end and inserting a semicolon; and

22                  (iv) by adding at the end the following:

23                         “(E) leverage partnerships with industry,  
24                         academia, and other entities; and

1           “(F) conduct, facilitate, and support train-  
 2           ing and education of current and future trans-  
 3           portation professionals.”;

4           (C) in paragraph (4)(C) by striking “policy  
 5           and planning” and inserting “all highway objec-  
 6           tives seeking to improve the performance of the  
 7           transportation system”;

8           (D) in paragraph (5) by inserting “tribal  
 9           governments,” after “local governments,”;

10          (E) by striking paragraph (7) and inserting  
 11          the following:

12          “(7) *PERFORMANCE REVIEW AND EVALUATION.*—

13               “(A) *IN GENERAL.*—To the maximum ex-  
 14               tent practicable, all surface transportation re-  
 15               search and development projects shall include a  
 16               component of performance measurement and  
 17               evaluation.

18               “(B) *PERFORMANCE MEASURES.*—Perform-  
 19               ance measures shall be established during the  
 20               proposal stage of a research and development  
 21               project and shall, to the maximum extent prac-  
 22               ticable, be outcome-based.

23               “(C) *PROGRAM PLAN.*—To the maximum  
 24               extent practicable, each program pursued under

1        *this chapter shall be part of a data-driven, out-*  
 2        *come-oriented program plan.*

3                “(D) *AVAILABILITY OF EVALUATIONS.*—*All*  
 4        *evaluations under this paragraph shall be made*  
 5        *readily available to the public.”; and*

6                *(F) in paragraph (8) by striking “surface”;*  
 7        *(3) in subsection (b)—*

8                *(A) by striking paragraph (4) and inserting*  
 9        *the following:*

10              “(4) *TECHNOLOGICAL INNOVATION.*—*The Sec-*  
 11        *retary shall ensure that the programs and activities*  
 12        *carried out under this chapter are consistent with the*  
 13        *transportation research and development strategic*  
 14        *plan developed under section 508.”;*

15              *(B) in paragraph (5) by striking “section”*  
 16        *each place it appears and inserting “chapter”;*

17              *(C) in paragraph (6) by adding at the end*  
 18        *the following:*

19              “(C) *TRANSFER OF FUNDS AMONG STATES*  
 20        *OR TO FEDERAL HIGHWAY ADMINISTRATION.*—  
 21        *The Secretary, at the request of a State, may*  
 22        *transfer funds apportioned or allocated under*  
 23        *this chapter to the State to another State, or to*  
 24        *the Federal Highway Administration, for the*  
 25        *purpose of funding research, development, and*

1        *technology transfer activities of mutual interest*  
 2        *on a pooled funds basis.*

3                “(D) *TRANSFER OF OBLIGATION AUTHOR-*  
 4        *ITY.—Obligation authority for funds transferred*  
 5        *under this subsection shall be transferred in the*  
 6        *same manner and amount as the funds for*  
 7        *projects that are transferred under this sub-*  
 8        *section.”; and*

9                (D) *by adding at the end the following:*

10              “(7) *PRIZE COMPETITIONS.—*

11              “(A) *IN GENERAL.—Consistent with section*  
 12        *24 of the Stevenson-Wydler Technology Innova-*  
 13        *tion Act of 1980, the Secretary may carry out a*  
 14        *program to award prizes competitively to stimu-*  
 15        *late innovation in the area of surface transpor-*  
 16        *tation that has the potential to advance the Fed-*  
 17        *eral Highway Administration’s research and*  
 18        *technology objectives and activities under section*  
 19        *503.*

20              “(B) *ANNUAL REPORT.—*

21              “(i) *IN GENERAL.—Not later than*  
 22        *March 1 of each year, the Secretary shall*  
 23        *submit to the Committees on Transpor-*  
 24        *tation and Infrastructure and Science,*  
 25        *Space, and Technology of the House of Rep-*

1            *representatives and the Committees on Envi-*  
2            *ronment and Public Works and Commerce,*  
3            *Science, and Transportation of the Senate a*  
4            *report on the activities carried out during*  
5            *the preceding fiscal year under the author-*  
6            *ity in subparagraph (A) if such authority*  
7            *under subparagraph (A) was utilized by the*  
8            *Secretary.*

9            “(ii) *INFORMATION INCLUDED.—A re-*  
10          *port under this subparagraph shall include,*  
11          *for each prize competition under subpara-*  
12          *graph (A), the following:*

13                  “(I) *A description of the proposed*  
14                  *goals of each prize competition.*

15                  “(II) *An analysis of why the uti-*  
16                  *lization of the authority in subpara-*  
17                  *graph (A) was the preferable method of*  
18                  *achieving the goals described in sub-*  
19                  *clause (I) as opposed to other authori-*  
20                  *ties available to the agency, such as*  
21                  *contracts, grants, and cooperative*  
22                  *agreements.*

23                  “(III) *The total amount of cash*  
24                  *prizes awarded for each prize competi-*  
25                  *tion, including a description of the*

1           *amount of private funds contributed to*  
2           *the program, the sources of such funds,*  
3           *and the manner in which the amounts*  
4           *of cash prizes awarded and claimed*  
5           *were allocated among the accounts of*  
6           *the agency for recording as obligations*  
7           *and expenditures.*

8           “(IV) *The methods used for the so-*  
9           *licitation and evaluation of submis-*  
10          *sions under each prize competition, to-*  
11          *gether with an assessment of the effec-*  
12          *tiveness of such methods and lessons*  
13          *learned for future prize competitions.*

14          “(V) *A description of the re-*  
15          *sources, including personnel and fund-*  
16          *ing, used in the execution of each prize*  
17          *competition together with a detailed*  
18          *description of the activities for which*  
19          *such resources were used and an ac-*  
20          *counting of how funding for execution*  
21          *was allocated among the accounts of*  
22          *the agency for recording as obligations*  
23          *and expenditures.*

1 “(VI) A description of how each  
 2 prize competition advanced the mission  
 3 of the Department of Transportation.”;

4 (4) in subsection (c)—

5 (A) in paragraph (3)(A)—

6 (i) by striking “The” and inserting  
 7 “Except as otherwise provided in this chap-  
 8 ter, the”;

9 (ii) by striking “subsection” and in-  
 10 serting “chapter”; and

11 (iii) by striking “50” and inserting  
 12 “80”;

13 (B) in paragraph (4) by striking “sub-  
 14 section” and inserting “chapter”; and

15 (5) by striking subsections (d) through (j).

16 (b) *CONFORMING AMENDMENT.*—The analysis for  
 17 chapter 5 of title 23, United States Code, is amended by  
 18 striking the item relating to section 502 and inserting the  
 19 following:

“502. Surface transportation research, development, and technology.”.

20 **SEC. 7005. RESEARCH AND DEVELOPMENT.**

21 (a) *IN GENERAL.*—Section 503 of title 23, United  
 22 States Code, is amended to read as follows:

1 **“§ 503. Research and development**

2 “(a) *IN GENERAL.*—*The Secretary shall establish a re-*  
 3 *search and development program in accordance with this*  
 4 *section and the strategic plan developed under section 508.*

5 “(b) *RESPONSIBILITIES.*—*To address current and*  
 6 *emerging highway transportation needs, the Secretary, in*  
 7 *carrying out the program under this section, shall—*

8 “(1) *identify research topics;*

9 “(2) *conduct research, testing, and evaluation ac-*  
 10 *tivities;*

11 “(3) *facilitate technology transfer;*

12 “(4) *provide technical assistance; and*

13 “(5) *ensure program activities are coordinated*  
 14 *with the transportation research and development*  
 15 *strategic plan developed under section 508.*

16 “(c) *IMPROVING HIGHWAY SAFETY.*—

17 “(1) *OBJECTIVES.*—*In carrying out the program*  
 18 *under this section, the Secretary shall create system-*  
 19 *atic measures to improve highway safety for all road*  
 20 *users, vehicles, and public roads to—*

21 “(A) *achieve greater long-term safety gains;*

22 “(B) *reduce the number of fatalities and se-*  
 23 *rious injuries;*

24 “(C) *fill knowledge gaps that currently*  
 25 *limit the effectiveness of research;*

1           “(D) support the development and imple-  
2           mentation of State strategic highway safety  
3           plans under section 148;

4           “(E) advance improvements in and use of  
5           performance prediction analysis for decision-  
6           making;

7           “(F) expand technology transfer to partners  
8           and stakeholders;

9           “(G) achieve safety benefits through con-  
10          nected vehicle technology; and

11          “(H) enhance rural highway safety.

12          “(2) ACTIVITIES.—Research and development ac-  
13          tivities carried out under this subsection may include  
14          activities relating to—

15               “(A) safety assessments and decisionmaking  
16               tools;

17               “(B) data collection and analysis;

18               “(C) crash reduction projections;

19               “(D) low-cost safety countermeasures;

20               “(E) innovative operational improvements  
21               and designs of roadway and roadside features;

22               “(F) evaluation of countermeasure costs and  
23               benefits;

24               “(G) development of tools for projecting im-  
25               pacts of safety countermeasures;

1                   “(H) rural road safety;  
 2                   “(I) safety policy studies;  
 3                   “(J) human factors studies and methods;  
 4                   “(K) safety technology deployment;  
 5                   “(L) safety program and process improve-  
 6                   ments; and  
 7                   “(M) tools and methods to enhance safety  
 8                   performance, including achievement of statewide  
 9                   safety performance targets.

10           “(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEG-  
 11   RITY.—

12                   “(1) OBJECTIVES.—In carrying out the program  
 13                   under this section, the Secretary shall improve the  
 14                   ability to maintain highway infrastructure integrity,  
 15                   meet user needs, and improve system performance  
 16                   through targeted Federal transportation investments  
 17                   to—

18                   “(A) reduce the number of fatalities attrib-  
 19                   utable to highway infrastructure design charac-  
 20                   teristics and work zones;

21                   “(B) improve the safety of highway infra-  
 22                   structure;

23                   “(C) increase the reliability of life-cycle per-  
 24                   formance predictions used in highway infra-  
 25                   structure design, construction, and management;

1           “(D) improve the ability of transportation  
2 agencies to deliver projects that meet expectations  
3 for timeliness, quality, and cost;

4           “(E) reduce user delay attributable to high-  
5 way infrastructure system performance, mainte-  
6 nance, rehabilitation, and construction;

7           “(F) improve highway condition and per-  
8 formance through increased use of innovative  
9 pavements during highway design, construction,  
10 and maintenance;

11           “(G) improve highway condition and per-  
12 formance through increased use of innovative de-  
13 signs, materials, and construction methods in the  
14 construction, repair, and rehabilitation of  
15 bridges;

16           “(H) reduce the life-cycle environmental im-  
17 pacts of highway infrastructure, including de-  
18 sign, construction, operation, preservation, and  
19 maintenance; and

20           “(I) improve the resiliency of roadways to  
21 commercial heavy freight traffic.

22           “(2) ACTIVITIES.—Research and technology ac-  
23 tivities carried out under this subsection may include  
24 activities relating to—

1           “(A) long-term infrastructure performance  
2           programs addressing pavements, bridges, tunnels,  
3           and other structures;

4           “(B) short-term and accelerated studies of  
5           highway infrastructure performance;

6           “(C) the development of more durable high-  
7           way and bridge infrastructure materials and  
8           systems, including the use of carbon fiber com-  
9           posite materials in bridge replacement and reha-  
10          bilitation;

11          “(D) advanced highway and bridge infra-  
12          structure design methods;

13          “(E) accelerated highway construction;

14          “(F) performance-based specifications;

15          “(G) construction and materials quality as-  
16          surance;

17          “(H) comprehensive and integrated high-  
18          way infrastructure asset management;

19          “(I) technology transfer and adoption of  
20          permeable, pervious, or porous paving materials,  
21          practices, and systems that are designed to mini-  
22          mize environmental impacts, stormwater runoff,  
23          and flooding and to treat or remove pollutants  
24          by allowing stormwater to infiltrate through the

1            *pavement in a manner similar to*  
 2            *predevelopment hydrologic conditions;*

3            *“(J) sustainable highway infrastructure de-*  
 4            *sign and construction;*

5            *“(K) highway and bridge infrastructure re-*  
 6            *habilitation and preservation techniques, includ-*  
 7            *ing those techniques to address historic infra-*  
 8            *structure;*

9            *“(L) hydraulic, geotechnical, and aero-*  
 10           *dynamic aspects of highway infrastructure;*

11           *“(M) improved highway construction tech-*  
 12           *nologies and practices;*

13           *“(N) improved tools, technologies, and mod-*  
 14           *els for highway and bridge infrastructure man-*  
 15           *agement, including assessment and monitoring of*  
 16           *infrastructure condition;*

17           *“(O) improving flexibility and resiliency of*  
 18           *highway and bridge infrastructure systems to*  
 19           *withstand climate variability; and*

20           *“(P) highway infrastructure resilience and*  
 21           *other adaptation measures.*

22           *“(e) REDUCING CONGESTION, IMPROVING HIGHWAY*  
 23           *OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—*

24           *“(1) OBJECTIVES.—In carrying out the program*  
 25           *under this section, the Secretary shall examine ap-*

1        *proaches to reduce traffic congestion (including*  
2        *freight-related congestion throughout the transpor-*  
3        *tation network), reduce the costs of such congestion,*  
4        *and improve freight movement.*

5                *“(2) ACTIVITIES.—Research and technology ac-*  
6        *tivities carried out under this subsection may include*  
7        *examination of—*

8                *“(A) active traffic and demand manage-*  
9        *ment;*

10               *“(B) accelerating deployment of intelligent*  
11        *transportation systems;*

12               *“(C) arterial management and traffic sig-*  
13        *nal operation;*

14               *“(D) congestion pricing;*

15               *“(E) corridor management;*

16               *“(F) emergency operations;*

17               *“(G) freeway management;*

18               *“(H) impacts of vehicle size and weight;*

19               *“(I) freight operations and technology;*

20               *“(J) operations and freight performance*  
21        *measurement and management;*

22               *“(K) organizing and planning for oper-*  
23        *ations;*

24               *“(L) planned special events management;*

1                   “(M) real-time transportation information,  
2                   including real-time ridesharing;

3                   “(N) road weather management;

4                   “(O) traffic and freight data and analysis  
5                   tools;

6                   “(P) traffic control devices;

7                   “(Q) traffic incident management;

8                   “(R) workzone management;

9                   “(S) mechanisms that communicate travel,  
10                  roadway, and emergency information to all road  
11                  users (as defined in section 148); and

12                  “(T) enhanced mode choice and intermodal  
13                  connectivity.

14           “(f) ASSESSING POLICY AND SYSTEM FINANCING AL-  
15   TERNATIVES.—

16                  “(1) OBJECTIVES.—In carrying out the program  
17                  under this section, the Secretary shall conduct policy  
18                  analysis on emerging issues in the transportation  
19                  community to provide information to policymakers  
20                  and decisionmakers.

21                  “(2) ACTIVITIES.—Research and technology ac-  
22                  tivities carried out under this subsection may include  
23                  activities relating to—

24                       “(A) highway needs and investment anal-  
25                       ysis;

1                   “(B) analysis of legislative development and  
2                   implementation;

3                   “(C) highway policy analysis;

4                   “(D) the effect of highway congestion on the  
5                   economy;

6                   “(E) research in emerging policy areas;

7                   “(F) advancing innovations in revenue gen-  
8                   eration, financing, and procurement for project  
9                   delivery;

10                  “(G) improving project financial and cost  
11                  analysis;

12                  “(H) highway performance measurement;

13                  “(I) travel demand performance measure-  
14                  ment; and

15                  “(J) highway finance performance measure-  
16                  ment.

17                  “(3) INFRASTRUCTURE INVESTMENT NEEDS RE-  
18                  PORT.—

19                         “(A) IN GENERAL.—Not later than July 31,  
20                         2012, and July 31 of every second year there-  
21                         after, the Secretary shall transmit to the Com-  
22                         mittee on Transportation and Infrastructure of  
23                         the House of Representatives and the Committee  
24                         on Environment and Public Works of the Senate  
25                         a report that describes estimates of the future

1           *highway and bridge needs of the United States*  
2           *and the backlog of highway and bridge needs at*  
3           *the time of the report.*

4           “(B) *COMPARISON.—Each report under*  
5           *subparagraph (A) shall provide the means, in-*  
6           *cluding all necessary information, to relate and*  
7           *compare the conditions and service measures*  
8           *used in the previous biennial reports.*

9           “(g) *EXPLORATORY ADVANCED RESEARCH.—In car-*  
10          *rying out the program under this section, the Secretary*  
11          *shall conduct long-term, higher-risk research, consistent*  
12          *with the transportation research and development plan*  
13          *under section 508, with the potential for dramatic break-*  
14          *throughs in the field of highway transportation.*

15          “(h) *GRANTS, COOPERATIVE AGREEMENTS, AND CON-*  
16          *TRACTS.—*

17               “(1) *IN GENERAL.—In carrying out the program*  
18          *under this section, the Secretary may make grants to,*  
19          *and enter into cooperative agreements and contracts*  
20          *with, States, other Federal agencies, institutions of*  
21          *higher education, private sector entities, and non-*  
22          *profit organizations to pay the Federal share of the*  
23          *cost of research, development, and technology transfer*  
24          *activities.*

1           “(2) *APPLICATIONS.*—*To receive a grant under*  
 2           *this subsection, an entity described in paragraph (1)*  
 3           *shall submit an application to the Secretary. The ap-*  
 4           *plication shall be in such form and contain such in-*  
 5           *formation and assurances as the Secretary may re-*  
 6           *quire.*

7           “(3) *TECHNOLOGY AND INFORMATION TRANS-*  
 8           *FER.*—*The Secretary shall ensure that the informa-*  
 9           *tion and technology resulting from research conducted*  
 10          *under this subsection is made available to State and*  
 11          *local transportation departments and other interested*  
 12          *parties as specified by the Secretary.*

13          “(i) *TURNER-FAIRBANK HIGHWAY RESEARCH CEN-*  
 14          *TER.*—

15                 “(1) *IN GENERAL.*—*The Secretary shall operate*  
 16                 *in the Federal Highway Administration a Turner-*  
 17                 *Fairbank Highway Research Center.*

18                 “(2) *USES OF THE CENTER.*—*The Center shall*  
 19                 *support—*

20                         “(A) *the conduct of highway research and*  
 21                         *development related to new highway technology,*  
 22                         *including connected vehicle technology;*

23                         “(B) *the development of understandings,*  
 24                         *tools, and techniques that provide solutions to*  
 25                         *complex technical problems through the develop-*

1           *ment of economical and environmentally sen-*  
2           *sitive designs, efficient and quality-controlled*  
3           *construction practices, and durable materials;*

4           “(C) *the development of innovative highway*  
5           *products and practices; and*

6           “(D) *long-term high-risk research to im-*  
7           *prove the materials used in highway infrastruc-*  
8           *ture.*

9           “(j) *CENTERS FOR SURFACE TRANSPORTATION EX-*  
10          *CELLENCE.—*

11           “(1) *ESTABLISHMENT.—The Secretary may es-*  
12           *tablish not more than 4 centers for surface transpor-*  
13           *tation excellence.*

14           “(2) *GOALS.—The goals of the centers for surface*  
15           *transportation excellence are to promote and support*  
16           *strategic national surface transportation programs*  
17           *and activities relating to the work of State depart-*  
18           *ments of transportation.*

19           “(3) *ROLE OF THE CENTERS.—To achieve the*  
20           *goals set forth in paragraph (2), the Secretary shall*  
21           *establish centers that provide technical assistance, in-*  
22           *formation sharing of best practices, and training in*  
23           *the use of tools and decisionmaking processes that can*  
24           *assist States in effectively implementing surface*  
25           *transportation programs, projects, and policies.*

1           “(4) *PROGRAM ADMINISTRATION.*—

2                   “(A) *COMPETITION.*—*A party entering into*  
3                   *a contract, cooperative agreement, or other trans-*  
4                   *action with the Secretary under this subsection,*  
5                   *or receiving a grant to perform research or pro-*  
6                   *vide technical assistance under this subsection,*  
7                   *shall be selected on a competitive basis.*

8                   “(B) *STRATEGIC PLAN.*—*The Secretary*  
9                   *shall require each center to develop a multiyear*  
10                  *strategic plan, and submit the plan to the Sec-*  
11                  *retary at such time as the Secretary requires,*  
12                  *that describes—*

13                       “(i) *the activities to be undertaken by*  
14                       *the center; and*

15                       “(ii) *how the work of the center will be*  
16                       *coordinated with the activities of the Fed-*  
17                       *eral Highway Administration and the var-*  
18                       *ious other research, development, and tech-*  
19                       *nology transfer activities authorized by this*  
20                       *chapter.*

21                   “(5) *FUNDING.*—*Of the amounts made available*  
22                   *by section 7001(a)(1) of the American Energy and*  
23                   *Infrastructure Jobs Act of 2012, not more than*  
24                   *\$3,000,000 for each of fiscal years 2013 through 2016*  
25                   *shall be available to carry out this subsection.”.*

1       (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
 2   *5 of such title is amended by striking the item relating to*  
 3   *section 503 and inserting the following:*

*“503. Research and development.”.*

4   **SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT**  
 5                           **PROGRAM.**

6       (a) *IN GENERAL.*—*Chapter 5 of title 23, United States*  
 7   *Code, is amended by inserting after section 503 the fol-*  
 8   *lowing:*

9   **“§ 503a. Technology and innovation deployment pro-**  
 10                           **gram**

11       “(a) *IN GENERAL.*—*The Secretary, in accordance with*  
 12   *the strategic plan developed under section 508, shall carry*  
 13   *out a technology and innovation deployment program on*  
 14   *all aspects of highway transportation by promoting and fa-*  
 15   *cilitating the products, technologies, tools, methods, or other*  
 16   *findings resulting from highway research conducted under*  
 17   *this chapter.*

18       “(b) *OBJECTIVES.*—*The Secretary shall seek to ad-*  
 19   *vance the following objectives:*

20               “(1) *Significantly accelerate the adoption of in-*  
 21   *novative technologies by the surface transportation*  
 22   *community.*

23               “(2) *Significantly accelerate the adoption of ad-*  
 24   *vanced modeling technologies, as described in section*  
 25   *106, by the surface transportation community.*

1           “(3) *Provide leadership and incentives to dem-*  
2           *onstrate and promote state-of-the-art technologies, ele-*  
3           *vated performance standards, and new business prac-*  
4           *tices in highway construction processes that result in*  
5           *improved safety, faster construction, reduced conges-*  
6           *tion from construction, and improved quality and*  
7           *user satisfaction.*

8           “(4) *Advance longer-lasting highways using in-*  
9           *novative technologies and practices to accomplish*  
10          *more rapid construction of efficient and safe high-*  
11          *ways and bridges.*

12          “(5) *Improve highway efficiency, safety, mobil-*  
13          *ity, reliability, service life, and environmental protec-*  
14          *tion.*

15          “(6) *Develop and deploy new tools, techniques,*  
16          *and practices to accelerate the adoption of innovation*  
17          *in all aspects of highway transportation.*

18          “(7) *Enhance deployment and operations of in-*  
19          *telligent transportation systems.*

20          “(c) *ACTIVITIES.—The program may include—*

21                 “(1) *activities conducted under section 503;*

22                 “(2) *other technologies and innovations requiring*  
23                 *additional development and testing not performed*  
24                 *under section 503 but necessary to bring about suc-*  
25                 *cessful deployment and delivery; and*

1           “(3) *developing and improving innovative tech-*  
2           *nologies and practices and exploring new technologies*  
3           *to accelerate innovation adoption.*

4           “(d) *GRANTS, COOPERATIVE AGREEMENTS, AND CON-*  
5           *TRACTS.—*

6           “(1) *IN GENERAL.—Under the program, the Sec-*  
7           *retary may make grants to, and enter into coopera-*  
8           *tive agreements and contracts with, States, other Fed-*  
9           *eral agencies, institutions of higher education, private*  
10           *sector entities, Federal laboratories, and nonprofit or-*  
11           *ganizations to pay the Federal share of the cost of re-*  
12           *search, development, and deployment activities.*

13           “(2) *APPLICATIONS.—To receive a grant under*  
14           *this subsection, an entity described in paragraph (1)*  
15           *shall submit an application to the Secretary. The ap-*  
16           *plication shall be in such form and contain such in-*  
17           *formation and assurances as the Secretary may re-*  
18           *quire.*

19           “(3) *TECHNOLOGY AND INFORMATION TRANS-*  
20           *FER.—The Secretary shall ensure that the informa-*  
21           *tion and technology resulting from research conducted*  
22           *under this subsection is made available to State and*  
23           *local transportation departments and other interested*  
24           *parties as specified by the Secretary.*

1       “(e) *DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY*  
 2 *RESEARCH PROGRAM RESULTS AND PRODUCTS.*—

3               “(1) *IN GENERAL.*—*The Secretary, in consulta-*  
 4 *tion with the American Association of State Highway*  
 5 *and Transportation Officials and the National Acad-*  
 6 *emy of Sciences, shall promote research results and*  
 7 *products developed under the Strategic Highway Re-*  
 8 *search Program 2 administered by the Transportation*  
 9 *Research Board of the National Academy of Sciences.*

10              “(2) *STRATEGY OF PROMOTION.*—*The Secretary,*  
 11 *to the extent practicable, shall base the deployment of*  
 12 *research results and products described in paragraph*  
 13 *(1) on the recommendations included in the Trans-*  
 14 *portation Research Board Special Report 296 entitled*  
 15 *‘Implementing the Results of the Second Strategic*  
 16 *Highway Research Program: Saving Lives, Reducing*  
 17 *Congestion, Improving Quality of Life’.*”.

18       (b) *CONFORMING AMENDMENT.*—*The analysis for*  
 19 *chapter 5 of title 23, United States Code, is amended by*  
 20 *inserting after the item relating to section 503 the following:*

“503a. *Technology and innovation deployment program.*”.

21 **SEC. 7007. TRAINING AND EDUCATION.**

22       Section 504 of title 23, United States Code, is amend-  
 23 ed—

24              (1) in subsection (a)(2) by striking subpara-  
 25 graph (A) and inserting the following:

1           “(A) *Federal Highway Administration em-*  
2           *ployees, State and local transportation agency*  
3           *employees, and Federal agency partners;*”;

4           (2) *in subsection (b) by striking paragraph (3)*  
5           *and inserting the following:*

6           “(3) *FEDERAL SHARE.—*

7           “(A) *LOCAL TECHNICAL ASSISTANCE CEN-*  
8           *TERS.—Subject to clause (ii), the Federal share*  
9           *of the cost of any activity carried out by a local*  
10           *technical assistance center under paragraphs (1)*  
11           *and (2) shall be 50 percent, except that the re-*  
12           *maining share may include funds provided to a*  
13           *recipient under subsection (e) or section 505.*

14           “(B) *TRIBAL TECHNICAL ASSISTANCE CEN-*  
15           *TERS.—The Federal share of the cost of activities*  
16           *carried out by the tribal technical assistance cen-*  
17           *ters under paragraph (2)(D)(ii) shall be 100 per-*  
18           *cent.*”;

19           (3) *in subsection (c)(2) by adding at the end the*  
20           *following: “Funds provided to institutions of higher*  
21           *education to carry out this paragraph shall be used*  
22           *in direct support of student expenses associated with*  
23           *their transportation studies.”;*

24           (4) *by striking subsection (d);*

1           *(5) by redesignating subsections (e) through (g)*  
 2           *as subsections (d) through (f), respectively;*

3           *(6) in subsection (d) (as so redesignated)—*

4           *(A) in paragraph (1)—*

5           *(i) by striking “sections 104(b)(1),*  
 6           *104(b)(2), 104(b)(3), 104(b)(4), and 144(e)”*  
 7           *and inserting “paragraphs (1), (2), and (3)*  
 8           *of section 104(b)”;*

9           *(ii) in subparagraph (D) by striking*  
 10           *“and”;*

11           *(iii) in subparagraph (E) by striking*  
 12           *the period at the end and inserting a semi-*  
 13           *colon; and*

14           *(iv) by adding at the end the following:*

15           *“(F) activities delivered by the National*  
 16           *Highway Institute under subsection (a); and*

17           *“(G) the local technical assistance program*  
 18           *under subsection (b).”;* *and*

19           *(B) in paragraph (2) by inserting before the*  
 20           *period at the end the following: “, except for ac-*  
 21           *tivities carried out under paragraph (1)(G), for*  
 22           *which the Federal share shall be 50 percent as*  
 23           *described in subsection (b)(3)(A)”;* *and*

1           (7) in the heading of subsection (e) (as redesign-  
 2           nated by paragraph (5) of this section) by striking  
 3           “PILOT”.

4   **SEC. 7008. STATE PLANNING AND RESEARCH.**

5           Section 505(a) of title 23, United States Code, is  
 6           amended in the first sentence by striking “104(h)) and  
 7           under section 144” and inserting “104(i))”.

8   **SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION**  
 9           **OUTREACH PROGRAM.**

10          Section 506 of title 23, United States Code, and the  
 11          item relating to such section in the analysis for chapter 5  
 12          of such title, are repealed.

13   **SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL**  
 14           **COOPERATIVE RESEARCH PROGRAM.**

15          Section 507 of title 23, United States Code, and the  
 16          item relating to such section in the analysis for chapter 5  
 17          of such title, are repealed.

18   **SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOP-**  
 19           **MENT STRATEGIC PLANNING.**

20          Section 508(a) of title 23, United States Code, is  
 21          amended—

22               (1) in paragraph (1)—

23                       (A) by striking “SAFETEA-LU” and in-  
 24                       serting “American Energy and Infrastructure  
 25                       Jobs Act of 2012”; and

1                   (B) by adding “, acting through the Admin-  
 2                   istrator of the Research and Innovative Tech-  
 3                   nology Administration,” after “Secretary”; and  
 4                   (2) in paragraph (2)(A)(iii) by striking “pro-  
 5                   moting security” and inserting “improving goods  
 6                   movement”.

7   **SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPOR-**  
 8                   **TATION RESEARCH PROGRAM.**

9                   Section 509 of title 23, United States Code, and the  
 10                  item relating to such section in the analysis for chapter 5  
 11                  of such title, are repealed.

12   **SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PRO-**  
 13                   **GRAM.**

14                  Section 510 of title 23, United States Code, and the  
 15                  item relating to such section in the analysis for chapter 5  
 16                  of such title, are repealed.

17   **SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYS-**  
 18                   **TEMS PROGRAM PLAN.**

19                  (a) *IN GENERAL.*—Section 512 of title 23, United  
 20                  States Code, is amended—

21                         (1) in the section heading by striking “**ITS**”  
 22                         and inserting “**intelligent transportation sys-**  
 23                         **tems**”; and

1           (2) in subsection (a)(1) by striking “SAFETEA-  
 2       LU” and inserting “American Energy and Infra-  
 3       structure Jobs Act of 2012”.

4       (b) CONFORMING AMENDMENT.—The analysis for  
 5 chapter 5 of title 23, United States Code, is amended by  
 6 striking the item relating to section 512 and inserting the  
 7 following:

“512. National intelligent transportation systems program plan.”.

8       **SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPOR-**  
 9                               **TATION SYSTEMS ACTIVITIES.**

10       (a) IN GENERAL.—Section 513 of title 23, United  
 11 States Code, is amended—

12           (1) in the section heading by striking “**ITS**”  
 13       and inserting “**intelligent transportation sys-**  
 14       **tems**”; and

15           (2) in subsection (a) by striking “subtitle C of  
 16       title V of the SAFETEA-LU” and inserting “section  
 17       7001(a)(4) of the American Energy and Infrastruc-  
 18       ture Jobs Act of 2012”.

19       (b) CONFORMING AMENDMENT.—The analysis for  
 20 chapter 5 of title 23, United States Code, is amended by  
 21 striking the item relating to section 513 and inserting the  
 22 following:

“513. Use of funds for intelligent transportation systems activities.”.

1 **SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PRO-**  
2 **GRAM GOALS AND PURPOSES.**

3 (a) *IN GENERAL.*—Chapter 5 of title 23, United States  
4 Code, is amended by adding at the end the following:

5 **“§514. Intelligent transportation systems program**  
6 **goals and purposes**

7 “(a) *GOALS.*—The goals of the intelligent transpor-  
8 tation system program include—

9 “(1) *enhancement of surface transportation effi-*  
10 *ciency and facilitation of intermodalism and inter-*  
11 *national trade to enable existing facilities to meet a*  
12 *significant portion of future transportation needs, in-*  
13 *cluding public access to employment, goods, and serv-*  
14 *ices, and to reduce regulatory, financial, and other*  
15 *transaction costs to public agencies and system users;*

16 “(2) *achievement of national transportation safe-*  
17 *ty goals, including the enhancement of safe operation*  
18 *of motor vehicles and nonmotorized vehicles and im-*  
19 *proved emergency response to a crash, with particular*  
20 *emphasis on decreasing the number and severity of*  
21 *collisions;*

22 “(3) *protection and enhancement of the natural*  
23 *environment and communities affected by surface*  
24 *transportation, with particular emphasis on assisting*  
25 *State and local governments to achieve national envi-*  
26 *ronmental goals;*

1           “(4) accommodation of the needs of all users of  
2           surface transportation systems, including operators of  
3           commercial motor vehicles, passenger motor vehicles,  
4           motorcycles, and bicycles and pedestrians, including  
5           individuals with disabilities; and

6           “(5) improvement of the Nation’s ability to re-  
7           spond to emergencies and natural disasters.

8           “(b) *PURPOSES.*—The Secretary shall implement ac-  
9           tivities under the intelligent system transportation program  
10          to, at a minimum—

11           “(1) expedite, in both metropolitan and rural  
12           areas, deployment and integration of intelligent  
13           transportation systems for consumers of passenger  
14           and freight transportation;

15           “(2) ensure that Federal, State, and local trans-  
16           portation officials have adequate knowledge of intel-  
17           ligent transportation systems for consideration in the  
18           transportation planning process;

19           “(3) improve regional cooperation and oper-  
20           ations planning for effective intelligent transportation  
21           system deployment;

22           “(4) promote the innovative use of private re-  
23           sources;

“(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

“(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

7           “(7) develop a workforce capable of developing,  
8           operating, and maintaining intelligent transportation  
9           systems; and

10 “(8) provide continuing support for operations  
11 and maintenance of intelligent transportation sys-  
12 tems.”.

(b) *REPEAL.—Section 5303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.*

16           (c) *CONFORMING AMENDMENT.*—*The analysis for*  
17 *chapter 5 of title 23, United States Code, is amended by*  
18 *adding after the item relating to section 513 the following:*

*“514. Intelligent transportation systems program goals and purposes.”*

19 **SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PRO-**  
20 **GRAM GENERAL AUTHORITIES AND REQUIRE-**  
21 **MENTS.**

22 (a) *IN GENERAL.*—Chapter 5 of title 23, United States  
23 Code, is further amended by adding at the end the following:

1   **“§515. Intelligent transportation systems program**  
2                   **general authority and requirements**

3           “(a) *SCOPE.*—Subject to the provisions of this chapter,  
4   the Secretary shall conduct an ongoing intelligent transpor-  
5   tation system program to research, develop, and operation-  
6   ally test intelligent transportation systems and to provide  
7   technical assistance in the nationwide application of those  
8   systems as a component of the surface transportation sys-  
9   tems of the United States.

10          “(b) *POLICY.*—Intelligent transportation system re-  
11   search projects and operational tests funded pursuant to  
12   this chapter shall encourage and not displace public-private  
13   partnerships or private sector investment in such tests and  
14   projects.

15          “(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE,*  
16   *AND EDUCATIONAL ENTITIES.*—The Secretary shall carry  
17   out the intelligent transportation system program in co-  
18   operation with State and local governments and other pub-  
19   lic entities, private sector firms in the United States, Fed-  
20   eral laboratories, and institutions of higher education, in-  
21   cluding historically Black colleges and universities and  
22   other minority institutions of higher education.

23          “(d) *CONSULTATION WITH FEDERAL OFFICIALS.*—In  
24   carrying out the intelligent transportation system program,  
25   the Secretary shall consult with the heads of other Federal  
26   departments and agencies, as appropriate.

1       “(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFOR-*  
 2 *MATION.—The Secretary may provide technical assistance,*  
 3 *training, and information to State and local governments*  
 4 *seeking to implement, operate, maintain, or evaluate intel-*  
 5 *ligent transportation system technologies and services.*

6       “(f) *TRANSPORTATION PLANNING.—The Secretary*  
 7 *may provide funding to support adequate consideration of*  
 8 *transportation systems management and operations, in-*  
 9 *cluding intelligent transportation systems, within metro-*  
 10 *politan and statewide transportation planning processes.*

11       “(g) *INFORMATION CLEARINGHOUSE.—*

12               “(1) *IN GENERAL.—The Secretary shall—*

13                       “(A) *maintain a repository for technical*  
 14 *and safety data collected as a result of federally*  
 15 *sponsored projects carried out under this chap-*  
 16 *ter; and*

17                       “(B) *make, on request, that information*  
 18 *(except for proprietary information and data)*  
 19 *readily available to all users of the repository at*  
 20 *an appropriate cost.*

21               “(2) *AGREEMENT.—*

22                       “(A) *IN GENERAL.—The Secretary may*  
 23 *enter into an agreement with a third party for*  
 24 *the maintenance of the repository for technical*  
 25 *and safety data under paragraph (1)(A).*

1                   “(B) *FEDERAL FINANCIAL ASSISTANCE.*—If  
 2                   *the Secretary enters into an agreement with an*  
 3                   *entity for the maintenance of the repository, the*  
 4                   *entity shall be eligible for Federal financial as-*  
 5                   *sistance under this section.*

6                   “(3) *AVAILABILITY OF INFORMATION.*—Informa-  
 7                   *tion in the repository shall not be subject to sections*  
 8                   *552 and 555 of title 5, United States Code.*

9                   “(h) *INFRASTRUCTURE DEVELOPMENT.*—Funds made  
 10                  *available to carry out this chapter for operational tests—*

11                  “(1) *shall be used primarily for the development*  
 12                  *of intelligent transportation system infrastructure;*  
 13                  *and*

14                  “(2) *to the maximum extent practicable, shall*  
 15                  *not be used for the construction of physical highway*  
 16                  *and public transportation infrastructure unless the*  
 17                  *construction is incidental and critically necessary to*  
 18                  *the implementation of an intelligent transportation*  
 19                  *system project.”.*

20                  “(b) *REPEAL.*—Sections 5304 and 5305 of the *Safe, Ac-*  
 21                  *countable, Flexible, Efficient Transportation Equity Act: A*  
 22                  *Legacy for Users* are repealed.

23                  “(c) *CONFORMING AMENDMENT.*—The *analysis for*  
 24                  *chapter 5 of title 23, United States Code, is further amended*

1 *by adding after the item relating to section 514 the fol-*  
 2 *lowing:*

*“515. Intelligent transportation systems program general authority and require-*  
*ments.”.*

3 **SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RE-**  
 4 **SEARCH AND DEVELOPMENT.**

5 *(a) IN GENERAL.—Chapter 5 of title 23, United States*  
 6 *Code, is further amended by adding at the end the following:*

7 **“§516. Intelligent transportation systems research**  
 8 **and development**

9 *“(a) IN GENERAL.—The Secretary shall carry out a*  
 10 *comprehensive program of intelligent transportation system*  
 11 *research, development, and operational tests of intelligent*  
 12 *vehicles and intelligent infrastructure systems and other*  
 13 *similar activities that are necessary to carry out this chap-*  
 14 *ter.*

15 *“(b) PRIORITY AREAS.—Under the program, the Sec-*  
 16 *retary shall give higher priority to funding projects that—*

17 *“(1) enhance mobility and productivity through*  
 18 *improved traffic management, incident management,*  
 19 *transit management, freight management, road*  
 20 *weather management, toll collection, traveler informa-*  
 21 *tion, or highway operations systems and remote sens-*  
 22 *ing products;*

1           “(2) utilize interdisciplinary approaches to de-  
2       velop traffic management strategies and tools to ad-  
3       dress multiple impacts of congestion concurrently;

4           “(3) address traffic management, incident man-  
5       agement, transit management, toll collection traveler  
6       information, or highway operations systems;

7           “(4) incorporate research on the impact of envi-  
8       ronmental, weather, and natural conditions on intel-  
9       ligent transportation systems, including the effects of  
10      cold climates;

11          “(5) enhance intermodal use of intelligent trans-  
12      portation systems for diverse groups, including for  
13      emergency and health-related services;

14          “(6) enhance safety through improved crash  
15      avoidance and protection, crash and other emergency  
16      personnel notification, commercial motor vehicle oper-  
17      ations, and infrastructure-based or cooperative safety  
18      systems; and

19          “(7) facilitate the integration of intelligent infra-  
20      structure, vehicle, and control technologies.”.

21      (b) *REPEAL*.—Section 5306 of the Safe, Accountable,  
22      Flexible, Efficient Transportation Equity Act: A Legacy for  
23      Users is repealed.

24      (c) *CONFORMING AMENDMENT*.—The analysis for  
25      chapter 5 of title 23, United States Code, is further amended

1 *by adding after the item relating to section 515 the fol-*  
 2 *lowing:*

*“516. Intelligent transportation systems research and development.”.*

3 **SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NA-**  
 4 **TIONAL ARCHITECTURE AND STANDARDS.**

5 *(a) IN GENERAL.—Chapter 5 of title 23, United States*  
 6 *Code, is further amended by adding at the end the following:*

7 **“§ 517. Intelligent transportation systems national ar-**  
 8 **chitecture and standards**

9 *“(a) IN GENERAL.—*

10 *“(1) DEVELOPMENT, IMPLEMENTATION, AND*  
 11 *MAINTENANCE.—Consistent with section 12(d) of the*  
 12 *National Technology Transfer and Advancement Act*  
 13 *of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Sec-*  
 14 *retary shall develop, implement, and maintain a na-*  
 15 *tional architecture and supporting standards and*  
 16 *protocols to promote the widespread use and evalua-*  
 17 *tion of intelligent transportation system technology as*  
 18 *a component of the surface transportation systems of*  
 19 *the United States.*

20 *“(2) INTEROPERABILITY AND EFFICIENCY.—To*  
 21 *the maximum extent practicable, the national archi-*  
 22 *itecture shall promote interoperability among, and ef-*  
 23 *iciency of, intelligent transportation system tech-*  
 24 *nologies implemented throughout the United States.*

1           “(3) *USE OF STANDARDS DEVELOPMENT ORGANI-*  
2           *ZATIONS.—In carrying out this section, the Secretary*  
3           *shall use the services of such standards development*  
4           *organizations as the Secretary determines to be ap-*  
5           *propriate.*

6           “(b) *PROVISIONAL STANDARDS.—*

7           “(1) *IN GENERAL.—If the Secretary finds that*  
8           *the development or balloting of an intelligent trans-*  
9           *portation system standard jeopardizes the timely*  
10           *achievement of the objectives identified in subsection*  
11           *(a), the Secretary may establish a provisional stand-*  
12           *ard, after consultation with affected parties, using, to*  
13           *the extent practicable, the work product of appro-*  
14           *priate standards development organizations.*

15           “(2) *PERIOD OF EFFECTIVENESS.—A provisional*  
16           *standard established under paragraph (1) shall be*  
17           *published in the Federal Register and remain in effect*  
18           *until the appropriate standards development organi-*  
19           *zation adopts and publishes a standard.*

20           “(c) *CONFORMITY WITH NATIONAL ARCHITECTURE.—*

21           “(1) *IN GENERAL.—Except as provided in para-*  
22           *graphs (2) and (3), the Secretary shall ensure that in-*  
23           *telligent transportation system projects carried out*  
24           *using funds made available from the Highway Trust*  
25           *Fund, including funds made available under this*

1 *chapter, to deploy intelligent transportation system*  
2 *technologies conform to the national architecture, ap-*  
3 *plicable standards or provisional standards, and pro-*  
4 *ocols developed under subsection (a).*

5 “(2) *SECRETARY’S DISCRETION.—The Secretary*  
6 *may authorize exceptions to paragraph (1) for—*

7 “(A) *projects designed to achieve specific re-*  
8 *search objectives outlined in the national intel-*  
9 *ligent transportation system program plan or*  
10 *the surface transportation research and develop-*  
11 *ment strategic plan developed under section 508;*  
12 *or*

13 “(B) *the upgrade or expansion of an intel-*  
14 *ligent transportation system in existence on the*  
15 *date of enactment of the SAFETEA-LU if the*  
16 *Secretary determines that the upgrade or expan-*  
17 *sion—*

18 “(i) *would not adversely affect the*  
19 *goals or purposes of this chapter;*

20 “(ii) *is carried out before the end of the*  
21 *useful life of such system; and*

22 “(iii) *is cost-effective as compared to*  
23 *alternatives that would meet the conformity*  
24 *requirement of paragraph (1).*

1           “(3) *EXCEPTIONS.*—Paragraph (1) shall not  
2       *apply to funds used for operation or maintenance of*  
3       *an intelligent transportation system in existence on*  
4       *the date of enactment of the SAFETEA-LU.*

5           “(d) *STANDARD DEFINED.*—The term ‘standard’  
6       *means a document that—*

7           “(1) *contains technical specifications or other*  
8       *precise criteria for intelligent transportation systems*  
9       *that are to be used consistently as rules, guidelines,*  
10       *or definitions of characteristics so as to ensure that*  
11       *materials, products, processes, and services are fit for*  
12       *their purposes; and*

13           “(2) *may support the national architecture and*  
14       *promote—*

15           “(A) *the widespread use and adoption of in-*  
16       *telligent transportation system technology as a*  
17       *component of the surface transportation systems*  
18       *of the United States; and*

19           “(B) *interoperability among intelligent*  
20       *transportation system technologies implemented*  
21       *throughout the States.”.*

22       (b) *REPEAL.*—Section 5307 of the *Safe, Accountable,*  
23       *Flexible, Efficient Transportation Equity Act: A Legacy for*  
24       *Users* is repealed.

1       (c) *CONFORMING AMENDMENT.*—*The analysis for*  
 2 *chapter 5 of title 23, United States Code, is further amended*  
 3 *by adding after the item relating to section 516 the fol-*  
 4 *lowing:*

*“517. Intelligent transportation systems national architecture and standards.”.*

5   **SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CEN-**  
 6                                   **TERS.**

7       *Section 5505 of title 49, United States Code, and the*  
 8 *item relating to such section in the analysis of chapter 55*  
 9 *of such title, are repealed.*

10 **SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.**

11       *Section 5506 of title 49, United States Code, is amend-*  
 12 *ed—*

13                   (1) *in subsection (b)(1) by inserting “that is con-*  
 14 *sistent with section 503 of title 23” after “applied re-*  
 15 *search”;*

16                   (2) *in subsection (c)—*

17                           (A) *in the heading by striking “REGIONAL,*  
 18 *TIER I, AND TIER II CENTERS” and inserting*  
 19 *“REGIONAL AND STANDARD CENTERS”;*

20                           (B) *in paragraph (1)—*

21                                   (i) *in the heading by striking “RE-*  
 22 *GIONAL AND TIER I CENTERS” and inserting*  
 23 *“REGIONAL AND STANDARD CENTERS”;*

1                   (ii) in the matter preceding subpara-  
2                   graph (A) by striking “2005 through 2009”  
3                   and inserting “2013 through 2016”; and  
4                   (iii) in subparagraph (B) by striking  
5                   “10 Tier I” and inserting “20 standard”;  
6                   (C) by striking paragraph (2); and  
7                   (D) by redesignating paragraphs (3) and  
8                   (4) as paragraphs (2) and (3), respectively;  
9                   (3) in subsection (d) by adding at the end the  
10                  following:

11                  “(3) OPPORTUNITY ANNOUNCEMENT.—

12                         “(A) PUBLIC DISCLOSURE.—All funding op-  
13                         portunities under this section shall be publically  
14                         announced and shall be posted on the Depart-  
15                         ment of Transportation’s Web site and on  
16                         Grants.gov. Any announcement shall, at a min-  
17                         imum, include a detailed description of how ap-  
18                         plications will be evaluated and a list of any  
19                         specific research areas, educational objectives, or  
20                         technology transfer objectives expected to be ad-  
21                         dressed by an application.

22                         “(B) INPUT.—In developing an opportunity  
23                         announcement under this paragraph, the Sec-  
24                         retary shall solicit the input of transportation  
25                         stakeholders, including academic researchers,

1        *State highway and transportation departments,*  
2        *local and regional governments, private indus-*  
3        *try, the Administrator of the Research and Inno-*  
4        *vative Technology Administration, and Adminis-*  
5        *trators of other relevant Department of Trans-*  
6        *portation agencies.*

7        “(4) *PROPOSAL REVIEW AND SELECTION.*—

8                “(A) *IN GENERAL.*—*The Secretary shall*  
9        *make award decisions under subsection (c)(1)*  
10        *through a peer-reviewed, merit-based process. The*  
11        *Secretary may make grants to, and enter into*  
12        *cooperative agreements with, the National Acad-*  
13        *emy of Sciences to carry out such activities*  
14        *under this paragraph as the Secretary deter-*  
15        *mines are appropriate.*

16        “(B) *PEER-REVIEW.*—

17                “(i) *IN GENERAL.*—*The Secretary, act-*  
18        *ing through the National Research Council*  
19        *of the National Academy of Sciences, shall*  
20        *establish a peer-review process in which all*  
21        *proposals shall be reviewed by an external*  
22        *committee of experts.*

23                “(ii) *SELECTION.*—*The external com-*  
24        *mittee of experts shall be selected and con-*  
25        *vened by the Transportation Research*

1           *Board of the National Research Council*  
2           *based on—*

3                     “(I) *their specific knowledge of*  
4                     *transportation research fields or their*  
5                     *broad knowledge of transportation re-*  
6                     *search fields;*

7                     “(II) *their knowledge of associated*  
8                     *educational activities;*

9                     “(III) *their broad knowledge of*  
10                    *the community of transportation prac-*  
11                    *titioners; and*

12                    “(IV) *to the extent possible, di-*  
13                    *verse representation within the review*  
14                    *group.*

15                    “(iii) *DUTIES.—The external com-*  
16                    *mittee of experts shall evaluate proposals*  
17                    *based on the degree to which they advance*  
18                    *the objectives in subsection (b), the selection*  
19                    *criteria in paragraph (2) of this subsection,*  
20                    *and any additional review criteria set forth*  
21                    *in the opportunity announcements described*  
22                    *in paragraph (3) of this subsection.*

23                    “(iv) *REPORT.—The external com-*  
24                    *mittee of experts shall issue a report, pub-*  
25                    *lished and made available to the public by*

1           *the Transportation Research Board, sum-*  
2           *marizing the evaluation process and ex-*  
3           *plaining its findings.*

4           “(v) *COST.—The Secretary shall pay*  
5           *for any necessary expenses associated with*  
6           *peer-review with a portion of the funds as-*  
7           *signed to the Research and Innovative Tech-*  
8           *nology Administration for administration*  
9           *of this section.*

10          “(C) *SECRETARIAL REVIEW.—The Sec-*  
11          *retary, in consultation with the Administrator of*  
12          *the Research and Innovative Technology Admin-*  
13          *istration and Administrators of any other rel-*  
14          *evant Department of Transportation agencies,*  
15          *shall make final award decisions. The Sec-*  
16          *retary’s decision shall consider—*

17               “(i) *the findings of the committee*  
18               *under subparagraph (B);*

19               “(ii) *the portfolio of other programs*  
20               *funded under this section;*

21               “(iii) *the objectives set forth in sub-*  
22               *section (b);*

23               “(iv) *the criteria set forth in para-*  
24               *graph (2);*

1 “(v) the details included in the oppor-  
2 tunity announcement required under para-  
3 graph (3); and

4 “(vi) other current proposals and pre-  
5 viously funded proposals.

6 “(D) TRANSPARENCY.—

7 “(i) IN GENERAL.—The Secretary shall  
8 provide to each applicant of a proposal cop-  
9 ies of reviews by the committee under sub-  
10 paragraph (B) and any other materials  
11 used in the evaluation process (with any re-  
12 viewer identifying information redacted) of  
13 the applicant’s proposal.

14 “(ii) PUBLIC AVAILABILITY.—The Sec-  
15 retary shall make results of the review proc-  
16 ess available to all applicants and to the  
17 public on the Department’s website.

18 “(iii) REPORT.—The Secretary shall  
19 issue a public report that includes, at a  
20 minimum—

21 “(I) the results of the peer-review  
22 process, including the findings of the  
23 committee under subparagraph (B);  
24 and

1                   “(II) the reasons for the Sec-  
2                   retary’s final decision, including a de-  
3                   scription of—

4                   “(aa) the context in which  
5                   the proposal was reviewed; and

6                   “(bb) how the findings of the  
7                   committee under subparagraph  
8                   (B) were used in reaching the  
9                   final decision.”;

10               (4) in subsection (e)—

11               (A) in paragraph (1) by striking “March  
12               31, 2006, and not later than March 31st of every  
13               4th year thereafter” and inserting “180 days  
14               after the date of enactment of the American En-  
15               ergy and Infrastructure Jobs Act of 2012, and  
16               every 4 years thereafter”;

17               (B) in paragraph (5)—

18               (i) in subparagraph (B) by striking  
19               “and”;

20               (ii) in subparagraph (C) by striking  
21               the period and adding “; and”; and

22               (iii) by adding at the end the fol-  
23               lowing:

24               “(D) \$3,500,000 for each of fiscal years  
25               2013 through 2016.”; and

1                   (C) by adding at the end the following:

2                   “(6) *RESEARCH REQUIREMENT.*—

3                   “(A) *COMPREHENSIVE TRANSPORTATION*  
 4                   *SAFETY.*—*The Secretary shall make a grant to 1*  
 5                   *of the 10 regional university transportation cen-*  
 6                   *ters established under subsection (c) for the pur-*  
 7                   *pose of furthering the objectives described in sub-*  
 8                   *section (b) in the field of comprehensive trans-*  
 9                   *portation safety.*

10                  “(B) *INTELLIGENT TRANSPORTATION SYS-*  
 11                  *TEMS.*—*The Secretary shall make a grant to 1 of*  
 12                  *the 10 regional university transportation centers*  
 13                  *established under subsection (c) (other than the*  
 14                  *center described in subparagraph (A)) for the*  
 15                  *purpose of furthering the objectives described in*  
 16                  *subsection (b) in the field of intelligent transpor-*  
 17                  *tation systems.*

18                  “(7) *COMPETITIVE PROCESS.*—*The Secretary*  
 19                  *shall make award decisions through a competitive*  
 20                  *process that follows the requirements described in sub-*  
 21                  *sections (d)(3) and (d)(4) and incorporates the addi-*  
 22                  *tional selection criteria set forth in paragraph (2) of*  
 23                  *this subsection.”;*

24                  (5) in subsection (f)—

1           (A) by striking “TIER I” in the subsection  
2 heading and inserting “STANDARD”;

3           (B) in paragraph (1)—

4               (i) by striking “June 30, 2006, and  
5 not later than June 30 of every 4th year  
6 thereafter” and inserting “180 days after  
7 the date of enactment of the American En-  
8 ergy and Infrastructure Jobs Act of 2012,  
9 and every 4 years thereafter”; and

10               (ii) by striking “10 Tier I” and insert-  
11 ing “20 standard”;

12           (C) in paragraph (3) by striking “Tier I”  
13 and inserting “standard”; and

14           (D) in paragraph (5)—

15               (i) by striking “\$1,000,000” and in-  
16 serting “\$2,000,000”;

17               (ii) by striking “2005 through 2009”  
18 and inserting “2013 through 2016”; and

19               (iii) by striking “Tier I” and inserting  
20 “standard”;

21           (6) by striking subsection (g) and redesignating  
22 subsections (h) through (m) as subsections (g) through  
23 (l), respectively;

24           (7) in subsection (h) (as redesignated by para-  
25 graph (5) of this section)—

1           (A) by striking “MAINTENANCE OF EF-  
 2           FORT.—”and all that follows through “In order  
 3           to be” and inserting “MAINTENANCE OF EF-  
 4           FORT.—In order to be”; and

5           (B) by striking paragraph (2);

6           (8) in subsection (i) (as redesignated by para-  
 7           graph (5) of this section)—

8           (A) by striking “50” and inserting “65”;  
 9           and

10          (B) by striking “503” and inserting  
 11          “503A”; and

12          (9) by adding at the end the following:

13          “(m) ANNUAL REPORT.—The Secretary shall submit  
 14          to the Committee on Science, Space, and Technology and  
 15          the Committee on Transportation and Infrastructure of the  
 16          House of Representatives and the Committee on Commerce,  
 17          Science, and Transportation of the Senate, and make avail-  
 18          able to the public on the Department’s Web site, an annual  
 19          report on the university transportation center program  
 20          under this section detailing the activities of the regional  
 21          and standard centers during the previous year and how  
 22          such activities reflect the priorities of the strategic plan re-  
 23          quired under section 508(a) of title 23.”.

1 **SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.**

2 *Section 111 of title 49, United States Code, is amend-*  
3 *ed—*

4 *(1) in subsection (c) by striking paragraph (5)*  
5 *and inserting the following:*

6 *“(5) TRANSPORTATION STATISTICS.—Collecting,*  
7 *compiling, analyzing, and publishing a comprehen-*  
8 *sive set of transportation statistics on the performance*  
9 *and impacts of the national transportation system,*  
10 *including statistics on—*

11 *“(A) transportation safety across all modes*  
12 *and intermodally;*

13 *“(B) the state of good repair of United*  
14 *States transportation infrastructure;*

15 *“(C) the extent, connectivity, and condition*  
16 *of the transportation system, building on the na-*  
17 *tional transportation atlas database developed*  
18 *under subsection (g);*

19 *“(D) economic efficiency across the entire*  
20 *transportation sector;*

21 *“(E) the effects of the transportation system*  
22 *on global and domestic economic competitiveness;*

23 *“(F) demographic, economic, and other*  
24 *variables influencing travel behavior, including*  
25 *choice of transportation mode and goods move-*  
26 *ment;*

1           “(G) transportation-related variables that  
 2           influence the domestic economy and global  
 3           competitiveness;

4           “(H) economic costs and impacts for pas-  
 5           senger travel and freight movement;

6           “(I) intermodal and multimodal passenger  
 7           movement; and

8           “(J) consequences of transportation for the  
 9           environment.”;

10          (2) by striking subsection (d) and inserting the  
 11          following:

12          “(d) ACCESS TO FEDERAL DATA.—In carrying out  
 13          subsection (c), the Director shall be provided access to all  
 14          transportation and transportation-related information and  
 15          data, including safety-related data, held by an agency of  
 16          the Department of Transportation and, upon written re-  
 17          quest and subject to any statutory or regulatory restrictions,  
 18          to all such data held by any other Federal Government  
 19          agency, that is germane to carrying out subsection (c).”;

20          (3) in subsection (n) by striking “Mass Transit”  
 21          and inserting “Alternative Transportation”; and

22          (4) in subsection (o)(2)—

23                  (A) in subparagraph (A) by inserting  
 24                  “and” after the semicolon;

25                  (B) by striking subparagraph (B); and

1                   (C) by redesignating subparagraph (C) as  
2                   subparagraph (B).

3 **SEC. 7023. ADMINISTRATIVE AUTHORITY.**

4       Section 112 of title 49, United States Code, is amended  
5 by adding at the end the following:

6       “(f) *PROGRAM EVALUATION AND OVERSIGHT.*—For  
7 each of fiscal years 2013 through 2016, the Administrator  
8 may expend not more than 1 ½ percent of the amounts  
9 authorized to be appropriated for the administration and  
10 operation of the Research and Innovative Technology Ad-  
11 ministration to carry out the coordination, evaluation, and  
12 oversight of the programs administered by the Administra-  
13 tion.

14       “(g) *COLLABORATIVE RESEARCH AND DEVELOP-*  
15 *MENT.*—

16               “(1) *IN GENERAL.*—To encourage innovative so-  
17 lutions to multimodal transportation problems and  
18 stimulate the deployment of new technology, the Ad-  
19 ministrator may carry out, on a cost-shared basis,  
20 collaborative research and development with—

21                   “(A) non-Federal entities, including State  
22 and local governments, foreign governments, in-  
23 stitutions of higher education, corporations, in-  
24 stitutions, partnerships, sole proprietorships, and

1           *trade associations that are incorporated or estab-*  
2           *lished under the laws of any State;*

3                   “(B) *Federal laboratories; and*

4                   “(C) *other Federal agencies.*

5           “(2) *COOPERATION, GRANTS, CONTRACTS, AND*  
6           *AGREEMENTS.—Notwithstanding any other provision*  
7           *of law, the Administrator may directly initiate con-*  
8           *tracts, grants, cooperative research and development*  
9           *agreements (as defined in section 12 of the Stevenson-*  
10          *Wydler Technology Innovation Act of 1980 (15 U.S.C.*  
11          *3710a)), and other agreements to fund, and accept*  
12          *funds from, the Transportation Research Board of the*  
13          *National Research Council of the National Academy*  
14          *of Sciences, State departments of transportation, cit-*  
15          *ies, counties, institutions of higher education, associa-*  
16          *tions, and the agents of those entities to carry out*  
17          *joint transportation research and technology efforts.*

18                   “(3) *FEDERAL SHARE.—*

19                   “(A) *IN GENERAL.—Subject to subpara-*  
20                   *graph (B), the Federal share of the cost of an ac-*  
21                   *tivity carried out under paragraph (2) shall not*  
22                   *exceed 50 percent.*

23                   “(B) *EXCEPTION.—If the Secretary deter-*  
24                   *mines that the activity is of substantial public*

1           *interest or benefit, the Secretary may approve a*  
 2           *greater Federal share.*

3           “(C) *NON-FEDERAL SHARE.*—*All costs di-*  
 4           *rectly incurred by the non-Federal partners, in-*  
 5           *cluding personnel, travel, facility, and hardware*  
 6           *development costs, shall be credited toward the*  
 7           *non-Federal share of the cost of an activity de-*  
 8           *scribed in subparagraph (A).*

9           “(4) *USE OF TECHNOLOGY.*—*The research, devel-*  
 10          *opment, or use of a technology under a contract,*  
 11          *grant, cooperative research and development agree-*  
 12          *ment, or other agreement entered into under this sub-*  
 13          *section, including the terms under which the tech-*  
 14          *nology may be licensed and the resulting royalties*  
 15          *may be distributed, shall be subject to the Stevenson-*  
 16          *Wydler Technology Innovation Act of 1980 (15 U.S.C.*  
 17          *3701 et seq.).”.*

18 **SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.**

19          (a) *ADDITIONAL REPEALS.*—*Sections 5308, 5309,*  
 20          *5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Ac-*  
 21          *countable, Flexible, Efficient Transportation Equity Act: A*  
 22          *Legacy for Users are repealed.*

23          (b) *TABLE OF CONTENTS FOR SAFETEA-LU.*—*The*  
 24          *table of contents for the Safe, Accountable, Flexible, Effi-*  
 25          *cient Transportation Equity Act: A Legacy for Users is*

1 amended by striking the items relating to sections 5303  
 2 through 5310, 5501, 5506, 5507, 5511, and 5513.

3 (c) *CONFORMING AMENDMENT.*—Section 6010(c) of the  
 4 *Safe, Accountable, Flexible, Efficient Transportation Eq-*  
 5 *uity Act: A Legacy for Users* (23 U.S.C. 512 note) is  
 6 amended by striking “subtitle C of title V of this Act” and  
 7 inserting “section 501 of title 23, United States Code”.

8 ***TITLE VIII—RAILROADS***  
 9 ***Subtitle A—Repeals and Reforms of***  
 10 ***Intercity Passenger Rail Capital***  
 11 ***Grant Programs***

12 ***SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III***  
 13 ***RAILROADS.***

14 Chapter 223 of title 49, United States Code, and the  
 15 item relating thereto in the table of chapters for subtitle V  
 16 of such title, are repealed.

17 ***SEC. 8002. CONGESTION GRANTS.***

18 Section 24105 of title 49, United States Code, and the  
 19 item relating thereto in the table of sections for chapter 241  
 20 of such title, are repealed.

21 ***SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS***  
 22 ***TO STATES.***

23 (a) *AMENDMENTS.*—Section 24402 of title 49, United  
 24 States Code, is amended—

(1) in the section heading, by striking “**Capital investment grants to support intercity passenger rail service**” and inserting “**Intercity passenger rail capital grants to States**”;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in subsection (b)(1)(D), as so redesignated by paragraph (3) of this subsection, by striking “that if an applicant has selected the proposed operator of its service competitively, that the applicant provide” and inserting “that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide”;

(5) in subsection (b)(2)(B), as so redesignated by paragraph (3) of this subsection—

(A) by inserting “and” at the end of clause

(ii); and

(B) by inserting “and” at the end of clause

(iii); and

(C) by striking clauses (iv) and (v);

(6) in subsection (c), as so redesignated by paragraph (3) of this subsection, by striking “subsection (c)(1)(A)” and inserting “subsection (b)(1)(A)”;

1           (7) in subsection (d), as so redesignated by para-  
 2       graph (3) of this subsection, by striking “subsection  
 3       (g)” and inserting “subsection (f)”;

4           (8) in subsection (e)(2), as so redesignated by  
 5       paragraph (3) of this subsection, by striking “sub-  
 6       section (c)” and inserting “subsection (b)”;

7           (9) in subsection (f), as so redesignated by para-  
 8       graph (3) of this subsection, by striking paragraphs  
 9       (3) and (4); and

10          (10) in subsection (g), as so redesignated by  
 11       paragraph (3) of this subsection, by amending the sec-  
 12       ond sentence to read as follows: “If any amount pro-  
 13       vided as a grant under this section is not obligated  
 14       within 3 years after the date on which the State is  
 15       awarded the grant, such amount shall be rescinded  
 16       and deposited to the general fund of the Treasury,  
 17       where such amount shall be dedicated for the sole pur-  
 18       pose of deficit reduction and prohibited from use as  
 19       an offset for other spending increases or revenue re-  
 20       ductions.”.

21       (b) *CONFORMING AMENDMENT.*—*The item relating to*  
 22       *section 24402 in the table of sections for chapter 244 of title*  
 23       *49, United States Code, is amended to read as follows:*

*“24402. Intercity passenger rail capital grants to States.”.*

1           ***Subtitle B—Amtrak Reforms***

2   ***SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EX-***  
 3                   ***PENSES.***

4           *Section 101(a) of the Passenger Rail Investment and*  
 5   *Improvement Act of 2008 (Division B of Public Law 110–*  
 6   *432, 122 Stat. 4908) is amended—*

7                   (1)   *in paragraph (4), by striking*  
 8                   *“\$616,000,000” and inserting “\$466,000,000”; and*  
 9                   (2)   *in paragraph (5), by striking*  
 10                  *“\$631,000,000” and inserting “\$473,250,000”.*

11   ***SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.***

12           *Section 24305 of title 49, United States Code, is*  
 13   *amended by adding at the end the following new subsection:*

14           “(g) *LIMITATIONS ON USE OF FEDERAL FUNDS.—*

15                   “(1) *LIMITATIONS.—Amtrak may not use any*  
 16           *Federal funds for the following purposes:*

17                           “(A) *Hiring or contracting with any out-*  
 18                           *side legal professional for the purpose of filing,*  
 19                           *litigating, or otherwise pursuing any cause of*  
 20                           *action in a Federal or State court against a pas-*  
 21                           *senger rail service provider.*

22                           “(B) *Filing, litigating, or otherwise pur-*  
 23                           *suing in any Federal or State court any cause*  
 24                           *of action against a passenger rail service pro-*  
 25                           *vider arising from a competitive bid process in*

1           *which Amtrak and the passenger rail service pro-*  
 2           *vider participated.*

3           “(2) *DEFINITIONS.—For the purposes of this*  
 4           *subsection—*

5                   “(A) *the term ‘outside legal professional’*  
 6           *means any individual, corporation, partnership,*  
 7           *limited liability corporation, limited liability*  
 8           *partnership, or other private entity in the busi-*  
 9           *ness of providing legal services that is not em-*  
 10          *ployed on a full-time basis solely by Amtrak;*  
 11          *and*

12                   “(B) *the term ‘passenger rail service pro-*  
 13          *vider’ means any company, partnership, or other*  
 14          *public or private entity that operates passenger*  
 15          *rail service or bids to operate passenger rail*  
 16          *service in a competitive process.”.*

17   **SEC. 8103. APPLICABILITY OF LAWS.**

18          “(a) *TITLE 18 VIOLATIONS.—For purposes of sections*  
 19          *286, 287, 371, 641, 1001, and 1002 of title 18, United*  
 20          *States Code, and, with respect to audits conducted by the*  
 21          *Amtrak Office of the Inspector General, for purposes of sec-*  
 22          *tion 1516 of such title, Amtrak and the Amtrak Office of*  
 23          *the Inspector General shall be considered to be agencies of*  
 24          *the United States Government.*

1       (b) *FALSE CLAIMS.*—*Claims made or presented to Am-*  
 2 *trak shall be considered as claims under section*  
 3 *3729(b)(2)(A)(ii) of title 31, United States Code, and state-*  
 4 *ments made or presented to Amtrak shall be considered as*  
 5 *statements under section 3729(a)(1)(B) and (G) of title 31,*  
 6 *United States Code.*

7       (c) *LIMITATION.*—*Subsections (a) and (b) shall be ef-*  
 8 *fective only with respect to a fiscal year for which Amtrak*  
 9 *receives a Federal subsidy.*

10 **SEC. 8104. INSPECTOR GENERAL OF AMTRAK.**

11       (a) *IN GENERAL.*—*Chapter 243 is amended by insert-*  
 12 *ing after section 24316 the following:*

13 **“§24317. Inspector General**

14       “(a) *INVESTIGATION AUTHORITY.*—*The Inspector Gen-*  
 15 *eral of Amtrak shall have all authority available to other*  
 16 *Inspectors General, as necessary in carrying out the duties*  
 17 *specified in the Inspector General Act 1978 (5 U.S.C. App.*  
 18 *3), to investigate any alleged violation of section 286, 287,*  
 19 *371, 641, 1001, or 1002 of title 18, and, with respect to*  
 20 *audits conducted by the Amtrak Office of the Inspector Gen-*  
 21 *eral, any violation of section 1516 of such title.*

22       “(b) *SERVICES FROM GENERAL SERVICES ADMINIS-*  
 23 *TRATION.*—*The Inspector General of Amtrak may obtain*  
 24 *from the Administrator of General Services, and the Ad-*  
 25 *ministrator shall provide to the Inspector General, services*

1 *under sections 502(a) and 602 of title 40, including travel*  
 2 *programs.*

3 “(c) *QUALIFIED IMMUNITY.*—

4 “(1) *IN GENERAL.*—*An employee of the Amtrak*  
 5 *Office of Inspector General shall enjoy the same per-*  
 6 *sonal qualified immunity from lawsuit or liability as*  
 7 *the employees of other inspectors general that operate*  
 8 *under authority of the Inspector General Act of 1978*  
 9 *with respect to the performance of investigative,*  
 10 *audit, or inspection functions authorized under that*  
 11 *Act that are carried out for the Amtrak Office of In-*  
 12 *spector General.*

13 “(2) *FEDERAL GOVERNMENT LIABILITY.*—*No li-*  
 14 *ability of any kind shall attach to or rest upon the*  
 15 *United States for any damages from or by any ac-*  
 16 *tions of the Amtrak Office of Inspector General, its*  
 17 *employees, agents, or representatives.”.*

18 (b) *CONFORMING AMENDMENT.*—*The table of sections*  
 19 *for chapter 243 is amended by inserting after the item relat-*  
 20 *ing to section 24316 the following:*

*“24317. Inspector General.”.*

21 **SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.**

22 *Section 24310 is amended to read as follows:*

23 **“§ 24310. Management accountability**

24 “(a) *IN GENERAL.*—*Promptly after the date of enact-*  
 25 *ment of the American Energy and Infrastructure Jobs Act*

1 of 2012, and again not later than 5 years after the date  
2 of enactment of the Passenger Rail Investment and Im-  
3 provement Act of 2008, the Inspector General of the Depart-  
4 ment of Transportation shall complete an overall assess-  
5 ment of the progress made by the Department of Transpor-  
6 tation, and the Inspector General of Amtrak shall complete  
7 an overall assessment of the progress made by Amtrak man-  
8 agement, in implementing the provisions of the Passenger  
9 Rail Investment and Improvement Act of 2008.

10 “(b) ASSESSMENT.—The management assessment un-  
11 dertaken by the Amtrak Inspector General may include a  
12 review of—

13 “(1) effectiveness in improving annual financial  
14 planning;

15 “(2) effectiveness in implementing improved fi-  
16 nancial accounting;

17 “(3) efforts to implement minimum train per-  
18 formance standards;

19 “(4) progress maximizing revenues, minimizing  
20 Federal subsidies, and improving financial results;  
21 and

22 “(5) any other aspect of Amtrak operations the  
23 Amtrak Inspector General finds appropriate to re-  
24 view.”.

1 **SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.**

2 (a) *AUTHORITY.*—Section 24305(c)(4) of title 49,  
 3 *United States Code*, is amended by striking “only if reve-  
 4 nues from the services each year at least equal the cost of  
 5 providing the services” and inserting “only as provided in  
 6 subsection (h)”.

7 (b) *PROCEDURES.*—Section 24305 of title 49, *United*  
 8 *States Code*, is further amended by adding at the end the  
 9 following new subsection:

10 “(h) *FOOD AND BEVERAGE SERVICE.*—

11 “(1) *IN GENERAL.*—Except as provided in para-  
 12 graph (6), food and beverage service may be provided  
 13 on Amtrak trains only by a bidder selected by the  
 14 Federal Railroad Administration under paragraph  
 15 (5). The Federal Railroad Administration may con-  
 16 sult with and obtain assistance from the General  
 17 Services Administration in carrying out this sub-  
 18 section.

19 “(2) *REQUESTS FOR PROPOSALS.*—Not later  
 20 than 60 days after the date of enactment of this sub-  
 21 section, the Federal Railroad Administration shall  
 22 issue separate requests for proposals for provision of  
 23 food and beverage service on Amtrak trains on the na-  
 24 tional rail passenger transportation system for each  
 25 of subparagraphs (A) through (D) of section 24102(5).

26 “(3) *DEADLINES.*—

1           “(A) *SUBMITTAL OF BIDS.*—*Bids for the*  
2           *provision of food and beverage service on Amtrak*  
3           *trains pursuant to the requests for proposals*  
4           *issued under paragraph (2) shall be submitted to*  
5           *the Federal Railroad Administration not later*  
6           *than 60 days after the issuance of the relevant*  
7           *request for proposals.*

8           “(B) *SELECTION OF WINNING BIDS.*—*The*  
9           *Federal Railroad Administration shall select*  
10          *winning bidders pursuant to paragraph (5) not*  
11          *later than 90 days after the issuance of the rel-*  
12          *evant request for proposals.*

13          “(4) *AMTRAK PARTICIPATION.*—*Amtrak may*  
14          *participate in the bidding pursuant to a request for*  
15          *proposals issued under paragraph (2).*

16          “(5) *SELECTION OF PROVIDERS.*—*The Federal*  
17          *Railroad Administration shall select for the provision*  
18          *of food and beverage service on Amtrak trains the*  
19          *qualified bidder responding to the request for pro-*  
20          *posals issued under paragraph (2) whose bid would*  
21          *result in the lowest cost, or the greatest source of rev-*  
22          *enue, to Amtrak.*

23          “(6) *EXEMPTION.*—*If no qualified bidder re-*  
24          *sponds to the request for proposals issued under para-*  
25          *graph (2), Amtrak, after transmitting to the Federal*

1       *Railroad Administration and the Congress an expla-*  
2       *nation of the reasons for the need of an exemption,*  
3       *may request from the Federal Railroad Administra-*  
4       *tion, and the Federal Railroad Administration may*  
5       *grant, an exemption from the limitations under this*  
6       *subsection.*

7               “(7) *SUBSIDY FOR NET LOSS.—The Federal*  
8       *Railroad Administration shall provide directly to the*  
9       *entity providing food and beverage service on Amtrak*  
10       *trains any portion of appropriations for Amtrak nec-*  
11       *essary to cover a net loss resulting from the provision*  
12       *of such service, but only to the extent that such net*  
13       *loss was anticipated in the bid selected.”.*

14   **SEC. 8107. APPLICATION OF BUY AMERICA TO AMTRAK.**

15       *Section 24305(f) of title 49, United States Code, is*  
16       *amended by adding at the end the following new para-*  
17       *graphs:*

18               “(5) *The requirements of this subsection apply to all*  
19       *contracts for a project carried out within the scope of the*  
20       *applicable finding, determination, or decision under the*  
21       *National Environmental Policy Act of 1969 (42 U.S.C.*  
22       *4321 et seq.), regardless of the funding source of such con-*  
23       *tracts, if at least one contract for the project is funded with*  
24       *amounts made available to carry out this title.*

1       “(6) If the Secretary receives a request for an exemp-  
 2       tion under this subsection, the Secretary shall provide no-  
 3       tice of and an opportunity for public comment on the re-  
 4       quest at least 30 days before making a finding based on  
 5       the request. Such a notice shall include the information  
 6       available to the Secretary concerning the request and shall  
 7       be provided by electronic means, including on the official  
 8       public Internet Web site of the Department of Transpor-  
 9       tation. If the Secretary grants an exemption under this sub-  
 10      section, the Secretary shall publish in the Federal Register  
 11      a detailed justification for the exemption that addresses the  
 12      public comments received under this paragraph and shall  
 13      ensure that such justification is published before the exemp-  
 14      tion takes effect.”.

## 15       **Subtitle C—Project Development** 16       **and Review**

### 17      **SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.**

18       (a) *AMENDMENT.*—Part B of subtitle V of title 49,  
 19      United States Code, is amended by adding at the end the  
 20      following new chapter:

## 21       **“CHAPTER 229—PROJECT DEVELOPMENT** 22       **AND REVIEW**

“Sec.

“22901. *Applicability.*

“22902. *Definitions.*

“22903. *Efficient environmental reviews for rail project decisionmaking.*

“22904. *Integration of planning and environmental review.*

“22905. *Program for eliminating duplication of environmental reviews.*

“22906. *Railroad corridor preservation.*

“22907. *Treatment of railroads for historic preservation.*

“22908. *Categorical exclusion.*

“22909. *State assumption of responsibility for categorical exclusions.*

“22910. *Rail project delivery program.*

“22911. *Exemption in emergencies.*

## 1 **“§ 22901. *Applicability***

2 “*The provisions of this chapter—*

3 “*(1) shall be applicable to any freight or inter-*  
 4 *city passenger rail capital project that is carried out*  
 5 *or planned to be carried out with the use of Federal*  
 6 *funds administered by the Federal Railroad Adminis-*  
 7 *tration through a grant, contract, loan, or other fi-*  
 8 *nancing instrument;*

9 “*(2) shall be broadly construed; and*

10 “*(3) may be applied by the Secretary to any*  
 11 *class or program of such projects.*

## 12 **“§ 22902. *Definitions***

13 “*In this chapter, the following definitions apply:*

14 “*(1) AGENCY.—The term ‘agency’ means any*  
 15 *agency, department, or other unit of Federal, State,*  
 16 *local, or Indian tribal government.*

17 “*(2) ENVIRONMENTAL IMPACT STATEMENT.—The*  
 18 *term ‘environmental impact statement’ means the de-*  
 19 *tailed statement of environmental impacts required to*  
 20 *be prepared under the National Environmental Pol-*  
 21 *icy Act of 1969 (42 U.S.C. 4321 et seq.).*

22 “*(3) ENVIRONMENTAL LAW.—The term ‘environ-*  
 23 *mental law’ includes any law that provides proce-*

1 *dural or substantive protection, as applicable, for the*  
2 *natural or built environment with regard to the con-*  
3 *struction and operation of transportation projects.*

4 “(4) *ENVIRONMENTAL REVIEW PROCESS.*—

5 “(A) *IN GENERAL.*—*The term ‘environ-*  
6 *mental review process’ means the process for pre-*  
7 *paring for a rail project an environmental im-*  
8  *pact statement, environmental assessment, cat-*  
9 *egorical exclusion, or other document prepared*  
10 *under the National Environmental Policy Act of*  
11 *1969 (42 U.S.C. 4321 et seq.).*

12 “(B) *INCLUSIONS.*—*The term ‘environ-*  
13 *mental review process’ includes the process for*  
14 *and completion of any environmental permit,*  
15 *approval, review, or study required for a rail*  
16 *project under any Federal law other than the*  
17 *National Environmental Policy Act of 1969 (42*  
18 *U.S.C. 4321 et seq.).*

19 “(5) *FEDERAL ENVIRONMENTAL LAWS.*—*The*  
20 *term ‘Federal environmental laws’ means Federal*  
21 *laws governing the review, including through the*  
22 *issuance of permits and other approvals of environ-*  
23 *mental impacts of, the construction and operation of*  
24 *transportation projects. Such term includes section*  
25 *102(2)(C) of the National Environmental Policy Act*

1       of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the  
 2       *Federal Water Pollution Control Act* (33 U.S.C.  
 3       1344), section 106 of the *National Historic Preserva-*  
 4       *tion Act* (16 U.S.C. 470f), and sections 7(a)(2),  
 5       9(a)(1)(B), and 10(a)(1)(B) of the *Endangered Spe-*  
 6       *cies Act of 1973* (16 U.S.C. 1536(a)(2),  
 7       1538(a)(1)(B), 1539(a)(1)(B)).

8               “(6) *FEDERAL LEAD AGENCY*.—The term ‘*Fed-*  
 9       *eral lead agency*’ means the Department of *Transpor-*  
 10       *tation*.

11              “(7) *JOINT LEAD AGENCY*.—The term ‘*joint lead*  
 12       *agency*’ means an agency designated as a joint lead  
 13       agency as described in paragraph (1) or (2) of section  
 14       22903(b).

15              “(8) *LEAD AGENCY*.—The term ‘*lead agency*’  
 16       means the Department of Transportation and, if ap-  
 17       plicable, any joint lead agency.

18              “(9) *PLANNING PRODUCT*.—The term ‘*planning*  
 19       *product*’ means any decision, analysis, study, or other  
 20       documented result of an evaluation or decisionmaking  
 21       process carried out during rail and transportation  
 22       planning.

23              “(10) *PROJECT SPONSOR*.—The term ‘*project*  
 24       *sponsor*’ means the State agency or other entity, in-

1 *cluding any private or public-private entity, that*  
 2 *seeks approval of the Secretary for a rail project.*

3 “(11) *RAIL PROJECT.*—*The term ‘rail project’*  
 4 *means any freight or intercity passenger rail capital*  
 5 *project that is carried out or is planned to be carried*  
 6 *out with the use of Federal funds administered by the*  
 7 *Federal Railroad Administration through a grant,*  
 8 *contract, loan, or other financing instrument.*

9 “(12) *SECRETARY.*—*The term ‘Secretary’ means*  
 10 *the Secretary of Transportation.*

11 “(13) *STATE.*—*The term ‘State’ has the meaning*  
 12 *given that term in section 22701(3).*

13 “(14) *STATE TRANSPORTATION DEPARTMENT.*—  
 14 *The term ‘State transportation department’ means*  
 15 *any statewide agency of a State with responsibility*  
 16 *for one or more modes of transportation.*

17 **“§22903. *Efficient environmental reviews for rail***  
 18 ***project decisionmaking***

19 “(a) *APPLICABILITY.*—

20 “(1) *IN GENERAL.*—*The project development pro-*  
 21 *cedures in this section are applicable to all rail*  
 22 *projects for which an environmental impact statement*  
 23 *is prepared under the National Environmental Policy*  
 24 *Act of 1969 and may be applied, to the extent deter-*  
 25 *mined appropriate by the Secretary, to other rail*

1        *projects for which an environmental document is pre-*  
2        *pared as part of an environmental review process.*

3                *“(2) FLEXIBILITY.—Any authorities granted in*  
4        *this section may be exercised, and any requirements*  
5        *established in this section may be satisfied, for a rail*  
6        *project, class of projects, or program of rail projects.*

7                *“(3) FUNDING THRESHOLD.—The Secretary’s*  
8        *approval of a rail project involving Federal funds*  
9        *shall not be considered a Federal action for the pur-*  
10       *poses of the National Environmental Policy Act of*  
11       *1969 if the Federal funding share—*

12                *“(A) constitutes 15 percent or less of the*  
13        *total estimated project costs; or*

14                *“(B) is less than \$10,000,000.*

15                *“(4) PROGRAMMATIC COMPLIANCE.—At the re-*  
16        *quest of a State, the Secretary may modify the proce-*  
17        *dures developed under this section to encourage pro-*  
18        *grammatic approaches and strategies with respect to*  
19        *environmental programs and permits (in lieu of*  
20        *project-by-project reviews).*

21                *“(b) LEAD AGENCIES.—*

22                *“(1) IN GENERAL.—If the rail project requires*  
23        *approval from more than one modal administration*  
24        *within the Department of Transportation, the Sec-*  
25        *retary shall designate a single modal administration*

1       to serve as the Federal lead agency for the Depart-  
2       ment in the environmental review process for the  
3       project.

4               “(2) *JOINT LEAD AGENCIES.*—Nothing in this  
5       section precludes another agency from being a joint  
6       lead agency in accordance with regulations under the  
7       National Environmental Policy Act of 1969.

8               “(3) *PROJECT SPONSOR AS JOINT LEAD AGEN-*  
9       *CY.*—Any project sponsor that is a State or local gov-  
10      *ernmental entity applying to receive or receiving Fed-*  
11      *eral funds for the rail project shall serve as a joint*  
12      *lead agency with the Department of Transportation*  
13      *for purposes of preparing any environmental docu-*  
14      *ment under the National Environmental Policy Act of*  
15      *1969 and may prepare any such environmental docu-*  
16      *ment required in support of any action or approval*  
17      *by the Secretary if the Federal lead agency furnishes*  
18      *guidance in such preparation and independently*  
19      *evaluates such document and the document is ap-*  
20      *proved and adopted by the Secretary prior to the Sec-*  
21      *retary taking any subsequent action or making any*  
22      *approval based on such document, whether or not the*  
23      *Secretary’s action or approval results in Federal*  
24      *funding.*

1           “(4) *ENSURING COMPLIANCE.*—*The Secretary*  
2           *shall ensure that a project sponsor complies with all*  
3           *design and mitigation commitments made jointly by*  
4           *the Secretary and the project sponsor in any environ-*  
5           *mental document prepared by the project sponsor in*  
6           *accordance with this subsection, and that such docu-*  
7           *ment is appropriately supplemented if rail project*  
8           *changes become necessary.*

9           “(5) *ADOPTION AND USE OF DOCUMENTS.*—*Any*  
10          *environmental document prepared in accordance with*  
11          *this subsection shall be adopted and used by any Fed-*  
12          *eral agency in making any approval of a rail project*  
13          *as the document required to be completed under the*  
14          *National Environmental Policy Act of 1969.*

15          “(6) *ROLES AND RESPONSIBILITY OF LEAD*  
16          *AGENCY.*—*With respect to the environmental review*  
17          *process for any rail project, the lead agency shall have*  
18          *authority and responsibility—*

19                 “(A) *to take such actions as are necessary*  
20                 *and proper, within the authority of the lead*  
21                 *agency, to facilitate the expeditious resolution of*  
22                 *the environmental review process for the rail*  
23                 *project; and*

24                 “(B) *to prepare or ensure that any required*  
25                 *environmental impact statement or other docu-*

1           *ment required to be completed under the Na-*  
2           *tional Environmental Policy Act of 1969 is com-*  
3           *pleted in accordance with this section and other*  
4           *applicable Federal law.*

5           “(c) *PARTICIPATING AGENCIES.*—

6           “(1) *IN GENERAL.*—*The lead agency shall be re-*  
7           *sponsible for inviting and designating participating*  
8           *agencies in accordance with this subsection.*

9           “(2) *INVITATION.*—*The lead agency shall iden-*  
10          *tify, as early as practicable in the environmental re-*  
11          *view process for a rail project, any other Federal and*  
12          *non-Federal agencies that may have an interest in the*  
13          *rail project, and shall invite such agencies to become*  
14          *participating agencies in the environmental review*  
15          *process for the rail project. The invitation shall set a*  
16          *deadline for responses to be submitted. The deadline*  
17          *may be extended by the lead agency for good cause.*

18          “(3) *FEDERAL PARTICIPATING AGENCIES.*—*Any*  
19          *Federal agency that is invited by the lead agency to*  
20          *participate in the environmental review process for a*  
21          *rail project shall be designated as a participating*  
22          *agency by the lead agency unless the invited agency*  
23          *informs the lead agency, in writing, by the deadline*  
24          *specified in the invitation that the invited agency—*

1           “(A) has no jurisdiction or authority with  
2           respect to the rail project;

3           “(B) has no expertise or information rel-  
4           evant to the rail project; and

5           “(C) does not intend to submit comments on  
6           the rail project.

7           “(4) *EFFECT OF DESIGNATION.*—

8           “(A) *REQUIREMENT.*—A participating  
9           agency shall comply with the requirements of  
10          this section and any schedule established under  
11          this section.

12          “(B) *IMPLICATION.*—Designation as a par-  
13          ticipating agency under this subsection shall not  
14          imply that the participating agency—

15                 “(i) supports a proposed rail project;

16                 or

17                 “(ii) has any jurisdiction over, or spe-  
18                 cial expertise with respect to evaluation of,  
19                 the rail project.

20          “(5) *COOPERATING AGENCY.*—A participating  
21          agency may also be designated by a lead agency as  
22          a ‘cooperating agency’ under the regulations con-  
23          tained in part 1500 of title 40, Code of Federal Regu-  
24          lations.

1           “(6) *DESIGNATIONS FOR CATEGORIES OF RAIL*  
 2           *PROJECTS.*—*The Secretary may exercise the authori-*  
 3           *ties granted under this subsection for a rail project,*  
 4           *class of rail projects, or program of rail projects.*

5           “(7) *CONCURRENT REVIEWS.*—*Each partici-*  
 6           *parting agency and cooperating agency shall—*

7                   “(A) *carry out obligations of that agency*  
 8                   *under other applicable law concurrently, and in*  
 9                   *conjunction, with the review required under the*  
 10                  *National Environmental Policy Act of 1969 (42*  
 11                  *U.S.C. 4321 et seq.); and*

12                  “(B) *formulate and implement administra-*  
 13                  *tive, policy, and procedural mechanisms to en-*  
 14                  *able the agency to ensure completion of the envi-*  
 15                  *ronmental review process in a timely, coordi-*  
 16                  *nated, and environmentally responsible manner.*

17           “(d) *RAIL PROJECT INITIATION.*—*The project sponsor*  
 18           *shall notify the Secretary of the type of work, length, and*  
 19           *general location of the proposed rail project, together with*  
 20           *a statement of any Federal approvals anticipated to be nec-*  
 21           *essary for the proposed rail project, for the purpose of in-*  
 22           *forming the Secretary that the environmental review process*  
 23           *should be initiated. The project sponsor may satisfy this*  
 24           *requirement by submitting to the Secretary a draft notice*  
 25           *for publication in the Federal Register announcing the*

1 *preparation of an environmental impact statement for the*  
2 *rail project.*

3 “(e) *PURPOSE AND NEED.*—

4 “(1) *PARTICIPATION.*—*As early as practicable*  
5 *during the environmental review process, the lead*  
6 *agency shall provide an opportunity for involvement*  
7 *by participating agencies and the public in defining*  
8 *the purpose and need for a rail project.*

9 “(2) *DEFINITION.*—*Following participation*  
10 *under paragraph (1), the lead agency shall define the*  
11 *rail project’s purpose and need for purposes of any*  
12 *document which the lead agency is responsible for*  
13 *preparing for the rail project.*

14 “(3) *OBJECTIVES.*—*The statement of purpose*  
15 *and need shall include a clear statement of the objec-*  
16 *tives that the proposed action is intended to achieve,*  
17 *which may include—*

18 “(A) *achieving a transportation objective*  
19 *identified in an applicable rail or transportation*  
20 *plan;*

21 “(B) *supporting land use, economic develop-*  
22 *ment, or growth objectives established in applica-*  
23 *ble Federal, State, local, or tribal plans;*

1           “(C) *serving national defense, national se-*  
2           *curity, or other national objectives, as established*  
3           *in Federal laws, plans, or policies; and*

4           “(D) *serving the purpose for which the ap-*  
5           *plicable grant, contract, loan, or other financing*  
6           *program was established.*

7           “(4) *ALTERNATIVES ANALYSIS.—*

8           “(A) *PARTICIPATION.—As early as prac-*  
9           *ticable during the environmental review process,*  
10          *the lead agency shall provide an opportunity for*  
11          *involvement by participating agencies and the*  
12          *public in determining the range of alternatives*  
13          *to be considered for a rail project.*

14          “(B) *RANGE OF ALTERNATIVES.—*

15               “(i) *IN GENERAL.—Following partici-*  
16               *pation under paragraph (1), the lead agen-*  
17               *cy shall determine the range of alternatives*  
18               *for consideration in any document which*  
19               *the lead agency is responsible for preparing*  
20               *for the rail project.*

21               “(ii) *RESTRICTION.—A Federal agency*  
22               *may not require the evaluation of any alter-*  
23               *native that was evaluated, but not adopt-*  
24               *ed—*

1                   “(I) in any prior State or Federal  
2                   environmental document with regard  
3                   to the applicable transportation or rail  
4                   plan or program; or

5                   “(II) after the preparation of a  
6                   programmatic or tiered environmental  
7                   document that evaluated alternatives to  
8                   the rail project.

9                   “(iii) *LEGAL SUFFICIENCY.*—The eval-  
10                  uation of the range of alternatives shall be  
11                  deemed legally sufficient if the environ-  
12                  mental document complies with the require-  
13                  ments of this paragraph.

14                  “(C) *METHODOLOGIES.*—

15                  “(i) *IN GENERAL.*—The lead agency  
16                  also shall determine, after consultation with  
17                  participating agencies as part of the  
18                  scoping process, the methodologies to be used  
19                  and the level of detail required in the anal-  
20                  ysis of each alternative for a rail project.

21                  “(ii) *COMMENTS.*—Each participating  
22                  agency shall limit comments on such meth-  
23                  odologies to those issues that are within the  
24                  authority and expertise of such partici-  
25                  pating agency.

1                   “(iii) *STUDIES.*—The lead agency may  
2                   not conduct studies proposed by any par-  
3                   ticipating agency that are not within the  
4                   authority or expertise of such participating  
5                   agency.

6                   “(D) *PREFERRED ALTERNATIVE.*—At the  
7                   discretion of the lead agency, the preferred alter-  
8                   native for a rail project, after being identified,  
9                   may be developed to a higher level of detail than  
10                  other alternatives in order to facilitate the devel-  
11                  opment of mitigation measures or concurrent  
12                  compliance with other applicable laws if the lead  
13                  agency determines that the development of such  
14                  higher level of detail will not prevent the lead  
15                  agency from making an impartial decision as to  
16                  whether to accept another alternative which is  
17                  being considered in the environmental review  
18                  process.

19                  “(E) *LIMITATIONS ON THE EVALUATION OF*  
20                  *IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL*  
21                  *DOCUMENTS.*—

22                  “(i) *IN GENERAL.*—The lead agency  
23                  may not reevaluate, and a Federal agency  
24                  may not require the reevaluation of, cumu-  
25                  lative impacts or growth-inducing impacts

1           *where such impacts were previously evalu-*  
2           *ated in—*

3                     *“(I) a rail transportation plan or*  
4                     *program;*

5                     *“(II) a prior environmental docu-*  
6                     *ment approved by the Secretary; or*

7                     *“(III) a prior State environ-*  
8                     *mental document approved pursuant to*  
9                     *a State law that is substantially equiv-*  
10                    *alent to section 102(2)(C) of the Na-*  
11                    *tional Environmental Policy Act of*  
12                    *1969 (42 U.S.C. 4332(2)(C)).*

13                    *“(ii) LEGAL SUFFICIENCY.—The eval-*  
14                    *uation of cumulative impacts and growth*  
15                    *inducing impacts shall be deemed legally*  
16                    *sufficient if the environmental document*  
17                    *complies with the requirements of this para-*  
18                    *graph.*

19                    *“(5) EFFECTIVE DECISIONMAKING.—*

20                    *“(A) CONCURRENCE.—At the discretion of*  
21                    *the lead agency, a participating agency shall be*  
22                    *presumed to concur in the determinations made*  
23                    *by the lead agency under this subsection unless*  
24                    *the participating agency submits an objection to*  
25                    *the lead agency in writing within 30 days after*

1        *receiving notice of the lead agency’s determina-*  
2        *tion and specifies the statutory basis for the ob-*  
3        *jection.*

4                “(B) *ADOPTION OF DETERMINATION.*—*If the*  
5        *participating agency concurs or does not object*  
6        *within the 30-day period, the participating*  
7        *agency shall adopt the lead agency’s determina-*  
8        *tion for purposes of any reviews, approvals, or*  
9        *other actions taken by the participating agency*  
10       *as part of the environmental review process for*  
11       *the rail project.*

12       “(f) *COORDINATION AND SCHEDULING.*—

13                “(1) *COORDINATION PLAN.*—

14                “(A) *IN GENERAL.*—*The lead agency shall*  
15        *establish a rail plan for coordinating public and*  
16        *agency participation in and comment on the en-*  
17        *vironmental review process for a rail project,*  
18        *category of rail projects, or program of rail*  
19        *projects. The coordination plan may be incor-*  
20        *porated into a memorandum of understanding.*

21                “(B) *SCHEDULE.*—

22                “(i) *IN GENERAL.*—*The lead agency*  
23        *may establish as part of the coordination*  
24        *plan, after consultation with each partici-*  
25        *pating agency for the rail project and with*

1           *each State in which the rail project is lo-*  
2           *cated (and, if the State is not the project*  
3           *sponsor, with the project sponsor), a sched-*  
4           *ule for completion of the environmental re-*  
5           *view process for the rail project.*

6           “(ii) *FACTORS FOR CONSIDERATION.—*  
7           *In establishing the schedule, the lead agency*  
8           *shall consider factors such as—*

9                     “(I) *the responsibilities of partici-*  
10                    *ating agencies under applicable laws;*

11                    “(II) *resources available to the co-*  
12                    *operating agencies;*

13                    “(III) *overall size and complexity*  
14                    *of the rail project;*

15                    “(IV) *the overall schedule for and*  
16                    *cost of the rail project; and*

17                    “(V) *the sensitivity of the natural*  
18                    *and historic resources that could be af-*  
19                    *ected by the rail project.*

20           “(C) *CONSISTENCY WITH OTHER TIME PERI-*  
21           *ODS.—A schedule under subparagraph (B) shall*  
22           *be consistent with any other relevant time peri-*  
23           *ods established under Federal law.*

24           “(D) *MODIFICATION.—The lead agency*  
25           *may—*

1                   “(i) *lengthen a schedule established*  
2                   *under subparagraph (B) for good cause; and*

3                   “(ii) *shorten a schedule only with the*  
4                   *concurrence of the affected cooperating agen-*  
5                   *cies.*

6                   “(E) *DISSEMINATION.—A copy of a sched-*  
7                   *ule established under subparagraph (B), and of*  
8                   *any modifications to the schedule, shall be—*

9                   “(i) *provided to all participating agen-*  
10                  *cies and to the State transportation depart-*  
11                  *ment of each State in which the rail project*  
12                  *is located (and, if the State is not the*  
13                  *project sponsor, to the project sponsor); and*

14                  “(ii) *made available to the public.*

15                  “(2) *COMMENT DEADLINES.—The lead agency*  
16                  *shall establish the following deadlines for comment*  
17                  *during the environmental review process for a rail*  
18                  *project:*

19                  “(A) *For comments by agencies and the*  
20                  *public on a draft environmental impact state-*  
21                  *ment, a period of not more than 60 days after*  
22                  *publication in the Federal Register of notice of*  
23                  *the date of public availability of such document,*  
24                  *unless—*

1           “(i) a different deadline is established  
 2           by agreement of the lead agency, the project  
 3           sponsor, and all participating agencies; or

4           “(ii) the deadline is extended by the  
 5           lead agency for good cause.

6           “(B) For all other comment periods estab-  
 7           lished by the lead agency for agency or public  
 8           comments in the environmental review process, a  
 9           period of no more than 30 days from availability  
 10          of the materials on which comment is requested,  
 11          unless—

12           “(i) a different deadline is established  
 13           by agreement of the lead agency, the project  
 14           sponsor, and all participating agencies; or

15           “(ii) the deadline is extended by the  
 16           lead agency for good cause.

17          “(3) DEADLINES FOR DECISIONS UNDER OTHER  
 18          LAWS.—

19           “(A) PRIOR APPROVAL DEADLINE.—If a  
 20           participating agency is required to make a de-  
 21           termination regarding or otherwise approve or  
 22           disapprove the rail project prior to the record of  
 23           decision or finding of no significant impact of  
 24           the lead agency, such participating agency shall  
 25           make such determination or approval no later

1        *than 30 days after the lead agency publishes no-*  
2        *tice of the availability of a final environmental*  
3        *impact statement or other final environmental*  
4        *document, or no later than such other date that*  
5        *is otherwise required by law, whichever occurs*  
6        *first.*

7                *“(B) OTHER DEADLINES.—With regard to*  
8        *any determination or approval of a partici-*  
9        *pating agency that is not subject to subpara-*  
10       *graph (A), each participating agency shall make*  
11       *any required determination regarding or other-*  
12       *wise approve or disapprove the rail project no*  
13       *later than 90 days after the date that the lead*  
14       *agency approves the record of decision or finding*  
15       *of no significant impact for the rail project, or*  
16       *not later than such other date that is otherwise*  
17       *required by law, whichever occurs first.*

18                *“(C) DEEMED APPROVED.—In the event*  
19       *that any participating agency fails to make a*  
20       *determination or approve or disapprove the rail*  
21       *project within the applicable deadline described*  
22       *in subparagraphs (A) and (B), the rail project*  
23       *shall be deemed approved by such participating*  
24       *agency and such approval shall be deemed to*

1           *comply with the applicable requirements of Fed-*  
2           *eral law.*

3           “(D) *JUDICIAL REVIEW.*—

4                   “(i) *IN GENERAL.*—An approval of a  
5                   *rail project under subparagraph (C) shall*  
6                   *not be subject to judicial review.*

7                   “(ii) *WRITTEN FINDING.*—The Sec-  
8                   *retary may issue a written finding*  
9                   *verifying the approval made in accordance*  
10                  *with this paragraph.*

11          “(g) *ISSUE IDENTIFICATION AND RESOLUTION.*—

12                  “(1) *COOPERATION.*—The lead agency and the  
13                  *participating agencies shall work cooperatively in ac-*  
14                  *cordance with this section to identify and resolve*  
15                  *issues that could delay completion of the environ-*  
16                  *mental review process or could result in denial of any*  
17                  *approvals required for the rail project under applica-*  
18                  *ble laws.*

19                  “(2) *LEAD AGENCY RESPONSIBILITIES.*—The  
20                  *lead agency shall make information available to the*  
21                  *participating agencies as early as practicable in the*  
22                  *environmental review process regarding the environ-*  
23                  *mental and socioeconomic resources located within the*  
24                  *rail project area and the general locations of the al-*  
25                  *ternatives under consideration. Such information*

1        *may be based on existing data sources, including geo-*  
2        *graphic information systems mapping.*

3            “(3) *PARTICIPATING AGENCY RESPONSIBIL-*  
4        *ITIES.—Based on information received from the lead*  
5        *agency, participating agencies shall identify, as early*  
6        *as practicable, any issues of concern regarding the*  
7        *rail project’s potential environmental or socio-*  
8        *economic impacts. In this paragraph, issues of con-*  
9        *cern include any issues that could substantially delay*  
10       *or prevent an agency from granting a permit or other*  
11       *approval that is needed for the rail project.*

12           “(4) *ISSUE RESOLUTION.—*

13           “(A) *MEETING OF PARTICIPATING AGEN-*  
14        *CIES.—At any time upon request of a project*  
15        *sponsor or the Governor of a State in which the*  
16        *rail project is located, the lead agency shall*  
17        *promptly convene a meeting with the relevant*  
18        *participating agencies, the project sponsor, and*  
19        *the Governor (if the meeting was requested by the*  
20        *Governor) to resolve issues that could delay com-*  
21        *pletion of the environmental review process or*  
22        *could result in denial of any approvals required*  
23        *for the rail project under applicable laws.*

24           “(B) *NOTICE THAT RESOLUTION CANNOT BE*  
25        *ACHIEVED.—If a resolution cannot be achieved*

1       *within 30 days following such a meeting and a*  
2       *determination by the lead agency that all infor-*  
3       *mation necessary to resolve the issue has been ob-*  
4       *tained, the lead agency shall notify the heads of*  
5       *all participating agencies, the project sponsor,*  
6       *the Governor, the Committee on Environment*  
7       *and Public Works of the Senate, the Committee*  
8       *on Transportation and Infrastructure of the*  
9       *House of Representatives, and the Council on*  
10      *Environmental Quality, and shall publish such*  
11      *notification in the Federal Register.*

12           “(C) *RESOLUTION FINAL.*—

13               “(i) *IN GENERAL.*—*The lead agency*  
14               *and participating agencies may not recon-*  
15               *sider the resolution of any issue agreed to*  
16               *by the relevant agencies in a meeting under*  
17               *subparagraph (A).*

18               “(ii) *COMPLIANCE WITH APPLICABLE*  
19               *LAW.*—*Any such resolution shall be deemed*  
20               *to comply with applicable law notwith-*  
21               *standing that the agencies agreed to such*  
22               *resolution prior to the approval of the envi-*  
23               *ronmental document.*

24           “(h) *STREAMLINED DOCUMENTATION AND DECISION-*  
25      *MAKING.*—

1           “(1) *IN GENERAL.*—*The lead agency in the envi-*  
2           *ronmental review process for a rail project, in order*  
3           *to reduce paperwork and expedite decisionmaking,*  
4           *shall prepare a condensed final environmental impact*  
5           *statement.*

6           “(2) *CONDENSED FORMAT.*—*A condensed final*  
7           *environmental impact statement for a rail project in*  
8           *the environmental review process shall consist only*  
9           *of—*

10               “(A) *an incorporation by reference of the*  
11               *draft environmental impact statement;*

12               “(B) *any updates to specific pages or sec-*  
13               *tions of the draft environmental impact state-*  
14               *ment as appropriate; and*

15               “(C) *responses to comments on the draft en-*  
16               *vironmental impact statement and copies of the*  
17               *comments.*

18           “(3) *TIMING OF DECISION.*—*Notwithstanding*  
19           *any other provision of law, in conducting the envi-*  
20           *ronmental review process for a rail project, the lead*  
21           *agency shall combine a final environmental impact*  
22           *statement and a record of decision for the rail project*  
23           *into a single document if—*

24               “(A) *the alternative approved in the record*  
25               *of decision is either a preferred alternative that*

1        *was identified in the draft environmental impact*  
2        *statement or is a modification of such preferred*  
3        *alternative that was developed in response to*  
4        *comments on the draft environmental impact*  
5        *statement; and*

6                *“(B) the Secretary determines that the lead*  
7        *agency, participating agency, or the project*  
8        *sponsor has committed to implement the meas-*  
9        *ures applicable to the approved alternative that*  
10       *are identified in the final environmental impact*  
11       *statement.*

12        *“(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND*  
13       *RE-EVALUATION.—*

14                *“(1) SUPPLEMENTAL ENVIRONMENTAL RE-*  
15       *VIEW.—After the approval of a record of decision or*  
16       *finding of no significant impact with regard to a rail*  
17       *project, an agency may not require the preparation of*  
18       *a subsequent environmental document for such rail*  
19       *project unless the lead agency determines that—*

20                *“(A) changes to the rail project will result*  
21       *in new significant impacts that were not evalu-*  
22       *ated in the environmental document; or*

23                *“(B) new information has become available*  
24       *or changes in circumstances have occurred after*  
25       *the lead agency approval of the rail project that*

1           *will result in new significant impacts that were*  
2           *not evaluated in the environmental document.*

3           “(2) *RE-EVALUATIONS.*—*The Secretary may only*  
4           *require the re-evaluation of a document prepared*  
5           *under the National Environmental Policy Act of 1969*  
6           *(42 U.S.C. 4321 et seq.) if—*

7                     “(A) *the Secretary determines that the*  
8                     *events in paragraph (1)(A) or (1)(B) apply; and*

9                     “(B) *more than 5 years has elapsed since*  
10            *the Secretary’s prior approval of the rail project*  
11            *or authorization of rail project funding.*

12           “(3) *CHANGE TO RECORD OF DECISIONS.*—*After*  
13            *the approval of a record of decision, the Secretary*  
14            *may not require the record of decision to be changed*  
15            *based solely because of a change in the fiscal cir-*  
16            *cumstances surrounding the rail project.*

17           “(j) *PERFORMANCE MEASUREMENT.*—*The Secretary*  
18            *shall establish a program to measure and report on progress*  
19            *toward improving and expediting the planning and envi-*  
20            *ronmental review processes.*

21           “(k) *ASSISTANCE TO AFFECTED STATE AND FEDERAL*  
22            *AGENCIES.*—

23                     “(1) *IN GENERAL.*—*For a rail project that is*  
24            *subject to the environmental review process established*  
25            *under this section and for which funds are made*

1       *available to a State under funding programs admin-*  
2       *istered by the Federal Railroad Administration, the*  
3       *Secretary may approve a request by the State to pro-*  
4       *vide such funds to affected Federal agencies (includ-*  
5       *ing the Department of Transportation), State agen-*  
6       *cies, and Indian tribes participating in the environ-*  
7       *mental review process for the rail projects in that*  
8       *State or participating in a State process that has*  
9       *been approved by the Secretary for that State. Such*  
10      *funds may be provided only to support activities that*  
11      *directly and meaningfully contribute to expediting*  
12      *and improving transportation or rail project plan-*  
13      *ning and delivery for rail projects in that State.*

14           “(2) *ACTIVITIES ELIGIBLE FOR FUNDING.—Ac-*  
15      *tivities for which funds may be provided under para-*  
16      *graph (1) include transportation planning activities*  
17      *that precede the initiation of the environmental re-*  
18      *view process, dedicated staffing, training of agency*  
19      *personnel, information gathering and mapping, and*  
20      *development of programmatic agreements.*

21           “(3) *AMOUNTS.—Requests under paragraph (1)*  
22      *may be approved only for the additional amounts*  
23      *that the Secretary determines are necessary for the*  
24      *Federal agencies, State agencies, or Indian tribes par-*

1        *ticipating in the environmental review process to*  
 2        *meet the time limits for environmental review.*

3                “(4) *CONDITION.—A request under paragraph*  
 4        *(1) to expedite time limits for environmental review*  
 5        *may be approved only if such time limits are less*  
 6        *than the customary time necessary for such review.*

7                “(l) *REGULATIONS.—*

8                “(1) *IN GENERAL.—Not later than 1 year after*  
 9        *the date of enactment of the American Energy and*  
 10        *Infrastructure Jobs Act of 2012, the Secretary, by reg-*  
 11        *ulation, shall—*

12                “(A) *implement this section; and*

13                “(B) *establish methodologies and procedures*  
 14        *for evaluating the environmental impacts, in-*  
 15        *cluding cumulative impacts and growth-induc-*  
 16        *ing impacts, of rail projects subject to this sec-*  
 17        *tion.*

18                “(2) *COMPLIANCE WITH APPLICABLE LAW.—Any*  
 19        *environmental document that utilizes the methodolo-*  
 20        *gies and procedures established under this subsection*  
 21        *shall be deemed to comply with the applicable require-*  
 22        *ments of—*

23                “(A) *the National Environmental Policy*  
 24        *Act of 1969 (42 U.S.C. 4321 et seq.) or its imple-*  
 25        *menting regulations; or*

1                   “(B) *any other Federal environmental stat-*  
2                   *ute applicable to rail projects.*

3                   “(m) *LIMITATIONS ON CLAIMS.—*

4                   “(1) *IN GENERAL.—Notwithstanding any other*  
5                   *provision of law, a claim arising under Federal law*  
6                   *seeking judicial review of a permit, license, or ap-*  
7                   *proval issued by a Federal agency for a rail project*  
8                   *shall be barred unless it is filed within 90 days after*  
9                   *publication of a notice in the Federal Register an-*  
10                  *nouncing that the permit, license, or approval is final*  
11                  *pursuant to the law under which the agency action is*  
12                  *taken, unless a shorter time is specified in the Federal*  
13                  *law pursuant to which judicial review is allowed.*  
14                  *Nothing in this subsection shall create a right to judi-*  
15                  *cial review or place any limit on filing a claim that*  
16                  *a person has violated the terms of a permit, license,*  
17                  *or approval.*

18                  “(2) *NEW INFORMATION.—The preparation of a*  
19                  *supplemental environmental impact statement or*  
20                  *other environmental document when required by this*  
21                  *section shall be considered a separate final agency ac-*  
22                  *tion and the deadline for filing a claim for judicial*  
23                  *review of such action shall be 90 days after the date*  
24                  *of publication of a notice in the Federal Register an-*  
25                  *nouncing such action.*

1       “(n) *LIMITATIONS ON JUDICIAL RELIEF.*—Notwith-  
2       standing any other provision of law, the following limita-  
3       tions shall apply to actions brought before a court in con-  
4       nection with a rail project under this section:

5               “(1) *Venue for any action shall be where the rail*  
6       *project is located.*

7               “(2) *A specific property interest impacted by the*  
8       *rail project in question must exist in order to have*  
9       *standing to bring an action.*

10              “(3) *No action may be commenced by any person*  
11      *alleging a violation of—*

12                      “(A) *the National Environmental Policy*  
13      *Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5*  
14      *and 7 of title 5, or any other Federal environ-*  
15      *mental law if such Federal law is identified in*  
16      *the draft environmental impact statement, unless*  
17      *such person provided written notice to the lead*  
18      *agency of the alleged violation of law, and the*  
19      *facts supporting such claim, during the public*  
20      *comment period on the draft environmental im-*  
21       *pact statement; or*

22                      “(B) *any other law with regard to the rail*  
23      *project unless such person provided written no-*  
24      *tice to the applicable approving agency of the al-*  
25      *leged violation of law, and the facts supporting*

1           *such claim, during the public comment period on*  
2           *such agency approval.*

3           “(4) *Elected or appointed officials working for*  
4           *the Federal Government or a State government may*  
5           *not be named in their individual capacities in an ac-*  
6           *tion if they are acting within the scope of their offi-*  
7           *cial duties.*

8       **“§ 22904. Integration of planning and environmental**  
9               **review**

10       “(a) *ADOPTION OF PLANNING PRODUCTS FOR USE IN*  
11       *NEPA PROCEEDINGS.—*

12           “(1) *IN GENERAL.—Notwithstanding any other*  
13           *provision of law and subject to the conditions set forth*  
14           *in subsection (c), the Federal lead agency for a rail*  
15           *project, at the request of the project sponsors, may*  
16           *adopt and use a planning product in proceedings re-*  
17           *lating to any class of action in the environmental re-*  
18           *view process of the rail project.*

19           “(2) *PARTIAL ADOPTION OF PLANNING PROD-*  
20           *UCTS.—The Federal lead agency may adopt a plan-*  
21           *ning product under paragraph (1) in its entirety or*  
22           *may select portions for adoption.*

23           “(3) *TIMING.—A determination under para-*  
24           *graph (1) with respect to the adoption of a planning*  
25           *product shall be made at the time the lead agencies*

1       *decide the appropriate scope of environmental review*  
2       *for the rail project.*

3       “(b) *APPLICABILITY.*—

4               “(1) *PLANNING DECISIONS.*—*Planning decisions*  
5       *that may be adopted pursuant to this section in-*  
6       *clude—*

7               “(A) *a purpose and need or goals and objec-*  
8       *tives statement for the rail project, including*  
9       *with respect to whether private financial assist-*  
10       *ance or other special financial measures are nec-*  
11       *essary to implement the rail project;*

12              “(B) *a decision with respect to rail project*  
13       *location;*

14              “(C) *a decision with respect to the elimi-*  
15       *nation of unreasonable alternatives and the selec-*  
16       *tion of the range of reasonable alternatives for*  
17       *detailed study during the environmental review*  
18       *process;*

19              “(D) *a basic description of the environ-*  
20       *mental setting;*

21              “(E) *a decision with respect to methodolo-*  
22       *gies for analysis; and*

23              “(F) *identifications of programmatic level*  
24       *mitigation for potential impacts that the Federal*  
25       *lead agency, in consultation with Federal, State,*

1        *local, and tribal resource agencies, determines*  
2        *are most effectively addressed at a regional or*  
3        *national program level, including—*

4                *“(i) system-level measures to avoid,*  
5                *minimize, or mitigate impacts of proposed*  
6                *transportation and rail investments on en-*  
7                *vironmental resources, including regional*  
8                *ecosystem and water resources; and*

9                *“(ii) potential mitigation activities, lo-*  
10                *cations, and investments.*

11        *“(2) PLANNING ANALYSES.—Planning analyses*  
12        *that may be adopted pursuant to this section include*  
13        *studies with respect to—*

14                *“(A) freight and passenger rail needs and*  
15                *demands;*

16                *“(B) regional development and growth;*

17                *“(C) local land use, growth management,*  
18                *and development;*

19                *“(D) population and employment;*

20                *“(E) natural and built environmental con-*  
21                *ditions;*

22                *“(F) environmental resources and environ-*  
23                *mentally sensitive areas;*

24                *“(G) potential environmental effects, includ-*  
25                *ing the identification of resources of concern and*

1        *potential cumulative effects on those resources,*  
2        *identified as a result of a statewide or regional*  
3        *cumulative effects assessment; and*

4                *“(H) mitigation needs for a proposed ac-*  
5        *tion, or programmatic level mitigation, for po-*  
6        *tential effects that the Federal lead agency deter-*  
7        *mines are most effectively addressed at a re-*  
8        *gional or national program level.*

9        *“(c) CONDITIONS.—Adoption and use of a planning*  
10       *product under this section is subject to a determination by*  
11       *the Federal lead agency, in consultation with joint lead*  
12       *agencies and project sponsors as appropriate, that the fol-*  
13       *lowing conditions have been met:*

14                *“(1) The planning product was developed*  
15       *through a planning process conducted pursuant to*  
16       *applicable Federal law.*

17                *“(2) The planning process included broad con-*  
18       *sideration of freight and passenger rail needs and po-*  
19       *tential effects.*

20                *“(3) During the planning process, notice was*  
21       *provided, to the extent required by applicable law,*  
22       *through publication or other means to Federal, State,*  
23       *and local government agencies and tribal governments*  
24       *that might have an interest in the proposed rail*  
25       *project, and to members of the general public, of the*

1     *planning products that the planning process might*  
2     *produce and that might be relied on during the envi-*  
3     *ronmental review process, and such entities have been*  
4     *provided an appropriate opportunity to participate*  
5     *in the planning process leading to such planning*  
6     *product.*

7             *“(4) Prior to determining the scope of environ-*  
8     *mental review for the rail project, the joint lead agen-*  
9     *cies have made documentation relating to the plan-*  
10    *ning product available to Federal, State, and local*  
11    *governmental agencies and tribal governments that*  
12    *may have an interest in the proposed action, and to*  
13    *members of the general public.*

14            *“(5) There is no significant new information or*  
15    *new circumstance that has a reasonable likelihood of*  
16    *affecting the continued validity or appropriateness of*  
17    *the planning product.*

18            *“(6) The planning product is based on reliable*  
19    *and reasonably current data and reasonable and sci-*  
20    *entifically acceptable methodologies.*

21            *“(7) The planning product is documented in suf-*  
22    *ficient detail to support the decision or the results of*  
23    *the analysis and to meet requirements for use of the*  
24    *information in the environmental review process.*

1           “(8) *The planning product is appropriate for*  
2           *adoption and use in the environmental review process*  
3           *for the rail project.*

4           “(d) *EFFECT OF ADOPTION.—Notwithstanding any*  
5           *other provision of law, any planning product adopted by*  
6           *the Federal lead agency in accordance with this section*  
7           *shall not be reconsidered or made the subject of additional*  
8           *interagency consultation during the environmental review*  
9           *process of the rail project unless the Federal lead agency,*  
10           *in consultation with joint lead agencies and project spon-*  
11           *sors as appropriate, determines that there is significant new*  
12           *information or new circumstances that affect the continued*  
13           *validity or appropriateness of the adopted planning prod-*  
14           *uct. Any planning product adopted by the Federal lead*  
15           *agency in accordance with this section may be relied upon*  
16           *and used by other Federal agencies in carrying out reviews*  
17           *of the rail project.*

18           “(e) *RULE OF CONSTRUCTION.—This section may not*  
19           *be construed to make the National Environmental Policy*  
20           *Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to*  
21           *the transportation planning processes conducted under*  
22           *chapters 52 and 227 of this title, section 211 of the Pas-*  
23           *senger Rail Investment and Improvement Act of 2008, or*  
24           *section 26101 of this title. Initiation of the National Envi-*  
25           *ronmental Policy Act of 1969 process as a part of, or con-*

1 *currently with, transportation planning activities does not*  
 2 *subject transportation plans and programs to the National*  
 3 *Environmental Policy Act of 1969 process. This section*  
 4 *may not be construed to affect the use of planning products*  
 5 *in the National Environmental Policy Act of 1969 process*  
 6 *pursuant to other authorities under law or to restrict the*  
 7 *initiation of the National Environmental Policy Act of*  
 8 *1969 process during planning.*

9 **“§22905. Program for eliminating duplication of envi-**  
 10 **ronmental reviews**

11 “(a) *ESTABLISHMENT.*—

12 “(1) *IN GENERAL.*—*The Secretary shall establish*  
 13 *a program to eliminate duplicative environmental re-*  
 14 *views and approvals under State and Federal law of*  
 15 *rail projects. Under this program, a State may use*  
 16 *State laws and procedures to conduct reviews and*  
 17 *make approvals in lieu of Federal environmental laws*  
 18 *and regulations, consistent with the provisions of this*  
 19 *section.*

20 “(2) *PARTICIPATING STATES.*—*All States are eli-*  
 21 *gible to participate in the program.*

22 “(3) *SCOPE OF ALTERNATIVE REVIEW AND AP-*  
 23 *PROVAL PROCEDURES.*—*For purposes of this section,*  
 24 *alternative environmental review and approval proce-*  
 25 *dures may include one or more of the following:*

1           “(A) *Substitution of one or more State envi-*  
2           *ronmental laws for one or more Federal environ-*  
3           *mental laws, if the Secretary determines in ac-*  
4           *cordance with this section that the State environ-*  
5           *mental laws provide environmental protection*  
6           *and opportunities for public involvement that*  
7           *are substantially equivalent to the applicable*  
8           *Federal environmental laws.*

9           “(B) *Substitution of one or more State reg-*  
10          *ulations for Federal regulations implementing*  
11          *one or more Federal environmental laws, if the*  
12          *Secretary determines in accordance with this sec-*  
13          *tion that the State regulations provide environ-*  
14          *mental protection and opportunities for public*  
15          *involvement that are substantially equivalent to*  
16          *the Federal regulations.*

17          “(b) *APPLICATION.—To participate in the program, a*  
18          *State shall submit to the Secretary an application con-*  
19          *taining such information as the Secretary may require, in-*  
20          *cluding—*

21               “(1) *a full and complete description of the pro-*  
22               *posed alternative environmental review and approval*  
23               *procedures of the State;*

24               “(2) *for each State law or regulation included in*  
25               *the proposed alternative environmental review and*

1       *approval procedures of the State, an explanation of*  
2       *the basis for concluding that the law or regulation*  
3       *meets the requirements under subsection (a)(3); and*

4               *“(3) evidence of having sought, received, and ad-*  
5       *ressed comments on the proposed application from*  
6       *the public and appropriate Federal environmental re-*  
7       *source agencies.*

8       *“(c) REVIEW OF APPLICATION.—The Secretary shall—*

9               *“(1) review an application submitted under sub-*  
10       *section (b);*

11               *“(2) approve or disapprove the application in*  
12       *accordance with subsection (d) not later than 90 days*  
13       *after the date of the receipt of the application; and*

14               *“(3) transmit to the State notice of the approval*  
15       *or disapproval, together with a statement of the rea-*  
16       *sons for the approval or disapproval.*

17       *“(d) APPROVAL OF STATE PROGRAMS.—*

18               *“(1) IN GENERAL.—The Secretary shall approve*  
19       *each such application if the Secretary finds that the*  
20       *proposed alternative environmental review and ap-*  
21       *proval procedures of the State are substantially equiv-*  
22       *alent to the applicable Federal environmental laws*  
23       *and Federal regulations.*

24               *“(2) EXCLUSION.—The National Environmental*  
25       *Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the*

1       *Endangered Species Act of 1973 (16 U.S.C. 1531 et*  
2       *seq.) shall not apply to any decision by the Secretary*  
3       *to approve or disapprove any application submitted*  
4       *pursuant to this section.*

5       “(e) *COMPLIANCE WITH PERMITS.*—*Compliance with*  
6       *a permit or other approval of a rail project issued pursuant*  
7       *to a program approved by the Secretary under this section*  
8       *shall be deemed compliance with the Federal laws and regu-*  
9       *lations identified in the program approved by the Secretary*  
10      *pursuant to this section.*

11      “(f) *REVIEW AND TERMINATION.*—

12           “(1) *REVIEW.*—*All State alternative environ-*  
13       *mental review and approval procedures approved*  
14       *under this section shall be reviewed by the Secretary*  
15       *not less than once every 5 years.*

16           “(2) *PUBLIC NOTICE AND COMMENT.*—*In con-*  
17       *ducting the review process under paragraph (1), the*  
18       *Secretary shall provide notice and an opportunity for*  
19       *public comment.*

20           “(3) *EXTENSIONS AND TERMINATIONS.*—*At the*  
21       *conclusion of the review process, the Secretary may*  
22       *extend the State alternative environmental review and*  
23       *approval procedures for an additional 5-year period*  
24       *or terminate the State program.*

1       “(g) *REPORT TO CONGRESS.*—Not later than 2 years  
 2 after the date of enactment of this section, and annually  
 3 thereafter, the Secretary shall submit to Congress a report  
 4 that describes the administration of the program.

5       **“§ 22906. Railroad corridor preservation**

6       “(a) *IN GENERAL.*—The Secretary may assist an ap-  
 7 plicant to acquire railroad right-of-way and adjacent real  
 8 property interests before the completion of the environ-  
 9 mental reviews for any rail project that may use the right-  
 10 of-way and the real property interests if the acquisition is  
 11 otherwise permitted under Federal law. The Secretary may  
 12 establish restrictions on such an acquisition as the Sec-  
 13 retary determines to be necessary and appropriate.

14       “(b) *ENVIRONMENTAL REVIEWS.*—Railroad right-of-  
 15 way and real property interests acquired under this section  
 16 may not be developed in anticipation of final approval of  
 17 the rail project until all required environmental reviews for  
 18 the rail project have been completed.

19       **“§ 22907. Treatment of railroads for historic preserva-**  
 20                               **tion**

21       “Except for a railroad operated as a historic site with  
 22 the purpose of preserving the railroad for listing in the Na-  
 23 tional Register of Historic Places, a railroad subject to the  
 24 safety regulation jurisdiction of the Federal Railroad Ad-  
 25 ministration, or any portion of such railroad, or any prop-

erty in current or former use by a railroad and intended to be restored to use by a railroad, shall not be considered a historic site, district, object, structure, or property of national, State, or local significance for purposes of section 303 of this title or section 106 or 110 of the National Historic Preservation Act (16 U.S.C. 470f or 470h-2) by virtue of being listed as a resource in, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, significant individual elements of a railroad such as depots and major bridges would be subject to such section 106 or 110.

**“§22908. Categorical exclusion**

“(a) *TREATMENT OF RAIL PROJECTS.*—The Secretary shall, for the purposes of this title, treat a rail project as a class of action categorically excluded from the requirements relating to the environmental assessment process or the preparation of environmental impact statements under the standards promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4), if such rail project—

“(1) replaces or maintains existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-

1       *equipment bases; or other existing railroad-related fa-*  
2       *cilities;*

3               *“(2) is a rail line addition of any length within*  
4       *an existing right of way;*

5               *“(3) is related to the implementation of positive*  
6       *train control systems, as required by section 20157 of*  
7       *title 49, United States Code; or*

8               *“(4) replaces, reconstructs, or rehabilitates an ex-*  
9       *isting railroad bridge, including replacement of a cul-*  
10       *vert, that does not require the acquisition of a signifi-*  
11       *cant amount of right-of-way.*

12       *“(b) ADDITIONAL ACTIONS.—If a rail project qualifies*  
13       *for categorical exclusion under this section except for addi-*  
14       *tional actions that do not fit in the relevant category, the*  
15       *rail project may be categorically excluded if the Secretary*  
16       *determines, based on information provided by the project*  
17       *sponsor, that the additional actions meet the standards for*  
18       *categorical exclusion promulgated by the Council on Envi-*  
19       *ronmental Quality (40 C.F.R. 1508.4).*

20       *“(c) OTHER OPERATING ADMINISTRATIONS’ CATEGOR-*  
21       *ICAL EXCLUSIONS.—If a rail project would be eligible for*  
22       *categorical exclusion from the requirements relating to the*  
23       *environmental assessment process or the preparation of en-*  
24       *vironmental impact statements by another operating ad-*  
25       *ministration of the Department of Transportation, the Fed-*

1 *eral Railroad Administration may categorically exclude the*  
 2 *rail project.*

3 **“§22909. State assumption of responsibility for cat-**  
 4 **egorical exclusions**

5 *“(a) CATEGORICAL EXCLUSION DETERMINATIONS.—*

6 *“(1) IN GENERAL.—The Secretary may assign,*  
 7 *and a State may assume, responsibility for deter-*  
 8 *mining whether certain designated activities are in-*  
 9 *cluded within classes of action identified by the Sec-*  
 10 *retary that are categorically excluded from require-*  
 11 *ments for environmental assessments or environ-*  
 12 *mental impact statements pursuant to regulations*  
 13 *promulgated by the Council on Environmental Qual-*  
 14 *ity under part 1500 of title 40, Code of Federal Regu-*  
 15 *lations (as in effect on October 1, 2003).*

16 *“(2) SCOPE OF AUTHORITY.—A determination*  
 17 *described in paragraph (1) shall be made by a State*  
 18 *in accordance with criteria established by the Sec-*  
 19 *retary and for any type of activity for which a cat-*  
 20 *egorical exclusion classification is appropriate.*

21 *“(3) CRITERIA.—The criteria under paragraph*  
 22 *(2) shall include provisions for public availability of*  
 23 *information consistent with section 552 of title 5 and*  
 24 *the National Environmental Policy Act of 1969 (42*  
 25 *U.S.C. 4321 et seq.).*

1           “(4) *PRESERVATION OF FLEXIBILITY.*—*The Sec-*  
2           *retary shall not require a State, as a condition of as-*  
3           *suming responsibility under this section, to forego*  
4           *project delivery methods that are otherwise permis-*  
5           *sible for rail projects.*

6           “(b) *OTHER APPLICABLE FEDERAL LAWS.*—

7           “(1) *IN GENERAL.*—*If a State assumes responsi-*  
8           *bility under subsection (a), the Secretary may also*  
9           *assign and the State may assume all or part of the*  
10          *responsibilities of the Secretary for environmental re-*  
11          *view, consultation, or other related actions required*  
12          *under any Federal environmental law applicable to*  
13          *activities that are classified by the Secretary as cat-*  
14          *egorical exclusions, with the exception of government-*  
15          *to-government consultation with Indian tribes, subject*  
16          *to the same procedural and substantive requirements*  
17          *as would be required if that responsibility were car-*  
18          *ried out by the Secretary.*

19          “(2) *SOLE RESPONSIBILITY.*—*A State that as-*  
20          *sumes responsibility under paragraph (1) with re-*  
21          *spect to a Federal law shall be solely responsible and*  
22          *solely liable for complying with and carrying out that*  
23          *law, and the Secretary shall have no such responsi-*  
24          *bility or liability.*

25          “(c) *MEMORANDA OF UNDERSTANDING.*—

1           “(1) *IN GENERAL.*—*The Secretary and the State,*  
 2           *after providing public notice and opportunity for*  
 3           *comment, shall enter into a memorandum of under-*  
 4           *standing setting forth the responsibilities to be as-*  
 5           *signed under this section and the terms and condi-*  
 6           *tions under which the assignments are made, includ-*  
 7           *ing establishment of the circumstances under which*  
 8           *the Secretary would reassume responsibility for cat-*  
 9           *egorical exclusion determinations.*

10           “(2) *TERM.*—*A memorandum of under-*  
 11           *standing—*

12                     “(A) *shall have a term of not more than 3*  
 13                     *years; and*

14                     “(B) *shall be renewable.*

15           “(3) *ACCEPTANCE OF JURISDICTION.*—*In a*  
 16           *memorandum of understanding, the State shall con-*  
 17           *sent to accept the jurisdiction of the Federal courts for*  
 18           *the compliance, discharge, and enforcement of any re-*  
 19           *sponsibility of the Secretary that the State assumes.*

20           “(4) *MONITORING.*—*The Secretary shall—*

21                     “(A) *monitor compliance by the State with*  
 22                     *the memorandum of understanding and the pro-*  
 23                     *vision by the State of financial resources to*  
 24                     *carry out the memorandum of understanding;*  
 25                     *and*

1                   “(B) take into account the performance by  
2                   the State when considering renewal of the memo-  
3                   randum of understanding.

4           “(d) *TERMINATION.*—The Secretary may terminate  
5 any assumption of responsibility under a memorandum of  
6 understanding on a determination that the State is not ade-  
7 quately carrying out the responsibilities assigned to the  
8 State.

9           “(e) *STATE AGENCY DEEMED TO BE FEDERAL AGEN-*  
10 *CY.*—A State agency that is assigned a responsibility under  
11 a memorandum of understanding shall be deemed to be a  
12 Federal agency for the purposes of the Federal law under  
13 which the responsibility is exercised.

14   **“§ 22910. Rail project delivery program**

15           “(a) *ESTABLISHMENT.*—

16                   “(1) *IN GENERAL.*—The Secretary shall carry  
17 out a rail project delivery program (referred to in this  
18 section as the ‘program’).

19                   “(2) *ASSUMPTION OF RESPONSIBILITY.*—

20                           “(A) *IN GENERAL.*—Subject to the other  
21 provisions of this section, with the written agree-  
22 ment of the Secretary and a State, which may  
23 be in the form of a memorandum of under-  
24 standing, the Secretary may assign, and the  
25 State may assume, the responsibilities of the Sec-

retary with respect to one or more rail projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

“(B) *ADDITIONAL RESPONSIBILITY.*—If a State assumes responsibility under subparagraph (A)—

“(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific rail project; but

“(ii) the Secretary may not assign any responsibility imposed on the Secretary by chapter 227 of this title.

“(C) *PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.*—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

“(D) *FEDERAL RESPONSIBILITY.*—Any responsibility of the Secretary not explicitly as-

1       *sumed by the State by written agreement under*  
 2       *this section shall remain the responsibility of the*  
 3       *Secretary.*

4               “(E) *NO EFFECT ON AUTHORITY.*—*Nothing*  
 5       *in this section preempts or interferes with any*  
 6       *power, jurisdiction, responsibility, or authority*  
 7       *of an agency, other than the Department of*  
 8       *Transportation, under applicable law (including*  
 9       *regulations) with respect to a rail project.*

10              “(F) *PRESERVATION OF FLEXIBILITY.*—*The*  
 11       *Secretary may not require a State, as a condi-*  
 12       *tion of participation in the program, to forego*  
 13       *project delivery methods that are otherwise per-*  
 14       *missible for rail projects.*

15       “(b) *STATE PARTICIPATION.*—

16              “(1) *PARTICIPATING STATES.*—*All States are eli-*  
 17       *gible to participate in the program.*

18              “(2) *APPLICATION.*—*Not later than 270 days*  
 19       *after the date of enactment of this section, the Sec-*  
 20       *retary shall promulgate regulations that establish re-*  
 21       *quirements relating to information required to be con-*  
 22       *tained in any application of a State to participate*  
 23       *in the program, including, at a minimum—*

1           “(A) the rail projects or classes of projects  
2           for which the State anticipates exercising the au-  
3           thority that may be granted under the program;

4           “(B) verification of the financial resources  
5           necessary to carry out the authority that may be  
6           granted under the program; and

7           “(C) evidence of the notice and solicitation  
8           of public comment by the State relating to par-  
9           ticipation of the State in the program, including  
10          copies of comments received from that sollicita-  
11          tion.

12          “(3) PUBLIC NOTICE.—

13               “(A) IN GENERAL.—Each State that sub-  
14               mits an application under this subsection shall  
15               give notice of the intent of the State to partici-  
16               pate in the program not later than 30 days be-  
17               fore the date of submission of the application.

18               “(B) METHOD OF NOTICE AND SOLICITA-  
19               TION.—The State shall provide notice and solicit  
20               public comment under this paragraph by pub-  
21               lishing the complete application of the State in  
22               accordance with the appropriate public notice  
23               law of the State.

1           “(4) *SELECTION CRITERIA.*—*The Secretary may*  
 2           *approve the application of a State under this section*  
 3           *only if—*

4                   “(A) *the regulatory requirements under*  
 5                   *paragraph (2) have been met;*

6                   “(B) *the Secretary determines that the State*  
 7                   *has the capability, including financial and per-*  
 8                   *sonnel, to assume the responsibility; and*

9                   “(C) *the head of the State agency having*  
 10                  *primary jurisdiction over rail matters enters*  
 11                  *into a written agreement with the Secretary de-*  
 12                  *scribed in subsection (c).*

13           “(5) *OTHER FEDERAL AGENCY VIEWS.*—*If a*  
 14           *State applies to assume a responsibility of the Sec-*  
 15           *retary that would have required the Secretary to con-*  
 16           *sult with another Federal agency, the Secretary shall*  
 17           *solicit the views of the Federal agency before approv-*  
 18           *ing the application.*

19           “(c) *WRITTEN AGREEMENT.*—*A written agreement*  
 20           *under this section shall—*

21                   “(1) *be executed by the Governor or the top-rank-*  
 22                   *ing transportation official in the State who is charged*  
 23                   *with responsibility for rail construction;*

24                   “(2) *be in such form as the Secretary may pre-*  
 25                   *scribe;*

1           “(3) provide that the State—

2                   “(A) agrees to assume all or part of the re-  
3                   sponsibilities of the Secretary described in sub-  
4                   section (a);

5                   “(B) expressly consents, on behalf of the  
6                   State, to accept the jurisdiction of the Federal  
7                   courts for the compliance, discharge, and enforce-  
8                   ment of any responsibility of the Secretary as-  
9                   sumed by the State;

10                  “(C) certifies that State laws (including  
11                  regulations) are in effect that—

12                          “(i) authorize the State to take the ac-  
13                          tions necessary to carry out the responsibil-  
14                          ities being assumed; and

15                          “(ii) are comparable to section 552 of  
16                          title 5, including providing that any deci-  
17                          sion regarding the public availability of a  
18                          document under those State laws is review-  
19                          able by a court of competent jurisdiction;  
20                          and

21                          “(D) agrees to maintain the financial re-  
22                          sources necessary to carry out the responsibilities  
23                          being assumed;

24                  “(4) shall have a term of not more than 5 years;

25                  and

1           “(5) *shall be renewable.*

2           “(d) *JURISDICTION.—*

3           “(1) *IN GENERAL.—The United States district*  
4           *courts shall have exclusive jurisdiction over any civil*  
5           *action against a State for failure to carry out any re-*  
6           *sponsibility of the State under this section.*

7           “(2) *LEGAL STANDARDS AND REQUIREMENTS.—*  
8           *A civil action under paragraph (1) shall be governed*  
9           *by the legal standards and requirements that would*  
10          *apply in such a civil action against the Secretary*  
11          *had the Secretary taken the actions in question.*

12          “(3) *INTERVENTION.—The Secretary shall have*  
13          *the right to intervene in any action described in*  
14          *paragraph (1).*

15          “(e) *EFFECT OF ASSUMPTION OF RESPONSIBILITY.—*  
16          *A State that assumes responsibility under subsection (a)(2)*  
17          *shall be solely responsible and solely liable for carrying out,*  
18          *in lieu of the Secretary, the responsibilities assumed under*  
19          *subsection (a)(2), until the program is terminated as pro-*  
20          *vided in subsection (j).*

21          “(f) *LIMITATIONS ON AGREEMENTS.—Nothing in this*  
22          *section permits a State to assume any rulemaking author-*  
23          *ity of the Secretary under any Federal law.*

24          “(g) *AUDITS.—*

1           “(1) *IN GENERAL.*—To ensure compliance by a  
 2       State with any agreement of the State under sub-  
 3       section (c) (including compliance by the State with  
 4       all Federal laws for which responsibility is assumed  
 5       under subsection (a)(2)), for each State participating  
 6       in the program under this section, the Secretary shall  
 7       conduct—

8           “(A) *semiannual audits during each of the*  
 9       *first 2 years of State participation; and*

10          “(B) *annual audits during each of the third*  
 11       *and fourth years of State participation.*

12          “(2) *PUBLIC AVAILABILITY AND COMMENT.*—

13          “(A) *IN GENERAL.*—An audit conducted  
 14       under paragraph (1) shall be provided to the  
 15       public for comment.

16          “(B) *RESPONSE.*—Not later than 60 days  
 17       after the date on which the period for public  
 18       comment ends, the Secretary shall respond to  
 19       public comments received under subparagraph  
 20       (A).

21          “(h) *MONITORING.*—After the fourth year of participa-  
 22       tion of the State in the program, the Secretary shall mon-  
 23       itor compliance by the State with the written agreement,  
 24       including the provision by the State of financial resources  
 25       to carry out the written agreement.

1       “(i) *REPORT TO CONGRESS.*—*The Secretary shall sub-*  
2 *mit to Congress an annual report that describes the admin-*  
3 *istration of the program.*

4       “(j) *TERMINATION.*—*The Secretary may terminate the*  
5 *participation of any State in the program if—*

6               “(1) *the Secretary determines that the State is*  
7 *not adequately carrying out the responsibilities as-*  
8 *signed to the State;*

9               “(2) *the Secretary provides to the State—*

10                       “(A) *notification of the determination of*  
11 *noncompliance; and*

12                       “(B) *a period of at least 30 days during*  
13 *which to take such corrective action as the Sec-*  
14 *retary determines is necessary to comply with*  
15 *the applicable agreement; and*

16               “(3) *the State, after the notification and period*  
17 *provided under paragraph (2), fails to take satisfac-*  
18 *tory corrective action, as determined by Secretary.*

19       **“§ 22911. Exemption in emergencies**

20               *“If any railroad, track, bridge, or other facility is in*  
21 *operation or under construction when damaged by an emer-*  
22 *gency declared by the Governor of the State and concurred*  
23 *in by the Secretary, or declared by the President pursuant*  
24 *to the Robert T. Stafford Disaster Relief and Emergency*  
25 *Assistance Act (42 U.S.C. 5121), is proposed to be recon-*

1 *structed with Federal funds, and is reconstructed in the*  
2 *same location with the same capacity, dimensions, and de-*  
3 *sign as before the emergency, then that reconstruction*  
4 *project shall be exempt from any further environmental re-*  
5 *views, approvals, licensing, and permit requirements*  
6 *under—*

7           “(1) *the National Environmental Policy Act of*  
8           *1969 (42 U.S.C. 4321 et seq.);*

9           “(2) *sections 402 and 404 of the Federal Water*  
10          *Pollution Control Act (33 U.S.C. 1342, 1344);*

11          “(3) *the National Historic Preservation Act (16*  
12          *U.S.C. 470 et seq.);*

13          “(4) *the Migratory Bird Treaty Act (16 U.S.C.*  
14          *703 et seq.);*

15          “(5) *the Wild and Scenic Rivers Act (16 U.S.C.*  
16          *1271 et seq.);*

17          “(6) *the Fish and Wildlife Coordination Act (16*  
18          *U.S.C. 661 et seq.);*

19          “(7) *the Endangered Species Act of 1973 (16*  
20          *U.S.C. 1531 et seq.), except when the reconstruction*  
21          *occurs in designated critical habitat for threatened*  
22          *and endangered species;*

23          “(8) *Executive Order 11990 (42 U.S.C. 4321*  
24          *note; relating to the protection of wetlands); and*

1           “(9) any Federal law (including regulations) re-  
2           quiring no net loss of wetlands.”.

3           (b) *CONFORMING AMENDMENT.*—The chapter analysis  
4 for subtitle V of title 49, United States Code, is amended  
5 by inserting after the item relating to chapter 227 the fol-  
6 lowing:

          “229. *Project development and review* .....22901”.

7       ***Subtitle D—Railroad Rehabilitation***  
8       ***and Improvement Financing***  
9       ***ing***

10      ***SEC. 8301. RAILROAD REHABILITATION AND IMPROVEMENT***  
11                           ***FINANCING.***

12           (a) *PURPOSE AND REGULATIONS.*—

13                   (1) *PURPOSE.*—The amendments made by this  
14 section are intended to encourage a higher level of  
15 participation in the railroad rehabilitation and im-  
16 provement financing program under section 502 of  
17 the Railroad Revitalization and Regulatory Reform  
18 Act of 1976 and to make the loan process under that  
19 program faster, more efficient, and more predictable.

20                   (2) *REGULATIONS.*—Not later than 1 year after  
21 the date of enactment of this Act, the Secretary shall  
22 issue regulations implementing the amendments made  
23 by this section in a manner that achieves the purpose  
24 stated in paragraph (1).

1       (b) *HIGH-SPEED RAIL*.—Section 502(b)(1)(C) of such  
 2 Act (45 U.S.C. 822(b)(1)(C)) is amended by inserting “,  
 3 including high-speed rail (as defined in section 26105(2)  
 4 of title 49, United States Code) facilities” after “railroad  
 5 facilities”.

6       (c) *PRIVATE INSURANCE*.—Section 502(f)(1) of such  
 7 Act (45 U.S.C. 822(f)(1)) is amended—

8           (1) by striking “under this section a commit-  
 9 ment” and inserting “under this section private in-  
 10 surance, including bond insurance, or any other com-  
 11 mitment”; and

12           (2) by inserting “or private insurance, including  
 13 bond insurance,” after “authority and credit risk pre-  
 14 miums”.

15       (d) *FINANCING OF CREDIT RISK PREMIUM*.—Section  
 16 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended by  
 17 inserting “, or, at the discretion of the Secretary, in a series  
 18 of payments over the term of the loan. If private insurance,  
 19 including bond insurance, is used, the policy premium shall  
 20 be paid before the loan is disbursed” after “of loan  
 21 amounts”.

22       (e) *COLLATERAL*.—

23           (1) *FULL VALUE*.—Section 502(h)(2) of such Act  
 24 (45 U.S.C. 822(h)(2)) is amended by inserting “Such  
 25 collateral shall be valued at 100 percent of the liq-

1        *uidated asset valuation, or going concern valuation*  
 2        *when applicable.” after “operation of the project.”.*

3            (2) *DEDICATED REVENUE AND SUBORDINA-*  
 4        *TION.—Such section 502(h)(2) is further amended—*

5                    (A) *by striking “(2) The Secretary” and in-*  
 6                    *serting “(2)(A) The Secretary”;*

7                    (B) *by adding at the end of subparagraph*  
 8                    (A) *the following: “The Secretary may subordi-*  
 9                    *nate rights of the Secretary under any provision*  
 10                    *of title 49 or title 23 of the United States Code,*  
 11                    *to the rights of the Secretary under this section*  
 12                    *and section 503.”; and*

13                    (C) *by adding at the end the following new*  
 14                    *subparagraph:*

15        *“(B) In the case of an applicant that is a State, an*  
 16        *Interstate compact, a local government authority as defined*  
 17        *in section 5302 of title 49, United States Code, or a high-*  
 18        *speed rail system as defined in section 26105 of title 49,*  
 19        *United States Code, the Secretary shall, for purposes of*  
 20        *making a finding under subsection (g)(4), accept the net*  
 21        *present value on a future stream of State or local subsidy*  
 22        *income or dedicated revenue as collateral offered to secure*  
 23        *the loan.”.*

24            (f) *OFFICE OF MANAGEMENT AND BUDGET.—Section*  
 25        *502(i) of such Act (45 U.S.C. 822(i)) is amended by insert-*

1 *ing “In order to enable compliance with such time limit,*  
 2 *the Office of Management and Budget shall take any actions*  
 3 *required with respect to the application within such 90-day*  
 4 *period.” after “disapprove the application.”.*

5 *(g) COMPLETION OF APPLICATION.—Section 502(i) of*  
 6 *such Act (45 U.S.C. 822(i)) is further amended—*

7 *(1) by striking “DISAPPROVAL.—Not later than*  
 8 *90 days after receiving” and inserting “DIS-*  
 9 *APPROVAL.—*

10 *“(1) IN GENERAL.—Not later than 90 days after*  
 11 *an application is determined pursuant to paragraph*  
 12 *(2) to be”; and*

13 *(2) by adding at the end the following new para-*  
 14 *graph:*

15 *“(2) COMPLETION OF APPLICATION.—The Sec-*  
 16 *retary shall establish procedures for making a deter-*  
 17 *mination not later than 45 days after submission of*  
 18 *an application under this section whether the appli-*  
 19 *cation is complete. Such procedures shall—*

20 *“(A) provide for a checklist of the required*  
 21 *components of a complete application;*

22 *“(B) provide that an independent financial*  
 23 *analyst be assigned within 45 days of submittal*  
 24 *to review the application;*

1           “(C) require the Secretary to provide to the  
 2           applicant a description of the specific compo-  
 3           nents of the application that remain incomplete  
 4           or unsatisfactory if an application is determined  
 5           to be incomplete; and

6           “(D) permit reapplication without prejudice  
 7           for applications determined to be incomplete or  
 8           unsatisfactory.”.

9           (h) *REPAYMENT DEFERRAL*.—Section 502(j) of such  
 10          Act (45 U.S.C. 822(j)) is amended by adding at the end  
 11          the following new paragraph:

12           “(3) *TREATMENT OF COSTS ASSOCIATED WITH*  
 13          *DEFERRAL*.—Any additional costs associated with a  
 14          deferred repayment schedule under paragraph (1)  
 15          may be financed over the remaining term of the loan  
 16          beginning at the time the payments begin, or may be  
 17          included in the credit risk premium determined under  
 18          subsection (f)(2).”.

19          (i) *POSITIVE TRAIN CONTROL*.—

20           (1) *PRIORITY*.—Section 502(c)(1) of such Act (45  
 21          U.S.C. 822(c)(1)) is amended by inserting “, includ-  
 22          ing projects for the installation of positive train con-  
 23          trol systems as defined in section 20157(i) of title 49,  
 24          United States Code” after “public safety”.

1           (2) *COLLATERAL*.—Section 502(h)(2) of such Act  
2           (45 U.S.C. 822(h)(2)), as amended by this section, is  
3           further amended by adding at the end the following  
4           new subparagraph:

5           “(C) For purposes of making a finding under sub-  
6           section (g)(4) with respect to an application for a project  
7           for the installation of positive train control systems, the col-  
8           lateral value of that asset shall be deemed to be equal to  
9           the total cost of the labor and materials associated with in-  
10          stalling the positive train control systems.”.

11          (j) *REPORT TO CONGRESS*.—Section 502 of such Act  
12          (45 U.S.C. 822) is amended by adding at the end the fol-  
13          lowing new subsection:

14          “(k) *REPORT TO CONGRESS*.—Not later than 1 year  
15          after the date of enactment of the American Energy and  
16          Infrastructure Jobs Act of 2012, and annually thereafter,  
17          the Secretary shall transmit to the Congress a report on  
18          the program under this section that summarizes the number  
19          of loans approved and disapproved by the Secretary during  
20          the previous year. Such report shall not disclose the identity  
21          of loan or loan guarantee recipients. The report shall de-  
22          scribe—

23                 “(1) the number of preapplication meetings with  
24                 potential applicants;

1           “(2) the number of applications received and de-  
 2           termined complete under subsection (i)(2), including  
 3           the requested loan amounts;

4           “(3) the dates of receipt of applications;

5           “(4) the dates applications were determined com-  
 6           plete under subsection (i)(2);

7           “(5) the number of applications determined in-  
 8           complete under subsection (i)(2);

9           “(6) the final decision dates for both approvals  
 10          and denials of applications;

11          “(7) the number of applications withdrawn from  
 12          consideration; and

13          “(8) the annual loan portfolio asset quality.”.

14          (k) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
 15          502 of such Act (45 U.S.C. 822) is amended by adding at  
 16          the end the following new subsection:

17          “(l) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
 18          authorized to be appropriated to the Secretary for purposes  
 19          of carrying out subsections (f)(3) and (j)(3), \$50,000,000  
 20          for fiscal year 2013.”.

## 21       ***Subtitle E—Positive Train Control***

### 22       ***SEC. 8401. POSITIVE TRAIN CONTROL.***

23          (a) *RAILROAD SAFETY RISK REDUCTION PROGRAM.*—  
 24          Section 20156(e)(4) of title 49, United States Code, is  
 25          amended to read as follows:

1           “(4) *POSITIVE TRAIN CONTROL*.—*Except as re-*  
 2           *quired by section 20157 (relating to the requirements*  
 3           *for implementation of positive train control systems),*  
 4           *the Secretary shall ensure that each railroad carrier’s*  
 5           *technology implementation plan required under para-*  
 6           *graph (1) that includes a schedule for implementation*  
 7           *of a positive train control system complies with that*  
 8           *schedule. Nothing in this section shall be construed as*  
 9           *requiring the installation of positive train control on*  
 10           *railroad tracks if positive train control is not re-*  
 11           *quired on those tracks by section 20157 and positive*  
 12           *train control on those tracks is not chosen by the rail-*  
 13           *road as a technology to be implemented under this*  
 14           *section.”.*

15           (b) *IMPLEMENTATION OF POSITIVE TRAIN CONTROL*  
 16           *SYSTEMS*.—*Section 20157 of title 49, United States Code,*  
 17           *is amended—*

18                   (1) *in subsection (a)(1)—*

19                           (A) *by striking “December 31, 2015” and*  
 20                           *inserting “December 31, 2020”;*

21                           (B) *by inserting “and” after the semicolon*  
 22                           *at the end of subparagraph (A);*

23                           (C) *by striking “; and” at the end of sub-*  
 24                           *paragraph (B) and inserting “on or after De-*  
 25                           *cember 31, 2020.”; and*

1                   (D) by striking subparagraph (C);

2                   (2) by adding at the end of subsection (a) the fol-  
3                   lowing new paragraph:

4                   “(3) *ALTERNATIVE STRATEGY.*—A plan sub-  
5                   mitted under this subsection may provide that, in lieu  
6                   of installing positive train control on all or some of  
7                   the tracks on which positive train control is otherwise  
8                   required to be installed pursuant to paragraph  
9                   (1)(B), the railroad carrier will utilize an alternative  
10                  risk reduction strategy that would reduce the risk of  
11                  release of poison- or toxic-by-inhalation hazardous  
12                  materials to the same extent the risk of a release of  
13                  poison- or toxic-by-inhalation hazardous materials  
14                  would be reduced if positive train control were in-  
15                  stalled on those tracks. An alternative risk reduction  
16                  strategy may only be used pursuant to this para-  
17                  graph on tracks for which positive train control is not  
18                  required pursuant to paragraph (1)(A).”;

19                  (3) in subsection (c)—

20                   (A) by striking “APPROVAL.—Not later  
21                   than 90 days after the Secretary receives a plan”  
22                   and inserting “APPROVAL.—

23                   “(1) *IN GENERAL.*—Not later than 90 days after  
24                   the Secretary receives a plan or revision of a plan  
25                   under this section”; and

1                   (B) by adding at the end the following new  
2                   paragraph:

3                   “(2) *REVISION OF PLAN.*—A railroad carrier  
4                   may revise a plan under this section as necessary to  
5                   reflect rail lines that are added or removed, or to re-  
6                   flect alternative risk reduction strategies proposed  
7                   pursuant to subsection (a)(3).”;

8                   (4) in subsection (d)—

9                   (A) by striking “December 31, 2012” and  
10                  inserting “December 31, 2015”; and

11                  (B) by inserting “and alternative risk re-  
12                  duction strategies. Such report shall include any  
13                  recommendations for improving the ability of  
14                  rail carriers to implement positive train control  
15                  systems or alternative risk reduction strategies  
16                  in accordance with this section” after “positive  
17                  train control systems”;

18                  (5) in subsection (e), by inserting “and alter-  
19                  native risk reduction strategies” after “positive train  
20                  control”; and

21                  (6) in subsection (f), by striking “or section  
22                  20156” the first place it appears.

1       ***Subtitle F—Regulatory Reform***

2       ***SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULA-***  
3                               ***TIONS.***

4           (a) *AMENDMENT.*—Section 103 of title 49, United  
5       *States Code, is amended by adding at the end the following*  
6       *new subsection:*

7           “(l) *IMPROVING REGULATION AND REGULATORY RE-*  
8       *VIEW.*—

9                       “(1) *IN GENERAL.*—Before any final regulation  
10       *within the jurisdiction of the Administration is*  
11       *issued, the Administrator shall make all preliminary*  
12       *and final determinations based on evidence and con-*  
13       *sider, in addition to other applicable considerations,*  
14       *the following:*

15                       “(A) *The legal authority under which a rule*  
16       *may be proposed, including whether a rule-*  
17       *making is required by statute, and if so, whether*  
18       *by a specific date, or whether the agency has dis-*  
19       *cretion to commence a rulemaking.*

20                       “(B) *Other statutory considerations appli-*  
21       *cable to whether the agency can or should pro-*  
22       *pose a rule or undertake other agency action.*

23                       “(C) *The specific nature and significance of*  
24       *the problem the agency may address with a rule*  
25       *(including the degree and nature of risks the*

1        *problem poses and the priority of addressing*  
2        *those risks compared to other matters or activi-*  
3        *ties within the agency’s jurisdiction), whether the*  
4        *problem warrants new agency action, and the*  
5        *countervailing risks that may be posed by alter-*  
6        *natives for new agency action.*

7                *“(D) Whether existing rules have created or*  
8        *contributed to the problem the agency may ad-*  
9        *dress with a rule and whether those rules could*  
10       *be amended or rescinded to address the problem*  
11       *in whole or part.*

12               *“(E) The best reasonably obtainable sci-*  
13       *entific, technical, and other information related*  
14       *to the need for, and consequences of, the rule.*

15               *“(F) The potential costs and benefits, in-*  
16       *cluding direct, indirect, and cumulative costs*  
17       *and benefits and estimated impacts on jobs, eco-*  
18       *nomie growth, innovation, and economic com-*  
19       *petitiveness.*

20               *“(G) Means to increase the cost-effectiveness*  
21       *of any Federal response.*

22               *“(H) Incentives for innovation, consistency,*  
23       *predictability, lower costs of enforcement and*  
24       *compliance (to government entities, regulated en-*  
25       *tities, and the public), and flexibility.*

1           “(I) Any reasonable alternatives for a new  
2 rule or other response identified by the agency or  
3 interested persons, including not only responses  
4 that mandate particular conduct or manners of  
5 compliance, but also—

6           “(i) the alternative of no Federal re-  
7 sponse;

8           “(ii) amending or rescinding existing  
9 rules;

10           “(iii) potential regional, State, local,  
11 or tribal regulatory action or other re-  
12 sponses that could be taken in lieu of agency  
13 action; and

14           “(iv) potential responses that—

15           “(I) specify performance objectives  
16 rather than conduct or manners of  
17 compliance;

18           “(II) establish economic incentives  
19 to encourage desired behavior;

20           “(III) provide information upon  
21 which choices can be made by the pub-  
22 lic; or

23           “(IV) incorporate other innovative  
24 alternatives rather than agency actions

1                   *that specify conduct or manners of*  
2                   *compliance.*

3           “(2) *PUBLIC COMMENT.*—*The Administrator*  
4           *shall solicit and take into consideration public com-*  
5           *ment on the subjects described in subparagraphs (A)*  
6           *through (I) of paragraph (1) before issuance of a final*  
7           *regulation described in paragraph (1).*

8           “(3) *AGENCY STATEMENTS.*—

9                   “(A) *IN GENERAL.*—*The Administrator*  
10           *shall follow applicable rulemaking procedures*  
11           *under section 553 of title 5 before issuing a bind-*  
12           *ing obligation applicable to recipients of Federal*  
13           *assistance.*

14                   “(B) *BINDING OBLIGATION DEFINED.*—*In*  
15           *this paragraph, the term ‘binding obligation’*  
16           *means a substantive policy statement, rule, or*  
17           *guidance document issued by the Administration*  
18           *that grants rights, imposes obligations, produces*  
19           *significant effects on private interests, or effects*  
20           *a significant change in existing policy.”.*

21           “(b) *EFFECTIVE DATE.*—*Paragraphs (1) and (2) of the*  
22           *subsection (l) added by the amendment made by subsection*  
23           *(a) of this section shall be effective only with respect to regu-*  
24           *lations with respect to which no notice of proposed rule-*

1 *making has been issued before the date of enactment of this*  
 2 *Act.*

### 3 ***Subtitle G—Technical Corrections***

#### 4 ***SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS,*** 5 ***AND REPEALS.***

6 *(a) TECHNICAL CORRECTIONS TO PROVISIONS OF THE*  
 7 *UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE*  
 8 *RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) Section*  
 9 *1139 of title 49, United States Code, is amended—*

10 *(A) in subsection (a)(1) by striking “phone num-*  
 11 *ber” and inserting “telephone number”;*

12 *(B) in subsection (a)(2) by striking “post trau-*  
 13 *ma communication with families” and inserting*  
 14 *“post-trauma communication with families”; and*

15 *(C) in subsection (j)(2) by striking “railroad*  
 16 *passenger accident” and inserting “rail passenger ac-*  
 17 *cident”.*

18 *(2) Section 10909 of title 49, United States Code, is*  
 19 *amended—*

20 *(A) in subsection (b), by striking “Clean Rail-*  
 21 *road Act of 2008,” and inserting “Clean Railroads*  
 22 *Act of 2008,”; and*

23 *(B) in subsection (e), by striking “Upon the*  
 24 *granting of petition from the State” and inserting*  
 25 *“Upon the granting of a petition from the State”.*

1       (3) *Section 20116 of title 49, United States Code, is*  
2 *amended—*

3           (A) *by inserting “(1)” after “unless”; and*

4           (B) *by inserting “(2)” before “the code, rule,*  
5 *standard, requirement, or practice has been subject to*  
6 *notice and comment under a rule or order issued*  
7 *under this part.”.*

8       (4) *Section 20120(a) of title 49, United States Code,*  
9 *is amended—*

10           (A) *by striking “website” and inserting “Web*  
11 *site”;*

12           (B) *in paragraph (1), by striking “accident and*  
13 *incidence reporting” and inserting “accident and in-*  
14 *cident reporting”;*

15           (C) *in paragraph (2)(G), by inserting “and” at*  
16 *the end; and*

17           (D) *in paragraph (5)(B), by striking “Adminis-*  
18 *trative Hearing Officer or Administrative Law*  
19 *Judge” and inserting “administrative hearing officer*  
20 *or administrative law judge”.*

21       (5) *Section 20156 of title 49, United States Code, is*  
22 *amended—*

23           (A) *in subsection (c), by inserting a comma after*  
24 *“In developing its railroad safety risk reduction pro-*  
25 *gram”; and*

1           (B) in subsection (g)(1), by inserting a comma  
2       after “good faith” and by striking “non-profit” and  
3       inserting “nonprofit”.

4       (6) Section 20157(a)(1)(B) of title 49, United States  
5       Code, is amended by striking “parts 171.8, 173.115, and  
6       173.132” and inserting “sections 171.8, 173.115, and  
7       173.132”.

8       (7) Section 20159 of title 49, United States Code, is  
9       amended by striking “the Secretary” and inserting “the  
10      Secretary of Transportation”.

11      (8) Section 20160 of title 49, United States Code, is  
12      amended—

13           (A) in subsection (a)(1), by striking “or with”  
14      and inserting “with”; and

15           (B) in subsection (b)(1)(A), by striking “or  
16      with” and inserting “with”.

17      (9) Section 20162(a)(3) of title 49, United States Code,  
18      is amended by striking “railroad compliance with Federal  
19      standards” and inserting “railroad carrier compliance with  
20      Federal standards”.

21      (10) Section 20164(a) of title 49, United States Code,  
22      is amended by striking “after enactment of the Railroad  
23      Safety Enhancement Act of 2008” and inserting “after the  
24      enactment of the Rail Safety Improvement Act of 2008”.

1       (11) *Section 22106(b) of title 49, United States Code,*  
 2 *is amended by striking “interest thereof” and inserting “in-*  
 3 *terest thereon”.*

4       (12) *The item relating to section 24316 in the chapter*  
 5 *analysis for chapter 243 of title 49, United States Code,*  
 6 *is amended by striking “to assist families of passengers”*  
 7 *and inserting “to address needs of families of passengers”.*

8       (b) *TECHNICAL CORRECTIONS TO RAIL SAFETY IM-*  
 9 *PROVEMENT ACT OF 2008.—(1) The table of contents in sec-*  
 10 *tion 1(b) of the Rail Safety Improvement Act of 2008 is*  
 11 *amended—*

12               (A) *in the item relating to section 307, by strik-*  
 13 *ing “website” and inserting “Web site”;*

14               (B) *in the item relating to section 403, by strik-*  
 15 *ing “Track inspection time study” and inserting*  
 16 *“Study and rulemaking on track inspection time;*  
 17 *rulemaking on concrete cross ties”;*

18               (C) *in the item relating to section 408, by strik-*  
 19 *ing “Conrail” and inserting “Consolidated Rail Cor-*  
 20 *poration”;*

21               (D) *in the item relating to title VI, by striking*  
 22 *“SOLID WASTE FACILITIES” and inserting “SOLID*  
 23 *WASTE RAIL TRANSFER FACILITIES”;* *and*

1           (E) in the item relating to section 602 by strik-  
2           ing “solid waste transfer facilities” and inserting  
3           “solid waste rail transfer facilities”.

4           (2) Section 2(a)(1) of the Rail Safety Improvement Act  
5 of 2008 is amended by inserting a comma after “tracks at  
6 grade”.

7           (3) Section 102(a)(6) of the Rail Safety Improvement  
8 Act of 2008 is amended to read as follows:

9           “(6) Improving the safety of railroad bridges,  
10          tunnels, and related infrastructure to prevent acci-  
11          dents, incidents, injuries, and fatalities caused by cat-  
12          astrophic and other failures of such infrastructure.”.

13          (4) Section 206(a) of the Rail Safety Improvement Act  
14 of 2008 is amended by striking “Public Service Announce-  
15 ments” and inserting “public service announcements”.

16          (5) Section 307 of the Rail Safety Improvement Act  
17 of 2008 is amended—

18           (A) in the section heading, by striking  
19           “**WEBSITE**” and inserting “**WEB SITE**”;

20           (B) in subsection (a), by striking “website” each  
21           place it appears and inserting “Web site”; and

22           (C) in subsection (b), by striking “website’s” and  
23           inserting “Web site’s”.

24          (6) Section 403 of the Rail Safety Improvement Act  
25 of 2008 is amended in the section heading by striking

1 **“*TRACK INSPECTION TIME STUDY*”** and inserting  
 2 **“*STUDY AND RULEMAKING ON TRACK INSPECTION***  
 3 ***TIME; RULEMAKING ON CONCRETE CROSS TIES*”**.

4 (7) *Section 405 of the Rail Safety Improvement Act*  
 5 *of 2008 is amended—*

6 (A) *in subsection (a), by striking “cell phones”*  
 7 *and inserting “cellular telephones”; and*

8 (B) *in subsection (d), by striking “Secretary of*  
 9 *Transportation” and inserting “Secretary”.*

10 (8) *Section 408 of the Rail Safety Improvement Act*  
 11 *of 2008 is amended in the section heading by striking*  
 12 **“*CONRAIL*”** and inserting **“*CONSOLIDATED RAIL COR-***  
 13 ***PORATION*”**.

14 (9) *Section 412 of the Rail Safety Improvement Act*  
 15 *of 2008 is amended by striking “Secretary of Transpor-*  
 16 *tation” and inserting “Secretary”.*

17 (10) *Section 414 of the Rail Safety Improvement Act*  
 18 *of 2008 is amended—*

19 (A) *by striking “parts 171.8, 173.115,” and in-*  
 20 *serting “sections 171.8, 173.115,”; and*

21 (B) *by striking “part 1520.5” and inserting*  
 22 *“section 1520.5”.*

23 (11) *Section 416 of the Rail Safety Improvement Act*  
 24 *of 2008 is amended—*

1           (A) *by striking “Secretary of Transportation”*  
2           *and inserting “Secretary”; and*

3           (B) *in paragraph (4), by striking “subsection”*  
4           *and inserting “section”.*

5       (12) *Section 417(c) of the Rail Safety Improvement*  
6 *Act of 2008 is amended by striking “each railroad” and*  
7 *inserting “each railroad carrier”.*

8       (13) *Section 503 of the Rail Safety Improvement Act*  
9 *of 2008 is amended—*

10           (A) *in subsection (b)—*

11               (i) *in paragraph (1), by striking “passenger*  
12 *rail accidents” and inserting “rail passenger ac-*  
13 *cidents”;*

14               (ii) *by striking “passenger rail accident”*  
15 *each place it appears and inserting “rail pas-*  
16 *senger accident”; and*

17               (iii) *in paragraph (4), by striking “a count*  
18 *of the number of passengers onboard the train”*  
19 *and inserting “a count of the number of pas-*  
20 *sengers aboard the train”; and*

21           (B) *by adding at the end a new subsection (d)*  
22 *to read as follows:*

23           “(d) *DEFINITIONS.—In this section, the terms ‘pas-*  
24 *senger’ and ‘rail passenger accident’ have the meaning*  
25 *given those terms by section 1139 of this title.”.*

1       (14) *The heading title VI of the Rail Safety Improve-*  
 2 *ment Act of 2008 is amended by striking “**SOLID***  
 3 ***WASTE FACILITIES**” and inserting “**SOLID***  
 4 ***WASTE RAIL TRANSFER FACILITIES**”.*

5       (15) *The heading of section 602 of the Rail Safety Im-*  
 6 *provement Act of 2008 is amended by striking “**SOLID***  
 7 ***WASTE TRANSFER FACILITIES**” and inserting “**SOLID***  
 8 ***WASTE RAIL TRANSFER FACILITIES**”.*

9       (c) *TECHNICAL CORRECTIONS TO PROVISIONS OF THE*  
 10 *UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE*  
 11 *PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF*  
 12 *2008.—*

13               (1) *ALTERNATE PASSENGER RAIL SERVICE*  
 14 *PILOT.—Section 24711 of title 49, United States*  
 15 *Code, is amended—*

16                       (A) *in subsection (a)(1) by striking “a pe-*  
 17 *riod not to exceed 5 years after the date of enact-*  
 18 *ment of the Passenger Rail Investment and Im-*  
 19 *provement Act of 2008” and inserting “an oper-*  
 20 *ations period of 5 years, renewable for a second*  
 21 *5-year operations period at the discretion of the*  
 22 *Administrator”; and*

23                       (B) *by inserting after subsection (e) the fol-*  
 24 *lowing new subsection:*

1       “(f) *TRANSFER AUTHORITY.*—*The Secretary of Trans-*  
 2       *portation may provide directly to a winning bidder selected*  
 3       *under this section any portion of appropriations for Am-*  
 4       *trak operations necessary to cover the operating subsidy de-*  
 5       *scribed in subsection (a)(5)(B).”.*

6               (2) *COMPETITIVE GRANT SELECTION AND CRI-*  
 7       *TERIA FOR GRANTS.*—*Section 26106(e)(2) of title 49,*  
 8       *United States Code, is amended—*

9               (A) *in subparagraph (A)(v), by striking*  
 10       *“that if an applicant has selected the proposed*  
 11       *operator of its service, that the applicant pro-*  
 12       *vide”, and inserting “that the applicant shall se-*  
 13       *lect the proposed operator of its service competi-*  
 14       *tively, and that the applicant shall provide”;*  
 15       *and*

16              (B) *in subparagraph (B)(ii)—*

17              (i) *by inserting “and” at the end of*  
 18       *subclause (I);*

19              (ii) *by inserting “and” at the end of*  
 20       *subclause (II); and*

21              (iii) *by striking subclauses (III) and*  
 22       *(IV).*

23       (d) *STATE-SUPPORTED ROUTES.*—*Section 209(c) of*  
 24       *the Passenger Rail Investment and Improvement Act of*  
 25       *2008 (Public Law 110–432, 122 Stat. 4918) is amended*

1 *by striking “within 1 year after the Board’s determination”*  
 2 *and inserting “by the first day of the first fiscal year begin-*  
 3 *ning at least 1 year after the Board’s determination”.*

4 ***Subtitle H—Miscellaneous***

5 ***SEC. 8701. APPLICATION OF BUY AMERICA TO INTERCITY***  
 6 ***PASSENGER RAIL SERVICE CORRIDORS.***

7 *Section 24405(a) of title 49, United States Code, is*  
 8 *amended—*

9 *(1) by striking paragraph (4) and redesignating*  
 10 *paragraphs (5) through (11) as paragraphs (4)*  
 11 *through (10), respectively; and*

12 *(2) by adding at the end the following new para-*  
 13 *graphs:*

14 *“(11) The requirements of this subsection apply to all*  
 15 *contracts for a project carried out within the scope of the*  
 16 *applicable finding, determination, or decision under the*  
 17 *National Environmental Policy Act of 1969 (42 U.S.C.*  
 18 *4321 et seq.), regardless of the funding source of such con-*  
 19 *tracts, if at least one contract for the project is funded with*  
 20 *amounts made available to carry out this title.*

21 *“(12) If the Secretary receives a request for a waiver*  
 22 *under this subsection, the Secretary shall provide notice of*  
 23 *and an opportunity for public comment on the request at*  
 24 *least 30 days before making a finding based on the request.*  
 25 *Such a notice shall include the information available to the*

1 *Secretary concerning the request and shall be provided by*  
 2 *electronic means, including on the official public Internet*  
 3 *Web site of the Department of Transportation. If the Sec-*  
 4 *retary issues a waiver under this subsection, the Secretary*  
 5 *shall publish in the Federal Register a detailed justification*  
 6 *for the waiver that addresses the public comments received*  
 7 *under this paragraph and shall ensure that such justifica-*  
 8 *tion is published before the waiver takes effect.”.*

9 **SEC. 8702. PROHIBITION ON USE OF FUNDS FOR CALI-**  
 10 **FORNIA HIGH-SPEED RAIL.**

11 *No funds made available to carry out this Act or any*  
 12 *amendment made by this Act may be used for high-speed*  
 13 *rail in the State of California, for the California High-*  
 14 *Speed Rail Authority, or for projects designed to further*  
 15 *high-speed rail in the State of California.*

16 **SEC. 8703. DISADVANTAGED BUSINESS ENTERPRISES.**

17 *(a) AVAILABILITY OF FUNDS.—Except to the extent*  
 18 *that the Secretary determines otherwise, not less than 10*  
 19 *percent of the amounts made available for any capital grant*  
 20 *program under the jurisdiction of the Federal Railroad Ad-*  
 21 *ministration shall be expended through small business con-*  
 22 *cerns owned and controlled by socially and economically*  
 23 *disadvantaged individuals.*

24 *(b) DEFINITIONS.—In this section, the following defi-*  
 25 *nitions apply:*

1           (1) *SMALL BUSINESS CONCERN.*—*The term*  
 2           *“small business concern” has the meaning that term*  
 3           *has under section 3 of the Small Business Act (15*  
 4           *U.S.C. 632), except that the term shall not include*  
 5           *any concern or group of concerns controlled by the*  
 6           *same socially and economically disadvantaged indi-*  
 7           *vidual or individuals which has average annual gross*  
 8           *receipts over the preceding 3 fiscal years in excess of*  
 9           *\$22,410,000, as adjusted annually by the Secretary of*  
 10          *Transportation for inflation.*

11          (2) *SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.*—*The term “socially and eco-*  
 12          *nomically disadvantaged individuals” has the mean-*  
 13          *ing that term has under section 8(d) of the Small*  
 14          *Business Act (15 U.S.C. 637(d)) and relevant subcon-*  
 15          *tracting regulations issued pursuant to that Act, ex-*  
 16          *cept that women shall be presumed to be socially and*  
 17          *economically disadvantaged individuals for purposes*  
 18          *of this section.*

20          (c) *COMPLIANCE WITH COURT ORDERS.*—*Nothing in*  
 21          *this subsection limits the eligibility of an entity or person*  
 22          *to receive funds made available for any capital grant pro-*  
 23          *gram under the jurisdiction of the Federal Railroad Admin-*  
 24          *istration, if the entity or person is prevented, in whole or*  
 25          *in part, from complying with subsection (a) because a Fed-*

1 eral court issues a final order in which the court finds that  
 2 the requirement of subsection (a), or the program estab-  
 3 lished under subsection (a), is unconstitutional.

4 (d) *PROGRAM IMPLEMENTATION.*—This section shall  
 5 be carried out by the Secretary and by States in a manner  
 6 consistent with that by which the disadvantaged business  
 7 enterprises program authorized by section 1101(c) of this  
 8 Act is carried out.

## 9 **TITLE IX—HAZARDOUS** 10 **MATERIAL TRANSPORTATION**

### 11 **SEC. 9001. SHORT TITLE.**

12 This title may be cited as the “Hazardous Material  
 13 Transportation Safety, Efficiency, and Accountability Act  
 14 of 2012”.

### 15 **SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

16 Except as otherwise provided, whenever in this Act an  
 17 amendment or repeal is expressed in terms of an amend-  
 18 ment to, or repeal of, a section or other provision, the ref-  
 19 erence shall be considered to be made to a section or other  
 20 provision of title 49, United States Code.

### 21 **SEC. 9003. FINDINGS.**

22 Congress finds the following:

23 (1) There are annually 2.2 billion tons of haz-  
 24 ardous material shipments by all modes across the  
 25 United States totaling more than \$1.4 trillion.

1           (2) *The number of fatalities and serious injuries*  
2           *caused by the transportation of hazardous material*  
3           *has been historically low, averaging 4.2 fatalities per*  
4           *100 million shipments – meaning an American is*  
5           *about 4 times more likely to be killed by lightning*  
6           *than a hazardous material in transportation. In fis-*  
7           *cal year 2010, there was the lowest number of haz-*  
8           *ardous material incidents on record.*

9           (3) *It is critical to the economic health of the*  
10          *Nation that the laws and regulations governing the*  
11          *transportation of hazardous material maintain a*  
12          *high level of safety, while balancing the need for eco-*  
13          *nomie growth, innovation, competitiveness, and job*  
14          *creation.*

15          (4) *The individuals involved in the transpor-*  
16          *tation stream and the public benefit from a regu-*  
17          *latory regime that is certain, uniform, cost-efficient,*  
18          *and science-based.*

19          (5) *Because of the potential risks to life, prop-*  
20          *erty, and the environment posed by an unintentional*  
21          *release of hazardous material, consistency and uni-*  
22          *formity in laws and regulation regarding the trans-*  
23          *portation of hazardous material is necessary and de-*  
24          *sirable.*

1 **SEC. 9004. PURPOSES.**

2       Section 5101 is amended by striking “that are inher-  
3 ent”.

4 **SEC. 9005. DEFINITIONS.**

5       (a) *HAZMAT EMPLOYER*.—Section 5102(4)(A)(i)(I) is  
6 amended by striking “or uses”.

7       (b) *TRANSPORTS*.—Section 5102(13) is amended to  
8 read as follows:

9               “(13) ‘transports’ or ‘transportation’—

10               “(A) means the movement of property and  
11 loading, unloading, handling, or storage inci-  
12 dental to the movement;

13               “(B) includes all activities related to—

14               “(i) loading or unloading packaged or  
15 containerized hazardous material, such as  
16 portable tanks, cylinders, and intermediate  
17 bulk containers, onto a transport vehicle,  
18 rail car, aircraft, or vessel at its origin,  
19 during en route movement, or at its des-  
20 tination; or

21               “(ii) loading or unloading a hazardous  
22 material into or from a bulk packaging  
23 with a capacity greater than 3,000 liters,  
24 such as a portable tank, cargo tank, or rail  
25 tank car, at its origin, during en route  
26 movement, or at its destination; and

1           “(C) includes storage of a hazardous mate-  
 2           rial from the time the hazardous material is  
 3           loaded for purposes of movement until the haz-  
 4           ardous material is unloaded at its destination,  
 5           including during en route movement.”.

6 **SEC. 9006. GENERAL REGULATORY AUTHORITY.**

7           (a) *REGULATIONS FOR SAFE TRANSPORTATION.*—Sec-  
 8           tion 5103(b)(1)(A) is amended—

- 9                   (1) in clause (vi) by striking “or” at the end;  
 10                   (2) by redesignating clause (vii) as clause (viii);  
 11                   (3) by inserting after clause (vi) the following:

12                           “(vii) provides hazardous material  
 13                           transportation emergency response informa-  
 14                           tion services required or governed by regula-  
 15                           tions prescribed under this chapter; or”;  
 16                           and

- 17                   (4) in clause (viii) (as redesignated by para-  
 18                   graph (2) of this section) by striking “(vi); and” and  
 19                   inserting “(vii);”.

20           (b) *FITNESS DETERMINATIONS.*—

- 21                   (1) *IN GENERAL.*—Section 5103(b)(1) is amend-  
 22                   ed—

23                           (A) in subparagraph (B) by striking the pe-  
 24                           riod at the end and inserting “; and”; and

25                           (B) by adding at the end the following:

1           “(C) shall govern the procedures and criteria  
2           used by the Secretary for determining the fitness of a  
3           person applying for an approval or a special permit  
4           under the regulations.”.

5           (2) *REGULATION REQUIRED.*—In accordance  
6           with section 5103(b)(2) of title 49, United States  
7           Code, not later than 1 year after the date of enact-  
8           ment of this Act, the Secretary of Transportation  
9           shall take all actions necessary to finalize a regula-  
10          tion pursuant to section 5103(b)(1)(C) of such title.

11          (c) *IMPROVING REGULATIONS AND REGULATORY RE-*  
12 *VIEW.*—

13           (1) *IN GENERAL.*—Section 5103(b) is amended  
14          by adding at the end the following:

15          “(3) Before any final regulation within the jurisdic-  
16          tion of the Secretary is issued, the Secretary shall make all  
17          preliminary and final determinations based on evidence  
18          and consider, in addition to other applicable consider-  
19          ations, the following:

20           “(A) The legal authority under which a rule  
21          may be proposed, including whether a rulemaking is  
22          required by statute, and if so, whether by a specific  
23          date, or whether the agency has discretion to com-  
24          mence a rulemaking.

1           “(B) Other statutory considerations applicable to  
2           whether the agency can or should propose a rule or  
3           undertake other agency action.

4           “(C) The specific nature and significance of the  
5           problem the agency may address with a rule (includ-  
6           ing the degree and nature of risks the problem poses  
7           and the priority of addressing those risks compared to  
8           other matters or activities within the agency’s juris-  
9           diction), whether the problem warrants new agency  
10          action, and the countervailing risks that may be  
11          posed by alternatives for new agency action.

12          “(D) Whether existing rules have created or con-  
13          tributed to the problem the agency may address with  
14          a rule and whether those rules could be amended or  
15          rescinded to address the problem in whole or part.

16          “(E) The best reasonably obtainable scientific,  
17          technical, and other information related to the need  
18          for, and consequences of, the rule.

19          “(F) The potential costs and benefits, including  
20          direct, indirect, and cumulative costs and benefits  
21          and estimated impacts on jobs, economic growth, in-  
22          novation, and economic competitiveness.

23          “(G) Means to increase the cost-effectiveness of  
24          any Federal response.

1           “(H) *Incentives for innovation, consistency, pre-*  
2           *dictability, lower costs of enforcement and compliance*  
3           *(to government entities, regulated entities, and the*  
4           *public), and flexibility.*

5           “(I) *Any reasonable alternatives for a new rule*  
6           *or other response identified by the agency or inter-*  
7           *ested persons, including not only responses that man-*  
8           *date particular conduct or manners of compliance,*  
9           *but also—*

10               “(i) *the alternative of no Federal response;*

11               “(ii) *amending or rescinding existing rules;*

12               “(iii) *potential regional, State, local, or*  
13               *tribal regulatory action or other responses that*  
14               *could be taken in lieu of agency action; and*

15               “(iv) *potential responses that—*

16                       “(I) *specify performance objectives*  
17                       *rather than conduct or manners of compli-*  
18                       *ance;*

19                       “(II) *establish economic incentives to*  
20                       *encourage desired behavior;*

21                       “(III) *provide information upon which*  
22                       *choices can be made by the public; or*

23                       “(IV) *incorporate other innovative al-*  
24                       *ternatives rather than agency actions that*  
25                       *specify conduct or manners of compliance.*

1       “(4) *The Secretary shall solicit and take into consider-*  
 2       *ation public comment on the subjects described in subpara-*  
 3       *graphs (A) through (I) of paragraph (3) before issuance of*  
 4       *a final regulation described in paragraph (3).*

5       “(5) *The Secretary shall follow applicable rulemaking*  
 6       *procedures under section 553 of title 5 before issuing a bind-*  
 7       *ing obligation applicable to recipients of Federal assistance.*  
 8       *In this paragraph, the term ‘binding obligation’ means a*  
 9       *substantive policy statement, rule, or guidance document*  
 10       *issued by the Secretary that grants rights, imposes obliga-*  
 11       *tions, produces significant effects on private interests, or ef-*  
 12       *fects a significant change in existing policy.”.*

13               (2) *EFFECTIVE DATE.—The amendment made by*  
 14       *paragraph (1) of this subsection shall apply to regula-*  
 15       *tions for which the notice of proposed rulemaking is*  
 16       *published after the date of enactment of this Act.*

17               (d) *INCORPORATION BY REFERENCE.—Section 5103(b)*  
 18       *is further amended by adding after paragraph (5) (as added*  
 19       *by subsection (c)(1) of this section) the following:*

20       “(6) *In considering whether to incorporate by reference*  
 21       *any publication in prescribing regulations, the Secretary*  
 22       *shall—*

23               “(A) *consider—*

24                       “(i) *the cost of such publication;*

25                       “(ii) *the broadness of its applicability;*

1                   “(iii) the cost imposed on the public in ac-  
2                   quiring such publication; and

3                   “(iv) other alternatives to incorporation by  
4                   reference; and

5                   “(B) either incorporate by reference the publica-  
6                   tion or use the alternative that meets the Department  
7                   of Transportation’s safety objectives in the most cost-  
8                   effective manner.”.

9   **SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANS-**  
10                   **PORTING RADIOACTIVE MATERIAL.**

11                   Section 5105(d) is amended to read as follows:

12                   “(d) *INSPECTIONS OF MOTOR VEHICLES TRANS-*  
13                   *PORTING CERTAIN MATERIAL.—*

14                   “(1) *REQUIREMENT.—The Secretary shall re-*  
15                   *quire by regulation that before each use of a motor ve-*  
16                   *hicle to transport a highway-route-controlled quantity*  
17                   *of radioactive material in commerce, the vehicle shall*  
18                   *be inspected and certified as complying with this*  
19                   *chapter and applicable United States motor carrier*  
20                   *safety laws and regulations.*

21                   “(2) *TYPE OF INSPECTOR.—In carrying out*  
22                   *paragraph (1), the Secretary may—*

23                   “(A) *require that the inspection be carried*  
24                   *out by an authorized United States Government*

1           *inspector or according to appropriate State pro-*  
2           *cedures; or*

3           *“(B) allow a person, transporting or caus-*  
4           *ing to be transported a highway-route-controlled*  
5           *quantity of radioactive material, to inspect the*  
6           *motor vehicle used to transport the material and*  
7           *to certify that the vehicle complies with this*  
8           *chapter.*

9           *“(3) QUALIFICATION REQUIREMENTS.—An indi-*  
10          *vidual conducting an inspection under paragraph*  
11          *(2)(B) shall be in compliance with the inspector qual-*  
12          *ification requirements the Secretary prescribes for an*  
13          *individual inspecting a motor vehicle.*

14          *“(4) PREEMPTION.—Each State that a motor ve-*  
15          *hicle transporting a highway-route-controlled quan-*  
16          *tity of radioactive material in commerce enters shall*  
17          *recognize the inspection and certification required by*  
18          *paragraph (1) and may not require a new inspection*  
19          *at an equivalent level and certification except as pro-*  
20          *vided in paragraph (5).*

21          *“(5) CHANGED CONDITION.—If an en route*  
22          *change to the condition of the cargo, the driver, the*  
23          *motor vehicle, or the operation of the motor vehicle in-*  
24          *validates the certification under paragraph (1), the*  
25          *State where such change is discovered may require a*

1        *new inspection and certification under such para-*  
 2        *graph.”.*

3    **SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**  
 4        **AND GRANTS.**

5        (a) *TRAINING GRANTS.*—Section 5107 is amended—

6                (1) *by striking subsections (e) and (h); and*

7                (2) *by redesignating subsections (f) and (g) as*  
 8        *subsections (e) and (f), respectively.*

9        (b) *SAFE LOADING, UNLOADING, AND HANDLING.*—

10    *Section 5107(f)(2), as redesignated by subsection (a)(2) of*  
 11    *this section, is amended by striking “and section 5106”.*

12    **SEC. 9009. FEES.**

13        *Section 5108(g)(2) is amended—*

14                (1) *in subparagraph (A)—*

15                        (A) *in the matter before clause (i) by strik-*  
 16                        *ing “be at least \$250 but not more than” and in-*  
 17                        *serting “not exceed”; and*

18                        (B) *in clause (viii) by striking “sections*  
 19                        *5108(g)(2), 5115,” and inserting “this para-*  
 20                        *graph and sections 5115”; and*

21                (2) *by adding at the end the following:*

22                *“(D) In establishing and collecting a fee under sub-*  
 23    *paragraph (A), the Secretary may not consider whether a*  
 24    *person has or is likely to apply for a special permit or ap-*  
 25    *proval, nor is the Secretary authorized to establish a sepa-*

1 *rate fee in order to apply for or receive a special permit*  
 2 *or approval.”.*

3 **SEC. 9010. MOTOR CARRIER SAFETY PERMITS.**

4 (a) *APPLICABLE TRANSPORTATION.*—Section  
 5 5109(b)(1) is amended by striking “class A or B” and in-  
 6 serting “division 1.1, 1.2, or 1.3”.

7 (b) *OFFEROR RESPONSIBILITY.*—The heading for sub-  
 8 section (f) of section 5109 is amended by striking “SHIP-  
 9 PER” and inserting “OFFEROR”.

10 (c) *TECHNICAL AMENDMENT.*—Section 5109 is amend-  
 11 ed by striking subsection (h).

12 (d) *PROGRAM REVIEW AND REPORT.*—

13 (1) *PROGRAM REVIEW.*—

14 (A) *IN GENERAL.*—Not later than 9 months  
 15 after the date of enactment of this Act, the Sec-  
 16 retary of Transportation shall conduct a pro-  
 17 ceeding, using notice and comment procedures in  
 18 accordance with section 553 of title 5, United  
 19 States Code, to examine the implementation of  
 20 the hazardous material safety permit program  
 21 established by section 5109 of title 49 of such  
 22 Code, including—

23 (i) *safety concerns related to former*  
 24 *permit holders that have re-applied for a*

1           *permit after being out of the program for a*  
2           *year or longer; and*

3           (ii) *fairness of the program for carriers*  
4           *whose total number of inspections over the*  
5           *course of the fiscal year cycle may create a*  
6           *disadvantage.*

7           (B) *CONSULTATION.*—*In carrying out sub-*  
8           *paragraph (A), the Secretary shall consult with*  
9           *motor carriers, persons offering hazardous mate-*  
10           *rial for transportation in commerce, the Com-*  
11           *mercial Vehicle Safety Alliance, and others that*  
12           *have direct experience with the implementation*  
13           *of the program.*

14          (2) *REPORT.*—

15           (A) *IN GENERAL.*—*Not later than 1 year*  
16           *after the date of enactment of this Act, the Sec-*  
17           *retary of Transportation shall transmit to the*  
18           *Committee on Transportation and Infrastructure*  
19           *of the House of Representatives and the Com-*  
20           *mittee on Commerce, Science, and Transpor-*  
21           *tation of the Senate a report on the implementa-*  
22           *tion of the hazardous material safety permit pro-*  
23           *gram established by section 5109 of title 49,*  
24           *United States Code.*

25           (B) *CONTENTS.*—*The report shall include—*

1           (i) *an identification of the number of*  
2           *permits that have been issued, denied, re-*  
3           *voked, or suspended for each registration*  
4           *cycle since the inception of the program by*  
5           *the type of covered hazardous material*  
6           *transported;*

7           (ii) *an explanation of the reason for*  
8           *each denial, revocation, and suspension, in-*  
9           *cluding administrative denials, revocations,*  
10          *and suspensions;*

11          (iii) *a record and analysis of the types*  
12          *of implementation issues identified in the*  
13          *proceeding under paragraph (1)(A); and*

14          (iv) *a description of the Secretary's ac-*  
15          *tions—*

16               (I) *to simplify the permit appli-*  
17               *cation process;*

18               (II) *to minimize the number of*  
19               *administrative denials, revocations,*  
20               *and suspensions;*

21               (III) *to address the issues identi-*  
22               *fied under clause (iii); and*

23               (IV) *to ensure a consistent stand-*  
24               *ard of safety fitness that does not fluc-*  
25               *tuate over time.*

1       (e) *REGULATION*.—Not later than 2 years after the  
 2 date of enactment of this Act, the Secretary of Transpor-  
 3 tation shall take such actions as are necessary to ensure  
 4 that regulations prescribed to carry out the program under  
 5 section 5109 of title 49, United States Code, ensure a con-  
 6 sistent standard of safety fitness that does not fluctuate over  
 7 time and address issues identified in the proceeding in sub-  
 8 section (d)(1)(A).

9       **SEC. 9011. PLANNING AND TRAINING GRANTS, MONI-**  
 10                                   **TORING, AND REVIEW.**

11       (a) *TRAINING GRANTS*.—Section 5116(b)(4) is amend-  
 12 ed—

13               (1) in the matter preceding subparagraph (A)—

14                       (A) by inserting “and subsection (a)” after  
 15               “this subsection”; and

16                       (B) by inserting “planning and” after  
 17               “emergency response”; and

18               (2) in subparagraph (E) by inserting “and sub-  
 19       section (a)” before the period at the end.

20       (b) *COMPLIANCE WITH CERTAIN LAWS*.—Section  
 21 5116(c) is amended to read as follows:

22       “(c) *COMPLIANCE WITH CERTAIN LAW*.—The Sec-  
 23 retary may make a grant to a State or Indian tribe under  
 24 this section in a fiscal year only if—

1           “(1) the State certifies that the State complies  
2           with sections 301 and 303 of the Emergency Planning  
3           and Community Right-To-Know Act of 1986 (42  
4           U.S.C. 11001, 11003); and

5           “(2) the State or Indian tribe certifies to the Sec-  
6           retary that such State or Indian tribe is in compli-  
7           ance with section 5125(f).”.

8           (c) *SUPPLEMENTAL TRAINING GRANTS.*—Section  
9   5116(j) is amended—

10           (1) in paragraph (1) by striking “funds,” and  
11           all that follows through “fighting fires for” and in-  
12           serting “funds and through a competitive process,  
13           make grants to national nonprofit fire service organi-  
14           zations for”;

15           (2) in paragraph (3)(A) by striking “train” and  
16           inserting “provide portable training for”; and

17           (3) in paragraph (4)—

18                   (A) by striking “train” and inserting “pro-  
19                   vide portable training for”; and

20                   (B) by inserting after “training courses  
21                   shall” the following: “comply with national con-  
22                   sensus standards for hazardous material response  
23                   and”.

24           (d) *REPORTS.*—Section 5116(k) is amended—

1           (1) *in the first sentence by striking “planning*  
 2           *grants” and all that follows through “and under sec-*  
 3           *tion 5107” and inserting “grants allocated under sub-*  
 4           *sections (a), (b), and (j)”;*

5           (2) *in the second sentence—*

6                   (A) *by inserting “planning and” before*  
 7                   *“training grants”; and*

8                   (B) *by inserting “planning and” before*  
 9                   *“training programs”.*

10 **SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.**

11       *Section 5117 is amended—*

12           (1) *in subsection (a)—*

13                   (A) *by striking “(a) AUTHORITY TO ISSUE*  
 14                   *SPECIAL PERMITS.—(1) As provided under pro-*  
 15                   *cedures prescribed by regulation,” and inserting*  
 16                   *the following:*

17           “(a) *AUTHORITY TO ISSUE SPECIAL PERMITS.—*

18                   “(1) *IN GENERAL.—As provided under proce-*  
 19                   *dures and criteria prescribed by regulation in accord-*  
 20                   *ance with section 553 of title 5,”;*

21                   (B) *by inserting after paragraph (1) the fol-*  
 22                   *lowing:*

23                   “(2) *REQUIREMENTS.—The Secretary shall en-*  
 24                   *sure that the procedures and criteria prescribed under*  
 25                   *paragraph (1) provide adequate consistency, predict-*

1        *ability, and transparency in making the determina-*  
 2        *tions to issue, modify, or terminate a special per-*  
 3        *mit.”; and*

4                    *(C) by striking “(2) A special permit” and*  
 5        *inserting the following:*

6                    *“(3) EFFECTIVE PERIOD.—A special permit”;*  
 7        *and*

8                    *(2) by adding at the end the following:*

9                    *“(f) LIMITATION ON DENIAL.—The Secretary may not*  
 10        *deny an application for a modification or renewal of a spe-*  
 11        *cial permit or an application for party status to an existing*  
 12        *special permit for the sole reason that the applicant has*  
 13        *a hazardous material out-of-service percentage of greater*  
 14        *than the national average, according to the safety and fit-*  
 15        *ness records maintained by the Federal Motor Carrier Safe-*  
 16        *ty Administration.*

17                    *“(g) INCORPORATION INTO REGULATION.—*

18                    *“(1) IN GENERAL.—Not later than 1 year after*  
 19        *the date on which a special permit has been in con-*  
 20        *tinuous effect for a 6-year period, the Secretary shall*  
 21        *develop and implement a rulemaking pursuant to sec-*  
 22        *tion 5103 to incorporate the special permit into regu-*  
 23        *lation if the special permit—*

24                    *“(A) concerns a matter of general applica-*  
 25        *bility;*

1                   “(B) has future effect; and

2                   “(C) is consistent with hazardous material  
3                   safety.

4                   “(2) *INTENT.*—Nothing in paragraph (1) limits  
5                   the Secretary from incorporating a special permit  
6                   into regulation at any time before the deadline set by  
7                   paragraph (1).

8                   “(3) *OLDER SPECIAL PERMITS.*—Not later than  
9                   3 years after the date of enactment of this subsection,  
10                  the Secretary shall finalize a rulemaking pursuant to  
11                  section 5103 to incorporate into regulation any spe-  
12                  cial permit that concerns a matter of general applica-  
13                  bility, has future effect, is consistent with hazardous  
14                  material safety, and has been in continuous effect for  
15                  more than a 6-year period as of the date of enactment  
16                  of this subsection.”.

17 **SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CAR-**  
18 **RIER PERMIT PROGRAM.**

19                  Section 5119 is amended by striking subsection (a)  
20                  and all that follows through the end of the section and in-  
21                  serting the following:

22                  “(a) *UNIFORM MOTOR CARRIER PERMIT PROGRAM*  
23                  *DEFINED.*—In this section, the term ‘Uniform Motor Car-  
24                  rier Permit Program’ means the State-based, reciprocal  
25                  program of uniform forms and procedures for registering

1 *and permitting persons who transport hazardous material*  
2 *by motor vehicle developed and recommended by the Alli-*  
3 *ance for Uniform Hazmat Transportation Procedures, in-*  
4 *cluding any superseding amendments or revisions adopted*  
5 *by the Secretary pursuant to subsection (b).*

6 “(b) *REGULATIONS.*—

7 “(1) *IN GENERAL.*—Not later than 1 year after  
8 *the date of enactment of the Hazardous Material*  
9 *Transportation Safety, Efficiency, and Accountability*  
10 *Act of 2012, the Secretary shall issue regulations to*  
11 *implement the Uniform Motor Carrier Permit Pro-*  
12 *gram.*

13 “(2) *REVISIONS.*—The Secretary may modify the  
14 *regulations issued under paragraph (1) only as nec-*  
15 *essary to promote safety, efficiency, and uniformity.*

16 “(c) *FINANCIAL AND TECHNICAL ASSISTANCE AND*  
17 *SUPPORT.*—

18 “(1) *IN GENERAL.*—The Secretary may provide  
19 *planning and transition assistance to States to facili-*  
20 *tate the adoption of the Uniform Motor Carrier Per-*  
21 *mit Program.*

22 “(2) *USE OF FUNDS.*—A State shall use assist-  
23 *ance awarded under this subsection only to transition*  
24 *existing State registration and permitting programs*  
25 *to the Uniform Motor Carrier Permit Program.*

1           “(3) *TERMINATION OF AUTHORITY.*—*The author-*  
2           *ity to provide assistance to States under this sub-*  
3           *section shall terminate 6 years after the date of enact-*  
4           *ment of the Hazardous Material Transportation Safe-*  
5           *ty, Efficiency, and Accountability Act of 2012.*

6           “(d) *COOPERATIVE AGREEMENT.*—*The Secretary may*  
7           *enter into a cooperative agreement for outreach, data man-*  
8           *agement, and other centralized functions supporting imple-*  
9           *mentation of the Uniform Motor Carrier Permit Program.*

10          “(e) *RELATED EXPENSES.*—*For purposes of section*  
11          *5125(f)(1), a fee used for a purpose related to transporting*  
12          *hazardous material may include the costs incurred in im-*  
13          *plementing and administering the Uniform Motor Carrier*  
14          *Permit Program, including the costs of establishing or*  
15          *modifying forms, procedures, and systems.*

16          “(f) *TRANSITION OF STATE PROGRAMS.*—*Not later*  
17          *than 6 years after the date of enactment of the Hazardous*  
18          *Material Transportation Safety, Efficiency, and Account-*  
19          *ability Act of 2012, a State may enforce registration and*  
20          *permitting requirements for motor carriers that transport*  
21          *hazardous material in commerce only in accordance with*  
22          *the Uniform Motor Carrier Permit Program.*

23          “(g) *LIMITATION.*—*Nothing in this section shall define*  
24          *or limit the amount of a fee a State may impose or collect*  
25          *for registration and permitting.”.*

1 **SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS**  
 2 **AND REQUIREMENTS.**

3 *Section 5120 is amended—*

4 *(1) in subsection (a) by striking “State, the Sec-*  
 5 *retary of Transportation shall participate” and in-*  
 6 *serting “State and the Secretary of Transportation,*  
 7 *the Administrator of the Pipelines and Hazardous*  
 8 *Materials Safety Administration, or the Administra-*  
 9 *tor’s designee, shall represent the United States and*  
 10 *serve as the United States competent authority”; and*

11 *(2) in subsection (b)—*

12 *(A) by striking “The Secretary” and insert-*  
 13 *ing “The Administrator”; and*

14 *(B) by striking “sections 5103(b), 5104,*  
 15 *5110, and 5112 of this title” and inserting “this*  
 16 *chapter”.*

17 **SEC. 9015. INVESTIGATIONS.**

18 *(a) INSPECTIONS AND INVESTIGATIONS.—Section*  
 19 *5121(c)(1) is amended—*

20 *(1) in subparagraph (B) by striking “may con-*  
 21 *tain a hazardous material;” and inserting “may con-*  
 22 *tain an undeclared hazardous material and such ac-*  
 23 *tivity takes place at a properly equipped facility des-*  
 24 *ignated by the Secretary for this purpose;”;*

25 *(2) in subparagraph (C), in the matter preceding*  
 26 *clause (i), by striking “or related packages” and in-*

1       serting “suspected of containing undeclared hazardous  
2       material”;

3           (3) in subparagraph (E) by striking “may  
4       order” and all that follows through “; and” and in-  
5       serting “may order the offeror, after giving notice to  
6       the carrier, to have the package transported to,  
7       opened, and the contents examined and analyzed at  
8       a properly equipped facility designated by the Sec-  
9       retary for this purpose;”;

10          (4) in subparagraph (F) by striking the period  
11       at the end and inserting “; and”; and

12          (5) by adding at the end the following:

13               “(G) shall provide contemporaneous notice  
14       to the affected offeror and carrier of its decision  
15       to exercise its authority under subparagraph (B),  
16       (C), (D), or (E).”.

17       (b) REGULATIONS.—

18           (1) IN GENERAL.—Section 5121(e) is amended to  
19       read as follows:

20               “(e) REGULATIONS.—To carry out subsections (c) and  
21       (d), the Secretary shall issue regulations in accordance with  
22       section 553 of title 5 that address, at a minimum, the fol-  
23       lowing:

24                   “(1) Avoidance of delay in the transportation of  
25       time-sensitive materials, such as medical products,

1        *perishables, and other packages that are not the sub-*  
 2        *ject of the inspection.*

3                *“(2) Appropriate training and equipment for in-*  
 4        *spectors.*

5                *“(3) Restoration of the properly certified status*  
 6        *of the inspected package before resumption of trans-*  
 7        *portation of that package.*

8                *“(4) Consideration of the costs and damages that*  
 9        *might occur as a result of an inspection.”.*

10                *(2) REGULATION REQUIRED.—In accordance*  
 11        *with section 5103(b)(2) of title 49, United States*  
 12        *Code, not later than 1 year after the date of enact-*  
 13        *ment of this Act, the Secretary of Transportation*  
 14        *shall take all actions necessary to finalize a regula-*  
 15        *tion pursuant to section 5121(e) of such title.*

16        **SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFE-**  
 17                **TY AND SYSTEM PERFORMANCE.**

18        *Section 5121(g) is amended—*

19                *(1) in paragraph (3) by striking “or” after the*  
 20        *semicolon;*

21                *(2) by redesignating paragraph (4) as para-*  
 22        *graph (5); and*

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

1           “(4) to work with State enforcement personnel  
 2           with information and training relating to the uni-  
 3           form enforcement of the regulations governing the  
 4           transportation of hazardous material; or”.

5 **SEC. 9017. SAFETY REPORTING.**

6           Section 5121(h) is amended—

7           (1) in the heading by inserting “BIENNIAL” be-  
 8           fore “REPORT”;

9           (2) in the matter before paragraph (1) by strik-  
 10          ing “materials during” and inserting “material in  
 11          all modes of transportation during”;

12          (3) by redesignating paragraphs (2) through (6)  
 13          as paragraphs (3) through (7), respectively;

14          (4) by inserting after paragraph (1) the fol-  
 15          lowing:

16               “(2) a summary of the hazardous material  
 17               transported during the period covered by the report,  
 18               set forth by the type and quantity of hazardous mate-  
 19               rial and by mode;”;

20          (5) in paragraph (4), as redesignated by para-  
 21          graph (3) of this section, by striking “permit” and  
 22          inserting “permit issued”;

23          (6) in paragraph (5), as redesignated by para-  
 24          graph (3) of this section, by striking “activities” and

1        *inserting “activities, including activities conducted*  
 2        *under subsections (c) and (d),”; and*  
 3                *(7) in paragraph (7), as redesignated by para-*  
 4        *graph (3) of this section, by striking “appropriate*  
 5        *legislation” and inserting “legislative action that the*  
 6        *Secretary considers appropriate”.*

7    **SEC. 9018. CIVIL PENALTIES.**

8        *(a) PENALTY.—Section 5123(a) is amended—*

9                *(1) in paragraph (1) by striking “at least \$250*  
 10        *but”;*

11                *(2) by striking paragraph (3) and redesignating*  
 12        *paragraph (4) as paragraph (3); and*

13                *(3) by adding at the end the following:*

14        *“(4) A carrier shall not be liable for violations of this*  
 15        *chapter, or a regulation issued under this chapter, stem-*  
 16        *ming from pre-transportation functions, as defined in sec-*  
 17        *tion 171.1 of title 49, Code of Federal Regulations, that are*  
 18        *performed by another person unless the carrier has actual*  
 19        *knowledge of a violation.”.*

20        *(b) PENALTY FOR FAILURE TO MAINTAIN RECORDS,*  
 21        *REPORTS, AND INFORMATION.—Section 5123 is amended*  
 22        *by adding at the end the following:*

23        *“(h) PENALTY FOR FAILURE TO MAINTAIN RECORDS,*  
 24        *REPORTS, AND INFORMATION.—The Secretary may impose*

1 *a penalty on a person who fails to comply with section*  
 2 *5121(b).”.*

3 **SEC. 9019. PREEMPTION.**

4 (a) *BURDEN ON COMMERCE.*—Section 5125(a) is  
 5 amended—

6 (1) *in paragraph (1) by striking “or” after the*  
 7 *semicolon;*

8 (2) *in paragraph (2) by striking the period at*  
 9 *the end and inserting “; or”; and*

10 (3) *by adding at the end the following:*

11 “(3) *the requirement of the State, political sub-*  
 12 *division, or Indian tribe, as applied or enforced, is an*  
 13 *unreasonable burden on commerce.”.*

14 (b) *SUBSTANTIVE DIFFERENCES.*—Section  
 15 *5125(b)(1)(D) is amended by striking “written”.*

16 (c) *ROUTE REGISTRY.*—Section 5125(c)(1) is amended  
 17 *by striking the period at the end and inserting “and is pub-*  
 18 *lished in the Department’s hazardous material route reg-*  
 19 *istry under section 5112(c).”.*

20 (d) *FEEES.*—Section 5125(f)(2) is amended by striking  
 21 *“, upon the Secretary’s request,” and inserting “bienni-*  
 22 *ally”.*

23 (e) *NON-FEDERAL ENFORCEMENT STANDARDS.*—Sec-  
 24 *tion 5125 is amended by striking subsection (h).*

1       (f) *CONFORMING CHANGE.*—Section 5125 is further  
2   amended—

3           (1) in subsections (d)(1) and (e) by striking “or  
4   section 5119(f)”;

5           (2) in subsection (g) by striking “, and in sec-  
6   tion 5119(f),”.

7   **SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.**

8       Section 5128 is amended to read as follows:

9   **“§ 5128. Authorization of appropriations**

10       “(a) *IN GENERAL.*—In order to carry out this chapter  
11   (except sections 5108(g)(2), 5113, 5115, 5116, and 5119),  
12   there are authorized to be appropriated to the Secretary  
13   \$39,000,000 for each of fiscal years 2012 through 2016.

14       “(b) *HAZARDOUS MATERIAL EMERGENCY PREPARED-*  
15   *NESS FUND.*—For each of the fiscal years 2012 through  
16   2016, there shall be available to the Secretary, from the ac-  
17   count established pursuant to section 5116(i), the following:

18           “(1) To carry out section 5115, \$188,000.

19           “(2) To carry out subsections (a) and (b) of sec-  
20   tion 5116, \$21,800,000.

21           “(3) To carry out section 5116(f), \$150,000.

22           “(4) To publish and distribute the *Emergency*  
23   *Response Guidebook* under section 5116(j)(3),  
24   \$625,000.

25           “(5) To carry out section 5116(j), \$1,000,000.

1       “(c) *ISSUANCE OF HAZMAT LICENSES.*—*There are au-*  
 2 *thorized to be appropriated to the Secretary such amounts*  
 3 *as may be necessary to carry out section 5103a.*

4       “(d) *CREDITS TO APPROPRIATIONS.*—*The Secretary*  
 5 *may credit to any appropriation to carry out this chapter*  
 6 *an amount received from a State, Indian tribe, or other*  
 7 *public authority or private entity for expenses the Secretary*  
 8 *incurs in providing training to the State, tribe, authority,*  
 9 *or entity.*

10       “(e) *UNIFORM FORMS AND PROCEDURES.*—*There are*  
 11 *authorized to be appropriated to the Secretary \$1,000,000*  
 12 *to carry out section 5119. This amount shall remain avail-*  
 13 *able to be expended by the Secretary for the 6-year period*  
 14 *that begins on the date of enactment of this section.*

15       “(f) *AVAILABILITY OF AMOUNTS.*—*Amounts made*  
 16 *available by or under this section, except for the amount*  
 17 *under subsection (e), shall remain available until ex-*  
 18 *pended.”.*

19       **SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PRO-**  
 20                                   **GRAM.**

21       “(a) *IN GENERAL.*—*The Secretary of Transportation*  
 22 *shall establish pilot projects, at least one of which shall be*  
 23 *in a rural area, to evaluate the feasibility and cost effective-*  
 24 *ness of electronic shipping paper systems that facilitate the*  
 25 *exchange of shipping paper information between offerors of*

1 *hazardous material under chapter 51 of title 49, United*  
2 *States Code, carriers, and emergency responders.*

3 *(b) REPORT.—*

4 *(1) IN GENERAL.—Not later than 3 years after*  
5 *the date of enactment of this Act, the Secretary shall*  
6 *transmit to the Committee on Transportation and In-*  
7 *frastructure of the House of Representatives and the*  
8 *Committee on Commerce, Science, and Transpor-*  
9 *tation of the Senate a report on the results of the pilot*  
10 *projects carried out under this section.*

11 *(2) CONTENTS.—The report shall contain, at a*  
12 *minimum—*

13 *(A) an evaluation of each pilot project, in-*  
14 *cluding an evaluation of the impacts on safety*  
15 *and the performance of each system evaluated*  
16 *under that project and a cost-benefit analysis for*  
17 *each mode of transportation; and*

18 *(B) based on the results of the cost-benefit*  
19 *analyses, a recommendation on whether elec-*  
20 *tronic shipping papers systems described in sub-*  
21 *section (a) should be incorporated into the Fed-*  
22 *eral hazardous material safety program under*  
23 *chapter 51 of title 49, United States Code, on a*  
24 *permanent basis.*

1 **SEC. 9022. WETLINES.**

2 (a) *STUDY.*—

3 (1) *IN GENERAL.*—*The Secretary of Transpor-*  
 4 *tation shall enter into an arrangement with an objec-*  
 5 *tive non-profit organization to conduct a peer-re-*  
 6 *viewed study of the transportation of flammable liq-*  
 7 *uids in the external product piping of cargo tank*  
 8 *motor vehicles (commonly referred to as “wetlines”).*

9 (2) *CONTENTS.*—*The study shall—*

10 (A) *accurately quantify the number of*  
 11 *wetlines incidents over a 10-year period;*

12 (B) *identify various alternatives to loading*  
 13 *and transporting flammable liquids in cargo*  
 14 *tank wetlines;*

15 (C) *examine the costs and benefits of each*  
 16 *alternative; and*

17 (D) *identify existing obstacles to imple-*  
 18 *menting each alternative.*

19 (3) *TRANSMITTAL.*—*Not later than 1 year after*  
 20 *the date of enactment of this Act, the Secretary shall*  
 21 *transmit to the Committee on Transportation and In-*  
 22 *frastructure of the House of Representatives and the*  
 23 *Committee on Commerce, Science, and Transpor-*  
 24 *tation of the Senate a copy of the study.*

25 (b) *REGULATORY RESTRICTION.*—*The Secretary may*  
 26 *not issue a final rule regulating the transportation of flam-*

1 mable liquids in the external product piping of cargo tank  
2 motor vehicles.

3 **SEC. 9023. PRODUCT STUDY.**

4 (a) *IN GENERAL.*—The Secretary shall conduct a  
5 study on whether it is necessary to continue to designate  
6 any amount or form of finished pharmaceutical, finished  
7 cosmetic, or similar product containing ethyl alcohol as a  
8 hazardous material under section 5103(a) of title 49,  
9 United States Code.

10 (b) *CONTENTS.*—The study conducted under subsection  
11 (a) shall include, at a minimum—

12 (1) an evaluation of the history, severity, and  
13 costs of any incidents in transporting such products;

14 (2) an evaluation of the risk posed by such prod-  
15 ucts in commercial packaging in current use in  
16 transportation and the risk associated in transporting  
17 the products without any specific packaging required  
18 by any applicable special permit or regulation;

19 (3) the costs to the industry of designating the  
20 products as hazardous material, including the cost of  
21 regulation, as compared with the costs of incidents  
22 that have occurred or are probable with regard to the  
23 products; and

24 (4) a summary of comments from industry stake-  
25 holders and the public on whether there is a need for

1        *continued designation of such products as hazardous*  
 2        *material.*

3        (c) *TRANSMITTAL.*—*Not later than 1 year after the*  
 4        *date of enactment of this Act, the Secretary shall transmit*  
 5        *to the Committee on Transportation and Infrastructure of*  
 6        *the House of Representatives and the Committee on Com-*  
 7        *merce, Science, and Transportation of the Senate a report*  
 8        *on the results of the study conducted under subsection (a)*  
 9        *and any proposed actions to be taken by the Secretary re-*  
 10       *sulting from the study.*

## 11        ***TITLE X—WATERBORNE*** 12        ***TRANSPORTATION***

13       ***SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.***  
 14       ***NANCE.***

15       (a) *FINDINGS.*—*Congress finds the following:*

16                (1) *There are 926 ports served by federally main-*  
 17                *tained channels which handle more than 2.2 billion*  
 18                *tons of cargo annually, and this figure is expected to*  
 19                *increase.*

20                (2) *More than \$1.1 trillion in foreign commerce*  
 21                *enters the United States through the Nation's ports*  
 22                *annually, and this figure is expected to increase.*

23                (3) *Expansion of the Panama Canal system in*  
 24                *Central America will likely be completed in 2014, and*

1       *this will present opportunities and challenges for the*  
2       *Nation's economic well-being.*

3               *(4) Insufficient maintenance dredging of the Na-*  
4       *tion's navigation channels results in inefficient water*  
5       *transportation and harmful economic consequences.*

6               *(5) In 1986, Congress created the Harbor Main-*  
7       *tenance Trust Fund to provide funds for the oper-*  
8       *ation and maintenance of the Nation's navigation*  
9       *channels.*

10              *(6) The fiscal year 2011, Harbor Maintenance*  
11       *Trust Fund equity grew by 13.7 percent from fiscal*  
12       *year 2010 (to \$6.42 billion) and total annual receipts*  
13       *increased 17.3 percent (to \$1.6 billion).*

14              *(7) Despite growth of the Harbor Maintenance*  
15       *Trust Fund, expenditures from the Harbor Mainte-*  
16       *nance Trust Fund continue to decline.*

17              *(8) Despite growth of the Harbor Maintenance*  
18       *Trust Fund, federally maintained channels are only*  
19       *at their authorized widths or depths 35 percent of the*  
20       *time, thereby restricting access to the Nation's ports*  
21       *for both imports and exports.*

22       *(b) SENSE OF CONGRESS.—It is the sense of Congress*  
23       *that—*

24              *(1) the Harbor Maintenance Trust Fund is not*  
25       *being used for its intended purpose and charging*

1        *maritime commerce a harbor maintenance tax while*  
 2        *failing to provide the service for which it was estab-*  
 3        *lished is unfair and places the Nation at economic*  
 4        *risk;*

5            *(2) the Administration should request full use of*  
 6        *the Harbor Maintenance Trust Fund for operating*  
 7        *and maintaining the Nation's navigation system; and*

8            *(3) Congress should fully expend the amounts in*  
 9        *the Harbor Maintenance Trust Fund to operate and*  
 10       *maintain the Nation's navigation system.*

11    **SEC. 10002. STUDY AND REPORT ON STRATEGIC PORTS.**

12        *(a) STUDY REQUIREMENT.—The Secretary shall con-*  
 13        *duct a study on infrastructure facility requirements, road*  
 14        *and highway improvements, rail connections, and other*  
 15        *multimodal transportation capacity requirements necessary*  
 16        *to achieve the following goals with respect to strategic ports:*

17            *(1) Provide greater access to port facilities.*

18            *(2) Reduce congestion.*

19            *(3) Improve the movement of goods.*

20            *(4) Increase productivity.*

21            *(5) Enhance maritime security.*

22        *(b) REPORT.—Not later than 180 days after the date*  
 23        *of enactment of this Act, the Secretary shall submit to Con-*  
 24        *gress a report on the results of the study conducted under*  
 25        *subsection (a), with such recommendations as the Secretary*

1 *considers necessary to achieve the goals listed in that sub-*  
 2 *section.*

3 (c) *STRATEGIC PORT DEFINED.*—*In this section, the*  
 4 *term “strategic port” means a United States port des-*  
 5 *ignated by the Secretary and the Secretary of Defense as*  
 6 *a significant transportation hub important to the readiness*  
 7 *and cargo throughput capacity of the Department of De-*  
 8 *fense.*

9 ***TITLE XI—REAUTHORIZATION***  
 10 ***AND AMENDMENTS TO THE***  
 11 ***SPORT FISH RESTORATION***  
 12 ***AND BOATING TRUST FUND***

13 ***SEC. 11001. SHORT TITLE.***

14 *This title may be cited as the “Sportfishing and Rec-*  
 15 *reational Boating Safety Act of 2012”.*

16 ***SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE***  
 17 ***SPORT FISH RESTORATION AND BOATING***  
 18 ***TRUST FUND.***

19 (a) *DINGELL-JOHNSON SPORT FISH RESTORATION*  
 20 *ACT.*—*Section 4 of the Dingell-Johnson Sport Fish Restora-*  
 21 *tion Act (16 U.S.C. 777c) is amended—*

22 (1) *in subsection (a) in the matter preceding*  
 23 *paragraph (1), by striking “For each of” and all that*  
 24 *follows through “the balance of each annual” and in-*

1       serting “For each fiscal year through fiscal year 2016,  
2       the balance of each annual”;

3           (2) in subsection (b)(1)(A), by striking “From  
4       the annual” and all that follows through “the Sec-  
5       retary” and inserting “From the annual appropria-  
6       tion made in accordance with section 3 for each fiscal  
7       year through fiscal year 2016, the Secretary”; and

8           (3) by striking subsection (b)(1)(B) and insert-  
9       ing the following:

10           “(B) AVAILABLE AMOUNTS.—The available  
11       amount referred to in subparagraph (A) is, for  
12       each fiscal year, the sum of—

13           “(i) the available amount for the pre-  
14       ceding fiscal year; and

15           “(ii) the amount determined by multi-  
16       plying—

17           “(I) the available amount for the  
18       preceding fiscal year; and

19           “(II) the change, relative to the  
20       preceding fiscal year, in the Consumer  
21       Price Index for All Urban Consumers  
22       published by the Department of  
23       Labor.”.

24       (b) EXTENSION OF EXPENDITURE AUTHORITY FROM  
25       THE SPORT FISH RESTORATION AND BOATING TRUST

1 *FUND.—Section 9504 of the Internal Revenue Code of 1986*  
2 *is amended—*

3           (1) *in subsection (b)(2), by striking “(as in effect*  
4 *on” each place it appears and all that follows through*  
5 *the next closed parenthesis and inserting “(as in effect*  
6 *on the date of enactment of the Sportfishing and Rec-*  
7 *reational Boating Safety Act of 2012)”, and*

8           (2) *in subsection (d)(2), by striking “before” and*  
9 *all that follows through “in accordance” and insert-*  
10 *ing “before October 1, 2016, in accordance”.*

11       (c) *AUTHORIZATION OF APPROPRIATIONS.—Chapter*  
12 *131 of title 46, United States Code, is amended—*

13           (1) *in section 13107(a)(2), by striking “two”*  
14 *and inserting “1.5”; and*

15           (2) *in section 13107(c), by striking so much as*  
16 *precedes paragraph (2) and inserting the following:*

17       “(c)(1) *Of the amount transferred to the Secretary*  
18 *under section 4(a)(2) of the Dingell-Johnson Sport Fish*  
19 *Restoration Act (16 U.S.C. 777c(a)(2))—*

20           “(A) *\$6,000,000 is available to the Secretary for*  
21 *the payment of expenses of the Coast Guard for per-*  
22 *sonnel and activities directly related to coordinating*  
23 *and carrying out the national recreational boating*  
24 *safety program under this title, of which not less than*

1       \$2,000,000 shall be available to the Secretary only to  
2       ensure compliance with chapter 43 of this title; and

3               “(B) \$100,000 is available to fund the activities  
4       of the National Boating Safety Advisory Council es-  
5       tablished under this chapter.”.

6       **TITLE XII—EXTENSION OF SUR-**  
7       **FACE TRANSPORTATION PRO-**  
8       **GRAMS**

9       **SEC. 12001. SHORT TITLE; EFFECTIVE DATE.**

10       (a) *SHORT TITLE.*—This title may be cited as the  
11       “Surface Transportation Extension Act of 2012”.

12       (b) *EFFECTIVE DATE.*—The amendments made by this  
13       title take effect on April 1, 2012.

14       **Subtitle A—Federal-Aid Highways**

15       **SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PRO-**  
16       **GRAMS.**

17       (a) *IN GENERAL.*—Section 111 of the Surface Trans-  
18       portation Extension Act of 2011, Part II (Public Law 112–  
19       30; 125 Stat. 343) is amended—

20               (1) by striking “the period beginning on October  
21       1, 2011, and ending on March 31, 2012,” each place  
22       it appears and inserting “fiscal year 2012”;

23               (2) by striking “<sup>1</sup>/<sub>2</sub> of” each place it appears;  
24       and

1           (3) in subsection (a) by striking “March 31,  
2           2012” and inserting “September 30, 2012”.

3           (b) *USE OF FUNDS.*—Section 111(c) of the Surface  
4           Transportation Extension Act of 2011, Part II (125 Stat.  
5           343) is amended—

6           (1) in paragraph (3)—

7                   (A) in subparagraph (A) by striking “, ex-  
8                   cept that during such period” and all that fol-  
9                   lows before the period at the end; and

10                   (B) in subparagraph (B)(ii) by striking  
11                   “\$319,500,000” and inserting “\$639,000,000”;  
12                   and

13           (2) by striking paragraph (4).

14           (c) *EXTENSION OF AUTHORIZATIONS UNDER TITLE V*  
15           *OF SAFETEA-LU.*—Section 111(e)(2) of the Surface  
16           Transportation Extension Act of 2011, Part II (125 Stat.  
17           343) is amended by striking “the period beginning on Octo-  
18           ber 1, 2011, and ending on March 31, 2012.” and inserting  
19           “fiscal year 2012.”.

20           (d) *ADMINISTRATIVE EXPENSES.*—Section 112(a) of  
21           the Surface Transportation Extension Act of 2011, Part II  
22           (125 Stat. 346) is amended by striking “\$196,427,625 for  
23           the period beginning on October 1, 2011, and ending on  
24           March 31, 2012.” and inserting “\$392,855,250 for fiscal  
25           year 2012.”.

1     ***Subtitle B—Extension of Highway***  
2                     ***Safety Programs***

3     ***SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC***  
4                     ***SAFETY ADMINISTRATION HIGHWAY SAFETY***  
5                     ***PROGRAMS.***

6             (a) *CHAPTER 4 HIGHWAY SAFETY PROGRAMS.*—*Sec-*  
7     *tion 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is*  
8     *amended by striking “\$235,000,000 for fiscal year 2009”*  
9     *and all that follows through the period at the end and in-*  
10    *serting “and \$235,000,000 for each of fiscal years 2009*  
11    *through 2012.”.*

12            (b) *HIGHWAY SAFETY RESEARCH AND DEVELOP-*  
13    *MENT.*—*Section 2001(a)(2) of SAFETEA–LU (119 Stat.*  
14    *1519) is amended by striking “\$108,244,000 for fiscal year*  
15    *2011” and all that follows through the period at the end*  
16    *and inserting “and \$108,244,000 for each of fiscal years*  
17    *2011 and 2012.”.*

18            (c) *OCCUPANT PROTECTION INCENTIVE GRANTS.*—*Sec-*  
19    *tion 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is*  
20    *amended by striking “, \$25,000,000 for fiscal year 2006”*  
21    *and all that follows through the period at the end and in-*  
22    *serting “and \$25,000,000 for each of fiscal years 2006*  
23    *through 2012.”.*

24            (d) *SAFETY BELT PERFORMANCE GRANTS.*—*Section*  
25    *2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amended*

1 by striking “and \$24,250,000 for the period beginning on  
 2 October 1, 2011, and ending on March 31, 2012.” and in-  
 3 serting “and \$48,500,000 for fiscal year 2012.”.

4 (e) *STATE TRAFFIC SAFETY INFORMATION SYSTEM IM-*  
 5 *PROVEMENTS.*—Section 2001(a)(5) of *SAFETEA-LU* (119  
 6 Stat. 1519) is amended by striking “for fiscal year 2006”  
 7 and all that follows through the period at the end and in-  
 8 serting “for each of fiscal years 2006 through 2012.”.

9 (f) *ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES*  
 10 *INCENTIVE GRANT PROGRAM.*—Section 2001(a)(6) of  
 11 *SAFETEA-LU* (119 Stat. 1519) is amended by striking  
 12 “\$139,000,000 for fiscal year 2009” and all that follows  
 13 through the period at the end and inserting “and  
 14 \$139,000,000 for each of fiscal years 2009  
 15 through 2012.”.

16 (g) *NATIONAL DRIVER REGISTER.*—Section  
 17 2001(a)(7) of *SAFETEA-LU* (119 Stat. 1520) is amended  
 18 by striking “and \$2,058,000 for the period beginning on  
 19 October 1, 2011, and ending on March 31, 2012.” and in-  
 20 serting “and \$4,000,000 for fiscal year 2012.”.

21 (h) *HIGH VISIBILITY ENFORCEMENT PROGRAM.*—Sec-  
 22 tion 2001(a)(8) of *SAFETEA-LU* (119 Stat. 1520) is  
 23 amended by striking “for fiscal year 2006” and all that  
 24 follows through the period at the end and inserting “for each  
 25 of fiscal years 2006 through 2012.”.

1       (i) *MOTORCYCLIST SAFETY*.—Section 2001(a)(9) of  
 2 *SAFETEA-LU* (119 Stat. 1520) is amended by striking  
 3 “\$7,000,000 for fiscal year 2009” and all that follows  
 4 through the period at the end and inserting “and  
 5 \$7,000,000 for each of fiscal years 2009 through 2012.”.

6       (j) *CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY*  
 7 *INCENTIVE GRANTS*.—Section 2001(a)(10) of *SAFETEA-*  
 8 *LU* (119 Stat. 1520) is amended by striking “\$7,000,000  
 9 for fiscal year 2009” and all that follows through the period  
 10 at the end and inserting “and \$7,000,000 for each of fiscal  
 11 years 2009 through 2012.”.

12       (k) *ADMINISTRATIVE EXPENSES*.—Section 2001(a)(11)  
 13 of *SAFETEA-LU* (119 Stat. 1520) is amended by striking  
 14 “\$25,328,000 for fiscal year 2011” and all that follows  
 15 through the period at the end and inserting “and  
 16 \$25,328,000 for each of fiscal years 2011 and 2012.”.

17 **SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER**  
 18 **SAFETY ADMINISTRATION PROGRAMS.**

19       (a) *MOTOR CARRIER SAFETY GRANTS*.—Section  
 20 31104(a)(8) of title 49, United States Code, is amended to  
 21 read as follows:

22               “(8) \$212,000,000 for fiscal year 2012.”.

23       (b) *ADMINISTRATIVE EXPENSES*.—Section  
 24 31104(i)(1)(H) of title 49, United States Code, is amended  
 25 to read as follows:

1                   “(H) \$244,144,000 for fiscal year 2012.”.

2           (c)   GRANT   PROGRAMS.—Section   4101(c)   of  
3   SAFETEA—LU (119 Stat. 1715) is amended—

4                   (1)   in   paragraph   (1)   by   striking   “and  
5           \$15,000,000 for the period beginning on October 1,  
6           2011, and ending on March 31, 2012.” and inserting  
7           “and \$30,000,000 for fiscal year 2012.”;

8                   (2)   in   paragraph   (2)   by   striking   “2011 and  
9           \$16,000,000 for the period beginning on October 1,  
10          2011, and ending on March 31, 2012.” and inserting  
11          “2012.”;

12                  (3)   in   paragraph   (3)   by   striking   “2011 and  
13          \$2,500,000 for the period beginning on October 1,  
14          2011, and ending on March 31, 2012.” and inserting  
15          “2012.”;

16                  (4)   in   paragraph   (4)   by   striking   “2011 and  
17          \$12,500,000 for the period beginning on October 1,  
18          2011, and ending on March 31, 2012.” and inserting  
19          “2012.”; and

20                  (5)   in   paragraph   (5)   by   striking   “2011 and  
21          \$1,500,000 for the period beginning on October 1,  
22          2011, and ending on March 31, 2012.” and inserting  
23          “2012.”.

24           (d)   HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2)  
25   of title 49, United States Code, is amended by striking

1 “2011 and \$7,500,000 for the period beginning on October  
2 1, 2011, and ending on March 31, 2012,” and inserting  
3 “2012”.

4 (e) *NEW ENTRANT AUDITS*.—Section 31144(g)(5)(B)  
5 of title 49, United States Code, is amended by striking “and  
6 up to \$14,500,000 for the period beginning on October 1,  
7 2011, and ending on March 31, 2012,”.

8 (f) *OUTREACH AND EDUCATION*.—Section 4127(e) of  
9 *SAFETEA-LU* (119 Stat. 1741) is amended by striking  
10 “and 2011 (and \$500,000 to the Federal Motor Carrier  
11 Safety Administration, and \$1,500,000 to the National  
12 Highway Traffic Safety Administration, for the period be-  
13 ginning on October 1, 2011, and ending on March 31,  
14 2012)” and inserting “2011, and 2012”.

15 (g) *GRANT PROGRAM FOR COMMERCIAL MOTOR VEHI-*  
16 *CLE OPERATORS*.—Section 4134(c) of *SAFETEA-LU* (119  
17 Stat. 1744) is amended by striking “2011 and \$500,000 for  
18 the period beginning on October 1, 2011, and ending on  
19 March 31, 2012,” and inserting “2012”.

20 (h) *MOTOR CARRIER SAFETY ADVISORY COM-*  
21 *MITTEE*.—Section 4144(d) of *SAFETEA-LU* (119 Stat.  
22 1748) is amended by striking “March 31, 2012” and insert-  
23 ing “September 30, 2012”.

24 (i) *WORKING GROUP FOR DEVELOPMENT OF PRAC-*  
25 *TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE*

1 *RELATIONS.—Section 4213(d) of SAFETEA-LU (49*  
 2 *U.S.C. 14710 note; 119 Stat. 1759) is amended by striking*  
 3 *“March 31, 2012” and inserting “September 30, 2012”.*

4 **SEC. 12203. ADDITIONAL PROGRAMS.**

5 *(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—*  
 6 *Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is*  
 7 *amended by striking “2011 and \$580,000 for the period be-*  
 8 *ginning on October 1, 2011, and ending on March 31,*  
 9 *2012,” and inserting “2012”.*

10 *(b) DINGELL-JOHNSON SPORT FISH RESTORATION*  
 11 *ACT.—Section 4 of the Dingell-Johnson Sport Fish Restora-*  
 12 *tion Act (16 U.S.C. 777c) is amended—*

13 *(1) in subsection (a) by striking “2011 and for*  
 14 *the period beginning on October 1, 2011, and ending*  
 15 *on March 31, 2012,” and inserting “2012,”; and*

16 *(2) in the first sentence of subsection (b)(1)(A)*  
 17 *by striking “2011 and for the period beginning on*  
 18 *October 1, 2011, and ending on March 31, 2012,” and*  
 19 *inserting “2012,”.*

20 ***Subtitle C—Public Transportation***  
 21 ***Programs***

22 **SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PRO-**  
 23 **GRAMS.**

24 *Section 5305(g) of title 49, United States Code, is*  
 25 *amended by striking “2011 and for the period beginning*

1 *on October 1, 2011, and ending on March 31, 2012” and*  
 2 *inserting “2012”.*

3 **SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FORMULA**  
 4 **GRANTS.**

5 *Section 5307(b)(2) of title 49, United States Code, is*  
 6 *amended—*

7 *(1) by striking the paragraph heading and in-*  
 8 *serting “SPECIAL RULE FOR FISCAL YEARS 2005*  
 9 *THROUGH 2012.—”;*

10 *(2) in subparagraph (A) by striking “2011 and*  
 11 *the period beginning on October 1, 2011, and ending*  
 12 *on March 31, 2012,” and inserting “2012,” ; and*

13 *(3) in subparagraph (E)—*

14 *(A) by striking the subparagraph heading*  
 15 *and inserting “MAXIMUM AMOUNTS IN FISCAL*  
 16 *YEARS 2008 THROUGH 2012.—”;* and

17 *(B) in the matter preceding clause (i) by*  
 18 *striking “2011 and during the period beginning*  
 19 *on October 1, 2011, and ending on March 31,*  
 20 *2012” and inserting “2012”.*

21 **SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**  
 22 **MENT GRANTS.**

23 *Section 5309(m) of title 49, United States Code, is*  
 24 *amended—*

25 *(1) in paragraph (2)—*

1           (A) by striking the paragraph heading and  
2           inserting “*FISCAL YEARS 2006 THROUGH 2012.—*  
3           ”;

4           (B) in the matter preceding subparagraph  
5           (A) by striking “2011 and the period beginning  
6           on October 1, 2011, and ending on March 31,  
7           2012,” and inserting “2012”; and

8           (C) in subparagraph (A)(i) by striking  
9           “2011 and \$100,000,000 for the period beginning  
10          on October 1, 2011, and ending on March 31,  
11          2012,” and inserting “2012”;

12          (2) in paragraph (6)—

13           (A) in subparagraph (B) by striking “2011  
14           and \$7,500,000 shall be available for the period  
15           beginning on October 1, 2011, and ending on  
16           March 31, 2012,” and inserting “2012”; and

17           (B) in subparagraph (C) by striking “2011  
18           and \$2,500,000 shall be available for the period  
19           beginning on October 1, 2011, and ending on  
20           March 31, 2012,” and inserting “2012”; and

21          (3) in paragraph (7)—

22           (A) in subparagraph (A)—

23           (i) in the matter preceding clause (i)—

24                   (I) in the first sentence by strik-  
25                   ing “2011 and \$5,000,000 shall be

1                   *available for the period beginning on*  
2                   *October 1, 2011, and ending on March*  
3                   *31, 2012,” and inserting “2012”; and*

4                   *(II) in the second sentence by in-*  
5                   *serting “each fiscal year” before the*  
6                   *colon;*

7                   *(ii) in clause (i) by striking “for each*  
8                   *fiscal year and \$1,250,000 for the period be-*  
9                   *ginning on October 1, 2011, and ending on*  
10                  *March 31, 2012,”;*

11                  *(iii) in clause (ii) by striking “for each*  
12                  *fiscal year and \$1,250,000 for the period be-*  
13                  *ginning on October 1, 2011, and ending on*  
14                  *March 31, 2012,”;*

15                  *(iv) in clause (iii) by striking “for*  
16                  *each fiscal year and \$500,000 for the period*  
17                  *beginning on October 1, 2011, and ending*  
18                  *on March 31, 2012,”;*

19                  *(v) in clause (iv) by striking “for each*  
20                  *fiscal year and \$500,000 for the period be-*  
21                  *ginning on October 1, 2011, and ending on*  
22                  *March 31, 2012,”;*

23                  *(vi) in clause (v) by striking “for each*  
24                  *fiscal year and \$500,000 for the period be-*

1            *ginning on October 1, 2011, and ending on*  
2            *March 31, 2012,”;*

3            *(vii) in clause (vi) by striking “for*  
4            *each fiscal year and \$500,000 for the period*  
5            *beginning on October 1, 2011, and ending*  
6            *on March 31, 2012,”;*

7            *(viii) in clause (vii) by striking “for*  
8            *each fiscal year and \$325,000 for the period*  
9            *beginning on October 1, 2011, and ending*  
10           *on March 31, 2012,”; and*

11           *(ix) in clause (viii) by striking “for*  
12           *each fiscal year and \$175,000 for the period*  
13           *beginning on October 1, 2011, and ending*  
14           *on March 31, 2012,”;*

15           *(B) in subparagraph (B) by striking clause*  
16           *(vii) and inserting the following:*

17           *“(vii) \$13,500,000 for fiscal year*  
18           *2012.”;*

19           *(C) in subparagraph (C) by striking “and*  
20           *during the period beginning on October 1, 2011,*  
21           *and ending on March 31, 2012,”;*

22           *(D) in subparagraph (D) by striking “and*  
23           *not less than \$17,500,000 shall be available for*  
24           *the period beginning on October 1, 2011, and*  
25           *ending on March 31, 2012,”; and*

1           (E) in subparagraph (E) by striking “and  
 2           \$1,500,000 shall be available for the period be-  
 3           ginning on October 1, 2011, and ending on  
 4           March 31, 2012,”.

5 **SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR**  
 6 **OTHER THAN URBANIZED AREAS.**

7           Section 5311(c)(1)(G) of title 49, United States Code,  
 8 is amended to read as follows:

9           “(G) \$15,000,000 for fiscal year 2012.”.

10 **SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY**  
 11 **FACTORS.**

12           Section 5337 of title 49, United States Code, is amend-  
 13 ed by striking subsection (g).

14 **SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**  
 15 **TATION.**

16           (a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of  
 17 title 49, United States Code, is amended—

18           (1) in paragraph (1) by striking subparagraph  
 19 (G) and inserting the following:

20           “(G) \$8,360,565,000 for fiscal year 2012.”;

21           and

22           (2) in paragraph (2)—

23           (A) in subparagraph (A) by striking

24           “\$113,500,000 for each of fiscal years 2009 and

25           2010, \$113,500,000 for fiscal year 2011, and

1       \$56,750,000 for the period beginning on October  
2       1, 2011, and ending on March 31, 2012,” and  
3       inserting “and \$113,500,000 for each of fiscal  
4       years 2009 through 2012”;

5               (B) in subparagraph (B) by striking  
6       “\$4,160,365,000 for each of fiscal years 2009 and  
7       2010, \$4,160,365,000 for fiscal year 2011, and  
8       \$2,080,182,500 for the period beginning on Octo-  
9       ber 1, 2011, and ending on March 31, 2012,”  
10       and inserting “and \$4,160,365,000 for each of  
11       fiscal years 2009 through 2012”;

12              (C) in subparagraph (C) by striking  
13       “\$51,500,000 for each of fiscal years 2009 and  
14       2010, \$51,500,000 for fiscal year 2011, and  
15       \$25,750,000 for the period beginning on October  
16       1, 2011, and ending on March 31, 2012,” and  
17       inserting “and \$51,500,000 for each of fiscal  
18       years 2009 through 2012”;

19              (D) in subparagraph (D) by striking  
20       “\$1,666,500,000 for each of fiscal years 2009 and  
21       2010, \$1,666,500,000 for fiscal year 2011, and  
22       \$833,250,000 for the period beginning on October  
23       1, 2011, and ending on March 31, 2012,” and  
24       inserting “and \$1,666,500,000 for each of fiscal  
25       years 2009 through 2012”;

1           (E) in subparagraph (E) by striking  
2           “\$984,000,000 for each of fiscal years 2009 and  
3           2010, \$984,000,000 for fiscal year 2011, and  
4           \$492,000,000 for the period beginning on October  
5           1, 2011, and ending on March 31, 2012,” and  
6           inserting “and \$984,000,000 for each of fiscal  
7           years 2009 through 2012”;

8           (F) in subparagraph (F) by striking  
9           “\$133,500,000 for each of fiscal years 2009 and  
10          2010, \$133,500,000 for fiscal year 2011, and  
11          \$66,750,000 for the period beginning on October  
12          1, 2011, and ending on March 31, 2012,” and  
13          inserting “and \$133,500,000 for each of fiscal  
14          years 2009 through 2012”;

15          (G) in subparagraph (G) by striking  
16          “\$465,000,000 for each of fiscal years 2009 and  
17          2010, \$465,000,000 for fiscal year 2011, and  
18          \$232,500,000 for the period beginning on October  
19          1, 2011, and ending on March 31, 2012,” and  
20          inserting “and \$465,000,000 for each of fiscal  
21          years 2009 through 2012”;

22          (H) in subparagraph (H) by striking  
23          “\$164,500,000 for each of fiscal years 2009 and  
24          2010, \$164,500,000 for fiscal year 2011, and  
25          \$82,250,000 for the period beginning on October

1           1, 2011, and ending on March 31, 2012,” and  
2           inserting “and \$164,500,000 for each of fiscal  
3           years 2009 through 2012”;

4           (I) in subparagraph (I) by striking  
5           “\$92,500,000 for each of fiscal years 2009 and  
6           2010, \$92,500,000 for fiscal year 2011, and  
7           \$46,250,000 for the period beginning on October  
8           1, 2011, and ending on March 31, 2012,” and  
9           inserting “and \$92,500,000 for each of fiscal  
10          years 2009 through 2012”;

11          (J) in subparagraph (J) by striking  
12          “\$26,900,000 for each of fiscal years 2009 and  
13          2010, \$26,900,000 for fiscal year 2011, and  
14          \$13,450,000 for the period beginning on October  
15          1, 2011, and ending on March 31, 2012,” and  
16          inserting “and \$26,900,000 for each of fiscal  
17          years 2009 through 2012”;

18          (K) in subparagraph (K) by striking “in  
19          fiscal year 2006” and all that follows through  
20          “March 31, 2012,” and inserting “for each of fis-  
21          cal years 2006 through 2012”;

22          (L) in subparagraph (L) by striking “in  
23          fiscal year 2006” and all that follows through  
24          “March 31, 2012,” and inserting “for each of fis-  
25          cal years 2006 through 2012”;

1           (M) in subparagraph (M) by striking  
 2           “\$465,000,000 for each of fiscal years 2009 and  
 3           2010, \$465,000,000 for fiscal year 2011, and  
 4           \$232,500,000 for the period beginning on October  
 5           1, 2011, and ending on March 31, 2012,” and  
 6           inserting “and \$465,000,000 for each of fiscal  
 7           years 2009 through 2012”; and

8           (N) in subparagraph (N) by striking  
 9           “\$8,800,000 for each of fiscal years 2009 and  
 10          2010, \$8,800,000 for fiscal year 2011, and  
 11          \$4,400,000 for the period beginning on October  
 12          1, 2011, and ending on March 31, 2012,” and  
 13          inserting “and \$8,800,000 for each of fiscal years  
 14          2009 through 2012”.

15       (b) CAPITAL INVESTMENT GRANTS.—Section  
 16       5338(c)(7) of title 49, United States Code, is amended to  
 17       read as follows:

18               “(7) \$1,600,000,000 for fiscal year 2012.”.

19       (c) RESEARCH AND UNIVERSITY RESEARCH CEN-  
 20       TERS.—Section 5338(d) of title 49, United States Code, is  
 21       amended—

22           (1) in paragraph (1), in the matter preceding  
 23       subparagraph (A), by striking “and 2010,  
 24       \$69,750,000 for fiscal year 2011, and \$29,500,000 for  
 25       the period beginning on October 1, 2011, and ending

1       *on March 31, 2012,” and inserting “through 2011*  
2       *and \$44,000,000 for fiscal year 2012”; and*

3               *(2) by striking paragraph (3) and inserting the*  
4       *following:*

5               “(3) *ADDITIONAL AUTHORIZATIONS.—*

6                       “(A) *RESEARCH.—Of amounts authorized*  
7       *to be appropriated under paragraph (1) for fis-*  
8       *cal year 2012, the Secretary shall allocate for*  
9       *each of the activities and projects described in*  
10       *subparagraphs (A) through (F) of paragraph (1)*  
11       *an amount equal to 63 percent of the amount al-*  
12       *located for fiscal year 2009 under each such sub-*  
13       *paragraph.*

14               “(B) *UNIVERSITY CENTERS PROGRAM.—*

15                       “(i) *FISCAL YEAR 2012.—Of the*  
16       *amounts allocated under subparagraph*  
17       *(A)(i) for the university centers program*  
18       *under section 5506 for fiscal year 2012, the*  
19       *Secretary shall allocate for each program*  
20       *described in clauses (i) through (iii) and (v)*  
21       *through (viii) of paragraph (2)(A) an*  
22       *amount equal to 63 percent of the amount*  
23       *allocated for fiscal year 2009 under each*  
24       *such clause.*

1                   “(ii) *FUNDING.*—If the Secretary deter-  
 2                   mines that a project or activity described in  
 3                   paragraph (2) received sufficient funds in  
 4                   fiscal year 2011, or a previous fiscal year,  
 5                   to carry out the purpose for which the  
 6                   project or activity was authorized, the Sec-  
 7                   retary may not allocate any amounts under  
 8                   clause (i) for the project or activity for fis-  
 9                   cal year 2012 or any subsequent fiscal  
 10                  year.”.

11           (d) *ADMINISTRATION.*—Section 5338(e)(7) of title 49,  
 12   *United States Code*, is amended to read as follows:

13                   “(7) \$98,713,000 for fiscal year 2012.”.

14   **SEC. 12307. AMENDMENTS TO SAFETEA-LU.**

15           (a) *CONTRACTED PARATRANSIT PILOT.*—Section  
 16   3009(i)(1) of *SAFETEA-LU* (119 Stat. 1572) is amended  
 17   by striking “2011 and the period beginning on October 1,  
 18   2011, and ending on March 31, 2012,” and inserting  
 19   “2012”.

20           (b) *PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-*  
 21   *GRAM.*—Section 3011 of *SAFETEA-LU* (49 U.S.C. 5309  
 22   note; 119 Stat. 1588) is amended—

23                   (1) in subsection (c)(5) by striking “2011 and  
 24                   the period beginning on October 1, 2011, and ending  
 25                   on March 31, 2012” and inserting “2012”; and

1           (2) *in the second sentence of subsection (d) by*  
2           *striking “2011 and the period beginning on October*  
3           *1, 2011, and ending on March 31, 2012,” and insert-*  
4           *ing “2012”.*

5           (c) *ELDERLY INDIVIDUALS AND INDIVIDUALS WITH*  
6           *DISABILITIES PILOT PROGRAM.*—Section 3012(b)(8) of  
7           *SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593) is*  
8           *amended by striking “March 31, 2012” and inserting “Sep-*  
9           *tember 30, 2012”.*

10          (d) *OBLIGATION CEILING.*—Section 3040(8) of  
11          *SAFETEA-LU (119 Stat. 1639) is amended to read as fol-*  
12          *lows:*

13                 “(8) \$10,458,278,000 for fiscal year 2012, of  
14                 *which not more than \$8,360,565,000 shall be from the*  
15                 *Mass Transit Account.”.*

16          (e) *PROJECT AUTHORIZATIONS FOR NEW FIXED*  
17          *GUIDEWAY CAPITAL PROJECTS.*—Section 3043 of  
18          *SAFETEA-LU (119 Stat. 1640) is amended—*

19                 (1) *in subsection (b), in the matter preceding*  
20                 *paragraph (1), by striking “2011 and the period be-*  
21                 *ginning on October 1, 2011, and ending on March 31,*  
22                 *2012,” and inserting “2012”; and*

23                 (2) *in subsection (c), in the matter preceding*  
24                 *paragraph (1), by striking “2011 and the period be-*

1        *ginning on October 1, 2011, and ending on March 31,*  
 2        *2012,” and inserting “2012”.*

3        *(f) ALLOCATIONS FOR NATIONAL RESEARCH AND*  
 4        *TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-LU*  
 5        *(49 U.S.C. 5338 note; 119 Stat. 1706) is amended—*

6                *(1) in subsection (b) by striking “fiscal year or*  
 7                *period” and inserting “fiscal year”; and*

8                *(2) by striking subsection (c)(2) and inserting*  
 9                *the following:*

10                *“(2) for fiscal year 2012, in amounts equal to 63*  
 11                *percent of the amounts allocated for fiscal year 2009*  
 12                *under each of paragraphs (2), (3), (5), and (8)*  
 13                *through (25) of subsection (a).”.*

14                ***TITLE XIII—ADDITIONAL***  
 15                ***TRANSPORTATION PROVISIONS***

16        ***SEC. 13001. AUDIT OF UNION STATION REDEVELOPMENT***  
 17                ***CORPORATION.***

18        *The Inspector General of the Department of Transpor-*  
 19        *tation, or an auditor determined by the Inspector General*  
 20        *to meet the independence standards specified in the Govern-*  
 21        *ment Auditing Standards issued by the Comptroller Gen-*  
 22        *eral of the United States, shall once every 2 years conduct*  
 23        *an audit of the accounts and operations of the Union Sta-*  
 24        *tion Redevelopment Corporation. The audit of financial*  
 25        *statements shall be conducted in accordance with generally*

1 *accepted auditing standards and, to the extent determined*  
2 *applicable by the Inspector General, the Government Audit-*  
3 *ing Standards.*

4 ***SEC. 13002. PROHIBITION ON USE OF FUNDS.***

5 *None of the funds appropriated or otherwise made*  
6 *available under this Act, or the amendments made by this*  
7 *Act, may be used for physical signage indicating that a*  
8 *project is funded under this Act.*



Union Calendar No. 277

112<sup>TH</sup> CONGRESS  
2D Session

**H. R. 7**

[Report No. 112-397]

**A BILL**

To authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes.

FEBRUARY 13, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed