

112TH CONGRESS
2^D SESSION

S. 1813

AN ACT

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

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

1 **SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DI-**
 2 **VISIONS; TABLE OF CONTENTS.**

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

6 (b) **DIVISIONS.**—This Act is organized into 8 divi-
 7 sions as follows:

8 (1) Division A—Federal-aid Highways and
 9 Highway Safety Construction Programs.

10 (2) Division B—Public Transportation.

11 (3) Division C—Transportation Safety and Sur-
 12 face Transportation Policy.

13 (4) Division D—Finance.

14 (5) Division E—Research and Education.

15 (6) Division F—Miscellaneous.

16 (7) Division G—Air Transportation.

17 (8) Division H—Budgetary Effects.

18 (c) **TABLE OF CONTENTS.**—The table of contents for
 19 this Act is as follows:

Sec. 1. Short title; organization of Act into divisions; table of contents.

Sec. 2. Definitions.

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- Sec. 1106. National highway performance program.
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- Sec. 52003. Research and technology development and deployment.
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- Sec. 100101. Secure Rural Schools and Community Self-Determination Program.

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- Sec. 100401. Budgetary effects.

1 SEC. 2. DEFINITIONS.

2 In this Act, the following definitions apply:

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

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

3 **DIVISION A—FEDERAL-AID**
4 **HIGHWAYS AND HIGHWAY**
5 **SAFETY CONSTRUCTION PRO-**
6 **GRAMS**

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

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

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

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

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

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

2 and

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

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

10 (3) FEDERAL LANDS AND TRIBAL TRANSPOR-
11 TATION PROGRAMS.—

12 (A) TRIBAL TRANSPORTATION PRO-
13 GRAM.—For the tribal transportation program
14 under section 202 of title 23, United States
15 Code, \$450,000,000 for each of fiscal years
16 2012 and 2013.

17 (B) FEDERAL LANDS TRANSPORTATION
18 PROGRAM.—For the Federal lands transpor-
19 tation program under section 203 of title 23,
20 United States Code, \$300,000,000 for each of
21 fiscal years 2012 and 2013, of which
22 \$260,000,000 of the amount made available for
23 each fiscal year shall be the amount for the Na-
24 tional Park Service and the United States Fish
25 and Wildlife Service.

1 (C) FEDERAL LANDS ACCESS PROGRAM.—

2 For the Federal lands access program under
3 section 204 of title 23, United States Code,
4 \$250,000,000 for each of fiscal years 2012 and
5 2013.

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

11 (b) DISADVANTAGED BUSINESS ENTERPRISES.—

12 (1) DEFINITIONS.—In this subsection, the fol-
13 lowing definitions apply:

14 (A) SMALL BUSINESS CONCERN.—

15 (i) IN GENERAL.—The term “small
16 business concern” means a small business
17 concern (as the term is used in section 3
18 of the Small Business Act (15 U.S.C.
19 632)).

20 (ii) EXCLUSIONS.—The term “small
21 business concern” does not include any
22 concern or group of concerns controlled by
23 the same socially and economically dis-
24 advantaged individual or individuals that
25 have average annual gross receipts during

1 the preceding 3 fiscal years in excess of
2 \$22,410,000, as adjusted annually by the
3 Secretary for inflation.

4 (B) SOCIALLY AND ECONOMICALLY DIS-
5 ADVANTAGED INDIVIDUALS.—The term “so-
6 cially and economically disadvantaged individ-
7 uals” means—

8 (i) women; and

9 (ii) any other socially and economi-
10 cally disadvantaged individuals (as the
11 term is used in section 8(d) of the Small
12 Business Act (15 U.S.C. 637(d)) and rel-
13 evant subcontracting regulations promul-
14 gated pursuant to that Act).

15 (2) AMOUNTS FOR SMALL BUSINESS CON-
16 CERNS.—Except to the extent that the Secretary de-
17 termines otherwise, not less than 10 percent of the
18 amounts made available for any program under divi-
19 sions A and B of this Act and section 403 of title
20 23, United States Code, shall be expended through
21 small business concerns owned and controlled by so-
22 cially and economically disadvantaged individuals.

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

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

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

8 (i) women;

9 (ii) socially and economically dis-
10 advantaged individuals (other than
11 women); and

12 (iii) individuals who are women and
13 are otherwise socially and economically dis-
14 advantaged individuals.

15 (4) UNIFORM CERTIFICATION.—

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

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

25 (i) on-site visits;

- 1 (ii) personal interviews with personnel;
2 (iii) issuance or inspection of licenses;
3 (iv) analyses of stock ownership;
4 (v) listings of equipment;
5 (vi) analyses of bonding capacity;
6 (vii) listings of work completed;
7 (viii) examination of the resumes of
8 principal owners;
9 (ix) analyses of financial capacity; and
10 (x) analyses of the type of work pre-
11 ferred.

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

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

18 (B) such other information as the Sec-
19 retary determines to be appropriate for the
20 proper monitoring of the disadvantaged busi-
21 ness enterprise program.

22 (6) COMPLIANCE WITH COURT ORDERS.—Noth-
23 ing in this subsection limits the eligibility of an indi-
24 vidual or entity to receive funds made available
25 under divisions A and B of this Act and section 403

1 of title 23, United States Code, if the entity or per-
2 son is prevented, in whole or in part, from complying
3 with paragraph (2) because a Federal court issues a
4 final order in which the court finds that a require-
5 ment or the implementation of paragraph (2) is un-
6 constitutional.

7 **SEC. 1102. OBLIGATION CEILING.**

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

12 (1) \$41,564,000,000 for fiscal year 2012; and

13 (2) \$42,227,000,000 for fiscal year 2013.

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

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

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

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

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

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

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

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

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

13 (9) Federal-aid highway programs for which ob-
14 ligation authority was made available under the
15 Transportation Equity Act for the 21st Century
16 (112 Stat. 107) or subsequent Acts for multiple
17 years or to remain available until expended, but only
18 to the extent that the obligation authority has not
19 lapsed or been used;

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

24 (11) section 1603 of the Safe, Accountable,
25 Flexible, Efficient Transportation Equity Act: A

1 Legacy for Users (119 Stat. 1248), to the extent
2 that funds obligated in accordance with that section
3 were not subject to a limitation on obligations at the
4 time at which the funds were initially made available
5 for obligation; and

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

10 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

11 For each of fiscal years 2012 through 2013, the Sec-
12 retary—

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

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

18 (B) amounts authorized for the Bureau of
19 Transportation Statistics;

20 (2) shall not distribute an amount of obligation
21 authority provided by subsection (a) that is equal to
22 the unobligated balance of amounts—

23 (A) made available from the Highway
24 Trust Fund (other than the Mass Transit Ac-
25 count) for Federal-aid highway and highway

1 safety construction programs for previous fiscal
2 years the funds for which are allocated by the
3 Secretary (or apportioned by the Secretary
4 under sections 202 or 204 of title 23, United
5 States Code); and

6 (B) for which obligation authority was pro-
7 vided in a previous fiscal year;

8 (3) shall determine the proportion that—

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

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

1 (4) shall distribute the obligation authority pro-
2 vided by subsection (a), less the aggregate amounts
3 not distributed under paragraphs (1) and (2), for
4 each of the programs (other than programs to which
5 paragraph (1) applies) that are allocated by the Sec-
6 retary under this Act and title 23, United States
7 Code, or apportioned by the Secretary under sections
8 202 or 204 of that title, by multiplying—

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

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

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

1 tioned under section 204 of that title) in the propor-
2 tion that—

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

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

11 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
12 THORITY.—Notwithstanding subsection (c), the Secretary
13 shall, after August 1 of each of fiscal years 2012 through
14 2013—

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

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

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

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

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

10 (B) division E of this Act.

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

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

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

19 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED
20 FUNDS.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of distribution of obligation authority under
23 subsection (e) for each of fiscal years 2012 through
24 2013, the Secretary shall distribute to the States
25 any funds (excluding funds authorized for the pro-

1 gram under section 202 of title 23, United States
2 Code) that—

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

6 (B) the Secretary determines will not be
7 allocated to the States (or will not be appor-
8 tioned to the States under section 204 of title
9 23, United States Code), and will not be avail-
10 able for obligation, for the fiscal year because
11 of the imposition of any obligation limitation for
12 the fiscal year.

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

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

21 **SEC. 1103. DEFINITIONS.**

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

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

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

8 (3) by inserting after paragraph (1) the fol-
9 lowing:

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

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

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

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

3 “(A) preliminary engineering, engineering,
4 and design-related services directly relating to
5 the construction of a highway project, including
6 engineering, design, project development and
7 management, construction project management
8 and inspection, surveying, mapping (including
9 the establishment of temporary and permanent
10 geodetic control in accordance with specifica-
11 tions of the National Oceanic and Atmospheric
12 Administration), and architectural-related serv-
13 ices;”;

14 (C) in subparagraph (B)—

15 (i) by inserting “reconstruction,” be-
16 fore “resurfacing”; and

17 (ii) by striking “and rehabilitation”
18 and inserting “rehabilitation, and preserva-
19 tion”;

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

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

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

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

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

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

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

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

1 (7) in paragraph (11)(B) by inserting “includ-
2 ing public roads on dams” after “drainage struc-
3 ture”;

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

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

7 (B) by inserting “air quality” before “at-
8 tainment area”;

9 (9) in paragraph (18) (as so redesignated) by
10 striking “an undertaking to construct a particular
11 portion of a highway, or if the context so implies,
12 the particular portion of a highway so constructed or
13 any other undertaking” and inserting “any under-
14 taking”;

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

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

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

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

22 “(23) SAFETY IMPROVEMENT PROJECT.—The
23 term ‘safety improvement project’ means a strategy,
24 activity, or project on a public road that is con-
25 sistent with the State strategic highway safety plan

1 and corrects or improves a roadway feature that
2 constitutes a hazard to road users or addresses a
3 highway safety problem.”;

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

6 “(27) STATE STRATEGIC HIGHWAY SAFETY
7 PLAN.—The term ‘State strategic highway safety
8 plan’ has the same meaning given such term in sec-
9 tion 148(a).”;

10 (13) by striking paragraph (29) (as so redesign-
11 ated) and inserting the following:

12 “(29) TRANSPORTATION ENHANCEMENT ACTIV-
13 ITY.—The term ‘transportation enhancement activ-
14 ity’ means any of the following activities when car-
15 ried out as part of any program or project author-
16 ized or funded under this title, or as an independent
17 program or project related to surface transportation:

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

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

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

24 “(D) Scenic or historic highways and
25 bridges.

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

4 “(F) Historic preservation, rehabilitation,
5 and operation of historic transportation build-
6 ings, structures, or facilities.

7 “(G) Preservation of abandoned railway
8 corridors, including the conversion and use of
9 the corridors for pedestrian or bicycle trails.

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

12 “(I) Archaeological planning and research.

13 “(J) Any environmental mitigation activ-
14 ity, including pollution prevention and pollution
15 abatement activities and mitigation to—

16 “(i) address stormwater management,
17 control, and water pollution prevention or
18 abatement related to highway construction
19 or due to highway runoff, including activi-
20 ties described in sections 133(b)(11),
21 328(a), and 329; or

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

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

3 “(30) TRANSPORTATION SYSTEMS MANAGE-
4 MENT AND OPERATIONS.—

5 “(A) IN GENERAL.—The term ‘transportation systems management and operations’
6 means integrated strategies to optimize the performance of existing infrastructure through the
7 implementation of multimodal and intermodal, cross-jurisdictional systems, services, and
8 projects designed to preserve capacity and improve security, safety, and reliability of the
9 transportation system.
10
11
12
13

14 “(B) INCLUSIONS.—The term ‘transportation systems management and operations’ includes—
15
16

17 “(i) actions such as traffic detection
18 and surveillance, corridor management, freeway management, arterial management, active transportation and demand
19 management, work zone management, emergency management, traveler information services, congestion pricing, parking
20 management, automated enforcement, traffic control, commercial vehicle operations,
21
22
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24
25

1 freight management, and coordination of
2 highway, rail, transit, bicycle, and pedes-
3 trian operations; and

4 “(ii) coordination of the implementa-
5 tion of regional transportation system
6 management and operations investments
7 (such as traffic incident management, trav-
8 eler information services, emergency man-
9 agement, roadway weather management,
10 intelligent transportation systems, commu-
11 nication networks, and information sharing
12 systems) requiring agreements, integration,
13 and interoperability to achieve targeted
14 system performance, reliability, safety, and
15 customer service levels.

16 “(31) TRIBAL TRANSPORTATION FACILITY.—

17 The term ‘tribal transportation facility’ means a
18 public highway, road, bridge, trail, or transit system
19 that is located on or provides access to tribal land
20 and appears on the national tribal transportation fa-
21 cility inventory described in section 202(b)(1).

22 “(32) TRUCK STOP ELECTRIFICATION SYS-

23 TEM.—The term ‘truck stop electrification system’
24 means a system that delivers heat, air conditioning,

1 electricity, or communications to a heavy-duty vehi-
2 cle.”.

3 (b) SENSE OF CONGRESS.—Section 101(c) of title
4 23, United States Code, is amended by striking “system”
5 and inserting “highway”.

6 **SEC. 1104. NATIONAL HIGHWAY SYSTEM.**

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

9 **“§ 103. National highway system**

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

13 “(b) NATIONAL HIGHWAY SYSTEM.—

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

17 “(A) serve major population centers, inter-
18 national border crossings, ports, airports, public
19 transportation facilities, and other intermodal
20 transportation facilities and other major travel
21 destinations;

22 “(B) meet national defense requirements;
23 and

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

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

4 “(A) The National Highway System de-
5 picted on the map submitted by the Secretary
6 of Transportation to Congress with the report
7 entitled ‘Pulling Together: The National High-
8 way System and its Connections to Major Inter-
9 modal Terminals’ and dated May 24, 1996, and
10 modifications approved by the Secretary before
11 the date of enactment of the MAP-21.

12 “(B) Other urban and rural principal arte-
13 rial routes, and border crossings on those
14 routes, that were not included on the National
15 Highway System before the date of enactment
16 of the MAP-21.

17 “(C) Other connector highways (including
18 toll facilities) that were not included in the Na-
19 tional Highway System before the date of en-
20 actment of the MAP-21 but that provide motor
21 vehicle access between arterial routes on the
22 National Highway System and a major inter-
23 modal transportation facility.

24 “(D) A strategic highway network that—

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

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

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

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

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

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

4 “(3) MODIFICATIONS TO NHS.—

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

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

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

18 “(B) COOPERATION.—

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

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

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

3 “(c) INTERSTATE SYSTEM.—

4 “(1) DESCRIPTION.—

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

11 “(B) DESIGN.—

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

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

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

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

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

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

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

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

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

25 “(4) INTERSTATE SYSTEM DESIGNATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

3 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

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

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

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

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

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

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

14 (b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON
 15 INTERSTATE SYSTEM.—

16 (1) IN GENERAL.—Section 1105(e)(5)(A) of the
 17 Intermodal Surface Transportation Efficiency Act of
 18 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat.
 19 872) is amended—

20 (A) in the first sentence, by striking “and
 21 in subsections (c)(18) and (c)(20)” and insert-
 22 ing “, in subsections (c)(18) and (c)(20), and in
 23 subparagraphs (A)(iii) and (B) of subsection
 24 (c)(26)”; and

1 (B) in the second sentence, by striking
 2 “that the segment” and all that follows through
 3 the period and inserting “that the segment
 4 meets the Interstate System design standards
 5 approved by the Secretary under section 109(b)
 6 of title 23, United States Code, and is planned
 7 to connect to an existing Interstate System seg-
 8 ment by the date that is 25 years after the date
 9 of enactment of the MAP-21.”.

10 (2) ROUTE DESIGNATION.—Section
 11 1105(e)(5)(C)(i) of the Intermodal Surface Trans-
 12 portation Efficiency Act of 1991 (105 Stat. 2032;
 13 109 Stat. 598) is amended by adding at the end the
 14 following: “The routes referred to subparagraphs
 15 (A)(iii) and (B)(i) of subsection (c)(26) are des-
 16 ignated as Interstate Route I-11.”.

17 (c) CONFORMING AMENDMENTS.—

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

“103. National highway system.”.

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

1 (A) in subsection (a) by striking “the Fed-
2 eral-aid systems” and inserting “Federal-aid
3 highways”; and

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

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

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

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

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

23 **SEC. 1105. APPORTIONMENT.**

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

1 **“§ 104. Apportionment**

2 “(a) ADMINISTRATIVE EXPENSES.—

3 “(1) IN GENERAL.—There are authorized to be
4 appropriated from the Highway Trust Fund (other
5 than the Mass Transit Account) to be made avail-
6 able to the Secretary for administrative expenses of
7 the Federal Highway Administration \$480,000,000
8 for each of fiscal years 2012 and 2013.

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

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

15 “(B) to make transfers of such sums as
16 the Secretary determines to be appropriate to
17 the Appalachian Regional Commission for ad-
18 ministrative activities associated with the Appa-
19 lachian development highway system; and

20 “(C) to reimburse, as appropriate, the Of-
21 fice of Inspector General of the Department of
22 Transportation for the conduct of annual audits
23 of financial statements in accordance with sec-
24 tion 3521 of title 31.

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

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

12 “(1) NATIONAL HIGHWAY PERFORMANCE PRO-
13 GRAM.—For the national highway performance pro-
14 gram, 58 percent of the amount remaining after dis-
15 tributing amounts under paragraphs (4) and (6).

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

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

24 “(4) CONGESTION MITIGATION AND AIR QUAL-
25 ITY IMPROVEMENT PROGRAM.—For the congestion

1 mitigation and air quality improvement program, an
2 amount determined by multiplying the amount de-
3 termined for the State under subsection (c) by the
4 proportion that—

5 “(A) the amount apportioned to the State
6 for the congestion mitigation and air quality
7 improvement program for fiscal year 2009, plus
8 10 percent of the amount apportioned to the
9 State for the surface transportation program
10 for that fiscal year; bears to

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

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

22 “(6) METROPOLITAN PLANNING.—To carry out
23 section 134, an amount determined by multiplying
24 the amount determined for the State under sub-
25 section (c) by the proportion that—

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

4 “(B) the total amount of funds appor-
5 tioned to the State for that fiscal year for the
6 programs referred to in section 105(a)(2) (ex-
7 cept for the high priority projects program re-
8 ferred to in section 105(a)(2)(H)), as in effect
9 on the day before the date of enactment of the
10 MAP-21.

11 “(c) CALCULATION OF STATE AMOUNTS.—

12 “(1) STATE SHARE.—The amount for each
13 State of combined apportionments for the national
14 highway performance program under section 119,
15 the transportation mobility program under section
16 133, the highway safety improvement program
17 under section 148, the congestion mitigation and air
18 quality improvement program under section 149, the
19 national freight program under section 167, and to
20 carry out section 134 shall be determined as follows:

21 “(A) INITIAL AMOUNT.—The initial
22 amount for each State shall be determined by
23 multiplying the total amount available for ap-
24 portionment by the share for each State which
25 shall be equal to the proportion that—

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

4 “(ii) the amount of those apportion-
5 ments and allocations received by all
6 States for those fiscal years.

7 “(B) ADJUSTMENTS TO AMOUNTS.—The
8 initial amounts resulting from the calculation
9 under subparagraph (A) shall be adjusted to
10 ensure that, for each State, the amount of com-
11 bined apportionments for the programs shall
12 not be less than 95 percent of the estimated tax
13 payments attributable to highway users in the
14 State paid into the Highway Trust Fund (other
15 than the Mass Transit Account) in the most re-
16 cent fiscal year for which data are available.

17 “(C) FURTHER ADJUSTMENT FOR
18 PRIVATIZED HIGHWAYS.—

19 “(i) DEFINITION OF PRIVATIZED
20 HIGHWAY.—In this subparagraph:

21 “(I) IN GENERAL.—The term
22 ‘privatized highway’ means a highway
23 that was formerly a publically oper-
24 ated toll road that is subject to an
25 agreement giving a private entity—

1 “(aa) control over the oper-
2 ation of the highway; and

3 “(bb) ownership over the toll
4 revenues collected from the oper-
5 ation of the highway.

6 “(II) EXCLUSION.—The term
7 ‘privatized highway’ does not include
8 any highway or toll road that was
9 originally—

10 “(aa) financed and con-
11 structed using private funds; and

12 “(bb) operated by a private
13 entity.

14 “(ii) ADJUSTMENT.—After making
15 the adjustments to the apportionment of a
16 State under subparagraphs (A) and (B),
17 the Secretary shall further adjust the
18 amount to be apportioned to the State by
19 reducing the apportionment by an amount
20 equal to the product obtained by multi-
21 plying—

22 “(I) the amount to be appor-
23 tioned to the State, as so adjusted
24 under those subparagraphs; and

1 “(II) the percentage described in
2 clause (iii).

3 “(iii) PERCENTAGE.—The percentage
4 referred to in clause (ii) is the percentage
5 equal to the sum obtained by adding—

6 “(I) the product obtained by mul-
7 tiplying—

8 “(aa) $\frac{1}{2}$; and

9 “(bb) the proportion that—

10 “(AA) the total number
11 of lane miles on privatized
12 highway lanes on National
13 Highway System routes in a
14 State; bears to

15 “(BB) the total number
16 of all lane miles on National
17 Highway System routes in
18 the State; and

19 “(II) the product obtained by
20 multiplying—

21 “(aa) $\frac{1}{2}$; and

22 “(bb) the proportion that—

23 “(AA) the total number
24 of vehicle miles traveled on
25 privatized highway lanes on

1 National Highway System
2 routes in the State; bears to
3 “(BB) the total number
4 of vehicle miles traveled on
5 all lanes on National High-
6 way System routes in the
7 State.

8 “(iv) REAPPORTIONMENT.—An
9 amount withheld from apportionment to a
10 State under clause (ii) shall be reappor-
11 tioned among all other States based on the
12 proportions calculated under subparagraph
13 (A).

14 “(2) STATE APPORTIONMENT.—On October 1
15 of each fiscal year, the Secretary shall apportion the
16 sum authorized to be appropriated for expenditure
17 on the national highway performance program under
18 section 119, the transportation mobility program
19 under section 133, the highway safety improvement
20 program under section 148, the congestion mitiga-
21 tion and air quality improvement program under
22 section 149, the national freight program under sec-
23 tion 167, and to carry out section 134 in accordance
24 with paragraph (1).

25 “(d) METROPOLITAN PLANNING.—

1 “(1) USE OF AMOUNTS.—

2 “(A) USE.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), the amounts appor-
5 tioned to a State under subsection (b)(6)
6 shall be made available by the State to the
7 metropolitan planning organizations re-
8 sponsible for carrying out section 134 in
9 the State.

10 “(ii) STATES RECEIVING MINIMUM AP-
11 PORTIONMENT.—A State that received the
12 minimum apportionment for use in car-
13 rying out section 134 for fiscal year 2009
14 may, subject to the approval of the Sec-
15 retary, use the funds apportioned under
16 subsection (b)(6) to fund transportation
17 planning outside of urbanized areas.

18 “(B) UNUSED FUNDS.—Any funds that
19 are not used to carry out section 134 may be
20 made available by a metropolitan planning or-
21 ganization to the State to fund activities under
22 section 135.

23 “(2) DISTRIBUTION OF AMOUNTS WITHIN
24 STATES.—

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

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

7 “(ii) takes into consideration, at a
8 minimum, population, status of planning,
9 attainment of air quality standards, metro-
10 politan area transportation needs, and
11 other factors necessary to provide for an
12 appropriate distribution of funds to carry
13 out section 134 and other applicable re-
14 quirements of Federal law.

15 “(B) REIMBURSEMENT.—Not later than
16 15 business days after the date of receipt by a
17 State of a request for reimbursement of expend-
18 itures made by a metropolitan planning organi-
19 zation for carrying out section 134, the State
20 shall reimburse, from amounts distributed
21 under this paragraph to the metropolitan plan-
22 ning organization by the State, the metropoli-
23 tan planning organization for those expendi-
24 tures.

1 “(3) DETERMINATION OF POPULATION FIG-
2 URES.—For the purpose of determining population
3 figures under this subsection, the Secretary shall use
4 the latest available data from the decennial census
5 conducted under section 141(a) of title 13, United
6 States Code.

7 “(e) CERTIFICATION OF APPORTIONMENTS.—

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

9 “(A) on October 1 of each fiscal year, cer-
10 tify to each of the State transportation depart-
11 ments the amount that has been apportioned to
12 the State under this section for the fiscal year;
13 and

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

22 “(2) NOTICE TO STATES.—If the Secretary has
23 not made an apportionment under this section for a
24 fiscal year beginning after September 30, 1998, by
25 not later than the date that is the twenty-first day

1 of that fiscal year, the Secretary shall submit, by not
2 later than that date, to the Committee on Transpor-
3 tation and Infrastructure of the House of Represent-
4 atives and the Committee on Environment and Pub-
5 lic Works of the Senate, a written statement of the
6 reason for not making the apportionment in a timely
7 manner.

8 “(3) APPORTIONMENT CALCULATIONS.—

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

15 “(B) PROHIBITION ON USE OF FUNDS TO
16 HIRE CONTRACTORS.—None of the funds made
17 available under this title shall be used to hire
18 contractors to calculate the apportionments of
19 funds to States.

20 “(f) TRANSFER OF HIGHWAY AND TRANSIT
21 FUNDS.—

22 “(1) TRANSFER OF HIGHWAY FUNDS FOR
23 TRANSIT PROJECTS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), amounts made available for transit

1 projects or transportation planning under this
2 title may be transferred to and administered by
3 the Secretary in accordance with chapter 53 of
4 title 49.

5 “(B) NON-FEDERAL SHARE.—The provi-
6 sions of this title relating to the non-Federal
7 share shall apply to the amounts transferred
8 under subparagraph (A).

9 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
10 WAY PROJECTS.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), amounts made available for highway
13 projects or transportation planning under chap-
14 ter 53 of title 49 may be transferred to and ad-
15 ministered by the Secretary in accordance with
16 this title.

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

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

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary may, at the request of
25 a State, transfer amounts apportioned or allo-

1 cated under this title to the State to another
2 State, or to the Federal Highway Administra-
3 tion, for the purpose of funding 1 or more
4 projects that are eligible for assistance with
5 amounts so apportioned or allocated.

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

9 “(C) FUNDS SUBALLOCATED TO URBAN-
10 IZED AREAS.—Amounts that are apportioned or
11 allocated to a State under subsection (b)(3) (as
12 in effect on the day before the date of enact-
13 ment of the MAP–21) or subsection (b)(2) and
14 attributed to an urbanized area of a State with
15 a population of more than 200,000 individuals
16 under section 133(d) may be transferred under
17 this paragraph only if the metropolitan plan-
18 ning organization designated for the area con-
19 curs, in writing, with the transfer request.

20 “(4) TRANSFER OF OBLIGATION AUTHORITY.—
21 Obligation authority for amounts transferred under
22 this subsection shall be transferred in the same
23 manner and amount as the amounts for the projects
24 that are transferred under this section.”

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

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

7 “(2) the balance, as of the last day of the pre-
8 ceding fiscal year, of the unobligated apportionment
9 of each State by fiscal year under this section;

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

13 “(4) the rates of obligation of funds appor-
14 tioned or set aside under this section, according to—

15 “(A) program;

16 “(B) funding category of subcategory;

17 “(C) type of improvement;

18 “(D) State; and

19 “(E) sub-State geographical area, includ-
20 ing urbanized and rural areas, on the basis of
21 the population of each such area.”.

22 (b) CONFORMING AMENDMENT.—Section 146(a) of
23 title 23, United States Code, is amended by striking “sec-
24 tions 104(b)(1) and 104(b)(3)” and inserting “section
25 104(b)(2)”.

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

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

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

5 “(a) ESTABLISHMENT.—The Secretary shall estab-
6 lish and implement a national highway performance pro-
7 gram under this section.

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

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

12 “(2) to ensure that investments of Federal-aid
13 funds in highway construction are directed to sup-
14 port progress toward the achievement of perform-
15 ance targets for infrastructure condition and per-
16 formance.

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

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

1 “(1) a project, or is part of a program of
2 projects, supporting progress toward the achieve-
3 ment of national performance goals for improving
4 infrastructure condition, safety, mobility, or freight
5 movement on the National Highway System and
6 consistent with sections 134 and 135; and

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

8 “(A) Construction, reconstruction, resur-
9 facing, restoration, rehabilitation, preservation,
10 or operational improvement of segments of the
11 National Highway System.

12 “(B) Construction, replacement (including
13 replacement with fill material), rehabilitation,
14 preservation, and protection (including scour
15 countermeasures, seismic retrofits, impact pro-
16 tection measures, security countermeasures,
17 and protection against extreme events) of
18 bridges on the National Highway System.

19 “(C) Construction, replacement (including
20 replacement with fill material), rehabilitation,
21 preservation, and protection (including impact
22 protection measures, security countermeasures,
23 and protection against extreme events) of tun-
24 nels on the National Highway System.

1 “(D) Inspection and evaluation, as de-
2 scribed in section 144, of bridges and tunnels
3 on the National Highway System, and inspec-
4 tion and evaluation of other highway infrastruc-
5 ture assets on the National Highway System,
6 including signs and sign structures, earth re-
7 taining walls, and drainage structures.

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

10 “(F) Construction, rehabilitation, or re-
11 placement of existing ferry boats and ferry boat
12 facilities, including approaches, that connect
13 road segments of the National Highway Sys-
14 tem.

15 “(G) Construction, reconstruction, resur-
16 facing, restoration, rehabilitation, and preserva-
17 tion of, and operational improvements for, a
18 Federal-aid highway not on the National High-
19 way System, and construction of a transit
20 project eligible for assistance under chapter 53
21 of title 49, if—

22 “(i) the highway project or transit
23 project is in the same corridor as, and in
24 proximity to, a fully access-controlled high-

1 way designated as a part of the National
2 Highway System;

3 “(ii) the construction or improvements
4 will reduce delays or produce travel time
5 savings on the fully access-controlled high-
6 way described in clause (i) and improve re-
7 gional traffic flow; and

8 “(iii) the construction or improve-
9 ments are more cost-effective, as deter-
10 mined by benefit-cost analysis, than an im-
11 provement to the fully access-controlled
12 highway described in clause (i).

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

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

17 “(J) Capital and operating costs for traffic
18 and traveler information monitoring, manage-
19 ment, and control facilities and programs.

20 “(K) Development and implementation of
21 a State asset management plan for the National
22 Highway System in accordance with this sec-
23 tion, including data collection, maintenance,
24 and integration and the cost associated with ob-
25 taining, updating, and licensing software and

1 equipment required for risk-based asset man-
2 agement and performance-based management.

3 “(L) Infrastructure-based intelligent trans-
4 portation systems capital improvements.

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

7 “(N) Control of noxious weeds and aquatic
8 noxious weeds and establishment of native spe-
9 cies in accordance with section 329.

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

1 “(i) contributions to those mitigation
2 efforts may—

3 “(I) take place concurrent with
4 or in advance of project construction;
5 and

6 “(II) occur in advance of project
7 construction only if the efforts are
8 consistent with all applicable require-
9 ments of Federal law (including regu-
10 lations) and State transportation
11 planning processes; and

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

23 “(P) Replacement (including replacement
24 with fill material), rehabilitation, preservation,
25 and protection (including scour counter-

1 measures, seismic retrofits, impact protection
2 measures, security countermeasures, and pro-
3 tection against extreme events) of bridges on
4 Federal-aid highways (other than on the Na-
5 tional Highway System).

6 “(e) LIMITATION ON NEW CAPACITY.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), the maximum amount that a State may
9 obligate under this section for projects under sub-
10 paragraphs (G) and (P) of subsection (d)(2) and
11 that is attributable to the portion of the cost of any
12 project undertaken to expand the capacity of eligible
13 facilities on the National Highway System, in a case
14 in which the new capacity consists of 1 or more new
15 travel lanes that are not high-occupancy vehicle
16 lanes, shall not, in total, exceed 40 percent of the
17 combined apportionments of a State under section
18 104(b)(1) for the most recent 3 consecutive years.

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

1 “(f) STATE PERFORMANCE MANAGEMENT.—

2 “(1) IN GENERAL.—A State shall develop a
3 risk-based asset management plan for the National
4 Highway System to improve or preserve asset condi-
5 tion and system performance.

6 “(2) PERFORMANCE DRIVEN PLAN.—A State
7 asset management plan shall include strategies lead-
8 ing to a program of projects that would make
9 progress toward achievement of the State targets for
10 asset condition and performance of the National
11 Highway System in accordance with paragraph (5)
12 and supporting the progress toward the achievement
13 of the national goals identified in section 150.

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

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

22 “(B) asset management objectives and
23 measures;

24 “(C) performance gap identification;

1 “(D) lifecycle cost and risk management
2 analysis;

3 “(E) a financial plan; and

4 “(F) investment strategies.

5 “(4) STANDARDS AND MEASURES.—

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

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

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

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

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

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

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

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

6 “(iii) the data elements that are nec-
7 essary to collect and maintain data, and a
8 standardized process for collection and
9 sharing of data with appropriate govern-
10 mental entities at the Federal, State, and
11 local levels (including metropolitan plan-
12 ning organizations), to carry out para-
13 graph (5); and

14 “(iv) minimum levels for—

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

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

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

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

1 “(ii) take into consideration any com-
2 ments of the States relating to a proposed
3 regulation received during that comment
4 period.

5 “(5) STATE PERFORMANCE TARGETS.—

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

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

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

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

1 “(B) State targets that address the per-
2 formance measures identified in paragraph
3 (4)(B).

4 “(7) CERTIFICATION OF PLAN DEVELOPMENT
5 PROCESS.—

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

12 “(i) review the process; and

13 “(ii)(I) certify that the process meets
14 the requirements established by the Sec-
15 retary; or

16 “(II) deny certification and specify ac-
17 tions necessary for the State to take to
18 correct deficiencies in the State process.

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

1 “(C) OPPORTUNITY TO CURE.—If the Sec-
2 retary denies certification under subparagraph
3 (A), the Secretary shall provide the State
4 with—

5 “(i) not less than 90 days to cure the
6 deficiencies of the plan, during which time
7 period all penalties and other legal impacts
8 of a denial of certification shall be stayed;
9 and

10 “(ii) a written statement of the spe-
11 cific actions the Secretary determines to be
12 necessary for the State to cure the plan.

13 “(8) PERFORMANCE REPORTS.—

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

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

20 “(ii) progress in achieving State tar-
21 gets for each of the performance measures
22 for the National Highway System; and

23 “(iii) the effectiveness of the invest-
24 ment strategy documented in the State

1 asset management plan for the National
2 Highway System.

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

12 “(9) PROCESS.—Not later than 18 months
13 after the date of enactment of the MAP–21, the Sec-
14 retary shall, by regulation and in consultation with
15 State departments of transportation, establish the
16 process to develop the State asset management plan
17 described in paragraph (1) and establish the stand-
18 ards and measures described in paragraph (4).

19 “(g) INTERSTATE SYSTEM AND NHS BRIDGE CON-
20 DITIONS.—

21 “(1) CONDITION OF INTERSTATE SYSTEM.—

22 “(A) PENALTY.—If, during 2 consecutive
23 reporting periods, the condition of the Inter-
24 state System, excluding bridges on the Inter-
25 state System, in a State falls below the min-

1 imum condition level established by the Sec-
2 retary under subsection (f)(4)(A)(iv), the State
3 shall be required, during the following fiscal
4 year—

5 “(i) to obligate, from the amounts ap-
6 portioned to the State under section
7 104(b)(1), an amount that is not less than
8 the amount of funds apportioned to the
9 State for fiscal year 2009 under the Inter-
10 state maintenance program for the pur-
11 poses described in this section (as in effect
12 on the day before the date of enactment of
13 the MAP-21), except that for each year
14 after fiscal year 2013, the amount required
15 to be obligated under this clause shall be
16 increased by 2 percent over the amount re-
17 quired to be obligated in the previous fiscal
18 year; and

19 “(ii) to transfer, from the amounts
20 apportioned to the State under section
21 104(b)(2) (other than amounts suballo-
22 cated to metropolitan areas and other
23 areas of the State under section 133(d)) to
24 the apportionment of the State under sec-
25 tion 104(b)(1), an amount equal to 10 per-

1 cent of the amount of funds apportioned to
2 the State for fiscal year 2009 under the
3 Interstate maintenance program for the
4 purposes described in this section (as in ef-
5 fect on the day before the date of enact-
6 ment of the MAP-21).

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

15 “(2) CONDITION OF NHS BRIDGES.—

16 “(A) PENALTY.—If, during 2 consecutive
17 reporting periods, the condition of bridges on
18 the National Highway System in a State falls
19 below the minimum condition level established
20 by the Secretary under subsection (f)(4)(A)(iv),
21 the State shall be required, during the following
22 fiscal year—

23 “(i) to obligate, from the amounts ap-
24 portioned to the State under section
25 104(b)(1), an amount for bridges on the

1 National Highway System that is not less
2 than 50 percent of the amount of funds
3 apportioned to the State for fiscal year
4 2009 under the highway bridge program
5 for the purposes described in section 144
6 (as in effect on the day before the date of
7 enactment of the MAP-21), except that for
8 each year after fiscal year 2013, the
9 amount required to be obligated under this
10 clause shall be increased by 2 percent over
11 the amount required to be obligated in the
12 previous fiscal year; and

13 “(ii) to transfer, from the amounts
14 apportioned to the State under section
15 104(b)(2) (other than amounts suballo-
16 cated to metropolitan areas and other
17 areas of the State under section 133(d)) to
18 the apportionment of the State under sec-
19 tion 104(b)(1), an amount equal to 10 per-
20 cent of the amount of funds apportioned to
21 the State for fiscal year 2009 under the
22 highway bridge program for the purposes
23 described in section 144 (as in effect on
24 the day before the date of enactment of the
25 MAP-21).

1 “(B) RESTORATION.—The obligation re-
2 quirement for bridges on the National Highway
3 System in a State required by subparagraph
4 (A) for a fiscal year shall remain in effect for
5 each subsequent fiscal year until such time as
6 the condition of bridges on the National High-
7 way System in the State exceeds the minimum
8 condition level established by the Secretary
9 under subsection (f)(4)(A)(iv).”.

10 (b) TRANSITION PERIOD.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), until such date as a State has in effect
13 an approved asset management plan and has estab-
14 lished performance targets as described in section
15 119 of title 23, United States Code, that will con-
16 tribute to achieving the national goals for the condi-
17 tion and performance of the National Highway Sys-
18 tem, but not later than 18 months after the date on
19 which the Secretary promulgates final regulations
20 required under section 119(f)(4) of that title, the
21 Secretary shall approve obligations of funds appor-
22 tioned to a State to carry out the national highway
23 performance program under section 119 of that title,
24 for projects that otherwise meet the requirements of
25 that section.

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

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

 “119. National highway performance program.”.

11 **SEC. 1107. EMERGENCY RELIEF.**

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

14 **“§ 125. Emergency relief**

15 “(a) IN GENERAL.—Subject to this section and sec-
16 tion 120, an emergency fund is authorized for expenditure
17 by the Secretary for the repair or reconstruction of high-
18 ways, roads, and trails, in any area of the United States,
19 including Indian reservations, that the Secretary finds
20 have suffered serious damage as a result of—

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

24 “(2) catastrophic failure from any external
25 cause.

1 “(b) RESTRICTION ON ELIGIBILITY.—

2 “(1) DEFINITION OF CONSTRUCTION PHASE.—

3 In this subsection, the term ‘construction phase’
4 means the phase of physical construction of a high-
5 way or bridge facility that is separate from any
6 other identified phases, such as planning, design, or
7 right-of-way phases, in the State transportation im-
8 provement program.

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

12 “(A) that has been permanently closed to
13 all vehicular traffic by the State or responsible
14 local official because of imminent danger of col-
15 lapse due to a structural deficiency or physical
16 deterioration; or

17 “(B) if a construction phase of a replace-
18 ment structure is included in the approved
19 Statewide transportation improvement program
20 at the time of an event described in subsection
21 (a).

22 “(c) FUNDING.—

23 “(1) IN GENERAL.—Subject to the limitations
24 described in paragraph (2), there are authorized to
25 be appropriated from the Highway Trust Fund

1 (other than the Mass Transit Account) such sums as
2 are necessary to establish the fund authorized by
3 this section and to replenish that fund on an annual
4 basis.

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

7 “(A) not more than \$100,000,000 is au-
8 thorized to be obligated in any 1 fiscal year
9 commencing after September 30, 1980, to carry
10 out this section, except that, if for any fiscal
11 year the total of all obligations under this sec-
12 tion is less than the amount authorized to be
13 obligated for the fiscal year, the unobligated
14 balance of that amount shall—

15 “(i) remain available until expended;

16 and

17 “(ii) be in addition to amounts other-
18 wise available to carry out this section for
19 each year; and

20 “(B)(i) pending such appropriation or re-
21 plenishment, the Secretary may obligate from
22 any funds appropriated at any time for obliga-
23 tion in accordance with this title, including ex-
24 isting Federal-aid appropriations, such sums as

1 are necessary for the immediate prosecution of
2 the work herein authorized; and

3 “(ii) funds obligated under this subpara-
4 graph shall be reimbursed from the appropria-
5 tion or replenishment.

6 “(d) ELIGIBILITY.—

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

12 “(A) no funds shall be so expended unless
13 an emergency has been declared by the Gov-
14 ernor of the State with concurrence by the Sec-
15 retary, unless the President has declared the
16 emergency to be a major disaster for the pur-
17 poses of the Robert T. Stafford Disaster Relief
18 and Emergency Assistance Act (42 U.S.C. 5121
19 et seq.) for which concurrence of the Secretary
20 is not required; and

21 “(B) the Secretary has received an applica-
22 tion from the State transportation department
23 that includes a comprehensive list of all eligible
24 project sites and repair costs by not later than

1 2 years after the natural disaster or cata-
2 strophic failure.

3 “(2) COST LIMITATION.—

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

13 “(B) LIMITATION.—The total cost of a
14 project funded under this section may not ex-
15 ceed the cost of repair or reconstruction of a
16 comparable facility.

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

22 “(4) SUBSTITUTE TRAFFIC.—Notwithstanding
23 any other provision of this section, actual and nec-
24 essary costs of maintenance and operation of ferry-
25 boats or additional transit service providing tem-

1 porary substitute highway traffic service, less the
2 amount of fares charged for comparable service, may
3 be expended from the emergency fund authorized by
4 this section for Federal-aid highways.

5 “(e) TRIBAL TRANSPORTATION FACILITIES, FED-
6 ERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC
7 ROADS ON FEDERAL LANDS.—

8 “(1) DEFINITION OF OPEN TO PUBLIC TRAV-
9 EL.—In this subsection, the term ‘open to public
10 travel’ means, with respect to a road, that, except
11 during scheduled periods, extreme weather condi-
12 tions, or emergencies, the road is open to the general
13 public for use with a standard passenger vehicle,
14 without restrictive gates or prohibitive signs or regu-
15 lations, other than for general traffic control or re-
16 strictions based on size, weight, or class of registra-
17 tion.

18 “(2) EXPENDITURE OF FUNDS.—Notwith-
19 standing subsection (d)(1), the Secretary may ex-
20 pend funds from the emergency fund authorized by
21 this section, independently or in cooperation with
22 any other branch of the Federal Government, a
23 State agency, a tribal government, an organization,
24 or a person, for the repair or reconstruction of tribal
25 transportation facilities, Federal lands transpor-

1 tation facilities, and other federally owned roads that
2 are open to public travel, whether or not those facili-
3 ties are Federal-aid highways.

4 “(3) REIMBURSEMENT.—

5 “(A) IN GENERAL.—The Secretary may re-
6 imburse Federal and State agencies (including
7 political subdivisions) for expenditures made for
8 projects determined eligible under this section,
9 including expenditures for emergency repairs
10 made before a determination of eligibility.

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

13 “(i) those reimbursements to Federal
14 agencies and Indian tribal governments
15 shall be transferred to the account from
16 which the expenditure was made, or to a
17 similar account that remains available for
18 obligation; and

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

1 “(f) TREATMENT OF TERRITORIES.—For purposes of
 2 this section, the Virgin Islands, Guam, American Samoa,
 3 and the Commonwealth of the Northern Mariana Islands
 4 shall be considered to be States and parts of the United
 5 States, and the chief executive officer of each such terri-
 6 tory shall be considered to be a Governor of a State.

7 “(g) PROTECTING PUBLIC SAFETY AND MAINTAIN-
 8 ING ROADWAYS.—The Secretary may use amounts from
 9 the emergency fund authorized by this section to carry out
 10 projects that the Secretary determines are necessary to
 11 protect public safety or to maintain or protect roadways
 12 that have been included within the scope of a prior emer-
 13 gency declaration in order to maintain the continuation
 14 of roadway services on roads that are threatened by con-
 15 tinuous or frequent flooding.”.

16 **SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.**

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

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

20 “(a) ESTABLISHMENT.—The Secretary shall estab-
 21 lish and implement a transportation mobility program
 22 under this section.

23 “(b) PURPOSE.—The purpose of the transportation
 24 mobility program shall be to assist States and localities

1 in improving the conditions and performance on Federal-
2 aid highways and on bridges on any public road.

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

7 “(1) Construction, reconstruction, rehabilita-
8 tion, resurfacing, restoration, preservation, or oper-
9 ational improvements for highways, including con-
10 struction of designated routes of the Appalachian de-
11 velopment highway system and local access roads
12 under section 14501 of title 40, United States Code.

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

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

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

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

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

18 “(7) Carpool projects, fringe and corridor park-
19 ing facilities and programs, including electric vehicle
20 infrastructure in accordance with section 137, bicy-
21 cle transportation and pedestrian walkways in ac-
22 cordance with section 217, and the modification of
23 public sidewalks to comply with the Americans with
24 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

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

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

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

16 “(12) Surface transportation planning.

17 “(13) Transportation enhancement activities.

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

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

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

1 “(17) Projects, programs, and technical assist-
2 ance associated with National Scenic Byways, All-
3 American Roads, and America’s Byways eligible for
4 funding under section 162.

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

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

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

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

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

14 “(A) contributions to those mitigation ef-
15 forts may—

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

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

23 “(B) with respect to participation in a nat-
24 ural habitat or wetland mitigation effort relat-
25 ing to a project funded under this title that has

1 an impact that occurs within the service area of
2 a mitigation bank, preference is given, to the
3 maximum extent practicable, to the use of the
4 mitigation bank if the bank contains sufficient
5 available credits to offset the impact and the
6 bank is approved in accordance with applicable
7 Federal law (including regulations).

8 “(23) Infrastructure-based intelligent transpor-
9 tation systems capital improvements.

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

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

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

19 “(A) the project will make significant im-
20 provement to freight movements on the national
21 freight network;

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

24 “(C) the project provides a better return
25 than a highway project on a segment of the pri-

1 mary freight network, except that a State may
2 not obligate in excess of 5 percent of funds ap-
3 portioned to the State under section 104(b)(2)
4 to carry out this section for that purpose.

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

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

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

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

16 “(A) the public road, and the highway
17 project to be carried out with respect to the
18 public road, are in the same corridor as, and in
19 proximity to—

20 “(i) a fully access-controlled highway
21 designated as a part of the National High-
22 way System; or

23 “(ii) in areas with a population of less
24 than 200,000, a federal-aid highway des-

1 ignated as part of the National Highway
2 System;

3 “(B) the construction or improvements will
4 enhance the level of service on the highway de-
5 scribed in subparagraph (A) and improve re-
6 gional traffic flow; and

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

11 “(d) ALLOCATIONS OF APPORTIONED FUNDS TO
12 AREAS BASED ON POPULATION.—

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

15 “(A) 50 percent for a fiscal year shall be
16 obligated under this section, in proportion to
17 their relative shares of the population of the
18 State—

19 “(i) in urbanized areas of the State
20 with an urbanized area population of over
21 200,000;

22 “(ii) in areas of the State other than
23 urban areas with a population greater than
24 5,000; and

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

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

3 “(2) METROPOLITAN AREAS.—Funds attributed
4 to an urbanized area under subparagraph (A)(i) may
5 be obligated in the metropolitan area established
6 under section 134 that encompasses the urbanized
7 area.

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

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

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

23 “(e) LOCATION OF PROJECTS.—Except as provided
24 in subsection (g) and for projects described in paragraphs
25 (2), (4), (7), (8), (13), (14), and (19) of subsection (c),

1 for local access roads under section 14501 of title 40,
 2 United States Code, transportation mobility program
 3 projects may not be undertaken on roads functionally clas-
 4 sified as local or rural minor collectors.

5 “(f) APPLICABILITY OF PLANNING REQUIRE-
 6 MENTS.—Programming and expenditure of funds for
 7 projects under this section shall be consistent with sections
 8 134 and 135.

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

10 “(1) DEFINITION OF OFF-SYSTEM BRIDGE.—

11 The term ‘off-system bridge’ means a highway
 12 bridge located on a public road, other than a bridge
 13 on a Federal-aid highway.

14 “(2) SPECIAL RULE.—

15 “(A) SET-ASIDE.—Of the amounts appor-
 16 tioned to a State for fiscal year 2012 and each
 17 fiscal year thereafter under this section, the
 18 State shall obligate for activities described in
 19 subsection (c)(2) for off-system bridges an
 20 amount that is not less than 15 percent of the
 21 amount of funds apportioned to the State for
 22 the highway bridge program for fiscal year
 23 2009.

24 “(B) REDUCTION OF EXPENDITURES.—

25 The Secretary, after consultation with State

1 and local officials, may reduce the requirement
2 for expenditures for off-system bridges under
3 subparagraph (A) with respect to the State if
4 the Secretary determines that the State has in-
5 adequate needs to justify the expenditure.

6 “(3) CREDIT FOR BRIDGES NOT ON FEDERAL-
7 AID HIGHWAYS.—Notwithstanding any other provi-
8 sion of law, with respect to any project not on a
9 Federal-aid highway for the replacement of a bridge
10 or rehabilitation of a bridge that is wholly funded
11 from State and local sources, is eligible for Federal
12 funds under this section, is noncontroversial, is cer-
13 tified by the State to have been carried out in ac-
14 cordance with all standards applicable to such
15 projects under this section, and is determined by the
16 Secretary upon completion to be no longer a defi-
17 cient bridge—

18 “(A) any amount expended after the date
19 of enactment of this subsection from State and
20 local sources for the project in excess of 20 per-
21 cent of the cost of construction of the project
22 may be credited to the non-Federal share of the
23 cost of other bridge projects in the State that
24 are eligible for Federal funds under this sec-
25 tion; and

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

4 “(h) ADMINISTRATION.—

5 “(1) SUBMISSION OF PROJECT AGREEMENT.—

6 For each fiscal year, each State shall submit a
7 project agreement that—

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

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

13 “(2) REQUEST FOR ADJUSTMENTS OF
14 AMOUNTS.—Each State shall request from the Sec-
15 retary such adjustments to the amount of obliga-
16 tions referred to in paragraph (1)(B) as the State
17 determines to be necessary.

18 “(3) EFFECT OF APPROVAL BY THE SEC-
19 RETARY.—Approval by the Secretary of a project
20 agreement under paragraph (1) shall be deemed a
21 contractual obligation of the United States to pay
22 transportation mobility program funds made avail-
23 able under this title.

24 “(i) OBLIGATION AUTHORITY.—

1 “(1) IN GENERAL.—A State that is required to
2 obligate, in an urbanized area with an urbanized
3 area population of over 200,000 individuals under
4 subsection (d), funds apportioned to the State under
5 section 104(b)(2) shall make available during the
6 fiscal year an amount of obligation authority distrib-
7 uted to the State for Federal-aid highways and high-
8 way safety construction programs for use in the area
9 that is equal to the product obtained by multi-
10 plying—

11 “(A) the aggregate amount of funds that
12 the State is required to obligate in the area
13 under subsection (d) during the period; and

14 “(B) the ratio that—

15 “(i) the aggregate amount of obliga-
16 tion authority distributed to the State for
17 Federal-aid highways and highway safety
18 construction programs during the period;
19 bears to

20 “(ii) the total of the sums apportioned
21 to the State for Federal-aid highways and
22 highway safety construction programs (ex-
23 cluding sums not subject to an obligation
24 limitation) during the period.

1 “(2) JOINT RESPONSIBILITY.—Each State,
2 each affected metropolitan planning organization,
3 and the Secretary shall jointly ensure compliance
4 with paragraph (1).”.

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

 “133. Transportation mobility program.”.

9 **SEC. 1109. WORKFORCE DEVELOPMENT.**

10 (a) ON-THE-JOB TRAINING.—Section 140(b) of title
11 23, United States Code, is amended—

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

16 (2) by striking “the surface transportation pro-
17 gram under section 104(b) and the bridge program
18 under section 144” and inserting “the transpor-
19 tation mobility program under section 104(b)”.

20 (b) DISADVANTAGED BUSINESS ENTERPRISE.—Sec-
21 tion 140(c) of title 23, United States Code, is amended
22 by striking “Whenever apportionments are made under
23 section 104(b)(3),” and inserting “From administrative
24 funds made available under section 104(a),”.

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

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

4 (1) in subsection (b)—

5 (A) by striking paragraph (2) and insert-
6 ing the following:

7 “(2) FUNDING.—

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

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

22 (B) in paragraph (8)—

23 (i) in the paragraph heading by strik-
24 ing “SURFACE TRANSPORTATION PRO-
25 GRAM” and inserting “TRANSPORTATION
26 MOBILITY PROGRAM”; and

1 (ii) by striking “section 104(b)(3)”
2 and inserting “section 104(b)(2)”; and
3 (2) in subsection (c)(3) by striking “for each of
4 fiscal years 2005 through 2009,” and inserting “for
5 each fiscal year.”.

6 **SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY**
7 **AND INSPECTION STANDARDS.**

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

10 **“§ 144. National bridge and tunnel inventory and in-**
11 **spection standards**

12 “(a) FINDINGS AND DECLARATIONS.—

13 “(1) FINDINGS.—Congress finds that—

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

24 “(B) the systematic preventative mainte-
25 nance of bridges, and replacement and rehabili-

1 tation of deficient bridges, should be under-
2 taken through an overall asset management ap-
3 proach to transportation investment.

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

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

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

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

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

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

24 “(b) NATIONAL BRIDGE AND TUNNEL INVEN-
25 TORIES.—

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

3 “(A) inventory all highway bridges on pub-
4 lic roads that are bridges over waterways, other
5 topographical barriers, other highways, and
6 railroads;

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

14 “(C) based on that classification, assign
15 each a risk-based priority for systematic pre-
16 ventative maintenance, replacement, or rehabili-
17 tation.

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

23 “(A) inventory all tribally owned and Fed-
24 erally owned highway bridges that are open to

1 the public, over waterways, other topographical
2 barriers, other highways, and railroads;

3 “(B) classify the bridges according to serv-
4 iceability, safety, and essentiality for public use;
5 and

6 “(C) based on the classification, assign
7 each a risk-based priority for systematic pre-
8 ventative maintenance, replacement, or rehabili-
9 tation.

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

14 “(c) GENERAL BRIDGE AUTHORITY.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2) and notwithstanding any other provision
17 of law, the General Bridge Act of 1946 (33 U.S.C.
18 525 et seq.) shall apply to bridges authorized to be
19 replaced, in whole or in part, by this title.

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

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

5 “(B) are—

6 “(i) not tidal; or

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

10 “(d) INVENTORY UPDATES AND REPORTS.—

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

12 “(A) annually revise the inventories au-
13 thorized by subsection (b); and

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

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

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

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

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

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

16 “(e) BRIDGES WITHOUT TAXING POWERS.—

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

1 has expended for capital and operating costs to sub-
2 sidize such transit system.

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

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

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

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

23 “(A) any low water crossing (regardless of
24 the length of the low water crossing);

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

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

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

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

13 “(g) HISTORIC BRIDGES.—

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

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

22 “(3) STATE INVENTORY.—The Secretary shall
23 require each State to complete an inventory of all
24 bridges on and off Federal-aid highways to deter-
25 mine the historic significance of the bridges.

1 “(4) ELIGIBILITY.—

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

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

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

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

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

9 “(6) COSTS INCURRED.—

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

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

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

23 “(1) REQUIREMENT.—

24 “(A) IN GENERAL.—The Secretary shall
25 establish and maintain inspection standards for

1 the proper inspection and evaluation of all high-
2 way bridges and tunnels for safety and service-
3 ability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(i) critical findings relating to struc-
24 tural or safety-related deficiencies of high-
25 way bridges; and

1 “(ii) monitoring activities and correc-
2 tive actions taken in response to a critical
3 finding.

4 “(4) REVIEWS OF STATE COMPLIANCE.—

5 “(A) IN GENERAL.—The Secretary shall
6 annually review State compliance with the
7 standards established under this section.

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

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

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

18 “(I) developing a corrective ac-
19 tion plan to remedy the noncompli-
20 ance; or

21 “(II) resolving the issues of non-
22 compliance not later than 45 days
23 after the date of notification.

24 “(5) PENALTY FOR NONCOMPLIANCE.—

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

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

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

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

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

24 “(A) the methodology, training, and quali-
25 fications for inspectors; and

1 “(B) the frequency of inspection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(4) HIGHWAY SAFETY IMPROVEMENT
19 PROJECT.—

20 “(A) IN GENERAL.—The term ‘highway
21 safety improvement project’ means strategies,
22 activities, and projects on a public road that are
23 consistent with a State strategic highway safety
24 plan and—

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

1 “(ii) address a highway safety prob-
2 lem.

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

7 “(i) An intersection safety improve-
8 ment.

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

12 “(iii) Installation of rumble strips or
13 another warning device, if the rumble
14 strips or other warning devices do not ad-
15 versely affect the safety or mobility of
16 bicyclists and pedestrians, including per-
17 sons with disabilities.

18 “(iv) Installation of a skid-resistant
19 surface at an intersection or other location
20 with a high frequency of crashes.

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

24 “(vi) Construction and improvement
25 of a railway-highway grade crossing safety

1 feature, including installation of protective
2 devices.

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

6 “(viii) Construction of a traffic
7 calming feature.

8 “(ix) Elimination of a roadside haz-
9 ard.

10 “(x) Installation, replacement, and
11 other improvement of highway signage and
12 pavement markings, or a project to main-
13 tain minimum levels of retroreflectivity,
14 that addresses a highway safety problem
15 consistent with a State strategic highway
16 safety plan.

17 “(xi) Installation of a priority control
18 system for emergency vehicles at signalized
19 intersections.

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

23 “(xiii) Transportation safety planning.

24 “(xiv) Collection, analysis, and im-
25 provement of safety data.

1 “(xv) Planning integrated interoper-
2 able emergency communications equip-
3 ment, operational activities, or traffic en-
4 forcement activities (including police as-
5 sistance) relating to work zone safety.

6 “(xvi) Installation of guardrails, bar-
7 riers (including barriers between construc-
8 tion work zones and traffic lanes for the
9 safety of road users and workers), and
10 crash attenuators.

11 “(xvii) The addition or retrofitting of
12 structures or other measures to eliminate
13 or reduce crashes involving vehicles and
14 wildlife.

15 “(xviii) Installation of yellow-green
16 signs and signals at pedestrian and bicycle
17 crossings and in school zones.

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

20 “(xx) Geometric improvements to a
21 road for safety purposes that improve safe-
22 ty.

23 “(xxi) A road safety audit.

24 “(xxii) Roadway safety infrastructure
25 improvements consistent with the rec-

1 ommendations included in the publication
2 of the Federal Highway Administration en-
3 titled ‘Highway Design Handbook for
4 Older Drivers and Pedestrians’ (FHWA-
5 RD-01-103), dated May 2001 or as subse-
6 quently revised and updated.

7 “(xxiii) Truck parking facilities eligi-
8 ble for funding under section 1401 of the
9 MAP-21.

10 “(xxiv) Systemic safety improvements.

11 “(5) MODEL INVENTORY OF ROADWAY ELE-
12 MENTS.—The term ‘model inventory of roadway ele-
13 ments’ means the listing and standardized coding by
14 the Federal Highway Administration of roadway and
15 traffic data elements critical to safety management,
16 analysis, and decisionmaking.

17 “(6) PROJECT TO MAINTAIN MINIMUM LEVELS
18 OF RETROREFLECTIVITY.—The term ‘project to
19 maintain minimum levels of retroreflectivity’ means
20 a project that is designed to maintain a highway
21 sign or pavement marking retroreflectivity at or
22 above the minimum levels prescribed in Federal or
23 State regulations.

24 “(7) ROAD SAFETY AUDIT.—The term ‘road
25 safety audit’ means a formal safety performance ex-

1 amination of an existing or future road or intersec-
2 tion by an independent multidisciplinary audit team.

3 “(8) ROAD USERS.—The term ‘road user’
4 means a motorist, passenger, public transportation
5 operator or user, truck driver, bicyclist, motorcycleist,
6 or pedestrian, including a person with disabilities.

7 “(9) SAFETY DATA.—

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

11 “(B) INCLUSION.—The term ‘safety data’
12 includes, in the case of a railway-highway grade
13 crossing, the characteristics of highway and
14 train traffic, licensing, and vehicle data.

15 “(10) SAFETY PROJECT UNDER ANY OTHER
16 SECTION.—

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

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

23 “(i) a project consistent with the
24 State strategic highway safety plan that
25 promotes the awareness of the public and

1 educates the public concerning highway
2 safety matters (including motorcycle safe-
3 ty);

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

6 “(iii) a project to provide infrastruc-
7 ture and infrastructure-related equipment
8 to support emergency services.

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

15 “(12) STATE STRATEGIC HIGHWAY SAFETY
16 PLAN.—The term ‘State strategic highway safety
17 plan’ means a comprehensive plan, based on safety
18 data, developed by a State transportation depart-
19 ment that—

20 “(A) is developed after consultation with—

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

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

1 “(iii) representatives of major modes
2 of transportation;

3 “(iv) State and local traffic enforce-
4 ment officials;

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

8 “(vi) representatives conducting a
9 motor carrier safety program under section
10 31102, 31106, or 31309 of title 49;

11 “(vii) motor vehicle administration
12 agencies;

13 “(viii) county transportation officials;

14 “(ix) State representatives of non-
15 motorized users; and

16 “(x) other major Federal, State, trib-
17 al, and local safety stakeholders;

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

20 “(C) addresses engineering, management,
21 operation, education, enforcement, and emer-
22 gency services elements (including integrated,
23 interoperable emergency communications) of
24 highway safety as key factors in evaluating
25 highway projects;

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

5 “(E) considers the results of State, re-
6 gional, or local transportation and highway
7 safety planning processes;

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

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

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

13 “(I) is updated and submitted to the Sec-
14 retary for approval as required under sub-
15 section (d)(2).

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

21 “(b) PROGRAM.—

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

24 “(2) PURPOSE.—The purpose of the highway
25 safety improvement program shall be to achieve a

1 significant reduction in traffic fatalities and serious
2 injuries on all public roads, including non-State-
3 owned public roads and roads on tribal land.

4 “(c) ELIGIBILITY.—

5 “(1) IN GENERAL.—To obligate funds appor-
6 tioned under section 104(b)(3) to carry out this sec-
7 tion, a State shall have in effect a State highway
8 safety improvement program under which the
9 State—

10 “(A) develops, implements, and updates a
11 State strategic highway safety plan that identi-
12 fies and analyzes highway safety problems and
13 opportunities as provided in subsections (a)(12)
14 and (d);

15 “(B) produces a program of projects or
16 strategies to reduce identified safety problems;
17 and

18 “(C) evaluates the strategic highway safety
19 plan on a regularly recurring basis in accord-
20 ance with subsection (d)(1) to ensure the accu-
21 racy of the data and priority of proposed strate-
22 gies.

23 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
24 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As

1 part of the State highway safety improvement pro-
2 gram, a State shall—

3 “(A) have in place a safety data system
4 with the ability to perform safety problem iden-
5 tification and countermeasure analysis—

6 “(i) to improve the timeliness, accu-
7 racy, completeness, uniformity, integration,
8 and accessibility of the safety data on all
9 public roads, including non-State-owned
10 public roads and roads on tribal land in
11 the State;

12 “(ii) to evaluate the effectiveness of
13 data improvement efforts;

14 “(iii) to link State data systems, in-
15 cluding traffic records, with other data sys-
16 tems within the State;

17 “(iv) to improve the compatibility and
18 interoperability of safety data with other
19 State transportation-related data systems
20 and the compatibility and interoperability
21 of State safety data systems with data sys-
22 tems of other States and national data sys-
23 tems;

24 “(v) to enhance the ability of the Sec-
25 retary to observe and analyze national

1 trends in crash occurrences, rates, out-
2 comes, and circumstances; and

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

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

7 “(i) identify hazardous locations, sec-
8 tions, and elements (including roadside ob-
9 stacles, railway-highway crossing needs,
10 and unmarked or poorly marked roads)
11 that constitute a danger to motorists (in-
12 cluding motorecyclists), bicyclists, pedes-
13 trians, and other highway users;

14 “(ii) using such criteria as the State
15 determines to be appropriate, establish the
16 relative severity of those locations, in terms
17 of crashes (including crash rates), fatali-
18 ties, serious injuries, traffic volume levels,
19 and other relevant data;

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

23 “(iv) identify highway safety improve-
24 ment projects on the basis of crash experi-

1 ence, crash potential, crash rate, or other
2 data-supported means; and

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

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

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

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

12 “ (iii) are coordinated with other State
13 highway safety programs;

14 “ (D) advance the capabilities of the State
15 for safety data collection, analysis, and integra-
16 tion in a manner that—

17 “ (i) complements the State highway
18 safety program under chapter 4 and the
19 commercial vehicle safety plan under sec-
20 tion 31102 of title 49;

21 “ (ii) includes all public roads, includ-
22 ing public non-State-owned roads and
23 roads on tribal land;

24 “ (iii) identifies hazardous locations,
25 sections, and elements on all public roads

1 that constitute a danger to motorists (in-
2 cluding motorcycleists), bicyclists, pedes-
3 trians, persons with disabilities, and other
4 highway users;

5 “(iv) includes a means of identifying
6 the relative severity of hazardous locations
7 described in clause (iii) in terms of crashes
8 (including crash rate), serious injuries, fa-
9 talities, and traffic volume levels; and

10 “(v) improves the ability of the State
11 to identify the number of fatalities and se-
12 rious injuries on all public roads in the
13 State with a breakdown by functional clas-
14 sification and ownership in the State;

15 “(E)(i) determine priorities for the correc-
16 tion of hazardous road locations, sections, and
17 elements (including railway-highway crossing
18 improvements), as identified through safety
19 data analysis;

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

23 “(iii) establish and implement a schedule
24 of highway safety improvement projects for haz-
25 ard correction and hazard prevention; and

1 “(F)(i) establish an evaluation process to
2 analyze and assess results achieved by highway
3 safety improvement projects carried out in ac-
4 cordance with procedures and criteria estab-
5 lished by this section; and

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

9 “(d) UPDATES TO STRATEGIC HIGHWAY SAFETY
10 PLANS.—

11 “(1) ESTABLISHMENT OF REQUIREMENTS.—

12 “(A) IN GENERAL.—Not later than 1 year
13 after the date of enactment of the MAP-21, the
14 Secretary shall establish requirements for regu-
15 larly recurring State updates of strategic high-
16 way safety plans.

17 “(B) CONTENTS OF UPDATED STRATEGIC
18 HIGHWAY SAFETY PLANS.—In establishing re-
19 quirements under this subsection, the Secretary
20 shall ensure that States take into consideration,
21 with respect to updated strategic highway safe-
22 ty plans—

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

24 “(ii) the locations of fatalities and se-
25 rious injuries;

1 “(iii) the locations that do not have
2 an empirical history of fatalities and seri-
3 ous injuries, but possess risk factors for
4 potential crashes;

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

7 “(v) motor vehicle crashes that in-
8 clude fatalities or serious injuries to pedes-
9 trians and bicyclists;

10 “(vi) the cost-effectiveness of improve-
11 ments;

12 “(vii) improvements to rail-highway
13 grade crossings; and

14 “(viii) safety on all public roads, in-
15 cluding non-State-owned public roads and
16 roads on tribal land.

17 “(2) APPROVAL OF UPDATED STRATEGIC HIGH-
18 WAY SAFETY PLANS.—

19 “(A) IN GENERAL.—Each State shall—

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

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

4 “(B) REQUIREMENTS FOR APPROVAL.—
5 The Secretary shall not approve the process for
6 an updated strategic highway safety plan un-
7 less—

8 “(i) the updated strategic highway
9 safety plan is consistent with the require-
10 ments of this subsection and subsection
11 (a)(12); and

12 “(ii) the process used is consistent
13 with the requirements of this subsection.

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

21 “(A) the State shall not be eligible to re-
22 ceive any additional limitation pursuant to the
23 redistribution of the limitation on obligations
24 for Federal-aid highway and highway safety
25 construction programs that occurs after August

1 1 for each succeeding fiscal year until the fiscal
2 year during which the plan is approved; and

3 “(B) the Secretary shall, on October 1 of
4 each fiscal year thereafter, transfer from funds
5 apportioned to the State under section
6 104(b)(2) (other than amounts suballocated to
7 metropolitan areas and other areas of the State
8 under section 133(d)) an amount equal to 10
9 percent of the funds so apportioned for the fis-
10 cal year for use under the highway safety im-
11 provement program under this section to the
12 apportionment of the State under section
13 104(b)(3) until the fiscal year in which the plan
14 is approved.

15 “(e) ELIGIBLE PROJECTS.—

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

19 “(A) any highway safety improvement
20 project on any public road or publicly owned bi-
21 cycle or pedestrian pathway or trail; or

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

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

1 “(A) EFFECT OF SECTION.—Nothing in
2 this section prohibits the use of funds made
3 available under other provisions of this title for
4 highway safety improvement projects.

5 “(B) USE OF OTHER FUNDS.—States are
6 encouraged to address the full scope of the safe-
7 ty needs and opportunities of the States by
8 using funds made available under other provi-
9 sions of this title (except a provision that spe-
10 cifically prohibits that use).

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

13 “(1) IN GENERAL.—To further the implementa-
14 tion of a State strategic highway safety plan, a State
15 may use up to 10 percent of the amount of funds
16 apportioned to the State under section 104(b)(3) for
17 a fiscal year to carry out safety projects under any
18 other section as provided in the State strategic high-
19 way safety plan if the State certifies that—

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

23 “(B) the funds are being used for the most
24 effective projects to make progress toward

1 achieving the safety performance targets of the
2 State.

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

7 “(g) DATA IMPROVEMENT.—

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

10 “(A) IN GENERAL.—The term ‘data im-
11 provement activities’ means a project or activity
12 to further the capacity of a State to make more
13 informed and effective safety infrastructure in-
14 vestment decisions.

15 “(B) INCLUSIONS.—The term ‘data im-
16 provement activities’ includes a project or activ-
17 ity—

18 “(i) to create, update, or enhance a
19 highway basemap of all public roads in a
20 State;

21 “(ii) to collect safety data, including
22 data identified as part of the model inven-
23 tory of roadway elements, for creation of
24 or use on a highway basemap of all public
25 roads in a State;

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

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

5 “(v) to acquire and implement road-
6 way safety analysis tools; and

7 “(vi) to support the collection, mainte-
8 nance, and sharing of safety data on all
9 public roads and related systems associated
10 with the analytical usage of that data.

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

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

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

23 “(3) SPECIAL RULE.—A State may use funds
24 apportioned to the State pursuant to this subsection
25 for any project eligible under this section if the

1 State demonstrates to the satisfaction of the Sec-
2 retary that the State has met all of the State needs
3 for data collection to support the State strategic
4 highway safety plan and sufficiently addressed the
5 data improvement activities described in paragraph
6 (1).

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

9 “(A) establish a subset of the model inven-
10 tory of roadway elements that are useful for the
11 inventory of roadway safety; and

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

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

16 “(1) ESTABLISHMENT OF PERFORMANCE MEAS-
17 URES.—Not later than 1 year after the date of en-
18 actment of the MAP–21, the Secretary shall issue
19 guidance to States on the establishment, collection,
20 and reporting of performance measures that re-
21 flect—

22 “(A) serious injuries and fatalities per ve-
23 hicle mile traveled;

24 “(B) serious injuries and fatalities per cap-
25 ita; and

1 “(C) the number of serious injuries and fa-
2 talities

3 “(2) ESTABLISHMENT OF STATE PERFORMANCE
4 TARGETS.—Not later than 1 year after the Secretary
5 has issued guidance to States on the establishment,
6 collection, and reporting of performance measures,
7 each State shall set performance targets that re-
8 flect—

9 “(A) serious injuries and fatalities per ve-
10 hicle mile traveled;

11 “(B) serious injuries and fatalities per cap-
12 ita; and

13 “(C) the number of serious injuries and fa-
14 talities.

15 “(i) SPECIAL RULES.—

16 “(1) HIGH-RISK RURAL ROAD SAFETY.—If the
17 fatality rate on rural roads in a State increases over
18 the most recent 2-year period for which data are
19 available, that State shall be required to obligate in
20 the next fiscal year for projects on high risk rural
21 roads an amount equal to at least 200 percent of the
22 amount of funds the State received for fiscal year
23 2009 for high risk rural roads under subsection (f)
24 of this section, as in effect on the day before the
25 date of enactment of the MAP-21.

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

13 “(3) OLDER DRIVERS.—If traffic fatalities and
14 serious injuries per capita for drivers and pedes-
15 trians over the age of 65 in a State increases during
16 the most recent 2-year period for which data are
17 available, that State shall be required to include, in
18 the subsequent Strategic Highway Safety Plan of
19 the State, strategies to address the increases in
20 those rates, taking into account the recommenda-
21 tions included in the publication of the Federal
22 Highway Administration entitled ‘Highway Design
23 Handbook for Older Drivers and Pedestrians’
24 (FHWA-RD-01-103), and dated May 2001, or as
25 subsequently revised and updated.

1 “(j) REPORTS.—

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

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

7 “(B) describes progress being made to im-
8 plement highway safety improvement projects
9 under this section;

10 “(C) assesses the effectiveness of those im-
11 provements; and

12 “(D) describes the extent to which the im-
13 provements funded under this section have con-
14 tributed to reducing—

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

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

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

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

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

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

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

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

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

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

14 “(2) submit annually to the Secretary, until the
15 Secretary determines that the State has met or
16 made significant progress toward meeting the per-
17 formance targets of the State, an implementation
18 plan that—

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

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

24 “(C) describes how highway safety im-
25 provement program funds will be allocated, in-

1 including projects, activities, and strategies to be
2 implemented;

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

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

11 “(I) FEDERAL SHARE OF HIGHWAY SAFETY IM-
12 PROVEDMENT PROJECTS.—Except as provided in sections
13 120 and 130, the Federal share of the cost of a highway
14 safety improvement project carried out with funds appor-
15 tioned to a State under section 104(b)(3) shall be 90 per-
16 cent.”.

17 **SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IM-**
18 **PROVEDMENT PROGRAM.**

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

21 **“§ 149. Congestion mitigation and air quality im-**
22 **provement program**

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

1 “(b) ELIGIBLE PROJECTS.—

2 “(1) IN GENERAL.—Except as provided in sub-
3 section (c), a State may obligate funds apportioned
4 to the State for the congestion mitigation and air
5 quality improvement program under section
6 104(b)(4) that are not reserved under subsection (l)
7 only for a transportation project or program if the
8 project or program is for an area in the State that
9 is or was designated as a nonattainment area for
10 ozone, carbon monoxide, or particulate matter under
11 section 107(d) of the Clean Air Act (42 U.S.C.
12 7407(d)) and classified pursuant to section 181(a),
13 186(a), 188(a), or 188(b) of the Clean Air Act (42
14 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is
15 or was designated as a nonattainment area under
16 section 107(d) of that Act after December 31, 1997,
17 or is required to prepare, and file with the Adminis-
18 trator of the Environmental Protection Agency,
19 maintenance plans under the Clean Air Act (42
20 U.S.C. 7401 et seq.); and

21 “(A)(i)(I) if the Secretary, after consulta-
22 tion with the Administrator determines, on the
23 basis of information published by the Environ-
24 mental Protection Agency pursuant to subpara-
25 graph (A) of section 108(f)(1) of the Clean Air

1 Act (other than clause (xvi) of that subpara-
2 graph) (42 U.S.C. 7408(f)(1)) that the project
3 or program is likely to contribute to—

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

6 “(bb) the maintenance of a national
7 ambient air quality standard in a mainte-
8 nance area; and

9 “(II) there exists a high level of effective-
10 ness in reducing air pollution, in cases of
11 projects or programs where sufficient informa-
12 tion is available in the database established pur-
13 suant to subsection (h) to determine the relative
14 effectiveness of such projects or programs; or

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

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

24 “(C) to establish or operate a traffic moni-
25 toring, management, and control facility or pro-

1 gram, including truck stop electrification sys-
2 tems, if the Secretary, after consultation with
3 the Administrator, determines that the facility
4 or program is likely to contribute to the attain-
5 ment of a national ambient air quality stand-
6 ard;

7 “(D) if the program or project improves
8 traffic flow, including projects to improve sig-
9 nalization, construct high-occupancy vehicle
10 lanes, improve intersections, add turning lanes,
11 improve transportation systems management
12 and operations that mitigate congestion and im-
13 prove air quality, and implement intelligent
14 transportation system strategies and such other
15 projects that are eligible for assistance under
16 this section on the day before the date of enact-
17 ment of the MAP-21, including programs or
18 projects to improve incident and emergency re-
19 sponse or improve mobility, such as through
20 real-time traffic, transit, and multimodal trav-
21 eler information;

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

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

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

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

6 “(II) verified technologies (as de-
7 fined in section 791 of the Energy
8 Policy Act of 2005 (42 U.S.C.
9 16131)) for nonroad vehicles and
10 nonroad engines (as defined in section
11 216 of the Clean Air Act (42 U.S.C.
12 7550)) that are used in construction
13 projects that are—

14 “(aa) located in nonattain-
15 ment or maintenance areas for
16 ozone, PM₁₀, or PM_{2.5} (as de-
17 fined under the Clean Air Act
18 (42 U.S.C. 7401 et seq.)); and

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

21 “(ii) the conduct of outreach activities
22 that are designed to provide information
23 and technical assistance to the owners and
24 operators of diesel equipment and vehicles

1 regarding the purchase and installation of
2 diesel retrofits;

3 “(G) if the project involves the installation
4 of battery charging or replacement facilities for
5 electric-drive vehicles, or refueling facilities for
6 alternative-fuel vehicles;

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

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

21 “(2) LIMITATIONS.—Funds apportioned to a
22 State under section 104(b)(4) and not reserved
23 under subsection (1) may not be obligated for a
24 project that will result in the construction of new ca-
25 pacity available to single-occupant vehicles unless

1 the project consists of a high-occupancy vehicle facil-
2 ity available to single-occupant vehicles only at other
3 than peak travel times or such use by single-occu-
4 pant vehicles at peak travel times is subject to a toll.

5 “(3) USE OF FUNDS FOR OTHER ACTIVITIES.—

6 Notwithstanding paragraph (1) and subsection (c),
7 the Secretary may permit a State to use amounts
8 apportioned to the State for each of fiscal years
9 2012 and 2013 for the congestion mitigation and air
10 quality improvement program under section
11 104(b)(4) to carry out any activity on a system that
12 was eligible for funding under that program as in ef-
13 fect on December 31, 2010.

14 “(c) STATES FLEXIBILITY.—

15 “(1) STATES WITHOUT A NONATTAINMENT
16 AREA.—If a State does not have, and never has had,
17 a nonattainment area designated under the Clean
18 Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon
19 monoxide, or PM_{2.5}, the State may use funds appor-
20 tioned to the State under section 104(b)(4) (exclud-
21 ing the amount of funds reserved under subsection
22 (l)) for any project in the State that—

23 “(A) would otherwise be eligible under sub-
24 section (b) as if the project were carried out in
25 a nonattainment or maintenance area; or

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

3 “(2) STATES WITH A NONATTAINMENT AREA.—

4 “(A) IN GENERAL.—If a State has a non-
5 attainment area or maintenance area and re-
6 ceived funds in fiscal year 2009 under section
7 104(b)(2)(D), as in effect on the day before the
8 date of enactment of the MAP–21, above the
9 amount of funds that the State would have re-
10 ceived based on the nonattainment and mainte-
11 nance area population of the State under sub-
12 paragraphs (B) and (C) of section 104(b)(2), as
13 in effect on the day before the date of enact-
14 ment of the MAP–21, the State may use for
15 any project that is eligible under the transpor-
16 tation mobility program under section 133 an
17 amount of funds apportioned to such State
18 under section 104(b)(4) (excluding the amount
19 of funds reserved under subsection (l)) that is
20 equal to the product obtained by multiplying—

21 “(i) the amount apportioned to such
22 State under section 104(b)(4) (excluding
23 the amount of funds reserved under sub-
24 section (l)); by

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

3 “(B) RATIO.—For purposes of this para-
4 graph, the ratio shall be calculated as—

5 “(i) the amount for fiscal year 2009
6 such State was permitted by section
7 149(c)(2), as in effect on the day before
8 the date of enactment of the MAP–21, to
9 obligate in any area of the State for
10 projects eligible under section 133, as in
11 effect on the day before the date of enact-
12 ment of the MAP–21; bears to

13 “(ii) the total apportionment to such
14 State for fiscal year 2009 under section
15 104(b)(2), as in effect on the day before
16 the date of enactment of the MAP–21.

17 “(3) CHANGES IN DESIGNATION.—If a new
18 nonattainment area is designated or a previously
19 designated nonattainment area is redesignated as an
20 attainment area in a State under the Clean Air Act
21 (42 U.S.C. 7401 et seq.), the Secretary shall modify
22 the amount such State is permitted to obligate in
23 any area of the State for projects eligible under sec-
24 tion 133.

1 “(d) APPLICABILITY OF PLANNING REQUIRE-
2 MENTS.—Programming and expenditure of funds for
3 projects under this section shall be consistent with the re-
4 quirements of sections 134 and 135.

5 “(e) PARTNERSHIPS WITH NONGOVERNMENTAL EN-
6 TITIES.—

7 “(1) IN GENERAL.—Notwithstanding any other
8 provision of this title and in accordance with this
9 subsection, a metropolitan planning organization,
10 State transportation department, or other project
11 sponsor may enter into an agreement with any pub-
12 lic, private, or nonprofit entity to cooperatively im-
13 plement any project carried out with funds appor-
14 tioned under section 104(b)(4).

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

18 “(A) ownership or operation of any land,
19 facility, vehicle, or other physical asset associ-
20 ated with the project;

21 “(B) cost sharing of any project expense;

22 “(C) carrying out of administration, con-
23 struction management, project management,
24 project operation, or any other management or

1 operational duty associated with the project;
2 and

3 “(D) any other form of participation ap-
4 proved by the Secretary.

5 “(3) ALLOCATION TO ENTITIES.—A State may
6 allocate funds apportioned under section 104(b)(4)
7 to an entity described in paragraph (1).

8 “(4) ALTERNATIVE FUEL PROJECTS.—In the
9 case of a project that will provide for the use of al-
10 ternative fuels by privately owned vehicles or vehicle
11 fleets, activities eligible for funding under this sub-
12 section—

13 “(A) may include the costs of vehicle re-
14 fueling infrastructure, including infrastructure
15 that would support the development, produc-
16 tion, and use of emerging technologies that re-
17 duce emissions of air pollutants from motor ve-
18 hicles, and other capital investments associated
19 with the project;

20 “(B) shall include only the incremental
21 cost of an alternative fueled vehicle, as com-
22 pared to a conventionally fueled vehicle, that
23 would otherwise be borne by a private party;
24 and

1 “(C) shall apply other governmental finan-
2 cial purchase contributions in the calculation of
3 net incremental cost.

4 “(5) PROHIBITION ON FEDERAL PARTICIPATION
5 WITH RESPECT TO REQUIRED ACTIVITIES.—A Fed-
6 eral participation payment under this subsection
7 may not be made to an entity to fund an obligation
8 imposed under the Clean Air Act (42 U.S.C. 7401
9 et seq.) or any other Federal law.

10 “(f) PRIORITY CONSIDERATION.—States and metro-
11 politan planning organizations shall give priority in areas
12 designated as nonattainment or maintenance for PM_{2.5}
13 under the Clean Air Act (42 U.S.C. 7401 et seq.) in dis-
14 tributing funds received for congestion mitigation and air
15 quality projects and programs from apportionments under
16 section 104(b)(4) not required to be reserved under sub-
17 section (l) to projects that are proven to reduce PM_{2.5},
18 including diesel retrofits.

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

1 “(h) EVALUATION AND ASSESSMENT OF
2 PROJECTS.—

3 “(1) DATABASE.—

4 “(A) IN GENERAL.—Using appropriate as-
5 sessments of projects funded under the conges-
6 tion mitigation and air quality program and re-
7 sults from other research, the Secretary shall
8 maintain and disseminate a cumulative data-
9 base describing the impacts of the projects, in-
10 cluding specific information about each project,
11 such as the project name, location, sponsor,
12 cost, and, to the extent already measured by the
13 project sponsor, cost-effectiveness, based on re-
14 ductions in congestion and emissions.

15 “(B) AVAILABILITY.—The database shall
16 be published or otherwise made readily available
17 by the Secretary in electronically accessible for-
18 mat and means, such as the Internet, for public
19 review.

20 “(2) COST EFFECTIVENESS.—

21 “(A) IN GENERAL.—The Secretary, in con-
22 sultation with the Administrator of the Envi-
23 ronmental Protection Agency, shall evaluate
24 projects on a periodic basis and develop a table
25 or other similar medium that illustrates the

1 cost-effectiveness of a range of project types eli-
2 gible for funding under this section as to how
3 the projects mitigate congestion and improve
4 air quality.

5 “(B) CONTENTS.—The table described in
6 subparagraph (A) shall show measures of cost-
7 effectiveness, such as dollars per ton of emis-
8 sions reduced, and assess those measures over
9 a variety of timeframes to capture impacts on
10 the planning timeframes outlined in section
11 134.

12 “(C) USE OF TABLE.—States and metro-
13 politan planning organizations shall consider
14 the information in the table when selecting
15 projects or developing performance plans under
16 subsection (k).

17 “(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

18 “(1) IN GENERAL.—At the discretion of a met-
19 ropolitan planning organization, a technical assess-
20 ment of a selected program of projects may be con-
21 ducted through modeling or other means to dem-
22 onstrate the emissions reduction projection required
23 under this section.

24 “(2) APPLICABILITY.—If an assessment de-
25 scribed in paragraph (1) successfully demonstrates

1 an emissions reduction, all projects included in such
2 assessment shall be eligible for obligation under this
3 section without further demonstration of emissions
4 reduction of individual projects included in such as-
5 sessment.

6 “(j) SUBALLOCATION TO NONATTAINMENT AND
7 MAINTENANCE AREAS.—

8 “(1) IN GENERAL.—An amount equal to 50
9 percent of the amount of funds apportioned to each
10 State under section 104(b)(4) (excluding the amount
11 of funds reserved under subsection (l)) shall be sub-
12 allocated for projects within each area designated as
13 nonattainment or maintenance for the pollutants de-
14 scribed in subsection (b).

15 “(2) DISTRIBUTION OF FUNDS.—The distribu-
16 tion within any State of funds required to be sub-
17 allocated under paragraph (1) to each nonattain-
18 ment or maintenance area shall be in accordance
19 with a formula developed by each State and ap-
20 proved by the Secretary, which shall consider the
21 population of each such nonattainment or mainte-
22 nance area and shall be weighted by the severity of
23 pollution in the manner described in paragraph (6).

24 “(3) PROJECT SELECTION.—Projects under this
25 subsection shall be selected by a State and shall be

1 consistent with the requirements of sections 134 and
2 135.

3 “(4) PRIORITY FOR USE OF SUBALLOCATED
4 FUNDS IN PM_{2.5} AREAS.—

5 “(A) IN GENERAL.—An amount equal to
6 50 percent of the funds suballocated under
7 paragraph (1) for a nonattainment or mainte-
8 nance area that are based all or in part on the
9 weighted population of such area in fine partic-
10 ulate matter nonattainment shall be obligated
11 to projects that reduce such fine particulate
12 matter emissions in such area, including diesel
13 retrofits.

14 “(B) CONSTRUCTION EQUIPMENT.—An
15 amount equal to 30 percent of the funds re-
16 quired to be set aside under subparagraph (A)
17 shall be obligated to carry out the objectives of
18 section 330.

19 “(C) OBLIGATION PROCESS.—

20 “(i) IN GENERAL.—Each State or
21 metropolitan planning organization re-
22 quired to obligate funds in accordance with
23 this paragraph shall develop a process to
24 provide funding directly to eligible entities
25 (as defined under section 330) in order to

1 achieve the objectives of such section and
2 ensure that the bid proceeding and award
3 of the contract for any covered highway
4 construction project carried out under that
5 section will be—

6 “(I) made without regard to the
7 particulate matter emission levels of
8 the fleet of the eligible entity; and

9 “(II) consistent with existing re-
10 quirements for full and open competi-
11 tion under section 112.

12 “(ii) OBLIGATION.—A State may obli-
13 gate suballocated funds designated under
14 this paragraph without regard to any proc-
15 ess or other requirement established under
16 this section.

17 “(5) FUNDS NOT SUBALLOCATED.—Except as
18 provided in subsection (c), funds apportioned to a
19 State under section 104(b)(4) (excluding the amount
20 of funds reserved under subsection (l)) and not sub-
21 allocated under paragraph (1) shall be made avail-
22 able to such State for programming in any non-
23 attainment or maintenance area in the State.

24 “(6) FACTORS FOR CALCULATION OF SUB-
25 ALLOCATION.—

1 “(A) IN GENERAL.—For the purposes of
2 paragraph (2), each State shall weight the pop-
3 ulation of each such nonattainment or mainte-
4 nance area by a factor of—

5 “(i) 1.0 if, at the time of the appor-
6 tionment, the area is a maintenance area
7 for ozone or carbon monoxide;

8 “(ii) 1.0 if, at the time of the appor-
9 tionment, the area is classified as a mar-
10 ginal ozone nonattainment area under sub-
11 part 2 of part D of title I of the Clean Air
12 Act (42 U.S.C. 7511 et seq.);

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

18 “(iv) 1.2 if, at the time of the appor-
19 tionment, the area is classified as a serious
20 ozone nonattainment area under subpart 2
21 of part D of title I of the Clean Air Act
22 (42 U.S.C. 7511 et seq.);

23 “(v) 1.3 if, at the time of the appor-
24 tionment, the area is classified as a severe
25 ozone nonattainment area under subpart 2

1 of part D of title I of the Clean Air Act
2 (42 U.S.C. 7511 et seq.);

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

8 “(vii) 1.0 if, at the time of the appor-
9 tionment, the area is not a nonattainment
10 or maintenance area for ozone as described
11 in section 149(b), but is designated under
12 section 107 of the Clean Air Act (42
13 U.S.C. 7407) as a nonattainment area for
14 carbon monoxide;

15 “(viii) 1.0 if, at the time of the appor-
16 tionment, the area is designated as non-
17 attainment for ozone under section 107 of
18 the Clean Air Act (42 U.S.C. 7407); or

19 “(ix) 1.2 if, at the time of the appor-
20 tionment, the area is not a nonattainment
21 or maintenance area as described in sec-
22 tion 149(b) for ozone, but is designated as
23 a nonattainment or maintenance area for
24 fine particulate matter, 2.5 micrometers or

1 less, under section 107 of the Clean Air
2 Act (42 U.S.C. 7407).

3 “(B) OTHER FACTORS.—If, in addition to
4 being designated as a nonattainment or mainte-
5 nance area for ozone as described in section
6 149(b), any county within the area was also
7 designated under section 107 of the Clean Air
8 Act (42 U.S.C. 7407) as a nonattainment or
9 maintenance area for carbon monoxide, or was
10 designated under section 107 of the Clean Air
11 Act (42 U.S.C. 7407) as a nonattainment or
12 maintenance area for particulate matter, 2.5
13 micrometers or less, or both, the weighted non-
14 attainment or maintenance area population of
15 the county, as determined under clauses (i)
16 through (vi), or clause (viii), of subparagraph
17 (A), shall be further multiplied by a factor of
18 1.2, or a second further factor of 1.2 if the area
19 is designated as a nonattainment or mainte-
20 nance area for both carbon monoxide and par-
21 ticulate matter, 2.5 micrometers or less.

22 “(7) EXCEPTIONS FOR CERTAIN STATES.—

23 “(A) A State without a nonattainment or
24 maintenance area shall not be subject to the re-
25 quirements of this subsection.

1 “(B) The amount of funds required to be
2 set aside under paragraph (1) in a State that
3 received a minimum apportionment for fiscal
4 year 2009 under section 104(b)(2)(D), as in ef-
5 fect on the day before the date of enactment of
6 the MAP-21, shall be based on the amount of
7 funds such State would otherwise have been ap-
8 portioned under section 104(b)(4) (excluding
9 the amount of funds reserved under subsection
10 (l)) but for the minimum apportionment in fis-
11 cal year 2009.

12 “(k) PERFORMANCE PLAN.—

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

17 “(A) includes an area baseline level for
18 traffic congestion and on-road mobile source
19 emissions for which the area is in nonattain-
20 ment or maintenance;

21 “(B) identifies air quality and traffic con-
22 gestion target levels based on measures estab-
23 lished by the Secretary; and

24 “(C) includes a description of projects
25 identified for funding under this section and a

1 description of how such projects will contribute
2 to achieving emission and traffic congestion re-
3 duction targets.

4 “(2) UPDATED PLANS.—

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

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

13 “(3) RULEMAKING.—Not later than 18 months
14 after the date of enactment of the MAP–21, the Sec-
15 retary shall promulgate regulations to implement
16 this subsection that identify performance measures
17 for traffic congestion and on-road mobile source
18 emissions, timelines for performance plans, and re-
19 quirements under this section for assessing the im-
20 plementation of projects carried out under this sec-
21 tion.

22 “(1) ADDITIONAL ACTIVITIES.—

23 “(1) RESERVATION OF FUNDS.—Of the funds
24 apportioned to a State under section 104(b)(4), a
25 State shall reserve the amount of funds attributable

1 to the inclusion of the 10 percent of surface trans-
2 portation program funds apportioned to such State
3 for fiscal year 2009 in the formula under section
4 104(b)(4) for projects under this subsection.

5 “(2) ELIGIBLE PROJECTS.—A State may obli-
6 gate the funds reserved under this subsection for
7 any of the following projects or activities:

8 “(A) Transportation enhancements, as de-
9 fined in section 101.

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

12 “(C) The safe routes to school program
13 under section 1404 of the SAFETEA-LU (23
14 U.S.C. 402 note; Public Law 109–59).

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

19 “(3) ALLOCATIONS OF FUNDS.—

20 “(A) CALCULATION.—Of the funds re-
21 served in a State under this subsection—

22 “(i) 50 percent for a fiscal year shall
23 be obligated under this subsection to any
24 eligible entity in proportion to their relative
25 shares of the population of the State—

1 “(I) in urbanized areas of the
2 State with an urbanized area popu-
3 lation of over 200,000;

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

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

9 “(ii) 50 percent shall be obligated in
10 any area of the State.

11 “(B) METROPOLITAN AREAS.—Funds at-
12 tributed to an urbanized area under subpara-
13 graph (A)(i)(I) may be obligated in the metro-
14 politan area established under section 134 that
15 encompasses the urbanized area.

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

18 “(i) IN GENERAL.—Except as pro-
19 vided in subparagraph (A)(ii), the amount
20 of funds that a State is required to obli-
21 gate under subparagraph (A)(i)(I) shall be
22 obligated in urbanized areas described in
23 subparagraph (A)(i)(I) based on the rel-
24 ative population of the areas.

1 “(ii) OTHER FACTORS.—The State
2 may obligate the funds described in clause
3 (i) based on other factors if the State and
4 the relevant metropolitan planning organi-
5 zations jointly apply to the Secretary for
6 the permission to base the obligation on
7 other factors and the Secretary grants the
8 request.

9 “(D) ACCESS TO FUNDS.—

10 “(i) IN GENERAL.—Each State or
11 metropolitan planning organization re-
12 quired to obligate funds in accordance with
13 subparagraph (A) shall develop a competi-
14 tive process to allow eligible entities to sub-
15 mit projects for funding that achieve the
16 objectives of this subsection.

17 “(ii) DEFINITION OF ELIGIBLE ENTI-
18 TY.—In this subsection, the term ‘eligible
19 entity’ means—

20 “(I) a local government;

21 “(II) a regional transportation
22 authority;

23 “(III) a transit agency;

24 “(IV) a natural resource or pub-
25 lic land agency;

1 “(V) a school district, local edu-
2 cation agency, or school;

3 “(VI) a tribal government; and

4 “(VII) any other local or regional
5 governmental entity with responsi-
6 bility for or oversight of transpor-
7 tation or recreational trails (other
8 than a tier I metropolitan planning
9 organization or a State agency) that
10 the State determines to be eligible,
11 consistent with the goals of this sub-
12 section.

13 “(E) SELECTION OF PROJECTS.—Each tier
14 I and tier II metropolitan planning organization
15 shall select projects carried out within the
16 boundaries of the applicable metropolitan plan-
17 ning area, in consultation with the relevant
18 State, for funds reserved in a State under this
19 subsection and suballocated to the metropolitan
20 planning area under subparagraph (A)(i).

21 “(4) FLEXIBILITY OF EXCESS RESERVED
22 FUNDING.—Beginning in the second fiscal year after
23 the date of enactment of the MAP–21, if on August
24 1 of that fiscal year the unobligated balance of avail-
25 able funds apportioned to a State under section

1 104(b)(4) and reserved by a State under this sub-
2 section exceeds 150 percent of such reserved amount
3 in such fiscal year, the State may thereafter obligate
4 the amount of excess funds for any activity—

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

7 “(B) for which the Secretary has approved
8 the obligation of funds for any State under this
9 section.

10 “(5) PROVISION OF ADEQUATE DATA, MOD-
11 ELING, AND SUPPORT.—In any case in which a
12 State requests reasonable technical support or other-
13 wise requests data (including planning models and
14 other modeling), clarification, or guidance regarding
15 the content of any final rule or applicable regulation
16 material to State actions under this section, the Sec-
17 retary and any other agency shall provide that sup-
18 port, clarification, or guidance in a timely manner.

19 “(6) TREATMENT OF PROJECTS.—Notwith-
20 standing any other provision of law, projects funded
21 under this subsection shall be treated as projects on
22 a Federal-aid highway under this chapter.

23 “(7) CONTINUATION OF CERTAIN REC-
24 REATIONAL TRAILS PROJECTS.—Each State that
25 does not opt out of this paragraph shall—

1 “(A) obligate an amount of funds reserved
2 under this section equal to the amount of the
3 funds apportioned to the State for fiscal year
4 2009 under section 104(h)(2) for projects relat-
5 ing to recreational trails under section 206;

6 “(B) return 1 percent of those funds to the
7 Secretary for the administration of that pro-
8 gram; and

9 “(C) comply with the provisions of the ad-
10 ministration of the recreational trails program
11 under section 206, including the use of appor-
12 tioned funds described under subsection
13 (d)(3)(A) of that section.

14 “(8) STATE FLEXIBILITY.—A State may opt
15 out of the recreational trails program under para-
16 graph (7) if the Governor of the State notifies the
17 Secretary not later than 30 days prior to appor-
18 tionments being made for any fiscal year.”.

19 **SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PRO-**
20 **GRAM.**

21 (a) IN GENERAL.—Section 165 of title 23, United
22 States Code, is amended to read as follows:

1 **“§ 165. Territorial and Puerto Rico highway program**

2 “(a) DIVISION OF FUNDS.—Of funds made available
3 in a fiscal year for the territorial and Puerto Rico highway
4 program—

5 “(1) 75 percent shall be for the Puerto Rico
6 highway program under subsection (b); and

7 “(2) 25 percent shall be for the territorial high-
8 way program under subsection (c).

9 “(b) PUERTO RICO HIGHWAY PROGRAM.—

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

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

17 “(A) APPORTIONMENT.—

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

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

3 “(II) the proportion that—

4 “(aa) the amount of funds
5 apportioned to Puerto Rico for
6 each such program for fiscal year
7 1997; bears to

8 “(bb) the total amount of
9 funds apportioned to Puerto Rico
10 for all such programs for fiscal
11 year 1997.

12 “(ii) EXCEPTION.—Funds identified
13 under clause (i) as having been appor-
14 tioned for the national highway system, the
15 surface transportation program, and the
16 Interstate maintenance program shall be
17 deemed to have been apportioned 50 per-
18 cent for the national highway performance
19 program and 50 percent for the transpor-
20 tation mobility program for purposes of
21 imposing such penalties.

22 “(B) PENALTY.—The amounts treated as
23 being apportioned to Puerto Rico under each
24 section referred to in subparagraph (A) shall be
25 deemed to be required to be apportioned to

1 Puerto Rico under that section for purposes of
2 the imposition of any penalty under this title or
3 title 49.

4 “(C) ELIGIBLE USES OF FUNDS.—Of
5 amounts allocated to Puerto Rico for the Puer-
6 to Rico Highway Program for a fiscal year—

7 “(i) at least 50 percent shall be avail-
8 able only for purposes eligible under sec-
9 tion 119;

10 “(ii) at least 25 percent shall be avail-
11 able only for purposes eligible under sec-
12 tion 148; and

13 “(iii) any remaining funds may be ob-
14 ligated for activities eligible under chapter
15 1.

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

20 “(c) TERRITORIAL HIGHWAY PROGRAM.—

21 “(1) TERRITORY DEFINED.—In this subsection,
22 the term ‘territory’ means any of the following terri-
23 tories of the United States:

24 “(A) American Samoa.

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

3 “(C) Guam.

4 “(D) The United States Virgin Islands.

5 “(2) PROGRAM.—

6 “(A) IN GENERAL.—Recognizing the mu-
7 tual benefits that will accrue to the territories
8 and the United States from the improvement of
9 highways in the territories, the Secretary may
10 carry out a program to assist each government
11 of a territory in the construction and improve-
12 ment of a system of arterial and collector high-
13 ways, and necessary inter-island connectors,
14 that is—

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

18 “(ii) approved by the Secretary.

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

23 “(3) TECHNICAL ASSISTANCE.—

24 “(A) IN GENERAL.—To continue a long-
25 range highway development program, the Sec-

1 retary may provide technical assistance to the
2 governments of the territories to enable the ter-
3 ritories, on a continuing basis—

4 “(i) to engage in highway planning;

5 “(ii) to conduct environmental evalua-
6 tions;

7 “(iii) to administer right-of-way acqui-
8 sition and relocation assistance programs;
9 and

10 “(iv) to design, construct, operate,
11 and maintain a system of arterial and col-
12 lector highways, including necessary inter-
13 island connectors.

14 “(B) FORM AND TERMS OF ASSISTANCE.—

15 Technical assistance provided under subpara-
16 graph (A), and the terms for the sharing of in-
17 formation among territories receiving the tech-
18 nical assistance, shall be included in the agree-
19 ment required by paragraph (5).

20 “(4) NONAPPLICABILITY OF CERTAIN PROVI-
21 SIONS.—

22 “(A) IN GENERAL.—Except to the extent
23 that provisions of this chapter are determined
24 by the Secretary to be inconsistent with the
25 needs of the territories and the intent of this

1 subsection, this chapter (other than provisions
2 of this chapter relating to the apportionment
3 and allocation of funds) shall apply to funds
4 made available under this subsection.

5 “(B) APPLICABLE PROVISIONS.—The
6 agreement required by paragraph (5) for each
7 territory shall identify the sections of this chap-
8 ter that are applicable to that territory and the
9 extent of the applicability of those sections.

10 “(5) AGREEMENT.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (D), none of the funds made
13 available under this subsection shall be available
14 for obligation or expenditure with respect to
15 any territory until the chief executive officer of
16 the territory has entered into an agreement (in-
17 cluding an agreement entered into under sec-
18 tion 215 as in effect on the day before the en-
19 actment of this section) with the Secretary pro-
20 viding that the government of the territory
21 shall—

22 “(i) implement the program in accord-
23 ance with applicable provisions of this
24 chapter and paragraph (4);

1 “(ii) design and construct a system of
2 arterial and collector highways, including
3 necessary inter-island connectors, in ac-
4 cordance with standards that are—

5 “(I) appropriate for each terri-
6 tory; and

7 “(II) approved by the Secretary;

8 “(iii) provide for the maintenance of
9 facilities constructed or operated under
10 this subsection in a condition to adequately
11 serve the needs of present and future traf-
12 fic; and

13 “(iv) implement standards for traffic
14 operations and uniform traffic control de-
15 vices that are approved by the Secretary.

16 “(B) TECHNICAL ASSISTANCE.—The
17 agreement required by subparagraph (A)
18 shall—

19 “(i) specify the kind of technical as-
20 sistance to be provided under the program;

21 “(ii) include appropriate provisions re-
22 garding information sharing among the
23 territories; and

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

4 “(C) REVIEW AND REVISION OF AGREE-
5 MENT.—The agreement entered into under sub-
6 paragraph (A) shall be reevaluated and, as nec-
7 essary, revised, at least every 2 years.

8 “(D) EXISTING AGREEMENTS.—With re-
9 spect to an agreement under this subsection or
10 an agreement entered into under section 215 of
11 this title as in effect on the day before the date
12 of enactment of this subsection—

13 “(i) the agreement shall continue in
14 force until replaced by an agreement en-
15 tered into in accordance with subparagraph
16 (A); and

17 “(ii) amounts made available under
18 this subsection under the existing agree-
19 ment shall be available for obligation or ex-
20 penditure so long as the agreement, or the
21 existing agreement entered into under sub-
22 paragraph (A), is in effect.

23 “(6) ELIGIBLE USES OF FUNDS.—

24 “(A) IN GENERAL.—Funds made available
25 under this subsection may be used only for the

1 following projects and activities carried out in a
2 territory:

3 “(i) Eligible transportation mobility
4 program projects described in section
5 133(e).

6 “(ii) Cost-effective, preventive mainte-
7 nance consistent with section 116(d).

8 “(iii) Ferry boats, terminal facilities,
9 and approaches, in accordance with sub-
10 sections (b) and (c) of section 129.

11 “(iv) Engineering and economic sur-
12 veys and investigations for the planning,
13 and the financing, of future highway pro-
14 grams.

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

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

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

23 “(B) PROHIBITION ON USE OF FUNDS FOR
24 ROUTINE MAINTENANCE.—None of the funds

1 made available under this subsection shall be
2 obligated or expended for routine maintenance.

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

8 (b) CONFORMING AMENDMENTS.—

9 (1) CLERICAL AMENDMENT.—The analysis for
10 chapter 1 of title 23, United States Code, is amend-
11 ed by striking the item relating to section 165 and
12 inserting the following:

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

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

16 **SEC. 1115. NATIONAL FREIGHT PROGRAM.**

17 (a) IN GENERAL.—Chapter 1 of title 23, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 **“§ 167. National freight program**

21 “(a) NATIONAL FREIGHT PROGRAM.—It is the policy
22 of the United States to improve the condition and per-
23 formance of the national freight network to ensure that
24 the national freight network provides the foundation for

1 the United States to compete in the global economy and
2 achieve each goal described in subsection (b).

3 “(b) GOALS.—The goals of the national freight pro-
4 gram are—

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

7 “(A) strengthen the contribution of the na-
8 tional freight network to the economic competi-
9 tiveness of the United States;

10 “(B) reduce congestion; and

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

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

16 “(3) to improve the safety, security, and resil-
17 ience of freight transportation;

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

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

22 “(6) to incorporate concepts of performance, in-
23 novation, competition, and accountability into the
24 operation and maintenance of the national freight
25 network; and

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

3 “(c) ESTABLISHMENT OF PROGRAM.—

4 “(1) IN GENERAL.—The Secretary shall estab-
5 lish and implement a national freight program in ac-
6 cordance with this section to strategically direct
7 Federal resources toward improved system perform-
8 ance for efficient movement of freight on highways,
9 including national highway system freight inter-
10 modal connectors and aerotropolis transportation
11 systems.

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

14 “(A) the primary freight network, as des-
15 ignated by the Secretary under subsection (f)
16 (referred to in this section as the ‘primary
17 freight network’) as most critical to the move-
18 ment of freight;

19 “(B) the portions of the Interstate System
20 not designated as part of the primary freight
21 network; and

22 “(C) critical rural freight corridors estab-
23 lished under subsection (g).

24 “(d) USE OF APPORTIONED FUNDS.—

1 “(1) PROJECTS ON THE NATIONAL FREIGHT
2 NETWORK.—At a minimum, following designation of
3 the primary freight network under subsection (f), a
4 State shall obligate funds apportioned under section
5 104(b)(5) to improve the movement of freight on the
6 national freight network.

7 “(2) LOCATION OF PROJECTS.—A project car-
8 ried out using funds apportioned under paragraph
9 (1) shall be located—

10 “(A) on the primary freight network as de-
11 scribed under subsection (f);

12 “(B) on a portion of the Interstate System
13 not designated as primary freight network;

14 “(C) on roads off of the Interstate System
15 or primary freight network, if that use of funds
16 will provide—

17 “(i) a more significant improvement
18 to freight movement on the Interstate Sys-
19 tem or the primary freight network;

20 “(ii) critical freight access to the
21 Interstate System or the primary freight
22 network; or

23 “(iii) mitigation of the congestion im-
24 pacts from freight movement;

1 “(D) on a national highway system freight
2 intermodal connector;

3 “(E) on critical rural freight corridors, as
4 designated under subsection (g) (except that
5 not more than 20 percent of the total antici-
6 pated apportionment of a State under section
7 104(b)(5) during fiscal years 2012 and 2013
8 may be used for projects on critical rural
9 freight corridors); or

10 “(F) within the boundaries of public and
11 private intermodal facilities, but shall only in-
12 clude surface infrastructure necessary to facili-
13 tate direct intermodal interchange, transfer,
14 and access into and out of the facility.

15 “(3) PRIMARY FREIGHT NETWORK FUNDING.—
16 Beginning for each fiscal year after the Secretary
17 designates the primary freight network, a State shall
18 obligate from funds apportioned under section
19 104(b)(5) for the primary freight network the lesser
20 of—

21 “(A) an amount equal to the product ob-
22 tained by multiplying—

23 “(i) an amount equal to 110 percent
24 of the apportionment of the State for the
25 fiscal year under section 104(b)(5); and

1 “(ii) the proportion that—

2 “(I) the total designated primary
3 freight network mileage of the State;
4 bears to

5 “(II) the sum of the designated
6 primary freight network mileage of
7 the State and the total Interstate sys-
8 tem mileage of the State that is not
9 designated as part of the primary
10 freight network; or

11 “(B) an amount equal to the total appor-
12 tionment of the State under section 104(b)(5).

13 “(e) ELIGIBILITY.—

14 “(1) ELIGIBLE PROJECTS.—To be eligible for
15 funding under this section, a project shall dem-
16 onstrate the improvement made by the project to the
17 efficient movement of freight on the national freight
18 network.

19 “(2) FREIGHT RAIL AND MARITIME
20 PROJECTS.—

21 “(A) IN GENERAL.—A State may obligate
22 an amount equal to not more than 10 percent
23 of the total apportionment to the State under
24 section 104(b)(5) over the period of fiscal years

1 2012 and 2013 for public or private freight rail
2 or maritime projects.

3 “(B) ELIGIBILITY.—For a State to be eli-
4 gible to obligate funds in the manner described
5 in subparagraph (A), the Secretary shall concur
6 with the State that—

7 “(i) the project for which the State
8 seeks to obligate funds under this para-
9 graph would make freight rail improve-
10 ments to enhance cross-border commerce
11 within 5 miles of the international border
12 between the United States and Canada or
13 Mexico or make significant improvement to
14 freight movements on the national freight
15 network; and

16 “(ii) the public benefit of the
17 project—

18 “(I) exceeds the Federal invest-
19 ment; and

20 “(II) provides a better return
21 than a highway project on a segment
22 of the primary freight network.

23 “(3) ELIGIBLE PROJECT COSTS.—A State may
24 obligate funds apportioned to the State under sec-

1 tion 104(b)(5) for the national freight program for
2 any of the following costs of an eligible project:

3 “(A) Development phase activities, includ-
4 ing planning, feasibility analysis, revenue fore-
5 casting, environmental review, preliminary engi-
6 neering and design work, and other
7 preconstruction activities.

8 “(B) Construction, reconstruction, rehabili-
9 tation, acquisition of real property (including
10 land relating to the project and improvements
11 to land), construction contingencies, acquisition
12 of equipment, and operational improvements di-
13 rectly relating to improving system perform-
14 ance, including but not limited to any segment
15 of the primary freight network that falls below
16 the minimum level established pursuant to sec-
17 tion 119(f).

18 “(C) Intelligent transportation systems
19 and other technology to improve the flow of
20 freight.

21 “(D) Efforts to reduce the environmental
22 impacts of freight movement on the national
23 freight network.

24 “(E) Environmental mitigation.

25 “(F) Railway-highway grade separation.

1 “(G) Geometric improvements to inter-
2 changes and ramps.

3 “(H) Truck-only lanes.

4 “(I) Climbing and runaway truck lanes.

5 “(J) Adding or widening of shoulders.

6 “(K) Truck parking facilities eligible for
7 funding under section 1401 of the MAP-21.

8 “(L) Real-time traffic, truck parking,
9 roadway condition, and multimodal transpor-
10 tation information systems.

11 “(M) Electronic screening and
12 credentialing systems for vehicles, including
13 weigh-in-motion truck inspection technologies.

14 “(N) Traffic signal optimization including
15 synchronized and adaptive signals.

16 “(O) Work zone management and informa-
17 tion systems.

18 “(P) Highway ramp metering.

19 “(Q) Electronic cargo and border security
20 technologies that improve truck freight move-
21 ment.

22 “(R) Intelligent transportation systems
23 that would increase truck freight efficiencies in-
24 side the boundaries of intermodal facilities.

1 “(S) Any other activities to improve the
2 flow of freight on the national freight network.

3 “(4) OTHER ELIGIBLE COSTS.—In addition to
4 eligible project costs, a State may use funds appor-
5 tioned under section 104(b)(5) for—

6 “(A) carrying out diesel retrofit or alter-
7 native fuel projects defined in section 149 for
8 class 8 vehicles; or

9 “(B) the necessary costs of—

10 “(i) conducting analyses and data col-
11 lection;

12 “(ii) developing and updating per-
13 formance targets to carry out this section;
14 or

15 “(iii) reporting to the Secretary to
16 comply with subsection (i).

17 “(5) ELIGIBLE PROJECT COSTS PRIOR TO DES-
18 IGNATION OF THE PRIMARY FREIGHT NETWORK.—
19 Prior to the date of designation of the primary
20 freight network, a State may obligate funds appor-
21 tioned to the State under section 104(b)(5) to im-
22 prove freight movement on the Interstate System
23 for—

1 “(A) construction, reconstruction, resur-
2 facing, restoration, and rehabilitation of seg-
3 ments of the Interstate System;

4 “(B) operational improvements for seg-
5 ments of the Interstate System;

6 “(C) construction of, and operational im-
7 provements for, a Federal-aid highway not on
8 the Interstate System, and construction of a
9 transit project eligible for assistance under
10 chapter 53 of title 49, United States Code, if—

11 “(i) the highway or transit project is
12 in the same corridor as, and in proximity
13 to a highway designated as a part of, the
14 Interstate System;

15 “(ii) the construction or improvements
16 would improve the level of service on the
17 Interstate System described in subpara-
18 graph (A) and improve freight traffic flow;
19 and

20 “(iii) the construction or improve-
21 ments are more cost-effective for freight
22 movement than an improvement to the
23 Interstate System described in subpara-
24 graph (A);

1 “(D) highway safety improvements for seg-
2 ments of the Interstate System;

3 “(E) transportation planning in accordance
4 with sections 134 and 135;

5 “(F) the costs of conducting analysis and
6 data collection to comply with this section;

7 “(G) truck parking facilities eligible for
8 funding under section 1401 of the MAP-21;

9 “(H) infrastructure-based intelligent trans-
10 portation systems capital improvements;

11 “(I) environmental restoration and pollu-
12 tion abatement in accordance with section 328;
13 and

14 “(J) in accordance with all applicable Fed-
15 eral law (including regulations), participation in
16 natural habitat and wetlands mitigation efforts
17 relating to projects funded under this title,
18 which may include participation in natural habi-
19 tat and wetlands mitigation banks, contribu-
20 tions to statewide and regional efforts to con-
21 serve, restore, enhance, and create natural habi-
22 tats and wetlands, and development of state-
23 wide and regional natural habitat and wetlands
24 conservation and mitigation plans, including
25 any such banks, efforts, and plans developed in

1 accordance with applicable Federal law (includ-
2 ing regulations), on the conditions that—

3 “(i) contributions to those mitigation
4 efforts may—

5 “(I) take place concurrent with
6 or in advance of project construction;
7 and

8 “(II) occur in advance of project
9 construction only if the efforts are
10 consistent with all applicable require-
11 ments of Federal law (including regu-
12 lations) and State transportation
13 planning processes; and

14 “(ii) with respect to participation in a
15 natural habitat or wetland mitigation ef-
16 fort relating to a project funded under this
17 title that has an impact that occurs within
18 the service area of a mitigation bank, pref-
19 erence is given, to the maximum extent
20 practicable, to the use of the mitigation
21 bank if the bank contains sufficient avail-
22 able credits to offset the impact and the
23 bank is approved in accordance with appli-
24 cable Federal law (including regulations).

1 “(f) DESIGNATION OF PRIMARY FREIGHT NET-
2 WORK.—

3 “(1) INITIAL DESIGNATION OF PRIMARY
4 FREIGHT NETWORK.—

5 “(A) DESIGNATION.—Not later than 1
6 year after the date of enactment of this section,
7 the Secretary shall designate a primary freight
8 network—

9 “(i) based on an inventory of national
10 freight volume conducted by the Adminis-
11 trator of the Federal Highway Administra-
12 tion, in consultation with stakeholders, in-
13 cluding system users, transport providers,
14 and States; and

15 “(ii) that shall be comprised of not
16 more than 27,000 centerline miles of exist-
17 ing roadways that are most critical to the
18 movement of freight.

19 “(B) FACTORS FOR DESIGNATION.—In
20 designating the primary freight network, the
21 Secretary shall consider—

22 “(i) the origins and destinations of
23 freight movement in the United States;

1 “(ii) the total freight tonnage and
2 value of freight moved by all modes of
3 transportation;

4 “(iii) the percentage of annual aver-
5 age daily truck traffic in the annual aver-
6 age daily traffic on principal arterials;

7 “(iv) the annual average daily truck
8 traffic on principal arterials;

9 “(v) land and maritime ports of entry;

10 “(vi) population centers; and

11 “(vii) network connectivity.

12 “(2) ADDITIONAL MILES ON PRIMARY FREIGHT
13 NETWORK.—In addition to the miles initially des-
14 ignated under paragraph (1), the Secretary may in-
15 crease the number of miles designated as part of the
16 primary freight network by not more than 3,000 ad-
17 ditional centerline miles of roadways (which may in-
18 clude existing or planned roads) critical to future ef-
19 ficient movement of goods on the primary freight
20 network.

21 “(3) REDESIGNATION OF PRIMARY FREIGHT
22 NETWORK.—During calendar year 2015 and every
23 10 years thereafter, using the designation factors de-
24 scribed in paragraph (1), the Secretary shall redesi-

1 nate the primary freight network (including addi-
2 tional mileage described in subsection (f)(2)).

3 “(g) CRITICAL RURAL FREIGHT CORRIDORS.—A
4 State may designate a road within the borders of the State
5 as a critical rural freight corridor if the road—

6 “(1) is a rural principal arterial roadway and
7 has a minimum of 25 percent of the annual average
8 daily traffic of the road measured in passenger vehi-
9 cle equivalent units from trucks (FHWA vehicle
10 class 8 to 13); or

11 “(2) connects the primary freight network, a
12 roadway described in paragraph (1), or Interstate
13 System to facilities that handle more than—

14 “(A) 50,000 20-foot equivalent units per
15 year; or

16 “(B) 500,000 tons per year of bulk com-
17 modities.

18 “(h) NATIONAL FREIGHT STRATEGIC PLAN.—

19 “(1) INITIAL DEVELOPMENT OF NATIONAL
20 FREIGHT STRATEGIC PLAN.—Not later than 3 years
21 after the date of enactment of this section, the Sec-
22 retary shall, in consultation with appropriate public
23 and private transportation stakeholders, develop and
24 post on the Department of Transportation public

1 website a national freight strategic plan that shall
2 include—

3 “(A) an assessment of the condition and
4 performance of the national freight network;

5 “(B) an identification of highway bottle-
6 necks on the national freight network that cre-
7 ate significant freight congestion problems,
8 based on a quantitative methodology developed
9 by the Secretary, which shall, at a minimum,
10 include information from the Freight Analysis
11 Network of the Federal Highway Administra-
12 tion;

13 “(C) forecasts of freight volumes for the
14 20-year period beginning in the year during
15 which the plan is issued;

16 “(D) an identification of major trade gate-
17 ways and national freight corridors that connect
18 major population centers, trade gateways, and
19 other major freight generators for current and
20 forecasted traffic and freight volumes, the iden-
21 tification of which shall be revised, as appro-
22 priate, in subsequent plans;

23 “(E) an assessment of statutory, regu-
24 latory, technological, institutional, financial,
25 and other barriers to improved freight transpor-

1 tation performance (including opportunities for
2 overcoming the barriers);

3 “(F) best practices for improving the per-
4 formance of the national freight network;

5 “(G) best practices to mitigate the impacts
6 of freight movement on communities;

7 “(H) a process for addressing multistate
8 projects and encouraging jurisdictions to col-
9 laborate; and

10 “(I) strategies to improve maritime, freight
11 rail, and freight intermodal connectivity.

12 “(2) UPDATES TO NATIONAL FREIGHT STRA-
13 TEGIC PLAN.—Not later than 5 years after the date
14 of completion of the first national freight strategic
15 plan under paragraph (1), and every 5 years there-
16 after, the Secretary shall update and repost on the
17 Department of Transportation public website a re-
18 vised national freight strategic plan.

19 “(i) FREIGHT PERFORMANCE TARGETS.—

20 “(1) RULEMAKING.—Not later than 2 years
21 after the date of enactment of this section, the Sec-
22 retary, in consultation with State departments of
23 transportation and other appropriate public and pri-
24 vate transportation stakeholders, shall publish a
25 rulemaking that establishes performance measures

1 for freight movement on the primary freight net-
2 work.

3 “(2) STATE TARGETS AND REPORTING.—Not
4 later than 1 year after the date on which the Sec-
5 retary publishes the rulemaking under paragraph
6 (1), each State shall—

7 “(A) develop and periodically update State
8 performance targets for freight movement on
9 the primary freight network—

10 “(i) in consultation with appropriate
11 public and private stakeholders; and

12 “(ii) using measures determined by
13 the Secretary; and

14 “(B) for every 2-year period, submit to the
15 Secretary a report that contains a description
16 of—

17 “(i) the progress of the State toward
18 meeting the targets; and

19 “(ii) the ways in which the State is
20 addressing congestion at freight bottle-
21 necks within the State.

22 “(3) COMPLIANCE.—

23 “(A) PERFORMANCE TARGETS.—To obli-
24 gate funding apportioned under section

1 104(b)(5), each State shall develop performance
2 targets in accordance with paragraph (2).

3 “(B) DETERMINATION OF SECRETARY.—If
4 the Secretary determines that a State has not
5 met or made significant progress toward meet-
6 ing the performance targets of the State by the
7 date that is 2 years after the date of establish-
8 ment of the performance targets, until the date
9 on which the Secretary determines that the
10 State has met (or has made significant progress
11 towards meeting) the State performance tar-
12 gets, the State shall submit to the Secretary, on
13 a biennial basis, a freight performance improve-
14 ment plan that includes—

15 “(i) an identification of significant
16 freight system trends, needs, and issues
17 within the State;

18 “(ii) a description of the freight poli-
19 cies and strategies that will guide the
20 freight-related transportation investments
21 of the State;

22 “(iii) an inventory of freight bottle-
23 necks within the State and a description of
24 the ways in which the State is allocating
25 funds to improve those bottlenecks; and

1 “(iv) a description of the actions the
2 State will undertake to meet the perform-
3 ance targets of the State.

4 “(j) FREIGHT TRANSPORTATION CONDITIONS AND
5 PERFORMANCE REPORTS.—Not later than 2 years after
6 the date of enactment of this section, and biennially there-
7 after, the Secretary shall prepare a report that contains
8 a description of the conditions and performance of the na-
9 tional freight network in the United States.

10 “(k) TRANSPORTATION INVESTMENT DATA AND
11 PLANNING TOOLS.—

12 “(1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this section, the Secretary
14 shall—

15 “(A) begin development of new tools and
16 improvement of existing tools or improve exist-
17 ing tools to support an outcome-oriented, per-
18 formance-based approach to evaluate proposed
19 freight-related and other transportation
20 projects, including—

21 “(i) methodologies for systematic
22 analysis of benefits and costs;

23 “(ii) tools for ensuring that the eval-
24 uation of freight-related and other trans-
25 portation projects could consider safety,

1 economic competitiveness, environmental
2 sustainability, and system condition in the
3 project selection process; and

4 “(iii) other elements to assist in effec-
5 tive transportation planning;

6 “(B) identify transportation-related model
7 data elements to support a broad range of eval-
8 uation methods and techniques to assist in
9 making transportation investment decisions;
10 and

11 “(C) at a minimum, in consultation with
12 other relevant Federal agencies, consider any
13 improvements to existing freight flow data col-
14 lection efforts that could reduce identified
15 freight data gaps and deficiencies and help im-
16 prove forecasts of freight transportation de-
17 mand.

18 “(2) CONSULTATION.—The Secretary shall con-
19 sult with Federal, State, and other stakeholders to
20 develop, improve, and implement the tools and col-
21 lect the data in paragraph (1).

22 “(1) DEFINITION OF AEROTROPOLIS TRANSPOR-
23 TATION SYSTEM.—For the purposes of this section, the
24 term ‘aerotropolis transportation system’ means a planned
25 and coordinated multimodal freight and passenger trans-

1 portation network that, as determined by the Secretary,
 2 provides efficient, cost-effective, sustainable, and inter-
 3 modal connectivity to a defined region of economic signifi-
 4 cance centered around a major airport.

5 “(m) TREATMENT OF PROJECTS.—Notwithstanding
 6 any other provision of law, projects funded under this sec-
 7 tion shall be treated as projects on a Federal-aid highway
 8 under this chapter.”.

9 (b) CONFORMING AMENDMENT.—The analysis for
 10 chapter 1 of title 23, United States Code, is amended by
 11 adding at the end the following:

“167. National freight program.”.

12 **SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
 13 **PROGRAMS.**

14 (a) IN GENERAL.—Chapter 2 of title 23, United
 15 States Code, is amended by striking sections 201 through
 16 204 and inserting the following:

17 **“§ 201. Federal lands and tribal transportation pro-**
 18 **grams**

19 “(a) PURPOSE.—Recognizing the need for all public
 20 Federal and tribal transportation facilities to be treated
 21 under uniform policies similar to the policies that apply
 22 to Federal-aid highways and other public transportation
 23 facilities, the Secretary of Transportation, in collaboration
 24 with the Secretaries of the appropriate Federal land man-
 25 agement agencies, shall coordinate a uniform policy for all

1 public Federal and tribal transportation facilities that
2 shall apply to Federal lands transportation facilities, tribal
3 transportation facilities, and Federal lands access trans-
4 portation facilities.

5 “(b) AVAILABILITY OF FUNDS.—

6 “(1) AVAILABILITY.—Funds authorized for the
7 tribal transportation program, the Federal lands
8 transportation program, and the Federal lands ac-
9 cess program shall be available for contract upon ap-
10 portionment, or on October 1 of the fiscal year for
11 which the funds were authorized if no apportionment
12 is required.

13 “(2) AMOUNT REMAINING.—Any amount re-
14 maining unexpended for a period of 3 years after the
15 close of the fiscal year for which the funds were au-
16 thorized shall lapse.

17 “(3) OBLIGATIONS.—The Secretary of the de-
18 partment responsible for the administration of funds
19 under this subsection may incur obligations, approve
20 projects, and enter into contracts under such author-
21 izations, which shall be considered to be contractual
22 obligations of the United States for the payment of
23 the cost thereof, the funds of which shall be consid-
24 ered to have been expended when obligated.

25 “(4) EXPENDITURE.—

1 “(A) IN GENERAL.—Any funds authorized
2 for any fiscal year after the date of enactment
3 of this section under the Federal lands trans-
4 portation program, the Federal lands access
5 program, and the tribal transportation program
6 shall be considered to have been expended if a
7 sum equal to the total of the sums authorized
8 for the fiscal year and previous fiscal years have
9 been obligated.

10 “(B) CREDITED FUNDS.—Any funds de-
11 scribed in subparagraph (A) that are released
12 by payment of final voucher or modification of
13 project authorizations shall be—

14 “(i) credited to the balance of unobli-
15 gated authorizations; and

16 “(ii) immediately available for expend-
17 iture.

18 “(5) APPLICABILITY.—This section shall not
19 apply to funds authorized before the date of enact-
20 ment of this paragraph.

21 “(6) CONTRACTUAL OBLIGATION.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law (including regulations),
24 the authorization by the Secretary, or the Sec-
25 retary of the appropriate Federal land manage-

1 ment agency if the agency is the contracting of-
2 fice, of engineering and related work for the de-
3 velopment, design, and acquisition associated
4 with a construction project, whether performed
5 by contract or agreement authorized by law, or
6 the approval by the Secretary of plans, speci-
7 fications, and estimates for construction of a
8 project, shall be considered to constitute a con-
9 tractual obligation of the Federal Government
10 to pay the total eligible cost of—

11 “(i) any project funded under this
12 title; and

13 “(ii) any project funded pursuant to
14 agreements authorized by this title or any
15 other title.

16 “(B) EFFECT.—Nothing in this para-
17 graph—

18 “(i) affects the application of the Fed-
19 eral share associated with the project being
20 undertaken under this section; or

21 “(ii) modifies the point of obligation
22 associated with Federal salaries and ex-
23 penses.

24 “(7) FEDERAL SHARE.—

1 “(A) TRIBAL AND FEDERAL LANDS TRANS-
2 PORTATION PROGRAM.—The Federal share of
3 the cost of a project carried out under the Fed-
4 eral lands transportation program or the tribal
5 transportation program shall be 100 percent.

6 “(B) FEDERAL LANDS ACCESS PRO-
7 GRAM.—The Federal share of the cost of a
8 project carried out under the Federal lands ac-
9 cess program shall be determined in accordance
10 with section 120.

11 “(c) TRANSPORTATION PLANNING.—

12 “(1) TRANSPORTATION PLANNING PROCE-
13 DURES.—In consultation with the Secretary of each
14 appropriate Federal land management agency, the
15 Secretary shall implement transportation planning
16 procedures for Federal lands and tribal transpor-
17 tation facilities that are consistent with the planning
18 processes required under sections 134 and 135.

19 “(2) APPROVAL OF TRANSPORTATION IMPROVE-
20 MENT PROGRAM.—The transportation improvement
21 program developed as a part of the transportation
22 planning process under this section shall be ap-
23 proved by the Secretary.

24 “(3) INCLUSION IN OTHER PLANS.—Each re-
25 gionally significant tribal transportation program,

1 Federal lands transportation program, and Federal
2 lands access program project shall be—

3 “(A) developed in cooperation with State
4 and metropolitan planning organizations; and

5 “(B) included in appropriate tribal trans-
6 portation program plans, Federal lands trans-
7 portation program plans, Federal lands access
8 program plans, State and metropolitan plans,
9 and transportation improvement programs.

10 “(4) INCLUSION IN STATE PROGRAMS.—The ap-
11 proved tribal transportation program, Federal lands
12 transportation program, and Federal lands access
13 program transportation improvement programs shall
14 be included in appropriate State and metropolitan
15 planning organization plans and programs without
16 further action on the transportation improvement
17 program.

18 “(5) ASSET MANAGEMENT.—The Secretary and
19 the Secretary of each appropriate Federal land man-
20 agement agency shall, to the extent appropriate, im-
21 plement safety, bridge, pavement, and congestion
22 management systems for facilities funded under the
23 tribal transportation program and the Federal lands
24 transportation program in support of asset manage-
25 ment.

1 “(6) DATA COLLECTION.—

2 “(A) DATA COLLECTION.—The Secretaries
3 of the appropriate Federal land management
4 agencies shall collect and report data necessary
5 to implement the Federal lands transportation
6 program, the Federal lands access program,
7 and the tribal transportation program, includ-
8 ing—

9 “(i) inventory and condition informa-
10 tion on Federal lands transportation facili-
11 ties and tribal transportation facilities; and

12 “(ii) bridge inspection and inventory
13 information on any Federal bridge open to
14 the public.

15 “(B) STANDARDS.—The Secretary, in co-
16 ordination with the Secretaries of the appro-
17 priate Federal land management agencies, shall
18 define the collection and reporting data stand-
19 ards.

20 “(7) ADMINISTRATIVE EXPENSES.—To imple-
21 ment the activities described in this subsection, in-
22 cluding direct support of transportation planning ac-
23 tivities among Federal land management agencies,
24 the Secretary may use not more than 5 percent for

1 each fiscal year of the funds authorized for pro-
2 grams under sections 203 and 204.

3 “(d) REIMBURSABLE AGREEMENTS.—In carrying out
4 work under reimbursable agreements with any State, local,
5 or tribal government under this title, the Secretary—

6 “(1) may, without regard to any other provision
7 of law (including regulations), record obligations
8 against accounts receivable from the entity; and

9 “(2) shall credit amounts received from the en-
10 tity to the appropriate account, which shall occur
11 not later than 90 days after the date of the original
12 request by the Secretary for payment.

13 “(e) TRANSFERS.—

14 “(1) IN GENERAL.—To enable the efficient use
15 of funds made available for the Federal lands trans-
16 portation program and the Federal lands access pro-
17 gram, the funds may be transferred by the Secretary
18 within and between each program with the concur-
19 rence of, as appropriate—

20 “(A) the Secretary;

21 “(B) the affected Secretaries of the respec-
22 tive Federal land management agencies;

23 “(C) State departments of transportation;

24 and

25 “(D) local government agencies.

1 “(2) CREDIT.—The funds described in para-
2 graph (1) shall be credited back to the loaning entity
3 with funds that are currently available for obligation
4 at the time of the credit.

5 **“§ 202. Tribal transportation program**

6 “(a) USE OF FUNDS.—

7 “(1) IN GENERAL.—Funds made available
8 under the tribal transportation program shall be
9 used by the Secretary of Transportation and the
10 Secretary of the Interior to pay the costs of—

11 “(A)(i) transportation planning, research,
12 maintenance, engineering, rehabilitation, res-
13 toration, construction, and reconstruction of
14 tribal transportation facilities;

15 “(ii) adjacent vehicular parking areas;

16 “(iii) interpretive signage;

17 “(iv) acquisition of necessary scenic ease-
18 ments and scenic or historic sites;

19 “(v) provisions for pedestrians and bicy-
20 cles;

21 “(vi) environmental mitigation in or adja-
22 cent to tribal land—

23 “(I) to improve public safety and re-
24 duce vehicle-caused wildlife mortality while
25 maintaining habitat connectivity; and

1 “(II) to mitigate the damage to wild-
2 life, aquatic organism passage, habitat,
3 and ecosystem connectivity, including the
4 costs of constructing, maintaining, replac-
5 ing, or removing culverts and bridges, as
6 appropriate;

7 “(vii) construction and reconstruction of
8 roadside rest areas, including sanitary and
9 water facilities; and

10 “(viii) other appropriate public road facili-
11 ties as determined by the Secretary;

12 “(B) operation and maintenance of transit
13 programs and facilities that are located on, or
14 provide access to, tribal land, or are adminis-
15 tered by a tribal government; and

16 “(C) any transportation project eligible for
17 assistance under this title that is located within,
18 or that provides access to, tribal land, or is as-
19 sociated with a tribal government.

20 “(2) CONTRACT.—In connection with an activ-
21 ity described in paragraph (1), the Secretary and the
22 Secretary of the Interior may enter into a contract
23 or other appropriate agreement with respect to the
24 activity with—

1 “(A) a State (including a political subdivi-
2 sion of a State); or

3 “(B) an Indian tribe.

4 “(3) INDIAN LABOR.—Indian labor may be em-
5 ployed, in accordance with such rules and regula-
6 tions as may be promulgated by the Secretary of the
7 Interior, to carry out any construction or other ac-
8 tivity described in paragraph (1).

9 “(4) FEDERAL EMPLOYMENT.—No maximum
10 limitation on Federal employment shall be applicable
11 to the construction or improvement of tribal trans-
12 portation facilities.

13 “(5) FUNDS FOR CONSTRUCTION AND IMPROVE-
14 MENT.—All funds made available for the construc-
15 tion and improvement of tribal transportation facili-
16 ties shall be administered in conformity with regula-
17 tions and agreements jointly approved by the Sec-
18 retary and the Secretary of the Interior.

19 “(6) TRIBAL TECHNICAL ASSISTANCE CEN-
20 TERS.—The Secretary of the Interior may reserve
21 amounts from administrative funds of the Bureau of
22 Indian Affairs that are associated with the tribal
23 transportation program to fund tribal technical as-
24 sistance centers under section 504(b).

25 “(7) MAINTENANCE.—

1 “(A) USE OF FUNDS.—Notwithstanding
2 any other provision of this title, of the amount
3 of funds allocated to an Indian tribe from the
4 tribal transportation program, for the purpose
5 of maintenance (excluding road sealing, which
6 shall not be subject to any limitation), the Sec-
7 retary shall not use an amount more than the
8 greater of—

9 “(i) an amount equal to 25 percent;

10 or

11 “(ii) \$500,000.

12 “(B) RESPONSIBILITY OF BUREAU OF IN-
13 DIAN AFFAIRS AND SECRETARY OF THE INTE-
14 RIOR.—

15 “(i) BUREAU OF INDIAN AFFAIRS.—

16 The Bureau of Indian Affairs shall retain
17 primary responsibility, including annual
18 funding request responsibility, for Bureau
19 of Indian Affairs road maintenance pro-
20 grams on Indian reservations.

21 “(ii) SECRETARY OF THE INTERIOR.—

22 The Secretary of the Interior shall ensure
23 that funding made available under this
24 subsection for maintenance of tribal trans-
25 portation facilities for each fiscal year is

1 supplementary to, and not in lieu of, any
 2 obligation of funds by the Bureau of In-
 3 dian Affairs for road maintenance pro-
 4 grams on Indian reservations.

5 “(C) TRIBAL-STATE ROAD MAINTENANCE
 6 AGREEMENTS.—

7 “(i) IN GENERAL.—An Indian tribe
 8 and a State may enter into a road mainte-
 9 nance agreement under which an Indian
 10 tribe shall assume the responsibility of the
 11 State for—

12 “(I) tribal transportation facili-
 13 ties; and

14 “(II) roads providing access to
 15 tribal transportation facilities.

16 “(ii) REQUIREMENTS.—Agreements
 17 entered into under clause (i) shall—

18 “(I) be negotiated between the
 19 State and the Indian tribe; and

20 “(II) not require the approval of
 21 the Secretary.

22 “(8) COOPERATION.—

23 “(A) IN GENERAL.—The cooperation of
 24 States, counties, or other local subdivisions may
 25 be accepted in construction and improvement.

1 “(B) FUNDS RECEIVED.—Any funds re-
2 ceived from a State, county, or local subdivision
3 shall be credited to appropriations available for
4 the tribal transportation program.

5 “(9) COMPETITIVE BIDDING.—

6 “(A) CONSTRUCTION.—

7 “(i) IN GENERAL.—Subject to clause
8 (ii) and subparagraph (B), construction of
9 each project shall be performed by contract
10 awarded by competitive bidding.

11 “(ii) EXCEPTION.—Clause (i) shall
12 not apply if the Secretary or the Secretary
13 of the Interior affirmatively finds that,
14 under the circumstances relating to the
15 project, a different method is in the public
16 interest.

17 “(B) APPLICABILITY.—Notwithstanding
18 subparagraph (A), section 23 of the Act of
19 June 25, 1910 (25 U.S.C. 47) and section 7(b)
20 of the Indian Self-Determination and Education
21 Assistance Act (25 U.S.C. 450e(b)) shall apply
22 to all funds administered by the Secretary of
23 the Interior that are appropriated for the con-
24 struction and improvement of tribal transpor-
25 tation facilities.

1 “(b) FUNDS DISTRIBUTION.—

2 “(1) NATIONAL TRIBAL TRANSPORTATION FA-
3 CILITY INVENTORY.—

4 “(A) IN GENERAL.—The Secretary of the
5 Interior, in cooperation with the Secretary, shall
6 maintain a comprehensive national inventory of
7 tribal transportation facilities that are eligible
8 for assistance under the tribal transportation
9 program.

10 “(B) TRANSPORTATION FACILITIES IN-
11 CLUDED IN THE INVENTORY.—For purposes of
12 identifying the tribal transportation system and
13 determining the relative transportation needs
14 among Indian tribes, the Secretary shall in-
15 clude, at a minimum, transportation facilities
16 that are eligible for assistance under the tribal
17 transportation program that an Indian tribe
18 has requested, including facilities that—

19 “(i) were included in the Bureau of
20 Indian Affairs system inventory prior to
21 October 1, 2004;

22 “(ii) are owned by an Indian tribal
23 government;

24 “(iii) are owned by the Bureau of In-
25 dian Affairs;

1 “(iv) were constructed or recon-
2 structed with funds from the Highway Ac-
3 count of the Transportation Trust Fund
4 under the Indian reservation roads pro-
5 gram since 1983;

6 “(v) are public roads or bridges within
7 the exterior boundary of Indian reserva-
8 tions, Alaska Native villages, and other
9 recognized Indian communities (including
10 communities in former Indian reservations
11 in the State of Oklahoma) in which the
12 majority of residents are American Indians
13 or Alaska Natives;

14 “(vi) are public roads within or pro-
15 viding access to an Indian reservation or
16 Indian trust land or restricted Indian land
17 that is not subject to fee title alienation
18 without the approval of the Federal Gov-
19 ernment, or Indian or Alaska Native vil-
20 lages, groups, or communities in which In-
21 dians and Alaska Natives reside, whom the
22 Secretary of the Interior has determined
23 are eligible for services generally available
24 to Indians under Federal laws specifically
25 applicable to Indians; or

1 “(vii) are primary access routes pro-
2 posed by tribal governments, including
3 roads between villages, roads to landfills,
4 roads to drinking water sources, roads to
5 natural resources identified for economic
6 development, and roads that provide access
7 to intermodal terminals, such as airports,
8 harbors, or boat landings.

9 “(C) LIMITATION ON PRIMARY ACCESS
10 ROUTES.—For purposes of this paragraph, a
11 proposed primary access route is the shortest
12 practicable route connecting 2 points of the pro-
13 posed route.

14 “(D) ADDITIONAL FACILITIES.—Nothing
15 in this paragraph precludes the Secretary from
16 including additional transportation facilities
17 that are eligible for funding under the tribal
18 transportation program in the inventory used
19 for the national funding allocation if such addi-
20 tional facilities are included in the inventory in
21 a uniform and consistent manner nationally.

22 “(E) BRIDGES.—All bridges in the inven-
23 tory shall be recorded in the national bridge in-
24 ventory administered by the Secretary under
25 section 144.

1 “(2) REGULATIONS.—Notwithstanding sections
2 563(a) and 565(a) of title 5, the Secretary of the In-
3 terior shall maintain any regulations governing the
4 tribal transportation program.

5 “(3) BASIS FOR FUNDING FORMULA.—

6 “(A) BASIS.—

7 “(i) IN GENERAL.—After making the
8 set asides authorized under subsections (c),
9 (d), and (e) on October 1 of each fiscal
10 year, the Secretary shall distribute the re-
11 mainder authorized to be appropriated for
12 the tribal transportation program under
13 this section among Indian tribes as follows:

14 “(I) For fiscal year 2012—

15 “(aa) for each Indian tribe,
16 80 percent of the total relative
17 need distribution factor and pop-
18 ulation adjustment factor for the
19 fiscal year 2011 funding amount
20 made available to that Indian
21 tribe; and

22 “(bb) the remainder using
23 tribal shares as described in sub-
24 paragraphs (B) and (C).

25 “(II) For fiscal year 2013—

1 “(aa) for each Indian tribe,
2 60 percent of the total relative
3 need distribution factor and pop-
4 ulation adjustment factor for the
5 fiscal year 2011 funding amount
6 made available to that Indian
7 tribe; and

8 “(bb) the remainder using
9 tribal shares as described in sub-
10 paragraphs (B) and (C).

11 “(III) For fiscal year 2014—

12 “(aa) for each Indian tribe,
13 40 percent of the total relative
14 need distribution factor and pop-
15 ulation adjustment factor for the
16 fiscal year 2011 funding amount
17 made available to that Indian
18 tribe; and

19 “(bb) the remainder using
20 tribal shares as described in sub-
21 paragraphs (B) and (C).

22 “(IV) For fiscal year 2015—

23 “(aa) for each Indian tribe,
24 20 percent of the total relative
25 need distribution factor and pop-

1 ulation adjustment factor for the
2 fiscal year 2011 funding amount
3 made available to that Indian
4 tribe; and

5 “(bb) the remainder using
6 tribal shares as described in sub-
7 paragraphs (B) and (C).

8 “(V) For fiscal year 2016 and
9 thereafter, using tribal shares as de-
10 scribed in subparagraphs (B) and (C).

11 “(ii) TRIBAL HIGH PRIORITY
12 PROJECTS.—The High Priority Projects
13 program as included in the Tribal Trans-
14 portation Allocation Methodology of part
15 170 of title 25, Code of Federal Regula-
16 tions (as in effect on the date of enactment
17 of the MAP–21), shall not continue in ef-
18 fect.

19 “(B) TRIBAL SHARES.—Tribal shares
20 under this program shall be determined using
21 the national tribal transportation facility inven-
22 tory as calculated for fiscal year 2012, and the
23 most recent data on American Indian and Alas-
24 ka Native population within each Indian tribe’s
25 American Indian/Alaska Native Reservation or

1 Statistical Area, as computed under the Native
2 American Housing Assistance and Self-Deter-
3 mination Act of 1996 (25 U.S.C. 4101 et seq.),
4 in the following manner:

5 “(i) 30 percent in the ratio that the
6 total eligible lane mileage in each tribe
7 bears to the total eligible lane mileage of
8 all American Indians and Alaskan Natives.
9 For the purposes of this calculation—

10 “(I) eligible lane mileage shall be
11 computed based on the inventory de-
12 scribed in paragraph (1), using only
13 facilities included in the inventory de-
14 scribed in clause (i), (ii), or (iii) of
15 paragraph (1)(B); and

16 “(II) paved roads and gravel sur-
17 faced roads are deemed to equal 2
18 lane miles per mile of inventory, and
19 earth surfaced roads and unimproved
20 roads shall be deemed to equal 1 lane
21 mile per mile of inventory.

22 “(ii) 35 percent in the ratio that the
23 total population in each tribe bears to the
24 total population of all American Indians
25 and Alaskan Natives.

1 “(iii) 35 percent shall be divided
2 equally among each Bureau of Indian Af-
3 fairs region for distribution of tribal shares
4 as follows:

5 “(I) $\frac{1}{4}$ of 1 percent shall be dis-
6 tributed equally among Indian tribes
7 with populations of 1 to 25.

8 “(II) $\frac{3}{4}$ of 1 percent shall be dis-
9 tributed equally among Indian tribes
10 with populations of 26 to 100.

11 “(III) $3\frac{3}{4}$ percent shall be dis-
12 tributed equally among Indian tribes
13 with populations of 101 to 1,000.

14 “(IV) 20 percent shall be distrib-
15 uted equally among Indian tribes with
16 populations of 1,001 to 10,000.

17 “(V) $74\frac{3}{4}$ percent shall be dis-
18 tributed equally among Indian tribes
19 with populations of 10,001 to 60,000
20 where 3 or more Indian tribes occupy
21 this category in a single Bureau of In-
22 dian Affairs region, and Bureau of In-
23 dian Affairs regions containing less
24 than 3 Indian tribes in this category

1 shall receive funding in accordance
2 with subclause (IV) and clause (iv).

3 “(VI) $\frac{1}{2}$ of 1 percent shall be
4 distributed equally among Indian
5 tribes with populations of 60,001 or
6 more.

7 “(iv) For a Bureau of Indian Affairs
8 region that has no Indian tribes meeting
9 the population criteria under 1 or more of
10 subclauses (I) through (VI) of clause (iii),
11 the region shall redistribute any funds sub-
12 ject to such clause or clauses among any
13 such clauses for which the region has In-
14 dian tribes meeting such criteria propor-
15 tionally in accordance with the percentages
16 listed in such clauses until such funds are
17 completely distributed.

18 “(C) TRIBAL SUPPLEMENTAL FUNDING.—

19 “(i) TRIBAL SUPPLEMENTAL FUNDING
20 AMOUNT.—Of funds made available for
21 each fiscal year for the tribal transpor-
22 tation program, the Secretary shall set
23 aside the following amount for a tribal
24 supplemental program:

1 “(I) If the amount made avail-
2 able for the tribal transportation pro-
3 gram is less than or equal to
4 \$275,000,000, 30 percent of such
5 amount.

6 “(II) If the amount made avail-
7 able for the tribal transportation pro-
8 gram exceeds \$275,000,000—

9 “(aa) \$82,500,000; plus

10 “(bb) 12.5 percent of the
11 amount made available for the
12 tribal transportation program in
13 excess of \$275,000,000.

14 “(ii) TRIBAL SUPPLEMENTAL ALLOCA-
15 TION.—The Secretary shall distribute trib-
16 al supplemental funds as follows:

17 “(I) DISTRIBUTION AMONG RE-
18 GIONS.—Of the amounts set aside
19 under clause (i), the Secretary shall
20 distribute to each region of the Bu-
21 reau of Indian Affairs a share of trib-
22 al supplemental funds in proportion to
23 the regional total of tribal shares
24 based on the cumulative tribal shares

1 of all Indian tribes within such region
2 under subparagraph (B).

3 “(II) DISTRIBUTION WITHIN A
4 REGION.—Of the amount that a re-
5 gion receives under subclause (I), the
6 Secretary shall distribute tribal sup-
7 plemental funding among Indian
8 tribes within such region as follows:

9 “(aa) TRIBAL SUPPLE-
10 MENTAL AMOUNTS.—The Sec-
11 retary shall determine—

12 “(AA) which such In-
13 dian tribes would be entitled
14 under subparagraph (A) to
15 receive in a fiscal year less
16 funding than they would re-
17 ceive in fiscal year 2011
18 pursuant to the Tribal
19 Transportation Allocation
20 Methodology described in
21 subpart C of part 170 of
22 title 25, Code of Federal
23 Regulations (as in effect on
24 the date of enactment of the
25 MAP–21); and

1 “(BB) the combined
2 amount that such Indian
3 tribes would be entitled to
4 receive in fiscal year 2011
5 pursuant to such Tribal
6 Transportation Allocation
7 Methodology in excess of the
8 amount that they would be
9 entitled to receive in the fis-
10 cal year under subparagraph
11 (B); and

12 “(bb) Subject to subclause
13 (III), distribute to each Indian
14 tribe that meets the criteria de-
15 scribed in item (aa)(AA) a share
16 of funding under this subpara-
17 graph in proportion to the share
18 of the combined amount deter-
19 mined under item (aa)(BB) at-
20 tributable to such Indian tribe.

21 “(III) CEILING.—An Indian tribe
22 may not receive under subclause (II)
23 and based on its tribal share under
24 subparagraph (A) a combined amount
25 that exceeds the amount that such In-

1 dian tribe would be entitled to receive
2 in fiscal year 2011 pursuant to the
3 Tribal Transportation Allocation
4 Methodology described in subpart C of
5 part 170 of title 25, Code of Federal
6 Regulations (as in effect on the date
7 of enactment of the MAP-21).

8 “(IV) OTHER AMOUNTS.—If the
9 amount made available for a region
10 under subclause (I) exceeds the
11 amount distributed among Indian
12 tribes within that region under sub-
13 clause (II), the Secretary shall dis-
14 tribute the remainder of such region’s
15 funding under such subclause among
16 all Indian tribes in that region in pro-
17 portion to the combined amount that
18 each such Indian tribe received under
19 subparagraph (A) and subclauses (I),
20 (II), and (III).

21 “(4) TRANSFERRED FUNDS.—

22 “(A) IN GENERAL.—Not later than 30
23 days after the date on which funds are made
24 available to the Secretary of the Interior under
25 this paragraph, the funds shall be distributed

1 to, and made available for immediate use by, el-
2 ible Indian tribes, in accordance with the for-
3 mula for distribution of funds under the tribal
4 transportation program.

5 “(B) USE OF FUNDS.—Notwithstanding
6 any other provision of this section, funds made
7 available to Indian tribes for tribal transpor-
8 tation facilities shall be expended on projects
9 identified in a transportation improvement pro-
10 gram approved by the Secretary.

11 “(5) HEALTH AND SAFETY ASSURANCES.—Not-
12 withstanding any other provision of law, an Indian
13 tribal government may approve plans, specifications,
14 and estimates and commence road and bridge con-
15 struction with funds made available from the tribal
16 transportation program through a contract or agree-
17 ment under Indian Self-Determination and Edu-
18 cation Assistance Act (25 U.S.C. 450 et seq.), if the
19 Indian tribal government—

20 “(A) provides assurances in the contract or
21 agreement that the construction will meet or ex-
22 ceed applicable health and safety standards;

23 “(B) obtains the advance review of the
24 plans and specifications from a State-licensed
25 civil engineer that has certified that the plans

1 and specifications meet or exceed the applicable
2 health and safety standards; and

3 “(C) provides a copy of the certification
4 under subparagraph (A) to the Deputy Assist-
5 ant Secretary for Tribal Government Affairs,
6 Department of Transportation, or the Assistant
7 Secretary for Indian Affairs, Department of the
8 Interior, as appropriate.

9 “(6) CONTRACTS AND AGREEMENTS WITH IN-
10 DIAN TRIBES.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law or any interagency agree-
13 ment, program guideline, manual, or policy di-
14 rective, all funds made available through the
15 Secretary of the Interior under this chapter and
16 section 125(e) for tribal transportation facilities
17 to pay for the costs of programs, services, func-
18 tions, and activities, or portions of programs,
19 services, functions, or activities, that are specifi-
20 cally or functionally related to the cost of plan-
21 ning, research, engineering, and construction of
22 any tribal transportation facility shall be made
23 available, upon request of the Indian tribal gov-
24 ernment, to the Indian tribal government for
25 contracts and agreements for such planning, re-

1 search, engineering, and construction in accord-
2 ance with Indian Self-Determination and Edu-
3 cation Assistance Act (25 U.S.C. 450 et seq.).

4 “(B) EXCLUSION OF AGENCY PARTICIPA-
5 TION.—All funds, including contract support
6 costs, for programs, functions, services, or ac-
7 tivities, or portions of programs, services, func-
8 tions, or activities, including supportive admin-
9 istrative functions that are otherwise
10 contractible to which subparagraph (A) applies,
11 shall be paid in accordance with subparagraph
12 (A), without regard to the organizational level
13 at which the Department of the Interior has
14 previously carried out such programs, functions,
15 services, or activities.

16 “(7) CONTRACTS AND AGREEMENTS WITH IN-
17 DIAN TRIBES.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law or any interagency agree-
20 ment, program guideline, manual, or policy di-
21 rective, all funds made available through the
22 Secretary of the Interior to an Indian tribal
23 government under this chapter for a tribal
24 transportation facility program or project shall
25 be made available, on the request of the Indian

1 tribal government, to the Indian tribal govern-
2 ment for use in carrying out, in accordance
3 with the Indian Self-Determination and Edu-
4 cation Assistance Act (25 U.S.C. 450 et seq.),
5 contracts and agreements for the planning, re-
6 search, design, engineering, construction, and
7 maintenance relating to the program or project.

8 “(B) EXCLUSION OF AGENCY PARTICIPA-
9 TION.—In accordance with subparagraph (A),
10 all funds, including contract support costs, for
11 a program or project to which subparagraph
12 (A) applies shall be paid to the Indian tribal
13 government without regard to the organiza-
14 tional level at which the Department of the In-
15 terior has previously carried out, or the Depart-
16 ment of Transportation has previously carried
17 out under the tribal transportation program,
18 the programs, functions, services, or activities
19 involved.

20 “(C) CONSORTIA.—Two or more Indian
21 tribes that are otherwise eligible to participate
22 in a program or project to which this chapter
23 applies may form a consortium to be considered
24 as a single Indian tribe for the purpose of par-
25 ticipating in the project under this section.

1 “(D) SECRETARY AS SIGNATORY.—Not-
2 withstanding any other provision of law, the
3 Secretary is authorized to enter into a funding
4 agreement with an Indian tribal government to
5 carry out a tribal transportation facility pro-
6 gram or project under subparagraph (A) that is
7 located on an Indian reservation or provides ac-
8 cess to the reservation or a community of the
9 Indian tribe.

10 “(E) FUNDING.—The amount an Indian
11 tribal government receives for a program or
12 project under subparagraph (A) shall equal the
13 sum of the funding that the Indian tribal gov-
14 ernment would otherwise receive for the pro-
15 gram or project in accordance with the funding
16 formula established under this subsection and
17 such additional amounts as the Secretary deter-
18 mines equal the amounts that would have been
19 withheld for the costs of the Bureau of Indian
20 Affairs for administration of the program or
21 project.

22 “(F) ELIGIBILITY.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii) and the approval of the Secretary,
25 funds may be made available under sub-

1 paragraph (A) to an Indian tribal govern-
2 ment for a program or project in a fiscal
3 year only if the Indian tribal government
4 requesting such funds demonstrates to the
5 satisfaction of the Secretary financial sta-
6 bility and financial management capability
7 during the 3 fiscal years immediately pre-
8 ceding the fiscal year for which the request
9 is being made.

10 “(ii) CONSIDERATIONS.—An Indian
11 tribal government that had no uncorrected
12 significant and material audit exceptions in
13 the required annual audit of the contracts
14 or self-governance funding agreements
15 made by the Indian tribe with any Federal
16 agency under the Indian Self-Determina-
17 tion and Education Assistance Act (25
18 U.S.C. 450 et seq.) during the 3-fiscal year
19 period referred in clause (i) shall be con-
20 clusive evidence of the financial stability
21 and financial management capability of the
22 Indian tribe for purposes of clause (i).

23 “(G) ASSUMPTION OF FUNCTIONS AND DU-
24 TIES.—An Indian tribal government receiving
25 funding under subparagraph (A) for a program

1 or project shall assume all functions and duties
2 that the Secretary of the Interior would have
3 performed with respect to a program or project
4 under this chapter, other than those functions
5 and duties that inherently cannot be legally
6 transferred under the Indian Self-Determina-
7 tion and Education Assistance Act (25 U.S.C.
8 450 et seq.).

9 “(H) POWERS.—An Indian tribal govern-
10 ment receiving funding under subparagraph (A)
11 for a program or project shall have all powers
12 that the Secretary of the Interior would have
13 exercised in administering the funds transferred
14 to the Indian tribal government for such pro-
15 gram or project under this section if the funds
16 had not been transferred, except to the extent
17 that such powers are powers that inherently
18 cannot be legally transferred under the Indian
19 Self-Determination and Education Assistance
20 Act (25 U.S.C. 450 et seq.).

21 “(I) DISPUTE RESOLUTION.—In the event
22 of a disagreement between the Secretary or the
23 Secretary of the Interior and an Indian tribe
24 over whether a particular function, duty, or
25 power may be lawfully transferred to the Indian

1 tribe under the Indian Self-Determination and
2 Education Assistance Act (25 U.S.C. 450 et
3 seq.), the Indian tribe shall have the right to
4 pursue all alternative dispute resolution and ap-
5 peal procedures authorized by that Act, includ-
6 ing regulations issued to carry out the Act.

7 “(J) TERMINATION OF CONTRACT OR
8 AGREEMENT.—On the date of the termination
9 of a contract or agreement under this section
10 by an Indian tribal government, the Secretary
11 shall transfer all funds that would have been al-
12 located to the Indian tribal government under
13 the contract or agreement to the Secretary of
14 the Interior to provide continued transportation
15 services in accordance with applicable law.

16 “(c) PLANNING.—

17 “(1) IN GENERAL.—For each fiscal year, not
18 more than 2 percent of the funds made available for
19 the tribal transportation program shall be allocated
20 among Indian tribal governments that apply for
21 transportation planning pursuant to the Indian Self-
22 Determination and Education Assistance Act (25
23 U.S.C. 450 et seq.).

24 “(2) REQUIREMENT.—An Indian tribal govern-
25 ment, in cooperation with the Secretary of the Inte-

1 rior and, as appropriate, with a State, local govern-
2 ment, or metropolitan planning organization, shall
3 carry out a transportation planning process in ac-
4 cordance with section 201(c).

5 “(3) SELECTION AND APPROVAL OF
6 PROJECTS.—A project funded under this section
7 shall be—

8 “(A) selected by the Indian tribal govern-
9 ment from the transportation improvement pro-
10 gram; and

11 “(B) subject to the approval of the Sec-
12 retary of the Interior and the Secretary.

13 “(d) TRIBAL TRANSPORTATION FACILITY
14 BRIDGES.—

15 “(1) NATIONWIDE PRIORITY PROGRAM.—The
16 Secretary shall maintain a nationwide priority pro-
17 gram for improving deficient bridges eligible for the
18 tribal transportation program.

19 “(2) FUNDING.—Before making any distribu-
20 tion under subsection (b), the Secretary shall set
21 aside not more than 2 percent of the funds made
22 available under the tribal transportation program for
23 each fiscal year to be allocated—

24 “(A) to carry out any planning, design, en-
25 gineering, preconstruction, construction, and in-

1 specification of a project to replace, rehabilitate,
2 seismically retrofit, paint, apply calcium magne-
3 sium acetate, sodium acetate/formate, or other
4 environmentally acceptable, minimally corrosive
5 anti-icing and deicing composition; or

6 “(B) to implement any countermeasure for
7 deficient tribal transportation facility bridges,
8 including multiple-pipe culverts.

9 “(3) ELIGIBLE BRIDGES.—To be eligible to re-
10 ceive funding under this subsection, a bridge de-
11 scribed in paragraph (1) shall—

12 “(A) have an opening of not less than 20
13 feet;

14 “(B) be classified as a tribal transpor-
15 tation facility; and

16 “(C) be structurally deficient or function-
17 ally obsolete.

18 “(4) APPROVAL REQUIREMENT.—The Secretary
19 may make funds available under this subsection for
20 preliminary engineering, construction, and construc-
21 tion engineering activities after approval of required
22 documentation and verification of eligibility in ac-
23 cordance with this title.

24 “(e) SAFETY.—

1 “(1) FUNDING.—Before making any distribu-
2 tion under subsection (b), the Secretary shall set
3 aside not more than 2 percent of the funds made
4 available under the tribal transportation program for
5 each fiscal year to be allocated based on an identi-
6 fication and analysis of highway safety issues and
7 opportunities on tribal land, as determined by the
8 Secretary, on application of the Indian tribal govern-
9 ments for eligible projects described in section
10 148(a)(4).

11 “(2) PROJECT SELECTION.—An Indian tribal
12 government, in cooperation with the Secretary of the
13 Interior and, as appropriate, with a State, local gov-
14 ernment, or metropolitan planning organization,
15 shall select projects from the transportation im-
16 provement program, subject to the approval of the
17 Secretary and the Secretary of the Interior.

18 “(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before ap-
19 proving as a project on a tribal transportation facility any
20 project eligible for funds apportioned under section 104
21 in a State, the Secretary shall, for projects on tribal trans-
22 portation facilities, determine that the obligation of funds
23 for the project is supplementary to and not in lieu of the
24 obligation of a fair and equitable share of funds appor-
25 tioned to the State under section 104.

1 **“§ 203. Federal lands transportation program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available
4 under the Federal lands transportation program
5 shall be used by the Secretary of Transportation and
6 the Secretary of the appropriate Federal land man-
7 agement agency to pay the costs of—

8 “(A) program administration, transpor-
9 tation planning, research, preventive mainte-
10 nance, engineering, rehabilitation, restoration,
11 construction, and reconstruction of Federal
12 lands transportation facilities, and—

13 “(i) adjacent vehicular parking areas;

14 “(ii) acquisition of necessary scenic
15 easements and scenic or historic sites;

16 “(iii) provision for pedestrians and bi-
17 cycles;

18 “(iv) environmental mitigation in or
19 adjacent to Federal land open to the pub-
20 lic—

21 “(I) to improve public safety and
22 reduce vehicle-caused wildlife mor-
23 tality while maintaining habitat
24 connectivity; and

25 “(II) to mitigate the damage to
26 wildlife, aquatic organism passage,

1 habitat, and ecosystem connectivity,
2 including the costs of constructing,
3 maintaining, replacing, or removing
4 culverts and bridges, as appropriate;

5 “(v) construction and reconstruction
6 of roadside rest areas, including sanitary
7 and water facilities;

8 “(vi) congestion mitigation; and

9 “(vii) other appropriate public road
10 facilities, as determined by the Secretary;

11 “(B) operation and maintenance of transit
12 facilities; and

13 “(C) any transportation project eligible for
14 assistance under this title that is on a public
15 road within or adjacent to, or that provides ac-
16 cess to, Federal lands open to the public.

17 “(2) CONTRACT.—In connection with an activ-
18 ity described in paragraph (1), the Secretary and the
19 Secretary of the appropriate Federal land manage-
20 ment agency may enter into a contract or other ap-
21 propriate agreement with respect to the activity
22 with—

23 “(A) a State (including a political subdivi-
24 sion of a State); or

25 “(B) an Indian tribe.

1 “(3) ADMINISTRATION.—All appropriations for
2 the construction and improvement of Federal lands
3 transportation facilities shall be administered in con-
4 formity with regulations and agreements jointly ap-
5 proved by the Secretary and the Secretary of the ap-
6 propriate Federal land managing agency.

7 “(4) COOPERATION.—

8 “(A) IN GENERAL.—The cooperation of
9 States, counties, or other local subdivisions may
10 be accepted in construction and improvement.

11 “(B) FUNDS RECEIVED.—Any funds re-
12 ceived from a State, county, or local subdivision
13 shall be credited to appropriations available for
14 the class of Federal lands transportation facili-
15 ties to which the funds were contributed.

16 “(5) COMPETITIVE BIDDING.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), construction of each project shall be
19 performed by contract awarded by competitive
20 bidding.

21 “(B) EXCEPTION.—Subparagraph (A)
22 shall not apply if the Secretary or the Secretary
23 of the appropriate Federal land management
24 agency affirmatively finds that, under the cir-

1 cumstances relating to the project, a different
2 method is in the public interest.

3 “(b) AGENCY PROGRAM DISTRIBUTIONS.—

4 “(1) IN GENERAL.—On October 1, 2011, and
5 on October 1 of each fiscal year thereafter, the Sec-
6 retary shall allocate the sums authorized to be ap-
7 propriated for the fiscal year for the Federal lands
8 transportation program on the basis of applications
9 of need, as determined by the Secretary—

10 “(A) in consultation with the Secretaries of
11 the applicable Federal land management agen-
12 cies; and

13 “(B) in coordination with the transpor-
14 tation plans required under section 201 of the
15 respective transportation systems of—

16 “(i) the National Park Service;

17 “(ii) the Forest Service;

18 “(iii) the United States Fish and
19 Wildlife Service;

20 “(iv) the Corps of Engineers; and

21 “(v) the Bureau of Land Manage-
22 ment.

23 “(2) APPLICATIONS.—

24 “(A) REQUIREMENTS.—Each application
25 submitted by a Federal land management agen-

1 cy shall include proposed programs at various
2 potential funding levels, as defined by the Sec-
3 retary following collaborative discussions with
4 applicable Federal land management agencies.

5 “(B) CONSIDERATION BY SECRETARY.—In
6 evaluating an application submitted under sub-
7 paragraph (A), the Secretary shall consider the
8 extent to which the programs support—

9 “(i) the transportation goals of—

10 “(I) a state of good repair of
11 transportation facilities;

12 “(II) a reduction of bridge defi-
13 ciencies, and

14 “(III) an improvement of safety;

15 “(ii) high-use Federal recreational
16 sites or Federal economic generators; and

17 “(iii) the resource and asset manage-
18 ment goals of the Secretary of the respec-
19 tive Federal land management agency.

20 “(C) PERMISSIVE CONTENTS.—Applica-
21 tions may include proposed programs the dura-
22 tion of which extend over a multiple-year period
23 to support long-term transportation planning
24 and resource management initiatives.

1 “(c) NATIONAL FEDERAL LANDS TRANSPORTATION
2 FACILITY INVENTORY.—

3 “(1) IN GENERAL.—The Secretaries of the ap-
4 propriate Federal land management agencies, in co-
5 operation with the Secretary, shall maintain a com-
6 prehensive national inventory of public Federal lands
7 transportation facilities.

8 “(2) TRANSPORTATION FACILITIES INCLUDED
9 IN THE INVENTORIES.—To identify the Federal
10 lands transportation system and determine the rel-
11 ative transportation needs among Federal land man-
12 agement agencies, the inventories shall include, at a
13 minimum, facilities that—

14 “(A) provide access to high-use Federal
15 recreation sites or Federal economic generators,
16 as determined by the Secretary in coordination
17 with the respective Secretaries of the appro-
18 priate Federal land management agencies; and

19 “(B) are owned by 1 of the following agen-
20 cies:

21 “(i) The National Park Service.

22 “(ii) The Forest Service.

23 “(iii) The United States Fish and
24 Wildlife Service.

1 “(iv) The Bureau of Land Manage-
2 ment.

3 “(v) The Corps of Engineers.

4 “(3) AVAILABILITY.—The inventories shall be
5 made available to the Secretary.

6 “(4) UPDATES.—The Secretaries of the appro-
7 priate Federal land management agencies shall up-
8 date the inventories of the appropriate Federal land
9 management agencies, as determined by the Sec-
10 retary after collaborative discussions with the Secre-
11 taries of the appropriate Federal land management
12 agencies.

13 “(5) REVIEW.—A decision to add or remove a
14 facility from the inventory shall not be considered a
15 Federal action for purposes of review under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.).

18 “(d) BICYCLE SAFETY.—The Secretary of the appro-
19 priate Federal land management agency shall prohibit the
20 use of bicycles on each federally owned road that has a
21 speed limit of 30 miles per hour or greater and an adja-
22 cent paved path for use by bicycles within 100 yards of
23 the road unless the Secretary determines that the bicycle
24 level of service on that roadway is rated B or higher.

1 **“§ 204. Federal lands access program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available
4 under the Federal lands access program shall be
5 used by the Secretary of Transportation and the
6 Secretary of the appropriate Federal land manage-
7 ment agency to pay the cost of—

8 “(A) transportation planning, research, en-
9 gineering, preventive maintenance, rehabilita-
10 tion, restoration, construction, and reconstruc-
11 tion of Federal lands access transportation fa-
12 cilities located on or adjacent to, or that provide
13 access to, Federal land, and—

14 “(i) adjacent vehicular parking areas;

15 “(ii) acquisition of necessary scenic
16 easements and scenic or historic sites;

17 “(iii) provisions for pedestrians and
18 bicycles;

19 “(iv) environmental mitigation in or
20 adjacent to Federal land—

21 “(I) to improve public safety and
22 reduce vehicle-caused wildlife mor-
23 tality while maintaining habitat
24 connectivity; and

25 “(II) to mitigate the damage to
26 wildlife, aquatic organism passage,

1 habitat, and ecosystem connectivity,
2 including the costs of constructing,
3 maintaining, replacing, or removing
4 culverts and bridges, as appropriate;

5 “(v) construction and reconstruction
6 of roadside rest areas, including sanitary
7 and water facilities; and

8 “(vi) other appropriate public road fa-
9 cilities, as determined by the Secretary;

10 “(B) operation and maintenance of transit
11 facilities; and

12 “(C) any transportation project eligible for
13 assistance under this title that is within or ad-
14 jacent to, or that provides access to, Federal
15 land.

16 “(2) CONTRACT.—In connection with an activ-
17 ity described in paragraph (1), the Secretary and the
18 Secretary of the appropriate Federal land manage-
19 ment agency may enter into a contract or other ap-
20 propriate agreement with respect to the activity
21 with—

22 “(A) a State (including a political subdivi-
23 sion of a State); or

24 “(B) an Indian tribe.

1 “(3) ADMINISTRATION.—All appropriations for
2 the construction and improvement of Federal lands
3 access transportation facilities shall be administered
4 in conformity with regulations and agreements ap-
5 proved by the Secretary.

6 “(4) COOPERATION.—

7 “(A) IN GENERAL.—The cooperation of
8 States, counties, or other local subdivisions may
9 be accepted in construction and improvement.

10 “(B) FUNDS RECEIVED.—Any funds re-
11 ceived from a State, county, or local subdivision
12 for a Federal lands access transportation facil-
13 ity project shall be credited to appropriations
14 available under the Federal lands access pro-
15 gram.

16 “(5) COMPETITIVE BIDDING.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), construction of each project shall be
19 performed by contract awarded by competitive
20 bidding.

21 “(B) EXCEPTION.—Subparagraph (A)
22 shall not apply if the Secretary or the Secretary
23 of the appropriate Federal land management
24 agency affirmatively finds that, under the cir-

1 cumstances relating to the project, a different
2 method is in the public interest.

3 “(b) PROGRAM DISTRIBUTIONS.—

4 “(1) IN GENERAL.—Funding made available to
5 carry out the Federal lands access program shall be
6 allocated among those States that have Federal
7 land, in accordance with the following formula:

8 “(A) 80 percent of the available funding
9 for use in those States that contain at least 1
10 ½ percent of the total public land in the United
11 States managed by the agencies described in
12 paragraph (2), to be distributed as follows:

13 “(i) 30 percent in the ratio that—

14 “(I) recreational visitation within
15 each such State; bears to

16 “(II) the recreational visitation
17 within all such States.

18 “(ii) 5 percent in the ratio that—

19 “(I) the Federal land area within
20 each such State; bears to

21 “(II) the Federal land area in all
22 such States.

23 “(iii) 55 percent in the ratio that—

24 “(I) the Federal public road
25 miles within each such State; bears to

1 “(II) the Federal public road
2 miles in all such States.

3 “(iv) 10 percent in the ratio that—

4 “(I) the number of Federal pub-
5 lic bridges within each such State;
6 bears to

7 “(II) the number of Federal pub-
8 lic bridges in all such States.

9 “(B) 20 percent of the available funding
10 for use in those States that do not contain at
11 least 1½ percent of the total public land in the
12 United States managed by the agencies de-
13 scribed in paragraph (2), to be distributed as
14 follows:

15 “(i) 30 percent in the ratio that—

16 “(I) recreational visitation within
17 each such State; bears to

18 “(II) the recreational visitation
19 within all such States.

20 “(ii) 5 percent in the ratio that—

21 “(I) the Federal land area within
22 each such State; bears to

23 “(II) the Federal land area in all
24 such States.

25 “(iii) 55 percent in the ratio that—

1 “(I) the Federal public road
2 miles within each such State; bears to

3 “(II) the Federal public road
4 miles in all such States.

5 “(iv) 10 percent in the ratio that—

6 “(I) the number of Federal pub-
7 lic bridges within each such State;
8 bears to

9 “(II) the number of Federal pub-
10 lic bridges in all such States.

11 “(2) DATA SOURCE.—Data necessary to dis-
12 tribute funding under paragraph (1) shall be pro-
13 vided by the following Federal land management
14 agencies:

15 “(A) The National Park Service.

16 “(B) The Forest Service.

17 “(C) The United States Fish and Wildlife
18 Service.

19 “(D) The Bureau of Land Management.

20 “(E) The Corps of Engineers.

21 “(c) PROGRAMMING DECISIONS COMMITTEE.—

22 “(1) IN GENERAL.—Programming decisions
23 shall be made within each State by a committee
24 comprised of—

1 “(A) a representative of the Federal High-
2 way Administration;

3 “(B) a representative of the State Depart-
4 ment of Transportation; and

5 “(C) a representative of any appropriate
6 political subdivision of the State.

7 “(2) CONSULTATION REQUIREMENT.—The com-
8 mittee described in paragraph (1) shall consult with
9 each applicable Federal agency in each State before
10 any joint discussion or final programming decision.

11 “(3) PROJECT PREFERENCE.—In making a
12 programming decision under paragraph (1), the
13 committee shall give preference to projects that pro-
14 vide access to, are adjacent to, or are located within
15 high-use Federal recreation sites or Federal eco-
16 nomic generators, as identified by the Secretaries of
17 the appropriate Federal land management agen-
18 cies.”.

19 (b) PUBLIC LANDS DEVELOPMENT ROADS AND
20 TRAILS.—Section 214 of title 23, United States Code, is
21 repealed.

22 (c) CONFORMING AMENDMENTS.—

23 (1) CHAPTER 2 ANALYSIS.—The analysis for
24 chapter 2 of title 23, United States Code, is amend-
25 ed:

1 (A) By striking the items relating to sec-
 2 tions 201 through 204 and inserting the fol-
 3 lowing:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”.

4 (B) By striking the item relating to section
 5 214.

6 (2) DEFINITION.—Section 138(a) of title 23,
 7 United States Code, is amended in the third sen-
 8 tence by striking “park road or parkway under sec-
 9 tion 204 of this title” and inserting “Federal lands
 10 transportation facility”.

11 (3) RULES, REGULATIONS, AND RECOMMENDA-
 12 TIONS.—Section 315 of title 23, United States Code,
 13 is amended by striking “204(f)” and inserting
 14 “202(a)(5), 203(a)(3),”.

15 **SEC. 1117. ALASKA HIGHWAY.**

16 Section 218 of title 23, United States Code, is
 17 amended to read as follows:

18 **“§ 218. Alaska Highway**

19 “(a) DEFINITION OF ALASKA MARINE HIGHWAY
 20 SYSTEM.—In this section, the term ‘Alaska Marine High-
 21 way System’ includes each existing or planned transpor-
 22 tation facility and equipment in the State of Alaska relat-
 23 ing to the ferry system of the State, including the lease,

1 purchase, or construction of vessels, terminals, docks,
2 floats, ramps, staging areas, parking lots, bridges, and ap-
3 proaches thereto, and necessary roads.

4 “(b) AUTHORIZATION OF SECRETARY.—

5 “(1) IN GENERAL.—Recognizing the benefits
6 that will accrue to the State of Alaska and to the
7 United States from the reconstruction of the Alaska
8 Highway from the Alaskan border to Haines Junc-
9 tion in Canada and the Haines Cutoff Highway from
10 Haines Junction in Canada to Haines, the Secretary
11 is authorized, upon agreement with the State of
12 Alaska, to expend on such highway or the Alaska
13 Marine Highway System any Federal-aid highway
14 funds apportioned to the State of Alaska under this
15 title to provide for necessary reconstruction of such
16 highway.

17 “(2) LIMITATION.—No expenditures shall be
18 made for the construction of the portion of the high-
19 ways that are in located in Canada until the date on
20 which an agreement has been reached by the Gov-
21 ernment of Canada and the Government of the
22 United States, which shall provide in part, that the
23 Canadian Government—

24 “(A) will provide, without participation of
25 funds authorized under this title, all necessary

1 right-of-way for the construction of the high-
2 ways;

3 “(B) will not impose any highway toll, or
4 permit any toll to be charged for the use of the
5 highways by vehicles or persons;

6 “(C) will not levy or assess, directly or in-
7 directly, any fee, tax, or other charge for the
8 use of the highways by vehicles or persons from
9 the United States that does not apply equally to
10 vehicles or persons of Canada;

11 “(D) will continue to grant reciprocal rec-
12 ognition of vehicle registration and drivers’ li-
13 censes in accordance with agreements between
14 the United States and Canada; and

15 “(E) will maintain the highways after the
16 date of completion of the highways in proper
17 condition adequately to serve the needs of
18 present and future traffic.

19 “(c) SUPERVISION OF SECRETARY.—The survey and
20 construction work undertaken in Canada pursuant to this
21 section shall be under the general supervision of the Sec-
22 retary.”.

1 **SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIG-**
2 **NIFICANCE.**

3 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
4 shall establish a program in accordance with this section
5 to provide grants for projects of national and regional sig-
6 nificance.

7 (b) PURPOSE OF PROGRAM.—The purpose of the
8 projects of national and regional significance program
9 shall be to fund critical high-cost surface transportation
10 infrastructure projects that are difficult to complete with
11 existing Federal, State, local, and private funds and that
12 will—

13 (1) generate national and regional economic
14 benefits and increase global economic competitive-
15 ness;

16 (2) reduce congestion and its impacts;

17 (3) improve roadways vital to national energy
18 security;

19 (4) improve movement of freight and people;
20 and

21 (5) improve transportation safety.

22 (c) DEFINITIONS.—In this section:

23 (1) ELIGIBLE APPLICANT.—The term “eligible
24 applicant” means a State department of transpor-
25 tation or a group of State departments of transpor-
26 tation, a local government, a tribal government or

1 consortium of tribal governments, a transit agency,
2 a port authority, a metropolitan planning organiza-
3 tion, other political subdivisions of State or local
4 governments, or a multi-State or multi-jurisdictional
5 group of the aforementioned entities.

6 (2) ELIGIBLE PROJECT.—The term “eligible
7 project” means a surface transportation project or a
8 program of integrated surface transportation
9 projects closely related in the function they perform
10 that—

11 (A) is a capital project or projects—

12 (i) eligible for Federal financial assist-
13 ance under title 23, United States Code, or
14 under chapter 53 of title 49, United States
15 Code; or

16 (ii) for surface transportation infra-
17 structure to facilitate intermodal inter-
18 change, transfer, and access into and out
19 of intermodal facilities, including ports;
20 and

21 (B) has eligible project costs that are rea-
22 sonably anticipated to equal or exceed the lesser
23 of—

24 (i) \$500,000,000;

1 (ii) for a project located in a single
2 State, 30 percent of the amount of Fed-
3 eral-aid highway funds apportioned for the
4 most recently completed fiscal year to the
5 State; or

6 (iii) for a project located in more than
7 1 State, 75 percent of the amount of Fed-
8 eral-aid highway funds apportioned for the
9 most recently completed fiscal year to the
10 State in which the project is located that
11 has the largest apportionment.

12 (3) ELIGIBLE PROJECT COSTS.—The term “eli-
13 gible project costs” means the costs of—

14 (A) development phase activities, including
15 planning, feasibility analysis, revenue fore-
16 casting, environmental review, preliminary engi-
17 neering and design work, and other
18 preconstruction activities;

19 (B) construction, reconstruction, rehabili-
20 tation, and acquisition of real property (includ-
21 ing land related to the project and improve-
22 ments to land), environmental mitigation, con-
23 struction contingencies, acquisition of equip-
24 ment directly related to improving system per-
25 formance, and operational improvements; and

1 (C) all financing costs, including subsidy
2 costs under the Transportation Infrastructure
3 Finance and Innovation Act program.

4 (d) SOLICITATIONS AND APPLICATIONS.—

5 (1) GRANT SOLICITATIONS.—The Secretary
6 shall establish criteria for project evaluation and
7 conduct a transparent and competitive national solie-
8 itation process to select projects for funding to carry
9 out the purposes of this section.

10 (2) APPLICATIONS.—

11 (A) IN GENERAL.—An eligible applicant
12 seeking a grant under this section for an eligi-
13 ble project shall submit an application to the
14 Secretary in such form and in accordance with
15 such requirements as the Secretary shall estab-
16 lish.

17 (B) CONTENTS.—An application under
18 this subsection shall, at a minimum, include
19 data on current system performance and esti-
20 mated system improvements that will result
21 from completion of the eligible project, includ-
22 ing projections for 2, 7, and 15 years after
23 completion.

24 (C) RESUBMISSION OF APPLICATIONS.—An
25 eligible applicant whose project is not selected

1 by the Secretary may resubmit an application
2 in any subsequent solicitation.

3 (e) CRITERIA FOR PROJECT EVALUATION AND SE-
4 LECTION.—

5 (1) IN GENERAL.—The Secretary may select a
6 project only if the Secretary determines that the
7 project—

8 (A) will significantly improve the perform-
9 ance of the national surface transportation net-
10 work, nationally or regionally;

11 (B) is based on the results of preliminary
12 engineering;

13 (C) cannot be readily and efficiently com-
14 pleted without Federal support from this pro-
15 gram;

16 (D) is justified based on the ability of the
17 project—

18 (i) to generate national economic ben-
19 efits that reasonably exceed its costs, in-
20 cluding increased access to jobs, labor, and
21 other critical economic inputs;

22 (ii) to reduce long-term congestion, in-
23 cluding impacts in the State, region, and
24 Nation, and increase speed, reliability, and

1 accessibility of the movement of people or
2 freight; and

3 (iii) to improve transportation safety,
4 including reducing transportation acci-
5 dents, and serious injuries and fatalities;
6 and

7 (E) is supported by an acceptable degree
8 of non-Federal financial commitments, includ-
9 ing evidence of stable and dependable financing
10 sources to construct, maintain, and operate the
11 infrastructure facility.

12 (2) ADDITIONAL CONSIDERATIONS.—In evalu-
13 ating a project under this section, in addition to the
14 criteria in paragraph (1), the Secretary shall con-
15 sider the extent to which the project—

16 (A) leverages Federal investment by en-
17 couraging non-Federal contributions to the
18 project, including contributions from public-pri-
19 vate partnerships;

20 (B) is able to begin construction within 18
21 months of being selected;

22 (C) incorporates innovative project delivery
23 and financing where practical;

24 (D) stimulates collaboration between
25 States and among State and local governments;

1 (E) helps maintain or protect the environ-
2 ment;

3 (F) improves roadways vital to national en-
4 ergy security;

5 (G) uses innovative technologies, including
6 intelligent transportation systems, that enhance
7 the efficiency of the project; and

8 (H) contributes to an equitable geographic
9 distribution of funds under this section and an
10 appropriate balance in addressing the needs of
11 urban and rural communities.

12 (f) GRANT REQUIREMENTS.—

13 (1) IN GENERAL.—A grant for a project under
14 this section shall be subject to the following require-
15 ments:

16 (A) A qualifying highway project eligible
17 for funding under title 23, United States Code,
18 or public transportation project eligible under
19 chapter 53 of title 49, United States Code, shall
20 comply with all applicable requirements of such
21 title or chapter except that, if the project con-
22 tains elements or activities that are not eligible
23 for funding under such title or chapter but are
24 eligible for funding under this section, the ele-

1 ments or activities shall comply with the re-
2 quirements described in subparagraph (B).

3 (B) A qualifying surface transportation
4 project not eligible under title 23, United States
5 Code, or chapter 53 of title 49, United States
6 Code, shall comply with the requirements of
7 subchapter IV of chapter 31 of title 40, United
8 States Code, section 10a–d of title 41, United
9 States Code, and such other terms, conditions,
10 and requirements as the Secretary determines
11 are necessary and appropriate for the type of
12 project.

13 (2) DETERMINATION OF APPLICABLE MODAL
14 REQUIREMENTS.—In the event that a project has
15 cross-modal components, the Secretary shall have
16 the discretion to designate the requirements that
17 shall apply to the project based on predominant
18 components.

19 (3) OTHER TERMS AND CONDITIONS.—The Sec-
20 retary shall require that all grants under this section
21 be subject to all terms, conditions, and requirements
22 that the Secretary decides are necessary or appro-
23 priate for purposes of this section, including require-
24 ments for the disposition of net increases in value of

1 real property resulting from the project assisted
2 under this section.

3 (g) FEDERAL SHARE OF PROJECT COST.—

4 (1) IN GENERAL.—If a project funded under
5 this section is to construct or improve a privately
6 owned facility or would primarily benefit a private
7 entity, the Federal share shall be the lesser of 50
8 percent of the total project cost or the quantified
9 public benefit of the project. For all other projects
10 funded under this section—

11 (A) the Federal share of funds under this
12 section shall be up to 50 percent of the project
13 cost; and

14 (B) the project sponsor may use other eli-
15 gible Federal transportation funds to cover up
16 to an additional 30 percent of the project costs.

17 (2) PRE-APPROVAL COSTS.—The Secretary may
18 allow costs incurred prior to project approval to be
19 used as a credit toward the non-Federal share of the
20 cost of the project. Such costs must be adequately
21 documented, necessary, reasonable, and allocable to
22 the current phase of the project and such costs may
23 not be included as a cost or used to meet cost-shar-
24 ing or matching requirements of any other federally-
25 financed project.

1 (h) REPORT TO THE SECRETARY.—For each project
2 funded under this section, the project sponsor shall reas-
3 sess system performance and report to the Secretary 2,
4 7, and 15 years after completion of the project to assess
5 if the project outcomes have met pre-construction projec-
6 tions.

7 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section,
9 to remain available until expended, \$1,000,000,000 for fis-
10 cal year 2013.

11 (j) TREATMENT OF PROJECTS.—Notwithstanding
12 any other provision of law, projects funded under this sec-
13 tion shall be treated as projects on a Federal-aid highway
14 under chapter 1 of title 23, United States Code.

15 (k) REPORTS.—

16 (1) SECRETARY.—

17 (A) IN GENERAL.—Not later than 30 days
18 after the date on which the Secretary selects a
19 project for funding under this section, the Sec-
20 retary shall submit to the Committee on Envi-
21 ronment and Public Works of the Senate and
22 the Committee on Transportation and Infra-
23 structure of the House of Representatives a re-
24 port that describes the reasons for selecting the

1 project, based on the criteria described in sub-
2 section (e).

3 (B) INCLUSIONS.—The report submitted
4 under subparagraph (A) shall specify each cri-
5 teria described in subsection (e) that the project
6 meets.

7 (C) AVAILABILITY.—The Secretary shall
8 make available on the website of the Depart-
9 ment the report submitted under subparagraph
10 (A).

11 (2) COMPTROLLER GENERAL.—

12 (A) ASSESSMENT.—The Comptroller Gen-
13 eral of the United States shall conduct an as-
14 sessment of the establishment, solicitation, se-
15 lection, and justification process with respect to
16 the funding of projects under this section.

17 (B) REPORT.—Not later than 3 years after
18 the date of enactment of this Act, the Comp-
19 troller General of the United States shall sub-
20 mit to the Committee on Environment and
21 Public Works of the Senate and the Committee
22 on Transportation and Infrastructure of the
23 House of Representatives a report that de-
24 scribes—

1 (i) the process by which each project
2 was selected;

3 (ii) the factors that went into the se-
4 lection of each project; and

5 (iii) the justification for the selection
6 of each project based on the criteria de-
7 scribed in subsection (e).

8 (3) INSPECTOR GENERAL.—

9 (A) ASSESSMENT.—The Inspector General
10 of the Department shall conduct an assessment
11 of the establishment, solicitation, selection, and
12 justification process with respect to the funding
13 of projects under this section.

14 (B) INITIAL REPORT.—Not later than 2
15 years after the date of enactment of this Act,
16 the Inspector General of the Department shall
17 submit to the Committee on Environment and
18 Public Works of the Senate and the Committee
19 on Transportation and Infrastructure of the
20 House of Representatives a report that de-
21 scribes the initial results of the assessment con-
22 ducted under subparagraph (A).

23 (C) FINAL REPORT.—Not later than 4
24 years after the date of enactment of this Act,
25 the Inspector General of the Department shall

1 submit to the Committee on Environment and
2 Public Works of the Senate and the Committee
3 on Transportation and Infrastructure of the
4 House of Representatives a final report that de-
5 scribes the findings of the Inspector General of
6 the Department with respect to the assessment
7 conducted under subparagraph (A).

8 (l) REGULATIONS.—

9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act, the Secretary
11 shall promulgate final regulations implementing the
12 program authorized under this section.

13 (2) INTERIM PROVISIONS.—Until the date on
14 which the Secretary promulgates final regulations
15 under paragraph (1), any amounts made available
16 under subsection (i) to carry out this section shall
17 be distributed in accordance with—

18 (A) the guidance and policies developed for
19 the distribution of grants under the program
20 using the notice of funding availability entitled
21 “Notice of Funding Availability for the Depart-
22 ment of Transportation’s National Infrastruc-
23 ture Investments Under the Full-Year Con-
24 tinuing Appropriations, 2012; and Request for

1 Comments” (77 Fed. Reg. 4863 (January 31,
2 2012)); or

3 (B) such guidance and policies as subse-
4 quently revised and updated.

5 **SEC. 1119. CONSTRUCTION OF FERRY BOATS AND FERRY**
6 **TERMINAL FACILITIES.**

7 (a) CONSTRUCTION OF FERRY BOATS AND FERRY
8 TERMINAL FACILITIES.—Section 147 of title 23, United
9 States Code, is amended—

10 (1) by striking subsections (c), (d), and (e);

11 (2) by redesignating subsection (f) as sub-
12 section (g); and

13 (3) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) DISTRIBUTION OF FUNDS.—Of the amounts
16 made available to ferry systems and public entities respon-
17 sible for developing ferries under this section for a fiscal
18 year, 100 percent shall be allocated in accordance with the
19 formula set forth in subsection (d).

20 “(d) FORMULA.—Of the amounts allocated pursuant
21 to subsection (c)—

22 “(1) 20 percent shall be allocated among eligi-
23 ble entities in the proportion that—

1 “(A) the number of ferry passengers car-
2 ried by each ferry system in the most recent fis-
3 cal year; bears to

4 “(B) the number of ferry passengers car-
5 ried by all ferry systems in the most recent fis-
6 cal year;

7 “(2) 50 percent shall be allocated among eligi-
8 ble entities in the proportion that—

9 “(A) the number of vehicles carried by
10 each ferry system in the most recent fiscal year;
11 bears to

12 “(B) the number of vehicles carried by all
13 ferry systems in the most recent fiscal year;
14 and

15 “(3) 30 percent shall be allocated among eligi-
16 ble entities in the proportion that—

17 “(A) the total route miles serviced by each
18 ferry system; bears to

19 “(B) the total route miles serviced by all
20 ferry systems.

21 “(e) FERRY BOAT COORDINATION TEAM.—

22 “(1) ESTABLISHMENT.—The Secretary shall es-
23 tablish within the Federal Highway Administration
24 a Ferry Boat Coordination Team to carry out para-
25 graph (2).

1 “(2) PURPOSES.—The purposes of the ferry
2 boat coordination team shall be—

3 “(A) to coordinate Federal programs af-
4 fecting ferry and ferry facility construction,
5 maintenance, operations, and security; and

6 “(B) to promote transportation by ferry as
7 a component of the United States transpor-
8 tation system.

9 “(3) FUNCTIONS.—The ferry boat coordination
10 team shall—

11 “(A) coordinate programs relating to ferry
12 transportation carried out by—

13 “(i) the Department of Transpor-
14 tation, including programs carried out by
15 the Federal Highway Administration, the
16 Federal Transit Administration, the Mari-
17 time Administration, and the Research and
18 Innovative Technology Administration;

19 “(ii) the Department of Homeland Se-
20 curity; and

21 “(iii) other Federal and State agen-
22 cies, as appropriate;

23 “(B) ensure resource accountability for
24 programs carried out by the Secretary relating
25 to ferry transportation;

1 “(C) provide strategic leadership for re-
2 search, development, testing, and deployment of
3 technologies relating to ferry transportation;
4 and

5 “(D) promote ferry transportation as a
6 means to reduce costs associated with traffic
7 congestion.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
9 is authorized to be appropriated to carry out this section
10 \$67,000,000 for each of fiscal years 2012 and 2013.”.

11 (b) NATIONAL FERRY DATABASE.—Section 1801(e)
12 of the SAFETEA-LU (23 U.S.C. 129 note; Public Law
13 109–59) is amended—

14 (1) in paragraph (2), by inserting “, including
15 any Federal, State, and local government funding
16 sources,” after “sources”; and

17 (2) in paragraph (4)—

18 (A) in subparagraph (B), by striking
19 “and” at the end;

20 (B) by redesignating subparagraph (C) as
21 subparagraph (D);

22 (C) by inserting after subparagraph (B),
23 the following:

24 “(C) ensure that the database is consistent
25 with the national transit database maintained

1 by the Federal Transit Administration; and”;
2 and

3 (D) in subparagraph (D) (as redesignated
4 by subparagraph (B)), by striking “2009” and
5 inserting “2013”.

6 **Subtitle B—Performance**
7 **Management**

8 **SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

9 Section 134 of title 23, United States Code, is
10 amended to read as follows:

11 **“§ 134. Metropolitan transportation planning**

12 “(a) POLICY.—It is in the national interest—

13 “(1) to encourage and promote the safe, cost-
14 effective, and efficient management, operation, and
15 development of surface transportation systems that
16 will serve efficiently the mobility needs of individuals
17 and freight, reduce transportation-related fatalities
18 and serious injuries, and foster economic growth and
19 development within and between States and urban-
20 ized areas, while fitting the needs and complexity of
21 individual communities, maximizing value for tax-
22 payers, leveraging cooperative investments, and
23 minimizing transportation-related fuel consumption
24 and air pollution through the metropolitan and

1 statewide transportation planning processes identi-
2 fied in this title;

3 “(2) to encourage the continued improvement,
4 evolution, and coordination of the metropolitan and
5 statewide transportation planning processes by and
6 among metropolitan planning organizations, State
7 departments of transportation, regional planning or-
8 ganizations, interstate partnerships, and public
9 transportation and intercity service operators as
10 guided by the planning factors identified in sub-
11 section (h) of this section and section 135(d);

12 “(3) to encourage and promote transportation
13 needs and decisions that are integrated with other
14 planning needs and priorities; and

15 “(4) to maximize the effectiveness of transpor-
16 tation investments.

17 “(b) DEFINITIONS.—In this section and section 135,
18 the following definitions shall apply:

19 “(1) EXISTING MPO.—The term ‘existing MPO’
20 means a metropolitan planning organization that
21 was designated as a metropolitan planning organiza-
22 tion on the day before the date of enactment of the
23 MAP–21.

24 “(2) LOCAL OFFICIAL.—The term ‘local official’
25 means any elected or appointed official of general

1 purpose local government with responsibility for
2 transportation in a designated area.

3 “(3) MAINTENANCE AREA.—The term ‘mainte-
4 nance area’ means an area that was designated as
5 an air quality nonattainment area, but was later re-
6 designated by the Administrator of the Environ-
7 mental Protection Agency as an air quality attain-
8 ment area, under section 107(d) of the Clean Air
9 Act (42 U.S.C. 7407(d)).

10 “(4) METROPOLITAN PLANNING AREA.—The
11 term ‘metropolitan planning area’ means a geo-
12 graphical area determined by agreement between the
13 metropolitan planning organization for the area and
14 the applicable Governor under subsection (c).

15 “(5) METROPOLITAN PLANNING ORGANIZA-
16 TION.—The term ‘metropolitan planning organiza-
17 tion’ means the policy board of an organization es-
18 tablished pursuant to subsection (c).

19 “(6) METROPOLITAN TRANSPORTATION
20 PLAN.—The term ‘metropolitan transportation plan’
21 means a plan developed by a metropolitan planning
22 organization under subsection (i).

23 “(7) NONATTAINMENT AREA.—The term ‘non-
24 attainment area’ has the meaning given the term in
25 section 171 of the Clean Air Act (42 U.S.C. 7501).

1 “(8) NONMETROPOLITAN AREA.—

2 “(A) IN GENERAL.—The term ‘nonmetro-
3 politan area’ means a geographical area outside
4 the boundaries of a designated metropolitan
5 planning area.

6 “(B) INCLUSIONS.—The term ‘nonmetro-
7 politan area’ includes—

8 “(i) a small urbanized area with a
9 population of more than 50,000, but fewer
10 than 200,000, individuals, as calculated ac-
11 cording to the most recent decennial cen-
12 sus; and

13 “(ii) a nonurbanized area.

14 “(9) NONMETROPOLITAN PLANNING ORGANIZA-
15 TION.—The term ‘nonmetropolitan planning organi-
16 zation’ means an organization that—

17 “(A) was designated as a metropolitan
18 planning organization as of the day before the
19 date of enactment of the MAP-21; and

20 “(B) is not designated as a tier I MPO or
21 tier II MPO.

22 “(10) REGIONALLY SIGNIFICANT.—The term
23 ‘regionally significant’, with respect to a transpor-
24 tation project, program, service, or strategy, means
25 a project, program, service, or strategy that—

1 “(A) serves regional transportation needs
2 (such as access to and from the area outside of
3 the region, major activity centers in the region,
4 and major planned developments); and

5 “(B) would normally be included in the
6 modeling of a transportation network of a met-
7 ropolitan area.

8 “(11) RURAL PLANNING ORGANIZATION.—The
9 term ‘rural planning organization’ means an organi-
10 zation that—

11 “(A) is responsible for the planning, co-
12 ordination, and implementation of statewide
13 transportation plans and programs outside of a
14 metropolitan area, with an emphasis on ad-
15 dressing the needs of rural areas of the State;
16 and

17 “(B) is not designated as a tier I or tier
18 II metropolitan planning organization or a non-
19 metropolitan planning organization.

20 “(12) STATEWIDE TRANSPORTATION IMPROVE-
21 MENT PROGRAM.—The term ‘statewide transpor-
22 tation improvement program’ means a statewide
23 transportation improvement program developed by a
24 State under section 135(g).

1 “(13) STATEWIDE TRANSPORTATION PLAN.—
2 The term ‘statewide transportation plan’ means a
3 plan developed by a State under section 135(f).

4 “(14) TIER I MPO.—The term ‘tier I MPO’
5 means a metropolitan planning organization des-
6 ignated as a tier I MPO under subsection (e)(4)(A).

7 “(15) TIER II MPO.—The term ‘tier II MPO’
8 means a metropolitan planning organization des-
9 ignated as a tier I MPO under subsection (e)(4)(B).

10 “(16) TRANSPORTATION IMPROVEMENT PRO-
11 GRAM.—The term ‘transportation improvement pro-
12 gram’ means a program developed by a metropolitan
13 planning organization under subsection (j).

14 “(17) URBANIZED AREA.—The term ‘urbanized
15 area’ means a geographical area with a population
16 of 50,000 or more individuals, as calculated accord-
17 ing to the most recent decennial census.

18 “(c) DESIGNATION OF METROPOLITAN PLANNING
19 ORGANIZATIONS.—

20 “(1) IN GENERAL.—To carry out the metropoli-
21 tan transportation planning process under this sec-
22 tion, a metropolitan planning organization shall be
23 designated for each urbanized area with a population
24 of 200,000 or more individuals, as calculated accord-
25 ing to the most recent decennial census—

1 “(A) by agreement between the applicable
2 Governor and local officials that, in the aggregate,
3 represent at least 75 percent of the affected
4 population (including the largest incorporated
5 city (based on population), as calculated
6 according to the most recent decennial
7 census); or

8 “(B) in accordance with procedures established
9 by applicable State or local law.

10 “(2) SMALL URBANIZED AREAS.—To carry out
11 the metropolitan transportation planning process
12 under this section, a metropolitan planning organization
13 may be designated for any urbanized area with
14 a population of 50,000 or more individuals, but
15 fewer than 200,000 individuals, as calculated according
16 to the most recent decennial census—

17 “(A) by agreement between the applicable
18 Governor and local officials that, in the aggregate,
19 represent at least 75 percent of the affected
20 population (including the largest incorporated
21 city (based on population), as calculated
22 according to the most recent decennial
23 census); and

24 “(B) with the consent of the Secretary,
25 based on a finding that the resulting metropoli-

1 tan planning organization has met the min-
2 imum requirements under subsection (e)(4)(B).

3 “(3) STRUCTURE.—Not later than 1 year after
4 the date of enactment of the MAP–21, a metropoli-
5 tan planning organization shall consist of—

6 “(A) elected local officials in the relevant
7 metropolitan area;

8 “(B) officials of public agencies that ad-
9 minister or operate major modes of transpor-
10 tation in the relevant metropolitan area, includ-
11 ing providers of public transportation; and

12 “(C) appropriate State officials.

13 “(4) EFFECT OF SUBSECTION.—Nothing in this
14 subsection interferes with any authority under any
15 State law in effect on December 18, 1991, of a pub-
16 lic agency with multimodal transportation respon-
17 sibilities—

18 “(A) to develop the metropolitan transpor-
19 tation plans and transportation improvement
20 programs for adoption by a metropolitan plan-
21 ning organization; or

22 “(B) to develop capital plans, coordinate
23 public transportation services and projects, or
24 carry out other activities pursuant to State law.

25 “(5) CONTINUING DESIGNATION.—

1 “(A) POPULATION OF 200,000 OR MORE.—
2 A designation of an existing MPO for an urban-
3 ized area with a population of 200,000 or more
4 individuals, as calculated according to the most
5 recent decennial census, shall remain in ef-
6 fect—

7 “(i) for the period during which the
8 structure of the existing MPO complies
9 with the requirements of paragraph (1); or
10 “(ii) until the date on which the exist-
11 ing MPO is redesignated under paragraph
12 (6); and

13 “(B) POPULATION OF FEWER THAN
14 200,000.—

15 “(i) IN GENERAL.—A designation of
16 an existing MPO for an urbanized area
17 with a population of fewer than 200,000
18 individuals, as calculated according to the
19 most recent decennial census, shall remain
20 in effect until the date on which the exist-
21 ing MPO is redesignated under paragraph
22 (6) unless—

23 “(I) the existing MPO requests
24 that its planning responsibilities be
25 transferred to the State or to another

1 planning organization designated by
2 the State; or

3 “(II) the Secretary determines 3
4 years after the date on which the Sec-
5 retary issues a rule pursuant to sub-
6 section (e)(4)(B)(i), that the existing
7 MPO is not meeting the minimum re-
8 quirements established by the rule.

9 “(ii) JUSTIFICATION.—The Secretary
10 shall, in a timely manner, provide a sub-
11 stantive written justification to each metro-
12 politan planning organization that is the
13 subject of a negative determination of the
14 Secretary under clause (i)(II).

15 “(C) EXTENSION.—If a metropolitan plan-
16 ning organization for an urbanized area with a
17 population of less than 200,000 that would oth-
18 erwise be terminated under subparagraph (B),
19 requests a probationary continuation before the
20 termination of the metropolitan planning orga-
21 nization, the Secretary shall—

22 “(i) delay the termination of the met-
23 ropolitan planning organization under sub-
24 paragraph (B) for a period of 1 year;

1 “(ii) provide additional technical as-
2 sistance to all metropolitan planning orga-
3 nizations provided an extension under this
4 paragraph to assist the metropolitan plan-
5 ning organization in meeting the minimum
6 requirements under subsection (e)(4)(B)(i);
7 and

8 “(iii) make a determination not later
9 than 1 year after the date on which the
10 Secretary issues an extension, regardless of
11 whether the metropolitan planning organi-
12 zation has met the minimum requirements
13 established under subsection (e)(4)(B)(ii).

14 “(D) DESIGNATION AS TIER II MPO.—If
15 the Secretary determines that the existing MPO
16 has met the minimum requirements under the
17 rule issued under subsection (e)(4)(B)(i), the
18 Secretary shall designate the existing MPO as
19 a tier II MPO.

20 “(6) REDESIGNATION.—

21 “(A) IN GENERAL.—The designation of a
22 metropolitan planning organization under this
23 subsection shall remain in effect until the date
24 on which the metropolitan planning organiza-
25 tion is redesignated, as appropriate, in accord-

1 ance with the requirements of this subsection
2 pursuant to an agreement between—

3 “(i) the applicable Governor; and

4 “(ii) affected local officials who, in the
5 aggregate, represent at least 75 percent of
6 the existing metropolitan planning area
7 population (including the largest incor-
8 porated city (based on population), as cal-
9 culated according to the most recent de-
10 cennial census).

11 “(B) RESTRUCTURING.—A metropolitan
12 planning organization may be restructured to
13 meet the requirements of paragraph (3) without
14 undertaking a redesignation.

15 “(7) ABSENCE OF DESIGNATION.—

16 “(A) IN GENERAL.—A metropolitan plan-
17 ning organization that is the subject of a nega-
18 tive determination of the Secretary under para-
19 graph (5)(B)(ii) shall submit to the State in
20 which the metropolitan planning organization is
21 located, or to a planning organization des-
22 ignated by the State, by not later than 180
23 days after the date on which a notice of the
24 negative determination is received, a 6-month
25 plan that includes a description of a method—

1 “(i) to transfer the responsibilities of
2 the metropolitan planning organization to
3 the State; and

4 “(ii) to dissolve the metropolitan plan-
5 ning organization.

6 “(B) ACTION ON DISSOLUTION.—On sub-
7 mission of a plan under subparagraph (A), the
8 metropolitan planning area served by the appli-
9 cable metropolitan planning organization
10 shall—

11 “(i) continue to receive metropolitan
12 transportation planning funds until the
13 earlier of—

14 “(I) the date of dissolution of the
15 metropolitan planning organization;
16 and

17 “(II) the date that is 4 years
18 after the date of enactment of the
19 MAP-21; and

20 “(ii) be treated by the State as a non-
21 metropolitan area for purposes of this title.

22 “(8) DESIGNATION OF MULTIPLE MPOS.—

23 “(A) IN GENERAL.—More than 1 metro-
24 politan planning organization may be des-
25 ignated within an existing metropolitan plan-

1 ning area only if the applicable Governor and
2 an existing MPO determine that the size and
3 complexity of the existing metropolitan planning
4 area make the designation of more than 1 met-
5 ropolitan planning organization for the metro-
6 politan planning area appropriate.

7 “(B) SERVICE JURISDICTIONS.—If more
8 than 1 metropolitan planning organization is
9 designated for an existing metropolitan plan-
10 ning area under subparagraph (A), the existing
11 metropolitan planning area shall be split into
12 multiple metropolitan planning areas, each of
13 which shall be served by the existing MPO or
14 a new metropolitan planning organization.

15 “(C) TIER DESIGNATION.—The tier des-
16 ignation of each metropolitan planning organi-
17 zation subject to a designation under this para-
18 graph shall be determined based on the size of
19 each respective metropolitan planning area, in
20 accordance with subsection (e)(4).

21 “(d) METROPOLITAN PLANNING AREA BOUND-
22 ARIES.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the boundaries of a metropolitan planning area
25 shall be determined by agreement between the appli-

1 cable metropolitan planning organization and the
2 Governor of the State in which the metropolitan
3 planning area is located.

4 “(2) INCLUDED AREA.—Each metropolitan
5 planning area—

6 “(A) shall encompass at least the relevant
7 existing urbanized area and any contiguous
8 area expected to become urbanized within a 20-
9 year forecast period under the applicable metro-
10 politan transportation plan; and

11 “(B) may encompass the entire relevant
12 metropolitan statistical area, as defined by the
13 Office of Management and Budget.

14 “(3) IDENTIFICATION OF NEW URBANIZED
15 AREAS.—The designation by the Bureau of the Cen-
16 sus of a new urbanized area within the boundaries
17 of an existing metropolitan planning area shall not
18 require the redesignation of the relevant existing
19 MPO.

20 “(4) NONATTAINMENT AND MAINTENANCE
21 AREAS.—

22 “(A) EXISTING METROPOLITAN PLANNING
23 AREAS.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), notwithstanding para-

1 graph (2), in the case of an urbanized area
2 designated as a nonattainment area or
3 maintenance area as of the date of enact-
4 ment of the MAP-21, the boundaries of
5 the existing metropolitan planning area as
6 of that date of enactment shall remain in
7 force and effect.

8 “(ii) EXCEPTION.—Notwithstanding
9 clause (i), the boundaries of an existing
10 metropolitan planning area described in
11 that clause may be adjusted by agreement
12 of the applicable Governor and the affected
13 metropolitan planning organizations in ac-
14 cordance with paragraph (1).

15 “(B) NEW METROPOLITAN PLANNING
16 AREAS.—In the case of an urbanized area des-
17 ignated as a nonattainment area or mainte-
18 nance area after the date of enactment of the
19 MAP-21, the boundaries of the applicable met-
20 ropolitan planning area—

21 “(i) shall be established in accordance
22 with subsection (c)(1);

23 “(ii) shall encompass the areas de-
24 scribed in paragraph (2)(A);

1 “(iii) may encompass the areas de-
2 scribed in paragraph (2)(B); and

3 “(iv) may address any appropriate
4 nonattainment area or maintenance area.

5 “(e) REQUIREMENTS.—

6 “(1) DEVELOPMENT OF PLANS AND TIPS.—To
7 accomplish the policy objectives described in sub-
8 section (a), each metropolitan planning organization,
9 in cooperation with the applicable State and public
10 transportation operators, shall develop metropolitan
11 transportation plans and transportation improve-
12 ment programs for metropolitan planning areas of
13 the State through a performance-driven, outcome-
14 based approach to metropolitan transportation plan-
15 ning consistent with subsection (h).

16 “(2) CONTENTS.—The metropolitan transpor-
17 tation plans and transportation improvement pro-
18 grams for each metropolitan area shall provide for
19 the development and integrated management and
20 operation of transportation systems and facilities
21 (including accessible pedestrian walkways, bicycle
22 transportation facilities, and intermodal facilities
23 that support intercity transportation) that will func-
24 tion as—

1 “(A) an intermodal transportation system
2 for the metropolitan planning area; and

3 “(B) an integral part of an intermodal
4 transportation system for the applicable State
5 and the United States.

6 “(3) PROCESS OF DEVELOPMENT.—The process
7 for developing metropolitan transportation plans and
8 transportation improvement programs shall—

9 “(A) provide for consideration of all modes
10 of transportation; and

11 “(B) be continuing, cooperative, and com-
12 prehensive to the degree appropriate, based on
13 the complexity of the transportation needs to be
14 addressed.

15 “(4) TIERING.—

16 “(A) TIER I MPOS.—

17 “(i) IN GENERAL.—A metropolitan
18 planning organization shall be designated
19 as a tier I MPO if—

20 “(I) as certified by the Governor
21 of each applicable State, the metro-
22 politan planning organization operates
23 within, and primarily serves, a metro-
24 politan planning area with a popu-
25 lation of 1,000,000 or more individ-

1 uals, as calculated according to the
2 most recent decennial census; and

3 “(II) the Secretary determines
4 the metropolitan planning organiza-
5 tion—

6 “(aa) meets the minimum
7 technical requirements under
8 clause (iv); and

9 “(bb) not later than 2 years
10 after the date of enactment of
11 the MAP-21, will fully imple-
12 ment the processes described in
13 subsections (h) through (j).

14 “(ii) ABSENCE OF DESIGNATION.—In
15 the absence of designation as a tier I MPO
16 under clause (i), a metropolitan planning
17 organization shall operate as a tier II
18 MPO until the date on which the Secretary
19 determines the metropolitan planning orga-
20 nization can meet the minimum technical
21 requirements under clause (iv).

22 “(iii) REDESIGNATION AS TIER I.—A
23 metropolitan planning organization oper-
24 ating within a metropolitan planning area
25 with a population of 200,000 or more and

1 fewer than 1,000,000 individuals and pri-
2 marily within urbanized areas with popu-
3 lations of 200,000 or more individuals, as
4 calculated according to the most recent de-
5 cennial census, that is designated as a tier
6 II MPO under subparagraph (B) may re-
7 quest, with the support of the applicable
8 Governor, a redesignation as a tier I MPO
9 on a determination by the Secretary that
10 the metropolitan planning organization has
11 met the minimum technical requirements
12 under clause (iv).

13 “(iv) MINIMUM TECHNICAL REQUIRE-
14 MENTS.—Not later than 1 year after the
15 date of enactment of the MAP–21, the
16 Secretary shall issue a rule that establishes
17 the minimum technical requirements nec-
18 essary for a metropolitan planning organi-
19 zation to be designated as a tier I MPO,
20 including, at a minimum, modeling, data,
21 staffing, and other technical requirements.

22 “(B) TIER II MPOS.—

23 “(i) IN GENERAL.—Not later than 1
24 year after the date of enactment of the
25 MAP–21, the Secretary shall issue a rule

1 that establishes minimum requirements
2 necessary for a metropolitan planning or-
3 ganization to be designated as a tier II
4 MPO.

5 “(ii) REQUIREMENTS.—The minimum
6 requirements established under clause (i)
7 shall—

8 “(I) be limited to ensuring that
9 each metropolitan planning organiza-
10 tion has the capabilities necessary to
11 develop the metropolitan transpor-
12 tation plan and transportation im-
13 provement program under this sec-
14 tion; and

15 “(II) include—

16 “(aa) only the staffing capa-
17 bilities necessary to operate the
18 metropolitan planning organiza-
19 tion; and

20 “(bb) a requirement that the
21 metropolitan planning organiza-
22 tion has the technical capacity to
23 conduct the travel demand model
24 and forecasting necessary, as ap-
25 propriate based on the size and

1 resources of the metropolitan
2 planning organization, to fulfill
3 the requirements of this section,
4 except that in cases in which a
5 metropolitan planning organiza-
6 tion has a formal agreement with
7 a State to conduct the modeling
8 on behalf of the metropolitan
9 planning organization, the metro-
10 politan planning organization
11 shall be exempt from the tech-
12 nical capacity requirement.

13 “(iii) LIMITATION.—The rule issued
14 pursuant to this subparagraph shall only
15 include the minimum requirements estab-
16 lished under clause (ii).

17 “(iv) INCLUSION.—A metropolitan
18 planning organization operating primarily
19 within an urbanized area with a population
20 of 200,000 or more individuals, as cal-
21 culated according to the most recent de-
22 cennial census, and that does not qualify
23 as a tier I MPO under subparagraph
24 (A)(i), shall—

1 “(I) be designated as a tier II
2 MPO; and

3 “(II) follow the processes under
4 subsection (k).

5 “(C) CONSOLIDATION.—

6 “(i) IN GENERAL.—Metropolitan plan-
7 ning organizations operating within contig-
8 uous, adjacent, or geographically linked ur-
9 banized areas may elect to consolidate in
10 order to meet the population thresholds re-
11 quired to achieve designation as a tier I or
12 tier II MPO under this paragraph.

13 “(ii) EFFECT OF SUBSECTION.—
14 Nothing in this subsection requires or pre-
15 vents consolidation among multiple metro-
16 politan planning organizations located
17 within a single urbanized area.

18 “(f) COORDINATION IN MULTISTATE AREAS.—

19 “(1) IN GENERAL.—The Secretary shall encour-
20 age each Governor with responsibility for a portion
21 of a multistate metropolitan area and the appro-
22 priate metropolitan planning organizations to pro-
23 vide coordinated transportation planning for the en-
24 tire metropolitan area.

1 “(2) COORDINATION ALONG DESIGNATED
2 TRANSPORTATION CORRIDORS.—The Secretary shall
3 encourage each Governor with responsibility for a
4 portion of a multistate metropolitan area and the
5 appropriate metropolitan planning organizations to
6 provide coordinated transportation planning for the
7 entire designated transportation corridor.

8 “(3) COORDINATION WITH INTERSTATE COM-
9 PACTS.—The Secretary shall encourage metropolitan
10 planning organizations to take into consideration,
11 during the development of metropolitan transpor-
12 tation plans and transportation improvement pro-
13 grams, any relevant transportation studies con-
14 cerning planning for regional transportation (includ-
15 ing high-speed and intercity rail corridor studies,
16 commuter rail corridor studies, intermodal termi-
17 nals, and interstate highways) in support of freight,
18 intercity, or multistate area projects and services
19 that have been developed pursuant to interstate com-
20 pacts or agreements, or by organizations established
21 under section 135.

22 “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-
23 TATION PLAN AND TIP DEVELOPMENT.—

24 “(1) NONATTAINMENT AND MAINTENANCE
25 AREAS.—If more than 1 metropolitan planning orga-

1 nization has authority within a metropolitan area,
2 nonattainment area, or maintenance area, each met-
3 ropolitan planning organization shall consult with all
4 other metropolitan planning organizations des-
5 igned for the metropolitan area, nonattainment
6 area, or maintenance area and the State in the de-
7 velopment of metropolitan transportation plans and
8 transportation improvement programs under this
9 section.

10 “(2) TRANSPORTATION IMPROVEMENTS LO-
11 CATED IN MULTIPLE METROPOLITAN PLANNING
12 AREAS.—If a transportation improvement project
13 funded under this title or chapter 53 of title 49 is
14 located within the boundaries of more than 1 metro-
15 politan planning area, the affected metropolitan
16 planning organizations shall coordinate metropolitan
17 transportation plans and transportation improve-
18 ment programs regarding the project.

19 “(3) COORDINATION OF ADJACENT PLANNING
20 ORGANIZATIONS.—

21 “(A) IN GENERAL.—A metropolitan plan-
22 ning organization that is adjacent or located in
23 reasonably close proximity to another metropoli-
24 tan planning organization shall coordinate with
25 that metropolitan planning organization with

1 respect to planning processes, including prepa-
2 ration of metropolitan transportation plans and
3 transportation improvement programs, to the
4 maximum extent practicable.

5 “(B) NONMETROPOLITAN PLANNING ORGA-
6 NIZATIONS.—A metropolitan planning organiza-
7 tion that is adjacent or located in reasonably
8 close proximity to a nonmetropolitan planning
9 organization shall consult with that nonmetro-
10 politan planning organization with respect to
11 planning processes, to the maximum extent
12 practicable.

13 “(4) RELATIONSHIP WITH OTHER PLANNING
14 OFFICIALS.—

15 “(A) IN GENERAL.—The Secretary shall
16 encourage each metropolitan planning organiza-
17 tion to cooperate with Federal, tribal, State,
18 and local officers and entities responsible for
19 other types of planning activities that are af-
20 fected by transportation in the relevant area
21 (including planned growth, economic develop-
22 ment, infrastructure services, housing, other
23 public services, nonmotorized users, environ-
24 mental protection, airport operations, high-
25 speed and intercity passenger rail, freight rail,

1 port access, and freight movements), to the
2 maximum extent practicable, to ensure that the
3 metropolitan transportation planning process,
4 metropolitan transportation plans, and trans-
5 portation improvement programs are developed
6 in cooperation with other related planning ac-
7 tivities in the area.

8 “(B) INCLUSION.—Cooperation under sub-
9 paragraph (A) shall include the design and de-
10 livery of transportation services within the met-
11 ropolitan area that are provided by—

12 “(i) recipients of assistance under sec-
13 tions 202, 203, and 204;

14 “(ii) recipients of assistance under
15 chapter 53 of title 49;

16 “(iii) government agencies and non-
17 profit organizations (including representa-
18 tives of the agencies and organizations)
19 that receive Federal assistance from a
20 source other than the Department of
21 Transportation to provide nonemergency
22 transportation services; and

23 “(iv) sponsors of regionally significant
24 programs, projects, and services that are

1 related to transportation and receive as-
2 sistance from any public or private source.

3 “(5) COORDINATION OF OTHER FEDERALLY RE-
4 QUIRED PLANNING PROGRAMS.—The Secretary shall
5 encourage each metropolitan planning organization
6 to coordinate, to the maximum extent practicable,
7 the development of metropolitan transportation
8 plans and transportation improvement programs
9 with other relevant federally required planning pro-
10 grams.

11 “(h) SCOPE OF PLANNING PROCESS.—

12 “(1) IN GENERAL.—The metropolitan transpor-
13 tation planning process for a metropolitan planning
14 area under this section shall provide for consider-
15 ation of projects and strategies that will—

16 “(A) support the economic vitality of the
17 metropolitan area, especially by enabling global
18 competitiveness, travel and tourism (where ap-
19 plicable), productivity, and efficiency;

20 “(B) increase the safety of the transpor-
21 tation system for motorized and nonmotorized
22 users;

23 “(C) increase the security of the transpor-
24 tation system for motorized and nonmotorized
25 users;

1 “(D) increase the accessibility and mobility
2 of individuals and freight;

3 “(E) protect and enhance the environment,
4 promote energy conservation, improve the qual-
5 ity of life, and promote consistency between
6 transportation improvements and State and
7 local planned growth and economic development
8 patterns;

9 “(F) enhance the integration and
10 connectivity of the transportation system,
11 across and between modes, for individuals and
12 freight;

13 “(G) increase efficient system management
14 and operation; and

15 “(H) emphasize the preservation of the ex-
16 isting transportation system.

17 “(2) PERFORMANCE-BASED APPROACH.—

18 “(A) IN GENERAL.—The metropolitan
19 transportation planning process shall provide
20 for the establishment and use of a performance-
21 based approach to transportation decision-
22 making to support the national goals described
23 in section 150(b) of this title and in section
24 5301(c) of title 49.

25 “(B) PERFORMANCE TARGETS.—

1 “(i) SURFACE TRANSPORTATION PER-
2 FORMANCE TARGETS.—

3 “(I) IN GENERAL.—Each metro-
4 politan planning organization shall es-
5 tablish performance targets that ad-
6 dress the performance measures de-
7 scribed in sections 119(f), 148(h),
8 149(k), where applicable, and 167(i)
9 to use in tracking attainment of crit-
10 ical outcomes for the region of the
11 metropolitan planning organization.

12 “(II) COORDINATION.—Selection
13 of performance targets by a metropoli-
14 tan planning organization shall be co-
15 ordinated with the relevant State to
16 ensure consistency, to the maximum
17 extent practicable.

18 “(ii) PUBLIC TRANSPORTATION PER-
19 FORMANCE TARGETS.—Each metropolitan
20 planning organization shall adopt the per-
21 formance targets identified by providers of
22 public transportation pursuant to sections
23 5326(c) and 5329(d) of title 49, for use in
24 tracking attainment of critical outcomes

1 for the region of the metropolitan planning
2 organization.

3 “(C) TIMING.—Each metropolitan plan-
4 ning organization shall establish the perform-
5 ance targets under subparagraph (B) not later
6 than 90 days after the date on which the rel-
7 evant State or provider of public transportation
8 establishes the performance targets.

9 “(D) INTEGRATION OF OTHER PERFORM-
10 ANCE-BASED PLANS.—A metropolitan planning
11 organization shall integrate in the metropolitan
12 transportation planning process, directly or by
13 reference, the goals, objectives, performance
14 measures, and targets described in other State
15 plans and processes, as well as asset manage-
16 ment and safety plans developed by providers of
17 public transportation, required as part of a per-
18 formance-based program, including plans such
19 as—

20 “(i) the State National Highway Sys-
21 tem asset management plan;

22 “(ii) asset management plans devel-
23 oped by providers of public transportation;

24 “(iii) the State strategic highway safe-
25 ty plan;

1 “(iv) safety plans developed by pro-
2 viders of public transportation;

3 “(v) the congestion mitigation and air
4 quality performance plan, where applicable;

5 “(vi) the national freight strategic
6 plan; and

7 “(vii) the statewide transportation
8 plan.

9 “(E) USE OF PERFORMANCE MEASURES
10 AND TARGETS.—The performance measures
11 and targets established under this paragraph
12 shall be used, at a minimum, by the relevant
13 metropolitan planning organization as the basis
14 for development of policies, programs, and in-
15 vestment priorities reflected in the metropolitan
16 transportation plan and transportation improve-
17 ment program.

18 “(3) FAILURE TO CONSIDER FACTORS.—The
19 failure to take into consideration 1 or more of the
20 factors specified in paragraphs (1) and (2) shall not
21 be subject to review by any court under this title,
22 chapter 53 of title 49, subchapter II of chapter 5 of
23 title 5, or chapter 7 of title 5 in any matter affecting
24 a metropolitan transportation plan, a transportation

1 improvement program, a project or strategy, or the
2 certification of a planning process.

3 “(4) PARTICIPATION BY INTERESTED PAR-
4 TIES.—

5 “(A) IN GENERAL.—Each metropolitan
6 planning organization shall provide to affected
7 individuals, public agencies, and other inter-
8 ested parties (including State representatives of
9 nonmotorized users) notice and a reasonable op-
10 portunity to comment on the metropolitan
11 transportation plan and transportation improve-
12 ment program and any relevant scenarios.

13 “(B) CONTENTS OF PARTICIPATION
14 PLAN.—Each metropolitan planning organiza-
15 tion shall establish a participation plan that—

16 “(i) is developed in consultation with
17 interested parties and local officials; and

18 “(ii) provides that interested parties
19 and local officials shall have reasonable op-
20 portunities to comment on the contents of
21 the metropolitan transportation plan of the
22 metropolitan planning organization.

23 “(C) METHODS.—In carrying out subpara-
24 graph (A), the metropolitan planning organiza-
25 tion shall, to the maximum extent practicable—

1 “(i) develop the metropolitan trans-
2 portation plan and transportation improve-
3 ment program in consultation with inter-
4 ested parties, as appropriate, including by
5 the formation of advisory groups represent-
6 ative of the community and interested par-
7 ties (including State representatives of
8 nonmotorized users) that participate in the
9 development of the metropolitan transpor-
10 tation plan and transportation improve-
11 ment program;

12 “(ii) hold any public meetings at
13 times and locations that are, as applica-
14 ble—

15 “(I) convenient; and

16 “(II) in compliance with the
17 Americans with Disabilities Act of
18 1990 (42 U.S.C. 12101 et seq.);

19 “(iii) employ visualization techniques
20 to describe metropolitan transportation
21 plans and transportation improvement pro-
22 grams; and

23 “(iv) make public information avail-
24 able in appropriate electronically accessible
25 formats and means, such as the Internet,

1 to afford reasonable opportunity for con-
2 sideration of public information under sub-
3 paragraph (A).

4 “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-
5 TATION PLAN.—

6 “(1) DEVELOPMENT.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), not later than 5 years after
9 the date of enactment of the MAP-21, and not
10 less frequently than once every 5 years there-
11 after, each metropolitan planning organization
12 shall prepare and update, respectively, a metro-
13 politan transportation plan for the relevant
14 metropolitan planning area in accordance with
15 this section.

16 “(B) EXCEPTIONS.—A metropolitan plan-
17 ning organization shall prepare or update, as
18 appropriate, the metropolitan transportation
19 plan not less frequently than once every 4 years
20 if the metropolitan planning organization is op-
21 erating within—

22 “(i) a nonattainment area; or

23 “(ii) a maintenance area.

24 “(2) OTHER REQUIREMENTS.—A metropolitan
25 transportation plan under this section shall—

1 “(A) be in a form that the Secretary deter-
2 mines to be appropriate;

3 “(B) have a term of not less than 20
4 years; and

5 “(C) contain, at a minimum—

6 “(i) an identification of the existing
7 transportation infrastructure, including
8 highways, local streets and roads, bicycle
9 and pedestrian facilities, public transpor-
10 tation facilities and services, commuter rail
11 facilities and services, high-speed and
12 intercity passenger rail facilities and serv-
13 ices, freight facilities (including freight
14 railroad and port facilities), multimodal
15 and intermodal facilities, and intermodal
16 connectors that, evaluated in the aggre-
17 gate, function as an integrated metropoli-
18 tan transportation system;

19 “(ii) a description of the performance
20 measures and performance targets used in
21 assessing the existing and future perform-
22 ance of the transportation system in ac-
23 cordance with subsection (h)(2);

24 “(iii) a description of the current and
25 projected future usage of the transpor-

1 tation system, including a projection based
2 on a preferred scenario, and further in-
3 cluding, to the extent practicable, an iden-
4 tification of existing or planned transpor-
5 tation rights-of-way, corridors, facilities,
6 and related real properties;

7 “(iv) a system performance report
8 evaluating the existing and future condi-
9 tion and performance of the transportation
10 system with respect to the performance
11 targets described in subsection (h)(2) and
12 updates in subsequent system performance
13 reports, including—

14 “(I) progress achieved by the
15 metropolitan planning organization in
16 meeting the performance targets in
17 comparison with system performance
18 recorded in previous reports;

19 “(II) an accounting of the per-
20 formance of the metropolitan planning
21 organization on outlay of obligated
22 project funds and delivery of projects
23 that have reached substantial comple-
24 tion in relation to—

1 “(aa) the projects included
2 in the transportation improve-
3 ment program; and

4 “(bb) the projects that have
5 been removed from the previous
6 transportation improvement pro-
7 gram; and

8 “(III) when appropriate, an anal-
9 ysis of how the preferred scenario has
10 improved the conditions and perform-
11 ance of the transportation system and
12 how changes in local policies, invest-
13 ments, and growth have impacted the
14 costs necessary to achieve the identi-
15 fied performance targets;

16 “(v) recommended strategies and in-
17 vestments for improving system perform-
18 ance over the planning horizon, including
19 transportation systems management and
20 operations strategies, maintenance strate-
21 gies, demand management strategies, asset
22 management strategies, capacity and en-
23 hancement investments, State and local
24 economic development and land use im-
25 provements, intelligent transportation sys-

1 tems deployment, and technology adoption
2 strategies, as determined by the projected
3 support of the performance targets de-
4 scribed in subsection (h)(2);

5 “(vi) recommended strategies and in-
6 vestments to improve and integrate dis-
7 ability-related access to transportation in-
8 frastructure, including strategies and in-
9 vestments based on a preferred scenario,
10 when appropriate;

11 “(vii) investment priorities for using
12 projected available and proposed revenues
13 over the short- and long-term stages of the
14 planning horizon, in accordance with the
15 financial plan required under paragraph
16 (4);

17 “(viii) a description of interstate com-
18 pacts entered into in order to promote co-
19 ordinated transportation planning in
20 multistate areas, if applicable;

21 “(ix) an optional illustrative list of
22 projects containing investments that—

23 “(I) are not included in the met-
24 ropolitan transportation plan; but

1 “(II) would be so included if re-
2 sources in addition to the resources
3 identified in the financial plan under
4 paragraph (4) were available;

5 “(x) a discussion (developed in con-
6 sultation with Federal, State, and tribal
7 wildlife, land management, and regulatory
8 agencies) of types of potential environ-
9 mental and stormwater mitigation activi-
10 ties and potential areas to carry out those
11 activities, including activities that may
12 have the greatest potential to restore and
13 maintain the environmental functions af-
14 fected by the metropolitan transportation
15 plan; and

16 “(xi) recommended strategies and in-
17 vestments, including those developed by
18 the State as part of interstate compacts,
19 agreements, or organizations, that support
20 intercity transportation.

21 “(3) SCENARIO DEVELOPMENT.—

22 “(A) IN GENERAL.—When preparing the
23 metropolitan transportation plan, the metropoli-
24 tan planning organization may, while fitting the
25 needs and complexity of its community, develop

1 multiple scenarios for consideration as a part of
2 the development of the metropolitan transpor-
3 tation plan, in accordance with subparagraph
4 (B).

5 “(B) COMPONENTS OF SCENARIOS.—The
6 scenarios—

7 “(i) shall include potential regional in-
8 vestment strategies for the planning hori-
9 zon;

10 “(ii) shall include assumed distribu-
11 tion of population and employment;

12 “(iii) may include a scenario that, to
13 the maximum extent practicable, maintains
14 baseline conditions for the performance
15 measures identified in subsection (h)(2);

16 “(iv) may include a scenario that im-
17 proves the baseline conditions for as many
18 of the performance measures identified in
19 subsection (h)(2) as possible;

20 “(v) shall be revenue constrained
21 based on the total revenues expected to be
22 available over the forecast period of the
23 plan; and

1 “(vi) may include estimated costs and
2 potential revenues available to support
3 each scenario.

4 “(C) METRICS.—In addition to the per-
5 formance measures identified in subsection
6 (h)(2), scenarios developed under this para-
7 graph may be evaluated using locally-developed
8 metrics for the following categories:

9 “(i) Congestion and mobility, includ-
10 ing transportation use by mode.

11 “(ii) Freight movement.

12 “(iii) Safety.

13 “(iv) Efficiency and costs to tax-
14 payers.

15 “(4) FINANCIAL PLAN.—A financial plan re-
16 ferred to in paragraph (2)(C)(vii) shall—

17 “(A) be prepared by each metropolitan
18 planning organization to support the metropoli-
19 tan transportation plan; and

20 “(B) contain a description of each of the
21 following:

22 “(i) Projected resource requirements
23 for implementing projects, strategies, and
24 services recommended in the metropolitan
25 transportation plan, including existing and

1 projected system operating and mainte-
2 nance needs, proposed enhancement and
3 expansions to the system, projected avail-
4 able revenue from Federal, State, local,
5 and private sources, and innovative financ-
6 ing techniques to finance projects and pro-
7 grams.

8 “(ii) The projected difference between
9 costs and revenues, and strategies for se-
10 curing additional new revenue (such as by
11 capture of some of the economic value cre-
12 ated by any new investment).

13 “(iii) Estimates of future funds, to be
14 developed cooperatively by the metropolitan
15 planning organization, any public transpor-
16 tation agency, and the State, that are rea-
17 sonably expected to be available to support
18 the investment priorities recommended in
19 the metropolitan transportation plan.

20 “(iv) Each applicable project only if
21 full funding can reasonably be anticipated
22 to be available for the project within the
23 time period contemplated for completion of
24 the project.

1 “(5) COORDINATION WITH CLEAN AIR ACT
2 AGENCIES.—The metropolitan planning organization
3 for any metropolitan area that is a nonattainment
4 area or maintenance area shall coordinate the devel-
5 opment of a transportation plan with the process for
6 development of the transportation control measures
7 of the State implementation plan required by the
8 Clean Air Act (42 U.S.C. 7401 et seq.).

9 “(6) PUBLICATION.—On approval by the rel-
10 evant metropolitan planning organization, a metro-
11 politan transportation plan involving Federal partici-
12 pation shall be, at such times and in such manner
13 as the Secretary shall require—

14 “(A) published or otherwise made readily
15 available by the metropolitan planning organi-
16 zation for public review, including (to the max-
17 imum extent practicable) in electronically acces-
18 sible formats and means, such as the Internet;
19 and

20 “(B) submitted for informational purposes
21 to the applicable Governor.

22 “(7) CONSULTATION.—

23 “(A) IN GENERAL.—In each metropolitan
24 area, the metropolitan planning organization
25 shall consult, as appropriate, with Federal, trib-

1 al, State, and local agencies responsible for land
2 use management, natural resources, environ-
3 mental protection, conservation, and historic
4 preservation concerning the development of a
5 metropolitan transportation plan.

6 “(B) ISSUES.—The consultation under
7 subparagraph (A) shall involve, as available,
8 consideration of—

9 “(i) metropolitan transportation plans
10 with Federal, tribal, State, and local con-
11 servation plans or maps; and

12 “(ii) inventories of natural or historic
13 resources.

14 “(8) SELECTION OF PROJECTS FROM ILLUS-
15 TRATIVE LIST.—Notwithstanding paragraph (4), a
16 State or metropolitan planning organization shall
17 not be required to select any project from the illus-
18 trative list of additional projects included in the met-
19 ropolitan transportation plan under paragraph
20 (2)(C)(ix).

21 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

22 “(1) DEVELOPMENT.—

23 “(A) IN GENERAL.—In cooperation with
24 the applicable State and any affected public
25 transportation operator, the metropolitan plan-

1 ning organization designated for a metropolitan
2 area shall develop a transportation improvement
3 program for the metropolitan planning area
4 that—

5 “(i) contains projects consistent with
6 the current metropolitan transportation
7 plan;

8 “(ii) reflects the investment priorities
9 established in the current metropolitan
10 transportation plan; and

11 “(iii) once implemented, will make sig-
12 nificant progress toward achieving the per-
13 formance targets established under sub-
14 section (h)(2).

15 “(B) OPPORTUNITY FOR PARTICIPA-
16 TION.—In developing the transportation im-
17 provement program, the metropolitan planning
18 organization, in cooperation with the State and
19 any affected public transportation operator,
20 shall provide an opportunity for participation by
21 interested parties, in accordance with sub-
22 section (h)(4).

23 “(C) UPDATING AND APPROVAL.—The
24 transportation improvement program shall be—

1 “(i) updated not less frequently than
2 once every 4 years, on a cycle compatible
3 with the development of the relevant state-
4 wide transportation improvement program
5 under section 135; and

6 “(ii) approved by the applicable Gov-
7 ernor.

8 “(2) CONTENTS.—

9 “(A) PRIORITY LIST.—The transportation
10 improvement program shall include a priority
11 list of proposed federally supported projects and
12 strategies to be carried out during the 4-year
13 period beginning on the date of adoption of the
14 transportation improvement program, and each
15 4-year period thereafter, using existing and rea-
16 sonably available revenues in accordance with
17 the financial plan under paragraph (3).

18 “(B) DESCRIPTIONS.—Each project de-
19 scribed in the transportation improvement pro-
20 gram shall include sufficient descriptive mate-
21 rial (such as type of work, termini, length, and
22 other similar factors) to identify the project or
23 phase of the project and the effect that the
24 project or project phase will have in addressing
25 the targets described in subsection (h)(2).

1 “(C) PERFORMANCE TARGET ACHIEVE-
2 MENT.—The transportation improvement pro-
3 gram shall include, to the maximum extent
4 practicable, a description of the anticipated ef-
5 fect of the transportation improvement program
6 on attainment of the performance targets estab-
7 lished in the metropolitan transportation plan,
8 linking investment priorities to those perform-
9 ance targets.

10 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
11 In developing a transportation improvement
12 program, an optional illustrative list of projects
13 may be prepared containing additional invest-
14 ment priorities that—

15 “(i) are not included in the transpor-
16 tation improvement program; but

17 “(ii) would be so included if resources
18 in addition to the resources identified in
19 the financial plan under paragraph (3)
20 were available.

21 “(3) FINANCIAL PLAN.—A financial plan re-
22 ferred to in paragraph (2)(D)(ii) shall—

23 “(A) be prepared by each metropolitan
24 planning organization to support the transpor-
25 tation improvement program; and

1 “(B) contain a description of each of the
2 following:

3 “(i) Projected resource requirements
4 for implementing projects, strategies, and
5 services recommended in the transpor-
6 tation improvement program, including ex-
7 isting and projected system operating and
8 maintenance needs, proposed enhancement
9 and expansions to the system, projected
10 available revenue from Federal, State,
11 local, and private sources, and innovative
12 financing techniques to finance projects
13 and programs.

14 “(ii) The projected difference between
15 costs and revenues, and strategies for se-
16 curing additional new revenue (such as by
17 capture of some of the economic value cre-
18 ated by any new investment).

19 “(iii) Estimates of future funds, to be
20 developed cooperatively by the metropolitan
21 planning organization, any public transpor-
22 tation agency, and the State, that are rea-
23 sonably expected to be available to support
24 the investment priorities recommended in
25 the transportation improvement program.

1 “(iv) Each applicable project, only if
2 full funding can reasonably be anticipated
3 to be available for the project within the
4 time period contemplated for completion of
5 the project.

6 “(4) INCLUDED PROJECTS.—

7 “(A) PROJECTS UNDER THIS TITLE AND
8 CHAPTER 53 OF TITLE 49.—A transportation
9 improvement program developed under this sub-
10 section for a metropolitan area shall include a
11 description of the projects within the area that
12 are proposed for funding under chapter 1 of
13 this title and chapter 53 of title 49.

14 “(B) PROJECTS UNDER CHAPTER 2.—

15 “(i) REGIONALLY SIGNIFICANT.—
16 Each regionally significant project pro-
17 posed for funding under chapter 2 shall be
18 identified individually in the transportation
19 improvement program.

20 “(ii) NONREGIONALLY SIGNIFI-
21 CANT.—A description of each project pro-
22 posed for funding under chapter 2 that is
23 not determined to be regionally significant
24 shall be contained in 1 line item or identi-

1 fied individually in the transportation im-
2 provement program.

3 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-
4 fore approving a transportation improvement pro-
5 gram, a metropolitan planning organization, in co-
6 operation with the State and any affected public
7 transportation operator, shall provide an opportunity
8 for participation by interested parties in the develop-
9 ment of the transportation improvement program, in
10 accordance with subsection (h)(4).

11 “(6) SELECTION OF PROJECTS.—

12 “(A) IN GENERAL.—Each tier I MPO and
13 tier II MPO shall select projects carried out
14 within the boundaries of the applicable metro-
15 politan planning area from the transportation
16 improvement program, in consultation with the
17 relevant State and on concurrence of the af-
18 fected facility owner, for funds apportioned to
19 the State under section 104(b)(2) and suballo-
20 cated to the metropolitan planning area under
21 section 133(d).

22 “(B) PROJECTS UNDER CHAPTER 53 OF
23 TITLE 49.—In the case of projects under chap-
24 ter 53 of title 49, the selection of federally
25 funded projects in metropolitan areas shall be

1 carried out, from the approved transportation
2 improvement program, by the designated recipi-
3 ents of public transportation funding in co-
4 operation with the metropolitan planning orga-
5 nization.

6 “(C) CMAQ PROJECTS.—Each tier I MPO
7 shall select projects carried out within the
8 boundaries of the applicable metropolitan plan-
9 ning area from the transportation improvement
10 program, in consultation with the relevant State
11 and on concurrence of the affected facility
12 owner, for funds apportioned to the State under
13 section 104(b)(4) and suballocated to the met-
14 ropolitan planning area under section 149(j).

15 “(D) MODIFICATIONS TO PROJECT PRI-
16 ORITY.—Notwithstanding any other provision of
17 law, approval by the Secretary shall not be re-
18 quired to carry out a project included in a
19 transportation improvement program in place of
20 another project in the transportation improve-
21 ment program.

22 “(7) PUBLICATION.—

23 “(A) IN GENERAL.—A transportation im-
24 provement program shall be published or other-
25 wise made readily available by the applicable

1 metropolitan planning organization for public
2 review in electronically accessible formats and
3 means, such as the Internet.

4 “(B) ANNUAL LIST OF PROJECTS.—An an-
5 nual list of projects, including investments in
6 pedestrian walkways, bicycle transportation fa-
7 cilities, and intermodal facilities that support
8 intercity transportation, for which Federal
9 funds have been obligated during the preceding
10 fiscal year shall be published or otherwise made
11 available by the cooperative effort of the State,
12 public transportation operator, and metropoli-
13 tan planning organization in electronically ac-
14 cessible formats and means, such as the Inter-
15 net, in a manner that is consistent with the cat-
16 egories identified in the relevant transportation
17 improvement program.

18 “(k) PLANNING REQUIREMENTS FOR TIER II
19 MPOs.—

20 “(1) IN GENERAL.—The Secretary may provide
21 for the performance-based development of a metro-
22 politan transportation plan and transportation im-
23 provement program for the metropolitan planning
24 area of a tier II MPO, as the Secretary determines
25 to be appropriate, taking into account—

1 “(A) the complexity of transportation
2 needs in the area; and

3 “(B) the technical capacity of the metro-
4 politan planning organization.

5 “(2) EVALUATION OF PERFORMANCE-BASED
6 PLANNING.—In reviewing a tier II MPO under sub-
7 section (m), the Secretary shall take into consider-
8 ation the effectiveness of the tier II MPO in imple-
9 menting and maintaining a performance-based plan-
10 ning process that—

11 “(A) addresses the performance targets de-
12 scribed in subsection (h)(2); and

13 “(B) demonstrates progress on the
14 achievement of those performance targets.

15 “(1) CERTIFICATION.—

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

17 “(A) ensure that the metropolitan trans-
18 portation planning process of a metropolitan
19 planning organization is being carried out in ac-
20 cordance with applicable Federal law; and

21 “(B) subject to paragraph (2), certify, not
22 less frequently than once every 4 years, that the
23 requirements of subparagraph (A) are met with
24 respect to the metropolitan transportation plan-
25 ning process.

1 “(2) REQUIREMENTS FOR CERTIFICATION.—

2 The Secretary may make a certification under para-
3 graph (1)(B) if—

4 “(A) the metropolitan transportation plan-
5 ning process complies with the requirements of
6 this section and other applicable Federal law;

7 “(B) representation on the metropolitan
8 planning organization board includes officials of
9 public agencies that administer or operate
10 major modes of transportation in the relevant
11 metropolitan area, including providers of public
12 transportation; and

13 “(C) a transportation improvement pro-
14 gram for the metropolitan planning area has
15 been approved by the relevant metropolitan
16 planning organization and applicable Governor.

17 “(3) DELEGATION OF AUTHORITY.—The Sec-
18 retary may—

19 “(A) delegate to the appropriate State
20 fact-finding authority regarding the certification
21 of a tier II MPO under this subsection; and

22 “(B) make the certification under para-
23 graph (1) in consultation with the State.

24 “(4) EFFECT OF FAILURE TO CERTIFY.—

1 “(A) WITHHOLDING OF PROJECT
2 FUNDS.—If a metropolitan transportation plan-
3 ning process of a metropolitan planning organi-
4 zation is not certified under paragraph (1), the
5 Secretary may withhold up to 20 percent of the
6 funds attributable to the metropolitan planning
7 area of the metropolitan planning organization
8 for projects funded under this title and chapter
9 53 of title 49.

10 “(B) RESTORATION OF WITHHELD
11 FUNDS.—Any funds withheld under subpara-
12 graph (A) shall be restored to the metropolitan
13 planning area on the date of certification of the
14 metropolitan transportation planning process by
15 the Secretary.

16 “(5) PUBLIC INVOLVEMENT.—In making a de-
17 termination regarding certification under this sub-
18 section, the Secretary shall provide for public in-
19 volvement appropriate to the metropolitan planning
20 area under review.

21 “(m) PERFORMANCE-BASED PLANNING PROCESSES
22 EVALUATION.—

23 “(1) IN GENERAL.—The Secretary shall estab-
24 lish criteria to evaluate the effectiveness of the per-
25 formance-based planning processes of metropolitan

1 planning organizations under this section, taking
2 into consideration the following:

3 “(A) The extent to which the metropolitan
4 planning organization has achieved, or is cur-
5 rently making substantial progress toward
6 achieving, the performance targets specified in
7 subsection (h)(2), taking into account whether
8 the metropolitan planning organization devel-
9 oped meaningful performance targets.

10 “(B) The extent to which the metropolitan
11 planning organization has used proven best
12 practices that help ensure transportation invest-
13 ment that is efficient and cost-effective.

14 “(C) The extent to which the metropolitan
15 planning organization—

16 “(i) has developed an investment proc-
17 ess that relies on public input and aware-
18 ness to ensure that investments are trans-
19 parent and accountable; and

20 “(ii) provides regular reports allowing
21 the public to access the information being
22 collected in a format that allows the public
23 to meaningfully assess the performance of
24 the metropolitan planning organization.

25 “(2) REPORT.—

1 “(A) IN GENERAL.—Not later than 5 years
2 after the date of enactment of the MAP–21, the
3 Secretary shall submit to Congress a report
4 evaluating—

5 “(i) the overall effectiveness of per-
6 formance-based planning as a tool for
7 guiding transportation investments; and

8 “(ii) the effectiveness of the perform-
9 ance-based planning process of each metro-
10 politan planning organization under this
11 section.

12 “(B) PUBLICATION.—The report under
13 subparagraph (A) shall be published or other-
14 wise made available in electronically accessible
15 formats and means, including on the Internet.

16 “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN
17 NONATTAINMENT AREAS.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of this title or chapter 53 of title 49, Fed-
20 eral funds may not be advanced in any metropolitan
21 planning area classified as a nonattainment area or
22 maintenance area for any highway project that will
23 result in a significant increase in the carrying capac-
24 ity for single-occupant vehicles, unless the owner or
25 operator of the project demonstrates that the project

1 will achieve or make substantial progress toward
2 achieving the performance targets described in sub-
3 section (h)(2).

4 “(2) APPLICABILITY.—This subsection applies
5 to any nonattainment area or maintenance area
6 within the boundaries of a metropolitan planning
7 area, as determined under subsection (c).

8 “(o) EFFECT OF SECTION.—Nothing in this section
9 provides to any metropolitan planning organization the
10 authority to impose any legal requirement on any trans-
11 portation facility, provider, or project not subject to the
12 requirements of this title or chapter 53 of title 49.

13 “(p) FUNDING.—Funds apportioned under section
14 104(b)(6) of this title and set aside under section 5305(g)
15 of title 49 shall be available to carry out this section.

16 “(q) CONTINUATION OF CURRENT REVIEW PRAC-
17 TICE.—

18 “(1) IN GENERAL.—In consideration of the fac-
19 tors described in paragraph (2), any decision by the
20 Secretary concerning a metropolitan transportation
21 plan or transportation improvement program shall
22 not be considered to be a Federal action subject to
23 review under the National Environmental Policy Act
24 of 1969 (42 U.S.C. 4321 et seq.).

1 “(2) DESCRIPTION OF FACTORS.—The factors
2 referred to in paragraph (1) are that—

3 “(A) metropolitan transportation plans and
4 transportation improvement programs are sub-
5 ject to a reasonable opportunity for public com-
6 ment;

7 “(B) the projects included in metropolitan
8 transportation plans and transportation im-
9 provement programs are subject to review
10 under the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.); and

12 “(C) decisions by the Secretary concerning
13 metropolitan transportation plans and transpor-
14 tation improvement programs have not been re-
15 viewed under the National Environmental Pol-
16 icy Act of 1969 (42 U.S.C. 4321 et seq.) as of
17 January 1, 1997.

18 “(r) SCHEDULE FOR IMPLEMENTATION.—The Sec-
19 retary shall issue guidance on a schedule for implementa-
20 tion of the changes made by this section, taking into con-
21 sideration the established planning update cycle for metro-
22 politan planning organizations. The Secretary shall not re-
23 quire a metropolitan planning organization to deviate from
24 its established planning update cycle to implement
25 changes made by this section. Metropolitan planning orga-

1 nizations shall reflect changes made to their transpor-
 2 tation plan or transportation improvement program up-
 3 dates by not later than 2 years after the date of issuance
 4 of guidance by the Secretary.”.

5 **SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANS-**
 6 **PORTATION PLANNING.**

7 (a) IN GENERAL.—Section 135 of title 23, United
 8 States Code, is amended to read as follows:

9 **“§ 135. Statewide and nonmetropolitan transpor-**
 10 **tation planning**

11 “(a) STATEWIDE TRANSPORTATION PLANS AND
 12 STIPS.—

13 “(1) DEVELOPMENT.—

14 “(A) IN GENERAL.—To accomplish the
 15 policy objectives described in section 134(a),
 16 each State shall develop a statewide transpor-
 17 tation plan and a statewide transportation im-
 18 provement program for all areas of the State in
 19 accordance with this section.

20 “(B) INCORPORATION OF METROPOLITAN
 21 TRANSPORTATION PLANS AND TIPS.—Each
 22 State shall incorporate in the statewide trans-
 23 portation plan and statewide transportation im-
 24 provement program, without change or by ref-
 25 erence, the metropolitan transportation plans

1 and transportation improvement programs, re-
2 spectively, for each metropolitan planning area
3 in the State.

4 “(C) NONMETROPOLITAN AREAS.—Each
5 State shall consult with local officials in small
6 urbanized areas with a population of 50,000 or
7 more individuals, but fewer than 200,000 indi-
8 viduals, as calculated according to the most re-
9 cent decennial census, and nonurbanized areas
10 of the State in preparing the nonmetropolitan
11 portions of statewide transportation plans and
12 statewide transportation improvement pro-
13 grams.

14 “(2) CONTENTS.—The statewide transportation
15 plan and statewide transportation improvement pro-
16 gram developed for each State shall provide for the
17 development and integrated management and oper-
18 ation of transportation systems and facilities (includ-
19 ing accessible pedestrian walkways, bicycle transpor-
20 tation facilities, and intermodal facilities that sup-
21 port intercity transportation) that will function as—

22 “(A) an intermodal transportation system
23 for the State; and

24 “(B) an integral part of an intermodal
25 transportation system for the United States.

1 “(3) PROCESS.—The process for developing the
2 statewide transportation plan and statewide trans-
3 portation improvement program shall—

4 “(A) provide for consideration of all modes
5 of transportation; and

6 “(B) be continuing, cooperative, and com-
7 prehensive to the degree appropriate, based on
8 the complexity of the transportation needs to be
9 addressed.

10 “(b) COORDINATION AND CONSULTATION.—

11 “(1) IN GENERAL.—Each State shall—

12 “(A) coordinate planning carried out under
13 this section with—

14 “(i) the transportation planning ac-
15 tivities carried out under section 134 for
16 metropolitan areas of the State; and

17 “(ii) statewide trade and economic de-
18 velopment planning activities and related
19 multistate planning efforts;

20 “(B) coordinate planning carried out under
21 this section with the transportation planning
22 activities carried out by each nonmetropolitan
23 planning organization in the State, as applica-
24 ble;

1 “(C) consult on planning carried out under
2 this section with the transportation planning
3 activities carried out by each rural planning or-
4 ganization in the State, as applicable; and

5 “(D) develop the transportation portion of
6 the State implementation plan as required by
7 the Clean Air Act (42 U.S.C. 7401 et seq.).

8 “(2) MULTISTATE AREAS.—

9 “(A) IN GENERAL.—The Secretary shall
10 encourage each Governor with responsibility for
11 a portion of a multistate metropolitan planning
12 area and the appropriate metropolitan planning
13 organizations to provide coordinated transpor-
14 tation planning for the entire metropolitan
15 area.

16 “(B) COORDINATION ALONG DESIGNATED
17 TRANSPORTATION CORRIDORS.—The Secretary
18 shall encourage each Governor with responsi-
19 bility for a portion of a multistate transpor-
20 tation corridor to provide coordinated transpor-
21 tation planning for the entire designated cor-
22 ridor.

23 “(C) INTERSTATE COMPACTS.—For pur-
24 poses of this section, any 2 or more States—

1 “(i) may enter into compacts, agree-
2 ments, or organizations not in conflict with
3 any Federal law for cooperative efforts and
4 mutual assistance in support of activities
5 authorized under this section, as the activi-
6 ties relate to interstate areas and localities
7 within the States;

8 “(ii) may establish such agencies
9 (joint or otherwise) as the States deter-
10 mine to be appropriate for ensuring the ef-
11 fectiveness of the agreements and com-
12 pacts; and

13 “(iii) are encouraged to enter into
14 such compacts, agreements, or organiza-
15 tions as are appropriate to develop plan-
16 ning documents in support of intercity or
17 multistate area projects, facilities, and
18 services, the relevant components of which
19 shall be reflected in statewide transpor-
20 tation improvement programs and state-
21 wide transportation plans.

22 “(D) RESERVATION OF RIGHTS.—The
23 right to alter, amend, or repeal any interstate
24 compact or agreement entered into under this
25 subsection is expressly reserved.

1 “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-
2 CIALS.—

3 “(1) IN GENERAL.—The Secretary shall encour-
4 age each State to cooperate with Federal, tribal,
5 State, and local officers and entities responsible for
6 other types of planning activities that are affected
7 by transportation in the relevant area (including
8 planned growth, economic development, infrastruc-
9 ture services, housing, other public services, environ-
10 mental protection, airport operations, high-speed and
11 intercity passenger rail, freight rail, port access, and
12 freight movements), to the maximum extent prac-
13 ticable, to ensure that the statewide and nonmetro-
14 politan planning process, statewide transportation
15 plans, and statewide transportation improvement
16 programs are developed with due consideration for
17 other related planning activities in the State.

18 “(2) INCLUSION.—Cooperation under para-
19 graph (1) shall include the design and delivery of
20 transportation services within the State that are pro-
21 vided by—

22 “(A) recipients of assistance under sections
23 202, 203, and 204;

24 “(B) recipients of assistance under chapter
25 53 of title 49;

1 “(C) government agencies and nonprofit
2 organizations (including representatives of the
3 agencies and organizations) that receive Federal
4 assistance from a source other than the Depart-
5 ment of Transportation to provide non-
6 emergency transportation services; and

7 “(D) sponsors of regionally significant pro-
8 grams, projects, and services that are related to
9 transportation and receive assistance from any
10 public or private source.

11 “(d) SCOPE OF PLANNING PROCESS.—

12 “(1) IN GENERAL.—The statewide transpor-
13 tation planning process for a State under this sec-
14 tion shall provide for consideration of projects, strat-
15 egies, and services that will—

16 “(A) support the economic vitality of the
17 United States, the State, nonmetropolitan
18 areas, and metropolitan areas, especially by en-
19 abling global competitiveness, travel and tour-
20 ism (where applicable), productivity, and effi-
21 ciency;

22 “(B) increase the safety of the transpor-
23 tation system for motorized and nonmotorized
24 users;

1 “(C) increase the security of the transpor-
2 tation system for motorized and nonmotorized
3 users;

4 “(D) increase the accessibility and mobility
5 of individuals and freight;

6 “(E) protect and enhance the environment,
7 promote energy conservation, improve the qual-
8 ity of life, and promote consistency between
9 transportation improvements and State and
10 local planned growth and economic development
11 patterns;

12 “(F) enhance the integration and
13 connectivity of the transportation system,
14 across and between modes, for individuals and
15 freight;

16 “(G) increase efficient system management
17 and operation; and

18 “(H) emphasize the preservation of the ex-
19 isting transportation system.

20 “(2) PERFORMANCE-BASED APPROACH.—

21 “(A) IN GENERAL.—The statewide trans-
22 portation planning process shall provide for the
23 establishment and use of a performance-based
24 approach to transportation decisionmaking to
25 support the national goals described in section

1 150(b) of this title and section 5301(c) of title
2 49.

3 “(B) SURFACE TRANSPORTATION PER-
4 FORMANCE TARGETS.—

5 “(i) IN GENERAL.—Each State shall
6 establish performance targets that address
7 the performance measures described in sec-
8 tions 119(f), 148(h), and 167(i) to use in
9 tracking attainment of critical outcomes
10 for the region of the State.

11 “(ii) COORDINATION.—Selection of
12 performance targets by a State shall be co-
13 ordinated with relevant metropolitan plan-
14 ning organizations to ensure consistency,
15 to the maximum extent practicable.

16 “(C) PUBLIC TRANSPORTATION PERFORM-
17 ANCE TARGETS.—For providers of public trans-
18 portation operating in urbanized areas with a
19 population of fewer than 200,000 individuals,
20 as calculated according to the most recent de-
21 cennial census, and not represented by a metro-
22 politan planning organization, each State shall
23 adopt the performance targets identified by
24 such providers of public transportation pursu-
25 ant to sections 5326(e) and 5329(d) of title 49

1 for use in tracking attainment of critical out-
2 comes for the region of the metropolitan plan-
3 ning organization.

4 “(D) INTEGRATION OF OTHER PERFORM-
5 ANCE-BASED PLANS.—A State shall integrate
6 into the statewide transportation planning proc-
7 ess, directly or by reference, the goals, objec-
8 tives, performance measures, and performance
9 targets described in this paragraph in other
10 State plans and processes, and asset manage-
11 ment and safety plans developed by providers of
12 public transportation in urbanized areas with a
13 population of fewer than 200,000 individuals,
14 as calculated according to the most recent de-
15 cennial census, and not represented by a metro-
16 politan planning organization, required as part
17 of a performance-based program, including
18 plans such as—

19 “(i) the State National Highway Sys-
20 tem asset management plan;

21 “(ii) asset management plans devel-
22 oped by providers of public transportation;

23 “(iii) the State strategic highway safe-
24 ty plan;

1 “(iv) a congestion mitigation and air
2 quality performance plan developed under
3 section 149(k) by a tier I metropolitan
4 planning organization (as defined in sec-
5 tion 134) representing a nonattainment or
6 maintenance area;

7 “(v) safety plans developed by pro-
8 viders of public transportation; and

9 “(vi) the national freight strategic
10 plan.

11 “(E) USE OF PERFORMANCE MEASURES
12 AND TARGETS.—The performance measures
13 and targets established under this paragraph
14 shall be used, at a minimum, by a State as the
15 basis for development of policies, programs, and
16 investment priorities reflected in the statewide
17 transportation plan and statewide transpor-
18 tation improvement program.

19 “(3) FAILURE TO CONSIDER FACTORS.—The
20 failure to take into consideration 1 or more of the
21 factors specified in paragraphs (1) and (2) shall not
22 be subject to review by any court under this title,
23 chapter 53 of title 49, subchapter II of chapter 5 of
24 title 5, or chapter 7 of title 5 in any matter affecting
25 a statewide transportation plan, a statewide trans-

1 portation improvement program, a project or strat-
2 egy, or the certification of a planning process.

3 “(4) PARTICIPATION BY INTERESTED PAR-
4 TIES.—

5 “(A) IN GENERAL.—Each State shall pro-
6 vide to—

7 “(i) nonmetropolitan local elected offi-
8 cials an opportunity to participate in ac-
9 cordance with subparagraph (B)(i); and

10 “(ii) affected individuals, public agen-
11 cies, and other interested parties notice
12 and a reasonable opportunity to comment
13 on the statewide transportation plan and
14 statewide transportation improvement pro-
15 gram.

16 “(B) METHODS.—In carrying out this
17 paragraph, the State shall—

18 “(i) develop and document a consult-
19 ative process to carry out subparagraph
20 (A)(i) that is separate and discrete from
21 the public involvement process developed
22 under clause (ii);

23 “(ii) develop the statewide transpor-
24 tation plan and statewide transportation
25 improvement program in consultation with

1 interested parties, as appropriate, includ-
2 ing by the formation of advisory groups
3 representative of the State and interested
4 parties that participate in the development
5 of the statewide transportation plan and
6 statewide transportation improvement pro-
7 gram;

8 “(iii) hold any public meetings at
9 times and locations that are, as applica-
10 ble—

11 “(I) convenient; and

12 “(II) in compliance with the
13 Americans with Disabilities Act of
14 1990 (42 U.S.C. 12101 et seq.);

15 “(iv) employ visualization techniques
16 to describe statewide transportation plans
17 and statewide transportation improvement
18 programs; and

19 “(v) make public information available
20 in appropriate electronically accessible for-
21 mats and means, such as the Internet, to
22 afford reasonable opportunity for consider-
23 ation of public information under subpara-
24 graph (A).

25 “(e) COORDINATION AND CONSULTATION.—

1 “(1) METROPOLITAN AREAS.—

2 “(A) IN GENERAL.—Each State shall de-
3 velop a statewide transportation plan and state-
4 wide transportation improvement program for
5 each metropolitan area in the State by incor-
6 porating, without change or by reference, at a
7 minimum, as prepared by each metropolitan
8 planning organization designated for the metro-
9 politan area under section 134—

10 “(i) all regionally significant projects
11 to be carried out during the 10-year period
12 beginning on the effective date of the rel-
13 evant existing metropolitan transportation
14 plan; and

15 “(ii) all projects to be carried out dur-
16 ing the 4-year period beginning on the ef-
17 fective date of the relevant transportation
18 improvement program.

19 “(B) PROJECTED COSTS.—Each metropoli-
20 tan planning organization shall provide to each
21 applicable State a description of the projected
22 costs of implementing the projects included in
23 the metropolitan transportation plan of the
24 metropolitan planning organization for purposes

1 of metropolitan financial planning and fiscal
2 constraint.

3 “(2) NONMETROPOLITAN AREAS.—With respect
4 to nonmetropolitan areas in a State, the statewide
5 transportation plan and statewide transportation im-
6 provement program of the State shall be developed
7 in consultation with affected nonmetropolitan local
8 officials with responsibility for transportation, in-
9 cluding providers of public transportation.

10 “(3) INDIAN TRIBAL AREAS.—With respect to
11 each area of a State under the jurisdiction of an In-
12 dian tribe, the statewide transportation plan and
13 statewide transportation improvement program of
14 the State shall be developed in consultation with—

15 “(A) the tribal government; and

16 “(B) the Secretary of the Interior.

17 “(4) FEDERAL LAND MANAGEMENT AGEN-
18 CIES.—With respect to each area of a State under
19 the jurisdiction of a Federal land management agen-
20 cy, the statewide transportation plan and statewide
21 transportation improvement program of the State
22 shall be developed in consultation with the relevant
23 Federal land management agency.

24 “(5) CONSULTATION, COMPARISON, AND CON-
25 SIDERATION.—

1 “(A) IN GENERAL.—A statewide transpor-
2 tation plan shall be developed, as appropriate,
3 in consultation with Federal, tribal, State, and
4 local agencies responsible for land use manage-
5 ment, natural resources, infrastructure permit-
6 ting, environmental protection, conservation,
7 and historic preservation.

8 “(B) COMPARISON AND CONSIDERATION.—
9 Consultation under subparagraph (A) shall in-
10 volve the comparison of statewide transpor-
11 tation plans to, as available—

12 “(i) Federal, tribal, State, and local
13 conservation plans or maps; and

14 “(ii) inventories of natural or historic
15 resources.

16 “(f) STATEWIDE TRANSPORTATION PLAN.—

17 “(1) DEVELOPMENT.—

18 “(A) IN GENERAL.—Each State shall de-
19 velop a statewide transportation plan, the fore-
20 cast period of which shall be not less than 20
21 years for all areas of the State, that provides
22 for the development and implementation of the
23 intermodal transportation system of the State.

24 “(B) INITIAL PERIOD.—A statewide trans-
25 portation plan shall include, at a minimum, for

1 the first 10-year period of the statewide trans-
2 portation plan, the identification of existing and
3 future transportation facilities that will function
4 as an integrated statewide transportation sys-
5 tem, giving emphasis to those facilities that
6 serve important national, statewide, and re-
7 gional transportation functions.

8 “(C) SUBSEQUENT PERIOD.—For the sec-
9 ond 10-year period of the statewide transpor-
10 tation plan (referred to in this subsection as the
11 ‘outer years period’), a statewide transportation
12 plan—

13 “(i) may include identification of fu-
14 ture transportation facilities; and

15 “(ii) shall describe the policies and
16 strategies that provide for the development
17 and implementation of the intermodal
18 transportation system of the State.

19 “(D) OTHER REQUIREMENTS.—A state-
20 wide transportation plan shall—

21 “(i) include, for the 20-year period
22 covered by the statewide transportation
23 plan, a description of—

1 “(I) the projected aggregate cost
2 of projects anticipated by a State to
3 be implemented; and

4 “(II) the revenues necessary to
5 support the projects;

6 “(ii) include, in such form as the Sec-
7 retary determines to be appropriate, a de-
8 scription of—

9 “(I) the existing transportation
10 infrastructure, including an identifica-
11 tion of highways, local streets and
12 roads, bicycle and pedestrian facilities,
13 public transportation facilities and
14 services, commuter rail facilities and
15 services, high-speed and intercity pas-
16 senger rail facilities and services,
17 freight facilities (including freight
18 railroad and port facilities),
19 multimodal and intermodal facilities,
20 and intermodal connectors that, evalu-
21 ated in the aggregate, function as an
22 integrated transportation system;

23 “(II) the performance measures
24 and performance targets used in as-
25 sessing the existing and future per-

1 performance of the transportation system
2 described in subsection (d)(2);

3 “(III) the current and projected
4 future usage of the transportation
5 system, including, to the maximum
6 extent practicable, an identification of
7 existing or planned transportation
8 rights-of-way, corridors, facilities, and
9 related real properties;

10 “(IV) a system performance re-
11 port evaluating the existing and fu-
12 ture condition and performance of the
13 transportation system with respect to
14 the performance targets described in
15 subsection (d)(2) and updates to sub-
16 sequent system performance reports,
17 including—

18 “(aa) progress achieved by
19 the State in meeting performance
20 targets, as compared to system
21 performance recorded in previous
22 reports; and

23 “(bb) an accounting of the
24 performance by the State on out-
25 lay of obligated project funds and

1 delivery of projects that have
2 reached substantial completion,
3 in relation to the projects cur-
4 rently on the statewide transpor-
5 tation improvement program and
6 those projects that have been re-
7 moved from the previous state-
8 wide transportation improvement
9 program;

10 “(V) recommended strategies and
11 investments for improving system per-
12 formance over the planning horizon,
13 including transportation systems man-
14 agement and operations strategies,
15 maintenance strategies, demand man-
16 agement strategies, asset management
17 strategies, capacity and enhancement
18 investments, land use improvements,
19 intelligent transportation systems de-
20 ployment and technology adoption
21 strategies as determined by the pro-
22 jected support of performance targets
23 described in subsection (d)(2);

24 “(VI) recommended strategies
25 and investments to improve and inte-

1 grate disability-related access to
2 transportation infrastructure;

3 “(VII) investment priorities for
4 using projected available and proposed
5 revenues over the short- and long-
6 term stages of the planning horizon,
7 in accordance with the financial plan
8 required under paragraph (2);

9 “(VIII) a description of inter-
10 state compacts entered into in order
11 to promote coordinated transportation
12 planning in multistate areas, if appli-
13 cable;

14 “(IX) an optional illustrative list
15 of projects containing investments
16 that—

17 “(aa) are not included in the
18 statewide transportation plan;
19 but

20 “(bb) would be so included if
21 resources in addition to the re-
22 sources identified in the financial
23 plan under paragraph (2) were
24 available;

1 “(X) a discussion (developed in
2 consultation with Federal, State, and
3 tribal wildlife, land management, and
4 regulatory agencies) of types of poten-
5 tial environmental and stormwater
6 mitigation activities and potential
7 areas to carry out those activities, in-
8 cluding activities that may have the
9 greatest potential to restore and
10 maintain the environmental functions
11 affected by the statewide transpor-
12 tation plan; and

13 “(XI) recommended strategies
14 and investments, including those de-
15 veloped by the State as part of inter-
16 state compacts, agreements, or orga-
17 nizations, that support intercity trans-
18 portation; and

19 “(iii) be updated by the State not less
20 frequently than once every 5 years.

21 “(2) FINANCIAL PLAN.—A financial plan re-
22 ferred to in paragraph (1)(D)(ii)(VII) shall—

23 “(A) be prepared by each State to support
24 the statewide transportation plan; and

1 “(B) contain a description of each of the
2 following:

3 “(i) Projected resource requirements
4 during the 20-year planning horizon for
5 implementing projects, strategies, and
6 services recommended in the statewide
7 transportation plan, including existing and
8 projected system operating and mainte-
9 nance needs, proposed enhancement and
10 expansions to the system, projected avail-
11 able revenue from Federal, State, local,
12 and private sources, and innovative financ-
13 ing techniques to finance projects and pro-
14 grams.

15 “(ii) The projected difference between
16 costs and revenues, and strategies for se-
17 curing additional new revenue (such as by
18 capture of some of the economic value cre-
19 ated by any new investment).

20 “(iii) Estimates of future funds, to be
21 developed cooperatively by the State, any
22 public transportation agency, and relevant
23 metropolitan planning organizations, that
24 are reasonably expected to be available to
25 support the investment priorities rec-

1 ommended in the statewide transportation
2 plan.

3 “(iv) Each applicable project, only if
4 full funding can reasonably be anticipated
5 to be available for the project within the
6 time period contemplated for completion of
7 the project.

8 “(v) For the outer years period of the
9 statewide transportation plan, a descrip-
10 tion of the aggregate cost ranges or bands,
11 subject to the condition that any future
12 funding source shall be reasonably ex-
13 pected to be available to support the pro-
14 jected cost ranges or bands.

15 “(3) COORDINATION WITH CLEAN AIR ACT
16 AGENCIES.—For any nonmetropolitan area that is a
17 nonattainment area or maintenance area, the State
18 shall coordinate the development of the statewide
19 transportation plan with the process for development
20 of the transportation control measures of the State
21 implementation plan required by the Clean Air Act
22 (42 U.S.C. 7401 et seq.).

23 “(4) PUBLICATION.—A statewide transpor-
24 tation plan involving Federal and non-Federal par-
25 ticipation programs, projects, and strategies shall be

1 published or otherwise made readily available by the
2 State for public review, including (to the maximum
3 extent practicable) in electronically accessible for-
4 mats and means, such as the Internet, in such man-
5 ner as the Secretary shall require.

6 “(5) SELECTION OF PROJECTS FROM ILLUS-
7 TRATIVE LIST.—Notwithstanding paragraph (2), a
8 State shall not be required to select any project from
9 the illustrative list of additional projects included in
10 the statewide transportation plan under paragraph
11 (1)(D)(ii)(IX).

12 “(6) USE OF POLICY PLANS.—Notwithstanding
13 any other provision of this section, a State that has
14 in effect, as of the date of enactment of the MAP-
15 21, a statewide transportation plan that follows a
16 policy plan approach—

17 “(A) may, for 4 years after the date of en-
18 actment of the MAP-21, continue to use a pol-
19 icy plan approach to the statewide transpor-
20 tation plan; and

21 “(B) shall be subject to the requirements
22 of this subsection only to the extent that such
23 requirements were applicable under this section
24 (as in effect on the day before the date of en-
25 actment of the MAP-21).

1 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
2 PROGRAMS.—

3 “(1) DEVELOPMENT.—

4 “(A) IN GENERAL.—In consultation with
5 nonmetropolitan officials with responsibility for
6 transportation and affected public transpor-
7 tation operators, the State shall develop a state-
8 wide transportation improvement program for
9 the State that—

10 “(i) includes projects consistent with
11 the statewide transportation plan;

12 “(ii) reflects the investment priorities
13 established in the statewide transportation
14 plan; and

15 “(iii) once implemented, makes sig-
16 nificant progress toward achieving the per-
17 formance targets described in subsection
18 (d)(2).

19 “(B) OPPORTUNITY FOR PARTICIPA-
20 TION.—In developing a statewide transportation
21 improvement program, the State, in cooperation
22 with affected public transportation operators,
23 shall provide an opportunity for participation by
24 interested parties (including State representa-
25 tives of nonmotorized users) in the development

1 of the statewide transportation improvement
2 program, in accordance with subsection (e).

3 “(C) OTHER REQUIREMENTS.—

4 “(i) IN GENERAL.—A statewide trans-
5 portation improvement program shall—

6 “(I) cover a period of not less
7 than 4 years; and

8 “(II) be updated not less fre-
9 quently than once every 4 years, or
10 more frequently, as the Governor de-
11 termines to be appropriate.

12 “(ii) INCORPORATION OF TIPS.—A
13 statewide transportation improvement pro-
14 gram shall incorporate any relevant trans-
15 portation improvement program developed
16 by a metropolitan planning organization
17 under section 134, without change.

18 “(iii) PROJECTS.—Each project in-
19 cluded in a statewide transportation im-
20 provement program shall be—

21 “(I) consistent with the statewide
22 transportation plan developed under
23 this section for the State;

24 “(II) identical to a project or
25 phase of a project described in a rel-

1 evant transportation improvement
2 program; and

3 “(III) for any project located in a
4 nonattainment area or maintenance
5 area, carried out in accordance with
6 the applicable State air quality imple-
7 mentation plan developed under the
8 Clean Air Act (42 U.S.C. 7401 et
9 seq.).

10 “(2) CONTENTS.—

11 “(A) PRIORITY LIST.—A statewide trans-
12 portation improvement program shall include a
13 priority list of proposed federally supported
14 projects and strategies, to be carried out during
15 the 4-year period beginning on the date of
16 adoption of the statewide transportation im-
17 provement program, and during each 4-year pe-
18 riod thereafter, using existing and reasonably
19 available revenues in accordance with the finan-
20 cial plan under paragraph (3).

21 “(B) DESCRIPTIONS.—Each project or
22 phase of a project included in a statewide trans-
23 portation improvement program shall include
24 sufficient descriptive material (such as type of

1 work, termini, length, estimated completion
2 date, and other similar factors) to identify—

3 “(i) the project or project phase; and

4 “(ii) the effect that the project or
5 project phase will have in addressing the
6 performance targets described in sub-
7 section (d)(2).

8 “(C) PERFORMANCE TARGET ACHIEVE-
9 MENT.—A statewide transportation improve-
10 ment program shall include, to the maximum
11 extent practicable, a discussion of the antici-
12 pated effect of the statewide transportation im-
13 provement program toward achieving the per-
14 formance targets established in the statewide
15 transportation plan, linking investment prior-
16 ities to those performance targets.

17 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
18 An optional illustrative list of projects may be
19 prepared containing additional investment pri-
20 orities that—

21 “(i) are not included in the statewide
22 transportation improvement program; but

23 “(ii) would be so included if resources
24 in addition to the resources identified in

1 the financial plan under paragraph (3)
2 were available.

3 “(3) FINANCIAL PLAN.—A financial plan re-
4 ferred to in paragraph (2)(D)(ii) shall—

5 “(A) be prepared by each State to support
6 the statewide transportation improvement pro-
7 gram; and

8 “(B) contain a description of each of the
9 following:

10 “(i) Projected resource requirements
11 for implementing projects, strategies, and
12 services recommended in the statewide
13 transportation improvement program, in-
14 cluding existing and projected system oper-
15 ating and maintenance needs, proposed en-
16 hancement and expansions to the system,
17 projected available revenue from Federal,
18 State, local, and private sources, and inno-
19 vative financing techniques to finance
20 projects and programs.

21 “(ii) The projected difference between
22 costs and revenues, and strategies for se-
23 curing additional new revenue (such as by
24 capture of some of the economic value cre-
25 ated by any new investment).

1 “(iii) Estimates of future funds, to be
2 developed cooperatively by the State and
3 relevant metropolitan planning organiza-
4 tions and public transportation agencies,
5 that are reasonably expected to be avail-
6 able to support the investment priorities
7 recommended in the statewide transpor-
8 tation improvement program.

9 “(iv) Each applicable project, only if
10 full funding can reasonably be anticipated
11 to be available for the project within the
12 time period contemplated for completion of
13 the project.

14 “(4) INCLUDED PROJECTS.—

15 “(A) PROJECTS UNDER THIS TITLE AND
16 CHAPTER 53 OF TITLE 49.—A statewide trans-
17 portation improvement program developed
18 under this subsection for a State shall include
19 the projects within the State that are proposed
20 for funding under chapter 1 of this title and
21 chapter 53 of title 49.

22 “(B) PROJECTS UNDER CHAPTER 2.—

23 “(i) REGIONALLY SIGNIFICANT.—
24 Each regionally significant project pro-
25 posed for funding under chapter 2 shall be

1 identified individually in the statewide
2 transportation improvement program.

3 “(ii) NONREGIONALLY SIGNIFI-
4 CANT.—A description of each project pro-
5 posed for funding under chapter 2 that is
6 not determined to be regionally significant
7 shall be contained in 1 line item or identi-
8 fied individually in the statewide transpor-
9 tation improvement program.

10 “(5) PUBLICATION.—

11 “(A) IN GENERAL.—A statewide transpor-
12 tation improvement program shall be published
13 or otherwise made readily available by the State
14 for public review in electronically accessible for-
15 mats and means, such as the Internet.

16 “(B) ANNUAL LIST OF PROJECTS.—An an-
17 nual list of projects, including investments in
18 pedestrian walkways, bicycle transportation fa-
19 cilities, and intermodal facilities that support
20 intercity transportation, for which Federal
21 funds have been obligated during the preceding
22 fiscal year shall be published or otherwise made
23 available by the cooperative effort of the State,
24 public transportation operator, and relevant
25 metropolitan planning organizations in elec-

1 tronically accessible formats and means, such
2 as the Internet, in a manner that is consistent
3 with the categories identified in the relevant
4 statewide transportation improvement program.

5 “(6) PROJECT SELECTION FOR URBANIZED
6 AREAS WITH POPULATIONS OF FEWER THAN 200,000
7 NOT REPRESENTED BY DESIGNATED MPOS.—
8 Projects carried out in urbanized areas with popu-
9 lations of fewer than 200,000 individuals, as cal-
10 culated according to the most recent decennial cen-
11 sus, and that are not represented by designated met-
12 ropolitan planning organizations, shall be selected,
13 from the approved statewide transportation improve-
14 ment program (including projects carried out on the
15 National Highway System and other projects carried
16 out under this title or under sections 5310 and 5311
17 of title 49) by the State, in cooperation with the af-
18 fected nonmetropolitan planning organization, if any
19 exists, and in consultation with the affected non-
20 metropolitan area local officials with responsibility
21 for transportation.

22 “(7) APPROVAL BY SECRETARY.—

23 “(A) IN GENERAL.—Not less frequently
24 than once every 4 years, a statewide transpor-
25 tation improvement program developed under

1 this subsection shall be reviewed and approved
2 by the Secretary, based on the current planning
3 finding of the Secretary under subparagraph
4 (B).

5 “(B) PLANNING FINDING.—The Secretary
6 shall make a planning finding referred to in
7 subparagraph (A) not less frequently than once
8 every 5 years regarding whether the transpor-
9 tation planning process through which statewide
10 transportation plans and statewide transpor-
11 tation improvement programs are developed is
12 consistent with this section and section 134.

13 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
14 Notwithstanding any other provision of law, ap-
15 proval by the Secretary shall not be required to
16 carry out a project included in an approved state-
17 wide transportation improvement program in place
18 of another project in the statewide transportation
19 improvement program.

20 “(h) CERTIFICATION.—

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

22 “(A) ensure that the statewide transpor-
23 tation planning process of a State is being car-
24 ried out in accordance with this section and ap-

1 applicable Federal law (including rules and regu-
2 lations); and

3 “(B) subject to paragraph (2), certify, not
4 later than 180 days after the date of enactment
5 of the MAP-21 and not less frequently than
6 once every 5 years thereafter, that the require-
7 ments of subparagraph (A) are met with re-
8 spect to the statewide transportation planning
9 process.

10 “(2) REQUIREMENTS FOR CERTIFICATION.—

11 The Secretary may make a certification under para-
12 graph (1)(B) if—

13 “(A) the statewide transportation planning
14 process complies with the requirements of this
15 section and other applicable Federal law; and

16 “(B) a statewide transportation improve-
17 ment program for the State has been approved
18 by the Governor of the State.

19 “(3) EFFECT OF FAILURE TO CERTIFY.—

20 “(A) WITHHOLDING OF PROJECT
21 FUNDS.—If a statewide transportation planning
22 process of a State is not certified under para-
23 graph (1), the Secretary may withhold up to 20
24 percent of the funds attributable to the State

1 for projects funded under this title and chapter
2 53 of title 49.

3 “(B) RESTORATION OF WITHHELD
4 FUNDS.—Any funds withheld under subpara-
5 graph (A) shall be restored to the State on the
6 date of certification of the statewide transpor-
7 tation planning process by the Secretary.

8 “(4) PUBLIC INVOLVEMENT.—In making a de-
9 termination regarding certification under this sub-
10 section, the Secretary shall provide for public in-
11 volvement appropriate to the State under review.

12 “(i) PERFORMANCE-BASED PLANNING PROCESSES
13 EVALUATION.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish criteria to evaluate the effectiveness of the per-
16 formance-based planning processes of States, taking
17 into consideration the following:

18 “(A) The extent to which the State has
19 achieved, or is currently making substantial
20 progress toward achieving, the performance tar-
21 gets described in subsection (d)(2), taking into
22 account whether the State developed meaningful
23 performance targets.

24 “(B) The extent to which the State has
25 used proven best practices that help ensure

1 transportation investment that is efficient and
2 cost-effective.

3 “(C) The extent to which the State—

4 “(i) has developed an investment proc-
5 ess that relies on public input and aware-
6 ness to ensure that investments are trans-
7 parent and accountable; and

8 “(ii) provides regular reports allowing
9 the public to access the information being
10 collected in a format that allows the public
11 to meaningfully assess the performance of
12 the State.

13 “(2) REPORT.—

14 “(A) IN GENERAL.—Not later than 5 years
15 after the date of enactment of the MAP–21, the
16 Secretary shall submit to Congress a report
17 evaluating—

18 “(i) the overall effectiveness of per-
19 formance-based planning as a tool for
20 guiding transportation investments; and

21 “(ii) the effectiveness of the perform-
22 ance-based planning process of each State.

23 “(B) PUBLICATION.—The report under
24 subparagraph (A) shall be published or other-

1 wise made available in electronically accessible
2 formats and means, including on the Internet.

3 “(j) FUNDING.—Funds apportioned under section
4 104(b)(6) of this title and set aside under section 5305(g)
5 of title 49 shall be available to carry out this section.

6 “(k) CONTINUATION OF CURRENT REVIEW PRAC-
7 TICE.—

8 “(1) IN GENERAL.—In consideration of the fac-
9 tors described in paragraph (2), any decision by the
10 Secretary concerning a statewide transportation plan
11 or statewide transportation improvement program
12 shall not be considered to be a Federal action sub-
13 ject to review under the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

15 “(2) DESCRIPTION OF FACTORS.—The factors
16 referred to in paragraph (1) are that—

17 “(A) statewide transportation plans and
18 statewide transportation improvement programs
19 are subject to a reasonable opportunity for pub-
20 lic comment;

21 “(B) the projects included in statewide
22 transportation plans and statewide transpor-
23 tation improvement programs are subject to re-
24 view under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.); and

1 “(C) decisions by the Secretary concerning
2 statewide transportation plans and statewide
3 transportation improvement programs have not
4 been reviewed under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et
6 seq.) as of January 1, 1997.

7 “(1) SCHEDULE FOR IMPLEMENTATION.—The Sec-
8 retary shall issue guidance on a schedule for implementa-
9 tion of the changes made by this section, taking into con-
10 sideration the established planning update cycle for
11 States. The Secretary shall not require a State to deviate
12 from its established planning update cycle to implement
13 changes made by this section. States shall reflect changes
14 made to their transportation plan or transportation im-
15 provement program updates not later than 2 years after
16 the date of issuance of guidance by the Secretary under
17 this subsection.”.

18 (b) CONFORMING AMENDMENT.—The analysis for
19 chapter 1 of title 23, United States Code, is amended by
20 striking the item relating to section 135 and inserting the
21 following:

 “135. Statewide and nonmetropolitan transportation planning.”.

22 **SEC. 1203. NATIONAL GOALS.**

23 (a) IN GENERAL.—Section 150 of title 23, United
24 States Code, is amended to read as follows:

1 **“§ 150. National goals**

2 “(a) DECLARATION OF POLICY.—Performance man-
3 agement will transform the Federal-aid highway program
4 and provide a means to the most efficient investment of
5 Federal transportation funds by refocusing on national
6 transportation goals, increasing the accountability and
7 transparency of the Federal-aid highway program, and im-
8 proving project decisionmaking through performance-
9 based planning and programming.

10 “(b) NATIONAL GOALS.—It is in the interest of the
11 United States to focus the Federal-aid highway program
12 on the following national goals:

13 “(1) SAFETY.—To achieve a significant reduc-
14 tion in traffic fatalities and serious injuries on all
15 public roads.

16 “(2) INFRASTRUCTURE CONDITION.—To main-
17 tain the highway infrastructure asset system in a
18 state of good repair.

19 “(3) SYSTEM RELIABILITY.—To improve the ef-
20 ficiency of the surface transportation system.

21 “(4) FREIGHT MOVEMENT AND ECONOMIC VI-
22 TALITY.—To improve the national freight network,
23 strengthen the ability of rural communities to access
24 national and international trade markets, and sup-
25 port regional economic development.

1 (A) to accelerate project delivery and re-
2 duce costs; and

3 (B) to ensure that the planning, design,
4 engineering, construction, and financing of
5 transportation projects is done in an efficient
6 and effective manner, promoting accountability
7 for public investments and encouraging greater
8 private sector involvement in project financing
9 and delivery while enhancing safety and pro-
10 tecting the environment;

11 (2) delay in the delivery of transportation
12 projects increases project costs, harms the economy
13 of the United States, and impedes the travel of the
14 people of the United States and the shipment of
15 goods for the conduct of commerce; and

16 (3) the Secretary shall identify and promote the
17 deployment of innovation aimed at reducing the time
18 and money required to deliver transportation
19 projects while enhancing safety and protecting the
20 environment.

21 (b) ESTABLISHMENT OF INITIATIVE.—

22 (1) IN GENERAL.—To advance the policy de-
23 scribed in subsection (a), the Secretary shall carry
24 out a project delivery initiative under this section.

1 (2) PURPOSES.—The purposes of the project
2 delivery initiative shall be—

3 (A) to develop and advance the use of best
4 practices to accelerate project delivery and re-
5 duce costs across all modes of transportation
6 and expedite the deployment of technology and
7 innovation;

8 (B) to implement provisions of law de-
9 signed to accelerate project delivery; and

10 (C) to select eligible projects for applying
11 experimental features to test innovative project
12 delivery techniques.

13 (3) ADVANCING THE USE OF BEST PRAC-
14 TICES.—

15 (A) IN GENERAL.—In carrying out the ini-
16 tiative under this section, the Secretary shall
17 identify and advance best practices to reduce
18 delivery time and project costs, from planning
19 through construction, for transportation
20 projects and programs of projects regardless of
21 mode and project size.

22 (B) ADMINISTRATION.—To advance the
23 use of best practices, the Secretary shall—

24 (i) engage interested parties, affected
25 communities, resource agencies, and other

1 stakeholders to gather information regard-
2 ing opportunities for accelerating project
3 delivery and reducing costs;

4 (ii) establish a clearinghouse for the
5 collection, documentation, and advance-
6 ment of existing and new innovative ap-
7 proaches and best practices;

8 (iii) disseminate information through
9 a variety of means to transportation stake-
10 holders on new innovative approaches and
11 best practices; and

12 (iv) provide technical assistance to as-
13 sist transportation stakeholders in the use
14 of flexibility authority to resolve project
15 delays and accelerate project delivery if
16 feasible.

17 (4) IMPLEMENTATION OF ACCELERATED
18 PROJECT DELIVERY.—The Secretary shall ensure
19 that the provisions of this subtitle designed to accel-
20 erate project delivery are fully implemented, includ-
21 ing—

22 (A) expanding eligibility of early acquisi-
23 tion of property prior to completion of environ-
24 mental review under the National Environ-

1 native that is being considered during the environ-
2 mental review process.

3 (b) EARLY ACQUISITION OF REAL PROPERTY INTER-
4 ESTS FOR HIGHWAYS.—Section 108 of title 23, United
5 States Code, is amended—

6 (1) in the section heading by inserting “**inter-**
7 **ests**” after “**real property**”;

8 (2) in subsection (a) by inserting “interests”
9 after “real property” each place it appears; and

10 (3) in subsection (c)—

11 (A) in the subsection heading by striking
12 “RIGHTS-OF-WAY” and inserting “REAL PROP-
13 ERTY INTERESTS”;

14 (B) in paragraph (1)—

15 (i) in the matter preceding subpara-
16 graph (A) by inserting “at any time” after
17 “may be used”; and

18 (ii) in subparagraph (A)—

19 (I) by striking “rights-of-way”
20 the first place it appears and inserting
21 “real property interests”; and

22 (II) by striking “, if the rights-
23 of-way are subsequently incorporated
24 into a project eligible for surface
25 transportation program funds”; and

1 (C) by striking paragraph (2) and insert-
2 ing the following:

3 “(2) TERMS AND CONDITIONS.—

4 “(A) ACQUISITION OF REAL PROPERTY IN-
5 TERESTS.—

6 “(i) IN GENERAL.—Subject to the
7 other provisions of this section, prior to
8 completion of the review process for the
9 project required by the National Environ-
10 mental Policy Act of 1969 (42 U.S.C.
11 4321 et seq.), a public authority may carry
12 out acquisition of real property interests
13 that may be used for a project.

14 “(ii) REQUIREMENTS.—An acquisition
15 under clause (i) may be authorized by
16 project agreement and is eligible for Fed-
17 eral-aid reimbursement as a project ex-
18 pense if the Secretary finds that the acqui-
19 sition—

20 “(I) will not cause any significant
21 adverse environmental impact;

22 “(II) will not limit the choice of
23 reasonable alternatives for the project
24 or otherwise influence the decision of

1 the Secretary on any approval re-
2 quired for the project;

3 “(III) does not prevent the lead
4 agency from making an impartial de-
5 cision as to whether to accept an al-
6 ternative that is being considered in
7 the environmental review process;

8 “(IV) is consistent with the State
9 transportation planning process under
10 section 135;

11 “(V) complies with other applica-
12 ble Federal laws (including regula-
13 tions);

14 “(VI) will be acquired through
15 negotiation, without the threat of con-
16 demnation; and

17 “(VII) will not result in a reduc-
18 tion or elimination of benefits or as-
19 sistance to a displaced person re-
20 quired by the Uniform Relocation As-
21 sistance and Real Property Acquisi-
22 tion Policies Act of 1970 (42 U.S.C.
23 4601 et seq.) and title VI of the Civil
24 Rights Act of 1964 (42 U.S.C. 2000d
25 et seq.).

1 “(B) DEVELOPMENT.—Real property in-
2 terests acquired under this subsection may not
3 be developed in anticipation of a project until
4 all required environmental reviews for the
5 project have been completed.

6 “(C) REIMBURSEMENT.—If Federal-aid re-
7 imbursement is made for real property interests
8 acquired early under this section and the real
9 property interests are not subsequently incor-
10 porated into a project eligible for surface trans-
11 portation funds within the time allowed by sub-
12 section (a)(2), the Secretary shall offset the
13 amount reimbursed against funds apportioned
14 to the State.

15 “(D) OTHER CONDITIONS.—The Secretary
16 may establish such other conditions or restric-
17 tions on acquisitions as the Secretary deter-
18 mines to be appropriate.”.

19 **SEC. 1303. EFFICIENCIES IN CONTRACTING.**

20 (a) AUTHORITY.—Section 112(b) of title 23, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 “(4) CONSTRUCTION MANAGER; GENERAL CON-
24 TRACTOR.—

25 “(A) PROCEDURE.—

1 “(i) IN GENERAL.—A contracting
2 agency may award a 2-phase contract to a
3 construction manager or general contractor
4 for preconstruction and construction serv-
5 ices.

6 “(ii) PRECONSTRUCTION PHASE.—In
7 the preconstruction phase of a contract
8 under this subparagraph, the construction
9 manager shall provide the contracting
10 agency with advice relating to scheduling,
11 work sequencing, cost engineering,
12 constructability, cost estimating, and risk
13 identification.

14 “(iii) AGREEMENT TO PRICE.—

15 “(I) IN GENERAL.—Prior to the
16 start of the second phase of a contract
17 under this subparagraph, the owner
18 and the construction manager may
19 agree to a price for the construction
20 of the project or a portion of the
21 project.

22 “(II) RESULT.—If an agreement
23 is reached, the construction manager
24 shall become the general contractor

1 for the construction of the project at
2 the negotiated schedule and price.

3 “(B) SELECTION.—A contract shall be
4 awarded to a construction manager or general
5 contractor under this paragraph using a com-
6 petitive selection process under which the con-
7 tract is awarded on the basis of—

8 “(i) qualifications;

9 “(ii) experience;

10 “(iii) best value; or

11 “(iv) any other combination of factors
12 considered appropriate by the contracting
13 agency.

14 “(C) TIMING.—

15 “(i) IN GENERAL.—Prior to the com-
16 pletion of the environmental review process
17 required under section 102 of the National
18 Environmental Policy Act of 1969 (42
19 U.S.C. 4332), a contracting agency may
20 issue requests for proposals, proceed with
21 the award of the first phase of construc-
22 tion manager or general contractor con-
23 tract, and issue notices to proceed with
24 preliminary design, to the extent that those

1 actions do not limit any reasonable range
2 of alternatives.

3 “(ii) NEPA PROCESS.—

4 “(I) IN GENERAL.—A con-
5 tracting agency shall not proceed with
6 the award of the second phase, and
7 shall not proceed, or permit any con-
8 sultant or contractor to proceed, with
9 final design or construction until com-
10 pletion of the environmental review
11 process required under section 102 of
12 the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4332).

14 “(II) REQUIREMENT.—The Sec-
15 retary shall require that a contract in-
16 clude appropriate provisions to ensure
17 achievement of the objectives of sec-
18 tion 102 of the National Environ-
19 mental Policy Act of 1969 (42 U.S.C.
20 4332) and compliance with other ap-
21 plicable Federal laws and regulations
22 occurs.

23 “(iii) SECRETARIAL APPROVAL.—

24 Prior to authorizing construction activities,
25 the Secretary shall approve—

1 “(I) the estimate of the con-
2 tracting agency for the entire project;
3 and

4 “(II) any price agreement with
5 the general contractor for the project
6 or a portion of the project.

7 “(iv) TERMINATION PROVISION.—The
8 Secretary shall require a contract to in-
9 clude an appropriate termination provision
10 in the event that a no-build alternative is
11 selected.”.

12 (b) REGULATIONS.—The Secretary shall promulgate
13 such regulations as are necessary to carry out the amend-
14 ment made by subsection (a).

15 (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing
16 in this section or the amendment made by this section af-
17 fects the authority to carry out, or any project carried out
18 under, any experimental program concerning construction
19 manager risk that is being carried out by the Secretary
20 as of the date of enactment of this Act.

21 **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

22 (a) DECLARATION OF POLICY.—

23 (1) IN GENERAL.—Congress declares that it is
24 in the national interest to promote the use of inno-
25 vative technologies and practices that increase the

1 efficiency of construction of, improve the safety of,
2 and extend the service life of highways and bridges.

3 (2) INCLUSIONS.—The innovative technologies
4 and practices described in paragraph (1) include
5 state-of-the-art intelligent transportation system
6 technologies, elevated performance standards, and
7 new highway construction business practices that
8 improve highway safety and quality, accelerate
9 project delivery, and reduce congestion related to
10 highway construction.

11 (b) FEDERAL SHARE.—Section 120(c) of title 23,
12 United States Code, is amended by adding at the end the
13 following:

14 “(3) INNOVATIVE PROJECT DELIVERY.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (C), the Federal share payable on
17 account of a project or activity carried out with
18 funds apportioned under paragraph (1), (2), or
19 (5) of section 104(b) may, at the discretion of
20 the State, be up to 100 percent for any such
21 project, program, or activity that the Secretary
22 determines—

23 “(i) contains innovative project deliv-
24 ery methods that improve work zone safety

1 for motorists or workers and the quality of
2 the facility;

3 “(ii) contains innovative technologies,
4 manufacturing processes, financing, or
5 contracting methods that improve the qual-
6 ity, extend the service life, or decrease the
7 long-term costs of maintaining highways
8 and bridges;

9 “(iii) accelerates project delivery while
10 complying with other applicable Federal
11 laws (including regulations) and not caus-
12 ing any significant adverse environmental
13 impact; or

14 “(iv) reduces congestion related to
15 highway construction.

16 “(B) EXAMPLES.—Projects, programs, and
17 activities described in subparagraph (A) may
18 include the use of—

19 “(i) prefabricated bridge elements and
20 systems and other technologies to reduce
21 bridge construction time;

22 “(ii) innovative construction equip-
23 ment, materials, or techniques, including
24 the use of in-place recycling technology

1 and digital 3-dimensional modeling tech-
2 nologies;

3 “(iii) innovative contracting methods,
4 including the design-build and the con-
5 struction manager-general contractor con-
6 tracting methods;

7 “(iv) intelligent compaction equip-
8 ment; or

9 “(v) contractual provisions that offer
10 a contractor an incentive payment for early
11 completion of the project, program, or ac-
12 tivity, subject to the condition that the in-
13 centives are accounted for in the financial
14 plan of the project, when applicable.

15 “(C) LIMITATIONS.—

16 “(i) IN GENERAL.—In each fiscal
17 year, a State may use the authority under
18 subparagraph (A) for up to 10 percent of
19 the combined apportionments of the State
20 under paragraphs (1), (2), and (5) of sec-
21 tion 104(b).

22 “(ii) FEDERAL SHARE INCREASE.—
23 The Federal share payable on account of a
24 project or activity described in subpara-

1 graph (A) may be increased by up to 5
2 percent of the total project cost.”.

3 **SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL**
4 **AGENCIES.**

5 Section 139(j) of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(6) MEMORANDUM OF UNDERSTANDING.—
8 Prior to providing funds approved by the Secretary
9 for dedicated staffing at an affected Federal agency
10 under paragraphs (1) and (2), the affected Federal
11 agency and the State agency shall enter into a
12 memorandum of understanding that establishes the
13 projects and priorities to be addressed by the use of
14 the funds.”.

15 **SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS**
16 **FOR MULTIMODAL PROJECTS.**

17 (a) IN GENERAL.—Section 304 of title 49, United
18 States Code, is amended to read as follows:

19 **“§ 304. Application of categorical exclusions for**
20 **multimodal projects**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COOPERATING AUTHORITY.—The term ‘co-
23 operating authority’ means a Department of Trans-
24 portation operating authority that is not the lead au-
25 thority.

1 “(2) LEAD AUTHORITY.—The term ‘lead au-
2 thority’ means a Department of Transportation op-
3 erating administration or secretarial office that—

4 “(A) is the lead authority over a proposed
5 multimodal project; and

6 “(B) has determined that the components
7 of the project that fall under the modal exper-
8 tise of the lead authority—

9 “(i) satisfy the conditions for a cat-
10 egorical exclusion under the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C.
12 4321 et seq.) implementing regulations or
13 procedures of the lead authority; and

14 “(ii) do not require the preparation of
15 an environmental assessment or an envi-
16 ronmental impact statement under that
17 Act.

18 “(3) MULTIMODAL PROJECT.—The term
19 ‘multimodal project’ has the meaning given the term
20 in section 139(a) of title 23.

21 “(b) EXERCISE OF AUTHORITIES.—The authorities
22 granted in this section may be exercised for a multimodal
23 project, class of projects, or program of projects that are
24 carried out under this title.

1 “(c) APPLICATION OF CATEGORICAL EXCLUSIONS
2 FOR MULTIMODAL PROJECTS.—When considering the en-
3 vironmental impacts of a proposed multimodal project, a
4 lead authority may apply a categorical exclusion des-
5 ignated under the implementing regulations or procedures
6 of a cooperating authority for other components of the
7 project, on the conditions that—

8 “(1) the multimodal project is funded under 1
9 grant agreement administered by the lead authority;

10 “(2) the multimodal project has components
11 that require the expertise of a cooperating authority
12 to assess the environmental impacts of the compo-
13 nents;

14 “(3) the component of the project to be covered
15 by the categorical exclusion of the cooperating au-
16 thority has independent utility;

17 “(4) the cooperating authority, in consultation
18 with the lead authority, follows National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
20 implementing regulations or procedures and deter-
21 mines that a categorical exclusion under that Act
22 applies to the components; and

23 “(5) the lead authority has determined that—

24 “(A) the project, using the categorical ex-
25 clusions of the lead and cooperating authorities,

1 does not individually or cumulatively have a sig-
2 nificant impact on the environment; and

3 “(B) extraordinary circumstances do not
4 exist that merit further analysis and docu-
5 mentation in an environmental impact state-
6 ment or environmental assessment required
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.).

9 “(d) MODAL COOPERATION.—

10 “(1) IN GENERAL.—A cooperating authority
11 shall provide modal expertise to a lead authority
12 with administrative authority over a multimodal
13 project on such aspects of the project in which the
14 cooperating authority has expertise.

15 “(2) USE OF CATEGORICAL EXCLUSION.—In a
16 case described in paragraph (1), the 1 or more cat-
17 egorical exclusions of a cooperating authority may be
18 applied by the lead authority once the cooperating
19 authority reviews the project on behalf of the lead
20 authority and determines the project satisfies the
21 conditions for a categorical exclusion under the Na-
22 tional Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.) implementing regulations or proce-
24 dures of the cooperating authority and this sec-
25 tion.”.

1 (b) CONFORMING AMENDMENT.—The item relating
 2 to section 304 in the analysis for title 49, United States
 3 Code, is amended to read as follows:

“304. Application of categorical exclusions for multimodal projects.”.

4 **SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
 5 **CATEGORICAL EXCLUSIONS.**

6 Section 326 of title 23, United States Code, is
 7 amended—

8 (1) by striking subsection (d) and inserting the
 9 following:

10 “(d) TERMINATION.—

11 “(1) TERMINATION BY THE SECRETARY.—The
 12 Secretary may terminate any assumption of respon-
 13 sibility under a memorandum of understanding on a
 14 determination that the State is not adequately car-
 15 rying out the responsibilities assigned to the State.

16 “(2) TERMINATION BY THE STATE.—The State
 17 may terminate the participation of the State in the
 18 program at any time by providing to the Secretary
 19 a notice by not later than the date that is 90 days
 20 before the date of termination, and subject to such
 21 terms and conditions as the Secretary may pro-
 22 vide.”; and

23 (2) by adding at the end the following:

24 “(f) LEGAL FEES.—A State assuming the respon-
 25 sibilities of the Secretary under this section for a specific

1 project may use funds apportioned to the State under sec-
 2 tion 104(b)(2) for attorneys fees directly attributable to
 3 eligible activities associated with the project.”.

4 **SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIV-**
 5 **ERY PROGRAM.**

6 (a) IN GENERAL.—Section 327 of title 23, United
 7 States Code, is amended—

8 (1) in the section heading by striking “**PILOT**”;

9 (2) in subsection (a)—

10 (A) in paragraph (1) by striking “pilot”;

11 and

12 (B) in paragraph (2)—

13 “(i) in subparagraph (B)—

14 “(I) in clause (i), by striking

15 ‘but’; and

16 “(II) by striking clause (ii) and

17 inserting the following:

18 “(ii) at the request of the State, the

19 Secretary may also assign to the State,

20 and the State may assume, the responsibil-

21 ities of the Secretary with respect to 1 or

22 more railroad, public transportation, or

23 multimodal projects within the State under

24 the National Environmental Policy Act of

25 1969 (42 U.S.C. 4321 et seq.);

1 “(iii) in a State that has assumed the
2 responsibilities of the Secretary under
3 clause (ii), a recipient of assistance under
4 chapter 53 of title 49 may request that the
5 Secretary maintain the responsibilities of
6 the Secretary with respect to 1 or more
7 public transportation projects within the
8 State under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 13 4321 et
10 seq.); but

11 “(iv) the Secretary may not assign—

12 “(I) any responsibility imposed
13 on the Secretary by section 134 or
14 135; or

15 “(II) responsibility for any con-
16 formity determination required under
17 section 176 of the Clean Air Act (42
18 U.S.C. 7506).”;

19 (i) by adding at the end the following:

20 “(F) LEGAL FEES.—A State assuming the
21 responsibilities of the Secretary under this sec-
22 tion for a specific project may use funds appor-
23 tioned to the State under section 104(b)(2) for
24 attorneys fees directly attributable to eligible
25 activities associated with the project.”;

1 (3) in subsection (b)—

2 (A) by striking paragraph (1);

3 (B) by redesignating paragraphs (2)
4 through (5) as paragraphs (1) through (4), re-
5 spectively; and

6 (C) in subparagraph (A) of paragraph (3)
7 (as so redesignated) by striking “(2)” and in-
8 serting “(1)”;

9 (4) in subsection (c)—

10 (A) in paragraph (3)(D) by striking the
11 period at the end and inserting a semicolon;
12 and

13 (B) by adding at the end the following:

14 “(4) require the State to provide to the Sec-
15 retary any information the Secretary considers nec-
16 essary to ensure that the State is adequately car-
17 rying out the responsibilities assigned to the State;

18 “(5) require the Secretary—

19 “(A) after a period of 5 years, to evaluate
20 the ability of the State to carry out the respon-
21 sibility assumed under this section;

22 “(B) if the Secretary determines that the
23 State is not ready to effectively carry out the
24 responsibilities the State has assumed, to re-
25 evaluate the readiness of the State every 3

1 years, or at such other frequency as the Sec-
2 retary considers appropriate, after the initial 5-
3 year evaluation, until the State is ready to as-
4 sume the responsibilities on a permanent basis;
5 and

6 “(C) once the Secretary determines that
7 the State is ready to permanently assume the
8 responsibilities of the Secretary, not to require
9 any further evaluations; and

10 “(6) require the State to provide the Secretary
11 with any information, including regular written re-
12 ports, as the Secretary may require in conducting
13 evaluations under paragraph (5).”;

14 (5) by striking subsection (g);

15 (6) by redesignating subsections (h) and (i) as
16 subsections (g) and (h), respectively; and

17 (7) in subsection (h) (as so redesignated)—

18 (A) by striking paragraph (1);

19 (B) by redesignating paragraph (2) as
20 paragraph (1); and

21 (C) by inserting after paragraph (1) (as so
22 redesignated) the following:

23 “(2) TERMINATION BY THE STATE.—The State
24 may terminate the participation of the State in the
25 program at any time by providing to the Secretary

1 a notice by not later than the date that is 90 days
2 before the date of termination, and subject to such
3 terms and conditions as the Secretary may pro-
4 vide.”.

5 (b) CONFORMING AMENDMENT.—The item relating
6 to section 327 in the analysis of title 23, United States
7 Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

8 **SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITH-**
9 **IN THE RIGHT-OF-WAY.**

10 (a) IN GENERAL.—Not later than 30 days after the
11 date of enactment of this Act, the Secretary shall publish
12 a notice of proposed rulemaking for a categorical exclusion
13 that meets the definitions (as in effect on that date) of
14 section 1508.4 of title 40, Code of Federal Regulations,
15 and section 771.117 of title 23, Code of Federal Regula-
16 tions, for a project (as defined in section 101(a) of title
17 23, United States Code)—

18 (1) that is located solely within the right-of-way
19 of an existing highway, such as new turn lanes and
20 bus pull-offs;

21 (2) that does not include the addition of a
22 through lane or new interchange; and

23 (3) for which the project sponsor demonstrates
24 that the project—

1 (A) is intended to improve safety, alleviate
2 congestion, or improve air quality; or

3 (B) would improve or maintain pavement
4 or structural conditions or achieve a state of
5 good repair.

6 (b) NOTICE.—Not later than 60 days after the date
7 of enactment of this Act, the Secretary shall publish a no-
8 tice of proposed rulemaking to further define and imple-
9 ment subsection (a) within subsection (c) or (d) of section
10 771.117 of title 23, Code of Federal Regulations (as in
11 effect on the date of enactment of the MAP-21).

12 **SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDI-**
13 **TIONAL CATEGORICAL EXCLUSIONS.**

14 (a) IN GENERAL.—Not later than 60 days after the
15 date of enactment of this Act, the Secretary shall—

16 (1) survey the use by the Department of Trans-
17 portation of categorical exclusions in transportation
18 projects since 2005;

19 (2) publish a review of the survey that includes
20 a description of—

21 (A) the types of actions categorically ex-
22 cluded; and

23 (B) any requests previously received by the
24 Secretary for new categorical exclusions; and

1 (3) solicit requests from State departments of
2 transportation, transit authorities, metropolitan
3 planning organizations, or other government agen-
4 cies for new categorical exclusions.

5 (b) NEW CATEGORICAL EXCLUSIONS.—Not later
6 than 120 days after the date of enactment of this Act,
7 the Secretary shall publish a notice of proposed rule-
8 making to propose new categorical exclusions received by
9 the Secretary under subsection (a), to the extent that the
10 categorical exclusions meet the criteria for a categorical
11 exclusion under section 1508.4 of title 40, Code of Federal
12 Regulations and section 771.117(a) of title 23, Code of
13 Federal Regulations (as those regulations are in effect on
14 the date of the notice).

15 (c) ADDITIONAL ACTIONS.—The Secretary shall issue
16 a proposed rulemaking to move the following types of ac-
17 tions from subsection (d) of section 771.117 of title 23,
18 Code of Federal Regulations (as in effect on the date of
19 enactment of this Act), to subsection (e) of that section,
20 to the extent that such movement complies with the cri-
21 teria for a categorical exclusion under section 1508.4 of
22 title 40, Code of Federal Regulations (as in effect on the
23 date of enactment of this Act):

24 (1) Modernization of a highway by resurfacing,
25 restoration, rehabilitation, reconstruction, adding

1 shoulders, or adding auxiliary lanes (including park-
2 ing, weaving, turning, and climbing).

3 (2) Highway safety or traffic operations im-
4 provement projects, including the installation of
5 ramp metering control devices and lighting.

6 (3) Bridge rehabilitation, reconstruction, or re-
7 placement or the construction of grade separation to
8 replace existing at-grade railroad crossings.

9 (d) PROGRAMMATIC AGREEMENTS.—

10 (1) IN GENERAL.—The Secretary shall seek op-
11 portunities to enter into programmatic agreements
12 with the States that establish efficient administra-
13 tive procedures for carrying out environmental and
14 other required project reviews.

15 (2) INCLUSIONS.—Programmatic agreements
16 authorized under paragraph (1) may include agree-
17 ments that allow a State to determine on behalf of
18 the Federal Highway Administration whether a
19 project is categorically excluded from the prepara-
20 tion of an environmental assessment or environ-
21 mental impact statement under the National Envi-
22 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.).

24 (3) DETERMINATIONS.—An agreement de-
25 scribed in paragraph (2) may include determinations

1 by the Secretary of the types of projects categori-
2 cally excluded (consistent with section 1508.4 of title
3 40, Code of Federal Regulations) in the State in ad-
4 dition to the types listed in subsections (c) and (d)
5 of section 771.117 of title 23, Code of Federal Reg-
6 ulations (as in effect on the date of enactment of
7 this Act).

8 **SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRON-**
9 **MENTAL REVIEWS.**

10 (a) IN GENERAL.—When preparing a final environ-
11 mental impact statement under the National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if
13 the lead agency makes changes in response to comments
14 that are minor and are confined to factual corrections or
15 explanations of why the comments do not warrant further
16 agency response, the lead agency may write on errata
17 sheets attached to the statement instead of rewriting the
18 draft statement, on the condition that the errata sheets—

19 (1) cite the sources, authorities, or reasons that
20 support the position of the agency; and

21 (2) if appropriate, indicate the circumstances
22 that would trigger agency reappraisal or further re-
23 sponse.

24 (b) INCORPORATION.—To the maximum extent prac-
25 ticable, the lead agency shall expeditiously develop a single

1 document that consists of a final environmental impact
2 statement and a record of decision unless—

3 (1) the final environmental impact statement
4 makes substantial changes to the proposed action
5 that are relevant to environmental or safety con-
6 cerns; or

7 (2) there are significant new circumstances or
8 information relevant to environmental concerns and
9 that bear on the proposed action or the impacts of
10 the proposed action.

11 **SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR**
12 **EARLY COORDINATION.**

13 (a) IN GENERAL.—It is the sense of Congress that—

14 (1) the Secretary and other Federal agencies
15 with relevant jurisdiction in the environmental re-
16 view process should cooperate with each other and
17 other agencies on environmental review and project
18 delivery activities at the earliest practicable time to
19 avoid delays and duplication of effort later in the
20 process, head off potential conflicts, and ensure that
21 planning and project development decisions reflect
22 environmental values; and

23 (2) such cooperation should include the develop-
24 ment of policies and the designation of staff that ad-
25 vise planning agencies or project sponsors of studies

1 or other information foreseeably required for later
2 Federal action and early consultation with appro-
3 priate State and local agencies and Indian tribes.

4 (b) TECHNICAL ASSISTANCE.—If requested at any
5 time by a State or local planning agency, the Secretary
6 and other Federal agencies with relevant jurisdiction in
7 the environmental review process, shall, to the extent prac-
8 ticable and appropriate, as determined by the agencies,
9 provide technical assistance to the State or local planning
10 agency on accomplishing the early coordination activities
11 described in subsection (d).

12 (c) MEMORANDUM OF AGENCY AGREEMENT.—If re-
13 quested at any time by a State or local planning agency,
14 the lead agency, in consultation with other Federal agen-
15 cies with relevant jurisdiction in the environmental review
16 process, may establish memoranda of agreement with the
17 project sponsor, State, and local governments and other
18 appropriate entities to accomplish the early coordination
19 activities described in subsection (d).

20 (d) EARLY COORDINATION ACTIVITIES.—Early co-
21 ordination activities shall include, to the maximum extent
22 practicable, the following:

23 (1) Technical assistance on identifying potential
24 impacts and mitigation issues in an integrated fash-
25 ion.

1 (2) The potential appropriateness of using plan-
2 ning products and decisions in later environmental
3 reviews.

4 (3) The identification and elimination from de-
5 tailed study in the environmental review process of
6 the issues that are not significant or that have been
7 covered by prior environmental reviews.

8 (4) The identification of other environmental
9 review and consultation requirements so that the
10 lead and cooperating agencies may prepare, as ap-
11 propriate, other required analyses and studies con-
12 currently with planning activities.

13 (5) The identification by agencies with jurisdic-
14 tion over any permits related to the project of any
15 and all relevant information that will reasonably be
16 required for the project.

17 (6) The reduction of duplication between re-
18 quirements under the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.) and State and
20 local planning and environmental review require-
21 ments, unless the agencies are specifically barred
22 from doing so by applicable law.

23 (7) Timelines for the completion of agency ac-
24 tions during the planning and environmental review
25 processes.

1 (8) Other appropriate factors.

2 **SEC. 1313. ACCELERATED DECISIONMAKING.**

3 Section 139(h) of title 23, United States Code, is
4 amended by striking paragraph (4) and inserting the fol-
5 lowing:

6 “(4) INTERIM DECISION ON ACHIEVING ACCEL-
7 ERATED DECISIONMAKING.—

8 “(A) IN GENERAL.—Not later than 30
9 days after the close of the public comment pe-
10 riod on a draft environmental impact statement,
11 the Secretary may convene a meeting with the
12 project sponsor, lead agency, resource agencies,
13 and any relevant State agencies to ensure that
14 all parties are on schedule to meet deadlines for
15 decisions to be made regarding the project.

16 “(B) DEADLINES.—The deadlines referred
17 to in subparagraph (A) shall be those estab-
18 lished under subsection (g), or any other dead-
19 lines established by the lead agency, in con-
20 sultation with the project sponsor and other rel-
21 evant agencies.

22 “(C) FAILURE TO ASSURE.—If the rel-
23 evant agencies cannot provide reasonable assur-
24 ances that the deadlines described in subpara-
25 graph (B) will be met, the Secretary may ini-

1 tiate the issue resolution and referral process
2 described under paragraph (5) and before the
3 completion of the record of decision.

4 “(5) ACCELERATED ISSUE RESOLUTION AND
5 REFERRAL.—

6 “(A) AGENCY ISSUE RESOLUTION MEET-
7 ING.—

8 “(i) IN GENERAL.—A Federal agency
9 of jurisdiction, project sponsor, or the Gov-
10 ernor of a State in which a project is lo-
11 cated may request an issue resolution
12 meeting to be conducted by the lead agen-
13 cy.

14 “(ii) ACTION BY LEAD AGENCY.—The
15 lead agency shall convene an issue resolu-
16 tion meeting under clause (i) with the rel-
17 evant participating agencies and the
18 project sponsor, including the Governor
19 only if the meeting was requested by the
20 Governor, to resolve issues that could—

21 “(I) delay completion of the envi-
22 ronmental review process; or

23 “(II) result in denial of any ap-
24 provals required for the project under
25 applicable laws.

1 “(iii) DATE.—A meeting requested
2 under this subparagraph shall be held by
3 not later than 21 days after the date of re-
4 ceipt of the request for the meeting, unless
5 the lead agency determines that there is
6 good cause to extend the time for the
7 meeting.

8 “(iv) NOTIFICATION.—On receipt of a
9 request for a meeting under this subpara-
10 graph, the lead agency shall notify all rel-
11 evant participating agencies of the request,
12 including the issue to be resolved, and the
13 date for the meeting.

14 “(v) DISPUTES.—If a relevant partici-
15 pating agency with jurisdiction over an ap-
16 proval required for a project under applica-
17 ble law determines that the relevant infor-
18 mation necessary to resolve the issue has
19 not been obtained and could not have been
20 obtained within a reasonable time, but the
21 lead agency disagrees, the resolution of the
22 dispute shall be forwarded to the heads of
23 the relevant agencies for resolution.

24 “(vi) CONVENTION BY LEAD AGEN-
25 CY.—A lead agency may convene an issue

1 resolution meeting under this subsection at
2 any time without the request of the Fed-
3 eral agency of jurisdiction, project sponsor,
4 or the Governor of a State.

5 “(B) ELEVATION OF ISSUE RESOLU-
6 TION.—

7 “(i) IN GENERAL.—If issue resolution
8 is not achieved by not later than 30 days
9 after the date of a relevant meeting under
10 subparagraph (A), the Secretary shall no-
11 tify the lead agency, the heads of the rel-
12 evant participating agencies, and the
13 project sponsor (including the Governor
14 only if the initial issue resolution meeting
15 request came from the Governor) that an
16 issue resolution meeting will be convened.

17 “(ii) REQUIREMENTS.—The Secretary
18 shall identify the issues to be addressed at
19 the meeting and convene the meeting not
20 later than 30 days after the date of
21 issuance of the notice.

22 “(C) REFERRAL OF ISSUE RESOLUTION.—

23 “(i) REFERRAL TO COUNCIL ON ENVI-
24 RONMENTAL QUALITY.—

1 “(I) IN GENERAL.—If resolution
2 is not achieved by not later than 30
3 days after the date of an issue resolu-
4 tion meeting under subparagraph (B),
5 the Secretary shall refer the matter to
6 the Council on Environmental Qual-
7 ity.

8 “(II) MEETING.—Not later than
9 30 days after the date of receipt of a
10 referral from the Secretary under sub-
11 clause (I), the Council on Environ-
12 mental Quality shall hold an issue res-
13 olution meeting with the lead agency,
14 the heads of relevant participating
15 agencies, and the project sponsor (in-
16 cluding the Governor only if an initial
17 request for an issue resolution meet-
18 ing came from the Governor).

19 “(ii) REFERRAL TO THE PRESI-
20 DENT.—If a resolution is not achieved by
21 not later than 30 days after the date of the
22 meeting convened by the Council on Envi-
23 ronmental Quality under clause (i)(II), the
24 Secretary shall refer the matter directly to
25 the President.

1 “(6) FINANCIAL TRANSFER PROVISIONS.—

2 “(A) IN GENERAL.—A Federal agency of
3 jurisdiction over an approval required for a
4 project under applicable laws shall complete any
5 required approval on an expeditious basis using
6 the shortest existing applicable process.

7 “(B) FAILURE TO DECIDE.—

8 “(i) IN GENERAL.—If an agency de-
9 scribed in subparagraph (A) fails to render
10 a decision under any Federal law relating
11 to a project that requires the preparation
12 of an environmental impact statement or
13 environmental assessment, including the
14 issuance or denial of a permit, license, or
15 other approval by the date described in
16 clause (ii), the agency shall transfer from
17 the applicable office of the head of the
18 agency, or equivalent office to which the
19 authority for rendering the decision has
20 been delegated by law, to the agency or di-
21 vision charged with rendering a decision
22 regarding the application, by not later than
23 1 day after the applicable date under
24 clause (ii), and once each week thereafter

1 until a final decision is rendered, subject to
2 subparagraph (C)—

3 “(I) \$20,000 for any project for
4 which an annual financial plan under
5 section 106(i) is required; or

6 “(II) \$10,000 for any other
7 project requiring preparation of an
8 environmental assessment or environ-
9 mental impact statement.

10 “(ii) DESCRIPTION OF DATE.—The
11 date referred to in clause (i) is the later
12 of—

13 “(I) the date that is 180 days
14 after the date on which an application
15 for the permit, license, or approval is
16 complete; and

17 “(II) the date that is 180 days
18 after the date on which the Federal
19 lead agency issues a decision on the
20 project under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C.
22 4321 et seq.).

23 “(C) LIMITATIONS.—

24 “(i) IN GENERAL.—No transfer of
25 funds under subparagraph (B) relating to

1 an individual project shall exceed, in any
2 fiscal year, an amount equal to 1 percent
3 of the funds made available for the appli-
4 cable agency office.

5 “(ii) FAILURE TO DECIDE.—The total
6 amount transferred in a fiscal year as a re-
7 sult of a failure by an agency to make a
8 decision by an applicable deadline shall not
9 exceed an amount equal to 5 percent of the
10 funds made available for the applicable
11 agency office for that fiscal year.

12 “(D) TREATMENT.—The transferred funds
13 shall only be available to the agency or division
14 charged with rendering the decision as addi-
15 tional resources, pursuant to subparagraph (F).

16 “(E) NO FAULT OF AGENCY.—A transfer
17 of funds under this paragraph shall not be
18 made if the agency responsible for rendering
19 the decision certifies that—

20 “(i) the agency has not received nec-
21 essary information or approvals from an-
22 other entity, such as the project sponsor,
23 in a manner that affects the ability of the
24 agency to meet any requirements under
25 State, local, or Federal law; or

1 “(ii) significant new information or
2 circumstances, including a major modifica-
3 tion to an aspect of the project, requires
4 additional analysis for the agency to make
5 a decision on the project application.

6 “(F) TREATMENT OF FUNDS.—

7 “(i) IN GENERAL.—Funds transferred
8 under this paragraph shall supplement re-
9 sources available to the agency or division
10 charged with making a decision for the
11 purpose of expediting permit reviews.

12 “(ii) AVAILABILITY.—Funds trans-
13 ferred under this paragraph shall be avail-
14 able for use or obligation for the same pe-
15 riod that the funds were originally author-
16 ized or appropriated, plus 1 additional fis-
17 cal year.

18 “(iii) LIMITATION.—The Federal
19 agency with jurisdiction for the decision
20 that has transferred the funds pursuant to
21 this paragraph shall not reprogram funds
22 to the office of the head of the agency, or
23 equivalent office, to reimburse that office
24 for the loss of the funds.

1 “(G) AUDITS.—In any fiscal year in which
2 any Federal agency transfers funds pursuant to
3 this paragraph, the Inspector General of that
4 agency shall—

5 “(i) conduct an audit to assess com-
6 pliance with the requirements of this para-
7 graph; and

8 “(ii) not later than 120 days after the
9 end of the fiscal year during which the
10 transfer occurred, submit to the Committee
11 on Environment and Public Works of the
12 Senate and any other appropriate congress-
13 sional committees a report describing the
14 reasons why the transfers were levied, in-
15 cluding allocations of resources.

16 “(H) EFFECT OF PARAGRAPH.—Nothing
17 in this paragraph affects or limits the applica-
18 tion of, or obligation to comply with, any Fed-
19 eral, State, local, or tribal law.

20 “(I) AUTHORITY FOR INTRA-AGENCY
21 TRANSFER OF FUNDS.—The requirement pro-
22 vided under this paragraph for a Federal agen-
23 cy to transfer or reallocate funds of the Federal
24 agency in accordance with subparagraph
25 (B)(i)—

1 “(i) shall be treated by the Federal
2 agency as a requirement and authority
3 consistent with any applicable original law
4 establishing and authorizing the agency;
5 but

6 “(ii) does not provide to the Federal
7 agency the authority to require or deter-
8 mine the intra-agency transfer or realloca-
9 tion of funds that are provided to or are
10 within any other Federal agency.

11 “(7) EXPEDIENT DECISIONS AND REVIEWS.—
12 To ensure that Federal environmental decisions and
13 reviews are expeditiously made—

14 “(A) adequate resources made available
15 under this title shall be devoted to ensuring
16 that applicable environmental reviews under the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) are completed on an expe-
19 ditious basis and that the shortest existing ap-
20 plicable process under that Act is implemented;
21 and

22 “(B) the President shall submit to the
23 Committee on Transportation and Infrastruc-
24 ture of the House of Representatives and the
25 Committee on Environment and Public Works

1 of the Senate, not less frequently than once
2 every 120 days after the date of enactment of
3 the MAP-21, a report on the status and
4 progress of the following projects and activities
5 funded under this title with respect to compli-
6 ance with applicable requirements under the
7 National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.):

9 “(i) Projects and activities required to
10 prepare an annual financial plan under
11 section 106(i).

12 “(ii) A sample of not less than 5 per-
13 cent of the projects requiring preparation
14 of an environmental impact statement or
15 environmental assessment in each State.”.

16 **SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

17 (a) **ESTABLISHMENT.**—For grant programs under
18 which funds are distributed by formula by the Department
19 of Transportation, the Secretary shall establish an initia-
20 tive to review and develop consistent procedures for envi-
21 ronmental permitting and procurement requirements.

22 (b) **REPORT.**—The Secretary shall publish the results
23 of the initiative described in subsection (a) in an electroni-
24 cally accessible format.

1 **SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-**
2 **ONSTRATION PROGRAM.**

3 (a) PAYMENT DEMONSTRATION PROGRAM.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this section, for the purpose of identifying
6 improvements in the timeliness of providing reloca-
7 tion assistance to persons displaced by Federal or
8 federally assisted programs and projects, the Sec-
9 retary may allow not more than 5 States to partici-
10 pate in an alternative relocation payment demonstra-
11 tion program under which payments to displaced
12 persons eligible for relocation assistance pursuant to
13 the Uniform Relocation Assistance and Real Prop-
14 erty Acquisition Policies Act of 1970 (42 U.S.C.
15 4601 et seq.) (including implementing regulations),
16 are calculated based on reasonable estimates and
17 paid in advance of the physical displacement of the
18 displaced person.

19 (2) TIMING OF PAYMENTS.—Relocation assist-
20 ance payments for projects carried out under an ap-
21 proved State demonstration program may be pro-
22 vided to the displaced person at the same time as
23 payments of just compensation for real property ac-
24 quired for the program or project of the State.

1 (3) COMBINING OF PAYMENTS.—Payments for
2 relocation and just compensation may be combined
3 into a single unallocated amount.

4 (b) CRITERIA.—

5 (1) IN GENERAL.—After public notice and an
6 opportunity to comment, the Secretary shall adopt
7 criteria for carrying out the alternative relocation
8 payment demonstration program.

9 (2) CONDITIONS.—

10 (A) IN GENERAL.—Conditions for State
11 participation in the demonstration program
12 shall include the conditions described in sub-
13 paragraphs (B) through (E).

14 (B) MEMORANDUM OF AGREEMENT.—A
15 State wishing to participate in the demonstra-
16 tion program shall be required to enter into a
17 memorandum of agreement with the Secretary
18 that includes provisions relating to—

19 (i) the selection of projects or pro-
20 grams within the State to which the alter-
21 native relocation payment process will be
22 applied;

23 (ii) program and project-level moni-
24 toring;

25 (iii) performance measurement;

1 (iv) reporting; and

2 (v) the circumstances under which the
3 Secretary may terminate the demonstra-
4 tion program of the State before the end of
5 the program term.

6 (C) TERM OF DEMONSTRATION PRO-
7 GRAM.—Except as provided in subparagraph
8 (B)(v), the demonstration program of the State
9 may continue for up to 3 years after the date
10 on which the Secretary executes the memo-
11 randum of agreement.

12 (D) DISPLACED PERSONS.—

13 (i) IN GENERAL.—Displaced persons
14 affected by a project included in the dem-
15 onstration program of the State shall be
16 informed in writing in a format that is
17 clear and easily understandable that the
18 relocation payments that the displaced per-
19 sons receive under the demonstration pro-
20 gram may be higher or lower than the
21 amount that the displaced persons would
22 receive under the standard relocation as-
23 sistance process.

24 (ii) ALTERNATIVE PROCESS.—Dis-
25 placed persons shall be informed—

1 (I) of the right of the displaced
2 persons not to participate in the dem-
3 onstration program; and

4 (II) that the alternative reloca-
5 tion payment process can be used only
6 if the displaced person agrees in writ-
7 ing.

8 (iii) ASSISTANCE.—The displacing
9 agency shall provide any displaced person
10 who elects not to participate in the dem-
11 onstration program with relocation assist-
12 ance in accordance with the Uniform Relo-
13 cation Assistance and Real Property Ac-
14 quisition Policies Act of 1970 (42 U.S.C.
15 4601 et seq.) (including implementing reg-
16 ulations).

17 (E) OTHER DISPLACEMENTS.—

18 (i) IN GENERAL.—If other Federal
19 agencies plan displacements in or adjacent
20 to a demonstration program project area
21 within the same time period as the project
22 acquisition and relocation actions of the
23 demonstration program, the Secretary
24 shall adopt measures to protect against in-
25 consistent treatment of displaced persons.

1 (ii) INCLUSION.—Measures described
2 in clause (i) may include a determination
3 that the demonstration program authority
4 may not be used on a particular project.

5 (c) REPORT.—

6 (1) IN GENERAL.—The Secretary shall submit
7 to Congress—

8 (A) at least every 18 months after the date
9 of enactment of this Act, a report on the
10 progress and results of the demonstration pro-
11 gram; and

12 (B) not later than 1 year after all State
13 demonstration programs have ended, a final re-
14 port.

15 (2) REQUIREMENTS.—The final report shall in-
16 clude an evaluation by the Secretary of the merits
17 of the alternative relocation payment demonstration
18 program, including the effects of the demonstration
19 program on—

20 (A) displaced persons and the protections
21 afforded to displaced persons by the Uniform
22 Relocation Assistance and Real Property Acqui-
23 sition Policies Act of 1970 (42 U.S.C. 4601 et
24 seq.);

1 (B) the efficiency of the delivery of Fed-
2 eral-aid highway projects and overall effects on
3 the Federal-aid highway program; and

4 (C) the achievement of the purposes of the
5 Uniform Relocation Assistance and Real Prop-
6 erty Acquisition Policies Act of 1970 (42
7 U.S.C. 4601 et seq.).

8 (d) LIMITATION.—The authority of this section may
9 be used only on projects funded under title 23, United
10 States Code, in cases in which the funds are administered
11 by the Federal Highway Administration.

12 (e) AUTHORITY.—The authority of the Secretary to
13 approve an alternate relocation payment demonstration
14 program for a State terminates on the date that is 3 years
15 after the date of enactment of this Act

16 **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM**
17 **DELIVERY.**

18 (a) COMPLETION TIME ASSESSMENTS AND RE-
19 PORTS.—

20 (1) IN GENERAL.—For projects funded under
21 title 23, United States Code, the Secretary shall
22 compare—

23 (A)(i) the completion times of categorical
24 exclusions, environmental assessments, and en-

1 vironmental impact statements initiated after
2 calendar year 2005; to

3 (ii) the completion times of categorical ex-
4 clusions, environmental assessments, and envi-
5 ronmental impact statements initiated during a
6 period prior to calendar year 2005; and

7 (B)(i) the completion times of categorical
8 exclusions, environmental assessments, and en-
9 vironmental impact statements initiated during
10 the period beginning on January 1, 2005, and
11 ending on the date of enactment of this Act; to

12 (ii) the completion times of categorical ex-
13 clusions, environmental assessments, and envi-
14 ronmental impact statements initiated after the
15 date of enactment of this Act.

16 (2) REPORT.—The Secretary shall submit to
17 the Committee on Transportation and Infrastructure
18 of the House of Representatives and the Committee
19 on Environment and Public Works of the Senate a
20 report—

21 (A) not later than 1 year after the date of
22 enactment of this Act that—

23 (i) describes the results of the review
24 conducted under paragraph (1)(A); and

1 (ii) identifies any change in the timing
2 for completions, including the reasons for
3 any such change and the reasons for
4 delays in excess of 5 years; and

5 (B) not later than 5 years after the date
6 of enactment of this Act that—

7 (i) describes the results of the review
8 conducted under paragraph (1)(B); and

9 (ii) identifies any change in the timing
10 for completions, including the reasons for
11 any such change and the reasons for
12 delays in excess of 5 years.

13 (b) ADDITIONAL REPORT.—Not later than 2 years
14 after the date of enactment of this Act, the Secretary shall
15 submit to the Committee on Transportation and Infra-
16 structure of the House of Representatives and the Com-
17 mittee on Environment and Public Works of the Senate
18 a report on the types and justification for the additional
19 categorical exclusions granted under the authority pro-
20 vided under sections 1309 and 1310.

21 (c) GAO REPORT.—The Comptroller General of the
22 United States shall—

23 (1) assess the reforms carried out under sec-
24 tions 1301 through 1315 (including the amendments
25 made by those sections); and

1 (2) not later than 5 years after the date of en-
2 actment of this Act, submit to the Committee on
3 Transportation and Infrastructure of the House of
4 Representatives and the Committee on Environment
5 and Public Works of the Senate a report that de-
6 scribes the results of the assessment.

7 (d) INSPECTOR GENERAL REPORT.—The Inspector
8 General of the Department of Transportation shall—

9 (1) assess the reforms carried out under sec-
10 tions 1301 through 1315 (including the amendments
11 made by those sections); and

12 (2) submit to the Committee on Transportation
13 and Infrastructure of the House of Representatives
14 and the Committee on Environment and Public
15 Works of the Senate—

16 (A) not later than 2 years after the date
17 of enactment of this Act, an initial report of the
18 findings of the Inspector General; and

19 (B) not later than 4 years after the date
20 of enactment of this Act, a final report of the
21 findings.

22 **Subtitle D—Highway Safety**

23 **SEC. 1401. JASON'S LAW.**

24 (a) IN GENERAL.—It is the sense of Congress that
25 it is a national priority to address projects under this sec-

1 tion for the shortage of long-term parking for commercial
2 motor vehicles on the National Highway System to im-
3 prove the safety of motorized and nonmotorized users and
4 for commercial motor vehicle operators.

5 (b) ELIGIBLE PROJECTS.—Eligible projects under
6 this section are those that—

7 (1) serve the National Highway System; and

8 (2) may include the following:

9 (A) Constructing safety rest areas (as de-
10 fined in section 120(c) of title 23, United
11 States Code) that include parking for commer-
12 cial motor vehicles.

13 (B) Constructing commercial motor vehicle
14 parking facilities adjacent to commercial truck
15 stops and travel plazas.

16 (C) Opening existing facilities to commer-
17 cial motor vehicle parking, including inspection
18 and weigh stations and park-and-ride facilities.

19 (D) Promoting the availability of publicly
20 or privately provided commercial motor vehicle
21 parking on the National Highway System using
22 intelligent transportation systems and other
23 means.

1 (E) Constructing turnouts along the Na-
2 tional Highway System for commercial motor
3 vehicles.

4 (F) Making capital improvements to public
5 commercial motor vehicle parking facilities cur-
6 rently closed on a seasonal basis to allow the fa-
7 cilities to remain open year-round.

8 (G) Improving the geometric design of
9 interchanges on the National Highway System
10 to improve access to commercial motor vehicle
11 parking facilities.

12 (c) SURVEY AND COMPARATIVE ASSESSMENT.—

13 (1) IN GENERAL.—The Secretary, in consulta-
14 tion with relevant State motor carrier safety per-
15 sonnel, shall conduct a survey regarding the avail-
16 ability of parking facilities within each State—

17 (A) to evaluate the capability of the State
18 to provide adequate parking and rest facilities
19 for motor carriers engaged in interstate motor
20 carrier service;

21 (B) to assess the volume of motor carrier
22 traffic through the State; and

23 (C) to develop a system of metrics to
24 measure the adequacy of parking facilities in
25 the State.

1 (2) RESULTS.—The results of the survey under
2 paragraph (1) shall be made available to the public
3 on the website of the Department of Transportation.

4 (3) PERIODIC UPDATES.—The Secretary shall
5 periodically update the survey under this subsection.

6 (d) TREATMENT OF PROJECTS.—Notwithstanding
7 any other provision of law, projects funded through the
8 authority provided under this section shall be treated as
9 projects on a Federal-aid highway under chapter 1 of title
10 23, United States Code.

11 **SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

12 Section 154(c) of title 23, United States Code, is
13 amended—

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

16 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

17 “(A) RESERVATION OF FUNDS.—On Octo-
18 ber 1, 2011, and each October 1 thereafter, if
19 a State has not enacted or is not enforcing an
20 open container law described in subsection (b),
21 the Secretary shall reserve an amount equal to
22 2.5 percent of the funds to be apportioned to
23 the State on that date under each of para-
24 graphs (1) and (2) of section 104(b) until the
25 State certifies to the Secretary the means by

1 which the State will use those reserved funds in
2 accordance with subparagraphs (A) and (B) of
3 paragraph (1) and paragraph (3).

4 “(B) TRANSFER OF FUNDS.—As soon as
5 practicable after the date of receipt of a certifi-
6 cation from a State under subparagraph (A),
7 the Secretary shall—

8 “(i) transfer the reserved funds identi-
9 fied by the State for use as described in
10 subparagraphs (A) and (B) of paragraph
11 (1) to the apportionment of the State
12 under section 402; and

13 “(ii) release the reserved funds identi-
14 fied by the State as described in paragraph
15 (3).”;

16 (2) by striking paragraph (3) and inserting the
17 following:

18 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT
19 PROGRAM.—

20 “(A) IN GENERAL.—A State may elect to
21 use all or a portion of the funds transferred
22 under paragraph (2) for activities eligible under
23 section 148.

24 “(B) STATE DEPARTMENTS OF TRANSPOR-
25 TATION.—If the State makes an election under

1 subparagraph (A), the funds shall be trans-
 2 ferred to the department of transportation of
 3 the State, which shall be responsible for the ad-
 4 ministration of the funds.”; and

5 (3) by striking paragraph (5) and inserting the
 6 following:

7 “(5) DERIVATION OF AMOUNT TO BE TRANS-
 8 FERRED.—The amount to be transferred under
 9 paragraph (2) may be derived from the following:

10 “(A) The apportionment of the State
 11 under section 104(b)(1).

12 “(B) The apportionment of the State
 13 under section 104(b)(2).”.

14 **SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
 15 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
 16 **ING UNDER THE INFLUENCE.**

17 (a) DEFINITIONS.—Section 164(a) of title 23, United
 18 States Code, is amended—

19 (1) by striking paragraph (3);

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

22 (3) in paragraph (4) (as so redesignated) by
 23 striking subparagraph (A) and inserting the fol-
 24 lowing:

25 “(A) receive—

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

3 “(ii) a suspension of unlimited driving
4 privileges for 1 year, allowing for the rein-
5 statement of limited driving privileges sub-
6 ject to restrictions and limited exemptions
7 as established by State law, if an ignition
8 interlock device is installed for not less
9 than 1 year on each of the motor vehicles
10 owned or operated, or both, by the indi-
11 vidual;”.

12 (b) TRANSFER OF FUNDS.—Section 164(b) of title
13 23, United States Code, is amended—

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

16 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

17 “(A) RESERVATION OF FUNDS.—On Octo-
18 ber 1, 2011, and each October 1 thereafter, if
19 a State has not enacted or is not enforcing a
20 repeat intoxicated driver law, the Secretary
21 shall reserve an amount equal to 2.5 percent of
22 the funds to be apportioned to the State on
23 that date under each of paragraphs (1) and (2)
24 of section 104(b) until the State certifies to the
25 Secretary the means by which the States will

1 use those reserved funds among the uses au-
2 thorized under subparagraphs (A) and (B) of
3 paragraph (1), and paragraph (3).

4 “(B) TRANSFER OF FUNDS.—As soon as
5 practicable after the date of receipt of a certifi-
6 cation from a State under subparagraph (A),
7 the Secretary shall—

8 “(i) transfer the reserved funds identi-
9 fied by the State for use as described in
10 subparagraphs (A) and (B) of paragraph
11 (1) to the apportionment of the State
12 under section 402; and

13 “(ii) release the reserved funds identi-
14 fied by the State as described in paragraph
15 (3).”;

16 (2) by striking paragraph (3) and inserting the
17 following:

18 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT
19 PROGRAM.—

20 “(A) IN GENERAL.—A State may elect to
21 use all or a portion of the funds transferred
22 under paragraph (2) for activities eligible under
23 section 148.

24 “(B) STATE DEPARTMENTS OF TRANSPOR-
25 TATION.—If the State makes an election under

1 subparagraph (A), the funds shall be trans-
 2 ferred to the department of transportation of
 3 the State, which shall be responsible for the ad-
 4 ministration of the funds.”; and

5 (3) by striking paragraph (5) and inserting the
 6 following:

7 “(5) DERIVATION OF AMOUNT TO BE TRANS-
 8 FERRED.—The amount to be transferred under
 9 paragraph (2) may be derived from the following:

10 “(A) The apportionment of the State
 11 under section 104(b)(1).

12 “(B) The apportionment of the State
 13 under section 104(b)(2).”.

14 **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

15 (a) VEHICLE WEIGHT LIMITATIONS.—Section
 16 127(a)(1) of title 23, United States Code, is amended by
 17 striking “No funds shall be apportioned in any fiscal year
 18 under section 104(b)(1) of this title to any State which”
 19 and inserting “The Secretary shall withhold 50 percent
 20 of the apportionment of a State under section 104(b)(1)
 21 in any fiscal year in which the State”.

22 (b) CONTROL OF JUNKYARDS.—Section 136 of title
 23 23, United States Code, is amended—

24 (1) in subsection (b), in the first sentence—

1 (A) by striking “10 per centum” and in-
2 serting “7 percent”; and

3 (B) by striking “section 104 of this title”
4 and inserting “paragraphs (1) through (5) of
5 section 104(b)”; and

6 (2) by adding at the end the following:

7 “(n) For purposes of this section, the terms ‘primary
8 system’ and ‘Federal-aid primary system’ mean any high-
9 way that is on the National Highway System, which in-
10 cludes the Interstate Highway System.”.

11 (c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT
12 LAWS.—Section 141(b)(2) of title 23, United States Code,
13 is amended—

14 (1) by striking “10 per centum” and inserting
15 “7 percent”; and

16 (2) by striking “section 104 of this title” and
17 inserting “paragraphs (1) through (5) of section
18 104(b)”.

19 (d) PROOF OF PAYMENT OF THE HEAVY VEHICLE
20 USE TAX.—Section 141(c) of title 23, United States
21 Code, is amended—

22 (1) by striking “section 104(b)(4)” each place
23 it appears and inserting “section 104(b)(1)”; and

24 (2) in the first sentence by striking “25 per
25 centum” and inserting “ 8 percent”.

1 (e) USE OF SAFETY BELTS.—Section 153(h) of title
2 23, United States Code, is amended—

3 (1) by striking paragraph (1);

4 (2) by redesignating paragraph (2) as para-
5 graph (1);

6 (3) in paragraph (1) (as so redesignated)—

7 (A) by striking the paragraph heading and
8 inserting “PRIOR TO FISCAL YEAR 2012”; and

9 (B) by inserting “and before October 1,
10 2011,” after “September 30, 1994,”; and

11 (4) by inserting after paragraph (1) (as so re-
12 designated) the following:

13 “(2) FISCAL YEAR 2012 AND THEREAFTER.—If,
14 at any time in a fiscal year beginning after Sep-
15 tember 30, 2011, a State does not have in effect a
16 law described in subsection (a)(2), the Secretary
17 shall transfer an amount equal to 2 percent of the
18 funds apportioned to the State for the succeeding
19 fiscal year under each of paragraphs (1) through (3)
20 of section 104(b) to the apportionment of the State
21 under section 402.”.

22 (f) NATIONAL MINIMUM DRINKING AGE.—Section
23 158(a)(1) of title 23, United States Code, is amended—

24 (1) by striking “The Secretary” and inserting
25 the following:

1 “(A) FISCAL YEARS BEFORE 2012.—The
2 Secretary”;

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

4 “(B) FISCAL YEAR 2012 AND THERE-
5 AFTER.—For fiscal year 2012 and each fiscal
6 year thereafter, the amount to be withheld
7 under this section shall be an amount equal to
8 8 percent of the amount apportioned to the
9 noncompliant State, as described in subpara-
10 graph (A), under paragraphs (1) and (2) of sec-
11 tion 104(b).”.

12 (g) DRUG OFFENDERS.—Section 159 of title 23,
13 United States Code, is amended—

14 (1) in subsection (a)—

15 (A) by striking paragraph (1);

16 (B) by redesignating paragraph (2) as
17 paragraph (1);

18 (C) in paragraph (1) (as so redesignated)
19 by striking “(including any amounts withheld
20 under paragraph (1))”; and

21 (D) by inserting after paragraph (1) (as so
22 redesignated) the following:

23 “(2) FISCAL YEAR 2012 AND THEREAFTER.—
24 The Secretary shall withhold an amount equal to 8
25 percent of the amount required to be apportioned to

1 any State under each of paragraphs (1) and (2) of
 2 section 104(b) on the first day of each fiscal year
 3 beginning after September 30, 2011, if the State
 4 fails to meet the requirements of paragraph (3) on
 5 the first day of the fiscal year.”; and

6 (2) by striking subsection (b) and inserting the
 7 following:

8 “(b) EFFECT OF NONCOMPLIANCE.—No funds with-
 9 held under this section from apportionments to any State
 10 shall be available for apportionment to that State.”.

11 (h) ZERO TOLERANCE BLOOD ALCOHOL CON-
 12 CENTRATION FOR MINORS.—Section 161(a) of title 23,
 13 United States Code, is amended—

14 (1) by striking paragraph (1);

15 (2) by redesignating paragraph (2) as para-
 16 graph (1);

17 (3) in paragraph (1) (as so redesignated)—

18 (A) by striking the paragraph heading and
 19 inserting “PRIOR TO FISCAL YEAR 2012”; and

20 (B) by inserting “through fiscal year
 21 2011” after “each fiscal year thereafter”; and

22 (4) by inserting after paragraph (1) (as so re-
 23 designated) the following:

24 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

25 The Secretary shall withhold an amount equal to 8

1 percent of the amount required to be apportioned to
2 any State under each of paragraphs (1) and (2) of
3 section 104(b) on October 1, 2011, and on October
4 1 of each fiscal year thereafter, if the State does not
5 meet the requirement of paragraph (3) on that
6 date.”.

7 (i) OPERATION OF MOTOR VEHICLES BY INTOXI-
8 CATED PERSONS.—Section 163(e) of title 23, United
9 States Code, is amended by striking paragraphs (1) and
10 (2) and inserting the following:

11 “(1) FISCAL YEARS 2007 THROUGH 2011.—On
12 October 1, 2006, and October 1 of each fiscal year
13 thereafter through fiscal year 2011, if a State has
14 not enacted or is not enforcing a law described in
15 subsection (a), the Secretary shall withhold an
16 amount equal to 8 percent of the amounts to be ap-
17 portioned to the State on that date under each of
18 paragraphs (1), (3), and (4) of section 104(b).

19 “(2) FISCAL YEAR 2012 AND THEREAFTER.—On
20 October 1, 2011, and October 1 of each fiscal year
21 thereafter, if a State has not enacted or is not en-
22 forcing a law described in subsection (a), the Sec-
23 retary shall withhold an amount equal to 6 percent
24 of the amounts to be apportioned to the State on

1 that date under each of paragraphs (1) and (2) of
2 section 104(b).”.

3 (j) COMMERCIAL DRIVER’S LICENSE.—Section
4 31314 of title 49, United States Code, is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) PENALTIES IMPOSED IN FISCAL YEAR 2012
10 AND THEREAFTER.—Effective beginning on October 1,
11 2011—

12 “(1) the penalty for the first instance of non-
13 compliance by a State under this section shall be not
14 more than an amount equal to 4 percent of funds
15 required to be apportioned to the noncompliant
16 State under paragraphs (1) and (2) of section
17 104(b) of title 23; and

18 “(2) the penalty for subsequent instances of
19 noncompliance shall be not more than an amount
20 equal to 8 percent of funds required to be appor-
21 tioned to the noncompliant State under paragraphs
22 (1) and (2) of section 104(b) of title 23.”.

23 **SEC. 1405. HIGHWAY WORKER SAFETY.**

24 Not later than 60 days after the date of enactment
25 of this Act, the Secretary shall modify section 630.1108(a)

1 of title 23, Code of Federal Regulations (as in effect on
2 the date of enactment of this Act), to ensure that—

3 (1) at a minimum, positive protective measures
4 are used to separate workers on highway construc-
5 tion projects from motorized traffic in all work zones
6 conducted under traffic in areas that offer workers
7 no means of escape (such as tunnels and bridges),
8 unless an engineering study determines otherwise;

9 (2) temporary longitudinal traffic barriers are
10 used to protect workers on highway construction
11 projects in long-duration stationary work zones when
12 the project design speed is anticipated to be high
13 and the nature of the work requires workers to be
14 within 1 lane-width from the edge of a live travel
15 lane, unless—

16 (A) an analysis by the project sponsor de-
17 termines otherwise; or

18 (B) the project is outside of an urbanized
19 area and the annual average daily traffic load
20 of the applicable road is less than 100 vehicles
21 per hour; and

22 (3) when positive protective devices are nec-
23 essary for highway construction projects, those de-
24 vices are paid for on a unit-pay basis, unless doing
25 so would create a conflict with innovative con-

1 tracting approaches, such as design-build or some
 2 performance-based contracts under which the con-
 3 tractor is paid to assume a certain risk allocation
 4 and payment is generally made on a lump-sum basis.

5 **Subtitle E—Miscellaneous**

6 **SEC. 1501. PROGRAM EFFICIENCIES.**

7 The first sentence of section 102(b) of title 23,
 8 United States Code, is amended by striking “made avail-
 9 able for such engineering” and inserting “reimbursed for
 10 the preliminary engineering”.

11 **SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

12 Section 106 of title 23, United States Code, is
 13 amended—

14 (1) in subsection (a)(2) by inserting “recipient”
 15 before “formalizing”;

16 (2) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) in the heading, by striking “NON-
 19 INTERSTATE”; and

20 (ii) by striking “but not on the Inter-
 21 state System”; and

22 (B) by striking paragraph (4) and insert-
 23 ing the following:

24 “(4) LIMITATION ON INTERSTATE PROJECTS.—

1 “(A) IN GENERAL.—The Secretary shall
2 not assign any responsibilities to a State for
3 projects the Secretary determines to be in a
4 high risk category, as defined under subpara-
5 graph (B).

6 “(B) HIGH RISK CATEGORIES.—The Sec-
7 retary may define the high risk categories
8 under this subparagraph on a national basis, a
9 State-by-State basis, or a national and State-
10 by-State basis, as determined to be appropriate
11 by the Secretary.”;

12 (3) in subsection (e)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (A)—

15 (I) in the matter preceding clause

16 (i)—

17 (aa) by striking “concept”

18 and inserting “planning”; and

19 (bb) by striking “multidis-

20 ciplined” and inserting “multi-

21 disciplinary”; and

22 (II) by striking clause (i) and in-

23 serting the following:

24 “(i) providing the needed functions

25 and achieving the established commitments

1 (including environmental, community, and
2 agency commitments) safely, reliably, and
3 at the lowest overall lifecycle cost;” and

4 (ii) in subparagraph (B) by striking
5 clause (ii) and inserting the following:

6 “(ii) refining or redesigning, as appro-
7 priate, the project using different tech-
8 nologies, materials, or methods so as to ac-
9 complish the purpose, functions, and estab-
10 lished commitments (including environ-
11 mental, community, and agency commit-
12 ments) of the project.”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A) by striking “or other cost-reduc-
16 tion analysis”;

17 (ii) in subparagraph (A) by striking
18 “Federal-aid system” and inserting “Na-
19 tional Highway System receiving Federal
20 assistance”; and

21 (iii) in subparagraph (B) by inserting
22 “on the National Highway System receiv-
23 ing Federal assistance” after “a bridge
24 project”; and

1 (C) by striking paragraph (4) and insert-
2 ing the following:

3 “(4) REQUIREMENTS.—

4 “(A) VALUE ENGINEERING PROGRAM.—
5 The State shall develop and carry out a value
6 engineering program that—

7 “(i) establishes and documents value
8 engineering program policies and proce-
9 dures;

10 “(ii) ensures that the required value
11 engineering analysis is conducted before
12 completing the final design of a project;

13 “(iii) ensures that the value engineer-
14 ing analysis that is conducted, and the rec-
15 ommendations developed and implemented
16 for each project, are documented in a final
17 value engineering report; and

18 “(iv) monitors, evaluates, and annu-
19 ally submits to the Secretary a report that
20 describes the results of the value analyses
21 that are conducted and the recommenda-
22 tions implemented for each of the projects
23 described in paragraph (2) that are com-
24 pleted in the State.

1 “(B) BRIDGE PROJECTS.—The value engi-
2 neering analysis for a bridge project under
3 paragraph (2) shall—

4 “(i) include bridge superstructure and
5 substructure requirements based on con-
6 struction material; and

7 “(ii) be evaluated by the State—

8 “(I) on engineering and economic
9 bases, taking into consideration ac-
10 ceptable designs for bridges; and

11 “(II) using an analysis of
12 lifecycle costs and duration of project
13 construction.”;

14 (4) in subsection (g)(4) by adding at the end
15 the following:

16 “(C) FUNDING.—

17 “(i) IN GENERAL.—Subject to project
18 approval by the Secretary, a State may ob-
19 ligate funds apportioned to the State under
20 section 104(b)(2) for carrying out the re-
21 sponsibilities of the State under subpara-
22 graph (A).

23 “(ii) ELIGIBLE ACTIVITIES.—Activi-
24 ties eligible for assistance under this sub-
25 paragraph include—

1 “(I) State administration of sub-
2 grants; and

3 “(II) State oversight of subrecipi-
4 ents.

5 “(iii) ANNUAL WORK PLAN.—To re-
6 ceive the funding flexibility made available
7 under this subparagraph, the State shall
8 submit to the Secretary an annual work
9 plan identifying activities to be carried out
10 under this subparagraph during the appli-
11 cable year.

12 “(iv) FEDERAL SHARE.—The Federal
13 share of the cost of activities carried out
14 under this subparagraph shall be 100 per-
15 cent.”; and

16 (5) in subsection (h)—

17 (A) in paragraph (1)(B) by inserting “, in-
18 cluding a phasing plan when applicable” after
19 “financial plan”; and

20 (B) by striking paragraph (3) and insert-
21 ing the following:

22 “(3) FINANCIAL PLAN.—A financial plan—

23 “(A) shall be based on detailed estimates
24 of the cost to complete the project;

1 “(B) shall provide for the annual submis-
2 sion of updates to the Secretary that are based
3 on reasonable assumptions, as determined by
4 the Secretary, of future increases in the cost to
5 complete the project; and

6 “(C) may include a phasing plan that iden-
7 tifies fundable incremental improvements or
8 phases that will address the purpose and the
9 need of the project in the short term in the
10 event there are insufficient financial resources
11 to complete the entire project. If a phasing plan
12 is adopted for a project pursuant to this sec-
13 tion, the project shall be deemed to satisfy the
14 fiscal constraint requirements in the statewide
15 and metropolitan planning requirements in sec-
16 tions 134 and 135.”.

17 **SEC. 1503. STANDARDS.**

18 (a) PRACTICAL DESIGN.—Section 109 of title 23,
19 United States Code, is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1) by striking “and” at
22 the end;

23 (B) in paragraph (2) by striking the period
24 at the end and inserting “; and”; and

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

1 “(3) utilize, when appropriate, practical design
2 solutions, as defined in this section, to ensure that
3 transportation needs are met and that funds avail-
4 able for transportation projects are used effi-
5 ciently.”;

6 (2) in subsection (c)—

7 (A) in paragraph (1), in the matter pre-
8 ceding subparagraph (A)—

9 (i) by striking “, reconstruction, re-
10 surfacing (except for maintenance resur-
11 facing), restoration, or rehabilitation” and
12 inserting “or reconstruction”; and

13 (ii) by striking “may take into ac-
14 count” and inserting “shall consider”;

15 (B) in paragraph (2)—

16 (i) in the first sentence of the matter
17 preceding subparagraph (A) by striking
18 “may” and inserting “shall”;

19 (ii) in subparagraph (C) by striking
20 “and” at the end;

21 (iii) by redesignating subparagraph
22 (D) as subparagraph (F); and

23 (iv) by inserting after subparagraph
24 (C) the following:

1 “(D) the publication entitled ‘Highway
2 Safety Manual’ of the American Association of
3 State Highway and Transportation Officials;

4 “(E) the publication entitled ‘A Guide for
5 Achieving Flexibility in Highway Design, 1st
6 Edition’, published by the American Association
7 of State Highway and Transportation Officials;
8 and”;

9 (3) in subsection (f) by inserting “pedestrian
10 walkways,” after “bikeways,”;

11 (4) in subsection (m) by inserting “, safe, and
12 continuous” after “for a reasonable”;

13 (5) in subsection (q) by striking “consistent
14 with the operative safety management system estab-
15 lished in accordance with section 303 or in accord-
16 ance with” inserting “that is in accordance with a
17 State’s strategic highway safety plan and included
18 on”; and

19 (6) by adding at the end the following:

20 “(r) DEFINITION.—In this section, the term ‘prac-
21 tical design solution’ means a collaborative interdiscipli-
22 nary approach that results in a transportation project that
23 fits its physical setting, preserves safety, and balances
24 costs with the necessary scope and project delivery needs

1 of the project, as well as with scenic, aesthetic, historic,
2 and environmental resources.”.

3 (b) **ADDITIONAL STANDARDS.**—Section 109 of title
4 23, United States Code (as amended by subsection (a)(6)),
5 is amended by adding at the end the following:

6 “(s) **PAVEMENT MARKINGS.**—The Secretary shall not
7 approve any pavement markings project that includes the
8 use of glass beads containing more than 200 parts per
9 million of arsenic or lead, as determined in accordance
10 with Environmental Protection Agency testing methods
11 3052, 6010B, or 6010C.”.

12 **SEC. 1504. CONSTRUCTION.**

13 Section 114 of title 23, United States Code, is
14 amended—

15 (1) in subsection (b)—

16 (A) by striking paragraph (1) and insert-
17 ing the following:

18 “(1) **LIMITATION ON CONVICT LABOR.**—Convict
19 labor shall not be used in construction of Federal-
20 aid highways or portions of Federal-aid highways
21 unless the labor is performed by convicts who are on
22 parole, supervised release, or probation.”; and

23 (B) in paragraph (3) by inserting “in ex-
24 istence during that period” after “located on a
25 Federal-aid system”; and

1 (2) in subsection (c)—

2 (A) by striking paragraph (1) and insert-
3 ing the following:

4 “(1) IN GENERAL.—The Secretary shall ensure
5 that a worker who is employed on a remote project
6 for the construction of a Federal-aid highway or por-
7 tion of a Federal-aid highway in the State of Alaska
8 and who is not a domiciled resident of the locality
9 shall receive meals and lodging.”; and

10 (B) in paragraph (3)(C) by striking “high-
11 way or portion of a highway located on a Fed-
12 eral-aid system” and inserting “Federal-aid
13 highway or portion of a Federal-aid highway”.

14 **SEC. 1505. MAINTENANCE.**

15 Section 116 of title 23, United States Code, is
16 amended—

17 (1) in subsection (a)—

18 (A) in the first sentence, by inserting “or
19 other direct recipient” before “to maintain”;
20 and

21 (B) by striking the second sentence;

22 (2) by striking subsection (b) and inserting the
23 following:

24 “(b) AGREEMENT.—In any State in which the State
25 transportation department or other direct recipient is

1 without legal authority to maintain a project described in
2 subsection (a), the transportation department or direct re-
3 cipient shall enter into a formal agreement with the appro-
4 priate officials of the county or municipality in which the
5 project is located providing for the maintenance of the
6 project.”; and

7 (3) in the first sentence of subsection (c) by in-
8 serting “or other direct recipient” after “State
9 transportation department”.

10 **SEC. 1506. FEDERAL SHARE PAYABLE.**

11 Section 120 of title 23, United States Code, is
12 amended—

13 (1) in the first sentence of subsection (c)(1)—

14 (A) by inserting “maintaining minimum
15 levels of retroreflectivity of highway signs or
16 pavement markings,” after “traffic control sig-
17 nalization,”;

18 (B) by inserting “shoulder and centerline
19 rumble strips and stripes,” after “pavement
20 marking,”; and

21 (C) by striking “Federal-aid systems” and
22 inserting “Federal-aid programs”;

23 (2) by striking subsection (e) and inserting the
24 following:

1 “(e) EMERGENCY RELIEF.—The Federal share pay-
2 able for any repair or reconstruction provided for by funds
3 made available under section 125 for any project on a
4 Federal-aid highway, including the Interstate System,
5 shall not exceed the Federal share payable on a project
6 on the system as provided in subsections (a) and (b), ex-
7 cept that—

8 “(1) the Federal share payable for eligible
9 emergency repairs to minimize damage, protect fa-
10 cilities, or restore essential traffic accomplished
11 within 180 days after the actual occurrence of the
12 natural disaster or catastrophic failure may amount
13 to 100 percent of the cost of the repairs;

14 “(2) the Federal share payable for any repair
15 or reconstruction of Federal land transportation fa-
16 cilities, Federal land access transportation facilities,
17 and tribal transportation facilities may amount to
18 100 percent of the cost of the repair or reconstruc-
19 tion;

20 “(3) the Secretary shall extend the time period
21 in paragraph (1) taking into consideration any delay
22 in the ability of the State to access damaged facili-
23 ties to evaluate damage and the cost of repair; and

24 “(4) the Federal share payable for eligible per-
25 manent repairs to restore damaged facilities to

1 predisaster condition may amount to 100 percent of
2 the cost of the repairs if the eligible expenses in-
3 curred by the State due to natural disasters or cata-
4 strophic failures in a Federal fiscal year exceeds the
5 annual apportionment of the State under section
6 104 for the fiscal year in which the disasters or fail-
7 ures occurred.”;

8 (3) by striking subsection (g) and redesignating
9 subsections (h) through (l) as subsections (g)
10 through (k), respectively;

11 (4) in subsection (i)(1)(A) (as redesignated by
12 paragraph (3)) by striking “and the Appalachian de-
13 velopment highway system program under section
14 14501 of title 40”; and

15 (5) by striking subsections (j) and (k) (as re-
16 designated by paragraph (3)) and inserting the fol-
17 lowing:

18 “(j) USE OF FEDERAL AGENCY FUNDS.—Notwith-
19 standing any other provision of law, any Federal funds
20 other than those made available under this title and title
21 49, United States Code, may be used to pay the non-Fed-
22 eral share of the cost of any transportation project that
23 is within, adjacent to, or provides access to Federal land,
24 the Federal share of which is funded under this title or
25 chapter 53 of title 49.

1 “(k) USE OF FEDERAL LAND AND TRIBAL TRANS-
 2 PORTATION FUNDS.—Notwithstanding any other provi-
 3 sion of law, the funds authorized to be appropriated to
 4 carry out the tribal transportation program under section
 5 202 and the Federal lands transportation program under
 6 section 203 may be used to pay the non-Federal share of
 7 the cost of any project that is funded under this title or
 8 chapter 53 of title 49 and that provides access to or within
 9 Federal or tribal land.”.

10 **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY**
 11 **FUNDS.**

12 (a) IN GENERAL.—Section 126 of title 23, United
 13 States Code, is amended to read as follows:

14 **“§ 126. Transferability of Federal-aid highway funds**

15 “(a) IN GENERAL.—Notwithstanding any other pro-
 16 vision of law, subject to subsection (b), a State may trans-
 17 fer from an apportionment under section 104(b) not to
 18 exceed 20 percent of the amount apportioned for the fiscal
 19 year to any other apportionment of the State under that
 20 section.

21 “(b) APPLICATION TO CERTAIN SET-ASIDES.—Funds
 22 that are subject to sections 104(d) and 133(d) shall not
 23 be transferred under this section. The maximum amount
 24 that a State may transfer under this section of the State’s
 25 set-aside under section 149(l) for a fiscal year may not

1 exceed 25 percent of (1) the amount of such set-aside, less
 2 (2) the amount of the State’s set-aside under section
 3 133(d)(2), as in effect on the day before the date of enact-
 4 ment of the MAP-21, for fiscal year 1997.”.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 chapter 1 of title 23, United States Code, is amended by
 7 striking the item relating to section 126 and inserting the
 8 following:

“126. Transferability of Federal-aid highway funds.”.

9 **SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NA-**
 10 **TIONAL EMERGENCY.**

11 Section 127 of title 23, United States Code, is
 12 amended by inserting at the end the following:

13 “(i) SPECIAL PERMITS DURING PERIODS OF NA-
 14 TIONAL EMERGENCY.—

15 “(1) IN GENERAL.—Notwithstanding any other
 16 provision of this section, a State may issue special
 17 permits during an emergency to overweight vehicles
 18 and loads that can easily be dismantled or divided
 19 if—

20 “(A) the President has declared the emer-
 21 gency to be a major disaster under the Robert
 22 T. Stafford Disaster Relief and Emergency As-
 23 sistance Act (42 U.S.C. 5121 et seq.);

24 “(B) the permits are issued in accordance
 25 with State law; and

1 “(C) the permits are issued exclusively to
2 vehicles and loads that are delivering relief sup-
3 plies.

4 “(2) EXPIRATION.—A permit issued under
5 paragraph (1) shall expire not later than 120 days
6 after the date of the declaration of emergency under
7 subparagraph (A) of that paragraph.”.

8 **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

9 (a) FRINGE AND CORRIDOR PARKING FACILITIES.—
10 Section 137 of title 23, United States Code, is amended—

11 (1) in subsection (a) by inserting after the sec-
12 ond sentence the following: “The addition of electric
13 vehicle charging stations to new or previously funded
14 parking facilities shall be eligible for funding under
15 this section.”; and

16 (2) in subsection (f)(1)—

17 (A) by striking “104(b)(4)” and inserting
18 “104(b)(1)”; and

19 (B) by inserting “including the addition of
20 electric vehicle charging stations,” after “new
21 facilities,”.

22 (b) PUBLIC TRANSPORTATION.—Section 142(a)(1) of
23 title 23, United States Code, is amended by inserting
24 “(which may include electric vehicle charging stations)”
25 after “corridor parking facilities”.

1 **SEC. 1510. HOV FACILITIES.**

2 Section 166 of title 23, United States Code, is
3 amended—

4 (1) in subsection (b)(5)—

5 (A) in subparagraph (A) by striking “Be-
6 fore September 30, 2009, the” and inserting
7 “The”; and

8 (B) in subparagraph (B) by striking “Be-
9 fore September 30, 2009, the” and inserting
10 “The”; and

11 (2) in subsection (d)(1)—

12 (A) in the matter preceding subparagraph
13 (A)—

14 (i) by striking “in a fiscal year shall
15 certify” and inserting “shall submit to the
16 Secretary a report demonstrating that the
17 facility is not already degraded, and that
18 the presence of the vehicles will not cause
19 the facility to become degraded, and cer-
20 tify”; and

21 (ii) by striking “in the fiscal year”;

22 (B) in subparagraph (A) by inserting “and
23 submitting to the Secretary annual reports of
24 those impacts” after “adjacent highways”;

25 (C) in subparagraph (C) by striking “if the
26 presence of the vehicles has degraded the oper-

1 ation of the facility” and inserting “whenever
2 the operation of the facility is degraded”; and

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

4 “(D) MAINTENANCE OF OPERATING PER-
5 FORMANCE.—A facility that has become de-
6 graded shall be brought back into compliance
7 with the minimum average operating speed per-
8 formance standard by not later than 180 days
9 after the date on which the degradation is iden-
10 tified through changes to operation, including
11 the following:

12 “(i) Increase the occupancy require-
13 ment for HOVs.

14 “(ii) Increase the toll charged for ve-
15 hicles allowed under subsection (b) to re-
16 duce demand.

17 “(iii) Charge tolls to any class of vehi-
18 cle allowed under subsection (b) that is not
19 already subject to a toll.

20 “(iv) Limit or discontinue allowing ve-
21 hicles under subsection (b).

22 “(v) Increase the available capacity of
23 the HOV facility.

24 “(E) COMPLIANCE.—If the State fails to
25 bring a facility into compliance under subpara-

1 graph (D), the Secretary shall subject the State
2 to appropriate program sanctions under section
3 1.36 of title 23, Code of Federal Regulations
4 (or successor regulations), until the perform-
5 ance is no longer degraded.”.

6 **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

11 “(a) IN GENERAL.—In accordance with the obliga-
12 tion process established pursuant to section 149(j)(4), a
13 State shall expend amounts required to be obligated for
14 this section to install diesel emission control technology
15 on covered equipment, with an engine that does not meet
16 current model year new engine standards for particulate
17 matter for the applicable engine power group issued by
18 the Environmental Protection Agency, on a covered high-
19 way construction project within a PM_{2.5} nonattainment or
20 maintenance area. Covered equipment repowered or ret-
21 rofit with diesel exhaust control technology installed dur-
22 ing the 6-year period ending on the date on which the
23 prime contract was awarded for the covered highway con-
24 struction project and equipment that meets the Environ-

1 mental Protection Agency Tier 4 emission standards may
2 be exempt from the requirements of this section.

3 “(b) DEFINITIONS.—In this section, the following
4 definitions apply:

5 “(1) COVERED EQUIPMENT.—The term ‘cov-
6 ered equipment’ means any nonroad diesel equip-
7 ment or on-road diesel equipment that is operated
8 on a covered highway construction project for not
9 less than 80 hours over the life of the project.

10 “(2) COVERED HIGHWAY CONSTRUCTION
11 PROJECT.—

12 “(A) IN GENERAL.—The term ‘covered
13 highway construction project’ means a highway
14 construction project carried out under this title
15 or any other Federal law which is funded in
16 whole or in part with Federal funds.

17 “(B) EXCLUSIONS.—Any project with a
18 total budgeted cost not to exceed \$5,000,000
19 may be excluded from the requirements of this
20 section by an applicable State or metropolitan
21 planning organization.

22 “(3) DIESEL EMISSION CONTROL TECH-
23 NOLOGY.—The term ‘diesel emission control tech-
24 nology’ means a technology that—

25 “(A) is—

1 “(i) a diesel exhaust control tech-
2 nology;

3 “(ii) a diesel engine upgrade;

4 “(iii) a diesel engine repower;

5 “(iv) an idle reduction control tech-
6 nology; or

7 “(v) any combination of the tech-
8 nologies listed in clauses (i) through (iv);

9 “(B) reduces particulate matter emission
10 from covered equipment by—

11 “(i) not less than 85 percent control
12 of any emission of particulate matter; or

13 “(ii) the maximum achievable reduc-
14 tion of any emission of particulate matter,
15 taking cost and safety into account; and

16 “(C) is installed on and operated with the
17 covered equipment while the equipment is oper-
18 ated on a covered highway construction project
19 and that remains operational on the covered
20 equipment for the useful life of the control tech-
21 nology or equipment.

22 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
23 tity’ means an entity (including a subcontractor of
24 the entity) that has entered into a prime contract or

1 agreement with a State to carry out a covered high-
2 way construction project.

3 “(5) NONROAD DIESEL EQUIPMENT.—

4 “(A) IN GENERAL.—The term ‘nonroad
5 diesel equipment’ means a vehicle, including
6 covered equipment, that is—

7 “(i) powered by a nonroad diesel en-
8 gine of not less than 50 horsepower; and

9 “(ii) not intended for highway use.

10 “(B) INCLUSIONS.—The term ‘nonroad
11 diesel equipment’ includes a backhoe, bulldozer,
12 compressor, crane, excavator, generator, and
13 similar equipment.

14 “(C) EXCLUSIONS.—The term ‘nonroad
15 diesel equipment’ does not include a locomotive
16 or marine vessel.

17 “(6) ON-ROAD DIESEL EQUIPMENT.—The term
18 ‘on-road diesel equipment’ means any self-propelled
19 vehicle that—

20 “(A) operates on diesel fuel;

21 “(B) is designed to transport persons or
22 property on a street or highway; and

23 “(C) has a gross vehicle weight rating of at
24 least 14,000 pounds.

1 “(7) $PM_{2.5}$ NONATTAINMENT OR MAINTENANCE
2 AREA.—The term ‘ $PM_{2.5}$ nonattainment or mainte-
3 nance area’ means a nonattainment or maintenance
4 area designated under section 107(d)(6) of the
5 Clean Air Act (42 U.S.C. 7407(d)(6)).

6 “(c) CRITERIA ELIGIBLE ACTIVITIES.—For purposes
7 of subsection (b)(3)(A):

8 “(1) DIESEL EXHAUST CONTROL TECH-
9 NOLOGY.—For a diesel exhaust control technology,
10 the technology shall be—

11 “(A) installed on a diesel engine or vehicle;

12 “(B) a verified technology (as defined in
13 section 791 of the Energy Policy Act of 2005
14 (42 U.S.C. 16131)), for nonroad vehicles and
15 nonroad engines (as defined in section 216 of
16 the Clean Air Act (42 U.S.C. 7550)); and

17 “(C) certified by the installer as having
18 been installed in accordance with the specifica-
19 tions included on the list published pursuant to
20 section 149(f)(2), as in effect on the day before
21 the date of enactment of the MAP-21, for
22 achieving a reduction in particulate matter.

23 “(2) DIESEL ENGINE UPGRADE.—For a diesel
24 engine upgrade, the upgrade shall be performed on
25 an engine that is—

1 “(A) rebuilt using new or manufactured
2 components that collectively qualify as verified
3 technologies (as defined in section 791 of the
4 Energy Policy Act of 2005 (42 U.S.C. 16131)),
5 for nonroad vehicles and nonroad engines (as
6 defined in section 216 of the Clean Air Act (42
7 U.S.C. 7550)); and

8 “(B) certified by the installer to have been
9 installed in accordance with the specifications
10 included on the list published pursuant to sec-
11 tion 149(f)(2), as in effect on the day before
12 the date of enactment of the MAP-21, for
13 achieving a reduction in particulate matter.

14 “(3) DIESEL ENGINE REPOWER.—For a diesel
15 engine repower, the repower shall be conducted
16 using a new or remanufactured diesel engine that
17 is—

18 “(A) installed as a replacement for an en-
19 gine used in the existing equipment, subject to
20 the condition that the replaced engine is re-
21 turned to the supplier for remanufacturing to a
22 more stringent set of engine emissions stand-
23 ards or for use as scrap; and

24 “(B) meeting a more stringent engine par-
25 ticulate matter emission standard for the appli-

1 cable engine power group established by the
2 Environmental Protection Agency than the en-
3 gine particulate matter emission standard appli-
4 cable to the replaced engine.

5 “(4) IDLE REDUCTION CONTROL TECH-
6 NOLOGY.—For an idle reduction control technology,
7 the technology shall be—

8 “(A) installed on a diesel engine or vehicle;

9 “(B) a verified technology (as defined in
10 section 791 of the Energy Policy Act of 2005
11 (42 U.S.C. 16131)), for nonroad vehicles and
12 nonroad engines (as defined in section 216 of
13 the Clean Air Act (42 U.S.C. 7550)); and

14 “(C) certified by the installer as having
15 been installed in accordance with the specifica-
16 tions included on the list published pursuant to
17 section 149(f)(2), as in effect on the day before
18 the date of enactment of the MAP-21, for
19 achieving a reduction in particulate matter.

20 “(d) ELIGIBILITY FOR CREDITS.—

21 “(1) IN GENERAL.—A State may take credit in
22 a State implementation plan for national ambient air
23 quality standards for any emission reductions that
24 result from the implementation of this section.

1 “(2) CREDITING.—An emission reduction de-
2 scribed in paragraph (1) may be credited toward
3 demonstrating conformity of State implementation
4 plans and transportation plans.”.

5 (b) SAVINGS CLAUSE.—Nothing in this section modi-
6 fies or otherwise affects any authority or restrictions es-
7 tablished under the Clean Air Act (42 U.S.C. 7401 et
8 seq.).

9 (c) REPORT TO CONGRESS.—

10 (1) IN GENERAL.—Not later than 2 years after
11 the date of enactment of this Act, the Secretary of
12 Transportation shall submit to the Committee on
13 Transportation and Infrastructure of the House of
14 Representatives and the Committee on Environment
15 and Public Works of the Senate a report that de-
16 scribes the manners in which section 330 of title 23,
17 United States Code (as added by subsection (a)) has
18 been implemented, including the quantity of covered
19 equipment serviced under those sections and the
20 costs associated with servicing the covered equip-
21 ment.

22 (2) INFORMATION FROM STATES.—The Sec-
23 retary shall require States and recipients, as a con-
24 dition of receiving amounts under this Act or under
25 the provisions of any amendments made by this Act,

1 to submit to the Secretary any information that the
 2 Secretary determines necessary to complete the re-
 3 port under paragraph (1).

4 (d) **TECHNICAL AMENDMENT.**—The analysis for
 5 chapter 3 of title 23, United States Code, is amended by
 6 adding at the end the following:

“330. Construction equipment and vehicles.”.

7 **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
 8 **AND OVERPASSES.**

9 Section 1805(a) of the SAFETEA–LU (23 U.S.C.
 10 144 note; 119 Stat. 1459) is amended by striking “high-
 11 way bridge replacement and rehabilitation program under
 12 section 144” and inserting “national highway performance
 13 program under section 119”.

14 **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
 15 **EMPTION FROM AXLE WEIGHT RESTRIC-**
 16 **TIONS.**

17 Section 1023(h) of the Intermodal Surface Transpor-
 18 tation Efficiency Act of 1991 (23 U.S.C. 127 note; Public
 19 Law 102–388) is amended—

20 (1) in the heading of paragraph (1) by striking
 21 “TEMPORARY EXEMPTION” and inserting “EXEMP-
 22 TION”;

23 (2) in paragraph (1) by striking “, for the pe-
 24 riod beginning on October 6, 1992, and ending on
 25 October 1, 2009,”; and

1 (2) by striking “one hundred and eighty days
2 prior to” and inserting “90 days before”.

3 (c) REPLACEMENT HOUSING FOR TENANTS AND
4 CERTAIN OTHERS.—Section 204 of the Uniform Reloca-
5 tion Assistance and Real Property Acquisition Policies Act
6 of 1970 (42 U.S.C. 4624) is amended—

7 (1) in the second sentence of subsection (a) by
8 striking “\$5,250” and inserting “\$7,200, as ad-
9 justed by regulation, in accordance with section
10 213(d)”; and

11 (2) in the second sentence of subsection (b) by
12 striking “, except” and all that follows through the
13 end of the subsection and inserting a period.

14 (d) DUTIES OF LEAD AGENCY.—Section 213 of the
15 Uniform Relocation Assistance and Real Property Acquisi-
16 tion Policies Act of 1970 (42 U.S.C. 4633) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (2) by striking “and” at
19 the end;

20 (B) in paragraph (3) by striking the period
21 at the end and inserting “; and”; and

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

23 “(4) that each Federal agency that has pro-
24 grams or projects requiring the acquisition of real
25 property or causing a displacement from real prop-

1 erty subject to the provisions of this Act shall pro-
2 vide to the lead agency an annual summary report
3 the describes the activities conducted by the Federal
4 agency.”; and

5 (2) by adding at the end the following:

6 “(d) **ADJUSTMENT OF PAYMENTS.**—The head of the
7 lead agency may adjust, by regulation, the amounts of re-
8 location payments provided under sections 202(a)(4),
9 202(c), 203(a), and 204(a) if the head of the lead agency
10 determines that cost of living, inflation, or other factors
11 indicate that the payments should be adjusted to meet the
12 policy objectives of this Act.”.

13 (e) **AGENCY COORDINATION.**—Title II of the Uni-
14 form Relocation Assistance and Real Property Acquisition
15 Policies Act of 1970 is amended by inserting after section
16 213 (42 U.S.C. 4633) the following:

17 **“SEC. 214. AGENCY COORDINATION.**

18 “(a) **AGENCY CAPACITY.**—Each Federal agency re-
19 sponsible for funding or carrying out relocation and acqui-
20 sition activities shall have adequately trained personnel
21 and such other resources as are necessary to manage and
22 oversee the relocation and acquisition program of the Fed-
23 eral agency in accordance with this Act.

24 “(b) **INTERAGENCY AGREEMENTS.**—Not later than 1
25 year after the date of enactment of this section, each Fed-

1 eral agency responsible for funding relocation and acqui-
2 tion activities (other than the agency serving as the lead
3 agency) shall enter into a memorandum of understanding
4 with the lead agency that—

5 “(1) provides for periodic training of the per-
6 sonnel of the Federal agency, which in the case of
7 a Federal agency that provides Federal financial as-
8 sistance, may include personnel of any displacing
9 agency that receives Federal financial assistance;

10 “(2) addresses ways in which the lead agency
11 may provide assistance and coordination to the Fed-
12 eral agency relating to compliance with the Act on
13 a program or project basis; and

14 “(3) addresses the funding of the training, as-
15 sistance, and coordination activities provided by the
16 lead agency, in accordance with subsection (c).

17 “(c) INTERAGENCY PAYMENTS.—

18 “(1) IN GENERAL.—For the fiscal year that be-
19 gins 1 year after the date of enactment of this sec-
20 tion, and each fiscal year thereafter, each Federal
21 agency responsible for funding relocation and acqui-
22 sition activities (other than the agency serving as the
23 lead agency) shall transfer to the lead agency for the
24 fiscal year, such funds as are necessary, but not less
25 than \$35,000, to support the training, assistance,

1 and coordination activities of the lead agency de-
2 scribed in subsection (b).

3 “(2) INCLUDED COSTS.—The cost to a Federal
4 agency of providing the funds described in para-
5 graph (1) shall be included as part of the cost of 1
6 or more programs or projects undertaken by the
7 Federal agency or with Federal financial assistance
8 that result in the displacement of persons or the ac-
9 quisition of real property.”.

10 (f) COOPERATION WITH FEDERAL AGENCIES.—Sec-
11 tion 308 of title 23, United States Code, is amended by
12 striking subsection (a) and inserting the following:

13 “(a) AUTHORIZED ACTIVITIES.—

14 “(1) IN GENERAL.—The Secretary may per-
15 form, by contract or otherwise, authorized engineer-
16 ing or other services in connection with the survey,
17 construction, maintenance, or improvement of high-
18 ways for other Federal agencies, cooperating foreign
19 countries, and State cooperating agencies.

20 “(2) INCLUSIONS.—Services authorized under
21 paragraph (1) may include activities authorized
22 under section 214 of the Uniform Relocation Assist-
23 ance and Real Property Acquisition Policies Act of
24 1970.

1 “(3) REIMBURSEMENT.—Reimbursement for
2 services carried out under this subsection (including
3 depreciation on engineering and road-building equip-
4 ment) shall be credited to the applicable appropria-
5 tion.”.

6 (g) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall take effect on the date of enactment of this
10 Act.

11 (2) EXCEPTION.—The amendments made by
12 subsections (a) through (c) shall take effect 2 years
13 after the date of enactment of this Act.

14 **SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION**
15 **CORPS.**

16 (a) IN GENERAL.—The Secretary shall encourage the
17 States and regional transportation planning agencies to
18 enter into contracts and cooperative agreements with
19 qualified youth service or conservation corps, as defined
20 in sections 122(a)(2) of Public Law 101–610 (42 U.S.C.
21 12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42
22 U.S.C. 12656(c)(3)) to perform—

23 (1) appropriate projects eligible under sections
24 162, 206, and 217 of title 23, United States Code;

1 (2) appropriate transportation enhancement ac-
2 tivities, as defined under section 101(a) of such title;

3 (3) appropriate byway, trail, or bicycle and pe-
4 destrian projects under sections 202, 203, and 204
5 of such title; and

6 (4) appropriate safe routes to school projects
7 under section 1404 of the SAFETEA-LU (119
8 Stat. 1228).

9 (b) REQUIREMENTS.—Under any contract or cooper-
10 ative agreement entered into with a qualified youth service
11 or conservation corps under this section, the Secretary
12 shall—

13 (1) set the amount of a living allowance or rate
14 of pay for each participant in such corps at—

15 (A) such amount or rate as required under
16 State law in a State with such requirements; or

17 (B) for corps in States not described in
18 subparagraph (A), at such amount or rate as
19 determined by the Secretary, not to exceed the
20 maximum living allowance authorized by section
21 140 of Public Law 101–610 (42 U.S.C. 12594);
22 and

23 (2) not subject such corps to the requirements
24 of section 112 of title 23, United States Code.

1 **SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OB-**
2 **SOLETE PROVISIONS.**

3 (a) CONSOLIDATION OF PROGRAMS.—From adminis-
4 trative funds made available under section 104(a) of title
5 23, United States Code, not less than \$15,000,000 for
6 each of fiscal years 2012 and 2013 shall be made available
7 for the following activities:

8 (1) To carry out the operation lifesaver pro-
9 gram—

10 (A) to provide public information and edu-
11 cation programs to help prevent and reduce
12 motor vehicle accidents, injuries, and fatalities;
13 and

14 (B) to improve driver performance at rail-
15 way-highway crossings.

16 (2) To operate the national work zone safety in-
17 formation clearinghouse authorized by section
18 358(b)(2) of the National Highway System Designa-
19 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.
20 625)

21 (3) To operate a public road safety clearing-
22 house in accordance with section 1411(a) of the
23 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
24 1234).

25 (4) To operate a bicycle and pedestrian safety
26 clearinghouse in accordance with section 1411(b) of

1 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
2 1234).

3 (5) To operate a national safe routes to school
4 clearinghouse in accordance with section 1404(g) of
5 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
6 1229).

7 (6) To provide work zone safety grants in ac-
8 cordance with subsections (a) and (b) of section
9 1409 of the SAFETEA-LU (23 U.S.C. 401 note;
10 119 Stat. 1232).

11 (7) To provide grants to prohibit racial
12 profiling in accordance with section 1906 of the
13 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
14 1468).

15 (b) REPEALS.—Sections 105, 110, 117, 124, 151,
16 155, 160, and 303 of title 23, United States Code, are
17 repealed.

18 (c) CONFORMING AMENDMENTS.—

19 (1) TITLE ANALYSIS.—The analysis for title 23,
20 United States Code, is amended by striking the
21 items relating to sections 105, 110, 117, 124, 151,
22 155, 160, and 303 of that title.

23 (2) SECTION 118.—Section 118 of such title is
24 amended—

25 (A) in subsection (b)—

1 (i) by striking paragraph (1) and all
2 that follows through the heading of para-
3 graph (2); and

4 (ii) by striking “(other than for Inter-
5 state construction)”;

6 (B) by striking subsection (c); and

7 (C) by redesignating subsections (d) and
8 (e) as subsections (c) and (d), respectively.

9 (3) SECTION 130.—Section 130 of such title is
10 amended—

11 (A) by striking subsections (e) through (h);

12 (B) by redesignating subsection (i) as sub-
13 section (e);

14 (C) by striking subsections (j) and (k);

15 (D) by redesignating subsection (l) as sub-
16 section (f);

17 (E) in subsection (e) (as so redesignated)
18 by striking “this section” the second place it ap-
19 pears and inserting “section 104(b)(3)”; and

20 (F) in subsection (f) (as so redesignated)
21 by striking paragraphs (3) and (4).

22 (4) SECTION 142.—Section 142 of title 23,
23 United States Code, is amended—

24 (A) in subsection (a)—

25 (i) in paragraph (1)—

1 (I) by striking “motor vehicles
2 (other than rail)” and inserting
3 “buses”;

4 (II) by striking “(hereafter in
5 this section referred to as ‘buses’)”;

6 (III) by striking “Federal-aid
7 systems” and inserting “Federal-aid
8 highways”; and

9 (IV) by striking “Federal-aid sys-
10 tem” and inserting “Federal-aid high-
11 way”; and

12 (ii) in paragraph (2)—

13 (I) by striking “as a project on
14 the the surface transportation pro-
15 gram for”; and

16 (II) by striking “section
17 104(b)(3)” and inserting “section
18 104(b)(2);

19 (B) in subsection (b) by striking
20 “104(b)(4)” and inserting “104(b)(1)”;

21 (C) in subsection (c)—

22 (i) by striking “system” in each place
23 it appears and inserting “highway”; and

1 (ii) by striking “highway facilities”
2 and inserting “highways eligible under the
3 program that is the source of the funds”;
4 (D) in subsection (e)(2)—

5 (i) by striking “Notwithstanding sec-
6 tion 209(f)(1) of the Highway Revenue Act
7 of 1956, the Highway Trust Fund shall be
8 available for making expenditures to meet
9 obligations resulting from projects author-
10 ized by subsection (a)(2) of this section
11 and such projects” and inserting “Projects
12 authorized by subsection (a)(2)”;

13 (ii) striking “on the surface transpor-
14 tation program” and inserting “under the
15 transportation mobility program”; and

16 (E) in subsection (f) by striking “exits”
17 and inserting “exists”.

18 (5) SECTION 145.—Section 145(b) of title 23,
19 United States Code, is amended by striking “section
20 117 of this title,”.

21 (6) SECTION 322.—Section 322(h)(3) of title
22 23, United States Code, is amended by striking
23 “surface transportation program” and inserting “the
24 transportation mobility program”.

1 (d) CERTAIN ALLOCATIONS.—Notwithstanding any
2 other provision of law, any unobligated balances of
3 amounts required to be allocated to a State by section
4 1307(d)(1) of the SAFETEA-LU (23 U.S.C. 322 note;
5 119 Stat. 1217; 122 Stat. 1577) shall instead be made
6 available to such State for any purpose eligible under sec-
7 tion 133(c) of title 23, United States Code.

8 **SEC. 1517. RESCISSIONS.**

9 (a) FISCAL YEAR 2012.—

10 (1) Not later than 30 days after the date of en-
11 actment of this Act, of the unobligated balances
12 available under sections 144(f) and 320 of title 23,
13 United States Code, section 147 of Public Law 95-
14 599 (23 U.S.C. 144 note; 92 Stat. 2714), section
15 9(c) of Public Law 97-134 (95 Stat. 1702), section
16 149 of Public Law 100-17 (101 Stat. 181), sections
17 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108,
18 6005, 6015, and 6023 of Public Law 102-240 (105
19 Stat. 1914), section 1602 of Public Law 105-178
20 (112 Stat. 256), sections 1301, 1302, 1702, and
21 1934 of Public Law 109-59 (119 Stat. 1144), and
22 of other funds apportioned to each State under
23 chapter 1 of title 23, United States Code, prior to
24 the date of enactment of this Act, \$2,391,000,000
25 are permanently rescinded.

1 (2) In administering the rescission required
2 under this subsection, the Secretary shall allow each
3 State to determine the amount of the required re-
4 scission to be drawn from the programs to which the
5 rescission applies.

6 (b) FISCAL YEAR 2013.—

7 (1) On October 1, 2012, of the unobligated bal-
8 ances of funds apportioned or allocated on or before
9 that date to each State under chapter 1 of title 23,
10 United States Code, \$3,054,000,000 are perma-
11 nently rescinded.

12 (2) Notwithstanding section 1132 of the Energy
13 Independence and Security Act of 2007 (Public Law
14 110–140; 121 Stat. 1763), in administering the re-
15 scission required under this subsection, the Sec-
16 retary shall allow each State to determine the
17 amount of the required rescission to be drawn from
18 the programs to which the rescission applies.

19 **SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELEC-**
20 **TION.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Secretary shall modify section 635.411 of
23 title 23, Code of Federal Regulations (as in effect on the
24 date of enactment of this Act), to ensure that States shall
25 have the autonomy to determine culvert and storm sewer

1 material types to be included in the construction of a
2 project on a Federal-aid highway.

3 **SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE**
4 **MEASURES.**

5 (a) LIMITED NUMBER OF PERFORMANCE MEAS-
6 URES.—In implementing provisions of this Act (including
7 the amendments made by this Act) and title 23, United
8 States Code (other than chapter 4 of that title), that au-
9 thorize the Secretary to develop performance measures,
10 the Secretary shall limit the number of performance meas-
11 ures established to the most significant and effective
12 measures.

13 (b) DIFFERENT APPROACHES FOR URBAN AND
14 RURAL AREAS.—In the development and implementation
15 of any performance target, a State may, as appropriate,
16 provide for different performance targets for urbanized
17 and rural areas.

18 **SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE**
19 **PROJECTS.**

20 (a) DEFINITIONS.—In this section:

21 (1) ELIGIBLE BRIDGE PROJECT.—The term
22 “eligible bridge project” means a project for con-
23 struction, alteration, or repair work on a bridge or
24 overpass funded directly by, or provided other assist-
25 ance through, the Federal Government.

1 (2) QUALIFIED TRAINING PROGRAM.—The term
2 “qualified training program” means a training pro-
3 gram that—

4 (A)(i) is certified by the Secretary of
5 Labor; and

6 (ii) with respect to an eligible bridge
7 project located in an area in which the Sec-
8 retary of Labor determines that a training pro-
9 gram does not exist, is registered with—

10 (I) the Department of Labor; or

11 (II) a State agency recognized by the
12 Department of Labor for purposes of a
13 Federal training program; or

14 (B) is a corrosion control, mitigation and
15 prevention personnel training program that is
16 offered by an organization whose standards are
17 recognized and adopted in other Federal or
18 State Departments of Transportation.

19 (3) SECRETARY.—The term “Secretary” means
20 the Secretary of Transportation.

21 (b) ELIGIBILITY REQUIREMENTS.—

22 (1) IN GENERAL.—Each contractor and subcon-
23 tractor that carries out any aspect of an eligible
24 bridge project described in paragraph (2) shall—

1 (A) before entering into the applicable con-
2 tract, be certified by the Secretary or a State,
3 in accordance with paragraph (4), as meeting
4 the eligibility requirements described in para-
5 graph (3); and

6 (B) remain certified as described in sub-
7 paragraph (A) while carrying out the applicable
8 aspect of the eligible bridge project.

9 (2) DESCRIPTION OF ASPECTS OF ELIGIBLE
10 BRIDGE PROJECTS.—An aspect of an eligible bridge
11 project referred to in paragraph (1) is—

12 (A) surface preparation or coating applica-
13 tion on bridge steel of an eligible bridge project;

14 (B) removal of a lead-based or other haz-
15 ardous coating from bridge steel of an existing
16 eligible bridge project;

17 (C) shop painting of structural steel fab-
18 ricated for installation on bridge steel of an eli-
19 gible bridge project; and

20 (D) the design, application, installation,
21 and maintenance of a cathodic protection sys-
22 tem.

23 (3) REQUIREMENTS.—The eligibility require-
24 ments referred to in paragraph (1) are that a con-
25 tractor or subcontractor shall—

1 (A) as determined by the Secretary—

2 (i) use corrosion mitigation and pre-
3 vention methods to preserve relevant
4 bridges and overpasses, taking into ac-
5 count—

6 (I) material selection;

7 (II) coating considerations;

8 (III) cathodic protection consid-
9 erations;

10 (IV) design considerations for
11 corrosion; and

12 (V) trained applicators;

13 (ii) use best practices—

14 (I) to prevent environmental deg-
15 radation; and

16 (II) to ensure careful handling of
17 all hazardous materials; and

18 (iii) demonstrate a history of employ-
19 ing industry-respected inspectors to ensure
20 funds are used in the interest of affected
21 taxpayers; and

22 (B) demonstrate a history of compliance
23 with applicable requirements of the Occupa-
24 tional Safety and Health Administration, as de-
25 termined by the Secretary of Labor.

1 (4) STATE CONSULTATION.—In determining
2 whether to certify a contractor or subcontractor
3 under paragraph (1)(A), a State shall consult with
4 engineers and other experts trained in accordance
5 with subsection (a)(2) specializing in corrosion con-
6 trol, mitigation, and prevention methods.

7 (c) OPTIONAL TRAINING PROGRAM.—As a condition
8 of entering into a contract for an eligible bridge project,
9 each contractor and subcontractor that performs construc-
10 tion, alteration, or repair work on a bridge or overpass
11 for the eligible bridge project may provide, or make avail-
12 able, training, through a qualified training program, for
13 each applicable craft or trade classification of employees
14 that the contractor or subcontractor intends to employ to
15 carry out aspects of eligible bridge projects as described
16 in subsection (b)(2).

17 **SEC. 1521. IDLE REDUCTION TECHNOLOGY.**

18 Section 127(a)(12) of title 23, United States Code,
19 is amended—

20 (1) in subparagraph (B), by striking “400” and
21 inserting “550”; and

22 (2) in subparagraph (C)(ii), by striking “400-
23 pound” and inserting “550-pound”.

1 **SEC. 1522. REPORT ON HIGHWAY TRUST FUND EXPENDI-**
2 **TURES.**

3 (a) INITIAL REPORT.—Not later than 150 days after
4 the date of enactment of this Act, the Comptroller General
5 of the United States shall submit to Congress a report
6 describing the activities funded from the Highway Trust
7 Fund during each of fiscal years 2009 through 2011, in-
8 cluding for purposes other than construction and mainte-
9 nance of highways and bridges.

10 (b) UPDATES.—Not later than 5 years after the date
11 on which the report is submitted under subsection (a) and
12 every 5 years thereafter, the Comptroller General of the
13 United States shall submit to Congress a report that up-
14 dates the information provided in the report under that
15 subsection for the applicable 5-year period.

16 (c) INCLUSIONS.—A report submitted under sub-
17 section (a) or (b) shall include information similar to the
18 information included in the report of the Government Ac-
19 countability Office numbered “GAO–09–729R” and enti-
20 tled “Highway Trust Fund Expenditures on Purposes
21 Other Than Construction and Maintenance of Highways
22 and Bridges During Fiscal Years 2004–2008”.

23 **SEC. 1523. EVACUATION ROUTES.**

24 Each State shall give adequate consideration to the
25 needs of evacuation routes in the State, including such
26 routes serving or adjacent to facilities operated by the

1 Armed Forces, when allocating funds apportioned to the
2 State under title 23, United States Code, for the construc-
3 tion of Federal-aid highways.

4 **SEC. 1524. DEFENSE ACCESS ROAD PROGRAM ENHANCE-**
5 **MENTS TO ADDRESS TRANSPORTATION IN-**
6 **FRASTRUCTURE IN THE VICINITY OF MILI-**
7 **TARY INSTALLATIONS.**

8 The second sentence of section 210(a)(2) of title 23,
9 United States Code, is amended by inserting “, in con-
10 sultation with the Secretary of Transportation,” before
11 “shall determine”.

12 **SEC. 1525. EXPRESS LANES DEMONSTRATION PROGRAM.**

13 Section 1604(b) of the SAFETEA-LU (23 U.S.C.
14 129 note; Public Law 109–59) is amended—

15 (1) in paragraph (1)(A)—

16 (A) in clause (ii), by inserting “and” after
17 the semicolon;

18 (B) by striking clause (iii); and

19 (C) by redesignating clause (iv) as clause
20 (iii); and

21 (2) in paragraph (2), by striking “2009” and
22 inserting “2013”.

23 **SEC. 1526. TREATMENT OF HISTORIC SIGNS.**

24 The Secretary shall, not later than 180 days after
25 the date of enactment of this Act, initiate a rulemaking

1 to exempt locally identified historic street name signs or
2 replicas of historic signs from complying with all or part
3 of section 2D.43 of the Manual on Uniform Traffic Con-
4 trol Devices.

5 **SEC. 1527. CONSOLIDATION OF GRANTS.**

6 (a) DEFINITIONS.—In this section, the term “recipi-
7 ent” means—

8 (1) a State, local, or tribal government, includ-
9 ing—

10 (A) a territory of the United States;

11 (B) a transit agency;

12 (C) a port authority;

13 (D) a metropolitan planning organization;

14 or

15 (E) any other political subdivision of a
16 State or local government;

17 (2) a multistate or multijurisdictional group, if
18 each member of the group is an entity described in
19 paragraph (1); and

20 (3) a public-private partnership, if both parties
21 are engaged in building the project.

22 (b) CONSOLIDATION.—

23 (1) IN GENERAL.—A recipient that receives
24 multiple grant awards from the Department to sup-
25 port 1 multimodal project may request that the Sec-

1 retary designate 1 modal administration in the De-
2 partment to be the lead administering authority for
3 the overall project.

4 (2) NEW STARTS.—Any project that includes
5 funds awarded under section 5309 of title 49,
6 United States Code, shall be exempt from consolida-
7 tion under this section unless the grant recipient re-
8 quests the Federal Transit Administration to be the
9 lead administering authority.

10 (3) REVIEW.—

11 (A) IN GENERAL.—Not later than 30 days
12 after the date on which a request under para-
13 graph (1) is made, the Secretary shall review
14 the request and approve or deny the designation
15 of a single modal administration as the lead ad-
16 ministering authority and point of contact for
17 the Department.

18 (B) NOTIFICATION.—

19 (i) IN GENERAL.—The Secretary shall
20 notify the requestor of the decision of the
21 Secretary under subparagraph (A) in such
22 form and at such time as the Secretary
23 and the requestor agree.

24 (ii) DENIAL.—If a request is denied,
25 the Secretary shall provide the requestor

1 with a detailed explanation of the rea-
2 soning of the Secretary with the notifica-
3 tion under clause (i).

4 (c) DUTIES.—

5 (1) IN GENERAL.—A modal administration des-
6 ignated as a lead administering authority under this
7 section shall—

8 (A) be responsible for leading and coordi-
9 nating the integrated project management
10 team, which shall consist of all of the other
11 modal administrations in the Department relat-
12 ing to the multimodal project; and

13 (B) to the extent feasible during the first
14 30 days of carrying out the multimodal project,
15 identify overlapping or duplicative regulatory
16 requirements that exist for the project and pro-
17 pose a single, streamlined approach to meeting
18 all of the applicable regulatory requirements
19 through the activities described in subsection
20 (d).

21 (2) ADMINISTRATION.—

22 (A) IN GENERAL.—The Secretary shall
23 transfer all amounts that have been awarded
24 for the multimodal project to the modal admin-

1 istration designated as the lead administering
2 authority.

3 (B) OPTION.—

4 (i) IN GENERAL.—Participation under
5 this section shall be optional for recipients,
6 and no recipient shall be required to par-
7 ticipate.

8 (ii) SECRETARIAL DUTIES.—The Sec-
9 retary is not required to identify every re-
10 cipient that may be eligible to participate
11 under this section.

12 (d) COOPERATION.—

13 (1) IN GENERAL.—The Secretary and modal
14 administrations with relevant jurisdiction over a
15 multimodal project should cooperate on project re-
16 view and delivery activities at the earliest practicable
17 time.

18 (2) PURPOSES.—The purposes of the coopera-
19 tion under paragraph (1) are—

20 (A) to avoid delays and duplication of ef-
21 fort later in the process;

22 (B) to prevent potential conflicts; and

23 (C) to ensure that planning and project de-
24 velopment decisions are made in a streamlined
25 manner and consistent with applicable law.

1 (e) APPLICABILITY.—Nothing in this section shall—

2 (1) supersede, amend, or modify the National
3 Environmental Policy Act of 1969 (42 U.S.C. 4321
4 et seq.) or any other Federal environmental law; or

5 (2) affect the responsibility of any Federal offi-
6 cer to comply with or enforce any law described in
7 paragraph (1).

8 **SEC. 1528. BUY AMERICA PROVISIONS.**

9 Section 313 of title 23, United States Code, is
10 amended by adding at the end the following:

11 “(g) APPLICATION TO HIGHWAY PROGRAMS.—The
12 requirements under this section shall apply to all contracts
13 eligible for assistance under this chapter for a project car-
14 ried out within the scope of the applicable finding, deter-
15 mination, or decision under the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless
17 of the funding source of such contracts, if at least 1 con-
18 tract for the project is funded with amounts made avail-
19 able to carry out this title.”.

20 **SEC. 1529. EXEMPTIONS FROM REQUIREMENTS FOR CER-**
21 **TAIN FARM VEHICLES.**

22 (a) FEDERAL REQUIREMENTS.—A covered farm ve-
23 hicle, including the individual operating that vehicle, shall
24 be exempt from the following:

1 (1) Any requirement relating to commercial
2 driver's licenses established under chapter 313 of
3 title 49, United States Code.

4 (2) Any requirement relating to medical certifi-
5 cates established under—

6 (A) subchapter III of chapter 311 of title
7 49, United States Code; or

8 (B) chapter 313 of title 49, United States
9 Code.

10 (3) Any requirement relating to hours of service
11 established under—

12 (A) subchapter III of chapter 311 of title
13 49, United States Code; or

14 (B) chapter 315 of title 49, United States
15 Code.

16 (4) Any requirement relating to vehicle inspec-
17 tion, repair, and maintenance established under—

18 (A) subchapter III of chapter 311 of title
19 49, United States Code; or

20 (B) chapter 315 of title 49, United States
21 Code.

22 (b) STATE REQUIREMENTS.—

23 (1) IN GENERAL.—Federal transportation fund-
24 ing to a State may not be terminated, limited, or
25 otherwise interfered with as a result of the State ex-

1 emptying a covered farm vehicle, including the indi-
 2 vidual operating that vehicle, from any State re-
 3 quirement relating to the operation of that vehicle.

4 (2) EXCEPTION.—Paragraph (1) does not apply
 5 with respect to a covered farm vehicle transporting
 6 hazardous materials that require a placard.

7 (3) STATE REQUIREMENTS.—Notwithstanding
 8 section (a) or any other provision of law, a State
 9 may enact and enforce safety requirements related
 10 to covered farm vehicles.

11 (c) COVERED FARM VEHICLE DEFINED.—

12 (1) IN GENERAL.—In this section, the term
 13 “covered farm vehicle” means a motor vehicle (in-
 14 cluding an articulated motor vehicle)—

15 (A) that—

16 (i) is traveling in the State in which
 17 the vehicle is registered or another State;

18 (ii) is operated by—

19 (I) a farm owner or operator;

20 (II) a ranch owner or operator;

21 or

22 (III) an employee or family mem-
 23 ber of an individual specified in sub-
 24 clause (I) or (II);

1 (iii) is transporting to or from a farm
2 or ranch—

3 (I) agricultural commodities;

4 (II) livestock; or

5 (III) machinery or supplies;

6 (iv) except as provided in paragraph
7 (2), is not used in the operations of a for-
8 hire motor carrier; and

9 (v) is equipped with a special license
10 plate or other designation by the State in
11 which the vehicle is registered to allow for
12 identification of the vehicle as a farm vehi-
13 cle by law enforcement personnel; and

14 (B) that has a gross vehicle weight rating
15 or gross vehicle weight, whichever is greater,
16 that is—

17 (i) 26,001 pounds or less; or

18 (ii) greater than 26,001 pounds and
19 traveling within the State or within 150 air
20 miles of the farm or ranch with respect to
21 which the vehicle is being operated.

22 (2) INCLUSION.—In this section, the term “cov-
23 ered farm vehicle” includes a motor vehicle that
24 meets the requirements of paragraph (1) (other than
25 paragraph (1)(A)(iv)) and is—

1 (A) operated pursuant to a crop share
2 farm lease agreement;

3 (B) owned by a tenant with respect to that
4 agreement; and

5 (C) transporting the landlord's portion of
6 the crops under that agreement.

7 (d) SAFETY STUDY.—The Secretary shall conduct a
8 study of the exemption required by section (a) as follows—

9 (1) Data and analysis of covered farm vehicles
10 shall include:

11 (A) the number of vehicles that are oper-
12 ated subject to each of the regulatory exemp-
13 tions permitted under section (a);

14 (B) the number of drivers that operate
15 covered farm vehicles subject to each of the reg-
16 ulatory exemptions permitted under section (a);

17 (C) the number of crashes involving cov-
18 ered farm vehicles;

19 (D) the number of occupants and non-oc-
20 cupants injured in crashes involving covered
21 farm vehicles;

22 (E) the number of fatalities of occupants
23 and non-occupants killed in crashes involving
24 farm vehicles;

1 (F) crash investigations and accident re-
2 construction investigations of all fatalities in
3 crashes involving covered farm vehicles;

4 (G) overall operating mileage of covered
5 farm vehicles;

6 (H) numbers of covered farm vehicles that
7 operate in neighboring states; and

8 (I) any other data the Secretary deems
9 necessary to analyze and include.

10 (2) A listing of state regulations issued and
11 maintained in each state that are identical to the
12 federal regulations that are subject to exemption in
13 section (a).

14 (3) The Secretary shall report the findings of
15 the study to the appropriate committees of the Con-
16 gress not later than 18 months after enactment of
17 MAP-21.

18 **SEC. 1530. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**

19 **TEM.**

20 (a) SENSE OF THE SENATE.—It is the Sense of the
21 Senate that the timely completion of the Appalachian de-
22 velopment highway system is a transportation priority in
23 the national interest.

24 (b) MODIFIED FEDERAL SHARE FOR PROJECTS ON
25 ADHS.—For fiscal years 2012 through 2021, the Federal

1 share payable for the cost of constructing highways and
2 access roads on the Appalachian development highway sys-
3 tem under section 14501 of title 40, United States Code,
4 with funds made available to a State for fiscal year 2012
5 or a previous fiscal year for the Appalachian development
6 highway system program, or with funds made available for
7 fiscal year 2012 or a previous fiscal year for a specific
8 project, route, or corridor on that system, shall be 95 per-
9 cent.

10 (c) FEDERAL SHARE FOR OTHER FUNDS USED ON
11 ADHS.—For fiscal years 2012 through 2021, the Federal
12 share payable for the cost of constructing highways and
13 access roads on the Appalachian development highway sys-
14 tem under section 14501 of title 40, United States Code,
15 with Federal funds apportioned to a State for a program
16 other than the Appalachian development highway system
17 program shall be 95 percent.

18 (d) COMPLETION PLAN.—Not later than 1 year after
19 the date of enactment of the MAP-21, each State rep-
20 resented on the Appalachian Regional Commission shall
21 establish a plan for the completion of the designated cor-
22 ridors of the Appalachian development highway system
23 within the State, including annual performance targets,
24 with a target completion date.

1 **SEC. 1531. DENALI COMMISSION.**

2 The Denali Commission Act of 1998 (42 U.S.C. 3121
3 note) is amended—

4 (1) in section 305, by striking subsection (c)
5 and inserting the following:

6 “(c) GIFTS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), the Commission, on behalf of the United
9 States, may accept use, and dispose of gifts or dona-
10 tions of services, property, or money for purposes of
11 carrying out this Act.

12 “(2) CONDITIONAL.—With respect to condi-
13 tional gifts—

14 “(A)(i) the Commission, on behalf of the
15 United States, may accept conditional gifts for
16 purposes of carrying out this Act, if approved
17 by the Federal Cochairperson; and

18 “(ii) the principal of and income from any
19 such conditional gift shall be held, invested, re-
20 invested, and used in accordance with the con-
21 dition applicable to the gift; but

22 “(B) no gift shall be accepted that is con-
23 ditioned on any expenditure not to be funded
24 from the gift or from the income generated by
25 the gift unless the expenditure has been ap-
26 proved by Act of Congress.”; and

1 (2) by adding at the end the following:

2 **“SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL**
3 **AGENCIES.**

4 “(a) IN GENERAL.—Subject to subsection (c), for
5 purposes of this Act, the Commission may accept transfers
6 of funds from other Federal agencies.

7 “(b) TRANSFERS.—Any Federal agency authorized to
8 carry out an activity that is within the authority of the
9 Commission may transfer to the Commission any appro-
10 priated funds for the activity.

11 “(c) TREATMENT.—Any funds transferred to the
12 Commission under this subsection—

13 “(1) shall remain available until expended; and

14 “(2) may, to the extent necessary to carry out
15 this Act, be transferred to, and merged with, the
16 amounts made available by appropriations Acts for
17 the Commission by the Federal Cochairperson.”.

18 **SEC. 1532. UPDATED CORROSION CONTROL AND PREVEN-**
19 **TION REPORT.**

20 Not later than 30 months after the date of enactment
21 of this Act, the Secretary shall submit to Congress an up-
22 dated report on the costs and benefits of the prevention
23 and control of corrosion on the surface transportation in-
24 frastructure of the United States.

1 **SEC. 1533. HARBOR MAINTENANCE TRUST FUND.**

2 (a) FINDINGS.—Congress finds that—

3 (1) there are 926 coastal, Great Lakes, and in-
4 land harbors maintained by the Corps of Engineers;

5 (2) according to the Bureau of Transportation
6 Statistics—

7 (A) in 2009, the ports and waterways of
8 the United States handled more than
9 2,200,000,000 short tons of imports, exports,
10 and domestic shipments; and

11 (B) in 2010, United States ports were re-
12 sponsible for more than \$1,400,000,000,000 in
13 waterborne imports and exports;

14 (3) according to the Congressional Research
15 Service, full channel dimensions are, on average,
16 available approximately $\frac{1}{3}$ of the time at the 59 har-
17 bors of the United States with the highest use rates;

18 (4) insufficient maintenance dredging of the
19 navigation channels of the United States results in
20 inefficient water transportation and causes harmful
21 economic consequences;

22 (5) in 1986, Congress created the Harbor
23 Maintenance Trust Fund to provide funds for the
24 operation and maintenance of the navigation chan-
25 nels of the United States;

1 (6) in fiscal year 2012, the Harbor Maintenance Trust Fund is expected to grow from
2 \$6,280,000,000 to \$7,011,000,000, an increase of
3 approximately 13 percent;

4 (7) despite the growth of the Harbor Maintenance Trust Fund, expenditures from the Fund have
5 not equaled revenues, and the Fund is not being
6 fully used for the intended purpose of the Fund; and

7 (8) inadequate investment in dredging needs is
8 restricting access to the ports of the United States
9 for domestic shipping, imports, and exports and
10 therefore threatening the economic competitiveness
11 of the United States.

12 (b) SENSE OF THE SENATE.—It is the sense of the
13 Senate that—

14 (1) the Administration should request full use
15 of the Harbor Maintenance Trust Fund for oper-
16 ating and maintaining the navigation channels of the
17 United States;

18 (2) the amounts in the Harbor Maintenance
19 Trust Fund should be fully expended to operate and
20 maintain the navigation channels of the United
21 States; and

22 (3) Congress should ensure that other pro-
23 grams, projects, and activities of the Civil Works
24

1 Program of the Corps of Engineers, especially those
2 programs, projects, and activities relating to inland
3 navigation and flood control, are not adversely im-
4 pacted.

5 **SEC. 1534. ENRICHMENT TECHNOLOGY AND INTELLEC-**
6 **TUAL PROPERTY.**

7 (a) In addition to any other transfer authority, the
8 Secretary may transfer, not earlier than thirty days after
9 certification to the Committees on Appropriations of the
10 House of Representatives and the Senate that such trans-
11 fer is needed for national security reasons, and after Con-
12 gressional notification and approval of the Committees on
13 Appropriations of the House of Representatives and the
14 Senate, up to \$150,000,000 made available in prior Ap-
15 propriations Acts to further the development and dem-
16 onstration of national security-related enrichment tech-
17 nologies. No amounts may be transferred under this sec-
18 tion from amounts that were designated by the Congress
19 as an emergency requirement pursuant to the Concurrent
20 Resolution on the Budget or the Balanced Budget and
21 Emergency Deficit Control Act of 1985, as amended.

22 (b) The Secretary shall provide, directly or indirectly,
23 Federal funds, resources, or other benefit for the research,
24 development, or deployment of domestic enrichment tech-
25 nology under this section—

1 (1) using merit selection procedures; and

2 (2) only if the Secretary shall execute an agree-
3 ment with the recipient (or any affiliate, successor,
4 or assignee) of such funds, resources, or other ben-
5 efit (hereinafter referred to as the “recipient”),
6 which shall require, at a minimum—

7 (A) the achievement of specific technical
8 criteria by the recipient by specific dates no
9 later than June 30, 2014;

10 (B) that the recipient shall—

11 (i) immediately upon execution of the
12 agreement, grant to the United States for
13 use by or on behalf of the United States,
14 through the Secretary, a royalty-free, non-
15 exclusive license in all enrichment-related
16 intellectual property and associated tech-
17 nical data owned, licensed or otherwise
18 controlled by the recipient as of the date of
19 enactment of this Act, or thereafter devel-
20 oped or acquired to meet the requirements
21 of the agreement;

22 (ii) amend any existing agreement be-
23 tween the Secretary and the recipient to
24 permit the Secretary to practice or permit
25 third parties on behalf of the Secretary to

1 practice intellectual property and associ-
2 ated technical data related to the award of
3 funds, resources, or other benefit royalty-
4 free for government purposes, including
5 completing or operating enrichment tech-
6 nologies and using them for national de-
7 fense purposes, such as providing nuclear
8 material to operate commercial nuclear
9 power reactors for tritium production; and

10 (iii) as soon as practicable, deliver to
11 the Secretary all technical information and
12 other documentation in its possession or
13 control necessary to permit the Secretary
14 to use and practice all intellectual property
15 related to domestic enrichment tech-
16 nologies; and

17 (C) any other condition or restriction the
18 Secretary determines is necessary to protect the
19 interests of the United States.

20 (e) If the Secretary determines that a recipient has
21 not achieved the technical criteria under the agreement
22 pursuant to subsection (b), either by the dates specified
23 in the original agreement or by June 30, 2014, whichever
24 is earlier, the recipient shall, as soon as practicable, sur-
25 render custody, possession and control, or return, as ap-

1 appropriate, any real or personal property owned or leased
2 by the recipient, to the Secretary in connection with the
3 deployment of enrichment technology, along with all cap-
4 ital improvements, equipment, fixtures, appurtenances,
5 and other improvements thereto, and any further obliga-
6 tion by the Secretary under any such lease shall terminate.

7 (d)(1) The limitations in this section shall apply to
8 funds made available in this Act, prior Appropriations
9 Acts, and any future Appropriations Acts.

10 (2) This section shall not apply with regard to
11 the issuance of any loan guarantee pursuant to sec-
12 tion 1703 of the Energy Policy Act of 2005 (42
13 U.S.C. 16513).

14 (e) For purpose of this section, the term “Secretary”
15 shall mean the Secretary of the Department of Energy.

16 **SEC. 1535. SENSE OF SENATE CONCERNING EXPEDITIOUS**
17 **COMPLETION OF ENVIRONMENTAL REVIEWS,**
18 **APPROVALS, LICENSING, AND PERMIT RE-**
19 **QUIREMENTS.**

20 It is the sense of the Senate that Federal agencies
21 should—

22 (1) ensure that all applicable environmental re-
23 views, approvals, licensing, and permit requirements
24 under Federal law are completed on an expeditious

1 basis following any disaster or emergency declared
 2 under Federal law, including—

3 (A) a major disaster declared by the Presi-
 4 dent under section 401 of the Robert T. Staf-
 5 ford Disaster Relief and Emergency Assistance
 6 Act (42 U.S.C. 5170); and

7 (B) an emergency declared by the Presi-
 8 dent under section 501 of the Robert T. Staf-
 9 ford Disaster Relief and Emergency Assistance
 10 Act (42 U.S.C. 5191); and

11 (2) use the shortest existing applicable process
 12 under Federal law to complete each review, approval,
 13 licensing, and permit requirement described in para-
 14 graph (1) following a disaster or emergency de-
 15 scribed in that paragraph.

16 **Subtitle F—Gulf Coast Restoration**

17 **SEC. 1601. SHORT TITLE.**

18 This subtitle may be cited as the “Resources and
 19 Ecosystems Sustainability, Tourist Opportunities, and Re-
 20 vived Economies of the Gulf Coast States Act of 2012”.

21 **SEC. 1602. GULF COAST RESTORATION TRUST FUND.**

22 (a) ESTABLISHMENT.—There is established in the
 23 Treasury of the United States a trust fund to be known
 24 as the “Gulf Coast Restoration Trust Fund” (referred to
 25 in this section as the “Trust Fund”), consisting of such

1 amounts as are deposited in the Trust Fund under this
2 subtitle or any other provision of law.

3 (b) TRANSFERS.—The Secretary of the Treasury
4 shall deposit in the Trust Fund an amount equal to 80
5 percent of all administrative and civil penalties paid by
6 responsible parties after the date of enactment of this Act
7 in connection with the explosion on, and sinking of, the
8 mobile offshore drilling unit Deepwater Horizon pursuant
9 to a court order, negotiated settlement, or other instru-
10 ment in accordance with section 311 of the Federal Water
11 Pollution Control Act (33 U.S.C. 1321).

12 (c) EXPENDITURES.—Amounts in the Trust Fund,
13 including interest earned on advances to the Trust Fund
14 and proceeds from investment under subsection (d),
15 shall—

16 (1) be available for expenditure, without further
17 appropriation, solely for the purpose and eligible ac-
18 tivities of this subtitle; and

19 (2) remain available until expended, without fis-
20 cal year limitation.

21 (d) INVESTMENT.—Amounts in the Trust Fund shall
22 be invested in accordance with section 9702 of title 31,
23 United States Code, and any interest on, and proceeds
24 from, any such investment shall be available for expendi-

1 ture in accordance with this subtitle and the amendments
2 made by this subtitle.

3 (e) ADMINISTRATION.—Not later than 180 days after
4 the date of enactment of this Act, after providing notice
5 and an opportunity for public comment, the Secretary of
6 the Treasury, in consultation with the Secretary of the In-
7 terior and the Secretary of Commerce, shall establish such
8 procedures as the Secretary determines to be necessary
9 to deposit amounts in, and expend amounts from, the
10 Trust Fund pursuant to this subtitle, including—

11 (1) procedures to assess whether the programs
12 and activities carried out under this subtitle and the
13 amendments made by this subtitle achieve compli-
14 ance with applicable requirements, including proce-
15 dures by which the Secretary of the Treasury may
16 determine whether an expenditure by a Gulf Coast
17 State or coastal political subdivision (as those terms
18 are defined in section 311 of the Federal Water Pol-
19 lution Control Act (33 U.S.C. 1321)) pursuant to
20 such a program or activity achieves compliance;

21 (2) auditing requirements to ensure that
22 amounts in the Trust Fund are expended as in-
23 tended; and

24 (3) procedures for identification and allocation
25 of funds available to the Secretary under other pro-

1 “(30) the term ‘Council’ means the Gulf Coast
2 Ecosystem Restoration Council established pursuant
3 to subsection (t);

4 “(31) the term ‘Deepwater Horizon oil spill’
5 means the blowout and explosion of the mobile off-
6 shore drilling unit Deepwater Horizon that occurred
7 on April 20, 2010, and resulting hydrocarbon re-
8 leases into the environment;

9 “(32) the term ‘Gulf Coast ecosystem’ means—

10 “(A) in the Gulf Coast States, the coastal
11 zones (as that term is defined in section 304 of
12 the Coastal Zone Management Act of 1972 (16
13 U.S.C. 1453), except that, in this section, the
14 term ‘coastal zones’ includes land within the
15 coastal zones that is held in trust by, or the use
16 of which is by law subject solely to the discre-
17 tion of, the Federal Government or officers or
18 agents of the Federal Government) that border
19 the Gulf of Mexico;

20 “(B) any adjacent land, water, and water-
21 sheds, that are within 25 miles of the coastal
22 zones described in subparagraph (A) of the Gulf
23 Coast States; and

24 “(C) all Federal waters in the Gulf of Mex-
25 ico;

1 “(33) the term ‘Gulf Coast State’ means any of
2 the States of Alabama, Florida, Louisiana, Mis-
3 sissippi, and Texas; and

4 “(34) the term ‘Trust Fund’ means the Gulf
5 Coast Restoration Trust Fund established pursuant
6 to section 1602 of the Resources and Ecosystems
7 Sustainability, Tourist Opportunities, and Revived
8 Economies of the Gulf Coast States Act of 2012.”;

9 (2) in subsection (s), by inserting “except as
10 provided in subsection (t)” before the period at the
11 end; and

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

13 “(t) GULF COAST RESTORATION AND RECOVERY.—

14 “(1) STATE ALLOCATION AND EXPENDI-
15 TURES.—

16 “(A) IN GENERAL.—Of the total amounts
17 made available in any fiscal year from the
18 Trust Fund, 35 percent shall be available, in
19 accordance with the requirements of this sec-
20 tion, to the Gulf Coast States in equal shares
21 for expenditure for ecological and economic res-
22 toration of the Gulf Coast ecosystem in accord-
23 ance with this subsection.

24 “(B) USE OF FUNDS.—

1 “(i) ELIGIBLE ACTIVITIES.—Amounts
2 provided to the Gulf States under this sub-
3 section may only be used to carry out 1 or
4 more of the following activities:

5 “(I) Coastal restoration projects
6 and activities, including conservation
7 and coastal land acquisition.

8 “(II) Mitigation of damage to,
9 and restoration of, fish, wildlife, or
10 natural resources.

11 “(III) Implementation of a feder-
12 ally approved marine, coastal, or com-
13 prehensive conservation management
14 plan, including fisheries monitoring.

15 “(IV) Programs to promote tour-
16 ism in a Gulf Coast State, including
17 recreational fishing.

18 “(V) Programs to promote the
19 consumption of seafood produced from
20 the Gulf Coast ecosystem.

21 “(VI) Programs to promote edu-
22 cation regarding the natural resources
23 of the Gulf Coast ecosystem.

24 “(VII) Planning assistance.

1 “(VIII) Workforce development
2 and job creation.

3 “(IX) Improvements to or upon
4 State parks located in coastal areas
5 affected by the Deepwater Horizon oil
6 spill.

7 “(X) Mitigation of the ecological
8 and economic impact of outer Conti-
9 nental Shelf activities and the impacts
10 of the Deepwater Horizon oil spill or
11 promotion of the long-term ecological
12 or economic recovery of the Gulf
13 Coast ecosystem through the funding
14 of infrastructure projects.

15 “(XI) Coastal flood protection
16 and infrastructure directly affected by
17 coastal wetland losses, beach erosion,
18 or the impacts of the Deepwater Hori-
19 zon oil spill.

20 “(XII) Administrative costs of
21 complying with this subsection.

22 “(ii) LIMITATION.—

23 “(I) IN GENERAL.—Of the
24 amounts received by a Gulf State
25 under this subsection not more than 3

1 percent may be used for administra-
2 tive costs eligible under clause
3 (i)(XII).

4 “(II) PROHIBITION ON USE FOR
5 IMPORTED SEAFOOD.—None of the
6 funds made available under this sub-
7 section shall be used for any program
8 to support or promote imported sea-
9 food or any seafood product that is
10 not harvested from the Gulf Coast
11 ecosystem.

12 “(C) COASTAL POLITICAL SUBDIVISIONS.—

13 “(i) IN GENERAL.—In the case of a
14 State where the coastal zone includes the
15 entire State—

16 “(I) 75 percent of funding shall
17 be provided to the 8 disproportionately
18 affected counties impacted by the
19 Deepwater Horizon Oil Spill; and

20 “(II) 25 percent shall be provided
21 to nondisproportionately impacted
22 counties within the State.

23 “(ii) FLORIDA.—

24 “(I) DISPROPORTIONALLY AF-
25 FECTED COUNTIES.—Of the total

1 amounts made available to counties in
2 the State of Florida under clause
3 (i)(I)—

4 “(aa) 10 percent shall be
5 distributed equally among the 8
6 disproportionately affected coun-
7 ties; and

8 “(bb) 90 percent shall be
9 distributed to the 8 dispropor-
10 tionately affected counties in ac-
11 cordance with the following
12 weighted formula:

13 “(AA) 30 percent based
14 on the weighted average of
15 the county shoreline oiled.

16 “(BB) 30 percent based
17 on the weighted average of
18 the county per capita sales
19 tax collections estimated for
20 the fiscal year ending Sep-
21 tember 30, 2012.

22 “(CC) 20 percent based
23 on the weighted average of
24 the population of the county.

1 “(DD) 20 percent
2 based on the inverse propor-
3 tion of the weighted average
4 distance from the Deepwater
5 Horizon oil rig to each of
6 the nearest and farthest
7 points of the shoreline.

8 “(II) NONDISPROPORTIONATELY
9 IMPACTED COUNTIES.—The total
10 amounts made available to coastal po-
11 litical subdivisions in the State of
12 Florida under clause (i)(II) shall be
13 distributed according to the following
14 weighted formula:

15 “(aa) 34 percent based on
16 the weighted average of the pop-
17 ulation of the county.

18 “(bb) 33 percent based on
19 the weighted average of the coun-
20 ty per capita sales tax collections
21 estimated for the fiscal year end-
22 ing September 30, 2012.

23 “(cc) 33 percent based on
24 the inverse proportion of the
25 weighted average distance from

1 the Deepwater Horizon oil rig to
2 each of the nearest and farthest
3 points of the shoreline.

4 “(iii) LOUISIANA.—Of the total
5 amounts made available to the State of
6 Louisiana under this paragraph:

7 “(I) 70 percent shall be provided
8 directly to the State in accordance
9 with this subsection.

10 “(II) 30 percent shall be provided
11 directly to parishes in the coastal zone
12 (as defined in section 304 of the
13 Coastal Zone Management Act of
14 1972 (16 U.S.C. 1453)) of the State
15 of Louisiana according to the fol-
16 lowing weighted formula:

17 “(aa) 40 percent based on
18 the weighted average of miles of
19 the parish shoreline oiled.

20 “(bb) 40 percent based on
21 the weighted average of the pop-
22 ulation of the parish.

23 “(cc) 20 percent based on
24 the weighted average of the land
25 mass of the parish.

1 “(iv) CONDITIONS.—

2 “(I) LAND USE PLAN.—As a con-
3 dition of receiving amounts allocated
4 under clause (iii), the chief executive
5 of the eligible parish shall certify to
6 the Governor of the State that the
7 parish has completed a comprehensive
8 land use plan.

9 “(II) OTHER CONDITIONS.—A
10 coastal political subdivision receiving
11 funding under this subsection shall
12 meet all of the conditions in subpara-
13 graph (D).

14 “(D) CONDITIONS.—As a condition of re-
15 ceiving amounts from the Trust Fund, a Gulf
16 Coast State, including the entities described in
17 subparagraph (E), or a coastal political subdivi-
18 sion shall—

19 “(i) agree to meet such conditions, in-
20 cluding audit requirements, as the Sec-
21 retary of the Treasury determines nec-
22 essary to ensure that amounts disbursed
23 from the Trust Fund will be used in ac-
24 cordance with this subsection;

1 “(ii) certify in such form and in such
2 manner as the Secretary of the Treasury
3 determines necessary that the project or
4 program for which the Gulf Coast State or
5 coastal political subdivision is requesting
6 amounts—

7 “(I) is designed to restore and
8 protect the natural resources, eco-
9 systems, fisheries, marine and wildlife
10 habitats, beaches, coastal wetlands, or
11 economy of the Gulf Coast;

12 “(II) carries out 1 or more of the
13 activities described in subparagraph
14 (B)(i);

15 “(III) was selected based on
16 meaningful input from the public, in-
17 cluding broad-based participation
18 from individuals, businesses, and non-
19 profit organizations; and

20 “(IV) in the case of a natural re-
21 source protection or restoration
22 project, is based on the best available
23 science;

24 “(iii) certify that the project or pro-
25 gram and the awarding of a contract for

1 the expenditure of amounts received under
2 this subsection are consistent with the
3 standard procurement rules and regula-
4 tions governing a comparable project or
5 program in that State, including all appli-
6 cable competitive bidding and audit re-
7 quirements; and

8 “(iv) develop and submit a multiyear
9 implementation plan for use of those
10 funds.

11 “(E) APPROVAL BY STATE ENTITY, TASK
12 FORCE, OR AGENCY.—The following Gulf Coast
13 State entities, task forces, or agencies shall
14 carry out the duties of a Gulf Coast State pur-
15 suant to this paragraph:

16 “(i) ALABAMA.—

17 “(I) IN GENERAL.—In the State
18 of Alabama, the Alabama Gulf Coast
19 Recovery Council, which shall be com-
20 prised of only the following:

21 “(aa) The Governor of Ala-
22 bama, who shall also serve as
23 Chairperson and preside over the
24 meetings of the Alabama Gulf
25 Coast Recovery Council.

1 “(bb) The Director of the
2 Alabama State Port Authority,
3 who shall also serve as Vice
4 Chairperson and preside over the
5 meetings of the Alabama Gulf
6 Coast Recovery Council in the
7 absence of the Chairperson.

8 “(cc) The Chairman of the
9 Baldwin County Commission.

10 “(dd) The President of the
11 Mobile County Commission.

12 “(ee) The Mayor of the city
13 of Bayou La Batre.

14 “(ff) The Mayor of the town
15 of Dauphin Island.

16 “(gg) The Mayor of the city
17 of Fairhope.

18 “(hh) The Mayor of the city
19 of Gulf Shores.

20 “(ii) The Mayor of the city
21 of Mobile.

22 “(jj) The Mayor of the city
23 of Orange Beach.

1 “(II) VOTE.—Each member of
2 the Alabama Gulf Coast Recovery
3 Council shall be entitled to 1 vote.

4 “(III) MAJORITY VOTE.—All de-
5 cisions of the Alabama Gulf Coast Re-
6 covery Council shall be made by ma-
7 jority vote.

8 “(ii) LOUISIANA.—In the State of
9 Louisiana, the Coastal Protection and Res-
10 toration Authority of Louisiana.

11 “(iii) MISSISSIPPI.—In the State of
12 Mississippi, the Mississippi Department of
13 Environmental Quality.

14 “(F) COMPLIANCE WITH ELIGIBLE ACTIVI-
15 TIES.—If the Secretary of the Treasury deter-
16 mines that an expenditure by a Gulf Coast
17 State or coastal political subdivision of amounts
18 made available under this subsection does not
19 meet 1 of the activities described in subpara-
20 graph (B)(i), the Secretary shall make no addi-
21 tional amounts from the Trust Fund available
22 to that Gulf Coast State or coastal political
23 subdivision until such time as an amount equal
24 to the amount expended for the unauthorized
25 use—

1 “(i) has been deposited by the Gulf
2 Coast State or coastal political subdivision
3 in the Trust Fund; or

4 “(ii) has been authorized by the Sec-
5 retary of the Treasury for expenditure by
6 the Gulf Coast State or coastal political
7 subdivision for a project or program that
8 meets the requirements of this subsection.

9 “(G) COMPLIANCE WITH CONDITIONS.—If
10 the Secretary of the Treasury determines that
11 a Gulf Coast State or coastal political subdivi-
12 sion does not meet the requirements of this
13 subsection, including the conditions of subpara-
14 graph (D), where applicable, the Secretary of
15 the Treasury shall make no amounts from the
16 Trust Fund available to that Gulf Coast State
17 or coastal political subdivision until all condi-
18 tions of this subsection are met.

19 “(H) PUBLIC INPUT.—In meeting any con-
20 dition of this subsection, a Gulf Coast State
21 may use an appropriate procedure for public
22 consultation in that Gulf Coast State, including
23 consulting with 1 or more established task
24 forces or other entities, to develop recommenda-
25 tions for proposed projects and programs that

1 would restore and protect the natural resources,
2 ecosystems, fisheries, marine and wildlife habi-
3 tats, beaches, coastal wetlands, and economy of
4 the Gulf Coast.

5 “(I) PREVIOUSLY APPROVED PROJECTS
6 AND PROGRAMS.—A Gulf Coast State or coastal
7 political subdivision shall be considered to have
8 met the conditions of subparagraph (D) for a
9 specific project or program if, before the date of
10 enactment of the Resources and Ecosystems
11 Sustainability, Tourist Opportunities, and Re-
12 vived Economies of the Gulf Coast States Act
13 of 2012—

14 “(i) the Gulf Coast State or coastal
15 political subdivision has established condi-
16 tions for carrying out projects and pro-
17 grams that are substantively the same as
18 the conditions described in subparagraph
19 (D); and

20 “(ii) the applicable project or program
21 carries out 1 or more of the activities de-
22 scribed in subparagraph (B)(ii).

23 “(J) CONSULTATION WITH COUNCIL.—In
24 carrying out this subsection, each Gulf Coast
25 State shall seek the input of the Chairperson of

1 the Council to identify large-scale projects that
2 may be jointly supported by that Gulf Coast
3 State and by the Council pursuant to the Com-
4 prehensive Plan with amounts provided under
5 this subsection.

6 “(K) NON-FEDERAL MATCHING FUNDS.—

7 “(i) IN GENERAL.—A Gulf Coast
8 State or coastal political subdivision may
9 use, in whole or in part, amounts made
10 available to that Gulf Coast State from the
11 Trust Fund to satisfy the non-Federal
12 share of the cost of any project or program
13 authorized by Federal law that meets the
14 eligible use requirements under subpara-
15 graph (B)(i).

16 “(ii) EFFECT ON OTHER FUNDS.—

17 The use of funds made available from the
18 Trust Fund to satisfy the non-Federal
19 share of the cost of a project or program
20 that meets the requirements of clause (i)
21 shall not affect the priority in which other
22 Federal funds are allocated or awarded.

23 “(L) LOCAL PREFERENCE.—In awarding
24 contracts to carry out a project or program
25 under this subsection, a Gulf Coast State or

1 coastal political subdivision may give a pref-
2 erence to individuals and companies that reside
3 in, are headquartered in, or are principally en-
4 gaged in business in, a Gulf Coast State.

5 “(M) UNUSED FUNDS.—Any Funds not
6 identified in an implementation plan by a State
7 or coastal political subdivision in accordance
8 with subparagraph (D)(iv) shall remain in the
9 Trust Fund until such time as the State or
10 coastal political subdivision to which the funds
11 have been allocated develops and submits a plan
12 identifying uses for those funds in accordance
13 with subparagraph (D)(iv).

14 “(N) JUDICIAL REVIEW.—If the Secretary
15 of the Treasury determines that a Gulf Coast
16 State or coastal political subdivision does not
17 meet the requirements of this subsection, in-
18 cluding the conditions of subparagraph (D), the
19 Gulf Coast State or coastal political subdivision
20 may obtain expedited judicial review within 90
21 days of that decision in a district court of the
22 United States, of appropriate jurisdiction and
23 venue, that is located within the State seeking
24 such review.

1 “(2) COUNCIL ESTABLISHMENT AND ALLOCA-
2 TION.—

3 “(A) IN GENERAL.—Of the total amount
4 made available in any fiscal year from the
5 Trust Fund, 60 percent shall be disbursed to
6 the Council to carry out the Comprehensive
7 Plan.

8 “(B) COUNCIL EXPENDITURES.—

9 “(i) IN GENERAL.—In accordance
10 with this paragraph, the Council shall ex-
11 pend funds made available from the Trust
12 Fund to undertake projects and programs
13 that would restore and protect the natural
14 resources, ecosystems, fisheries, marine
15 and wildlife habitats, beaches, coastal wet-
16 lands, and economy of the Gulf Coast.

17 “(ii) ALLOCATION AND EXPENDITURE
18 PROCEDURES.—The Secretary of the
19 Treasury shall develop such conditions, in-
20 cluding audit requirements, as the Sec-
21 retary of the Treasury determines nec-
22 essary to ensure that amounts disbursed
23 from the Trust Fund to the Council to im-
24 plement the Comprehensive Plan will be
25 used in accordance with this paragraph.

1 “(iii) ADMINISTRATIVE EXPENSES.—

2 Of the amounts received by the Council
3 under this subsection, not more than 3
4 percent may be used for administrative ex-
5 penses, including staff.

6 “(C) GULF COAST ECOSYSTEM RESTORA-
7 TION COUNCIL.—

8 “(i) ESTABLISHMENT.—There is es-
9 tablished as an independent entity in the
10 Federal Government a council to be known
11 as the ‘Gulf Coast Ecosystem Restoration
12 Council’.

13 “(ii) MEMBERSHIP.—The Council
14 shall consist of the following members, or
15 in the case of a Federal agency, a designee
16 at the level of the Assistant Secretary or
17 the equivalent:

18 “(I) The Chair of the Council on
19 Environmental Quality.

20 “(II) The Secretary of the Inte-
21 rior.

22 “(III) The Secretary of the
23 Army.

24 “(IV) The Secretary of Com-
25 merce.

1 “(V) The Administrator of the
2 Environmental Protection Agency.

3 “(VI) The Secretary of Agri-
4 culture.

5 “(VII) The head of the depart-
6 ment in which the Coast Guard is op-
7 erating.

8 “(VIII) The Governor of the
9 State of Alabama.

10 “(IX) The Governor of the State
11 of Florida.

12 “(X) The Governor of the State
13 of Louisiana.

14 “(XI) The Governor of the State
15 of Mississippi.

16 “(XII) The Governor of the State
17 of Texas.

18 “(iii) ALTERNATE.—A Governor ap-
19 pointed to the Council by the President
20 may designate an alternate to represent
21 the Governor on the Council and vote on
22 behalf of the Governor.

23 “(iv) CHAIRPERSON.—From among
24 the Federal agency members of the Coun-
25 cil, the representatives of States on the

1 Council shall select, and the President
2 shall appoint, 1 Federal member to serve
3 as Chairperson of the Council.

4 “(v) PRESIDENTIAL APPOINTMENT.—
5 All Council members shall be appointed by
6 the President.

7 “(vi) COUNCIL ACTIONS.—

8 “(I) IN GENERAL.—Subject to
9 subclause (IV), significant actions by
10 the Council shall require the affirma-
11 tive vote of the Federal Chairperson
12 and a majority of the State members
13 to be effective.

14 “(II) INCLUSIONS.—Significant
15 actions include but are not limited
16 to—

17 “(aa) approval of a Com-
18 prehensive Plan and future revi-
19 sions to a Comprehensive Plan;

20 “(bb) approval of State
21 plans pursuant to paragraph
22 (3)(B)(iv); and

23 “(cc) approval of reports to
24 Congress pursuant to clause
25 (vii)(X).

1 “(III) QUORUM.—A quorum of
2 State members shall be required to be
3 present for the Council to take any
4 significant action.

5 “(IV) AFFIRMATIVE VOTE RE-
6 QUIREMENT DEEMED MET.—For ap-
7 proval of State plans pursuant to
8 paragraph (3)(B)(iv), the certification
9 by a State member of the Council that
10 the plan satisfies all requirements of
11 clauses (i) and (ii) of paragraphs
12 (3)(B), when joined by an affirmative
13 vote of the Federal Chairperson of the
14 Council, is deemed to satisfy the re-
15 quirements for affirmative votes under
16 subclause (I).

17 “(V) PUBLIC TRANSPARENCY.—
18 Appropriate actions of the Council, in-
19 cluding votes on significant actions
20 and associated deliberations, shall be
21 made available to the public.

22 “(vii) DUTIES OF COUNCIL.—The
23 Council shall—

1 “(I) develop the Comprehensive
2 Plan, and future revisions to the Com-
3 prehensive Plan;

4 “(II) identify as soon as prac-
5 ticable the projects that—

6 “(aa) have been authorized
7 prior to the date of enactment of
8 this subsection but not yet com-
9 menced; and

10 “(bb) if implemented quick-
11 ly, would restore and protect the
12 natural resources, ecosystems,
13 fisheries, marine and wildlife
14 habitats, beaches, barrier islands,
15 dunes, and coastal wetlands of
16 the Gulf Coast ecosystem;

17 “(III) coordinate the development
18 of consistent policies, strategies,
19 plans, and activities by Federal agen-
20 cies, State and local governments, and
21 private sector entities for addressing
22 the restoration and protection of the
23 Gulf Coast ecosystem;

24 “(IV) establish such other advi-
25 sory committee or committees as may

1 be necessary to assist the Council, in-
2 cluding a scientific advisory committee
3 and a committee to advise the Council
4 on public policy issues;

5 “(V) coordinate scientific and
6 other research associated with restora-
7 tion of the Gulf Coast ecosystem, in-
8 cluding research, observation, and
9 monitoring carried out pursuant to
10 section 1604 of the Resources and
11 Ecosystems Sustainability, Tourist
12 Opportunities, and Revived Economies
13 of the Gulf Coast States Act of 2012;

14 “(VI) seek to ensure that all poli-
15 cies, strategies, plans, and activities
16 for addressing the restoration of the
17 Gulf Coast ecosystem are based on
18 the best available physical, ecological,
19 and economic data;

20 “(VII) make recommendations to
21 address the particular needs of espe-
22 cially economically and socially vulner-
23 able populations;

24 “(VIII) develop standard terms
25 to include in contracts for projects

1 and programs awarded pursuant to
2 the Comprehensive Plan that provide
3 a preference to individuals and com-
4 panies that reside in, are
5 headquartered in, or are principally
6 engaged in business in, a Gulf Coast
7 State;

8 “(IX) prepare an integrated fi-
9 nancial plan and recommendations for
10 coordinated budget requests for the
11 amounts proposed to be expended by
12 the Federal agencies represented on
13 the Council for projects and programs
14 in the Gulf Coast States;

15 “(X) submit to Congress an an-
16 nual report that—

17 “(aa) summarizes the poli-
18 cies, strategies, plans, and activi-
19 ties for addressing the restora-
20 tion and protection of the Gulf
21 Coast ecosystem;

22 “(bb) describes the projects
23 and programs being implemented
24 to restore and protect the Gulf
25 Coast ecosystem; and

1 “(cc) makes such rec-
2 ommendations to Congress for
3 modifications of existing laws as
4 the Council determines necessary
5 to implement the Comprehensive
6 Plan; and

7 “(XI) submit to Congress a final
8 report on the date on which all funds
9 made available to the Council are ex-
10 pended.

11 “(viii) APPLICATION OF FEDERAL AD-
12 VISORY COMMITTEE ACT.—The Council, or
13 any other advisory committee established
14 under this subsection, shall not be consid-
15 ered an advisory committee under the Fed-
16 eral Advisory Committee Act (5 U.S.C.
17 App.).

18 “(D) COMPREHENSIVE PLAN.—

19 “(i) PROPOSED PLAN.—

20 “(I) IN GENERAL.—Not later
21 than 180 days after the date of enact-
22 ment of the Resources and Eco-
23 systems Sustainability, Tourist Op-
24 portunities, and Revived Economies of
25 the Gulf Coast States Act of 2012,

1 the Chairperson, on behalf of the
2 Council, shall publish a proposed plan
3 to restore and protect the natural re-
4 sources, ecosystems, fisheries, marine
5 and wildlife habitats, beaches, and
6 coastal wetlands of the Gulf Coast
7 ecosystem.

8 “(II) CONTENTS.—The proposed
9 plan described in subelause (I) shall
10 include and incorporate the findings
11 and information prepared by the
12 President’s Gulf Coast Restoration
13 Task Force.

14 “(ii) PUBLICATION.—

15 “(I) INITIAL PLAN.—Not later
16 than 1 year after date of enactment of
17 the Resources and Ecosystems Sus-
18 tainability, Tourist Opportunities, and
19 Revived Economies of the Gulf Coast
20 States Act of 2012 and after notice
21 and opportunity for public comment,
22 the Chairperson, on behalf of the
23 Council and after approval by the
24 Council, shall publish in the Federal
25 Register the initial Comprehensive

1 Plan to restore and protect the nat-
2 ural resources, ecosystems, fisheries,
3 marine and wildlife habitats, beaches,
4 and coastal wetlands of the Gulf
5 Coast ecosystem.

6 “(II) COOPERATION WITH GULF
7 COAST RESTORATION TASK FORCE.—
8 The Council shall develop the initial
9 Comprehensive Plan in close coordina-
10 tion with the President’s Gulf Coast
11 Restoration Task Force.

12 “(III) CONSIDERATIONS.—In de-
13 veloping the initial Comprehensive
14 Plan and subsequent updates, the
15 Council shall consider all relevant
16 findings, reports, or research prepared
17 or funded by a center of excellence or
18 the Gulf Fisheries and Ecosystem En-
19 dowment established pursuant to the
20 Gulf Coast Ecosystem Restoration
21 Science, Monitoring, and Technology
22 Program under section 1604 of the
23 Resources and Ecosystems Sustain-
24 ability, Tourist Opportunities, and Re-

1 vived Economies of the Gulf Coast
2 States Act of 2012.

3 “(IV) CONTENTS.—The initial
4 Comprehensive Plan shall include—

5 “(aa) such provisions as are
6 necessary to fully incorporate in
7 the Comprehensive Plan the
8 strategy, projects, and programs
9 recommended by the President’s
10 Gulf Coast Restoration Task
11 Force;

12 “(bb) a list of any project or
13 program authorized prior to the
14 date of enactment of this sub-
15 section but not yet commenced,
16 the completion of which would
17 further the purposes and goals of
18 this subsection and of the Re-
19 sources and Ecosystems Sustain-
20 ability, Tourist Opportunities,
21 and Revived Economies of the
22 Gulf Coast States Act of 2012;

23 “(cc) a description of the
24 manner in which amounts from
25 the Trust Fund projected to be

1 made available to the Council for
2 the succeeding 10 years will be
3 allocated; and

4 “(dd) subject to available
5 funding in accordance with clause
6 (iii), a prioritized list of specific
7 projects and programs to be
8 funded and carried out during
9 the 3-year period immediately
10 following the date of publication
11 of the initial Comprehensive
12 Plan, including a table that illus-
13 trates the distribution of projects
14 and programs by Gulf Coast
15 State.

16 “(V) PLAN UPDATES.—The
17 Council shall update—

18 “(aa) the Comprehensive
19 Plan every 5 years in a manner
20 comparable to the manner estab-
21 lished in this subsection for each
22 5-year period for which amounts
23 are expected to be made available
24 to the Gulf Coast States from the
25 Trust Fund; and

1 “(bb) the 3-year list of
2 projects and programs described
3 in subclause (IV)(dd) annually.

4 “(iii) RESTORATION PRIORITIES.—Ex-
5 cept for projects and programs described
6 in subclause (IV)(bb), in selecting projects
7 and programs to include on the 3-year list
8 described in subclause (IV)(dd), based on
9 the best available science, the Council shall
10 give highest priority to projects that ad-
11 dress 1 or more of the following criteria:

12 “(I) Projects that are projected
13 to make the greatest contribution to
14 restoring and protecting the natural
15 resources, ecosystems, fisheries, ma-
16 rine and wildlife habitats, beaches,
17 and coastal wetlands of the Gulf
18 Coast ecosystem, without regard to
19 geographic location.

20 “(II) Large-scale projects and
21 programs that are projected to sub-
22 stantially contribute to restoring and
23 protecting the natural resources, eco-
24 systems, fisheries, marine and wildlife

1 habitats, beaches, and coastal wet-
2 lands of the Gulf Coast ecosystem.

3 “(III) Projects contained in exist-
4 ing Gulf Coast State comprehensive
5 plans for the restoration and protec-
6 tion of natural resources, ecosystems,
7 fisheries, marine and wildlife habitats,
8 beaches, and coastal wetlands of the
9 Gulf Coast ecosystem.

10 “(IV) Projects that restore long-
11 term resiliency of the natural re-
12 sources, ecosystems, fisheries, marine
13 and wildlife habitats, beaches, and
14 coastal wetlands most impacted by the
15 Deepwater Horizon oil spill.

16 “(E) IMPLEMENTATION.—

17 “(i) IN GENERAL.—The Council, act-
18 ing through the member agencies and Gulf
19 Coast States, shall expend funds made
20 available from the Trust Fund to carry out
21 projects and programs adopted in the
22 Comprehensive Plan.

23 “(ii) ADMINISTRATIVE RESPONS-
24 BILITY.—

1 “(I) IN GENERAL.—Primary au-
2 thority and responsibility for each
3 project and program included in the
4 Comprehensive Plan shall be assigned
5 by the Council to a Gulf Coast State
6 represented on the Council or a Fed-
7 eral agency.

8 “(II) TRANSFER OF AMOUNTS.—
9 Amounts necessary to carry out each
10 project or program included in the
11 Comprehensive Plan shall be trans-
12 ferred by the Secretary of the Treas-
13 ury from the Trust Fund to that Fed-
14 eral agency or Gulf Coast State as the
15 project or program is implemented,
16 subject to such conditions as the Sec-
17 retary of the Treasury, in consultation
18 with the Secretary of the Interior and
19 the Secretary of Commerce, estab-
20 lished pursuant to section 1602 of the
21 Resources and Ecosystems Sustain-
22 ability, Tourist Opportunities, and Re-
23 vived Economies of the Gulf Coast
24 States Act of 2012.

25 “(iii) COST SHARING.—

1 “(I) IN GENERAL.—A Gulf Coast
2 State or coastal political subdivision
3 may use, in whole or in part, amounts
4 made available to that Gulf Coast
5 State or coastal political subdivision
6 from the Trust Fund to satisfy the
7 non-Federal share of the cost of car-
8 rying a project or program that—

9 “(aa) is authorized by other
10 Federal law; and

11 “(bb) meets the criteria of
12 subparagraph (D).

13 “(II) INCLUSION IN COMPREHEN-
14 SIVE PLAN.—A project or program de-
15 scribed in subclause (I) that meets the
16 criteria for inclusion in the Com-
17 prehensive Plan described in subpara-
18 graph (D) shall be selected and adopt-
19 ed by the Council as part of the Com-
20 prehensive Plan in the manner de-
21 scribed in subparagraph (D).

22 “(F) COORDINATION.—The Council and
23 the Federal members of the Council may de-
24 velop Memorandums of Understanding estab-
25 lishing integrated funding and implementation

1 plans among the member agencies and authori-
2 ties.

3 “(G) TERMINATION.—The Council shall
4 terminate on the date on which the report de-
5 scribed in subparagraph (C)(vii)(XI) is sub-
6 mitted to Congress.

7 “(3) OIL SPILL RESTORATION IMPACT ALLOCA-
8 TION.—

9 “(A) IN GENERAL.—Except as provided in
10 paragraph (4), of the total amount made avail-
11 able to the Council under paragraph (2) in any
12 fiscal year from the Trust Fund, 50 percent
13 shall be disbursed by the Council as follows:

14 “(i) FORMULA.—Subject to subpara-
15 graph (B), for each Gulf Coast State, the
16 amount disbursed under this paragraph
17 shall be based on a formula established by
18 the Council by regulation that is based on
19 a weighted average of the following cri-
20 teria:

21 “(I) 40 percent based on the pro-
22 portionate number of miles of shore-
23 line in each Gulf Coast State that ex-
24 perienceed oiling as of April 10, 2011,
25 compared to the total number of miles

1 of shoreline that experienced oiling as
2 a result of the Deepwater Horizon oil
3 spill.

4 “(II) 40 percent based on the in-
5 verse proportion of the average dis-
6 tance from the Deepwater Horizon oil
7 rig to the nearest and farthest point
8 of the shoreline that experienced oil-
9 ing of each Gulf Coast State.

10 “(III) 20 percent based on the
11 average population in the 2010 decen-
12 nial census of coastal counties bor-
13 dering the Gulf of Mexico within each
14 Gulf Coast State.

15 “(ii) MINIMUM ALLOCATION.—The
16 amount disbursed to a Gulf Coast State
17 for each fiscal year under clause (i) shall
18 be at least 5 percent of the total amounts
19 made available under this paragraph.

20 “(B) APPROVAL OF PROJECTS AND PRO-
21 GRAMS.—

22 “(i) IN GENERAL.—The Council shall
23 disburse amounts to the respective Gulf
24 Coast States in accordance with the for-
25 mula developed under subparagraph (A)

1 for projects, programs, and activities that
2 will improve the ecosystems or economy of
3 the Gulf Coast, subject to the condition
4 that each Gulf Coast State submits a plan
5 for the expenditure of amounts disbursed
6 under this paragraph which meet the fol-
7 lowing criteria:

8 “(I) All projects, programs, and
9 activities included in that plan are eli-
10 gible activities pursuant to paragraph
11 (1)(B)(i).

12 “(II) The projects, programs,
13 and activities included in that plan
14 contribute to the overall economic and
15 ecological recovery of the Gulf Coast.

16 “(III) The plan takes into con-
17 sideration the Comprehensive Plan
18 and is consistent with its goals and
19 objectives, as described in paragraph
20 (2)(B)(i).

21 “(ii) FUNDING.—

22 “(I) IN GENERAL.—Except as
23 provided in subclause (II), the plan
24 described in clause (i) may use not
25 more than 25 percent of the funding

1 made available for infrastructure
2 projects eligible under subclauses (X)
3 and (XI) of paragraph (1)(B)(i).

4 “(II) EXCEPTION.—The plan de-
5 scribed in clause (i) may propose to
6 use more than 25 percent of the fund-
7 ing made available for infrastructure
8 projects eligible under subclauses (X)
9 and (XI) of paragraph (1)(B)(i) if the
10 plan certifies that—

11 “(aa) ecosystem restoration
12 needs in the State will be ad-
13 dressed by the projects in the
14 proposed plan; and

15 “(bb) additional investment
16 in infrastructure is required to
17 mitigate the impacts of the Deep-
18 water Horizon Oil Spill to the
19 ecosystem or economy.

20 “(iii) DEVELOPMENT.—The plan de-
21 scribed in clause (i) shall be developed
22 by—

23 “(I) in the State of Alabama, the
24 Alabama Gulf Coast Recovery Council
25 established under paragraph (1)(E)(i);

1 “(II) in the State of Florida, a
2 consortia of local political subdivisions
3 that includes at least 1 representative
4 of each disproportionately affected
5 county;

6 “(III) in the State of Louisiana,
7 the Coastal Protection and Restora-
8 tion Authority of Louisiana;

9 “(IV) in the State of Mississippi,
10 the Office of the Governor or an ap-
11 pointee of the Office of the Governor;
12 and

13 “(V) in the State of Texas, the
14 Office of the Governor or an ap-
15 pointee of the Office of the Governor.

16 “(iv) APPROVAL.—Not later than 60
17 days after the date on which a plan is sub-
18 mitted under clause (i), the Council shall
19 approve or disapprove the plan based on
20 the conditions of clause (i).

21 “(C) DISAPPROVAL.—If the Council dis-
22 approves a plan pursuant to subparagraph
23 (B)(iv), the Council shall—

24 “(i) provide the reasons for dis-
25 approval in writing; and

1 “(ii) consult with the State to address
2 any identified deficiencies with the State
3 plan.

4 “(D) FAILURE TO SUBMIT ADEQUATE
5 PLAN.—If a State fails to submit an adequate
6 plan under this subsection, any funds made
7 available under this subsection shall remain in
8 the Trust Fund until such date as a plan is
9 submitted and approved pursuant to this sub-
10 section.

11 “(E) JUDICIAL REVIEW.—If the Council
12 fails to approve or take action within 60 days
13 on a plan described in subparagraph (B)(iv),
14 the State may obtain expedited judicial review
15 within 90 days of that decision in a district
16 court of the United States, of appropriate juris-
17 diction and venue, that is located within the
18 State seeking such review.

19 “(4) AUTHORIZATION OF INTEREST TRANS-
20 FERS.—

21 “(A) IN GENERAL.—Of the total amount
22 made available in any fiscal year from the
23 Trust Fund, an amount equal to the interest
24 earned by the Trust Fund and proceeds from

1 investments made by the Trust Fund in the
2 preceding fiscal year—

3 “(i) 50 percent shall be transferred to
4 the National Endowment for Oceans in
5 subparagraph (B); and

6 “(ii) 50 percent shall be transferred to
7 the Gulf of Mexico Research Endowment
8 in subparagraph (C).

9 “(B) NATIONAL ENDOWMENT FOR THE
10 OCEANS.—

11 “(i) ESTABLISHMENT.—

12 “(I) IN GENERAL.—There is es-
13 tablished in the Treasury of the
14 United States a trust fund to be
15 known as the ‘National Endowment
16 for the Oceans’, consisting of such
17 amounts as may be appropriated or
18 credited to the National Endowment
19 for the Oceans.

20 “(II) INVESTMENT.—Amounts in
21 the National Endowment for the
22 Oceans shall be invested in accordance
23 with section 9602 of the Internal Rev-
24 enue Code of 1986, and any interest
25 on, and proceeds from, any such in-

1 vestment shall be available for expend-
2 iture in accordance with this subpara-
3 graph.

4 “(ii) TRUSTEE.—The trustee for the
5 National Endowment for the Oceans shall
6 be the Secretary of Commerce.

7 “(iii) ALLOCATION OF FUNDS.—

8 “(I) IN GENERAL.—Each fiscal
9 year, the Secretary shall allocate, at a
10 minimum, an amount equal to the in-
11 terest earned by the National Endow-
12 ment for the Oceans in the preceding
13 fiscal year, and may distribute an
14 amount equal to up to 10 percent of
15 the total amounts in the National En-
16 dowment for the Oceans—

17 “(aa) to allocate funding to
18 coastal states (as defined in sec-
19 tion 304 of the Marine Resources
20 and Engineering Development
21 Act of 1966 (16 U.S.C. 1453))
22 and affected Indian tribes;

23 “(bb) to make grants to re-
24 gional ocean and coastal planning
25 bodies; and

1 “(cc) to develop and imple-
2 ment a National Grant Program
3 for Oceans and Coastal Waters.

4 “(II) PROGRAM ADJUSTMENTS.—
5 Each fiscal year where the amount de-
6 scribed in subparagraph (A)(i) does
7 not exceed \$100,000,000, the Sec-
8 retary may elect to fund only the
9 grant program established in sub-
10 clause (I)(cc).

11 “(iv) ELIGIBLE ACTIVITIES.—Funds
12 deposited in the National Endowment for
13 the Oceans may be allocated by the Sec-
14 retary only to fund grants for programs
15 and activities intended to restore, protect,
16 maintain, or understand living marine re-
17 sources and their habitats and resources in
18 ocean and coastal waters (as defined in
19 section 304 of the Marine Resources and
20 Engineering Development Act of 1966 (16
21 U.S.C. 1453)), including baseline scientific
22 research, ocean observing, and other pro-
23 grams and activities carried out in coordi-
24 nation with Federal and State departments
25 or agencies, that are consistent with Fed-

1 eral environmental laws and that avoid en-
2 vironmental degradation.

3 “(v) APPLICATION.—To be eligible to
4 receive a grant under clause (iii)(I), an en-
5 tity shall submit to the Secretary an appli-
6 cation at such time, in such manner, and
7 containing such information as the Sec-
8 retary determines to be appropriate.

9 “(vi) FUNDING FOR COASTAL
10 STATES.—The Secretary shall allocate
11 funding among States as follows:

12 “(I) 50 percent of the funds shall
13 be allocated equally among coastal
14 States.

15 “(II) 25 percent of the funds
16 shall be allocated based on tidal shore-
17 line miles.

18 “(III) 25 percent of the funds
19 shall be allocated based on the coastal
20 population density of a coastal State.

21 “(IV) No State shall be allocated
22 more than 10 percent of the total
23 amount of funds available for alloca-
24 tion among coastal States for any fis-
25 cal year.

1 “(V) No territory shall be allo-
2 cated more than 1 percent of the total
3 amount of funds available for alloca-
4 tion among coastal States for any fis-
5 cal year.

6 “(C) GULF OF MEXICO RESEARCH ENDOW-
7 MENT.—

8 “(i) IN GENERAL.—There is estab-
9 lished in the Treasury of the United States
10 a trust fund to be known as the ‘Gulf of
11 Mexico Research Endowment’, to be ad-
12 ministered by the Secretary of Commerce,
13 solely for use in providing long-term fund-
14 ing in accordance with section 1604 of the
15 Resources and Ecosystems Sustainability,
16 Tourist Opportunities, and Revived Econo-
17 mies of the Gulf Coast States Act of 2012.

18 “(ii) INVESTMENT.—Amounts in the
19 Gulf of Mexico Research Endowment shall
20 be invested in accordance with section
21 9602 of the Internal Revenue Code of
22 1986, and, after adjustment for inflation
23 so as to maintain the value of the prin-
24 cipal, any interest on, and proceeds from,
25 any such investment shall be available for

1 expenditure and shall be allocated in equal
2 portions to the Gulf Coast Ecosystem Res-
3 toration Science, Monitoring, and Tech-
4 nology Program and Fisheries Endowment
5 established in section 1604 of the Re-
6 sources and Ecosystems Sustainability,
7 Tourist Opportunities, and Revived Econo-
8 mies of the Gulf Coast States Act of
9 2012.”.

10 **SEC. 1604. GULF COAST ECOSYSTEM RESTORATION**
11 **SCIENCE, OBSERVATION, MONITORING, AND**
12 **TECHNOLOGY PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the National
16 Oceanic and Atmospheric Administration.

17 (2) FISHERIES AND ECOSYSTEM ENDOW-
18 MENT.—The term “Fisheries and Ecosystem En-
19 dowment” means the endowment established by sub-
20 section (d).

21 (3) PROGRAM.—The term “Program” means
22 the Gulf Coast Ecosystem Restoration Science, Ob-
23 servation, Monitoring, and Technology Program es-
24 tablished by subsection (b).

1 (b) ESTABLISHMENT OF PROGRAM.—There is estab-
2 lished within the National Oceanic and Atmospheric Ad-
3 ministration a program to be known as the “Gulf Coast
4 Ecosystem Restoration Science, Observation, Monitoring,
5 and Technology Program”, to be carried out by the Ad-
6 ministrator.

7 (c) CENTERS OF EXCELLENCE.—

8 (1) IN GENERAL.—In carrying out the Pro-
9 gram, the Administrator, in consultation with other
10 Federal agencies with expertise in the discipline of
11 a center of excellence, shall make grants in accord-
12 ance with paragraph (2) to establish and operate 5
13 centers of excellence, 1 of which shall be located in
14 each of the States of Alabama, Florida, Louisiana,
15 Mississippi, and Texas.

16 (2) GRANTS.—

17 (A) IN GENERAL.—The Administrator
18 shall use the amounts made available to carry
19 out this section to award competitive grants to
20 nongovernmental entities and consortia in the
21 Gulf Coast region (including public and private
22 institutions of higher education) for the estab-
23 lishment of centers of excellence as described in
24 paragraph (1).

1 (B) APPLICATION.—To be eligible to re-
2 ceive a grant under this paragraph, an entity or
3 consortium described in subparagraph (A) shall
4 submit to the Administrator an application at
5 such time, in such manner, and containing such
6 information as the Administrator determines to
7 be appropriate.

8 (C) PRIORITY.—In awarding grants under
9 this paragraph, the Administrator shall give
10 priority to entities and consortia that dem-
11 onstrate the ability to establish the broadest
12 cross-section of participants with interest and
13 expertise in any discipline described in para-
14 graph (3) on which the proposal of the center
15 of excellence will be focused.

16 (3) DISCIPLINES.—Each center of excellence
17 shall focus on science, technology, and monitoring in
18 at least 1 of the following disciplines:

19 (A) Coastal and deltaic sustainability, res-
20 toration and protection; including solutions and
21 technology that allow citizens to live safely and
22 sustainably in a coastal delta.

23 (B) Coastal fisheries and wildlife eco-
24 system research and monitoring.

1 (C) Offshore energy development, including
2 research and technology to improve the sustain-
3 able and safe development of energy resources.

4 (D) Sustainable and resilient growth, eco-
5 nomic and commercial development in the Gulf
6 Coast.

7 (E) Comprehensive observation, moni-
8 toring, and mapping of the Gulf of Mexico.

9 (4) COORDINATION WITH OTHER PROGRAMS.—
10 The Administrator shall develop a plan for the co-
11 ordination of projects and activities between the Pro-
12 gram and other existing Federal and State science
13 and technology programs in the States of Alabama,
14 Florida, Louisiana, Mississippi, and Texas, as well
15 as between the centers of excellence.

16 (d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM
17 ENDOWMENT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Council
20 shall establish a fishery and ecosystem endowment
21 to ensure, to the maximum extent practicable, the
22 long-term sustainability of the ecosystem, fish
23 stocks, fish habitat and the recreational, commercial,
24 and charter fishing industry in the Gulf of Mexico.

1 (2) EXPENDITURE OF FUNDS.—For each fiscal
2 year, amounts made available to carry out this sub-
3 section may be expended for, with respect to the
4 Gulf of Mexico—

5 (A) marine and estuarine research;

6 (B) marine and estuarine ecosystem moni-
7 toring and ocean observation;

8 (C) data collection and stock assessments;

9 (D) pilot programs for—

10 (i) fishery independent data; and

11 (ii) reduction of exploitation of spawn-
12 ing aggregations; and

13 (E) cooperative research.

14 (3) ADMINISTRATION AND IMPLEMENTATION.—

15 The Fisheries and Ecosystem Endowment shall be
16 administered by the Administrator of the National
17 Oceanic and Atmospheric Administration, in con-
18 sultation with the Director of the United States Fish
19 and Wildlife Service, with guidance provided by the
20 Regional Gulf of Mexico Fishery Management Coun-
21 cil.

22 (4) SPECIES INCLUDED.—The Fisheries and
23 Ecosystem Endowment will include all marine, estu-
24 arine, aquaculture, and fish and wildlife species in
25 State and Federal waters of the Gulf of Mexico.

1 (5) RESEARCH PRIORITIES.—In distributing
2 funding under this subsection, priority shall be given
3 to integrated, long-term projects that—

4 (A) build on, or are coordinated with, re-
5 lated research activities; and

6 (B) address current or anticipated marine
7 ecosystem, fishery, or wildlife management in-
8 formation needs.

9 (6) DUPLICATION AND COORDINATION.—In car-
10 rying out this subsection, the Administrator shall
11 seek to avoid duplication of other research and mon-
12 itoring activities and coordinate with existing re-
13 search and monitoring programs, including the Inte-
14 grated Coastal and Ocean Observation System Act
15 of 2009 (33 U.S.C. 3601 et seq.).

16 (e) FUNDING.—

17 (1) IN GENERAL.—Except as provided in sub-
18 section (t)(4) of section 311 of the Federal Water
19 Pollution Control Act (33 U.S.C. 1321), of the total
20 amount made available for each fiscal year for the
21 Gulf Coast Restoration Trust Fund established
22 under section 1602, 5 percent shall be allocated in
23 equal portions to the Program and Fisheries and
24 Ecosystem Endowment established by this section.

1 (2) ADMINISTRATIVE EXPENSES.—Of the
2 amounts received by the National Oceanic and At-
3 mospheric Administration to carry out this section,
4 not more than 3 percent may be used for adminis-
5 trative expenses.

6 **SEC. 1605. EFFECT.**

7 (a) IN GENERAL.—Nothing in this subtitle or any
8 amendment made by this subtitle—

9 (1) supersedes or otherwise affects any provi-
10 sion of Federal law, including, in particular, laws
11 providing recovery for injury to natural resources
12 under the Oil Pollution Act of 1990 (33 U.S.C.
13 2701 et seq.) and laws for the protection of public
14 health and the environment; or

15 (2) applies to any fine collected under section
16 311 of the Federal Water Pollution Control Act (33
17 U.S.C. 1321) for any incident other than the Deep-
18 water Horizon oil spill.

19 (b) USE OF FUNDS.—Funds made available under
20 this subtitle may be used only for eligible activities specifi-
21 cally authorized by this subtitle.

1 **Subtitle G—Land and Water**
2 **Conservation Fund**

3 **SEC. 1701. LAND AND WATER CONSERVATION FUND.**

4 (a) AUTHORIZATION.—Section 2 of the Land and
5 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
6 5) is amended—

7 (1) in the matter preceding subsection (a), by
8 striking “September 30, 2015” and inserting “Sep-
9 tember 30, 2022”; and

10 (2) in subsection (c)(1), by striking “through
11 September 30, 2015” and inserting “September 30,
12 2022”.

13 (b) FUNDING.—Section 3 of the Land and Water
14 Conservation Fund Act of 1965 (16 U.S.C. 460l-6) is
15 amended to read as follows:

16 **“SEC. 3. AVAILABILITY OF FUNDS.**

17 “(a) FUNDING.—

18 “(1) FISCAL YEARS 2013 AND 2014.—For each
19 of fiscal years 2013 and 2014—

20 “(A) \$700,000,000 of amounts covered
21 into the fund under section 2 shall be available
22 for expenditure, without further appropriation
23 or fiscal year limitation, to carry out the pur-
24 poses of this Act; and

1 “(B) the remainder of amounts covered
2 into the fund shall be available subject to ap-
3 propriations, which may be made without fiscal
4 year limitation.

5 “(2) FISCAL YEARS 2015 THROUGH 2022.—For
6 each of fiscal years 2015 through 2022, amounts
7 covered into the fund under section 2 shall be avail-
8 able for expenditure to carry out the purposes of this
9 Act subject to appropriations, which may be made
10 without fiscal year limitation.

11 “(b) USES.—Amounts made available for obligation
12 or expenditure from the fund may be obligated or ex-
13 pended only as provided in this Act.

14 “(c) WILLING SELLERS.—In using amounts made
15 available under subsection (a)(1)(A), the Secretary shall
16 only acquire land or interests in land by purchase, ex-
17 change, or donation from a willing seller.

18 “(d) ADDITIONAL AMOUNTS.—Amounts made avail-
19 able under subsection (a)(1)(A) shall be in addition to
20 amounts made available to the fund under section 105 of
21 the Gulf of Mexico Energy Security Act of 2006 (43
22 U.S.C. 1331 note; Public Law 109–432).

23 “(e) ALLOCATION AUTHORITY.—Appropriation Acts
24 may provide for the allocation of amounts covered into the
25 fund under section 2.”.

1 (c) ALLOCATION OF FUNDS.—Section 5 of the Land
2 and Water Conservation Fund Act of 1965 (16 U.S.C.
3 460l–7) is amended—

4 (1) in the first sentence, by inserting “or ex-
5 penditures” after “appropriations”;

6 (2) in the second sentence—

7 (A) by inserting “or expenditures” after
8 “appropriations”; and

9 (B) by inserting before the period at the
10 end the following: “, including the amounts to
11 be allocated from the fund for Federal and
12 State purposes”; and

13 (3) by striking “Those appropriations from”
14 and all that follows through the end of the section.

15 (d) CONFORMING AMENDMENTS.—Section 6(b) of
16 the Land and Water Conservation Fund Act of 1965 (16
17 U.S.C. 460l–8(b)) is amended—

18 (1) in the matter preceding paragraph (1), by
19 inserting “or expended” after “appropriated”;

20 (2) in paragraph (1)—

21 (A) by inserting “or expenditures” after
22 “appropriations”; and

23 (B) by striking “; and” and inserting a pe-
24 riod; and

1 (3) in the first sentence of paragraph (2), by
2 inserting “or expenditure” after “appropriation”.

3 (e) PUBLIC ACCESS.—Section 7 of the Land and
4 Water Conservation Fund Act of 1965 (16 U.S.C. 4601-
5 9) is amended—

6 (1) in subsection (a)—

7 (A) in the matter preceding paragraph (1),
8 by inserting “or expended” after “appro-
9 priated”; and

10 (B) in paragraph (3), by inserting “or ex-
11 penditures” after “such appropriations”;

12 (2) in subsection (b)—

13 (A) in the first sentence, by inserting “or
14 expenditures” after “Appropriations”; and

15 (B) in the proviso, by inserting “or ex-
16 penditures” after “appropriations”;

17 (3) in the first sentence of subsection (c)(1)—

18 (A) by inserting “or expended” after “ap-
19 propriated”; and

20 (B) by inserting “or expenditures” after
21 “appropriations”; and

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

23 “(d) PUBLIC ACCESS.—Not less than 1.5 percent of
24 the annual authorized funding amount shall be made
25 available each year for projects that secure recreational

1 public access to existing Federal public land for hunting,
 2 fishing, and other recreational purposes.”.

3 **Subtitle H—Offsets**

4 **SEC. 1801. DELAY IN APPLICATION OF WORLDWIDE INTER-** 5 **EST.**

6 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
 7 tion 864(f) of the Internal Revenue Code of 1986 are each
 8 amended by striking “December 31, 2020” and inserting
 9 “December 31, 2021.”

10 (b) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of the enactment
 12 of this Act.

13 **TITLE II—AMERICA FAST FOR-** 14 **WARD FINANCING INNOVA-** 15 **TION**

16 **SEC. 2001. SHORT TITLE.**

17 This title may be cited as the “America Fast Forward
 18 Financing Innovation Act of 2011”.

19 **SEC. 2002. TRANSPORTATION INFRASTRUCTURE FINANCE** 20 **AND INNOVATION ACT AMENDMENTS.**

21 Sections 601 through 609 of title 23, United States
 22 Code, are amended to read as follows:

23 **“§ 601. Generally applicable provisions**

24 “(a) DEFINITIONS.—In this chapter, the following
 25 definitions apply:

1 “(1) ELIGIBLE PROJECT COSTS.—The term ‘eli-
2 gible project costs’ means amounts substantially all
3 of which are paid by, or for the account of, an obli-
4 gor in connection with a project, including the cost
5 of—

6 “(A) development phase activities, includ-
7 ing planning, feasibility analysis, revenue fore-
8 casting, environmental review, permitting, pre-
9 liminary engineering and design work, and
10 other preconstruction activities;

11 “(B) construction, reconstruction, rehabili-
12 tation, replacement, and acquisition of real
13 property (including land relating to the project
14 and improvements to land), environmental miti-
15 gation, construction contingencies, and acquisi-
16 tion of equipment; and

17 “(C) capitalized interest necessary to meet
18 market requirements, reasonably required re-
19 serve funds, capital issuance expenses, and
20 other carrying costs during construction.

21 “(2) FEDERAL CREDIT INSTRUMENT.—The
22 term ‘Federal credit instrument’ means a secured
23 loan, loan guarantee, or line of credit authorized to
24 be made available under this chapter with respect to
25 a project.

1 “(3) INVESTMENT-GRADE RATING.—The term
2 ‘investment-grade rating’ means a rating of BBB
3 minus, Baa3, bbb minus, BBB (low), or higher as-
4 signed by a rating agency to project obligations.

5 “(4) LENDER.—The term ‘lender’ means any
6 non-Federal qualified institutional buyer (as defined
7 in section 230.144A(a) of title 17, Code of Federal
8 Regulations (or any successor regulation), known as
9 Rule 144A(a) of the Securities and Exchange Com-
10 mission and issued under the Securities Act of 1933
11 (15 U.S.C. 77a et seq.)), including—

12 “(A) a qualified retirement plan (as de-
13 fined in section 4974(c) of the Internal Revenue
14 Code of 1986) that is a qualified institutional
15 buyer; and

16 “(B) a governmental plan (as defined in
17 section 414(d) of the Internal Revenue Code of
18 1986) that is a qualified institutional buyer.

19 “(5) LETTER OF INTEREST.—The term ‘letter
20 of interest’ means a letter submitted by a potential
21 applicant prior to an application for credit assistance
22 in a format prescribed by the Secretary on the
23 website of the TIFIA program, which—

24 “(A) describes the project and the location,
25 purpose, and cost of the project;

1 “(B) outlines the proposed financial plan,
2 including the requested credit assistance and
3 the proposed obligor;

4 “(C) provides a status of environmental re-
5 view; and

6 “(D) provides information regarding satis-
7 faction of other eligibility requirements of the
8 TIFIA program.

9 “(6) LINE OF CREDIT.—The term “‘line of
10 credit’” means an agreement entered into by the
11 Secretary with an obligor under section 604 to pro-
12 vide a direct loan at a future date upon the occur-
13 rence of certain events.

14 “(7) LIMITED BUYDOWN.—The term ‘limited
15 buydown’ means, subject to the conditions described
16 in section 603(b)(4)(C), a buydown of the interest
17 rate by the Secretary and by the obligor if the inter-
18 est rate has increased between—

19 “(A)(i) the date on which a project appli-
20 cation acceptable to the Secretary is submitted;
21 or

22 “(ii) the date on which the Secretary en-
23 tered into a master credit agreement; and

24 “(B) the date on which the Secretary exe-
25 cutes the Federal credit instrument.

1 “(8) LOAN GUARANTEE.—The term ‘loan guar-
2 antee’ means any guarantee or other pledge by the
3 Secretary to pay all or part of the principal of and
4 interest on a loan or other debt obligation issued by
5 an obligor and funded by a lender.

6 “(9) MASTER CREDIT AGREEMENT.—The term
7 ‘master credit agreement’ means an agreement to
8 extend credit assistance for a program of projects
9 secured by a common security pledge (which shall
10 receive an investment grade rating from a rating
11 agency), or for a single project covered under section
12 602(b)(2) that would—

13 “(A) make contingent commitments of 1 or
14 more secured loans or other Federal credit in-
15 struments at future dates, subject to the avail-
16 ability of future funds being made available to
17 carry out this chapter;

18 “(B) establish the maximum amounts and
19 general terms and conditions of the secured
20 loans or other Federal credit instruments;

21 “(C) identify the 1 or more dedicated non-
22 Federal revenue sources that will secure the re-
23 payment of the secured loans or secured Fed-
24 eral credit instruments;

1 “(D) provide for the obligation of funds for
2 the secured loans or secured Federal credit in-
3 struments after all requirements have been met
4 for the projects subject to the master credit
5 agreement, including—

6 “(i) completion of an environmental
7 impact statement or similar analysis re-
8 quired under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et
10 seq.);

11 “(ii) compliance with such other re-
12 quirements as are specified in section
13 602(c); and

14 “(iii) the availability of funds to carry
15 out this chapter; and

16 “(E) require that contingent commitments
17 result in a financial close and obligation of
18 credit assistance not later than 3 years after
19 the date of entry into the master credit agree-
20 ment, or release of the commitment, unless oth-
21 erwise extended by the Secretary.

22 “(10) OBLIGOR.—The term ‘obligor’ means a
23 party that—

1 “(A) is primarily liable for payment of the
2 principal of or interest on a Federal credit in-
3 strument; and

4 “(B) may be a corporation, partnership,
5 joint venture, trust, or governmental entity,
6 agency, or instrumentality.

7 “(11) PROJECT.—The term ‘project’ means—

8 “(A) any surface transportation project eli-
9 gible for Federal assistance under this title or
10 chapter 53 of title 49;

11 “(B) a project for an international bridge
12 or tunnel for which an international entity au-
13 thorized under Federal or State law is respon-
14 sible;

15 “(C) a project for intercity passenger bus
16 or rail facilities and vehicles, including facilities
17 and vehicles owned by the National Railroad
18 Passenger Corporation and components of mag-
19 netic levitation transportation systems; and

20 “(D) a project that—

21 “(i) is a project—

22 “(I) for a public freight rail facil-
23 ity or a private facility providing pub-
24 lic benefit for highway users by way of

1 direct freight interchange between
2 highway and rail carriers;

3 “(II) for an intermodal freight
4 transfer facility;

5 “(III) for a means of access to a
6 facility described in subclause (I) or
7 (II);

8 “(IV) for a service improvement
9 for a facility described in subclause
10 (I) or (II) (including a capital invest-
11 ment for an intelligent transportation
12 system); or

13 “(V) that comprises a series of
14 projects described in subclauses (I)
15 through (IV) with the common objec-
16 tive of improving the flow of goods;

17 “(ii) may involve the combining of pri-
18 vate and public sector funds, including in-
19 vestment of public funds in private sector
20 facility improvements;

21 “(iii) if located within the boundaries
22 of a port terminal, includes only such sur-
23 face transportation infrastructure modi-
24 fications as are necessary to facilitate di-

1 rect intermodal interchange, transfer, and
2 access into and out of the port; and

3 “(iv) is composed of related highway,
4 surface transportation, transit, rail, or
5 intermodal capital improvement projects el-
6 igible for assistance under this subsection
7 in order to meet the eligible project cost
8 threshold under section 602, by grouping
9 related projects together for that purpose,
10 on the condition that the credit assistance
11 for the projects is secured by a common
12 pledge.

13 “(12) PROJECT OBLIGATION.—The term
14 ‘project obligation’ means any note, bond, debenture,
15 or other debt obligation issued by an obligor in con-
16 nection with the financing of a project, other than
17 a Federal credit instrument.

18 “(13) RATING AGENCY.—The term ‘rating
19 agency’ means a credit rating agency registered with
20 the Securities and Exchange Commission as a na-
21 tionally recognized statistical rating organization (as
22 that term is defined in section 3(a) of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78c(a))).

1 “(14) RURAL INFRASTRUCTURE PROJECT.—

2 The term ‘rural infrastructure project’ means a sur-
3 face transportation infrastructure project either—

4 “(A) located in any area other than an ur-
5 banized area that has a population of greater
6 than 250,000 inhabitants; or

7 “(B) connects a rural area to a city with
8 a population of less than 250,000 inhabitants
9 within the city limits.

10 “(15) SECURED LOAN.—The term ‘secured
11 loan’ means a direct loan or other debt obligation
12 issued by an obligor and funded by the Secretary in
13 connection with the financing of a project under sec-
14 tion 603.

15 “(16) STATE.—The term ‘State’ has the mean-
16 ing given the term in section 101.

17 “(17) SUBSIDY AMOUNT.—The term ‘subsidy
18 amount’ means the amount of budget authority suf-
19 ficient to cover the estimated long-term cost to the
20 Federal Government of a Federal credit instrument,
21 calculated on a net present value basis, excluding
22 administrative costs and any incidental effects on
23 governmental receipts or outlays in accordance with
24 the Federal Credit Reform Act of 1990 (2 U.S.C.
25 661 et seq.).

1 posing to carry out the project submits a letter of interest
2 prior to submission of a formal application for the project,
3 and the project meets the following criteria:

4 “(1) CREDITWORTHINESS.—

5 “(A) IN GENERAL.—The project shall sat-
6 isfy applicable creditworthiness standards,
7 which, at a minimum, includes—

8 “(i) a rate covenant, if applicable;

9 “(ii) adequate coverage requirements
10 to ensure repayment;

11 “(iii) an investment grade rating from
12 at least 2 rating agencies on debt senior to
13 the Federal credit instrument; and

14 “(iv) a rating from at least 2 rating
15 agencies on the Federal credit instrument,
16 subject to the condition that, with respect
17 to clause (iii), if the senior debt and Fed-
18 eral credit instrument is for an amount
19 less than \$75,000,000 or for a rural infra-
20 structure project or intelligent transpor-
21 tation systems project, 1 rating agency
22 opinion for each of the senior debt and
23 Federal credit instrument shall be suffi-
24 cient.

1 “(B) SENIOR DEBT.—Notwithstanding
2 subparagraph (A), in a case in which the Fed-
3 eral credit instrument is the senior debt, the
4 Federal credit instrument shall be required to
5 receive an investment grade rating from at least
6 2 rating agencies, unless the credit instrument
7 is for a rural infrastructure project or intel-
8 ligent transportation systems project, in which
9 case 1 rating agency opinion shall be sufficient.

10 “(2) INCLUSION IN TRANSPORTATION PLANS
11 AND PROGRAMS.—The project shall satisfy the appli-
12 cable planning and programming requirements of
13 sections 134 and 135 at such time as an agreement
14 to make available a Federal credit instrument is en-
15 tered into under this chapter.

16 “(3) APPLICATION.—A State, local government,
17 public authority, public-private partnership, or any
18 other legal entity undertaking the project and au-
19 thorized by the Secretary, shall submit a project ap-
20 plication acceptable to the Secretary.

21 “(4) ELIGIBLE PROJECT COSTS.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), to be eligible for assistance
24 under this chapter, a project shall have eligible

1 project costs that are reasonably anticipated to
2 equal or exceed the lesser of—

3 “(i)(I) \$50,000,000; or

4 “(II) in the case of a rural infrastruc-
5 ture project, \$25,000,000; or

6 “(ii) 33 $\frac{1}{3}$ percent of the amount of
7 Federal highway assistance funds appor-
8 tioned for the most recently completed fis-
9 cal year to the State in which the project
10 is located.

11 “(B) INTELLIGENT TRANSPORTATION SYS-
12 TEM PROJECTS.—In the case of a project prin-
13 cipally involving the installation of an intelligent
14 transportation system, eligible project costs
15 shall be reasonably anticipated to equal or ex-
16 ceed \$15,000,000.

17 “(5) DEDICATED REVENUE SOURCES.—The
18 Federal credit instrument shall be repayable, in
19 whole or in part, from tolls, user fees, or other dedi-
20 cated revenue sources that also secure the project
21 obligations.

22 “(6) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
23 TIES.—In the case of a project that is undertaken
24 by an entity that is not a State or local government
25 or an agency or instrumentality of a State or local

1 government, the project that the entity is under-
2 taking shall be publicly sponsored as provided in
3 paragraph (2).

4 “(b) SELECTION AMONG ELIGIBLE PROJECTS.—

5 “(1) ESTABLISHMENT.—The Secretary shall es-
6 tablish a rolling application process in which projects
7 that are eligible to receive credit assistance under
8 subsection (a) shall receive credit assistance on
9 terms acceptable to the Secretary, if adequate funds
10 are available to cover the subsidy costs associated
11 with the Federal credit instrument.

12 “(2) ADEQUATE FUNDING NOT AVAILABLE.—

13 “If the Secretary fully obligates funding to
14 eligible projects in a given fiscal year, and ade-
15 quate funding is not available to fund a credit
16 instrument, a project sponsor of an eligible
17 project may elect to enter into a master credit
18 agreement and wait until the following fiscal
19 year or until additional funds are available to
20 receive credit assistance.

21 “(3) PRELIMINARY RATING OPINION LETTER.—

22 The Secretary shall require each project applicant to
23 provide a preliminary rating opinion letter from at
24 least 1 rating agency—

1 “(A) indicating that the senior obligations
2 of the project, which may be the Federal credit
3 instrument, have the potential to achieve an in-
4 vestment-grade rating; and

5 “(B) including a preliminary rating opin-
6 ion on the Federal credit instrument.

7 “(c) FEDERAL REQUIREMENTS.—

8 “(1) IN GENERAL.—In addition to the require-
9 ments of this title for highway projects, chapter 53
10 of title 49 for transit projects, and section 5333(a)
11 of title 49 for rail projects, the following provisions
12 of law shall apply to funds made available under this
13 chapter and projects assisted with the funds:

14 “(A) Title VI of the Civil Rights Act of
15 1964 (42 U.S.C. 2000d et seq.).

16 “(B) The National Environmental Policy
17 Act of 1969 (42 U.S.C. 4321 et seq.).

18 “(C) The Uniform Relocation Assistance
19 and Real Property Acquisition Policies Act of
20 1970 (42 U.S.C. 4601 et seq.).

21 “(2) NEPA.—No funding shall be obligated for
22 a project that has not received an environmental
23 Categorical Exclusion, Finding of No Significant
24 Impact, or Record of Decision under the National

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

3 **“§ 603. Secured loans**

4 “(a) IN GENERAL.—

5 “(1) AGREEMENTS.—Subject to paragraphs (2)
6 through (4), the Secretary may enter into agree-
7 ments with 1 or more obligors to make secured
8 loans, the proceeds of which shall be used—

9 “(A) to finance eligible project costs of any
10 project selected under section 602;

11 “(B) to refinance interim construction fi-
12 nancing of eligible project costs of any project
13 selected under section 602;

14 “(C) to refinance existing loan agreements
15 for rural infrastructure projects; or

16 “(D) to refinance long-term project obliga-
17 tions or Federal credit instruments if the refi-
18 nancing provides additional funding capacity for
19 the completion, enhancement, or expansion of
20 any project that—

21 “(i) is selected under section 602; or

22 “(ii) otherwise meets the requirements
23 of section 602.

24 “(2) LIMITATION ON REFINANCING OF INTERIM
25 CONSTRUCTION FINANCING.—A loan under para-

1 graph (1) shall not refinance interim construction fi-
2 nancing under paragraph (1)(B) later than 1 year
3 after the date of substantial completion of the
4 project.

5 “(3) RISK ASSESSMENT.—Before entering into
6 an agreement under this subsection, the Secretary,
7 in consultation with the Director of the Office of
8 Management and Budget, shall determine an appro-
9 priate capital reserve subsidy amount for each se-
10 cured loan, taking into account each rating letter
11 provided by an agency under section 602(b)(3)(B).

12 “(b) TERMS AND LIMITATIONS.—

13 “(1) IN GENERAL.—A secured loan under this
14 section with respect to a project shall be on such
15 terms and conditions and contain such covenants,
16 representations, warranties, and requirements (in-
17 cluding requirements for audits) as the Secretary de-
18 termines appropriate.

19 “(2) MAXIMUM AMOUNT.—The amount of the
20 secured loan shall not exceed the lesser of 49 per-
21 cent of the reasonably anticipated eligible project
22 costs or, if the secured loan does not receive an in-
23 vestment grade rating, the amount of the senior
24 project obligations.

25 “(3) PAYMENT.—The secured loan—

1 “(A) shall—

2 “(i) be payable, in whole or in part,
3 from tolls, user fees, or other dedicated
4 revenue sources that also secure the senior
5 project obligations; and

6 “(ii) include a rate covenant, coverage
7 requirement, or similar security feature
8 supporting the project obligations; and

9 “(B) may have a lien on revenues de-
10 scribed in subparagraph (A) subject to any lien
11 securing project obligations.

12 “(4) INTEREST RATE.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraphs (B) and (C), the interest rate on
15 the secured loan shall be not less than the yield
16 on United States Treasury securities of a simi-
17 lar maturity to the maturity of the secured loan
18 on the date of execution of the loan agreement.

19 “(B) RURAL INFRASTRUCTURE
20 PROJECTS.—A loan offered to a rural infra-
21 structure project under this chapter shall be at
22 $\frac{1}{2}$ of the Treasury Rate.

23 “(C) LIMITED BUYDOWNS.—A limited
24 buydown is subject to the following conditions:

1 “(i) The interest rate under the agree-
2 ment may not be lowered by more than the
3 lower of—

4 “(I) 1½ percentage points (150
5 basis points); or

6 “(II) the amount of the increase
7 in the interest rate.

8 “(ii) The Secretary may pay up to 50
9 percent of the cost of the limited buydown,
10 and the obligor shall pay the balance of the
11 cost of the limited buydown.

12 “(iii) Not more than 5 percent of the
13 funding made available annually to carry
14 out this chapter may be used to carry out
15 limited buydowns.

16 “(5) MATURITY DATE.—The final maturity
17 date of the secured loan shall be the lesser of—

18 “(A) 35 years after the date of substantial
19 completion of the project; or

20 “(B) if the useful life of the capital asset
21 being financed is of a lesser period, the useful
22 life of the asset.

23 “(6) NONSUBORDINATION.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), the secured loan shall not be

1 subordinated to the claims of any holder of
2 project obligations in the event of bankruptcy,
3 insolvency, or liquidation of the obligor.

4 “(B) PRE-EXISTING INDENTURE.—

5 “(i) IN GENERAL.—The Secretary
6 shall waive subparagraph (A) for public
7 agency borrowers that are financing ongo-
8 ing capital programs and have outstanding
9 senior bonds under a pre-existing inden-
10 ture, if—

11 “(I) the secured loan is rated in
12 the A-category or higher;

13 “(II) the secured loan is secured
14 and payable from pledged revenues
15 not affected by project performance,
16 such as a tax-backed revenue pledge
17 or a system-backed pledge of project
18 revenues; and

19 “(III) the TIFIA program share
20 of eligible project costs is 33 percent
21 or less.

22 “(ii) LIMITATION.—If the Secretary
23 waives the nonsubordination requirement
24 under this subparagraph—

1 “(I) the maximum credit subsidy
2 that will be paid by the Federal Gov-
3 ernment shall be limited to 10 percent
4 of the principal amount of the secured
5 loan; and

6 “(II) the obligor shall be respon-
7 sible for paying the remainder of the
8 subsidy cost.

9 “(7) FEES.—The Secretary may establish fees
10 at a level sufficient to cover all or a portion of the
11 costs to the Federal Government of making a se-
12 cured loan under this section.

13 “(8) NON-FEDERAL SHARE.—The proceeds of a
14 secured loan under this chapter may be used for any
15 non-Federal share of project costs required under
16 this title or chapter 53 of title 49, if the loan is re-
17 payable from non-Federal funds.

18 “(9) MAXIMUM FEDERAL INVOLVEMENT.—The
19 total Federal assistance provided on a project receiv-
20 ing a loan under this chapter shall not exceed 80
21 percent of the total project cost.

22 “(c) REPAYMENT.—

23 “(1) SCHEDULE.—The Secretary shall establish
24 a repayment schedule for each secured loan under
25 this section based on the projected cash flow from

1 project revenues and other repayment sources, and
2 the useful life of the project.

3 “(2) COMMENCEMENT.—Scheduled loan repay-
4 ments of principal or interest on a secured loan
5 under this section shall commence not later than 5
6 years after the date of substantial completion of the
7 project.

8 “(3) DEFERRED PAYMENTS.—

9 “(A) AUTHORIZATION.—If, at any time
10 after the date of substantial completion of the
11 project, the project is unable to generate suffi-
12 cient revenues to pay the scheduled loan repay-
13 ments of principal and interest on the secured
14 loan, the Secretary may, subject to subpara-
15 graph (C), allow the obligor to add unpaid prin-
16 cipal and interest to the outstanding balance of
17 the secured loan.

18 “(B) INTEREST.—Any payment deferred
19 under subparagraph (A) shall—

20 “(i) continue to accrue interest in ac-
21 cordance with subsection (b)(4) until fully
22 repaid; and

23 “(ii) be scheduled to be amortized
24 over the remaining term of the loan.

25 “(C) CRITERIA.—

1 “(i) IN GENERAL.—Any payment de-
2 ferral under subparagraph (A) shall be
3 contingent on the project meeting criteria
4 established by the Secretary.

5 “(ii) REPAYMENT STANDARDS.—The
6 criteria established under clause (i) shall
7 include standards for reasonable assurance
8 of repayment.

9 “(4) PREPAYMENT.—

10 “(A) USE OF EXCESS REVENUES.—Any
11 excess revenues that remain after satisfying
12 scheduled debt service requirements on the
13 project obligations and secured loan and all de-
14 posit requirements under the terms of any trust
15 agreement, bond resolution, or similar agree-
16 ment securing project obligations may be ap-
17 plied annually to prepay the secured loan with-
18 out penalty.

19 “(B) USE OF PROCEEDS OF REFI-
20 NANCING.—The secured loan may be prepaid at
21 any time without penalty from the proceeds of
22 refinancing from non-Federal funding sources.

23 “(d) SALE OF SECURED LOANS.—

24 “(1) IN GENERAL.—Subject to paragraph (2),
25 as soon as practicable after substantial completion of

1 a project and after notifying the obligor, the Sec-
2 retary may sell to another entity or reoffer into the
3 capital markets a secured loan for the project if the
4 Secretary determines that the sale or reoffering can
5 be made on favorable terms.

6 “(2) CONSENT OF OBLIGOR.—In making a sale
7 or reoffering under paragraph (1), the Secretary
8 may not change the original terms and conditions of
9 the secured loan without the written consent of the
10 obligor.

11 “(e) LOAN GUARANTEES.—

12 “(1) IN GENERAL.—The Secretary may provide
13 a loan guarantee to a lender in lieu of making a se-
14 cured loan if the Secretary determines that the
15 budgetary cost of the loan guarantee is substantially
16 the same as that of a secured loan.

17 “(2) TERMS.—The terms of a guaranteed loan
18 shall be consistent with the terms set forth in this
19 section for a secured loan, except that the rate on
20 the guaranteed loan and any prepayment features
21 shall be negotiated between the obligor and the lend-
22 er, with the consent of the Secretary.

23 **“§ 604. Lines of credit**

24 “(a) IN GENERAL.—

1 “(1) AGREEMENTS.—Subject to paragraphs (2)
2 through (4), the Secretary may enter into agree-
3 ments to make available lines of credit to 1 or more
4 obligors in the form of direct loans to be made by
5 the Secretary at future dates on the occurrence of
6 certain events for any project selected under section
7 602.

8 “(2) USE OF PROCEEDS.—The proceeds of a
9 line of credit made available under this section shall
10 be available to pay debt service on project obliga-
11 tions issued to finance eligible project costs, extraor-
12 dinary repair and replacement costs, operation and
13 maintenance expenses, and costs associated with un-
14 expected Federal or State environmental restrictions.

15 “(3) RISK ASSESSMENT.—Before entering into
16 an agreement under this subsection, the Secretary,
17 in consultation with the Director of the Office of
18 Management and Budget and each rating agency
19 providing a preliminary rating opinion letter under
20 section 602(b)(3), shall determine an appropriate
21 capital reserve subsidy amount for each line of cred-
22 it, taking into account the rating opinion letter.

23 “(4) INVESTMENT-GRADE RATING REQUIRE-
24 MENT.—The funding of a line of credit under this
25 section shall be contingent on the senior obligations

1 of the project receiving an investment-grade rating
2 from 2 rating agencies.

3 “(b) TERMS AND LIMITATIONS.—

4 “(1) IN GENERAL.—A line of credit under this
5 section with respect to a project shall be on such
6 terms and conditions and contain such covenants,
7 representations, warranties, and requirements (in-
8 cluding requirements for audits) as the Secretary de-
9 termines appropriate.

10 “(2) MAXIMUM AMOUNTS.—The total amount
11 of the line of credit shall not exceed 33 percent of
12 the reasonably anticipated eligible project costs.

13 “(3) DRAWS.—Any draw on the line of credit
14 shall represent a direct loan and shall be made only
15 if net revenues from the project (including capital-
16 ized interest but not including reasonably required
17 financing reserves) are insufficient to pay the costs
18 specified in subsection (a)(2).

19 “(4) INTEREST RATE.—Except as otherwise
20 provided in subparagraphs (B) and (C) of section
21 603(b)(4), the interest rate on a direct loan result-
22 ing from a draw on the line of credit shall be not
23 less than the yield on 30-year United States Treas-
24 ury securities as of the date of execution of the line
25 of credit agreement.

1 “(5) SECURITY.—The line of credit—

2 “(A) shall—

3 “(i) be payable, in whole or in part,
4 from tolls, user fees, or other dedicated
5 revenue sources that also secure the senior
6 project obligations; and

7 “(ii) include a rate covenant, coverage
8 requirement, or similar security feature
9 supporting the project obligations; and

10 “(B) may have a lien on revenues de-
11 scribed in subparagraph (A) subject to any lien
12 securing project obligations.

13 “(6) PERIOD OF AVAILABILITY.—The full
14 amount of the line of credit, to the extent not drawn
15 upon, shall be available during the period beginning
16 on the date of substantial completion of the project
17 and ending not later than 10 years after that date.

18 “(7) RIGHTS OF THIRD-PARTY CREDITORS.—

19 “(A) AGAINST FEDERAL GOVERNMENT.—A
20 third-party creditor of the obligor shall not have
21 any right against the Federal Government with
22 respect to any draw on the line of credit.

23 “(B) ASSIGNMENT.—An obligor may as-
24 sign the line of credit to 1 or more lenders or
25 to a trustee on the behalf of the lenders.

1 “(8) NONSUBORDINATION.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraphs (B) and (C), a direct loan under
4 this section shall not be subordinated to the
5 claims of any holder of project obligations in
6 the event of bankruptcy, insolvency, or liquida-
7 tion of the obligor.

8 “(B) PRE-EXISTING INDENTURE.—

9 “(i) IN GENERAL.—The Secretary
10 shall waive subparagraph (A) for public
11 agency borrowers that are financing ongo-
12 ing capital programs and have outstanding
13 senior bonds under a pre-existing inden-
14 ture, if—

15 “(I) the line of credit is rated in
16 the A-category or higher;

17 “(II) the TIFIA program loan
18 resulting from a draw on the line of
19 credit is payable from pledged reve-
20 nues not affected by project perform-
21 ance, such as a tax-backed revenue
22 pledge or a system-backed pledge of
23 project revenues; and

1 “(III) the TIFIA program share
2 of eligible project costs is 33 percent
3 or less.

4 “(ii) LIMITATION.—If the Secretary
5 waives the nonsubordination requirement
6 under this subparagraph—

7 “(I) the maximum credit subsidy
8 that will be paid by the Federal Gov-
9 ernment shall be limited to 10 percent
10 of the principal amount of the secured
11 loan; and

12 “(II) the obligor shall be respon-
13 sible for paying the remainder of the
14 subsidy cost.

15 “(9) FEES.—The Secretary may establish fees
16 at a level sufficient to cover all or a portion of the
17 costs to the Federal Government of providing a line
18 of credit under this section.

19 “(10) RELATIONSHIP TO OTHER CREDIT IN-
20 STRUMENTS.—A project that receives a line of credit
21 under this section shall not also receive a secured
22 loan or loan guarantee under section 603 in an
23 amount that, combined with the amount of the line
24 of credit, exceeds 49 percent of eligible project costs.

25 “(c) REPAYMENT.—

1 “(1) TERMS AND CONDITIONS.—The Secretary
2 shall establish repayment terms and conditions for
3 each direct loan under this section based on the pro-
4 jected cash flow from project revenues and other re-
5 payment sources, and the useful life of the asset
6 being financed.

7 “(2) TIMING.—All repayments of principal or
8 interest on a direct loan under this section shall be
9 scheduled to commence not later than 5 years after
10 the end of the period of availability specified in sub-
11 section (b)(6) and to conclude, with full repayment
12 of principal and interest, by the date that is 25
13 years after the end of the period of availability speci-
14 fied in subsection (b)(6).

15 **“§ 605. Program administration**

16 “(a) REQUIREMENT.—The Secretary shall establish
17 a uniform system to service the Federal credit instruments
18 made available under this chapter.

19 “(b) FEES.—The Secretary may collect and spend
20 fees, contingent upon authority being provided in appro-
21 priations Acts, at a level that is sufficient to cover—

22 “(1) the costs of services of expert firms re-
23 tained pursuant to subsection (d); and

1 “(2) all or a portion of the costs to the Federal
2 Government of servicing the Federal credit instru-
3 ments.

4 “(c) SERVICER.—

5 “(1) IN GENERAL.—The Secretary may appoint
6 a financial entity to assist the Secretary in servicing
7 the Federal credit instruments.

8 “(2) DUTIES.—The servicer shall act as the
9 agent for the Secretary.

10 “(3) FEE.—The servicer shall receive a serv-
11 icing fee, subject to approval by the Secretary.

12 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
13 retary may retain the services of expert firms, including
14 counsel, in the field of municipal and project finance to
15 assist in the underwriting and servicing of Federal credit
16 instruments.

17 **“§ 606. State and local permits**

18 “The provision of credit assistance under this chapter
19 with respect to a project shall not—

20 “(1) relieve any recipient of the assistance of
21 any obligation to obtain any required State or local
22 permit or approval with respect to the project;

23 “(2) limit the right of any unit of State or local
24 government to approve or regulate any rate of re-
25 turn on private equity invested in the project; or

1 “(3) otherwise supersede any State or local law
2 (including any regulation) applicable to the construc-
3 tion or operation of the project.

4 **“§ 607. Regulations**

5 “The Secretary may promulgate such regulations as
6 the Secretary determines appropriate to carry out this
7 chapter.

8 **“§ 608. Funding**

9 “(a) FUNDING.—

10 “(1) SPENDING AND BORROWING AUTHOR-
11 ITY.—Spending and borrowing authority for a fiscal
12 year to enter into Federal credit instruments shall
13 be promptly apportioned to the Secretary on a fiscal
14 year basis.

15 “(2) REESTIMATES.—When the estimated cost
16 of a loan or loans is reestimated, the cost of the re-
17 estimate shall be borne by or benefit the general
18 fund of the Treasury, consistent with section 661e(f)
19 of title 2, United States Code.

20 “(3) RURAL SET-ASIDE.—

21 “(A) IN GENERAL.—Of the total amount
22 of funds made available to carry out this chap-
23 ter for each fiscal year, 10 percent shall be set
24 aside for rural infrastructure projects.

1 “(B) REOBLIGATION.—Any amounts set
2 aside under subparagraph (A) that remain un-
3 obligated by June 1 of the fiscal year for which
4 the amounts were set aside shall be available
5 for obligation by the Secretary on projects other
6 than rural infrastructure projects.

7 “(4) REDISTRIBUTION OF AUTHORIZED FUND-
8 ING.—

9 “(A) IN GENERAL.—Beginning in the sec-
10 ond fiscal year after the date of enactment of
11 this paragraph, on August 1 of that fiscal year,
12 and each fiscal year thereafter, if the unobli-
13 gated and uncommitted balance of funding
14 available exceeds 150 percent of the amount
15 made available to carry out this chapter for
16 that fiscal year, the Secretary shall distribute to
17 the States the amount of funds and associated
18 obligation authority in excess of that amount.

19 “(B) DISTRIBUTION.—The amounts and
20 obligation authority distributed under this para-
21 graph shall be distributed, in the same manner
22 as obligation authority is distributed to the
23 States for the fiscal year, based on the propor-
24 tion that—

1 “(i) the relative share of each State of
2 obligation authority for the fiscal year;
3 bears to

4 “(ii) the total amount of obligation
5 authority distributed to all States for the
6 fiscal year.

7 “(C) PURPOSE.—Funds distributed under
8 subparagraph (B) shall be available for any
9 purpose described in section 133(e).

10 “(5) AVAILABILITY.—Amounts made available
11 to carry out this chapter shall remain available until
12 expended.

13 “(6) ADMINISTRATIVE COSTS.—Of the amounts
14 made available to carry out this chapter, the Sec-
15 retary may use not more than 1 percent for each fis-
16 cal year for the administration of this chapter.

17 “(b) CONTRACT AUTHORITY.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law, execution of a term sheet by the
20 Secretary of a Federal credit instrument that uses
21 amounts made available under this chapter shall im-
22 pose on the United States a contractual obligation to
23 fund the Federal credit investment.

24 “(2) AVAILABILITY.—Amounts made available
25 to carry out this chapter for a fiscal year shall be

1 available for obligation on October 1 of the fiscal
2 year.

3 **“§ 609. Reports to Congress**

4 “On June 1, 2012, and every 2 years thereafter, the
5 Secretary shall submit to Congress a report summarizing
6 the financial performance of the projects that are receiv-
7 ing, or have received, assistance under this chapter (other
8 than section 610), including a recommendation as to
9 whether the objectives of this chapter (other than section
10 610) are best served—

11 “(1) by continuing the program under the au-
12 thority of the Secretary;

13 “(2) by establishing a Federal corporation or
14 federally sponsored enterprise to administer the pro-
15 gram; or

16 “(3) by phasing out the program and relying on
17 the capital markets to fund the types of infrastruc-
18 ture investments assisted by this chapter (other than
19 section 610) without Federal participation.”.

20 **SEC. 2003. STATE INFRASTRUCTURE BANKS.**

21 Section 610(d)(1)(A) of title 23, United States Code,
22 is amended by striking “sections 104(b)(1)” and all that
23 follows though the semicolon and inserting “paragraphs
24 (1) and (2) of section 104(b)”.

1 **TITLE III—HIGHWAY SPENDING**
 2 **CONTROLS**

3 **SEC. 3001. HIGHWAY SPENDING CONTROLS.**

4 (a) IN GENERAL.—Title 23, United States Code, is
 5 amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

6 **“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGH-**
 7 **WAY TRUST FUND.**

8 “(a) SOLVENCY CALCULATION FOR FISCAL YEAR
 9 2012.—

10 “(1) ADJUSTMENT OF OBLIGATION LIMITA-
 11 TION.—Not later than 60 days after the date of en-
 12 actment of the MAP–21, the Secretary, in consulta-
 13 tion with the Secretary of Treasury, shall:

14 “(A) Estimate the balance of the Highway
 15 Trust Fund (other than the Mass Transit Ac-
 16 count) at the end of fiscal years 2012 and
 17 2013. For purposes of which estimation, the
 18 Secretary shall assume that the obligation limi-
 19 tation on Federal-aid highways and highway
 20 safety construction programs will be equal to
 21 the obligation limitations enacted for those fis-
 22 cal years in the MAP–21.

1 “(B) Determine if the estimated balance of
2 the Highway Trust Fund (other than the Mass
3 Transit Account) would fall below—

4 “(i) \$2,000,000,000 at the end of fis-
5 cal year 2012; or

6 “(ii) \$1,000,000,000 at the end of fis-
7 cal year 2013.

8 “(C) If either of the conditions in subpara-
9 graph (B) would occur, calculate the amount by
10 which the fiscal year 2012 obligation limitation
11 must be reduced to prevent such occurrence.
12 For purposes of this calculation, the Secretary
13 shall assume that the obligation limitation on
14 Federal-aid highways and highway safety con-
15 struction programs for the fiscal year 2013 will
16 be equal to the obligation limitation for fiscal
17 year 2012, as reduced pursuant to this sub-
18 paragraph.

19 “(D) Adjust the distribution of the fiscal
20 year 2012 obligation limitation to reflect any
21 reduction determined under subparagraph (C).

22 “(2) LAPSE AND RESCISSION.—

23 “(A) LAPSE OF OBLIGATION LIMITA-
24 TION.—Any obligation limitation that is with-
25 drawn by the Secretary pursuant to paragraph

1 (1)(D) shall lapse immediately following the ad-
2 justment of obligation limitation under such
3 paragraph.

4 “(B) RESCISSION OF CONTRACT AUTHOR-
5 ITY.—Upon the lapse of any obligation limita-
6 tion under subparagraph (A), the Secretary
7 shall reduce proportionately the amount author-
8 ized to be appropriated from the Highway
9 Trust Fund (other than the Mass Transit Ac-
10 count) for fiscal year 2012 to carry out each of
11 the Federal-aid highway and highway safety
12 construction programs (other than emergency
13 relief and funds under the national highway
14 performance program that are exempt from the
15 fiscal year 2012 obligation limitation) by an ag-
16 gregate amount equal to the amount of adjust-
17 ment determined pursuant to paragraph (1)(D).
18 The amounts withdrawn pursuant to this sub-
19 paragraph are permanently rescinded.

20 “(b) SOLVENCY CALCULATION FOR FISCAL YEAR
21 2013 AND FISCAL YEARS THEREAFTER.—

22 “(1) ADJUSTMENT OF OBLIGATION LIMITA-
23 TION.—Except as provided in paragraph (2), in dis-
24 tributing the obligation limitation on Federal-aid
25 highways and highway safety construction programs

1 for fiscal year 2013 and each fiscal year thereafter,
2 the Secretary shall—

3 “(A) estimate the balance of the Highway
4 Trust Fund (other than the Mass Transit Ac-
5 count) at the end of such fiscal year and the
6 end of the next fiscal year, for purposes of
7 which estimation, the Secretary shall assume
8 that the obligation limitation on Federal-aid
9 highways and highway safety construction pro-
10 grams for the next fiscal year will be equal to
11 the obligation limitation enacted for the fiscal
12 year for which the limitation is being distrib-
13 uted;

14 “(B) determine whether the estimated bal-
15 ance of the Highway Trust Fund (other than
16 the Mass Transit Account) would fall below
17 \$2,000,000,000 at the end of the fiscal year for
18 which the obligation limitation is being distrib-
19 uted;

20 “(C) if the condition in subparagraph (B)
21 would occur, calculate the amount by which the
22 obligation limitation in the fiscal year for which
23 the obligation limitation is being distributed
24 must be reduced to prevent that occurrence;
25 and

1 “(D) distribute such obligation limitation
2 less any amount determined under subpara-
3 graph (C).

4 “(2) LAPSE AND RESCISSION.—

5 “(A) OBLIGATION LIMITATION.—

6 “(i) RECALCULATION.—In a fiscal
7 year in which the Secretary withholds obli-
8 gation limitation based on the calculation
9 under paragraph (1), the Secretary shall,
10 on March 1 of such fiscal year, repeat the
11 calculations under subparagraphs (A)
12 through (C) of such paragraph. Based on
13 the results of those calculations, the Sec-
14 retary shall—

15 “(I) if the Secretary determines
16 that either of the conditions in para-
17 graph (1)(B) would occur, withdraw
18 an additional amount of obligation
19 limitation necessary to prevent such
20 occurrence; or

21 “(II) distribute as much of the
22 withheld obligation limitation as may
23 be distributed without causing either
24 of the conditions specified in para-
25 graph (1)(B) to occur.

1 “(ii) LAPSE.—Any obligation limita-
2 tion that is enacted for a fiscal year, with-
3 held from distribution pursuant to para-
4 graph (1)(D) (or withdrawn under clause
5 (i)(I)), and not subsequently distributed
6 under clause (i)(II) shall lapse immediately
7 following the distribution of obligation lim-
8 itation under such clause.

9 “(B) CONTRACT AUTHORITY.—

10 “(i) IN GENERAL.—Upon the lapse of
11 any obligation limitation under subpara-
12 graph (A)(ii), an equal amount of the un-
13 obligated balances of funds apportioned
14 among the States under chapter 1 and sec-
15 tions 1116, 1303, and 1404 of the
16 SAFETEA-LU (119 Stat. 1177, 1207,
17 and 1228) are permanently rescinded. In
18 administering the rescission required under
19 this clause, the Secretary shall allow each
20 State to determine the amount of the re-
21 quired rescission to be drawn from the pro-
22 grams to which the rescission applies, ex-
23 cept as provided in clause (ii).

24 “(ii) RESCISSION OF FUNDS APPOR-
25 TIONED IN FISCAL YEAR 2013 AND FISCAL

1 YEARS THEREAFTER.—If a State deter-
2 mines that it will meet any of its required
3 rescission amount from funds apportioned
4 to such State on or subsequent to October
5 1, 2012, the Secretary shall determine the
6 amount to be rescinded from each of the
7 programs subject to the rescission for
8 which the State was apportioned funds on
9 or subsequent to October 1, 2012, in pro-
10 portion to the cumulative amount of appor-
11 tionments that the State received for each
12 such program on or subsequent to October
13 1, 2012.

14 “(3) OTHER ACTIONS TO PREVENT INSOL-
15 VENCY.—The Secretary shall issue a regulation to
16 establish any actions in addition to those described
17 in subsection (a) and paragraph (1) that may be
18 taken by the Secretary if it becomes apparent that
19 the Highway Trust Fund (other than the Mass
20 Transit Account) will become insolvent, including
21 the denial of further obligations.

22 “(4) APPLICABLE ONLY TO FULL-YEAR LIMITA-
23 TION.—The requirements of paragraph (1) apply
24 only to the distribution of a full-year obligation limi-

1 tation and do not apply to partial-year limitations
2 under continuing appropriations Acts.”.

3 (b) TABLE OF CHAPTERS.—The table of chapters for
4 title 23, United States Code, is amended by inserting after
5 the item relating to chapter 6 the following:

“7. Highway Spending Controls 701”.

6 **DIVISION B—PUBLIC**
7 **TRANSPORTATION**

8 **SEC. 20001. SHORT TITLE.**

9 This division may be cited as the “Federal Public
10 Transportation Act of 2012”.

11 **SEC. 20002. REPEALS.**

12 (a) CHAPTER 53.—Chapter 53 of title 49, United
13 States Code, is amended by striking sections 5316, 5317,
14 5321, 5324, 5328, and 5339.

15 (b) TRANSPORTATION EQUITY ACT FOR THE 21ST
16 CENTURY.—Section 3038 of the Transportation Equity
17 Act for the 21st Century (49 U.S.C. 5310 note) is re-
18 pealed.

19 (c) SAFETEA-LU.—The following provisions are
20 repealed:

21 (1) Section 3009(i) of SAFETEA-LU (Public
22 Law 109–59; 119 Stat. 1572).

23 (2) Section 3011(c) of SAFETEA-LU (49
24 U.S.C. 5309 note).

1 (3) Section 3012(b) of SAFETEA-LU (49
2 U.S.C. 5310 note).

3 (4) Section 3045 of SAFETEA-LU (49 U.S.C.
4 5308 note).

5 (5) Section 3046 of SAFETEA-LU (49 U.S.C.
6 5338 note).

7 **SEC. 20003. POLICIES, PURPOSES, AND GOALS.**

8 Section 5301 of title 49, United States Code, is
9 amended to read as follows:

10 **“§ 5301. Policies, purposes, and goals**

11 “(a) DECLARATION OF POLICY.—It is in the interest
12 of the United States, including the economic interest of
13 the United States, to foster the development and revital-
14 ization of public transportation systems.

15 “(b) GENERAL PURPOSES.—The purposes of this
16 chapter are to—

17 “(1) provide funding to support public trans-
18 portation;

19 “(2) improve the development and delivery of
20 capital projects;

21 “(3) initiate a new framework for improving the
22 safety of public transportation systems;

23 “(4) establish standards for the state of good
24 repair of public transportation infrastructure and ve-
25 hicles;

1 “(5) promote continuing, cooperative, and com-
2 prehensive planning that improves the performance
3 of the transportation network;

4 “(6) establish a technical assistance program to
5 assist recipients under this chapter to more effec-
6 tively and efficiently provide public transportation
7 service;

8 “(7) continue Federal support for public trans-
9 portation providers to deliver high quality service to
10 all users, including individuals with disabilities, sen-
11 iors, and individuals who depend on public transpor-
12 tation;

13 “(8) support research, development, demonstra-
14 tion, and deployment projects dedicated to assisting
15 in the delivery of efficient and effective public trans-
16 portation service; and

17 “(9) promote the development of the public
18 transportation workforce.

19 “(c) NATIONAL GOALS.—The goals of this chapter
20 are to—

21 “(1) increase the availability and accessibility of
22 public transportation across a balanced, multimodal
23 transportation network;

24 “(2) promote the environmental benefits of pub-
25 lic transportation, including reduced reliance on fos-

1 sil fuels, fewer harmful emissions, and lower public
2 health expenditures;

3 “(3) improve the safety of public transportation
4 systems;

5 “(4) achieve and maintain a state of good re-
6 pair of public transportation infrastructure and vehi-
7 cles;

8 “(5) provide an efficient and reliable alternative
9 to congested roadways;

10 “(6) increase the affordability of transportation
11 for all users; and

12 “(7) maximize economic development opportuni-
13 ties by—

14 “(A) connecting workers to jobs;

15 “(B) encouraging mixed-use, transit-ori-
16 ented development; and

17 “(C) leveraging private investment and
18 joint development.”.

19 **SEC. 20004. DEFINITIONS.**

20 Section 5302 of title 49, United States Code, is
21 amended to read as follows:

22 **“§ 5302. Definitions**

23 “Except as otherwise specifically provided, in this
24 chapter the following definitions apply:

1 “(1) ASSOCIATED TRANSIT IMPROVEMENT.—

2 The term ‘associated transit improvement’ means,
3 with respect to any project or an area to be served
4 by a project, projects that are designed to enhance
5 public transportation service or use and that are
6 physically or functionally related to transit facilities.

7 Eligible projects are—

8 “(A) historic preservation, rehabilitation,
9 and operation of historic public transportation
10 buildings, structures, and facilities (including
11 historic bus and railroad facilities) intended for
12 use in public transportation service;

13 “(B) bus shelters;

14 “(C) landscaping and streetscaping, includ-
15 ing benches, trash receptacles, and street lights;

16 “(D) pedestrian access and walkways;

17 “(E) bicycle access, including bicycle stor-
18 age facilities and installing equipment for trans-
19 porting bicycles on public transportation vehi-
20 cles;

21 “(F) signage; or

22 “(G) enhanced access for persons with dis-
23 abilities to public transportation.

1 “(2) BUS RAPID TRANSIT SYSTEM.—The term
2 ‘bus rapid transit system’ means a bus transit sys-
3 tem—

4 “(A) in which the majority of each line op-
5 erates in a separated right-of-way dedicated for
6 public transportation use during peak periods;
7 and

8 “(B) that includes features that emulate
9 the services provided by rail fixed guideway
10 public transportation systems, including—

11 “(i) defined stations;

12 “(ii) traffic signal priority for public
13 transportation vehicles;

14 “(iii) short headway bidirectional serv-
15 ices for a substantial part of weekdays and
16 weekend days; and

17 “(iv) any other features the Secretary
18 may determine are necessary to produce
19 high-quality public transportation services
20 that emulate the services provided by rail
21 fixed guideway public transportation sys-
22 tems.

23 “(3) CAPITAL PROJECT.—The term ‘capital
24 project’ means a project for—

1 “(A) acquiring, constructing, supervising,
2 or inspecting equipment or a facility for use in
3 public transportation, expenses incidental to the
4 acquisition or construction (including designing,
5 engineering, location surveying, mapping, and
6 acquiring rights-of-way), payments for the cap-
7 ital portions of rail trackage rights agreements,
8 transit-related intelligent transportation sys-
9 tems, relocation assistance, acquiring replace-
10 ment housing sites, and acquiring, constructing,
11 relocating, and rehabilitating replacement hous-
12 ing;

13 “(B) rehabilitating a bus;

14 “(C) remanufacturing a bus;

15 “(D) overhauling rail rolling stock;

16 “(E) preventive maintenance;

17 “(F) leasing equipment or a facility for use
18 in public transportation, subject to regulations
19 that the Secretary prescribes limiting the leas-
20 ing arrangements to those that are more cost-
21 effective than purchase or construction;

22 “(G) a joint development improvement
23 that—

1 “(i) enhances economic development
2 or incorporates private investment, such as
3 commercial and residential development;

4 “(ii)(I) enhances the effectiveness of
5 public transportation and is related phys-
6 ically or functionally to public transpor-
7 tation; or

8 “(II) establishes new or enhanced co-
9 ordination between public transportation
10 and other transportation;

11 “(iii) provides a fair share of revenue
12 that will be used for public transportation;

13 “(iv) provides that a person making
14 an agreement to occupy space in a facility
15 constructed under this paragraph shall pay
16 a fair share of the costs of the facility
17 through rental payments and other means;

18 “(v) may include—

19 “(I) property acquisition;

20 “(II) demolition of existing struc-
21 tures;

22 “(III) site preparation;

23 “(IV) utilities;

24 “(V) building foundations;

25 “(VI) walkways;

1 “(VII) pedestrian and bicycle ac-
2 cess to a public transportation facility;

3 “(VIII) construction, renovation,
4 and improvement of intercity bus and
5 intercity rail stations and terminals;

6 “(IX) renovation and improve-
7 ment of historic transportation facili-
8 ties;

9 “(X) open space;

10 “(XI) safety and security equip-
11 ment and facilities (including lighting,
12 surveillance, and related intelligent
13 transportation system applications);

14 “(XII) facilities that incorporate
15 community services such as daycare
16 or health care;

17 “(XIII) a capital project for, and
18 improving, equipment or a facility for
19 an intermodal transfer facility or
20 transportation mall; and

21 “(XIV) construction of space for
22 commercial uses; and

23 “(vi) does not include outfitting of
24 commercial space (other than an intercity
25 bus or rail station or terminal) or a part

1 of a public facility not related to public
2 transportation;

3 “(H) the introduction of new technology,
4 through innovative and improved products, into
5 public transportation;

6 “(I) the provision of nonfixed route para-
7 transit transportation services in accordance
8 with section 223 of the Americans with Disabil-
9 ities Act of 1990 (42 U.S.C. 12143), but only
10 for grant recipients that are in compliance with
11 applicable requirements of that Act, including
12 both fixed route and demand responsive service,
13 and only for amounts not to exceed 10 percent
14 of such recipient’s annual formula apportion-
15 ment under sections 5307 and 5311;

16 “(J) establishing a debt service reserve,
17 made up of deposits with a bondholder’s trust-
18 ee, to ensure the timely payment of principal
19 and interest on bonds issued by a grant recipi-
20 ent to finance an eligible project under this
21 chapter;

22 “(K) mobility management—

23 “(i) consisting of short-range planning
24 and management activities and projects for
25 improving coordination among public

1 transportation and other transportation
2 service providers carried out by a recipient
3 or subrecipient through an agreement en-
4 tered into with a person, including a gov-
5 ernmental entity, under this chapter (other
6 than section 5309); but

7 “(ii) excluding operating public trans-
8 portation services; or

9 “(L) associated capital maintenance, in-
10 cluding—

11 “(i) equipment, tires, tubes, and ma-
12 terial, each costing at least .5 percent of
13 the current fair market value of rolling
14 stock comparable to the rolling stock for
15 which the equipment, tires, tubes, and ma-
16 terial are to be used; and

17 “(ii) reconstruction of equipment and
18 material, each of which after reconstruc-
19 tion will have a fair market value of at
20 least .5 percent of the current fair market
21 value of rolling stock comparable to the
22 rolling stock for which the equipment and
23 material will be used.

24 “(4) DESIGNATED RECIPIENT.—The term ‘des-
25 ignated recipient’ means—

1 “(A) an entity designated, in accordance
2 with the planning process under sections 5303
3 and 5304, by the Governor of a State, respon-
4 sible local officials, and publicly owned opera-
5 tors of public transportation, to receive and ap-
6 portion amounts under section 5336 to urban-
7 ized areas of 200,000 or more in population; or

8 “(B) a State or regional authority, if the
9 authority is responsible under the laws of a
10 State for a capital project and for financing
11 and directly providing public transportation.

12 “(5) DISABILITY.—The term ‘disability’ has the
13 same meaning as in section 3(1) of the Americans
14 with Disabilities Act of 1990 (42 U.S.C. 12102).

15 “(6) EMERGENCY REGULATION.—The term
16 ‘emergency regulation’ means a regulation—

17 “(A) that is effective temporarily before
18 the expiration of the otherwise specified periods
19 of time for public notice and comment under
20 section 5334(e); and

21 “(B) prescribed by the Secretary as the re-
22 sult of a finding that a delay in the effective
23 date of the regulation—

24 “(i) would injure seriously an impor-
25 tant public interest;

1 “(ii) would frustrate substantially leg-
2 islative policy and intent; or

3 “(iii) would damage seriously a person
4 or class without serving an important pub-
5 lic interest.

6 “(7) FIXED GUIDEWAY.—The term ‘fixed
7 guideway’ means a public transportation facility—

8 “(A) using and occupying a separate right-
9 of-way for the exclusive use of public transpor-
10 tation;

11 “(B) using rail;

12 “(C) using a fixed catenary system;

13 “(D) for a passenger ferry system; or

14 “(E) for a bus rapid transit system.

15 “(8) GOVERNOR.—The term ‘Governor’—

16 “(A) means the Governor of a State, the
17 mayor of the District of Columbia, and the
18 chief executive officer of a territory of the
19 United States; and

20 “(B) includes the designee of the Gov-
21 ernor.

22 “(9) LOCAL GOVERNMENTAL AUTHORITY.—The
23 term ‘local governmental authority’ includes—

24 “(A) a political subdivision of a State;

1 “(B) an authority of at least 1 State or po-
2 litical subdivision of a State;

3 “(C) an Indian tribe; and

4 “(D) a public corporation, board, or com-
5 mission established under the laws of a State.

6 “(10) LOW-INCOME INDIVIDUAL.—The term
7 ‘low-income individual’ means an individual whose
8 family income is at or below 150 percent of the pov-
9 erty line, as that term is defined in section 673(2)
10 of the Community Services Block Grant Act (42
11 U.S.C. 9902(2)), including any revision required by
12 that section, for a family of the size involved.

13 “(11) NET PROJECT COST.—The term ‘net
14 project cost’ means the part of a project that reason-
15 ably cannot be financed from revenues.

16 “(12) NEW BUS MODEL.—The term ‘new bus
17 model’ means a bus model (including a model using
18 alternative fuel)—

19 “(A) that has not been used in public
20 transportation in the United States before the
21 date of production of the model; or

22 “(B) used in public transportation in the
23 United States, but being produced with a major
24 change in configuration or components.

1 “(13) PUBLIC TRANSPORTATION.—The term
2 ‘public transportation’—

3 “(A) means regular, continuing shared-ride
4 surface transportation services that are open to
5 the general public or open to a segment of the
6 general public defined by age, disability, or low
7 income; and

8 “(B) does not include—

9 “(i) intercity passenger rail transpor-
10 tation provided by the entity described in
11 chapter 243 (or a successor to such enti-
12 ty);

13 “(ii) intercity bus service;

14 “(iii) charter bus service;

15 “(iv) school bus service;

16 “(v) sightseeing service;

17 “(vi) courtesy shuttle service for pa-
18 trons of one or more specific establish-
19 ments; or

20 “(vii) intra-terminal or intra-facility
21 shuttle services.

22 “(14) REGULATION.—The term ‘regulation’
23 means any part of a statement of general or par-
24 ticular applicability of the Secretary designed to

1 carry out, interpret, or prescribe law or policy in
2 carrying out this chapter.

3 “(15) SECRETARY.—The term ‘Secretary’
4 means the Secretary of Transportation.

5 “(16) SENIOR.—The term ‘senior’ means an in-
6 dividual who is 65 years of age or older.

7 “(17) STATE.—The term ‘State’ means a State
8 of the United States, the District of Columbia, Puer-
9 to Rico, the Northern Mariana Islands, Guam,
10 American Samoa, and the Virgin Islands.

11 “(18) STATE OF GOOD REPAIR.—The term
12 ‘state of good repair’ has the meaning given that
13 term by the Secretary, by rule, under section
14 5326(b).

15 “(19) TRANSIT.—The term ‘transit’ means
16 public transportation.

17 “(20) URBAN AREA.—The term ‘urban area’
18 means an area that includes a municipality or other
19 built-up place that the Secretary, after considering
20 local patterns and trends of urban growth, decides
21 is appropriate for a local public transportation sys-
22 tem to serve individuals in the locality.

23 “(21) URBANIZED AREA.—The term ‘urbanized
24 area’ means an area encompassing a population of
25 not less than 50,000 people that has been defined

1 and designated in the most recent decennial census
2 as an ‘urbanized area’ by the Secretary of Com-
3 merce.”.

4 **SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.**

5 (a) IN GENERAL.—Section 5303 of title 49, United
6 States Code, is amended to read as follows:

7 **“§ 5303. Metropolitan transportation planning**

8 “(a) POLICY.—It is in the national interest—

9 “(1) to encourage and promote the safe, cost-
10 effective, and efficient management, operation, and
11 development of surface transportation systems that
12 will serve efficiently the mobility needs of individuals
13 and freight, reduce transportation-related fatalities
14 and serious injuries, and foster economic growth and
15 development within and between States and urban-
16 ized areas, while fitting the needs and complexity of
17 individual communities, maximizing value for tax-
18 payers, leveraging cooperative investments, and
19 minimizing transportation-related fuel consumption
20 and air pollution through the metropolitan and
21 statewide transportation planning processes identi-
22 fied in this chapter;

23 “(2) to encourage the continued improvement,
24 evolution, and coordination of the metropolitan and
25 statewide transportation planning processes by and

1 among metropolitan planning organizations, State
2 departments of transportation, regional planning or-
3 ganizations, interstate partnerships, and public
4 transportation and intercity service operators as
5 guided by the planning factors identified in sub-
6 section (h) of this section and section 5304(d);

7 “(3) to encourage and promote transportation
8 needs and decisions that are integrated with other
9 planning needs and priorities; and

10 “(4) to maximize the effectiveness of transpor-
11 tation investments.

12 “(b) DEFINITIONS.—In this section and section
13 5304, the following definitions shall apply:

14 “(1) EXISTING MPO.—The term ‘existing MPO’
15 means a metropolitan planning organization that
16 was designated as a metropolitan planning organiza-
17 tion on the day before the date of enactment of the
18 Federal Public Transportation Act of 2012.

19 “(2) LOCAL OFFICIAL.—The term ‘local official’
20 means any elected or appointed official of general
21 purpose local government with responsibility for
22 transportation in a designated area.

23 “(3) MAINTENANCE AREA.—The term ‘mainte-
24 nance area’ means an area that was designated as
25 an air quality nonattainment area, but was later re-

1 designated by the Administrator of the Environ-
2 mental Protection Agency as an air quality attain-
3 ment area, under section 107(d) of the Clean Air
4 Act (42 U.S.C. 7407(d)).

5 “(4) METROPOLITAN PLANNING AREA.—The
6 term ‘metropolitan planning area’ means a geo-
7 graphical area determined by agreement between the
8 metropolitan planning organization for the area and
9 the applicable Governor under subsection (c).

10 “(5) METROPOLITAN PLANNING ORGANIZA-
11 TION.—The term ‘metropolitan planning organiza-
12 tion’ means the policy board of an organization es-
13 tablished pursuant to subsection (c).

14 “(6) METROPOLITAN TRANSPORTATION
15 PLAN.—The term ‘metropolitan transportation plan’
16 means a plan developed by a metropolitan planning
17 organization under subsection (i).

18 “(7) NONATTAINMENT AREA.—The term ‘non-
19 attainment area’ has the meaning given the term in
20 section 171 of the Clean Air Act (42 U.S.C. 7501).

21 “(8) NONMETROPOLITAN AREA.—

22 “(A) IN GENERAL.—The term ‘nonmetro-
23 politan area’ means a geographical area outside
24 the boundaries of a designated metropolitan
25 planning area.

1 “(B) INCLUSIONS.—The term ‘nonmetro-
2 politan area’ includes—

3 “(i) a small urbanized area with a
4 population of more than 50,000, but fewer
5 than 200,000 individuals, as calculated ac-
6 cording to the most recent decennial cen-
7 sus; and

8 “(ii) a nonurbanized area.

9 “(9) NONMETROPOLITAN PLANNING ORGANIZA-
10 TION.—The term ‘nonmetropolitan planning organi-
11 zation’ means an organization that—

12 “(A) was designated as a metropolitan
13 planning organization as of the day before the
14 date of enactment of the Federal Public Trans-
15 portation Act of 2012; and

16 “(B) is not designated as a tier I MPO or
17 tier II MPO.

18 “(10) REGIONALLY SIGNIFICANT.—The term
19 ‘regionally significant’, with respect to a transpor-
20 tation project, program, service, or strategy, means
21 a project, program, service, or strategy that—

22 “(A) serves regional transportation needs
23 (such as access to and from the area outside of
24 the region, major activity centers in the region,
25 and major planned developments); and

1 “(B) would normally be included in the
2 modeling of a transportation network of a met-
3 ropolitan area.

4 “(11) RURAL PLANNING ORGANIZATION.—The
5 term ‘rural planning organization’ means an organi-
6 zation that—

7 “(A) is responsible for the planning, co-
8 ordination, and implementation of statewide
9 transportation plans and programs outside of
10 metropolitan areas, with an emphasis on ad-
11 dressing the needs of rural areas of a State;

12 “(B) is not designated as a tier I MPO, a
13 tier II MPO, or a nonmetropolitan planning or-
14 ganization.

15 “(12) STATEWIDE TRANSPORTATION IMPROVE-
16 MENT PROGRAM.—The term ‘statewide transpor-
17 tation improvement program’ means a statewide
18 transportation improvement program developed by a
19 State under section 5304(g).

20 “(13) STATEWIDE TRANSPORTATION PLAN.—
21 The term ‘statewide transportation plan’ means a
22 plan developed by a State under section 5304(f).

23 “(14) TIER I MPO.—The term ‘tier I MPO’
24 means a metropolitan planning organization des-
25 ignated as a tier I MPO under subsection (e)(4)(A).

1 “(15) TIER II MPO.—The term ‘tier II MPO’
2 means a metropolitan planning organization des-
3 igned as a tier II MPO under subsection
4 (e)(4)(B).

5 “(16) TRANSPORTATION IMPROVEMENT PRO-
6 GRAM.—The term ‘transportation improvement pro-
7 gram’ means a program developed by a metropolitan
8 planning organization under subsection (j).

9 “(17) URBANIZED AREA.—The term ‘urbanized
10 area’ means a geographical area with a population
11 of 50,000 or more individuals, as calculated accord-
12 ing to the most recent decennial census.

13 “(c) DESIGNATION OF METROPOLITAN PLANNING
14 ORGANIZATIONS.—

15 “(1) IN GENERAL.—To carry out the metropoli-
16 tan transportation planning process under this sec-
17 tion, a metropolitan planning organization shall be
18 designated for each urbanized area with a population
19 of 200,000 or more individuals, as calculated accord-
20 ing to the most recent decennial census—

21 “(A) by agreement between the applicable
22 Governor and local officials that, in the aggre-
23 gate, represent at least 75 percent of the af-
24 fected population (including the largest incor-
25 porated city (based on population), as cal-

1 culated according to the most recent decennial
2 census); or

3 “(B) in accordance with procedures estab-
4 lished by applicable State or local law.

5 “(2) SMALL URBANIZED AREAS.—To carry out
6 the metropolitan transportation planning process
7 under this section, a metropolitan planning organiza-
8 tion may be designated for any urbanized area with
9 a population of 50,000 or more individuals, but
10 fewer than 200,000 individuals, as calculated accord-
11 ing to the most recent decennial census—

12 “(A) by agreement between the applicable
13 Governor and local officials that, in the aggreg-
14 ate, represent at least 75 percent of the af-
15 fected population (including the largest incor-
16 porated city (based on population), as cal-
17 culated according to the most recent decennial
18 census); and

19 “(B) with the consent of the Secretary,
20 based on a finding that the resulting metropoli-
21 tan planning organization has met the min-
22 imum requirements under subsection (e)(4)(B).

23 “(3) STRUCTURE.—Not later than 1 year after
24 the date of enactment of the Federal Public Trans-

1 portation Act of 2012, a metropolitan planning orga-
2 nization shall consist of—

3 “(A) elected local officials in the relevant
4 metropolitan area;

5 “(B) officials of public agencies that ad-
6 minister or operate major modes of transpor-
7 tation in the relevant metropolitan area, includ-
8 ing providers of public transportation; and

9 “(C) appropriate State officials.

10 “(4) EFFECT OF SUBSECTION.—Nothing in this
11 subsection interferes with any authority under any
12 State law in effect on December 18, 1991, of a pub-
13 lic agency with multimodal transportation respon-
14 sibilities—

15 “(A) to develop the metropolitan transpor-
16 tation plans and transportation improvement
17 programs for adoption by a metropolitan plan-
18 ning organization; or

19 “(B) to develop capital plans, coordinate
20 public transportation services and projects, or
21 carry out other activities pursuant to State law.

22 “(5) CONTINUING DESIGNATION.—

23 “(A) POPULATION OF 200,000 OR MORE.—
24 A designation of an existing MPO for an urban-
25 ized area with a population of 200,000 or more

1 individuals, as calculated according to the most
2 recent decennial census, shall remain in ef-
3 fect—

4 “(i) for the period during which the
5 structure of the existing MPO complies
6 with the requirements of paragraph (1); or

7 “(ii) until the date on which the exist-
8 ing MPO is redesignated under paragraph
9 (6).

10 “(B) POPULATION OF FEWER THAN
11 200,000.—

12 “(i) IN GENERAL.—A designation of
13 an existing MPO for an urbanized area
14 with a population of fewer than 200,000
15 individuals, as calculated according to the
16 most recent decennial census, shall remain
17 in effect until the date on which the exist-
18 ing MPO is redesignated under paragraph
19 (6) unless—

20 “(I) the existing MPO requests
21 that its planning responsibilities be
22 transferred to the State or to another
23 planning organization designated by
24 the State; or

1 “(II)(aa) the Secretary deter-
2 mines 3 years after the date on which
3 the Secretary issues a rule pursuant
4 to subsection (e)(4)(B)(i), that the ex-
5 isting MPO is not meeting the min-
6 imum requirements established by the
7 rule; and

8 “(bb) the Secretary approves the
9 Governor’s determination.

10 “(ii) WRITTEN JUSTIFICATION.—The
11 Secretary shall in a timely manner provide
12 a substantive written justification to each
13 metropolitan planning organization that is
14 the subject of a negative determination of
15 the Secretary under clause (i)(II).

16 “(C) EXTENSION.—If a metropolitan plan-
17 ning organization for an urbanized area with a
18 population of less than 200,000 that would oth-
19 erwise be terminated under subparagraph (B),
20 requests a probationary continuation before the
21 termination of the metropolitan planning orga-
22 nization, the Secretary shall—

23 “(i) delay the termination of the met-
24 ropolitan planning organization under sub-
25 paragraph (B) for a period of 1 year;

1 “(ii) provide additional technical as-
2 sistance to all metropolitan planning orga-
3 nizations provided an extension under this
4 paragraph to assist the metropolitan plan-
5 ning organization in meeting the minimum
6 requirements under subsection (e)(4)(B)(i);
7 and

8 “(iii) make a determination 1 year
9 after the date on which the Secretary
10 issues an extension, whether the MPO has
11 meet the minimum requirements estab-
12 lished under subsection (e)(4)(B)(i).

13 “(D) DESIGNATION AS TIER II MPO.—If
14 the Secretary determines the existing MPO has
15 met the minimum requirements under the rule
16 issued under subsection (e)(4)(B)(i), the Sec-
17 retary shall designate the existing MPO as a
18 tier II MPO.

19 “(6) REDESIGNATION.—

20 “(A) IN GENERAL.—The designation of a
21 metropolitan planning organization under this
22 subsection shall remain in effect until the date
23 on which the metropolitan planning organiza-
24 tion is redesignated, as appropriate, in accord-

1 ance with the requirements of this subsection
2 pursuant to an agreement between—

3 “(i) the applicable Governor; and

4 “(ii) affected local officials who, in the
5 aggregate, represent at least 75 percent of
6 the existing metropolitan planning area
7 population (including the largest incor-
8 porated city (based on population), as cal-
9 culated according to the most recent de-
10 cennial census).

11 “(B) RESTRUCTURING.—A metropolitan
12 planning organization may be restructured to
13 meet the requirements of paragraph (3) without
14 undertaking a redesignation.

15 “(7) ABSENCE OF DESIGNATION.—

16 “(A) IN GENERAL.—A metropolitan plan-
17 ning organization that is the subject of a nega-
18 tive determination of the Secretary under para-
19 graph (5)(B)(i)(II) shall submit to the State in
20 which the metropolitan planning organization is
21 located, or to a planning organization des-
22 ignated by the State, by not later than 180
23 days after the date on which a notice of the
24 negative determination is received, a 6-month
25 plan that includes a description of a method—

1 “(i) to transfer the responsibilities of
2 the metropolitan planning organization to
3 the State; and

4 “(ii) to dissolve the metropolitan plan-
5 ning organization.

6 “(B) ACTION ON DISSOLUTION.—On sub-
7 mission of a plan under subparagraph (A), the
8 metropolitan planning area served by the appli-
9 cable metropolitan planning organization
10 shall—

11 “(i) continue to receive metropolitan
12 transportation planning funds until the
13 earlier of—

14 “(I) the date of dissolution of the
15 metropolitan planning organization;
16 and

17 “(II) the date that is 4 years
18 after the date of enactment of the
19 Federal Public Transportation Act of
20 2012; and

21 “(ii) be treated by the State as a non-
22 metropolitan area for purposes of this
23 chapter.

24 “(8) DESIGNATION OF MULTIPLE MPOS.—

1 “(A) IN GENERAL.—More than 1 metro-
2 politan planning organization may be des-
3 ignated within an existing metropolitan plan-
4 ning area only if the applicable Governor and
5 an existing MPO determine that the size and
6 complexity of the existing metropolitan planning
7 area make the designation of more than 1 met-
8 ropolitan planning organization for the metro-
9 politan planning area appropriate.

10 “(B) SERVICE JURISDICTIONS.—If more
11 than 1 metropolitan planning organization is
12 designated for an existing metropolitan plan-
13 ning area under subparagraph (A), the existing
14 metropolitan planning area shall be split into
15 multiple metropolitan planning areas, each of
16 which shall be served by the existing MPO or
17 a new metropolitan planning organization.

18 “(C) TIER DESIGNATION.—The tier des-
19 ignation of each metropolitan planning organi-
20 zation subject to a designation under this para-
21 graph shall be determined based on the size of
22 each respective metropolitan planning area, in
23 accordance with subsection (e)(4).

24 “(d) METROPOLITAN PLANNING AREA BOUND-
25 ARIES.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the boundaries of a metropolitan planning area
3 shall be determined by agreement between the appli-
4 cable metropolitan planning organization and the
5 Governor of the State in which the metropolitan
6 planning area is located.

7 “(2) INCLUDED AREA.—Each metropolitan
8 planning area—

9 “(A) shall encompass at least the relevant
10 existing urbanized area and any contiguous
11 area expected to become urbanized within a 20-
12 year forecast period under the applicable metro-
13 politan transportation plan; and

14 “(B) may encompass the entire relevant
15 metropolitan statistical area, as defined by the
16 Office of Management and Budget.

17 “(3) IDENTIFICATION OF NEW URBANIZED
18 AREAS.—The designation by the Bureau of the Cen-
19 sus of a new urbanized area within the boundaries
20 of an existing metropolitan planning area shall not
21 require the redesignation of the relevant existing
22 MPO.

23 “(4) NONATTAINMENT AND MAINTENANCE
24 AREAS.—

1 “(A) EXISTING METROPOLITAN PLANNING
2 AREAS.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), notwithstanding para-
5 graph (2), in the case of an urbanized area
6 designated as a nonattainment area or
7 maintenance area as of the date of enact-
8 ment of the Federal Public Transportation
9 Act of 2012, the boundaries of the existing
10 metropolitan planning area as of that date
11 of enactment shall remain in force and ef-
12 fect.

13 “(ii) EXCEPTION.—Notwithstanding
14 clause (i), the boundaries of an existing
15 metropolitan planning area described in
16 that clause may be adjusted by agreement
17 of the applicable Governor and the affected
18 metropolitan planning organizations in ac-
19 cordance with paragraph (1).

20 “(B) NEW METROPOLITAN PLANNING
21 AREAS.—In the case of an urbanized area des-
22 ignated as a nonattainment area or mainte-
23 nance area after the date of enactment of the
24 Federal Public Transportation Act of 2012, the

1 boundaries of the applicable metropolitan plan-
2 ning area—

3 “(i) shall be established in accordance
4 with subsection (e)(1);

5 “(ii) shall encompass the areas de-
6 scribed in paragraph (2)(A);

7 “(iii) may encompass the areas de-
8 scribed in paragraph (2)(B); and

9 “(iv) may address any appropriate
10 nonattainment area or maintenance area.

11 “(e) REQUIREMENTS.—

12 “(1) DEVELOPMENT OF PLANS AND TIPS.—To
13 accomplish the policy objectives described in sub-
14 section (a), each metropolitan planning organization,
15 in cooperation with the applicable State and public
16 transportation operators, shall develop metropolitan
17 transportation plans and transportation improve-
18 ment programs for metropolitan planning areas of
19 the State through a performance-driven, outcome-
20 based approach to metropolitan transportation plan-
21 ning consistent with subsection (h).

22 “(2) CONTENTS.—The metropolitan transpor-
23 tation plans and transportation improvement pro-
24 grams for each metropolitan area shall provide for
25 the development and integrated management and

1 operation of transportation systems and facilities
2 (including accessible pedestrian walkways, bicycle
3 transportation facilities, and intermodal facilities
4 that support intercity transportation) that will func-
5 tion as—

6 “(A) an intermodal transportation system
7 for the metropolitan planning area; and

8 “(B) an integral part of an intermodal
9 transportation system for the applicable State
10 and the United States.

11 “(3) PROCESS OF DEVELOPMENT.—The process
12 for developing metropolitan transportation plans and
13 transportation improvement programs shall—

14 “(A) provide for consideration of all modes
15 of transportation; and

16 “(B) be continuing, cooperative, and com-
17 prehensive to the degree appropriate, based on
18 the complexity of the transportation needs to be
19 addressed.

20 “(4) TIERING.—

21 “(A) TIER I MPOS.—

22 “(i) IN GENERAL.—A metropolitan
23 planning organization shall be designated
24 as a tier I MPO if—

1 “(I) as certified by the Governor
2 of each applicable State, the metro-
3 politan planning organization operates
4 within, and primarily serves, a metro-
5 politan planning area with a popu-
6 lation of 1,000,000 or more individ-
7 uals, as calculated according to the
8 most recent decennial census; and

9 “(II) the Secretary determines
10 the metropolitan planning organiza-
11 tion—

12 “(aa) meets the minimum
13 technical requirements under
14 clause (iv); and

15 “(bb) not later than 2 years
16 after the date of enactment of
17 the Federal Public Transpor-
18 tation Act of 2012, will fully im-
19 plement the processes described
20 in subsections (h) through (j).

21 “(ii) ABSENCE OF DESIGNATION.—In
22 the absence of designation as a tier I MPO
23 under clause (i), a metropolitan planning
24 organization shall operate as a tier II
25 MPO until the date on which the Secretary

1 determines the metropolitan planning orga-
2 nization can meet the minimum technical
3 requirements under clause (iv).

4 “(iii) REDESIGNATION AS TIER I.—A
5 metropolitan planning organization oper-
6 ating within a metropolitan planning area
7 with a population of 200,000 or more and
8 fewer than 1,000,000 individuals and pri-
9 marily within urbanized areas with popu-
10 lations of 200,000 or more individuals, as
11 calculated according to the most recent de-
12 cennial census, that is designated as a tier
13 II MPO under subparagraph (B) may re-
14 quest, with the support of the applicable
15 Governor, a redesignation as a tier I MPO
16 on a determination by the Secretary that
17 the metropolitan planning organization has
18 met the minimum technical requirements
19 under clause (iv).

20 “(iv) MINIMUM TECHNICAL REQUIRE-
21 MENTS.—Not later than 1 year after the
22 date of enactment of the Federal Public
23 Transportation Act of 2012, the Secretary
24 shall issue a rule that establishes the min-
25 imum technical requirements necessary for

1 a metropolitan planning organization to be
2 designated as a tier I MPO, including, at
3 a minimum, modeling, data, staffing, and
4 other technical requirements.

5 “(B) TIER II MPOS.—

6 “(i) IN GENERAL.—Not later than 1
7 year after the date of enactment of the
8 Federal Public Transportation Act of
9 2012, the Secretary shall issue a rule that
10 establishes minimum requirements nec-
11 essary for a metropolitan planning organi-
12 zation to be designated as a tier II MPO.

13 “(ii) REQUIREMENTS.—The minimum
14 requirements established under clause (i)
15 shall—

16 “(I) be limited to ensuring that
17 each metropolitan planning organiza-
18 tion has the capabilities necessary to
19 develop the metropolitan transpor-
20 tation plan and transportation im-
21 provement program under this sec-
22 tion; and

23 “(II) include—

24 “(aa) only the staffing capa-
25 bilities necessary to operate the

1 metropolitan planning organiza-
2 tion; and

3 “(bb) a requirement that the
4 metropolitan planning organiza-
5 tion has the technical capacity to
6 conduct the travel demand model
7 and forecasting necessary, as ap-
8 propriate to the size and re-
9 sources of the metropolitan plan-
10 ning organization, to fulfill the
11 requirements of this section, ex-
12 cept that in cases in which a
13 metropolitan planning organiza-
14 tion has a formal agreement with
15 a State to conduct the modeling
16 on behalf of the metropolitan
17 planning organization, the metro-
18 politan planning organization
19 shall be exempt from the tech-
20 nical capacity requirement.

21 “(iii) LIMITATION.—The rule issued
22 pursuant to this subparagraph shall only
23 include the minimum requirements estab-
24 lished in clause (ii).

1 “(iv) INCLUSION.—A metropolitan
2 planning organization operating primarily
3 within an urbanized area with a population
4 of 200,000 or more individuals, as cal-
5 culated according to the most recent de-
6 cennial census, and that does not qualify
7 as a tier I MPO under subparagraph
8 (A)(i), shall—

9 “(I) be designated as a tier II
10 MPO; and

11 “(II) follow the processes under
12 subsection (k).

13 “(C) CONSOLIDATION.—

14 “(i) IN GENERAL.—Metropolitan plan-
15 ning organizations operating within contig-
16 uous or adjacent urbanized areas may elect
17 to consolidate in order to meet the popu-
18 lation thresholds required to achieve des-
19 ignation as a tier I or tier II MPO under
20 this paragraph.

21 “(ii) EFFECT OF SUBSECTION.—
22 Nothing in this subsection requires or pre-
23 vents consolidation among multiple metro-
24 politan planning organizations located
25 within a single urbanized area.

1 “(f) COORDINATION IN MULTISTATE AREAS.—

2 “(1) IN GENERAL.—The Secretary shall encour-
3 age each Governor with responsibility for a portion
4 of a multistate metropolitan area and the appro-
5 priate metropolitan planning organizations to pro-
6 vide coordinated transportation planning for the en-
7 tire metropolitan area.

8 “(2) COORDINATION ALONG DESIGNATED
9 TRANSPORTATION CORRIDORS.—The Secretary shall
10 encourage each Governor with responsibility for a
11 portion of a multistate metropolitan area and the
12 appropriate metropolitan planning organizations to
13 provide coordinated transportation planning for the
14 entire designated transportation corridor.

15 “(3) COORDINATION WITH INTERSTATE COM-
16 PACTS.—The Secretary shall encourage metropolitan
17 planning organizations to take into consideration,
18 during the development of metropolitan transpor-
19 tation plans and transportation improvement pro-
20 grams, any relevant transportation studies con-
21 cerning planning for regional transportation (includ-
22 ing high-speed and intercity rail corridor studies,
23 commuter rail corridor studies, intermodal termi-
24 nals, and interstate highways) in support of freight,
25 intercity, or multistate area projects and services

1 that have been developed pursuant to interstate com-
2 pacts or agreements, or by organizations established
3 under section 5304.

4 “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-
5 TATION PLAN AND TIP DEVELOPMENT.—

6 “(1) NONATTAINMENT AND MAINTENANCE
7 AREAS.—If more than 1 metropolitan planning orga-
8 nization has authority within a metropolitan area,
9 nonattainment area, or maintenance area, each met-
10ropolitan planning organization shall consult with all
11 other metropolitan planning organizations des-
12ignated for the metropolitan area, nonattainment
13 area, or maintenance area and the State in the de-
14velopment of metropolitan transportation plans and
15 transportation improvement programs under this
16 section.

17 “(2) TRANSPORTATION IMPROVEMENTS LO-
18CATED IN MULTIPLE METROPOLITAN PLANNING
19 AREAS.—If a transportation improvement project
20 funded under this chapter or title 23 is located with-
21 in the boundaries of more than 1 metropolitan plan-
22ning area, the affected metropolitan planning orga-
23nizations shall coordinate metropolitan transpor-
24tation plans and transportation improvement pro-
25grams regarding the project.

1 “(3) COORDINATION OF ADJACENT PLANNING
2 ORGANIZATIONS.—

3 “(A) IN GENERAL.—A metropolitan plan-
4 ning organization that is adjacent or located in
5 reasonably close proximity to another metropoli-
6 tan planning organization shall coordinate with
7 that metropolitan planning organization with
8 respect to planning processes, including prepa-
9 ration of metropolitan transportation plans and
10 transportation improvement programs, to the
11 maximum extent practicable.

12 “(B) NONMETROPOLITAN PLANNING ORGA-
13 NIZATIONS.—A metropolitan planning organiza-
14 tion that is adjacent or located in reasonably
15 close proximity to a nonmetropolitan planning
16 organization shall consult with that nonmetro-
17 politan planning organization with respect to
18 planning processes, to the maximum extent
19 practicable.

20 “(4) RELATIONSHIP WITH OTHER PLANNING
21 OFFICIALS.—

22 “(A) IN GENERAL.—The Secretary shall
23 encourage each metropolitan planning organiza-
24 tion to cooperate with Federal, State, tribal,
25 and local officers and entities responsible for

1 other types of planning activities that are af-
2 fected by transportation in the relevant area
3 (including planned growth, economic develop-
4 ment, infrastructure services, housing, other
5 public services, environmental protection, air-
6 port operations, high-speed and intercity pas-
7 senger rail, freight rail, port access, and freight
8 movements), to the maximum extent prac-
9 ticable, to ensure that the metropolitan trans-
10 portation planning process, metropolitan trans-
11 portation plans, and transportation improve-
12 ment programs are developed in cooperation
13 with other related planning activities in the
14 area.

15 “(B) INCLUSION.—Cooperation under sub-
16 paragraph (A) shall include the design and de-
17 livery of transportation services within the met-
18 ropolitan area that are provided by—

19 “(i) recipients of assistance under sec-
20 tions 202, 203, and 204 of title 23;

21 “(ii) recipients of assistance under
22 this title;

23 “(iii) government agencies and non-
24 profit organizations (including representa-
25 tives of the agencies and organizations)

1 that receive Federal assistance from a
2 source other than the Department of
3 Transportation to provide nonemergency
4 transportation services; and

5 “(iv) sponsors of regionally significant
6 programs, projects, and services that are
7 related to transportation and receive as-
8 sistance from any public or private source.

9 “(5) COORDINATION OF OTHER FEDERALLY RE-
10 QUIRED PLANNING PROGRAMS.—The Secretary shall
11 encourage each metropolitan planning organization
12 to coordinate, to the maximum extent practicable,
13 the development of metropolitan transportation
14 plans and transportation improvement programs
15 with other relevant federally required planning pro-
16 grams.

17 “(h) SCOPE OF PLANNING PROCESS.—

18 “(1) IN GENERAL.—The metropolitan transpor-
19 tation planning process for a metropolitan planning
20 area under this section shall provide for consider-
21 ation of projects and strategies that will—

22 “(A) support the economic vitality of the
23 metropolitan area, especially by enabling global
24 competitiveness, travel and tourism (where ap-
25 plicable), productivity, and efficiency;

1 “(B) increase the safety of the transpor-
2 tation system for motorized and nonmotorized
3 users;

4 “(C) increase the security of the transpor-
5 tation system for motorized and nonmotorized
6 users;

7 “(D) increase the accessibility and mobility
8 of individuals and freight;

9 “(E) protect and enhance the environment,
10 promote energy conservation, improve the qual-
11 ity of life, and promote consistency between
12 transportation improvements and State and
13 local planned growth and economic development
14 patterns;

15 “(F) enhance the integration and
16 connectivity of the transportation system,
17 across and between modes, for individuals and
18 freight;

19 “(G) increase efficient system management
20 and operation; and

21 “(H) emphasize the preservation of the ex-
22 isting transportation system.

23 “(2) PERFORMANCE-BASED APPROACH.—

24 “(A) IN GENERAL.—The metropolitan
25 transportation planning process shall provide

1 for the establishment and use of a performance-
2 based approach to transportation decision-
3 making to support the national goals described
4 in section 5301(c) of this title and in section
5 150(b) of title 23.

6 “(B) PERFORMANCE TARGETS.—

7 “(i) SURFACE TRANSPORTATION PER-
8 FORMANCE TARGETS.—

9 “(I) IN GENERAL.—Each metro-
10 politan planning organization shall es-
11 tablish performance targets that ad-
12 dress the performance measures de-
13 scribed in sections 119(f), 148(h),
14 149(k) (where applicable), and 167(i)
15 of title 23, to use in tracking attain-
16 ment of critical outcomes for the re-
17 gion of the metropolitan planning or-
18 ganization.

19 “(II) COORDINATION.—Selection
20 of performance targets by a metropoli-
21 tan planning organization shall be co-
22 ordinated with the relevant State to
23 ensure consistency, to the maximum
24 extent practicable.

1 “(ii) PUBLIC TRANSPORTATION PER-
2 FORMANCE TARGETS.—Each metropolitan
3 planning organization shall adopt the per-
4 formance targets identified by providers of
5 public transportation pursuant to sections
6 5326(c) and 5329(d), for use in tracking
7 attainment of critical outcomes for the re-
8 gion of the metropolitan planning organi-
9 zation.

10 “(C) TIMING.—Each metropolitan plan-
11 ning organization shall establish the perform-
12 ance targets under subparagraph (B) not later
13 than 90 days after the date on which the rel-
14 evant State or provider of public transportation
15 establishes the performance targets.

16 “(D) INTEGRATION OF OTHER PERFORM-
17 ANCE-BASED PLANS.—A metropolitan planning
18 organization shall integrate in the metropolitan
19 transportation planning process, directly or by
20 reference, the goals, objectives, performance
21 measures, and targets described in other State
22 plans and processes, as well as asset manage-
23 ment and safety plans developed by providers of
24 public transportation, required as part of a per-

1 performance-based program, including plans such
2 as—

3 “(i) the State National Highway Sys-
4 tem asset management plan;

5 “(ii) asset management plans devel-
6 oped by providers of public transportation;

7 “(iii) the State strategic highway safe-
8 ty plan;

9 “(iv) a congestion mitigation and air
10 quality performance plan developed under
11 section 149(k) of title 23 by a tier I MPO
12 representing a nonattainment or mainte-
13 nance area;

14 “(v) safety plans developed by pro-
15 viders of public transportation; and

16 “(vi) the national freight strategic
17 plan.

18 “(E) USE OF PERFORMANCE MEASURES
19 AND TARGETS.—The performance measures
20 and targets established under this paragraph
21 shall be used, at a minimum, by the relevant
22 metropolitan planning organization as the basis
23 for development of policies, programs, and in-
24 vestment priorities reflected in the metropolitan

1 transportation plan and transportation improve-
2 ment program.

3 “(3) FAILURE TO CONSIDER FACTORS.—The
4 failure to take into consideration 1 or more of the
5 factors specified in paragraphs (1) and (2) shall not
6 be subject to review by any court under this chapter,
7 title 23, subchapter II of chapter 5 of title 5, or
8 chapter 7 of title 5 in any matter affecting a metro-
9 politan transportation plan, a transportation im-
10 provement program, a project or strategy, or the
11 certification of a planning process.

12 “(4) PARTICIPATION BY INTERESTED PAR-
13 TIES.—

14 “(A) IN GENERAL.—Each metropolitan
15 planning organization shall provide to affected
16 individuals, public agencies, and other inter-
17 ested parties (including State representatives of
18 nonmotorized users) notice and a reasonable op-
19 portunity to comment on the metropolitan
20 transportation plan and transportation improve-
21 ment program and any relevant scenarios.

22 “(B) CONTENTS OF PARTICIPATION
23 PLAN.—Each metropolitan planning organiza-
24 tion shall establish a participation plan that—

1 “(i) is developed in consultation with
2 interested parties and local officials; and

3 “(ii) provides that interested parties
4 and local officials have reasonable opportu-
5 nities to comment on the contents of the
6 metropolitan transportation plan of the
7 metropolitan planning organization.

8 “(C) METHODS.—In carrying out subpara-
9 graph (A), the metropolitan planning organiza-
10 tion shall, to the maximum extent practicable—

11 “(i) develop the metropolitan trans-
12 portation plan and transportation improve-
13 ment program in consultation with inter-
14 ested parties (including State representa-
15 tives of nonmotorized users), as appro-
16 priate, including by the formation of advi-
17 sory groups representative of the commu-
18 nity and interested parties that participate
19 in the development of the metropolitan
20 transportation plan and transportation im-
21 provement program;

22 “(ii) hold any public meetings at
23 times and locations that are, as applica-
24 ble—

25 “(I) convenient; and

1 “(II) in compliance with the
2 Americans with Disabilities Act of
3 1990 (42 U.S.C. 12101 et seq.);

4 “(iii) employ visualization techniques
5 to describe metropolitan transportation
6 plans and transportation improvement pro-
7 grams; and

8 “(iv) make public information avail-
9 able in appropriate electronically accessible
10 formats and means, such as the Internet,
11 to afford reasonable opportunity for con-
12 sideration of public information under sub-
13 paragraph (A).

14 “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-
15 TATION PLAN.—

16 “(1) DEVELOPMENT.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), not later than 5 years after
19 the date of enactment of the Federal Public
20 Transportation Act of 2012, and not less fre-
21 quently than once every 5 years thereafter, each
22 metropolitan planning organization shall pre-
23 pare and update, respectively, a metropolitan
24 transportation plan for the relevant metropoli-

1 tan planning area in accordance with this sec-
2 tion.

3 “(B) EXCEPTIONS.—A metropolitan plan-
4 ning organization shall prepare or update, as
5 appropriate, the metropolitan transportation
6 plan not less frequently than once every 4 years
7 if the metropolitan planning organization is op-
8 erating within—

9 “(i) a nonattainment area; or

10 “(ii) a maintenance area.

11 “(2) OTHER REQUIREMENTS.—A metropolitan
12 transportation plan under this section shall—

13 “(A) be in a form that the Secretary deter-
14 mines to be appropriate;

15 “(B) have a term of not less than 20
16 years; and

17 “(C) contain, at a minimum—

18 “(i) an identification of the existing
19 transportation infrastructure, including
20 highways, local streets and roads, bicycle
21 and pedestrian facilities, public transpor-
22 tation facilities and services, commuter rail
23 facilities and services, high-speed and
24 intercity passenger rail facilities and serv-
25 ices, freight facilities (including freight

1 railroad and port facilities), multimodal
2 and intermodal facilities, and intermodal
3 connectors that, evaluated in the aggregate,
4 function as an integrated metropolitan
5 transportation system;

6 “(ii) a description of the performance
7 measures and performance targets used in
8 assessing the existing and future performance
9 of the transportation system in accordance
10 with subsection (h)(2);

11 “(iii) a description of the current and
12 projected future usage of the transportation
13 system, including a projection based
14 on a preferred scenario, and further including,
15 to the extent practicable, an identification
16 of existing or planned transportation
17 rights-of-way, corridors, facilities,
18 and related real properties;

19 “(iv) a system performance report
20 evaluating the existing and future condition
21 and performance of the transportation
22 system with respect to the performance
23 targets described in subsection (h)(2) and
24 updates in subsequent system performance
25 reports, including—

1 “(I) progress achieved by the
2 metropolitan planning organization in
3 meeting the performance targets in
4 comparison with system performance
5 recorded in previous reports;

6 “(II) an accounting of the per-
7 formance of the metropolitan planning
8 organization on outlay of obligated
9 project funds and delivery of projects
10 that have reached substantial comple-
11 tion in relation to—

12 “(aa) the projects included
13 in the transportation improve-
14 ment program; and

15 “(bb) the projects that have
16 been removed from the previous
17 transportation improvement pro-
18 gram; and

19 “(III) when appropriate, an anal-
20 ysis of how the preferred scenario has
21 improved the conditions and perform-
22 ance of the transportation system and
23 how changes in local policies, invest-
24 ments, and growth have impacted the

1 costs necessary to achieve the identi-
2 fied performance targets;

3 “(v) recommended strategies and in-
4 vestments for improving system perform-
5 ance over the planning horizon, including
6 transportation systems management and
7 operations strategies, maintenance strate-
8 gies, demand management strategies, asset
9 management strategies, capacity and en-
10 hancement investments, State and local
11 economic development and land use im-
12 provements, intelligent transportation sys-
13 tems deployment, and technology adoption
14 strategies, as determined by the projected
15 support of the performance targets de-
16 scribed in subsection (h)(2);

17 “(vi) recommended strategies and in-
18 vestments to improve and integrate dis-
19 ability-related access to transportation in-
20 frastructure, including strategies and in-
21 vestments based on a preferred scenario,
22 when appropriate;

23 “(vii) investment priorities for using
24 projected available and proposed revenues
25 over the short- and long-term stages of the

1 planning horizon, in accordance with the
2 financial plan required under paragraph
3 (4);

4 “(viii) a description of interstate com-
5 pacts entered into in order to promote co-
6 ordinated transportation planning in
7 multistate areas, if applicable;

8 “(ix) an optional illustrative list of
9 projects containing investments that—

10 “(I) are not included in the met-
11 ropolitan transportation plan; but

12 “(II) would be so included if re-
13 sources in addition to the resources
14 identified in the financial plan under
15 paragraph (4) were available;

16 “(x) a discussion (developed in con-
17 sultation with Federal, State, and tribal
18 wildlife, land management, and regulatory
19 agencies) of types of potential environ-
20 mental and stormwater mitigation activi-
21 ties and potential areas to carry out those
22 activities, including activities that may
23 have the greatest potential to restore and
24 maintain the environmental functions af-

1 fected by the metropolitan transportation
2 plan; and

3 “(xi) recommended strategies and in-
4 vestments, including those developed by
5 the State as part of interstate compacts,
6 agreements, or organizations, that support
7 intercity transportation.

8 “(3) SCENARIO DEVELOPMENT.—

9 “(A) IN GENERAL.—When preparing the
10 metropolitan transportation plan, the metropoli-
11 tan planning organization may, while fitting the
12 needs and complexity of their community, de-
13 velop multiple scenarios for consideration as a
14 part of the development of the metropolitan
15 transportation plan, in accordance with sub-
16 paragraph (B).

17 “(B) COMPONENTS OF SCENARIOS.—The
18 scenarios—

19 “(i) shall include potential regional in-
20 vestment strategies for the planning hori-
21 zon;

22 “(ii) shall include assumed distribu-
23 tion of population and employment;

24 “(iii) may include a scenario that, to
25 the maximum extent practicable, maintains

1 baseline conditions for the performance
2 measures identified in subsection (h)(2);

3 “(iv) may include a scenario that im-
4 proves the baseline conditions for as many
5 of the performance measures under sub-
6 section (h)(2) as possible;

7 “(v) shall be revenue constrained
8 based on the total revenues expected to be
9 available over the forecast period of the
10 plan; and

11 “(vi) may include estimated costs and
12 potential revenues available to support
13 each scenario.

14 “(C) METRICS.—In addition to the per-
15 formance measures identified in subsection
16 (h)(2), scenarios developed under this para-
17 graph may be evaluated using locally developed
18 metrics for the following categories:

19 “(i) Congestion and mobility, includ-
20 ing transportation use by mode.

21 “(ii) Freight movement.

22 “(iii) Safety.

23 “(iv) Efficiency and costs to tax-
24 payers.

1 “(4) FINANCIAL PLAN.—A financial plan re-
2 ferred to in paragraph (2)(C)(vii) shall—

3 “(A) be prepared by each metropolitan
4 planning organization to support the metropoli-
5 tan transportation plan; and

6 “(B) contain a description of the following:

7 “(i) Projected resource requirements
8 for implementing projects, strategies, and
9 services recommended in the metropolitan
10 transportation plan, including existing and
11 projected system operating and mainte-
12 nance needs, proposed enhancement and
13 expansions to the system, projected avail-
14 able revenue from Federal, State, local,
15 and private sources, and innovative financ-
16 ing techniques to finance projects and pro-
17 grams.

18 “(ii) The projected difference between
19 costs and revenues, and strategies for se-
20 curing additional new revenue (such as by
21 capture of some of the economic value cre-
22 ated by any new investment).

23 “(iii) Estimates of future funds, to be
24 developed cooperatively by the metropolitan
25 planning organization, any public transpor-

1 tation agency, and the State, that are rea-
2 sonably expected to be available to support
3 the investment priorities recommended in
4 the metropolitan transportation plan.

5 “(iv) Each applicable project only if
6 full funding can reasonably be anticipated
7 to be available for the project within the
8 time period contemplated for completion of
9 the project.

10 “(5) COORDINATION WITH CLEAN AIR ACT
11 AGENCIES.—The metropolitan planning organization
12 for any metropolitan area that is a nonattainment
13 area or maintenance area shall coordinate the devel-
14 opment of a transportation plan with the process for
15 development of the transportation control measures
16 of the State implementation plan required by the
17 Clean Air Act (42 U.S.C. 7401 et seq.).

18 “(6) PUBLICATION.—On approval by the rel-
19 evant metropolitan planning organization, a metro-
20 politan transportation plan involving Federal partici-
21 pation shall be, at such times and in such manner
22 as the Secretary shall require—

23 “(A) published or otherwise made readily
24 available by the metropolitan planning organi-
25 zation for public review, including (to the max-

1 imum extent practicable) in electronically acces-
2 sible formats and means, such as the Internet;
3 and

4 “(B) submitted for informational purposes
5 to the applicable Governor.

6 “(7) CONSULTATION.—

7 “(A) IN GENERAL.—In each metropolitan
8 area, the metropolitan planning organization
9 shall consult, as appropriate, with Federal,
10 State, tribal, and local agencies responsible for
11 land use management, natural resources, envi-
12 ronmental protection, conservation, and historic
13 preservation concerning the development of a
14 metropolitan transportation plan.

15 “(B) ISSUES.—The consultation under
16 subparagraph (A) shall involve, as available,
17 consideration of—

18 “(i) metropolitan transportation plans
19 with Federal, State, tribal, and local con-
20 servation plans or maps; and

21 “(ii) inventories of natural or historic
22 resources.

23 “(8) SELECTION OF PROJECTS FROM ILLUS-
24 TRATIVE LIST.—Notwithstanding paragraph (4), a
25 State or metropolitan planning organization shall

1 not be required to select any project from the illus-
2 trative list of additional projects included in the met-
3 ropolitan transportation plan under paragraph
4 (2)(C)(ix).

5 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

6 “(1) DEVELOPMENT.—

7 “(A) IN GENERAL.—In cooperation with
8 the applicable State and any affected public
9 transportation operator, the metropolitan plan-
10 ning organization designated for a metropolitan
11 area shall develop a transportation improvement
12 program for the metropolitan planning area
13 that—

14 “(i) contains projects consistent with
15 the current metropolitan transportation
16 plan;

17 “(ii) reflects the investment priorities
18 established in the current metropolitan
19 transportation plan; and

20 “(iii) once implemented, will make sig-
21 nificant progress toward achieving the per-
22 formance targets established under sub-
23 section (h)(2).

24 “(B) OPPORTUNITY FOR PARTICIPA-
25 TION.—In developing the transportation im-

1 provement program, the metropolitan planning
2 organization, in cooperation with the State and
3 any affected public transportation operator,
4 shall provide an opportunity for participation by
5 interested parties, in accordance with sub-
6 section (h)(4).

7 “(C) UPDATING AND APPROVAL.—The
8 transportation improvement program shall be—

9 “(i) updated not less frequently than
10 once every 4 years, on a cycle compatible
11 with the development of the relevant state-
12 wide transportation improvement program
13 under section 5304; and

14 “(ii) approved by the applicable Gov-
15 ernor.

16 “(2) CONTENTS.—

17 “(A) PRIORITY LIST.—The transportation
18 improvement program shall include a priority
19 list of proposed federally supported projects and
20 strategies to be carried out during the 4-year
21 period beginning on the date of adoption of the
22 transportation improvement program, and each
23 4-year period thereafter, using existing and rea-
24 sonably available revenues in accordance with
25 the financial plan under paragraph (3).

1 “(B) DESCRIPTIONS.—Each project de-
2 scribed in the transportation improvement pro-
3 gram shall include sufficient descriptive mate-
4 rial (such as type of work, termini, length, and
5 other similar factors) to identify the project or
6 phase of the project and the effect that the
7 project or project phase will have in addressing
8 the targets described in subsection (h)(2).

9 “(C) PERFORMANCE TARGET ACHIEVE-
10 MENT.—The transportation improvement pro-
11 gram shall include, to the maximum extent
12 practicable, a description of the anticipated ef-
13 fect of the transportation improvement program
14 on attainment of the performance targets estab-
15 lished in the metropolitan transportation plan,
16 linking investment priorities to those perform-
17 ance targets.

18 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
19 In developing a transportation improvement
20 program, an optional illustrative list of projects
21 may be prepared containing additional invest-
22 ment priorities that—

23 “(i) are not included in the transpor-
24 tation improvement program; but

1 “(ii) would be so included if resources
2 in addition to the resources identified in
3 the financial plan under paragraph (3)
4 were available.

5 “(3) FINANCIAL PLAN.—A financial plan re-
6 ferred to in paragraph (2)(D)(ii) shall—

7 “(A) be prepared by each metropolitan
8 planning organization to support the transpor-
9 tation improvement program; and

10 “(B) contain a description of the following:

11 “(i) Projected resource requirements
12 for implementing projects, strategies, and
13 services recommended in the transpor-
14 tation improvement program, including ex-
15 isting and projected system operating and
16 maintenance needs, proposed enhancement
17 and expansions to the system, projected
18 available revenue from Federal, State,
19 local, and private sources, and innovative
20 financing techniques to finance projects
21 and programs.

22 “(ii) The projected difference between
23 costs and revenues, and strategies for se-
24 curing additional new revenue (such as by

1 capture of some of the economic value cre-
2 ated by any new investment).

3 “(iii) Estimates of future funds, to be
4 developed cooperatively by the metropolitan
5 planning organization, any public transpor-
6 tation agency, and the State, that are rea-
7 sonably expected to be available to support
8 the investment priorities recommended in
9 the transportation improvement program.

10 “(iv) Each applicable project, only if
11 full funding can reasonably be anticipated
12 to be available for the project within the
13 time period contemplated for completion of
14 the project.

15 “(4) INCLUDED PROJECTS.—

16 “(A) PROJECTS UNDER THIS CHAPTER
17 AND TITLE 23.—A transportation improvement
18 program developed under this subsection for a
19 metropolitan area shall include a description of
20 the projects within the area that are proposed
21 for funding under this chapter and chapter 1 of
22 title 23.

23 “(B) PROJECTS UNDER CHAPTER 2.—

24 “(i) REGIONALLY SIGNIFICANT.—
25 Each regionally significant project pro-

1 posed for funding under chapter 2 of title
2 23 shall be identified individually in the
3 transportation improvement program.

4 “(ii) NONREGIONALLY SIGNIFI-
5 CANT.—A description of each project pro-
6 posed for funding under chapter 2 of title
7 23 that is not determined to be regionally
8 significant shall be contained in 1 line item
9 or identified individually in the transpor-
10 tation improvement program.

11 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-
12 fore approving a transportation improvement pro-
13 gram, a metropolitan planning organization, in co-
14 operation with the State and any affected public
15 transportation operator, shall provide an opportunity
16 for participation by interested parties in the develop-
17 ment of the transportation improvement program, in
18 accordance with subsection (h)(4).

19 “(6) SELECTION OF PROJECTS.—

20 “(A) IN GENERAL.—Each tier I MPO and
21 tier II MPO shall select projects carried out
22 within the boundaries of the applicable metro-
23 politan planning area from the transportation
24 improvement program, in consultation with the
25 relevant State and on concurrence of the af-

1 affected facility owner, for funds apportioned to
2 the State under section 104(b)(2) of title 23
3 and suballocated to the metropolitan planning
4 area under section 133(d) of title 23.

5 “(B) PROJECTS UNDER CHAPTER 53.—In
6 the case of projects under this chapter, the se-
7 lection of federally funded projects in metropoli-
8 tan areas shall be carried out, from the ap-
9 proved transportation improvement program, by
10 the designated recipients of public transpor-
11 tation funding in cooperation with the metro-
12 politan planning organization.

13 “(C) CONGESTION MITIGATION AND AIR
14 QUALITY PROJECTS.—Each tier I MPO shall
15 select projects carried out within the boundaries
16 of the applicable metropolitan planning area
17 from the transportation improvement program,
18 in consultation with the relevant State and on
19 concurrence of the affected facility owner, for
20 funds apportioned to the State under section
21 104(b)(4) of title 23 and suballocated to the
22 metropolitan planning area under section 149(j)
23 of title 23.

24 “(D) MODIFICATIONS TO PROJECT PRI-
25 ORITY.—Notwithstanding any other provision of

1 law, approval by the Secretary shall not be re-
2 quired to carry out a project included in a
3 transportation improvement program in place of
4 another project in the transportation improve-
5 ment program.

6 “(7) PUBLICATION.—

7 “(A) IN GENERAL.—A transportation im-
8 provement program shall be published or other-
9 wise made readily available by the applicable
10 metropolitan planning organization for public
11 review in electronically accessible formats and
12 means, such as the Internet.

13 “(B) ANNUAL LIST OF PROJECTS.—An an-
14 nual list of projects, including investments in
15 pedestrian walkways, bicycle transportation fa-
16 cilities, and intermodal facilities that support
17 intercity transportation, for which Federal
18 funds have been obligated during the preceding
19 fiscal year shall be published or otherwise made
20 available by the cooperative effort of the State,
21 public transportation operator, and metropoli-
22 tan planning organization in electronically ac-
23 cessible formats and means, such as the Inter-
24 net, in a manner that is consistent with the cat-

1 egories identified in the relevant transportation
2 improvement program.

3 “(k) PLANNING REQUIREMENTS FOR TIER II
4 MPOs.—

5 “(1) IN GENERAL.—The Secretary may provide
6 for the performance-based development of a metro-
7 politan transportation plan and transportation im-
8 provement program for the metropolitan planning
9 area of a tier II MPO, as the Secretary determines
10 to be appropriate, taking into account—

11 “(A) the complexity of transportation
12 needs in the area; and

13 “(B) the technical capacity of the metro-
14 politan planning organization.

15 “(2) EVALUATION OF PERFORMANCE-BASED
16 PLANNING.—In reviewing a tier II MPO under sub-
17 section (m), the Secretary shall take into consider-
18 ation the effectiveness of the tier II MPO in imple-
19 menting and maintaining a performance-based plan-
20 ning process that—

21 “(A) addresses the performance targets de-
22 scribed in subsection (h)(2); and

23 “(B) demonstrates progress on the
24 achievement of those performance targets.

25 “(l) CERTIFICATION.—

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

2 “(A) ensure that the metropolitan trans-
3 portation planning process of a metropolitan
4 planning organization is being carried out in ac-
5 cordance with applicable Federal law; and

6 “(B) subject to paragraph (2), certify, not
7 less frequently than once every 4 years, that the
8 requirements of subparagraph (A) are met with
9 respect to the metropolitan transportation plan-
10 ning process.

11 “(2) REQUIREMENTS FOR CERTIFICATION.—

12 The Secretary may make a certification under para-
13 graph (1)(B) if—

14 “(A) the metropolitan transportation plan-
15 ning process complies with the requirements of
16 this section and other applicable Federal law;

17 “(B) representation on the metropolitan
18 planning organization board includes officials of
19 public agencies that administer or operate
20 major modes of transportation in the relevant
21 metropolitan area, including providers of public
22 transportation; and

23 “(C) a transportation improvement pro-
24 gram for the metropolitan planning area has

1 been approved by the relevant metropolitan
2 planning organization and applicable Governor.

3 “(3) DELEGATION OF AUTHORITY.—The Sec-
4 retary may—

5 “(A) delegate to the appropriate State
6 fact-finding authority regarding the certification
7 of a tier II MPO under this subsection; and

8 “(B) make the certification under para-
9 graph (1) in consultation with the State.

10 “(4) EFFECT OF FAILURE TO CERTIFY.—

11 “(A) WITHHOLDING OF PROJECT
12 FUNDS.—If a metropolitan transportation plan-
13 ning process of a metropolitan planning organi-
14 zation is not certified under paragraph (1), the
15 Secretary may withhold up to 20 percent of the
16 funds attributable to the metropolitan planning
17 area of the metropolitan planning organization
18 for projects funded under this chapter and title
19 23.

20 “(B) RESTORATION OF WITHHELD
21 FUNDS.—Any funds withheld under subpara-
22 graph (A) shall be restored to the metropolitan
23 planning area on the date of certification of the
24 metropolitan transportation planning process by
25 the Secretary.

1 “(5) PUBLIC INVOLVEMENT.—In making a de-
2 termination regarding certification under this sub-
3 section, the Secretary shall provide for public in-
4 volvement appropriate to the metropolitan planning
5 area under review.

6 “(m) PERFORMANCE-BASED PLANNING PROCESSES
7 EVALUATION.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish criteria to evaluate the effectiveness of the per-
10 formance-based planning processes of metropolitan
11 planning organizations under this section, taking
12 into consideration the following:

13 “(A) The extent to which the metropolitan
14 planning organization has achieved, or is cur-
15 rently making substantial progress toward
16 achieving, the performance targets specified in
17 subsection (h)(2), taking into account whether
18 the metropolitan planning organization devel-
19 oped meaningful performance targets.

20 “(B) The extent to which the metropolitan
21 planning organization has used proven best
22 practices that help ensure transportation invest-
23 ment that is efficient and cost-effective.

24 “(C) The extent to which the metropolitan
25 planning organization—

1 “(i) has developed an investment proc-
2 ess that relies on public input and aware-
3 ness to ensure that investments are trans-
4 parent and accountable; and

5 “(ii) provides regular reports allowing
6 the public to access the information being
7 collected in a format that allows the public
8 to meaningfully assess the performance of
9 the metropolitan planning organization.

10 “(2) REPORT.—

11 “(A) IN GENERAL.—Not later than 5 years
12 after the date of enactment of the Federal Pub-
13 lic Transportation Act of 2012, the Secretary
14 shall submit to Congress a report evaluating—

15 “(i) the overall effectiveness of per-
16 formance-based planning as a tool for
17 guiding transportation investments; and

18 “(ii) the effectiveness of the perform-
19 ance-based planning process of each metro-
20 politan planning organization under this
21 section.

22 “(B) PUBLICATION.—The report under
23 subparagraph (A) shall be published or other-
24 wise made available in electronically accessible
25 formats and means, including on the Internet.

1 “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN
2 NONATTAINMENT AREAS.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this chapter or title 23, Federal funds
5 may not be advanced in any metropolitan planning
6 area classified as a nonattainment area or mainte-
7 nance area for any highway project that will result
8 in a significant increase in the carrying capacity for
9 single-occupant vehicles, unless the owner or oper-
10 ator of the project demonstrates that the project will
11 achieve or make substantial progress toward achiev-
12 ing the performance targets described in subsection
13 (h)(2).

14 “(2) APPLICABILITY.—This subsection applies
15 to any nonattainment area or maintenance area
16 within the boundaries of a metropolitan planning
17 area, as determined under subsection (c).

18 “(o) EFFECT OF SECTION.—Nothing in this section
19 provides to any metropolitan planning organization the
20 authority to impose any legal requirement on any trans-
21 portation facility, provider, or project not subject to the
22 requirements of this chapter or title 23.

23 “(p) FUNDING.—Funds apportioned under section
24 104(b)(6) of title 23 and set aside under section 5305(g)
25 of this title shall be available to carry out this section.

1 “(q) CONTINUATION OF CURRENT REVIEW PRAC-
2 TICE.—

3 “(1) IN GENERAL.—In consideration of the fac-
4 tors described in paragraph (2), any decision by the
5 Secretary concerning a metropolitan transportation
6 plan or transportation improvement program shall
7 not be considered to be a Federal action subject to
8 review under the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.).

10 “(2) DESCRIPTION OF FACTORS.—The factors
11 referred to in paragraph (1) are that—

12 “(A) metropolitan transportation plans and
13 transportation improvement programs are sub-
14 ject to a reasonable opportunity for public com-
15 ment;

16 “(B) the projects included in metropolitan
17 transportation plans and transportation im-
18 provement programs are subject to review
19 under the National Environmental Policy Act of
20 1969 (42 U.S.C. 4321 et seq.); and

21 “(C) decisions by the Secretary concerning
22 metropolitan transportation plans and transpor-
23 tation improvement programs have not been re-
24 viewed under the National Environmental Pol-

1 icy Act of 1969 (42 U.S.C. 4321 et seq.) as of
2 January 1, 1997.

3 “(r) SCHEDULE FOR IMPLEMENTATION.—The Sec-
4 retary shall issue guidance on a schedule for implementa-
5 tion of the changes made by this section, taking into con-
6 sideration the established planning update cycle for metro-
7 politan planning organizations. The Secretary shall not re-
8 quire a metropolitan planning organization to deviate from
9 its established planning update cycle to implement
10 changes made by this section. Metropolitan planning orga-
11 nizations shall reflect changes made to their transpor-
12 tation plan or transportation improvement program up-
13 dates not later than 2 years after the date of issuance
14 of guidance by the Secretary.”.

15 (b) PILOT PROGRAM FOR TRANSIT-ORIENTED DE-
16 VELOPMENT PLANNING.—

17 (1) DEFINITIONS.—In this subsection the fol-
18 lowing definitions shall apply:

19 (A) ELIGIBLE PROJECT.—The term “eligi-
20 ble project” means a new fixed guideway capital
21 project or a core capacity improvement project,
22 as those terms are defined in section 5309 of
23 title 49, United States Code, as amended by
24 this division.

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

3 (2) GENERAL AUTHORITY.—The Secretary may
4 make grants under this subsection to a State or
5 local governmental authority to assist in financing
6 comprehensive planning associated with an eligible
7 project that seeks to—

8 (A) enhance economic development, rider-
9 ship, and other goals established during the
10 project development and engineering processes;

11 (B) facilitate multimodal connectivity and
12 accessibility;

13 (C) increase access to transit hubs for pe-
14 destrian and bicycle traffic;

15 (D) enable mixed-use development;

16 (E) identify infrastructure needs associated
17 with the eligible project; and

18 (F) include private sector participation.

19 (3) ELIGIBILITY.—A State or local govern-
20 mental authority that desires to participate in the
21 program under this subsection shall submit to the
22 Secretary an application that contains, at a min-
23 imum—

24 (A) identification of an eligible project;

1 (B) a schedule and process for the develop-
2 ment of a comprehensive plan;

3 (C) a description of how the eligible project
4 and the proposed comprehensive plan advance
5 the metropolitan transportation plan of the
6 metropolitan planning organization;

7 (D) proposed performance criteria for the
8 development and implementation of the com-
9 prehensive plan; and

10 (E) identification of—

11 (i) partners;

12 (ii) availability of and authority for
13 funding; and

14 (iii) potential State, local or other im-
15 pediments to the implementation of the
16 comprehensive plan.

17 **SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANS-**
18 **PORTATION PLANNING.**

19 Section 5304 of title 49, United States Code, is
20 amended to read as follows:

21 **“§ 5304. Statewide and nonmetropolitan transpor-**
22 **tation planning**

23 “(a) STATEWIDE TRANSPORTATION PLANS AND
24 STIPs.—

25 “(1) DEVELOPMENT.—

1 “(A) IN GENERAL.—To accomplish the
2 policy objectives described in section 5303(a),
3 each State shall develop a statewide transpor-
4 tation plan and a statewide transportation im-
5 provement program for all areas of the State in
6 accordance with this section.

7 “(B) INCORPORATION OF METROPOLITAN
8 TRANSPORTATION PLANS AND TIPS.—Each
9 State shall incorporate in the statewide trans-
10 portation plan and statewide transportation im-
11 provement program, without change or by ref-
12 erence, the metropolitan transportation plans
13 and transportation improvement programs, re-
14 spectively, for each metropolitan planning area
15 in the State.

16 “(C) NONMETROPOLITAN AREAS.—Each
17 State shall consult with local officials in small
18 urbanized areas with a population of 50,000 or
19 more individuals, but fewer than 200,000 indi-
20 viduals, as calculated according to the most re-
21 cent decennial census, and nonurbanized areas
22 of the State in preparing the nonmetropolitan
23 portions of statewide transportation plans and
24 statewide transportation improvement pro-
25 grams.

1 “(2) CONTENTS.—The statewide transportation
2 plan and statewide transportation improvement pro-
3 gram developed for each State shall provide for the
4 development and integrated management and oper-
5 ation of transportation systems and facilities (includ-
6 ing accessible pedestrian walkways, bicycle transpor-
7 tation facilities, and intermodal facilities that sup-
8 port intercity transportation) that will function as—

9 “(A) an intermodal transportation system
10 for the State; and

11 “(B) an integral part of an intermodal
12 transportation system for the United States.

13 “(3) PROCESS.—The process for developing the
14 statewide transportation plan and statewide trans-
15 portation improvement program shall—

16 “(A) provide for consideration of all modes
17 of transportation; and

18 “(B) be continuing, cooperative, and com-
19 prehensive to the degree appropriate, based on
20 the complexity of the transportation needs to be
21 addressed.

22 “(b) COORDINATION AND CONSULTATION.—

23 “(1) IN GENERAL.—Each State shall—

24 “(A) coordinate planning carried out under
25 this section with—

1 “(i) the transportation planning ac-
2 tivities carried out under section 5303 for
3 metropolitan areas of the State; and

4 “(ii) statewide trade and economic de-
5 velopment planning activities and related
6 multistate planning efforts;

7 “(B) coordinate planning carried out under
8 this section with the transportation planning
9 activities carried out by each nonmetropolitan
10 planning organization in the State, as applica-
11 ble;

12 “(C) consult on planning carried out under
13 this section with the transportation planning
14 activities carried out by each rural planning or-
15 ganization in the State, as applicable; and

16 “(D) develop the transportation portion of
17 the State implementation plan as required by
18 the Clean Air Act (42 U.S.C. 7401 et seq.).

19 “(2) MULTISTATE AREAS.—

20 “(A) IN GENERAL.—The Secretary shall
21 encourage each Governor with responsibility for
22 a portion of a multistate metropolitan planning
23 area and the appropriate metropolitan planning
24 organizations to provide coordinated transpor-

1 tation planning for the entire metropolitan
2 area.

3 “(B) COORDINATION ALONG DESIGNATED
4 TRANSPORTATION CORRIDORS.—The Secretary
5 shall encourage each Governor with responsi-
6 bility for a portion of a multistate transpor-
7 tation corridor to provide coordinated transpor-
8 tation planning for the entire designated cor-
9 ridor.

10 “(C) INTERSTATE COMPACTS.—For pur-
11 poses of this section, any 2 or more States—

12 “(i) may enter into compacts, agree-
13 ments, or organizations not in conflict with
14 any Federal law for cooperative efforts and
15 mutual assistance in support of activities
16 authorized under this section, as the activi-
17 ties relate to interstate areas and localities
18 within the States;

19 “(ii) may establish such agencies
20 (joint or otherwise) as the States deter-
21 mine to be appropriate for ensuring the ef-
22 fectiveness of the agreements and com-
23 pacts; and

24 “(iii) are encouraged to enter into
25 such compacts, agreements, or organiza-

1 tions as are appropriate to develop plan-
2 ning documents in support of intercity or
3 multistate area projects, facilities, and
4 services, the relevant components of which
5 shall be reflected in statewide transpor-
6 tation improvement programs and state-
7 wide transportation plans.

8 “(D) RESERVATION OF RIGHTS.—The
9 right to alter, amend, or repeal any interstate
10 compact or agreement entered into under this
11 subsection is expressly reserved.

12 “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-
13 CIALS.—

14 “(1) IN GENERAL.—The Secretary shall encour-
15 age each State to cooperate with Federal, State,
16 tribal, and local officers and entities responsible for
17 other types of planning activities that are affected
18 by transportation in the relevant area (including
19 planned growth, economic development, infrastruc-
20 ture services, housing, other public services, environ-
21 mental protection, airport operations, high-speed and
22 intercity passenger rail, freight rail, port access, and
23 freight movements), to the maximum extent prac-
24 ticable, to ensure that the statewide and nonmetro-
25 politan planning process, statewide transportation

1 plans, and statewide transportation improvement
2 programs are developed with due consideration for
3 other related planning activities in the State.

4 “(2) INCLUSION.—Cooperation under para-
5 graph (1) shall include the design and delivery of
6 transportation services within the State that are pro-
7 vided by—

8 “(A) recipients of assistance under sections
9 202, 203, and 204 of title 23;

10 “(B) recipients of assistance under this
11 chapter;

12 “(C) government agencies and nonprofit
13 organizations (including representatives of the
14 agencies and organizations) that receive Federal
15 assistance from a source other than the Depart-
16 ment of Transportation to provide non-
17 emergency transportation services; and

18 “(D) sponsors of regionally significant pro-
19 grams, projects, and services that are related to
20 transportation and receive assistance from any
21 public or private source.

22 “(d) SCOPE OF PLANNING PROCESS.—

23 “(1) IN GENERAL.—The statewide transpor-
24 tation planning process for a State under this sec-

1 tion shall provide for consideration of projects, strat-
2 egies, and services that will—

3 “(A) support the economic vitality of the
4 United States, the State, nonmetropolitan
5 areas, and metropolitan areas, especially by en-
6 abling global competitiveness, travel and tour-
7 ism (where applicable), productivity, and effi-
8 ciency;

9 “(B) increase the safety of the transpor-
10 tation system for motorized and nonmotorized
11 users;

12 “(C) increase the security of the transpor-
13 tation system for motorized and nonmotorized
14 users;

15 “(D) increase the accessibility and mobility
16 of individuals and freight;

17 “(E) protect and enhance the environment,
18 promote energy conservation, improve the qual-
19 ity of life, and promote consistency between
20 transportation improvements and State and
21 local planned growth and economic development
22 patterns;

23 “(F) enhance the integration and
24 connectivity of the transportation system,

1 across and between modes, for individuals and
2 freight;

3 “(G) increase efficient system management
4 and operation; and

5 “(H) emphasize the preservation of the ex-
6 isting transportation system.

7 “(2) PERFORMANCE-BASED APPROACH.—

8 “(A) IN GENERAL.—The statewide trans-
9 portation planning process shall provide for the
10 establishment and use of a performance-based
11 approach to transportation decisionmaking to
12 support the national goals described in section
13 5301(c) of this title and in section 150(b) of
14 title 23.

15 “(B) SURFACE TRANSPORTATION PER-
16 FORMANCE TARGETS.—

17 “(i) IN GENERAL.—Each State shall
18 establish performance targets that address
19 the performance measures described in sec-
20 tions 119(f), 148(h), and 167(i) of title 23
21 to use in tracking attainment of critical
22 outcomes for the region of the State.

23 “(ii) COORDINATION.—Selection of
24 performance targets by a State shall be co-
25 ordinated with relevant metropolitan plan-

1 ning organizations to ensure consistency,
2 to the maximum extent practicable.

3 “(C) PUBLIC TRANSPORTATION PERFORM-
4 ANCE TARGETS.—For providers of public trans-
5 portation operating in urbanized areas with a
6 population of fewer than 200,000 individuals,
7 as calculated according to the most recent de-
8 cennial census, and not represented by a metro-
9 politan planning organization, each State shall
10 adopt the performance targets identified by
11 such providers of public transportation pursu-
12 ant to sections 5326(c) and 5329(d), for use in
13 tracking attainment of critical outcomes for the
14 region of the metropolitan planning organiza-
15 tion.

16 “(D) INTEGRATION OF OTHER PERFORM-
17 ANCE-BASED PLANS.—A State shall integrate
18 into the statewide transportation planning proc-
19 ess, directly or by reference, the goals, objec-
20 tives, performance measures, and performance
21 targets described in this paragraph in other
22 State plans and processes, and asset manage-
23 ment and safety plans developed by providers of
24 public transportation in urbanized areas with a
25 population of fewer than 200,000 individuals,

1 as calculated according to the most recent de-
2 cennial census, and not represented by a metro-
3 politan planning organization, required as part
4 of a performance-based program, including
5 plans such as—

6 “(i) the State National Highway Sys-
7 tem asset management plan;

8 “(ii) asset management plans devel-
9 oped by providers of public transportation;

10 “(iii) the State strategic highway safe-
11 ty plan;

12 “(iv) safety plans developed by pro-
13 viders of public transportation; and

14 “(v) the national freight strategic
15 plan.

16 “(E) USE OF PERFORMANCE MEASURES
17 AND TARGETS.—The performance measures
18 and targets established under this paragraph
19 shall be used, at a minimum, by a State as the
20 basis for development of policies, programs, and
21 investment priorities reflected in the statewide
22 transportation plan and statewide transpor-
23 tation improvement program.

24 “(3) FAILURE TO CONSIDER FACTORS.—The
25 failure to take into consideration 1 or more of the

1 factors specified in paragraphs (1) and (2) shall not
2 be subject to review by any court under this chapter,
3 title 23, subchapter II of chapter 5 of title 5, or
4 chapter 7 of title 5 in any matter affecting a state-
5 wide transportation plan, a statewide transportation
6 improvement program, a project or strategy, or the
7 certification of a planning process.

8 “(4) PARTICIPATION BY INTERESTED PAR-
9 TIES.—

10 “(A) IN GENERAL.—Each State shall pro-
11 vide to—

12 “(i) nonmetropolitan local elected offi-
13 cials an opportunity to participate in ac-
14 cordance with subparagraph (B)(i); and

15 “(ii) affected individuals, public agen-
16 cies, and other interested parties notice
17 and a reasonable opportunity to comment
18 on the statewide transportation plan and
19 statewide transportation improvement pro-
20 gram.

21 “(B) METHODS.—In carrying out this
22 paragraph, the State shall—

23 “(i) develop and document a consult-
24 ative process to carry out subparagraph
25 (A)(i) that is separate and discrete from

1 the public involvement process developed
2 under clause (ii);

3 “(ii) develop the statewide transpor-
4 tation plan and statewide transportation
5 improvement program in consultation with
6 interested parties, as appropriate, includ-
7 ing by the formation of advisory groups
8 representative of the State and interested
9 parties that participate in the development
10 of the statewide transportation plan and
11 statewide transportation improvement pro-
12 gram;

13 “(iii) hold any public meetings at
14 times and locations that are, as applica-
15 ble—

16 “(I) convenient; and

17 “(II) in compliance with the
18 Americans with Disabilities Act of
19 1990 (42 U.S.C. 12101 et seq.);

20 “(iv) employ visualization techniques
21 to describe statewide transportation plans
22 and statewide transportation improvement
23 programs; and

24 “(v) make public information available
25 in appropriate electronically accessible for-

1 mats and means, such as the Internet, to
2 afford reasonable opportunity for consider-
3 ation of public information under subpara-
4 graph (A).

5 “(e) COORDINATION AND CONSULTATION.—

6 “(1) METROPOLITAN AREAS.—

7 “(A) IN GENERAL.—Each State shall de-
8 velop a statewide transportation plan and state-
9 wide transportation improvement program for
10 each metropolitan area in the State by incor-
11 porating, without change or by reference, at a
12 minimum, as prepared by each metropolitan
13 planning organization designated for the metro-
14 politan area under section 5303—

15 “(i) all regionally significant projects
16 to be carried out during the 10-year period
17 beginning on the effective date of the rel-
18 evant existing metropolitan transportation
19 plan; and

20 “(ii) all projects to be carried out dur-
21 ing the 4-year period beginning on the ef-
22 fective date of the relevant transportation
23 improvement program.

24 “(B) PROJECTED COSTS.—Each metropoli-
25 tan planning organization shall provide to each

1 applicable State a description of the projected
2 costs of implementing the projects included in
3 the metropolitan transportation plan of the
4 metropolitan planning organization for purposes
5 of metropolitan financial planning and fiscal
6 constraint.

7 “(2) NONMETROPOLITAN AREAS.—With respect
8 to nonmetropolitan areas in a State, the statewide
9 transportation plan and statewide transportation im-
10 provement program of the State shall be developed
11 in consultation with affected nonmetropolitan local
12 officials with responsibility for transportation, in-
13 cluding providers of public transportation.

14 “(3) INDIAN TRIBAL AREAS.—With respect to
15 each area of a State under the jurisdiction of an In-
16 dian tribe, the statewide transportation plan and
17 statewide transportation improvement program of
18 the State shall be developed in consultation with—

19 “(A) the tribal government; and

20 “(B) the Secretary of the Interior.

21 “(4) FEDERAL LAND MANAGEMENT AGEN-
22 CIES.—With respect to each area of a State under
23 the jurisdiction of a Federal land management agen-
24 cy, the statewide transportation plan and statewide
25 transportation improvement program of the State

1 shall be developed in consultation with the relevant
2 Federal land management agency.

3 “(5) CONSULTATION, COMPARISON, AND CON-
4 sideration.—

5 “(A) IN GENERAL.—A statewide transpor-
6 tation plan shall be developed, as appropriate,
7 in consultation with Federal, State, tribal, and
8 local agencies responsible for land use manage-
9 ment, natural resources, infrastructure permit-
10 ting, environmental protection, conservation,
11 and historic preservation.

12 “(B) COMPARISON AND CONSIDERATION.—
13 Consultation under subparagraph (A) shall in-
14 volve the comparison of statewide transpor-
15 tation plans to, as available—

16 “(i) Federal, State, tribal, and local
17 conservation plans or maps; and

18 “(ii) inventories of natural or historic
19 resources.

20 “(f) STATEWIDE TRANSPORTATION PLAN.—

21 “(1) DEVELOPMENT.—

22 “(A) IN GENERAL.—Each State shall de-
23 velop a statewide transportation plan, the fore-
24 cast period of which shall be not less than 20
25 years for all areas of the State, that provides

1 for the development and implementation of the
2 intermodal transportation system of the State.

3 “(B) INITIAL PERIOD.—A statewide trans-
4 portation plan shall include, at a minimum, for
5 the first 10-year period of the statewide trans-
6 portation plan, the identification of existing and
7 future transportation facilities that will function
8 as an integrated statewide transportation sys-
9 tem, giving emphasis to those facilities that
10 serve important national, statewide, and re-
11 gional transportation functions.

12 “(C) SUBSEQUENT PERIOD.—For the sec-
13 ond 10-year period of the statewide transpor-
14 tation plan (referred to in this subsection as the
15 ‘outer years period’), a statewide transportation
16 plan—

17 “(i) may include identification of fu-
18 ture transportation facilities; and

19 “(ii) shall describe the policies and
20 strategies that provide for the development
21 and implementation of the intermodal
22 transportation system of the State.

23 “(D) OTHER REQUIREMENTS.—A state-
24 wide transportation plan shall—

1 “(i) include, for the 20-year period
2 covered by the statewide transportation
3 plan, a description of—

4 “(I) the projected aggregate cost
5 of projects anticipated by a State to
6 be implemented; and

7 “(II) the revenues necessary to
8 support the projects;

9 “(ii) include, in such form as the Sec-
10 retary determines to be appropriate, a de-
11 scription of—

12 “(I) the existing transportation
13 infrastructure, including an identifica-
14 tion of highways, local streets and
15 roads, bicycle and pedestrian facilities,
16 public transportation facilities and
17 services, commuter rail facilities and
18 services, high-speed and intercity pas-
19 senger rail facilities and services,
20 freight facilities (including freight
21 railroad and port facilities),
22 multimodal and intermodal facilities,
23 and intermodal connectors that, evalu-
24 ated in the aggregate, function as an
25 integrated transportation system;

1 “(II) the performance measures
2 and performance targets used in as-
3 sessing the existing and future per-
4 formance of the transportation system
5 described in subsection (d)(2);

6 “(III) the current and projected
7 future usage of the transportation
8 system, including, to the maximum
9 extent practicable, an identification of
10 existing or planned transportation
11 rights-of-way, corridors, facilities, and
12 related real properties;

13 “(IV) a system performance re-
14 port evaluating the existing and fu-
15 ture condition and performance of the
16 transportation system with respect to
17 the performance targets described in
18 subsection (d)(2) and updates to sub-
19 sequent system performance reports,
20 including—

21 “(aa) progress achieved by
22 the State in meeting performance
23 targets, as compared to system
24 performance recorded in previous
25 reports; and

1 “(bb) an accounting of the
2 performance by the State on out-
3 lay of obligated project funds and
4 delivery of projects that have
5 reached substantial completion,
6 in relation to the projects cur-
7 rently on the statewide transpor-
8 tation improvement program and
9 those projects that have been re-
10 moved from the previous state-
11 wide transportation improvement
12 program;

13 “(V) recommended strategies and
14 investments for improving system per-
15 formance over the planning horizon,
16 including transportation systems man-
17 agement and operations strategies,
18 maintenance strategies, demand man-
19 agement strategies, asset management
20 strategies, capacity and enhancement
21 investments, land use improvements,
22 intelligent transportation systems de-
23 ployment and technology adoption
24 strategies as determined by the pro-

1 jected support of performance targets
2 described in subsection (d)(2);

3 “(VI) recommended strategies
4 and investments to improve and inte-
5 grate disability-related access to
6 transportation infrastructure;

7 “(VII) investment priorities for
8 using projected available and proposed
9 revenues over the short- and long-
10 term stages of the planning horizon,
11 in accordance with the financial plan
12 required under paragraph (2);

13 “(VIII) a description of inter-
14 state compacts entered into in order
15 to promote coordinated transportation
16 planning in multistate areas, if appli-
17 cable;

18 “(IX) an optional illustrative list
19 of projects containing investments
20 that—

21 “(aa) are not included in the
22 statewide transportation plan;
23 but

24 “(bb) would be so included if
25 resources in addition to the re-

1 sources identified in the financial
2 plan under paragraph (2) were
3 available;

4 “(X) a discussion (developed in
5 consultation with Federal, State, and
6 tribal wildlife, land management, and
7 regulatory agencies) of types of poten-
8 tial environmental and stormwater
9 mitigation activities and potential
10 areas to carry out those activities, in-
11 cluding activities that may have the
12 greatest potential to restore and
13 maintain the environmental functions
14 affected by the statewide transpor-
15 tation plan; and

16 “(XI) recommended strategies
17 and investments, including those de-
18 veloped by the State as part of inter-
19 state compacts, agreements, or orga-
20 nizations, that support intercity trans-
21 portation; and

22 “(iii) be updated by the State not less
23 frequently than once every 5 years.

24 “(2) FINANCIAL PLAN.—A financial plan re-
25 ferred to in paragraph (1)(D)(ii)(VII) shall—

1 “(A) be prepared by each State to support
2 the statewide transportation plan; and

3 “(B) contain a description of the following:

4 “(i) Projected resource requirements
5 during the 20-year planning horizon for
6 implementing projects, strategies, and
7 services recommended in the statewide
8 transportation plan, including existing and
9 projected system operating and mainte-
10 nance needs, proposed enhancement and
11 expansions to the system, projected avail-
12 able revenue from Federal, State, local,
13 and private sources, and innovative financ-
14 ing techniques to finance projects and pro-
15 grams.

16 “(ii) The projected difference between
17 costs and revenues, and strategies for se-
18 curing additional new revenue (such as by
19 capture of some of the economic value cre-
20 ated by any new investment).

21 “(iii) Estimates of future funds, to be
22 developed cooperatively by the State, any
23 public transportation agency, and relevant
24 metropolitan planning organizations, that
25 are reasonably expected to be available to

1 support the investment priorities rec-
2 ommended in the statewide transportation
3 plan.

4 “(iv) Each applicable project, only if
5 full funding can reasonably be anticipated
6 to be available for the project within the
7 time period contemplated for completion of
8 the project.

9 “(v) For the outer years period of the
10 statewide transportation plan, a descrip-
11 tion of the aggregate cost ranges or bands,
12 subject to the condition that any future
13 funding source shall be reasonably ex-
14 pected to be available to support the pro-
15 jected cost ranges or bands.

16 “(3) COORDINATION WITH CLEAN AIR ACT
17 AGENCIES.—For any nonmetropolitan area that is a
18 nonattainment area or maintenance area, the State
19 shall coordinate the development of the statewide
20 transportation plan with the process for development
21 of the transportation control measures of the State
22 implementation plan required by the Clean Air Act
23 (42 U.S.C. 7401 et seq.).

24 “(4) PUBLICATION.—A statewide transpor-
25 tation plan involving Federal and non-Federal par-

1 participation programs, projects, and strategies shall be
2 published or otherwise made readily available by the
3 State for public review, including (to the maximum
4 extent practicable) in electronically accessible for-
5 mats and means, such as the Internet, in such man-
6 ner as the Secretary shall require.

7 “(5) SELECTION OF PROJECTS FROM ILLUS-
8 TRATIVE LIST.—Notwithstanding paragraph (2), a
9 State shall not be required to select any project from
10 the illustrative list of additional projects included in
11 the statewide transportation plan under paragraph
12 (1)(D)(ii)(IX).

13 “(6) USE OF POLICY PLANS.—Notwithstanding
14 any other provision of this section, a State that has
15 in effect, as of the date of enactment of the Federal
16 Public Transportation Act of 2012, a statewide
17 transportation plan that follows a policy plan ap-
18 proach—

19 “(A) may, for 4 years after the date of en-
20 actment of the Federal Public Transportation
21 Act of 2012, continue to use a policy plan ap-
22 proach to the statewide transportation plan;
23 and

24 “(B) shall be subject to the requirements
25 of this subsection only to the extent that such

1 requirements were applicable under this section
2 (as in effect on the day before the date of en-
3 actment of the Federal Public Transportation
4 Act of 2012).

5 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
6 PROGRAMS.—

7 “(1) DEVELOPMENT.—

8 “(A) IN GENERAL.—In consultation with
9 nonmetropolitan officials with responsibility for
10 transportation and affected public transpor-
11 tation operators, the State shall develop a state-
12 wide transportation improvement program for
13 the State that—

14 “(i) includes projects consistent with
15 the statewide transportation plan;

16 “(ii) reflects the investment priorities
17 established in the statewide transportation
18 plan; and

19 “(iii) once implemented, makes sig-
20 nificant progress toward achieving the per-
21 formance targets described in subsection
22 (d)(2).

23 “(B) OPPORTUNITY FOR PARTICIPA-
24 TION.—In developing a statewide transportation
25 improvement program, the State, in cooperation

1 with affected public transportation operators,
2 shall provide an opportunity for participation by
3 interested parties (including State representa-
4 tives of nonmotorized users) in the development
5 of the statewide transportation improvement
6 program, in accordance with subsection (e).

7 “(C) OTHER REQUIREMENTS.—

8 “(i) IN GENERAL.—A statewide trans-
9 portation improvement program shall—

10 “(I) cover a period of not less
11 than 4 years; and

12 “(II) be updated not less fre-
13 quently than once every 4 years, or
14 more frequently, as the Governor de-
15 termines to be appropriate.

16 “(ii) INCORPORATION OF TIPS.—A
17 statewide transportation improvement pro-
18 gram shall incorporate any relevant trans-
19 portation improvement program developed
20 by a metropolitan planning organization
21 under section 5303, without change.

22 “(iii) PROJECTS.—Each project in-
23 cluded in a statewide transportation im-
24 provement program shall be—

1 “(I) consistent with the statewide
2 transportation plan developed under
3 this section for the State;

4 “(II) identical to a project or
5 phase of a project described in a rel-
6 evant transportation improvement
7 program; and

8 “(III) for any project located in a
9 nonattainment area or maintenance
10 area, carried out in accordance with
11 the applicable State air quality imple-
12 mentation plan developed under the
13 Clean Air Act (42 U.S.C. 7401 et
14 seq.).

15 “(2) CONTENTS.—

16 “(A) PRIORITY LIST.—A statewide trans-
17 portation improvement program shall include a
18 priority list of proposed federally supported
19 projects and strategies, to be carried out during
20 the 4-year period beginning on the date of
21 adoption of the statewide transportation im-
22 provement program, and during each 4-year pe-
23 riod thereafter, using existing and reasonably
24 available revenues in accordance with the finan-
25 cial plan under paragraph (3).

1 “(B) DESCRIPTIONS.—Each project or
2 phase of a project included in a statewide trans-
3 portation improvement program shall include
4 sufficient descriptive material (such as type of
5 work, termini, length, estimated completion
6 date, and other similar factors) to identify—

7 “(i) the project or project phase; and

8 “(ii) the effect that the project or
9 project phase will have in addressing the
10 performance targets described in sub-
11 section (d)(2).

12 “(C) PERFORMANCE TARGET ACHIEVE-
13 MENT.—A statewide transportation improve-
14 ment program shall include, to the maximum
15 extent practicable, a discussion of the antici-
16 pated effect of the statewide transportation im-
17 provement program toward achieving the per-
18 formance targets established in the statewide
19 transportation plan, linking investment prior-
20 ities to those performance targets.

21 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

22 An optional illustrative list of projects may be
23 prepared containing additional investment pri-
24 orities that—

1 “(i) are not included in the statewide
2 transportation improvement program; but

3 “(ii) would be so included if resources
4 in addition to the resources identified in
5 the financial plan under paragraph (3)
6 were available.

7 “(3) FINANCIAL PLAN.—A financial plan re-
8 ferred to in paragraph (2)(D)(ii) shall—

9 “(A) be prepared by each State to support
10 the statewide transportation improvement pro-
11 gram; and

12 “(B) contain a description of the following:

13 “(i) Projected resource requirements
14 for implementing projects, strategies, and
15 services recommended in the statewide
16 transportation improvement program, in-
17 cluding existing and projected system oper-
18 ating and maintenance needs, proposed en-
19 hancement and expansions to the system,
20 projected available revenue from Federal,
21 State, local, and private sources, and inno-
22 vative financing techniques to finance
23 projects and programs.

24 “(ii) The projected difference between
25 costs and revenues, and strategies for se-

1 curing additional new revenue (such as by
2 capture of some of the economic value cre-
3 ated by any new investment).

4 “(iii) Estimates of future funds, to be
5 developed cooperatively by the State and
6 relevant metropolitan planning organiza-
7 tions and public transportation agencies,
8 that are reasonably expected to be avail-
9 able to support the investment priorities
10 recommended in the statewide transpor-
11 tation improvement program.

12 “(iv) Each applicable project, only if
13 full funding can reasonably be anticipated
14 to be available for the project within the
15 time period contemplated for completion of
16 the project.

17 “(4) INCLUDED PROJECTS.—

18 “(A) PROJECTS UNDER THIS CHAPTER
19 AND TITLE 23.—A statewide transportation im-
20 provement program developed under this sub-
21 section for a State shall include the projects
22 within the State that are proposed for funding
23 under this chapter and chapter 1 of title 23.

24 “(B) PROJECTS UNDER THIS CHAPTER
25 AND CHAPTER 2.—

1 “(i) REGIONALLY SIGNIFICANT.—

2 Each regionally significant project pro-
3 posed for funding under this chapter and
4 chapter 2 of title 23 shall be identified in-
5 dividually in the statewide transportation
6 improvement program.

7 “(ii) NONREGIONALLY SIGNIFI-

8 CANT.—A description of each project pro-
9 posed for funding under this chapter and
10 chapter 2 of title 23 that is not determined
11 to be regionally significant shall be con-
12 tained in 1 line item or identified individ-
13 ually in the statewide transportation im-
14 provement program.

15 “(5) PUBLICATION.—

16 “(A) IN GENERAL.—A statewide transpor-
17 tation improvement program shall be published
18 or otherwise made readily available by the State
19 for public review in electronically accessible for-
20 mats and means, such as the Internet.

21 “(B) ANNUAL LIST OF PROJECTS.—An an-
22 nual list of projects, including investments in
23 pedestrian walkways, bicycle transportation fa-
24 cilities, and intermodal facilities that support
25 intercity transportation, for which Federal

1 funds have been obligated during the preceding
2 fiscal year shall be published or otherwise made
3 available by the cooperative effort of the State,
4 public transportation operator, and relevant
5 metropolitan planning organizations in elec-
6 tronically accessible formats and means, such
7 as the Internet, in a manner that is consistent
8 with the categories identified in the relevant
9 statewide transportation improvement program.

10 “(6) PROJECT SELECTION FOR URBANIZED
11 AREAS WITH POPULATIONS OF FEWER THAN 200,000
12 NOT REPRESENTED BY DESIGNATED MPOS.—
13 Projects carried out in urbanized areas with popu-
14 lations of fewer than 200,000 individuals, as cal-
15 culated according to the most recent decennial cen-
16 sus, and that are not represented by designated met-
17 ropolitan planning organizations, shall be selected
18 from the approved statewide transportation improve-
19 ment program (including projects carried out under
20 this chapter and projects carried out on the National
21 Highway System) by the State, in cooperation with
22 the affected nonmetropolitan planning organization,
23 if any exists, and in consultation with the affected
24 nonmetropolitan area local officials with responsi-
25 bility for transportation.

1 “(7) APPROVAL BY SECRETARY.—

2 “(A) IN GENERAL.—Not less frequently
3 than once every 4 years, a statewide transpor-
4 tation improvement program developed under
5 this subsection shall be reviewed and approved
6 by the Secretary, based on the current planning
7 finding of the Secretary under subparagraph
8 (B).

9 “(B) PLANNING FINDING.—The Secretary
10 shall make a planning finding referred to in
11 subparagraph (A) not less frequently than once
12 every 5 years regarding whether the transpor-
13 tation planning process through which statewide
14 transportation plans and statewide transpor-
15 tation improvement programs are developed is
16 consistent with this section and section 5303.

17 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
18 Notwithstanding any other provision of law, ap-
19 proval by the Secretary shall not be required to
20 carry out a project included in an approved state-
21 wide transportation improvement program in place
22 of another project in the statewide transportation
23 improvement program.

24 “(h) CERTIFICATION.—

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

1 “(A) ensure that the statewide transpor-
2 tation planning process of a State is being car-
3 ried out in accordance with this section and ap-
4 plicable Federal law (including rules and regu-
5 lations); and

6 “(B) subject to paragraph (2), certify, not
7 later than 180 days after the date of enactment
8 of the Federal Public Transportation Act of
9 2012 and not less frequently than once every 5
10 years thereafter, that the requirements of sub-
11 paragraph (A) are met with respect to the
12 statewide transportation planning process.

13 “(2) REQUIREMENTS FOR CERTIFICATION.—
14 The Secretary may make a certification under para-
15 graph (1)(B) if—

16 “(A) the statewide transportation planning
17 process complies with the requirements of this
18 section and other applicable Federal law; and

19 “(B) a statewide transportation improve-
20 ment program for the State has been approved
21 by the Governor of the State.

22 “(3) EFFECT OF FAILURE TO CERTIFY.—

23 “(A) WITHHOLDING OF PROJECT
24 FUNDS.—If a statewide transportation planning
25 process of a State is not certified under para-

1 graph (1), the Secretary may withhold up to 20
2 percent of the funds attributable to the State
3 for projects funded under this chapter and title
4 23.

5 “(B) RESTORATION OF WITHHELD
6 FUNDS.—Any funds withheld under subpara-
7 graph (A) shall be restored to the State on the
8 date of certification of the statewide transpor-
9 tation planning process by the Secretary.

10 “(4) PUBLIC INVOLVEMENT.—In making a de-
11 termination regarding certification under this sub-
12 section, the Secretary shall provide for public in-
13 volvement appropriate to the State under review.

14 “(i) PERFORMANCE-BASED PLANNING PROCESSES
15 EVALUATION.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish criteria to evaluate the effectiveness of the per-
18 formance-based planning processes of States, taking
19 into consideration the following:

20 “(A) The extent to which the State has
21 achieved, or is currently making substantial
22 progress toward achieving, the performance tar-
23 gets described in subsection (d)(2), taking into
24 account whether the State developed meaningful
25 performance targets.

1 “(B) The extent to which the State has
2 used proven best practices that help ensure
3 transportation investment that is efficient and
4 cost-effective.

5 “(C) The extent to which the State—

6 “(i) has developed an investment proc-
7 ess that relies on public input and aware-
8 ness to ensure that investments are trans-
9 parent and accountable; and

10 “(ii) provides regular reports allowing
11 the public to access the information being
12 collected in a format that allows the public
13 to meaningfully assess the performance of
14 the State.

15 “(2) REPORT.—

16 “(A) IN GENERAL.—Not later than 5 years
17 after the date of enactment of the Federal Pub-
18 lic Transportation Act of 2012, the Secretary
19 shall submit to Congress a report evaluating—

20 “(i) the overall effectiveness of per-
21 formance-based planning as a tool for
22 guiding transportation investments; and

23 “(ii) the effectiveness of the perform-
24 ance-based planning process of each State.

1 “(B) PUBLICATION.—The report under
2 subparagraph (A) shall be published or other-
3 wise made available in electronically accessible
4 formats and means, including on the Internet.

5 “(j) FUNDING.—Funds apportioned under section
6 104(b)(6) of title 23 and set aside under section 5305(g)
7 shall be available to carry out this section.

8 “(k) CONTINUATION OF CURRENT REVIEW PRAC-
9 TICE.—

10 “(1) IN GENERAL.—In consideration of the fac-
11 tors described in paragraph (2), any decision by the
12 Secretary concerning a statewide transportation plan
13 or statewide transportation improvement program
14 shall not be considered to be a Federal action sub-
15 ject to review under the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

17 “(2) DESCRIPTION OF FACTORS.—The factors
18 referred to in paragraph (1) are that—

19 “(A) statewide transportation plans and
20 statewide transportation improvement programs
21 are subject to a reasonable opportunity for pub-
22 lic comment;

23 “(B) the projects included in statewide
24 transportation plans and statewide transpor-
25 tation improvement programs are subject to re-

1 view under the National Environmental Policy
2 Act of 1969 (42 U.S.C. 4321 et seq.); and

3 “(C) decisions by the Secretary concerning
4 statewide transportation plans and statewide
5 transportation improvement programs have not
6 been reviewed under the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.) as of January 1, 1997.

9 “(I) SCHEDULE FOR IMPLEMENTATION.—The Sec-
10 retary shall issue guidance on a schedule for implementa-
11 tion of the changes made by this section, taking into con-
12 sideration the established planning update cycle for
13 States. The Secretary shall not require a State to deviate
14 from its established planning update cycle to implement
15 changes made by this section. States shall reflect changes
16 made to their transportation plan or transportation im-
17 provement program updates not later than 2 years after
18 the date of issuance of guidance by the Secretary under
19 this subsection.”.

20 **SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF**
21 **PROGRAM.**

22 (a) IN GENERAL.—Section 5306 of title 49, United
23 States Code, is amended to read as follows:

1 **“§ 5306. Public transportation emergency relief pro-**
2 **gram**

3 “(a) DEFINITION.—In this section the following defi-
4 nitions shall apply:

5 “(1) ELIGIBLE OPERATING COSTS.—The term
6 ‘eligible operating costs’ means costs relating to—

7 “(A) evacuation services;

8 “(B) rescue operations;

9 “(C) temporary public transportation serv-
10 ice; or

11 “(D) reestablishing, expanding, or relo-
12 cating public transportation route service be-
13 fore, during, or after an emergency.

14 “(2) EMERGENCY.—The term ‘emergency’
15 means a natural disaster affecting a wide area (such
16 as a flood, hurricane, tidal wave, earthquake, severe
17 storm, or landslide) or a catastrophic failure from
18 any external cause, as a result of which—

19 “(A) the Governor of a State has declared
20 an emergency and the Secretary has concurred;
21 or

22 “(B) the President has declared a major
23 disaster under section 401 of the Robert T.
24 Stafford Disaster Relief and Emergency Assist-
25 ance Act (42 U.S.C. 5170).

1 “(b) GENERAL AUTHORITY.—The Secretary may
2 make grants and enter into contracts and other agree-
3 ments (including agreements with departments, agencies,
4 and instrumentalities of the Government) for—

5 “(1) capital projects to protect, repair, recon-
6 struct, or replace equipment and facilities of a public
7 transportation system operating in the United States
8 or on an Indian reservation that the Secretary deter-
9 mines is in danger of suffering serious damage, or
10 has suffered serious damage, as a result of an emer-
11 gency; and

12 “(2) eligible operating costs of public transpor-
13 tation equipment and facilities in an area directly af-
14 fected by an emergency during—

15 “(A) the 1-year period beginning on the
16 date of a declaration described in subsection
17 (a)(2); or

18 “(B) if the Secretary determines there is a
19 compelling need, the 2-year period beginning on
20 the date of a declaration described in subsection
21 (a)(2).

22 “(c) COORDINATION OF EMERGENCY FUNDS.—

23 “(1) USE OF FUNDS.—Funds appropriated to
24 carry out this section shall be in addition to any
25 other funds available under this chapter.

1 “(2) NO EFFECT ON OTHER GOVERNMENT AC-
2 TIVITY.—The provision of funds under this section
3 shall not affect the ability of any other agency of the
4 Government, including the Federal Emergency Man-
5 agement Agency, or a State agency, a local govern-
6 mental entity, organization, or person, to provide
7 any other funds otherwise authorized by law.

8 “(3) NOTIFICATION.—The Secretary shall no-
9 tify the Secretary of Homeland Security of the pur-
10 pose and amount of any grant made or contract or
11 other agreement entered into under this section.

12 “(d) GRANT REQUIREMENTS.—A grant awarded
13 under this section or under section 5307 or 5311 that is
14 made to address an emergency defined under subsection
15 (a)(2) shall be—

16 “(1) subject to the terms and conditions the
17 Secretary determines are necessary; and

18 “(2) made only for expenses that are not reim-
19 bursed under the Robert T. Stafford Disaster Relief
20 and Emergency Assistance Act (42 U.S.C. 5121 et
21 seq.).

22 “(e) GOVERNMENT SHARE OF COSTS.—

23 “(1) CAPITAL PROJECTS AND OPERATING AS-
24 SISTANCE.—A grant, contract, or other agreement
25 for a capital project or eligible operating costs under

1 this section shall be, at the option of the recipient,
2 for not more than 80 percent of the net project cost,
3 as determined by the Secretary.

4 “(2) NON-FEDERAL SHARE.—The remainder of
5 the net project cost may be provided from an undis-
6 tributed cash surplus, a replacement or depreciation
7 cash fund or reserve, or new capital.

8 “(3) WAIVER.—The Secretary may waive, in
9 whole or part, the non-Federal share required
10 under—

11 “(A) paragraph (2); or

12 “(B) section 5307 or 5311, in the case of
13 a grant made available under section 5307 or
14 5311, respectively, to address an emergency.”.

15 (b) MEMORANDUM OF AGREEMENT.—

16 (1) PURPOSES.—The purposes of this sub-
17 section are—

18 (A) to improve coordination between the
19 Department of Transportation and the Depart-
20 ment of Homeland Security; and

21 (B) to expedite the provision of Federal as-
22 sistance for public transportation systems for
23 activities relating to a major disaster or emer-
24 gency declared by the President under the Rob-
25 ert T. Stafford Disaster Relief and Emergency

1 Assistance Act (42 U.S.C. 5121 et seq.) (re-
2 ferred to in this subsection as a “major disaster
3 or emergency”).

4 (2) AGREEMENT.—Not later than 180 days
5 after the date of enactment of this Act, the Sec-
6 retary of Transportation and the Secretary of
7 Homeland Security shall enter into a memorandum
8 of agreement to coordinate the roles and responsibil-
9 ities of the Department of Transportation and the
10 Department of Homeland Security in providing as-
11 sistance for public transportation, including the pro-
12 vision of public transportation services and the re-
13 pair and restoration of public transportation systems
14 in areas for which the President has declared a
15 major disaster or emergency.

16 (3) CONTENTS OF AGREEMENT.—The memo-
17 randum of agreement required under paragraph (2)
18 shall—

19 (A) provide for improved coordination and
20 expeditious use of public transportation, as ap-
21 propriate, in response to and recovery from a
22 major disaster or emergency;

23 (B) establish procedures to address—

24 (i) issues that have contributed to
25 delays in the reimbursement of eligible

- 1 transportation-related expenses relating to
2 a major disaster or emergency;
- 3 (ii) any challenges identified in the re-
4 view under paragraph (4); and
- 5 (iii) the coordination of assistance for
6 public transportation provided under the
7 Robert T. Stafford Disaster Relief and
8 Emergency Assistance Act and section
9 5306 of title 49, United States Code, as
10 amended by this Act, as appropriate; and
- 11 (C) provide for the development and dis-
12 tribution of clear guidelines for State, local, and
13 tribal governments, including public transpor-
14 tation systems, relating to—
- 15 (i) assistance available for public
16 transportation systems for activities relat-
17 ing to a major disaster or emergency—
- 18 (I) under the Robert T. Stafford
19 Disaster Relief and Emergency Assist-
20 ance Act;
- 21 (II) under section 5306 of title
22 49, United States Code, as amended
23 by this Act; and
- 24 (III) from other sources, includ-
25 ing other Federal agencies; and

1 (ii) reimbursement procedures that
2 speed the process of—

3 (I) applying for assistance under
4 the Robert T. Stafford Disaster Relief
5 and Emergency Assistance Act and
6 section 5306 of title 49, United States
7 Code, as amended by this Act; and

8 (II) distributing assistance for
9 public transportation systems under
10 the Robert T. Stafford Disaster Relief
11 and Emergency Assistance Act and
12 section 5306 of title 49, United States
13 Code, as amended by this Act.

14 (4) AFTER ACTION REVIEW.—Before entering
15 into a memorandum of agreement under paragraph
16 (2), the Secretary of Transportation and the Sec-
17 retary of Homeland Security (acting through the
18 Administrator of the Federal Emergency Manage-
19 ment Agency), in consultation with State, local, and
20 tribal governments (including public transportation
21 systems) that have experienced a major disaster or
22 emergency, shall review after action reports relating
23 to major disasters, emergencies, and exercises, to
24 identify areas where coordination between the De-
25 partment of Transportation and the Department of

1 Homeland Security and the provision of public
2 transportation services should be improved.

3 (5) FACTORS FOR DECLARATIONS OF MAJOR
4 DISASTERS AND EMERGENCIES.—The Administrator
5 of the Federal Emergency Management Agency shall
6 make available to State, local, and tribal govern-
7 ments, including public transportation systems, a de-
8 scription of the factors that the President considers
9 in declaring a major disaster or emergency, includ-
10 ing any pre-disaster emergency declaration policies.

11 (6) BRIEFINGS.—

12 (A) INITIAL BRIEFING.—Not later than
13 180 days after the date of enactment of this
14 Act, the Secretary of Transportation and the
15 Secretary of Homeland Security shall jointly
16 brief the Committee on Banking, Housing, and
17 Urban Affairs and the Committee on Homeland
18 Security and Governmental Affairs of the Sen-
19 ate on the memorandum of agreement required
20 under paragraph (2).

21 (B) QUARTERLY BRIEFINGS.—Each quar-
22 ter of the 1-year period beginning on the date
23 on which the Secretary of Transportation and
24 the Secretary of Homeland Security enter into
25 the memorandum of agreement required under

1 paragraph (2), the Secretary of Transportation
2 and the Secretary of Homeland Security shall
3 jointly brief the Committee on Banking, Hous-
4 ing, and Urban Affairs and the Committee on
5 Homeland Security and Governmental Affairs
6 of the Senate on the implementation of the
7 memorandum of agreement.

8 **SEC. 20008. URBANIZED AREA FORMULA GRANTS.**

9 Section 5307 of title 49, United States Code, is
10 amended to read as follows:

11 **“§ 5307. Urbanized area formula grants**

12 “(a) GENERAL AUTHORITY.—

13 “(1) GRANTS.—The Secretary may make
14 grants under this section for—

15 “(A) capital projects;

16 “(B) planning; and

17 “(C) operating costs of equipment and fa-
18 cilities for use in public transportation in an ur-
19 banized area with a population of fewer than
20 200,000 individuals, as determined by the Bu-
21 reau of the Census.

22 “(2) SPECIAL RULE.—The Secretary may make
23 grants under this section to finance the operating
24 cost of equipment and facilities for use in public
25 transportation, excluding rail fixed guideway, in an

1 urbanized area with a population of not fewer than
2 200,000 individuals, as determined by the Bureau of
3 the Census—

4 “(A) for public transportation systems that
5 operate 75 or fewer buses during peak service
6 hours, in an amount not to exceed 75 percent
7 of the share of the apportionment which is at-
8 tributable to such systems within the urbanized
9 area, as measured by vehicle revenue hours; and

10 “(B) for public transportation systems that
11 operate a minimum of 76 buses and a max-
12 imum of 100 buses during peak service hours,
13 in an amount not to exceed 50 percent of the
14 share of the apportionment which is attrib-
15 utable to such systems within the urbanized
16 area, as measured by vehicle revenue hours.

17 “(3) TEMPORARY AND TARGETED ASSIST-
18 ANCE.—

19 “(A) ELIGIBILITY.—The Secretary may
20 make a grant under this section to finance the
21 operating cost of equipment and facilities to a
22 recipient for use in public transportation in an
23 area that the Secretary determines has—

1 “(i) a population of not fewer than
2 200,000 individuals, as determined by the
3 Bureau of the Census; and

4 “(ii) a 3-month unemployment rate,
5 as reported by the Bureau of Labor Statis-
6 tics, that is—

7 “(I) greater than 7 percent; and

8 “(II) at least 2 percentage points
9 greater than the lowest 3-month un-
10 employment rate for the area during
11 the 5-year period preceding the date
12 of the determination.

13 “(B) AWARD OF GRANT.—

14 “(i) IN GENERAL.—Except as other-
15 wise provided in this subparagraph, the
16 Secretary may make a grant under this
17 section for not more than 2 consecutive fis-
18 cal years.

19 “(ii) ADDITIONAL YEAR.—If, at the
20 end of the second fiscal year following the
21 date on which the Secretary makes a de-
22 termination under subparagraph (A) with
23 respect to an area, the Secretary deter-
24 mines that the 3-month unemployment
25 rate for the area is at least 2 percentage

1 points greater than the unemployment rate
2 for the area at the time the Secretary
3 made the determination under subpara-
4 graph (A), the Secretary may make a
5 grant to a recipient in the area for 1 addi-
6 tional consecutive fiscal year.

7 “(iii) EXCLUSION PERIOD.—Begin-
8 ning on the last day of the last consecutive
9 fiscal year for which a recipient receives a
10 grant under this paragraph, the Secretary
11 may not make a subsequent grant under
12 this paragraph to the recipient for a num-
13 ber of fiscal years equal to the number of
14 consecutive fiscal years in which the recipi-
15 ent received a grant under this paragraph.

16 “(C) LIMITATION.—

17 “(i) FIRST FISCAL YEAR.—For the
18 first fiscal year following the date on which
19 the Secretary makes a determination under
20 subparagraph (A) with respect to an area,
21 not more than 25 percent of the amount
22 apportioned to a designated recipient
23 under section 5336 for the fiscal year shall
24 be available for operating assistance for
25 the area.

1 “(ii) SECOND AND THIRD FISCAL
2 YEARS.—For the second and third fiscal
3 years following the date on which the Sec-
4 retary makes a determination under sub-
5 paragraph (A) with respect to an area, not
6 more than 20 percent of the amount ap-
7 portioned to a designated recipient under
8 section 5336 for the fiscal year shall be
9 available for operating assistance for the
10 area.

11 “(D) PERIOD OF AVAILABILITY FOR OPER-
12 ATING ASSISTANCE.—Operating assistance
13 awarded under this paragraph shall be available
14 for expenditure to a recipient in an area until
15 the end of the second fiscal year following the
16 date on which the Secretary makes a deter-
17 mination under subparagraph (A) with respect
18 to the area, after which time any unexpended
19 funds shall be available to the recipient for
20 other eligible activities under this section.

21 “(E) CERTIFICATION.—The Secretary may
22 make a grant for operating assistance under
23 this paragraph for a fiscal year only if the re-
24 cipient certifies that—

1 “(i) the recipient will maintain public
2 transportation service levels at or above
3 the current service level, which shall be
4 demonstrated by providing an equal or
5 greater number of vehicle hours of service
6 in the fiscal year than the number of vehi-
7 cle hours of service provided in the pre-
8 ceding fiscal year;

9 “(ii) any non-Federal entity that pro-
10 vides funding to the recipient, including a
11 State or local governmental entity, will
12 maintain the tax rate or rate of allocations
13 dedicated to public transportation at or
14 above the rate for the preceding fiscal
15 year;

16 “(iii) the recipient has allocated the
17 maximum amount of funding under this
18 section for preventive maintenance costs el-
19 igible as a capital expense necessary to
20 maintain the level and quality of service
21 provided in the preceding fiscal year; and

22 “(iv) the recipient will not use funding
23 under this section for new capital assets
24 except as necessary for the existing system
25 to maintain or achieve a state of good re-

1 pair, assure safety, or replace obsolete
2 technology.

3 “(b) ACCESS TO JOBS PROJECTS.—

4 “(1) IN GENERAL.—A designated recipient shall
5 expend not less than 3 percent of the amount appor-
6 tioned to the designated recipient under section
7 5336 or an amount equal to the amount apportioned
8 to the designated recipient in fiscal year 2011 to
9 carry out section 5316 (as in effect for fiscal year
10 2011), whichever is less, to carry out a program to
11 develop and maintain job access projects. Eligible
12 projects may include—

13 “(A) a project relating to the development
14 and maintenance of public transportation serv-
15 ices designed to transport eligible low-income
16 individuals to and from jobs and activities re-
17 lated to their employment, including—

18 “(i) a public transportation project to
19 finance planning, capital, and operating
20 costs of providing access to jobs under this
21 chapter;

22 “(ii) promoting public transportation
23 by low-income workers, including the use
24 of public transportation by workers with
25 nontraditional work schedules;

1 “(iii) promoting the use of public
2 transportation vouchers for welfare recipi-
3 ents and eligible low-income individuals;
4 and

5 “(iv) promoting the use of employer-
6 provided transportation, including the
7 transit pass benefit program under section
8 132 of the Internal Revenue Code of 1986;
9 and

10 “(B) a transportation project designed to
11 support the use of public transportation includ-
12 ing—

13 “(i) enhancements to existing public
14 transportation service for workers with
15 non-traditional hours or reverse commutes;

16 “(ii) guaranteed ride home programs;

17 “(iii) bicycle storage facilities; and

18 “(iv) projects that otherwise facilitate
19 the provision of public transportation serv-
20 ices to employment opportunities.

21 “(2) PROJECT SELECTION AND PLAN DEVELOP-
22 MENT.—Each grant recipient under this subsection
23 shall certify that—

1 “(A) the projects selected were included in
2 a locally developed, coordinated public transit-
3 human services transportation plan;

4 “(B) the plan was developed and approved
5 through a process that included individuals with
6 low incomes, representatives of public, private,
7 and nonprofit transportation and human serv-
8 ices providers, and participation by the public;

9 “(C) services funded under this subsection
10 are coordinated with transportation services
11 funded by other Federal departments and agen-
12 cies to the maximum extent feasible; and

13 “(D) allocations of the grant to subrecipi-
14 ents, if any, are distributed on a fair and equi-
15 table basis.

16 “(3) COMPETITIVE PROCESS FOR GRANTS TO
17 SUBRECIPIENTS.—

18 “(A) AREAWIDE SOLICITATIONS.—A re-
19 cipient of funds apportioned under this sub-
20 section may conduct, in cooperation with the
21 appropriate metropolitan planning organization,
22 an areawide solicitation for applications for
23 grants to the recipient and subrecipients under
24 this subsection.

1 “(B) APPLICATION.—If the recipient elects
2 to engage in a competitive process, recipients
3 and subrecipients seeking to receive a grant
4 from apportioned funds shall submit to the re-
5 cipient an application in the form and in ac-
6 cordance with such requirements as the recipi-
7 ent shall establish.

8 “(c) PROGRAM OF PROJECTS.—Each recipient of a
9 grant shall—

10 “(1) make available to the public information
11 on amounts available to the recipient under this sec-
12 tion;

13 “(2) develop, in consultation with interested
14 parties, including private transportation providers, a
15 proposed program of projects for activities to be fi-
16 nanced;

17 “(3) publish a proposed program of projects in
18 a way that affected individuals, private transpor-
19 tation providers, and local elected officials have the
20 opportunity to examine the proposed program and
21 submit comments on the proposed program and the
22 performance of the recipient;

23 “(4) provide an opportunity for a public hearing
24 in which to obtain the views of individuals on the
25 proposed program of projects;

1 “(5) ensure that the proposed program of
2 projects provides for the coordination of public
3 transportation services assisted under section 5336
4 of this title with transportation services assisted
5 from other United States Government sources;

6 “(6) consider comments and views received, es-
7 pecially those of private transportation providers, in
8 preparing the final program of projects; and

9 “(7) make the final program of projects avail-
10 able to the public.

11 “(d) GRANT RECIPIENT REQUIREMENTS.—A recipi-
12 ent may receive a grant in a fiscal year only if—

13 “(1) the recipient, within the time the Secretary
14 prescribes, submits a final program of projects pre-
15 pared under subsection (c) of this section and a cer-
16 tification for that fiscal year that the recipient (in-
17 cluding a person receiving amounts from a Governor
18 under this section)—

19 “(A) has or will have the legal, financial,
20 and technical capacity to carry out the pro-
21 gram, including safety and security aspects of
22 the program;

23 “(B) has or will have satisfactory con-
24 tinuing control over the use of equipment and
25 facilities;

1 “(C) will maintain equipment and facili-
2 ties;

3 “(D) will ensure that, during non-peak
4 hours for transportation using or involving a fa-
5 cility or equipment of a project financed under
6 this section, a fare that is not more than 50
7 percent of the peak hour fare will be charged
8 for any—

9 “(i) senior;

10 “(ii) individual who, because of illness,
11 injury, age, congenital malfunction, or
12 other incapacity or temporary or perma-
13 nent disability (including an individual who
14 is a wheelchair user or has semiambulatory
15 capability), cannot use a public transpor-
16 tation service or a public transportation fa-
17 cility effectively without special facilities,
18 planning, or design; and

19 “(iii) individual presenting a Medicare
20 card issued to that individual under title II
21 or XVIII of the Social Security Act (42
22 U.S.C. 401 et seq. and 1395 et seq.);

23 “(E) in carrying out a procurement under
24 this section, will comply with sections 5323 and
25 5325;

1 “(F) has complied with subsection (c) of
2 this section;

3 “(G) has available and will provide the re-
4 quired amounts as provided by subsection (e) of
5 this section;

6 “(H) will comply with sections 5303 and
7 5304;

8 “(I) has a locally developed process to so-
9 licit and consider public comment before raising
10 a fare or carrying out a major reduction of
11 transportation;

12 “(J)(i) will expend for each fiscal year for
13 public transportation security projects, includ-
14 ing increased lighting in or adjacent to a public
15 transportation system (including bus stops, sub-
16 way stations, parking lots, and garages), in-
17 creased camera surveillance of an area in or ad-
18 jacent to that system, providing an emergency
19 telephone line to contact law enforcement or se-
20 curity personnel in an area in or adjacent to
21 that system, and any other project intended to
22 increase the security and safety of an existing
23 or planned public transportation system, at
24 least 1 percent of the amount the recipient re-

1 ceives for each fiscal year under section 5336 of
2 this title; or

3 “(ii) has decided that the expenditure for
4 security projects is not necessary;

5 “(K) in the case of a recipient for an ur-
6 banized area with a population of not fewer
7 than 200,000 individuals, as determined by the
8 Bureau of the Census—

9 “(i) will expend not less than 1 per-
10 cent of the amount the recipient receives
11 each fiscal year under this section for asso-
12 ciated transit improvements, as defined in
13 section 5302; and

14 “(ii) will submit an annual report list-
15 ing projects carried out in the preceding
16 fiscal year with those funds; and

17 “(L) will comply with section 5329(d); and

18 “(2) the Secretary accepts the certification.

19 “(e) GOVERNMENT SHARE OF COSTS.—

20 “(1) CAPITAL PROJECTS.—A grant for a capital
21 project under this section shall be for 80 percent of
22 the net project cost of the project. The recipient may
23 provide additional local matching amounts.

1 “(2) OPERATING EXPENSES.—A grant for oper-
2 ating expenses under this section may not exceed 50
3 percent of the net project cost of the project.

4 “(3) REMAINING COSTS.—Subject to paragraph
5 (4), the remainder of the net project costs shall be
6 provided—

7 “(A) in cash from non-Government sources
8 other than revenues from providing public
9 transportation services;

10 “(B) from revenues from the sale of adver-
11 tising and concessions;

12 “(C) from an undistributed cash surplus, a
13 replacement or depreciation cash fund or re-
14 serve, or new capital;

15 “(D) from amounts appropriated or other-
16 wise made available to a department or agency
17 of the Government (other than the Department
18 of Transportation) that are eligible to be ex-
19 pended for transportation; and

20 “(E) from amounts received under a serv-
21 ice agreement with a State or local social serv-
22 ice agency or private social service organization.

23 “(4) USE OF CERTAIN FUNDS.—For purposes
24 of subparagraphs (D) and (E) of paragraph (3), the
25 prohibitions on the use of funds for matching re-

1 requirements under section 403(a)(5)(C)(vii) of the
2 Social Security Act (42 U.S.C. 603(a)(5)(C)(vii))
3 shall not apply to Federal or State funds to be used
4 for transportation purposes.

5 “(f) UNDERTAKING PROJECTS IN ADVANCE.—

6 “(1) PAYMENT.—The Secretary may pay the
7 Government share of the net project cost to a State
8 or local governmental authority that carries out any
9 part of a project eligible under subparagraph (A) or
10 (B) of subsection (a)(1) without the aid of amounts
11 of the Government and according to all applicable
12 procedures and requirements if—

13 “(A) the recipient applies for the payment;

14 “(B) the Secretary approves the payment;

15 and

16 “(C) before carrying out any part of the
17 project, the Secretary approves the plans and
18 specifications for the part in the same way as
19 for other projects under this section.

20 “(2) APPROVAL OF APPLICATION.—The Sec-
21 retary may approve an application under paragraph
22 (1) of this subsection only if an authorization for
23 this section is in effect for the fiscal year to which
24 the application applies. The Secretary may not ap-

1 prove an application if the payment will be more
2 than—

3 “(A) the recipient’s expected apportion-
4 ment under section 5336 of this title if the total
5 amount authorized to be appropriated for the
6 fiscal year to carry out this section is appro-
7 priated; less

8 “(B) the maximum amount of the appor-
9 tionment that may be made available for
10 projects for operating expenses under this sec-
11 tion.

12 “(3) FINANCING COSTS.—

13 “(A) IN GENERAL.—The cost of carrying
14 out part of a project includes the amount of in-
15 terest earned and payable on bonds issued by
16 the recipient to the extent proceeds of the
17 bonds are expended in carrying out the part.

18 “(B) LIMITATION ON THE AMOUNT OF IN-
19 TEREST.—The amount of interest allowed
20 under this paragraph may not be more than the
21 most favorable financing terms reasonably
22 available for the project at the time of bor-
23 rowing.

24 “(C) CERTIFICATION.—The applicant shall
25 certify, in a manner satisfactory to the Sec-

1 retary, that the applicant has shown reasonable
2 diligence in seeking the most favorable financ-
3 ing terms.

4 “(g) **REVIEWS, AUDITS, AND EVALUATIONS.**—

5 “(1) **ANNUAL REVIEW.**—

6 “(A) **IN GENERAL.**—At least annually, the
7 Secretary shall carry out, or require a recipient
8 to have carried out independently, reviews and
9 audits the Secretary considers appropriate to
10 establish whether the recipient has carried
11 out—

12 “(i) the activities proposed under sub-
13 section (d) of this section in a timely and
14 effective way and can continue to do so;
15 and

16 “(ii) those activities and its certifi-
17 cations and has used amounts of the Gov-
18 ernment in the way required by law.

19 “(B) **AUDITING PROCEDURES.**—An audit
20 of the use of amounts of the Government shall
21 comply with the auditing procedures of the
22 Comptroller General.

23 “(2) **TRIENNIAL REVIEW.**—At least once every
24 3 years, the Secretary shall review and evaluate
25 completely the performance of a recipient in carrying

1 out the recipient's program, specifically referring to
2 compliance with statutory and administrative re-
3 quirements and the extent to which actual program
4 activities are consistent with the activities proposed
5 under subsection (d) of this section and the planning
6 process required under sections 5303, 5304, and
7 5305 of this title. To the extent practicable, the Sec-
8 retary shall coordinate such reviews with any related
9 State or local reviews.

10 “(3) ACTIONS RESULTING FROM REVIEW,
11 AUDIT, OR EVALUATION.—The Secretary may take
12 appropriate action consistent with a review, audit,
13 and evaluation under this subsection, including mak-
14 ing an appropriate adjustment in the amount of a
15 grant or withdrawing the grant.

16 “(h) TREATMENT.—For purposes of this section, the
17 United States Virgin Islands shall be treated as an urban-
18 ized area, as defined in section 5302.

19 “(i) PASSENGER FERRY GRANT PROGRAM.—

20 “(1) IN GENERAL.—The Secretary may make
21 grants under this subsection to recipients for pas-
22 senger ferry projects that are eligible for a grant
23 under subsection (a).

24 “(2) GRANT REQUIREMENTS.—Except as other-
25 wise provided in this subsection, a grant under this

1 subsection shall be subject to the same terms and
2 conditions as a grant under subsection (a).

3 “(3) COMPETITIVE PROCESS.—The Secretary
4 shall solicit grant applications and make grants for
5 eligible projects on a competitive basis.

6 “(4) GEOGRAPHICALLY CONSTRAINED AREAS.—
7 Of the amounts made available to carry out this sub-
8 section, \$10,000,000 shall be for capital grants re-
9 lating to passenger ferries in areas with limited or
10 no access to public transportation as a result of geo-
11 graphical constraints.”

12 **SEC. 20009. CLEAN FUEL GRANT PROGRAM.**

13 Section 5308 of title 49, United States Code, is
14 amended to read as follows:

15 **“§ 5308. Clean fuel grant program**

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

18 “(1) CLEAN FUEL BUS.—The term ‘clean fuel
19 bus’ means a bus that is a clean fuel vehicle.

20 “(2) CLEAN FUEL VEHICLE.—The term ‘clean
21 fuel vehicle’ means—

22 “(A) a passenger vehicle used to provide
23 public transportation that the Administrator of
24 the Environmental Protection Agency has cer-
25 tified sufficiently reduces energy consumption

1 or reduces harmful emissions, including direct
2 carbon emissions, when compared to a com-
3 parable standard vehicle; or

4 “(B) a zero emission bus used to provide
5 public transportation.

6 “(3) DIRECT CARBON EMISSIONS.—The term
7 ‘direct carbon emissions’ means the quantity of di-
8 rect greenhouse gas emissions from a vehicle, as de-
9 termined by the Administrator of the Environmental
10 Protection Agency.

11 “(4) ELIGIBLE AREA.—The term ‘eligible area’
12 means an area that is—

13 “(A) designated as a nonattainment area
14 for ozone or carbon monoxide under section
15 107(d) of the Clean Air Act (42 U.S.C.
16 7407(d)); or

17 “(B) a maintenance area, as defined in
18 section 5303, for ozone or carbon monoxide.

19 “(5) ELIGIBLE PROJECT.—The term ‘eligible
20 project’ means a project or program of projects in
21 an eligible area for—

22 “(A) acquiring or leasing clean fuel vehi-
23 cles;

24 “(B) constructing or leasing facilities and
25 related equipment for clean fuel vehicles;

1 “(C) constructing new public transpor-
2 tation facilities to accommodate clean fuel vehi-
3 cles; or

4 “(D) rehabilitating or improving existing
5 public transportation facilities to accommodate
6 clean fuel vehicles.

7 “(6) RECIPIENT.—The term ‘recipient’
8 means—

9 “(A) for an eligible area that is an urban-
10 ized area with a population of fewer than
11 200,000 individuals, as determined by the Bu-
12 reau of the Census, the State in which the eligi-
13 ble area is located; and

14 “(B) for an eligible area not described in
15 subparagraph (A), the designated recipient for
16 the eligible area.

17 “(7) ZERO EMISSION BUS.—The term ‘zero
18 emission bus’ means a clean fuel vehicle that pro-
19 duces no carbon or particulate matter.

20 “(b) AUTHORITY.—The Secretary may make grants
21 to recipients to finance eligible projects under this section.

22 “(c) GRANT REQUIREMENTS.—

23 “(1) IN GENERAL.—A grant under this section
24 shall be subject to the requirements of section 5307.

1 “(2) GOVERNMENT SHARE OF COSTS FOR CER-
2 TAIN PROJECTS.—Section 5323(j) applies to projects
3 carried out under this section, unless the grant re-
4 cipient requests a lower grant percentage.

5 “(3) COMBINATION OF FUNDING SOURCES.—

6 “(A) COMBINATION PERMITTED.—A
7 project carried out under this section may re-
8 ceive funding under section 5307, or any other
9 provision of law.

10 “(B) GOVERNMENT SHARE.—Nothing in
11 this paragraph may be construed to alter the
12 Government share required under this section,
13 section 5307, or any other provision of law.

14 “(d) MINIMUM AMOUNTS.—Of amounts made avail-
15 able by or appropriated under section 5338(a)(2)(D) in
16 each fiscal year to carry out this section—

17 “(1) not less than 65 percent shall be made
18 available to fund eligible projects relating to clean
19 fuel buses; and

20 “(2) not less than 10 percent shall be made
21 available for eligible projects relating to facilities and
22 related equipment for clean fuel buses.

23 “(e) COMPETITIVE PROCESS.—The Secretary shall
24 solicit grant applications and make grants for eligible
25 projects on a competitive basis.

1 “(f) PRIORITY CONSIDERATION.—In making grants
 2 under this section, the Secretary shall give priority to
 3 projects relating to clean fuel buses that make greater re-
 4 ductions in energy consumption and harmful emissions,
 5 including direct carbon emissions, than comparable stand-
 6 ard buses or other clean fuel buses.

7 “(g) AVAILABILITY OF FUNDS.—Any amounts made
 8 available or appropriated to carry out this section—

9 “(1) shall remain available to an eligible project
 10 for 2 years after the fiscal year for which the
 11 amount is made available or appropriated; and

12 “(2) that remain unobligated at the end of the
 13 period described in paragraph (1) shall be added to
 14 the amount made available to an eligible project in
 15 the following fiscal year.”.

16 **SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT**
 17 **GRANTS.**

18 (a) IN GENERAL.—Section 5309 of title 49, United
 19 States Code, is amended to read as follows:

20 **“§ 5309. Fixed guideway capital investment grants**

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

23 “(1) APPLICANT.—The term ‘applicant’ means
 24 a State or local governmental authority that applies
 25 for a grant under this section.

1 “(2) BUS RAPID TRANSIT PROJECT.—The term
2 ‘bus rapid transit project’ means a single route bus
3 capital project—

4 “(A) if—

5 “(i) a majority of the project operates
6 in a separated right-of-way dedicated for
7 public transportation use during peak peri-
8 ods; or

9 “(ii) a substantial portion of the
10 project operates in a separated right-of-
11 way that is semi-dedicated for public trans-
12 portation use during peak periods and in-
13 cludes other physical elements that reduce
14 public transportation vehicle travel time
15 and increase service reliability;

16 “(B) that represents a substantial invest-
17 ment in a single route in a defined corridor or
18 subarea; and

19 “(C) that includes features that emulate
20 the services provided by rail fixed guideway
21 public transportation systems, including—

22 “(i) defined stations;

23 “(ii) traffic signal priority for public
24 transportation vehicles;

1 “(iii) short headway bidirectional serv-
2 ices for a substantial part of weekdays and
3 weekend days; and

4 “(iv) any other features the Secretary
5 may determine are necessary to produce
6 high-quality public transportation services
7 that emulate the services provided by rail
8 fixed guideway public transportation sys-
9 tems.

10 “(3) CORE CAPACITY IMPROVEMENT
11 PROJECT.—The term ‘core capacity improvement
12 project’ means a substantial corridor-based capital
13 investment in an existing fixed guideway system that
14 adds capacity and functionality.

15 “(4) NEW FIXED GUIDEWAY CAPITAL
16 PROJECT.—The term ‘new fixed guideway capital
17 project’ means—

18 “(A) a new fixed guideway project that is
19 a minimum operable segment or extension to an
20 existing fixed guideway system; or

21 “(B) a bus rapid transit project that is a
22 minimum operable segment or an extension to
23 an existing bus rapid transit system.

1 “(5) PROGRAM OF INTERRELATED PROJECTS.—

2 The term ‘program of interrelated projects’ means
3 the simultaneous development of—

4 “(A) 2 or more new fixed guideway capital
5 projects or core capacity improvement projects;
6 or

7 “(B) 1 or more new fixed guideway capital
8 projects and 1 or more core capacity improve-
9 ment projects.

10 “(b) GENERAL AUTHORITY.—The Secretary may
11 make grants under this section to State and local govern-
12 mental authorities to assist in financing—

13 “(1) new fixed guideway capital projects, in-
14 cluding the acquisition of real property, the initial
15 acquisition of rolling stock for the system, the acqui-
16 sition of rights-of-way, and relocation, for fixed
17 guideway corridor development for projects in the
18 advanced stages of project development or engineer-
19 ing; and

20 “(2) core capacity improvement projects, includ-
21 ing the acquisition of real property, the acquisition
22 of rights-of-way, double tracking, signalization im-
23 provements, electrification, expanding system plat-
24 forms, acquisition of rolling stock, construction of
25 infill stations, and such other capacity improvement

1 projects as the Secretary determines are appro-
2 priate.

3 “(c) GRANT REQUIREMENTS.—

4 “(1) IN GENERAL.—The Secretary may make a
5 grant under this section for new fixed guideway cap-
6 ital projects or core capacity improvement projects,
7 if the Secretary determines that—

8 “(A) the project is part of an approved
9 transportation plan required under sections
10 5303 and 5304; 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 the safety and security aspects of the
15 project;

16 “(ii) satisfactory continuing control
17 over the use of the equipment or facilities;
18 and

19 “(iii) the technical and financial ca-
20 pacity to maintain new and existing equip-
21 ment and facilities.

22 “(2) CERTIFICATION.—An applicant that has
23 submitted the certifications required under subpara-
24 graphs (A), (B), (C), and (H) of section 5307(d)(1)
25 shall be deemed to have provided sufficient informa-

1 tion upon which the Secretary may make the deter-
2 minations required under this subsection.

3 “(3) TECHNICAL CAPACITY.—The Secretary
4 shall use an expedited technical capacity review
5 process for applicants that have recently and suc-
6 cessfully completed at least 1 new bus rapid transit
7 project, new fixed guideway capital project, or core
8 capacity improvement project, if—

9 “(A) the applicant achieved budget, cost,
10 and ridership outcomes for the project that are
11 consistent with or better than projections; and

12 “(B) the applicant demonstrates that the
13 applicant continues to have the staff expertise
14 and other resources necessary to implement a
15 new project.

16 “(4) RECIPIENT REQUIREMENTS.—A recipient
17 of a grant awarded under this section shall be sub-
18 ject to all terms, conditions, requirements, and pro-
19 visions that the Secretary determines to be necessary
20 or appropriate for purposes of this section.

21 “(d) NEW FIXED GUIDEWAY GRANTS.—

22 “(1) PROJECT DEVELOPMENT PHASE.—

23 “(A) ENTRANCE INTO PROJECT DEVELOP-
24 MENT PHASE.—A new fixed guideway capital

1 project shall enter into the project development
2 phase when—

3 “(i) the applicant—

4 “(I) submits a letter to the Sec-
5 retary describing the project and re-
6 questing entry into the project devel-
7 opment phase; and

8 “(II) initiates activities required
9 to be carried out under the National
10 Environmental Policy Act of 1969 (42
11 U.S.C. 4321 et seq.) with respect to
12 the project; and

13 “(ii) the Secretary responds in writing
14 to the applicant within 45 days whether
15 the information provided is sufficient to
16 enter into the project development phase,
17 including, when necessary, a detailed de-
18 scription of any information deemed insuf-
19 ficient.

20 “(B) ACTIVITIES DURING PROJECT DEVEL-
21 OPMENT PHASE.—Concurrent with the analysis
22 required to be made under the National Envi-
23 ronmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.), each applicant shall develop sufficient
25 information to enable the Secretary to make

1 findings of project justification, policies and
2 land use patterns that promote public transpor-
3 tation, and local financial commitment under
4 this subsection.

5 “(C) COMPLETION OF PROJECT DEVELOP-
6 MENT ACTIVITIES REQUIRED.—

7 “(i) IN GENERAL.—Not later than 2
8 years after the date on which a project en-
9 ters into the project development phase,
10 the applicant shall complete the activities
11 required to obtain a project rating under
12 subsection (g)(2) and submit completed
13 documentation to the Secretary.

14 “(ii) EXTENSION OF TIME.—Upon the
15 request of an applicant, the Secretary may
16 extend the time period under clause (i), if
17 the applicant submits to the Secretary—

18 “(I) a reasonable plan for com-
19 pleting the activities required under
20 this paragraph; and

21 “(II) an estimated time period
22 within which the applicant will com-
23 plete such activities.

24 “(2) ENGINEERING PHASE.—

1 “(A) IN GENERAL.—A new fixed guideway
2 capital project may advance to the engineering
3 phase upon completion of activities required
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.), as demonstrated
6 by a record of decision with respect to the
7 project, a finding that the project has no sig-
8 nificant impact, or a determination that the
9 project is categorically excluded, only if the Sec-
10 retary determines that the project—

11 “(i) is selected as the locally preferred
12 alternative at the completion of the process
13 required under the National Environ-
14 mental Policy Act of 1969 (42 U.S.C.
15 4321 et seq.);

16 “(ii) is adopted into the metropolitan
17 transportation plan required under section
18 5303;

19 “(iii) is justified based on a com-
20 prehensive review of the project’s mobility
21 improvements, environmental benefits, and
22 cost-effectiveness, as measured by cost per
23 rider;

24 “(iv) is supported by policies and land
25 use patterns that promote public transpor-

1 tation, including plans for future land use
2 and rezoning, and economic development
3 around public transportation stations; and

4 “(v) is supported by an acceptable de-
5 gree of local financial commitment (includ-
6 ing evidence of stable and dependable fi-
7 nancing sources), as required under sub-
8 section (f).

9 “(B) DETERMINATION THAT PROJECT IS
10 JUSTIFIED.—In making a determination under
11 subparagraph (A)(iii), the Secretary shall evalu-
12 ate, analyze, and consider—

13 “(i) the reliability of the forecasting
14 methods used to estimate costs and utiliza-
15 tion made by the recipient and the contrac-
16 tors to the recipient; and

17 “(ii) population density and current
18 public transportation ridership in the
19 transportation corridor.

20 “(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

21 “(1) PROJECT DEVELOPMENT PHASE.—

22 “(A) ENTRANCE INTO PROJECT DEVELOP-
23 MENT PHASE.—A core capacity improvement
24 project shall be deemed to have entered into the
25 project development phase if—

1 “(i) the applicant—

2 “(I) submits a letter to the Sec-
3 retary describing the project and re-
4 questing entry into the project devel-
5 opment phase; and

6 “(II) initiates activities required
7 to be carried out under the National
8 Environmental Policy Act of 1969 (42
9 U.S.C. 4321 et seq.) with respect to
10 the project; and

11 “(ii) the Secretary responds in writing
12 to the applicant within 45 days whether
13 the information provided is sufficient to
14 enter into the project development phase,
15 including when necessary a detailed de-
16 scription of any information deemed insuf-
17 ficient.

18 “(B) ACTIVITIES DURING PROJECT DEVEL-
19 OPMENT PHASE.—Concurrent with the analysis
20 required to be made under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.), each applicant shall develop sufficient
23 information to enable the Secretary to make
24 findings of project justification and local finan-
25 cial commitment under this subsection.

1 “(C) COMPLETION OF PROJECT DEVELOP-
2 MENT ACTIVITIES REQUIRED.—

3 “(i) IN GENERAL.—Not later than 2
4 years after the date on which a project en-
5 ters into the project development phase,
6 the applicant shall complete the activities
7 required to obtain a project rating under
8 subsection (g)(2) and submit completed
9 documentation to the Secretary.

10 “(ii) EXTENSION OF TIME.—Upon the
11 request of an applicant, the Secretary may
12 extend the time period under clause (i), if
13 the applicant submits to the Secretary—

14 “(I) a reasonable plan for com-
15 pleting the activities required under
16 this paragraph; and

17 “(II) an estimated time period
18 within which the applicant will com-
19 plete such activities.

20 “(2) ENGINEERING PHASE.—

21 “(A) IN GENERAL.—A core capacity im-
22 provement project may advance into the engi-
23 neering phase upon completion of activities re-
24 quired under the National Environmental Pol-
25 icy Act of 1969 (42 U.S.C. 4321 et seq.), as

1 demonstrated by a record of decision with re-
2 spect to the project, a finding that the project
3 has no significant impact, or a determination
4 that the project is categorically excluded, only if
5 the Secretary determines that the project—

6 “(i) is selected as the locally preferred
7 alternative at the completion of the process
8 required under the National Environ-
9 mental Policy Act of 1969;

10 “(ii) is adopted into the metropolitan
11 transportation plan required under section
12 5303;

13 “(iii) is in a corridor that is—

14 “(I) at or over capacity; or

15 “(II) projected to be at or over
16 capacity within the next 5 years;

17 “(iv) is justified based on a com-
18 prehensive review of the project’s mobility
19 improvements, environmental benefits, and
20 cost-effectiveness, as measured by cost per
21 rider; and

22 “(v) is supported by an acceptable de-
23 gree of local financial commitment (includ-
24 ing evidence of stable and dependable fi-

1 nancing sources), as required under sub-
2 section (f).

3 “(B) DETERMINATION THAT PROJECT IS
4 JUSTIFIED.—In making a determination under
5 subparagraph (A)(iv), the Secretary shall evalu-
6 ate, analyze, and consider—

7 “(i) the reliability of the forecasting
8 methods used to estimate costs and utiliza-
9 tion made by the recipient and the contrac-
10 tors to the recipient;

11 “(ii) whether the project will ade-
12 quately address the capacity concerns in a
13 corridor;

14 “(iii) whether the project will improve
15 interconnectivity among existing systems;
16 and

17 “(iv) whether the project will improve
18 environmental outcomes.

19 “(f) FINANCING SOURCES.—

20 “(1) REQUIREMENTS.—In determining whether
21 a project is supported by an acceptable degree of
22 local financial commitment and shows evidence of
23 stable and dependable financing sources for purposes
24 of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Sec-
25 retary shall require that—

1 “(A) the proposed project plan provides for
2 the availability of contingency amounts that the
3 Secretary determines to be reasonable to cover
4 unanticipated cost increases or funding short-
5 falls;

6 “(B) each proposed local source of capital
7 and operating financing is stable, reliable, and
8 available within the proposed project timetable;
9 and

10 “(C) local resources are available to recapiti-
11 talize, maintain, and operate the overall existing
12 and proposed public transportation system, in-
13 cluding essential feeder bus and other services
14 necessary to achieve the projected ridership lev-
15 els without requiring a reduction in existing
16 public transportation services or level of service
17 to operate the project.

18 “(2) CONSIDERATIONS.—In assessing the sta-
19 bility, reliability, and availability of proposed sources
20 of local financing for purposes of subsection
21 (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall con-
22 sider—

23 “(A) the reliability of the forecasting meth-
24 ods used to estimate costs and revenues made

1 by the recipient and the contractors to the re-
2 cipient;

3 “(B) existing grant commitments;

4 “(C) the degree to which financing sources
5 are dedicated to the proposed purposes;

6 “(D) any debt obligation that exists, or is
7 proposed by the recipient, for the proposed
8 project or other public transportation purpose;
9 and

10 “(E) the extent to which the project has a
11 local financial commitment that exceeds the re-
12 quired non-Government share of the cost of the
13 project.

14 “(g) PROJECT ADVANCEMENT AND RATINGS.—

15 “(1) PROJECT ADVANCEMENT.—A new fixed
16 guideway capital project or core capacity improve-
17 ment project proposed to be carried out using a
18 grant under this section may not advance from the
19 project development phase to the engineering phase,
20 or from the engineering phase to the construction
21 phase, unless the Secretary determines that—

22 “(A) the project meets the applicable re-
23 quirements under this section; and

1 “(B) there is a reasonable likelihood that
2 the project will continue to meet the require-
3 ments under this section.

4 “(2) RATINGS.—

5 “(A) OVERALL RATING.—In making a de-
6 termination under paragraph (1), the Secretary
7 shall evaluate and rate a project as a whole on
8 a 5-point scale (high, medium-high, medium,
9 medium-low, or low) based on—

10 “(i) in the case of a new fixed guide-
11 way capital project, the project justifica-
12 tion criteria under subsection
13 (d)(2)(A)(iii), the policies and land use
14 patterns that support public transpor-
15 tation, and the degree of local financial
16 commitment; and

17 “(ii) in the case of a core capacity im-
18 provement project, the capacity needs of
19 the corridor, the project justification cri-
20 teria under subsection (e)(2)(A)(iv), and
21 the degree of local financial commitment.

22 “(B) INDIVIDUAL RATINGS FOR EACH CRI-
23 TERION.—In rating a project under this para-
24 graph, the Secretary shall—

1 “(i) provide, in addition to the overall
2 project rating under subparagraph (A), in-
3 dividual ratings for each of the criteria es-
4 tablished under subsection (d)(2)(A)(iii) or
5 (e)(2)(A)(iv), as applicable; and

6 “(ii) give comparable, but not nec-
7 essarily equal, numerical weight to each of
8 the criteria established under subsections
9 (d)(2)(A)(iii) or (e)(2)(A)(iv), as applica-
10 ble, in calculating the overall project rating
11 under clause (i).

12 “(C) MEDIUM RATING NOT REQUIRED.—

13 The Secretary shall not require that any single
14 project justification criterion meet or exceed a
15 ‘medium’ rating in order to advance the project
16 from one phase to another.

17 “(3) WARRANTS.—The Secretary shall, to the
18 maximum extent practicable, develop and use special
19 warrants for making a project justification deter-
20 mination under subsection (d)(2) or (e)(2), as appli-
21 cable, for a project proposed to be funded using a
22 grant under this section, if—

23 “(A) the share of the cost of the project to
24 be provided under this section does not ex-
25 ceed—

1 “(i) \$100,000,000; or

2 “(ii) 50 percent of the total cost of
3 the project;

4 “(B) the applicant requests the use of the
5 warrants;

6 “(C) the applicant certifies that its existing
7 public transportation system is in a state of
8 good repair; and

9 “(D) the applicant meets any other re-
10 quirements that the Secretary considers appro-
11 priate to carry out this subsection.

12 “(4) LETTERS OF INTENT AND EARLY SYSTEMS
13 WORK AGREEMENTS.—In order to expedite a project
14 under this subsection, the Secretary shall, to the
15 maximum extent practicable, issue letters of intent
16 and enter into early systems work agreements upon
17 issuance of a record of decision for projects that re-
18 ceive an overall project rating of medium or better.

19 “(5) POLICY GUIDANCE.—The Secretary shall
20 issue policy guidance regarding the review and eval-
21 uation process and criteria—

22 “(A) not later than 180 days after the date
23 of enactment of the Federal Public Transpor-
24 tation Act of 2012; and

1 “(B) each time the Secretary makes sig-
2 nificant changes to the process and criteria, but
3 not less frequently than once every 2 years.

4 “(6) RULES.—Not later than 1 year after the
5 date of enactment of the Federal Public Transpor-
6 tation Act of 2012, the Secretary shall issue rules
7 establishing an evaluation and rating process for—

8 “(A) new fixed guideway capital projects
9 that is based on the results of project justifica-
10 tion, policies and land use patterns that pro-
11 mote public transportation, and local financial
12 commitment, as required under this subsection;
13 and

14 “(B) core capacity improvement projects
15 that is based on the results of the capacity
16 needs of the corridor, project justification, and
17 local financial commitment.

18 “(7) APPLICABILITY.—This subsection shall not
19 apply to a project for which the Secretary issued a
20 letter of intent, entered into a full funding grant
21 agreement, or entered into a project construction
22 agreement before the date of enactment of the Fed-
23 eral Public Transportation Act of 2012.

24 “(h) PROGRAMS OF INTERRELATED PROJECTS.—

1 “(1) PROJECT DEVELOPMENT PHASE.—A fed-
2 erally funded project in a program of interrelated
3 projects shall advance through project development
4 as provided in subsection (d) or (e), as applicable.

5 “(2) ENGINEERING PHASE.—A federally funded
6 project in a program of interrelated projects may ad-
7 vance into the engineering phase upon completion of
8 activities required under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.), as
10 demonstrated by a record of decision with respect to
11 the project, a finding that the project has no signifi-
12 cant impact, or a determination that the project is
13 categorically excluded, only if the Secretary deter-
14 mines that—

15 “(A) the project is selected as the locally
16 preferred alternative at the completion of the
17 process required under the National Environ-
18 mental Policy Act of 1969;

19 “(B) the project is adopted into the metro-
20 politan transportation plan required under sec-
21 tion 5303;

22 “(C) the program of interrelated projects
23 involves projects that have a logical connectivity
24 to one another;

1 “(D) the program of interrelated projects,
2 when evaluated as a whole, meets the require-
3 ments of subsection (d)(2) or (e)(2), as applica-
4 ble;

5 “(E) the program of interrelated projects
6 is supported by a program implementation plan
7 demonstrating that construction will begin on
8 each of the projects in the program of inter-
9 related projects within a reasonable time frame;
10 and

11 “(F) the program of interrelated projects
12 is supported by an acceptable degree of local fi-
13 nancial commitment, as described in subsection
14 (f).

15 “(3) PROJECT ADVANCEMENT AND RATINGS.—

16 “(A) PROJECT ADVANCEMENT.—A project
17 receiving a grant under this section that is part
18 of a program of interrelated projects may not
19 advance from the project development phase to
20 the engineering phase, or from the engineering
21 phase to the construction phase, unless the Sec-
22 retary determines that the program of inter-
23 related projects meets the applicable require-
24 ments of this section and there is a reasonable

1 likelihood that the program will continue to
2 meet such requirements.

3 “(B) RATINGS.—

4 “(i) OVERALL RATING.—In making a
5 determination under subparagraph (A), the
6 Secretary shall evaluate and rate a pro-
7 gram of interrelated projects on a 5-point
8 scale (high, medium-high, medium, me-
9 dium-low, or low) based on the criteria de-
10 scribed in paragraph (2).

11 “(ii) INDIVIDUAL RATING FOR EACH
12 CRITERION.—In rating a program of inter-
13 related projects, the Secretary shall pro-
14 vide, in addition to the overall program
15 rating, individual ratings for each of the
16 criteria described in paragraph (2) and
17 shall give comparable, but not necessarily
18 equal, numerical weight to each such cri-
19 terion in calculating the overall program
20 rating.

21 “(iii) MEDIUM RATING NOT RE-
22 QUIRED.—The Secretary shall not require
23 that any single criterion described in para-
24 graph (2) meet or exceed a ‘medium’ rat-
25 ing in order to advance the program of

1 interrelated projects from one phase to an-
2 other.

3 “(4) ANNUAL REVIEW.—

4 “(A) REVIEW REQUIRED.—The Secretary
5 shall annually review the program implementa-
6 tion plan required under paragraph (2)(E) to
7 determine whether the program of interrelated
8 projects is adhering to its schedule.

9 “(B) EXTENSION OF TIME.—If a program
10 of interrelated projects is not adhering to its
11 schedule, the Secretary may, upon the request
12 of the applicant, grant an extension of time if
13 the applicant submits a reasonable plan that in-
14 cludes—

15 “(i) evidence of continued adequate
16 funding; and

17 “(ii) an estimated time frame for com-
18 pleting the program of interrelated
19 projects.

20 “(C) SATISFACTORY PROGRESS RE-
21 QUIRED.—If the Secretary determines that a
22 program of interrelated projects is not making
23 satisfactory progress, no Federal funds shall be
24 provided for a project within the program of
25 interrelated projects.

1 “(5) FAILURE TO CARRY OUT PROGRAM OF
2 INTERRELATED PROJECTS.—

3 “(A) REPAYMENT REQUIRED.—If an appli-
4 cant does not carry out the program of inter-
5 related projects within a reasonable time, for
6 reasons within the control of the applicant, the
7 applicant shall repay all Federal funds provided
8 for the program, and any reasonable interest
9 and penalty charges that the Secretary may es-
10 tablish.

11 “(B) CREDITING OF FUNDS RECEIVED.—
12 Any funds received by the Government under
13 this paragraph, other than interest and penalty
14 charges, shall be credited to the appropriation
15 account from which the funds were originally
16 derived.

17 “(6) NON-FEDERAL FUNDS.—Any non-Federal
18 funds committed to a project in a program of inter-
19 related projects may be used to meet a non-Govern-
20 ment share requirement for any other project in the
21 program of interrelated projects, if the Government
22 share of the cost of each project within the program
23 of interrelated projects does not exceed 80 percent.

24 “(7) PRIORITY.—In making grants under this
25 section, the Secretary may give priority to programs

1 of interrelated projects for which the non-Govern-
2 ment share of the cost of the projects included in the
3 programs of interrelated projects exceeds the non-
4 Government share required under subsection (k).

5 “(8) NON-GOVERNMENT PROJECTS.—Including
6 a project not financed by the Government in a pro-
7 gram of interrelated projects does not impose Gov-
8 ernment requirements that would not otherwise
9 apply to the project.

10 “(i) PREVIOUSLY ISSUED LETTER OF INTENT OR
11 FULL FUNDING GRANT AGREEMENT.—Subsections (d)
12 and (e) shall not apply to projects for which the Secretary
13 has issued a letter of intent, entered into a full funding
14 grant agreement, or entered into a project construction
15 grant agreement before the date of enactment of the Fed-
16 eral Public Transportation Act of 2012.

17 “(j) LETTERS OF INTENT, FULL FUNDING GRANT
18 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
19 MENTS.—

20 “(1) LETTERS OF INTENT.—

21 “(A) AMOUNTS INTENDED TO BE OBLI-
22 GATED.—The Secretary may issue a letter of
23 intent to an applicant announcing an intention
24 to obligate, for a new fixed guideway capital
25 project or core capacity improvement project,

1 an amount from future available budget author-
2 ity specified in law that is not more than the
3 amount stipulated as the financial participation
4 of the Secretary in the project. When a letter
5 is issued for a capital project under this section,
6 the amount shall be sufficient to complete at
7 least an operable segment.

8 “(B) TREATMENT.—The issuance of a let-
9 ter under subparagraph (A) is deemed not to be
10 an obligation under sections 1108(c), 1501, and
11 1502(a) of title 31, United States Code, or an
12 administrative commitment.

13 “(2) FULL FUNDING GRANT AGREEMENTS.—

14 “(A) IN GENERAL.—A new fixed guideway
15 capital project or core capacity improvement
16 project shall be carried out through a full fund-
17 ing grant agreement.

18 “(B) CRITERIA.—The Secretary shall enter
19 into a full funding grant agreement, based on
20 the evaluations and ratings required under sub-
21 section (d), (e), or (h), as applicable, with each
22 grantee receiving assistance for a new fixed
23 guideway capital project or core capacity im-
24 provement project that has been rated as high,

1 medium-high, or medium, in accordance with
2 subsection (g)(2)(A) or (h)(3)(B), as applicable.

3 “(C) TERMS.—A full funding grant agree-
4 ment shall—

5 “(i) establish the terms of participa-
6 tion by the Government in a new fixed
7 guideway capital project or core capacity
8 improvement project;

9 “(ii) establish the maximum amount
10 of Federal financial assistance for the
11 project;

12 “(iii) include the period of time for
13 completing the project, even if that period
14 extends beyond the period of an authoriza-
15 tion; and

16 “(iv) make timely and efficient man-
17 agement of the project easier according to
18 the law of the United States.

19 “(D) SPECIAL FINANCIAL RULES.—

20 “(i) IN GENERAL.—A full funding
21 grant agreement under this paragraph ob-
22 ligates an amount of available budget au-
23 thority specified in law and may include a
24 commitment, contingent on amounts to be
25 specified in law in advance for commit-

1 ments under this paragraph, to obligate an
2 additional amount from future available
3 budget authority specified in law.

4 “(ii) STATEMENT OF CONTINGENT
5 COMMITMENT.—The agreement shall state
6 that the contingent commitment is not an
7 obligation of the Government.

8 “(iii) INTEREST AND OTHER FINANC-
9 ING COSTS.—Interest and other financing
10 costs of efficiently carrying out a part of
11 the project within a reasonable time are a
12 cost of carrying out the project under a
13 full funding grant agreement, except that
14 eligible costs may not be more than the
15 cost of the most favorable financing terms
16 reasonably available for the project at the
17 time of borrowing. The applicant shall cer-
18 tify, in a way satisfactory to the Secretary,
19 that the applicant has shown reasonable
20 diligence in seeking the most favorable fi-
21 nancing terms.

22 “(iv) COMPLETION OF OPERABLE
23 SEGMENT.—The amount stipulated in an
24 agreement under this paragraph for a new
25 fixed guideway capital project shall be suf-

1 efficient to complete at least an operable seg-
2 ment.

3 “(E) BEFORE AND AFTER STUDY.—

4 “(i) IN GENERAL.—A full funding
5 grant agreement under this paragraph
6 shall require the applicant to conduct a
7 study that—

8 “(I) describes and analyzes the
9 impacts of the new fixed guideway
10 capital project or core capacity im-
11 provement project on public transpor-
12 tation services and public transpor-
13 tation ridership;

14 “(II) evaluates the consistency of
15 predicted and actual project charac-
16 teristics and performance; and

17 “(III) identifies reasons for dif-
18 ferences between predicted and actual
19 outcomes.

20 “(ii) INFORMATION COLLECTION AND
21 ANALYSIS PLAN.—

22 “(I) SUBMISSION OF PLAN.—Ap-
23 plicants seeking a full funding grant
24 agreement under this paragraph shall
25 submit a complete plan for the collec-

1 tion and analysis of information to
2 identify the impacts of the new fixed
3 guideway capital project or core ca-
4 pacity improvement project and the
5 accuracy of the forecasts prepared
6 during the development of the project.
7 Preparation of this plan shall be in-
8 cluded in the full funding grant agree-
9 ment as an eligible activity.

10 “(II) CONTENTS OF PLAN.—The
11 plan submitted under subclause (I)
12 shall provide for—

13 “(aa) collection of data on
14 the current public transportation
15 system regarding public transpor-
16 tation service levels and ridership
17 patterns, including origins and
18 destinations, access modes, trip
19 purposes, and rider characteris-
20 tics;

21 “(bb) documentation of the
22 predicted scope, service levels,
23 capital costs, operating costs, and
24 ridership of the project;

1 “(cc) collection of data on
2 the public transportation system
3 2 years after the opening of a
4 new fixed guideway capital
5 project or core capacity improve-
6 ment project, including analogous
7 information on public transpor-
8 tation service levels and ridership
9 patterns and information on the
10 as-built scope, capital, and fi-
11 nancing costs of the project; and

12 “(dd) analysis of the consist-
13 ency of predicted project charac-
14 teristics with actual outcomes.

15 “(F) COLLECTION OF DATA ON CURRENT
16 SYSTEM.—To be eligible for a full funding
17 grant agreement under this paragraph, recipi-
18 ents shall have collected data on the current
19 system, according to the plan required under
20 subparagraph (E)(ii), before the beginning of
21 construction of the proposed new fixed guide-
22 way capital project or core capacity improve-
23 ment project. Collection of this data shall be in-
24 cluded in the full funding grant agreement as
25 an eligible activity.

1 “(3) EARLY SYSTEMS WORK AGREEMENTS.—

2 “(A) CONDITIONS.—The Secretary may
3 enter into an early systems work agreement
4 with an applicant if a record of decision under
5 the National Environmental Policy Act of 1969
6 (42 U.S.C. 4321 et seq.) has been issued on the
7 project and the Secretary finds there is reason
8 to believe—

9 “(i) a full funding grant agreement
10 for the project will be made; and

11 “(ii) the terms of the work agreement
12 will promote ultimate completion of the
13 project more rapidly and at less cost.

14 “(B) CONTENTS.—

15 “(i) IN GENERAL.—An early systems
16 work agreement under this paragraph obli-
17 gates budget authority available under this
18 chapter and title 23 and shall provide for
19 reimbursement of preliminary costs of car-
20 rying out the project, including land acqui-
21 sition, timely procurement of system ele-
22 ments for which specifications are decided,
23 and other activities the Secretary decides
24 are appropriate to make efficient, long-
25 term project management easier.

1 “(ii) CONTINGENT COMMITMENT.—An
2 early systems work agreement may include
3 a commitment, contingent on amounts to
4 be specified in law in advance for commit-
5 ments under this paragraph, to obligate an
6 additional amount from future available
7 budget authority specified in law.

8 “(iii) PERIOD COVERED.—An early
9 systems work agreement under this para-
10 graph shall cover the period of time the
11 Secretary considers appropriate. The pe-
12 riod may extend beyond the period of cur-
13 rent authorization.

14 “(iv) INTEREST AND OTHER FINANC-
15 ING COSTS.—Interest and other financing
16 costs of efficiently carrying out the early
17 systems work agreement within a reason-
18 able time are a cost of carrying out the
19 agreement, except that eligible costs may
20 not be more than the cost of the most fa-
21 vorable financing terms reasonably avail-
22 able for the project at the time of bor-
23 rowing. The applicant shall certify, in a
24 way satisfactory to the Secretary, that the
25 applicant has shown reasonable diligence in

1 seeking the most favorable financing
2 terms.

3 “(v) FAILURE TO CARRY OUT
4 PROJECT.—If 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 Federal grant funds awarded for
8 the project from all Federal funding
9 sources, for all project activities, facilities,
10 and equipment, plus reasonable interest
11 and penalty charges allowable by law or es-
12 tablished by the Secretary in the early sys-
13 tems work agreement.

14 “(vi) CREDITING OF FUNDS RE-
15 CEIVED.—Any funds received by the Gov-
16 ernment under this paragraph, other than
17 interest and penalty charges, shall be cred-
18 ited to the appropriation account from
19 which the funds were originally derived.

20 “(4) LIMITATION ON AMOUNTS.—

21 “(A) IN GENERAL.—The Secretary may
22 enter into full funding grant agreements under
23 this subsection for new fixed guideway capital
24 projects and core capacity improvement projects
25 that contain contingent commitments to incur

1 obligations in such amounts as the Secretary
2 determines are appropriate.

3 “(B) APPROPRIATION REQUIRED.—An ob-
4 ligation may be made under this subsection only
5 when amounts are appropriated for the obliga-
6 tion.

7 “(5) NOTIFICATION TO CONGRESS.—At least 30
8 days before issuing a letter of intent, entering into
9 a full funding grant agreement, or entering into an
10 early systems work agreement under this section, the
11 Secretary shall notify, in writing, the Committee on
12 Banking, Housing, and Urban Affairs and the Com-
13 mittee on Appropriations of the Senate and the
14 Committee on Transportation and Infrastructure
15 and the Committee on Appropriations of the House
16 of Representatives of the proposed letter or agree-
17 ment. The Secretary shall include with the notifica-
18 tion a copy of the proposed letter or agreement as
19 well as the evaluations and ratings for the project.

20 “(k) GOVERNMENT SHARE OF NET CAPITAL
21 PROJECT COST.—

22 “(1) IN GENERAL.—Based on engineering stud-
23 ies, studies of economic feasibility, and information
24 on the expected use of equipment or facilities, the
25 Secretary shall estimate the net capital project cost.

1 A grant for the project shall not exceed 80 percent
2 of the net capital project cost.

3 “(2) ADJUSTMENT FOR COMPLETION UNDER
4 BUDGET.—The Secretary may adjust the final net
5 capital project cost of a new fixed guideway capital
6 project or core capacity improvement project evalu-
7 ated under subsection (d), (e), or (h) to include the
8 cost of eligible activities not included in the origi-
9 nally defined project if the Secretary determines that
10 the originally defined project has been completed at
11 a cost that is significantly below the original esti-
12 mate.

13 “(3) MAXIMUM GOVERNMENT SHARE.—The
14 Secretary may provide a higher grant percentage
15 than requested by the grant recipient if—

16 “(A) the Secretary determines that the net
17 capital project cost of the project is not more
18 than 10 percent higher than the net capital
19 project cost estimated at the time the project
20 was approved for advancement into the engi-
21 neering phase; and

22 “(B) the ridership estimated for the
23 project is not less than 90 percent of the rider-
24 ship estimated for the project at the time the

1 project was approved for advancement into the
2 engineering phase.

3 “(4) REMAINDER OF NET CAPITAL PROJECT
4 COST.—The remainder of the net capital project cost
5 shall be provided from an undistributed cash sur-
6 plus, a replacement or depreciation cash fund or re-
7 serve, or new capital.

8 “(5) LIMITATION ON STATUTORY CONSTRUC-
9 TION.—Nothing in this section shall be construed as
10 authorizing the Secretary to require a non-Federal
11 financial commitment for a project that is more than
12 20 percent of the net capital project cost.

13 “(6) SPECIAL RULE FOR ROLLING STOCK
14 COSTS.—In addition to amounts allowed pursuant to
15 paragraph (1), a planned extension to a fixed guide-
16 way system may include the cost of rolling stock pre-
17 viously purchased if the applicant satisfies the Sec-
18 retary that only amounts other than amounts pro-
19 vided by the Government were used and that the
20 purchase was made for use on the extension. A re-
21 fund or reduction of the remainder may be made
22 only if a refund of a proportional amount of the
23 grant of the Government is made at the same time.

24 “(7) LIMITATION ON APPLICABILITY.—This
25 subsection shall not apply to projects for which the

1 Secretary entered into a full funding grant agree-
2 ment before the date of enactment of the Federal
3 Public Transportation Act of 2012.

4 “(1) UNDERTAKING PROJECTS IN ADVANCE.—

5 “(1) IN GENERAL.—The Secretary may pay the
6 Government share of the net capital project cost to
7 a State or local governmental authority that carries
8 out any part of a project described in this section
9 without the aid of amounts of the Government and
10 according to all applicable procedures and require-
11 ments if—

12 “(A) the State or local governmental au-
13 thority applies for the payment;

14 “(B) the Secretary approves the payment;
15 and

16 “(C) before the State or local govern-
17 mental authority carries out the part of the
18 project, the Secretary approves the plans and
19 specifications for the part in the same way as
20 other projects under this section.

21 “(2) FINANCING COSTS.—

22 “(A) IN GENERAL.—The cost of carrying
23 out part of a project includes the amount of in-
24 terest earned and payable on bonds issued by
25 the State or local governmental authority to the

1 extent proceeds of the bonds are expended in
2 carrying out the part.

3 “(B) LIMITATION ON AMOUNT OF INTER-
4 EST.—The amount of interest under this para-
5 graph may not be more than the most favorable
6 interest terms reasonably available for the
7 project at the time of borrowing.

8 “(C) CERTIFICATION.—The applicant shall
9 certify, in a manner satisfactory to the Sec-
10 retary, that the applicant has shown reasonable
11 diligence in seeking the most favorable financ-
12 ing terms.

13 “(m) AVAILABILITY OF AMOUNTS.—

14 “(1) IN GENERAL.—An amount made available
15 or appropriated for a new fixed guideway capital
16 project or core capacity improvement project shall
17 remain available to that project for 5 fiscal years, in-
18 cluding the fiscal year in which the amount is made
19 available or appropriated. Any amounts that are un-
20 obligated to the project at the end of the 5-fiscal-
21 year period may be used by the Secretary for any
22 purpose under this section.

23 “(2) USE OF DEOBLIGATED AMOUNTS.—An
24 amount available under this section that is

1 deobligated may be used for any purpose under this
2 section.

3 “(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE
4 CAPACITY IMPROVEMENT PROJECTS.—

5 “(1) ANNUAL REPORT ON FUNDING REC-
6 COMMENDATIONS.—Not later than the first Monday
7 in February of each year, the Secretary shall submit
8 to the Committee on Banking, Housing, and Urban
9 Affairs and the Committee on Appropriations of the
10 Senate and the Committee on Transportation and
11 Infrastructure and the Committee on Appropriations
12 of the House of Representatives a report that in-
13 cludes—

14 “(A) a proposal of allocations of amounts
15 to be available to finance grants for projects
16 under this section among applicants for these
17 amounts;

18 “(B) evaluations and ratings, as required
19 under subsections (d), (e), and (h), for each
20 such project that is in project development, en-
21 gineering, or has received a full funding grant
22 agreement; and

23 “(C) recommendations of such projects for
24 funding based on the evaluations and ratings
25 and on existing commitments and anticipated

1 funding levels for the next 3 fiscal years based
 2 on information currently available to the Sec-
 3 retary.

4 “(2) REPORTS ON BEFORE AND AFTER STUD-
 5 IES.—Not later than the first Monday in August of
 6 each year, the Secretary shall submit to the commit-
 7 tees described in paragraph (1) a report containing
 8 a summary of the results of any studies conducted
 9 under subsection (j)(2)(E).

10 “(3) ANNUAL GAO REVIEW.—The Comptroller
 11 General of the United States shall—

12 “(A) conduct an annual review of—

13 “(i) the processes and procedures for
 14 evaluating, rating, and recommending new
 15 fixed guideway capital projects and core
 16 capacity improvement projects; and

17 “(ii) the Secretary’s implementation
 18 of such processes and procedures; and

19 “(B) report to Congress on the results of
 20 such review by May 31 of each year.”.

21 (b) PILOT PROGRAM FOR EXPEDITED PROJECT DE-
 22 LIVERY.—

23 (1) DEFINITIONS.—In this subsection the fol-
 24 lowing definitions shall apply:

1 (A) ELIGIBLE PROJECT.—The term “eligi-
2 ble project” means a new fixed guideway capital
3 project or a core capacity improvement project,
4 as those terms are defined in section 5309 of
5 title 49, United States Code, as amended by
6 this section, that has not entered into a full
7 funding grant agreement with the Federal
8 Transit Administration before the date of en-
9 actment of the Federal Public Transportation
10 Act of 2012.

11 (B) PROGRAM.—The term “program”
12 means the pilot program for expedited project
13 delivery established under this subsection.

14 (C) RECIPIENT.—The term “recipient”
15 means a recipient of funding under chapter 53
16 of title 49, United States Code.

17 (D) SECRETARY.—The term “Secretary”
18 means the Secretary of Transportation.

19 (2) ESTABLISHMENT.—The Secretary shall es-
20 tablish and implement a pilot program to dem-
21 onstrate whether innovative project development and
22 delivery methods or innovative financing arrange-
23 ments can expedite project delivery for certain meri-
24 torious new fixed guideway capital projects and core
25 capacity improvement projects.

1 (3) LIMITATION ON NUMBER OF PROJECTS.—

2 The Secretary shall select 3 eligible projects to par-
3 ticipate in the program, of which—

4 (A) at least 1 shall be an eligible project
5 requesting more than \$100,000,000 in Federal
6 financial assistance under section 5309 of title
7 49, United States Code; and

8 (B) at least 1 shall be an eligible project
9 requesting less than \$100,000,000 in Federal
10 financial assistance under section 5309 of title
11 49, United States Code.

12 (4) GOVERNMENT SHARE.—The Government
13 share of the total cost of an eligible project that par-
14 ticipates in the program may not exceed 50 percent.

15 (5) ELIGIBILITY.—A recipient that desires to
16 participate in the program shall submit to the Sec-
17 retary an application that contains, at a minimum—

18 (A) identification of an eligible project;

19 (B) a schedule and finance plan for the
20 construction and operation of the eligible
21 project;

22 (C) an analysis of the efficiencies of the
23 proposed project development and delivery
24 methods or innovative financing arrangement
25 for the eligible project; and

1 (D) a certification that the recipient's ex-
2 isting public transportation system is in a state
3 of good repair.

4 (6) SELECTION CRITERIA.—The Secretary may
5 award a full funding grant agreement under this
6 subsection if the Secretary determines that—

7 (A) the recipient has completed planning
8 and the activities required under the National
9 Environmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.); and

11 (B) the recipient has the necessary legal,
12 financial, and technical capacity to carry out
13 the eligible project.

14 (7) BEFORE AND AFTER STUDY AND RE-
15 PORT.—

16 (A) STUDY REQUIRED.—A full funding
17 grant agreement under this paragraph shall re-
18 quire a recipient to conduct a study that—

19 (i) describes and analyzes the impacts
20 of the eligible project on public transpor-
21 tation services and public transportation
22 ridership;

23 (ii) describes and analyzes the consist-
24 ency of predicted and actual benefits and
25 costs of the innovative project development

1 and delivery methods or innovative financ-
 2 ing for the eligible project; and

3 (iii) identifies reasons for any dif-
 4 ferences between predicted and actual out-
 5 comes for the eligible project.

6 (B) SUBMISSION OF REPORT.—Not later
 7 than 9 months after an eligible project selected
 8 to participate in the program begins revenue
 9 operations, the recipient shall submit to the
 10 Secretary a report on the results of the study
 11 under subparagraph (A).

12 **SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBIL-**
 13 **ITY OF SENIORS AND INDIVIDUALS WITH DIS-**
 14 **ABILITIES.**

15 Section 5310 of title 49, United States Code, is
 16 amended to read as follows:

17 **“§ 5310. Formula grants for the enhanced mobility of**
 18 **seniors and individuals with disabilities**

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

21 “(1) RECIPIENT.—The term ‘recipient’ means a
 22 designated recipient or a State that receives a grant
 23 under this section directly.

24 “(2) SUBRECIPIENT.—The term ‘subrecipient’
 25 means a State or local governmental authority, non-

1 profit organization, or operator of public transpor-
2 tation that receives a grant under this section indi-
3 rectly through a recipient.

4 “(b) GENERAL AUTHORITY.—

5 “(1) GRANTS.—The Secretary may make
6 grants under this section to recipients for—

7 “(A) public transportation capital projects
8 planned, designed, and carried out to meet the
9 special needs of seniors and individuals with
10 disabilities when public transportation is insuf-
11 ficient, inappropriate, or unavailable;

12 “(B) public transportation projects that
13 exceed the requirements of the Americans with
14 Disabilities Act of 1990 (42 U.S.C. 12101 et
15 seq.);

16 “(C) public transportation projects that
17 improve access to fixed route service and de-
18 crease reliance by individuals with disabilities
19 on complementary paratransit; and

20 “(D) alternatives to public transportation
21 that assist seniors and individuals with disabil-
22 ities with transportation.

23 “(2) LIMITATIONS FOR CAPITAL PROJECTS.—

24 “(A) AMOUNT AVAILABLE.—The amount
25 available for capital projects under paragraph

1 (1)(A) shall be not less than 55 percent of the
2 funds apportioned to the recipient under this
3 section.

4 “(B) ALLOCATION TO SUBRECIPIENTS.—A
5 recipient of a grant under paragraph (1)(A)
6 may allocate the amounts provided under the
7 grant to—

8 “(i) a nonprofit organization; or

9 “(ii) a State or local governmental au-
10 thority that—

11 “(I) is approved by a State to co-
12 ordinate services for seniors and indi-
13 viduals with disabilities; or

14 “(II) certifies that there are no
15 nonprofit organizations readily avail-
16 able in the area to provide the services
17 described in paragraph (1)(A).

18 “(3) ADMINISTRATIVE EXPENSES.—

19 “(A) IN GENERAL.—A recipient may use
20 not more than 10 percent of the amounts ap-
21 portioned to the recipient under this section to
22 administer, plan, and provide technical assist-
23 ance for a project funded under this section.

24 “(B) GOVERNMENT SHARE OF COSTS.—

25 The Government share of the costs of admin-

1 istering a program carried out using funds
2 under this section shall be 100 percent.

3 “(4) ELIGIBLE CAPITAL EXPENSES.—The ac-
4 quisition of public transportation services is an eligi-
5 ble capital expense under this section.

6 “(5) COORDINATION.—

7 “(A) DEPARTMENT OF TRANSPOR-
8 TATION.—To the maximum extent feasible, the
9 Secretary shall coordinate activities under this
10 section with related activities under other Fed-
11 eral departments and agencies.

12 “(B) OTHER FEDERAL AGENCIES AND
13 NONPROFIT ORGANIZATIONS.—A State or local
14 governmental authority or nonprofit organiza-
15 tion that receives assistance from Government
16 sources (other than the Department of Trans-
17 portation) for nonemergency transportation
18 services shall—

19 “(i) participate and coordinate with
20 recipients of assistance under this chapter
21 in the design and delivery of transportation
22 services; and

23 “(ii) participate in the planning for
24 the transportation services described in
25 clause (i).

1 “(6) PROGRAM OF PROJECTS.—

2 “(A) IN GENERAL.—Amounts made avail-
3 able to carry out this section may be used for
4 transportation projects to assist in providing
5 transportation services for seniors and individ-
6 uals with disabilities, if such transportation
7 projects are included in a program of projects.

8 “(B) SUBMISSION.—A recipient shall an-
9 nually submit a program of projects to the Sec-
10 retary.

11 “(C) ASSURANCE.—The program of
12 projects submitted under subparagraph (B)
13 shall contain an assurance that the program
14 provides for the maximum feasible coordination
15 of transportation services assisted under this
16 section with transportation services assisted by
17 other Government sources.

18 “(7) MEAL DELIVERY FOR HOMEBOUND INDI-
19 VIDUALS.—A public transportation service provider
20 that receives assistance under this section or section
21 5311(c) may coordinate and assist in regularly pro-
22 viding meal delivery service for homebound individ-
23 uals, if the delivery service does not conflict with
24 providing public transportation service or reduce
25 service to public transportation passengers.

1 “(c) APPORTIONMENT AND TRANSFERS.—

2 “(1) FORMULA.—The Secretary shall apportion
3 amounts made available to carry out this section as
4 follows:

5 “(A) LARGE URBANIZED AREAS.—Sixty
6 percent of the funds shall be apportioned
7 among designated recipients for urbanized
8 areas with a population of 200,000 or more in-
9 dividuals, as determined by the Bureau of the
10 Census, in the ratio that—

11 “(i) the number of seniors and indi-
12 viduals with disabilities in each such ur-
13 banized area; bears to

14 “(ii) the number of seniors and indi-
15 viduals with disabilities in all such urban-
16 ized areas.

17 “(B) SMALL URBANIZED AREAS.—Twenty
18 percent of the funds shall be apportioned
19 among the States in the ratio that—

20 “(i) the number of seniors and indi-
21 viduals with disabilities in urbanized areas
22 with a population of fewer than 200,000
23 individuals, as determined by the Bureau
24 of the Census, in each State; bears to

1 “(ii) the number of seniors and indi-
2 viduals with disabilities in urbanized areas
3 with a population of fewer than 200,000
4 individuals, as determined by the Bureau
5 of the Census, in all States.

6 “(C) OTHER THAN URBANIZED AREAS.—
7 Twenty percent of the funds shall be appor-
8 tioned among the States in the ratio that—

9 “(i) the number of seniors and indi-
10 viduals with disabilities in other than ur-
11 banized areas in each State; bears to

12 “(ii) the number of seniors and indi-
13 viduals with disabilities in other than ur-
14 banized areas in all States.

15 “(2) AREAS SERVED BY PROJECTS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B)—

18 “(i) funds apportioned under para-
19 graph (1)(A) shall be used for projects
20 serving urbanized areas with a population
21 of 200,000 or more individuals, as deter-
22 mined by the Bureau of the Census;

23 “(ii) funds apportioned under para-
24 graph (1)(B) shall be used for projects
25 serving urbanized areas with a population

1 of fewer than 200,000 individuals, as de-
2 termined by the Bureau of the Census; and

3 “(iii) funds apportioned under para-
4 graph (1)(C) shall be used for projects
5 serving other than urbanized areas.

6 “(B) EXCEPTIONS.—A State may use
7 funds apportioned to the State under subpara-
8 graph (B) or (C) of paragraph (1)—

9 “(i) for a project serving an area
10 other than an area specified in subpara-
11 graph (A)(ii) or (A)(iii), as the case may
12 be, if the Governor of the State certifies
13 that all of the objectives of this section are
14 being met in the area specified in subpara-
15 graph (A)(ii) or (A)(iii); or

16 “(ii) for a project anywhere in the
17 State, if the State has established a state-
18 wide program for meeting the objectives of
19 this section.

20 “(C) LIMITED TO ELIGIBLE PROJECTS.—
21 Any funds transferred pursuant to subpara-
22 graph (B) shall be made available only for eligi-
23 ble projects selected under this section.

24 “(D) CONSULTATION.—A recipient may
25 transfer an amount under subparagraph (B)

1 only after consulting with responsible local offi-
2 cials, publicly owned operators of public trans-
3 portation, and nonprofit providers in the area
4 for which the amount was originally appor-
5 tioned.

6 “(d) GOVERNMENT SHARE OF COSTS.—

7 “(1) CAPITAL PROJECTS.—A grant for a capital
8 project under this section shall be in an amount
9 equal to 80 percent of the net capital costs of the
10 project, as determined by the Secretary.

11 “(2) OPERATING ASSISTANCE.—A grant made
12 under this section for operating assistance may not
13 exceed an amount equal to 50 percent of the net op-
14 erating costs of the project, as determined by the
15 Secretary.

16 “(3) REMAINDER OF NET COSTS.—The remain-
17 der of the net costs of a project carried out under
18 this section—

19 “(A) may be provided from an undistrib-
20 uted cash surplus, a replacement or deprecia-
21 tion cash fund or reserve, a service agreement
22 with a State or local social service agency or a
23 private social service organization, or new cap-
24 ital; and

1 “(B) may be derived from amounts appro-
2 priated or otherwise made available—

3 “(i) to a department or agency of the
4 Government (other than the Department of
5 Transportation) that are eligible to be ex-
6 pended for transportation; or

7 “(ii) to carry out the Federal lands
8 highways program under section 204 of
9 title 23, United States Code.

10 “(4) USE OF CERTAIN FUNDS.—For purposes
11 of paragraph (3)(B)(i), the prohibition under section
12 403(a)(5)(C)(vii) of the Social Security Act (42
13 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds
14 for matching requirements shall not apply to Fed-
15 eral or State funds to be used for transportation
16 purposes.

17 “(e) GRANT REQUIREMENTS.—

18 “(1) IN GENERAL.—A grant under this section
19 shall be subject to the same requirements as a grant
20 under section 5307, to the extent the Secretary de-
21 termines appropriate.

22 “(2) CERTIFICATION REQUIREMENTS.—

23 “(A) PROJECT SELECTION AND PLAN DE-
24 VELOPMENT.—Before receiving a grant under
25 this section, each recipient shall certify that—

1 “(i) the projects selected by the recipi-
2 ent are included in a locally developed, co-
3 ordinated public transit-human services
4 transportation plan;

5 “(ii) the plan described in clause (i)
6 was developed and approved through a
7 process that included participation by sen-
8 iors, individuals with disabilities, represent-
9 atives of public, private, and nonprofit
10 transportation and human services pro-
11 viders, and other members of the public;
12 and

13 “(iii) to the maximum extent feasible,
14 the services funded under this section will
15 be coordinated with transportation services
16 assisted by other Federal departments and
17 agencies, including any transportation ac-
18 tivities carried out by a recipient of a
19 grant from the Department of Health and
20 Human Services.

21 “(B) ALLOCATIONS TO SUBRECIPIENTS.—

22 If a recipient allocates funds received under this
23 section to subrecipients, the recipient shall cer-
24 tify that the funds are allocated on a fair and
25 equitable basis.

1 “(f) COMPETITIVE PROCESS FOR GRANTS TO SUB-
2 RECIPIENTS.—

3 “(1) AREAWIDE SOLICITATIONS.—A recipient of
4 funds apportioned under subsection (c)(1)(A) may
5 conduct, in cooperation with the appropriate metro-
6 politan planning organization, an areawide solici-
7 tation for applications for grants under this section.

8 “(2) STATEWIDE SOLICITATIONS.—A recipient
9 of funds apportioned under subparagraph (B) or (C)
10 of subsection (c)(1) may conduct a statewide solici-
11 tation for applications for grants under this section.

12 “(3) APPLICATION.—If the recipient elects to
13 engage in a competitive process, a recipient or sub-
14 recipient seeking to receive a grant from funds ap-
15 portioned under subsection (c) shall submit to the
16 recipient making the election an application in such
17 form and in accordance with such requirements as
18 the recipient making the election shall establish.

19 “(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—
20 A recipient may transfer a facility or equipment acquired
21 using a grant under this section to any other recipient eli-
22 gible to receive assistance under this chapter, if—

23 “(1) the recipient in possession of the facility or
24 equipment consents to the transfer; and

1 “(2) the facility or equipment will continue to
2 be used as required under this section.

3 “(h) PERFORMANCE MEASURES.—

4 “(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of the Federal Public Trans-
6 portation Act of 2012, the Secretary shall issue a
7 final rule to establish performance measures for
8 grants under this section.

9 “(2) MEASURES.—The performance measures
10 established under paragraph (1) shall require the
11 collection of quantitative and qualitative information,
12 as available, concerning—

13 “(A) modifications to the geographic cov-
14 erage of transportation service, the quality of
15 transportation service, or service times that in-
16 crease the availability of transportation services
17 for seniors and individuals with disabilities;

18 “(B) ridership;

19 “(C) accessibility improvements; and

20 “(D) other measures, as the Secretary de-
21 termines is appropriate.

22 “(3) TARGETS.—Not later than 3 months after
23 the date on which the Secretary issues a final rule
24 under paragraph (1), and each fiscal year thereafter,
25 each recipient that receives Federal financial assist-

1 ance under this section shall establish performance
 2 targets in relation to the performance measures es-
 3 tablished by the Secretary.

4 “(4) REPORTS.—Each recipient of Federal fi-
 5 nancial assistance under this section shall submit to
 6 the Secretary an annual report that describes—

7 “(A) the progress of the recipient toward
 8 meeting the performance targets established
 9 under paragraph (3) for that fiscal year; and

10 “(B) the performance targets established
 11 by the recipient for the subsequent fiscal year.”.

12 **SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBAN-**
 13 **IZED AREAS.**

14 (a) IN GENERAL.—Section 5311 of title 49, United
 15 States Code, is amended to read as follows:

16 **“§ 5311. Formula grants for other than urbanized**
 17 **areas**

18 “(a) DEFINITIONS.—As used in this section, the fol-
 19 lowing definitions shall apply:

20 “(1) RECIPIENT.—The term ‘recipient’ means a
 21 State or Indian tribe that receives a Federal transit
 22 program grant directly from the Government.

23 “(2) SUBRECIPIENT.—The term ‘subrecipient’
 24 means a State or local governmental authority, a
 25 nonprofit organization, or an operator of public

1 transportation or intercity bus service that receives
2 Federal transit program grant funds indirectly
3 through a recipient.

4 “(b) GENERAL AUTHORITY.—

5 “(1) GRANTS AUTHORIZED.—Except as pro-
6 vided by paragraph (2), the Secretary may award
7 grants under this section to recipients located in
8 areas other than urbanized areas for—

9 “(A) planning, provided that a grant under
10 this section for planning activities shall be in
11 addition to funding awarded to a State under
12 section 5305 for planning activities that are di-
13 rected specifically at the needs of other than ur-
14 banized areas in the State;

15 “(B) public transportation capital projects;

16 “(C) operating costs of equipment and fa-
17 cilities for use in public transportation; and

18 “(D) the acquisition of public transpor-
19 tation services, including service agreements
20 with private providers of public transportation
21 service.

22 “(2) STATE PROGRAM.—

23 “(A) IN GENERAL.—A project eligible for a
24 grant under this section shall be included in a
25 State program for public transportation service

1 projects, including agreements with private pro-
2 viders of public transportation service.

3 “(B) SUBMISSION TO SECRETARY.—Each
4 State shall submit to the Secretary annually the
5 program described in subparagraph (A).

6 “(C) APPROVAL.—The Secretary may not
7 approve the program unless the Secretary de-
8 termines that—

9 “(i) the program provides a fair dis-
10 tribution of amounts in the State, includ-
11 ing Indian reservations; and

12 “(ii) the program provides the max-
13 imum feasible coordination of public trans-
14 portation service assisted under this sec-
15 tion with transportation service assisted by
16 other Federal sources.

17 “(3) RURAL TRANSPORTATION ASSISTANCE
18 PROGRAM.—

19 “(A) IN GENERAL.—The Secretary shall
20 carry out a rural transportation assistance pro-
21 gram in other than urbanized areas.

22 “(B) GRANTS AND CONTRACTS.—In car-
23 rying out this paragraph, the Secretary may use
24 not more than 2 percent of the amount made
25 available under section 5338(a)(2)(F) to make

1 grants and contracts for transportation re-
2 search, technical assistance, training, and re-
3 lated support services in other than urbanized
4 areas.

5 “(C) PROJECTS OF A NATIONAL SCOPE.—
6 Not more than 15 percent of the amounts avail-
7 able under subparagraph (B) may be used by
8 the Secretary to carry out projects of a national
9 scope, with the remaining balance provided to
10 the States.

11 “(4) DATA COLLECTION.—Each recipient under
12 this section shall submit an annual report to the
13 Secretary containing information on capital invest-
14 ment, operations, and service provided with funds
15 received under this section, including—

16 “(A) total annual revenue;

17 “(B) sources of revenue;

18 “(C) total annual operating costs;

19 “(D) total annual capital costs;

20 “(E) fleet size and type, and related facili-
21 ties;

22 “(F) vehicle revenue miles; and

23 “(G) ridership.

24 “(c) APPORTIONMENTS.—

1 “(1) PUBLIC TRANSPORTATION ON INDIAN RES-
2 ERVATIONS.—Of the amounts made available or ap-
3 propriated for each fiscal year pursuant to section
4 5338(a)(2)(F) to carry out this paragraph, the fol-
5 lowing amounts shall be apportioned each fiscal year
6 for grants to Indian tribes for any purpose eligible
7 under this section, under such terms and conditions
8 as may be established by the Secretary:

9 “(A) \$10,000,000 shall be distributed on a
10 competitive basis by the Secretary.

11 “(B) \$20,000,000 shall be apportioned as
12 formula grants, as provided in subsection (k).

13 “(2) APPALACHIAN DEVELOPMENT PUBLIC
14 TRANSPORTATION ASSISTANCE PROGRAM.—

15 “(A) DEFINITIONS.—In this paragraph—

16 “(i) the term ‘Appalachian region’ has
17 the same meaning as in section 14102 of
18 title 40; and

19 “(ii) the term ‘eligible recipient’
20 means a State that participates in a pro-
21 gram established under subtitle IV of title
22 40.

23 “(B) IN GENERAL.—The Secretary shall
24 carry out a public transportation assistance
25 program in the Appalachian region.

1 “(C) APPORTIONMENT.—Of amounts made
2 available or appropriated for each fiscal year
3 under section 5338(a)(2)(F) to carry out this
4 paragraph, the Secretary shall apportion funds
5 to eligible recipients for any purpose eligible
6 under this section, based on the guidelines es-
7 tablished under section 9.5(b) of the Appa-
8 lachian Regional Commission Code.

9 “(D) SPECIAL RULE.—An eligible recipient
10 may use amounts that cannot be used for oper-
11 ating expenses under this paragraph for a high-
12 way project if—

13 “(i) that use is approved, in writing,
14 by the eligible recipient after appropriate
15 notice and an opportunity for comment
16 and appeal are provided to affected public
17 transportation providers; and

18 “(ii) the eligible recipient, in approv-
19 ing the use of amounts under this subpara-
20 graph, determines that the local transit
21 needs are being addressed.

22 “(3) REMAINING AMOUNTS.—

23 “(A) IN GENERAL.—The amounts made
24 available or appropriated for each fiscal year
25 pursuant to section 5338(a)(2)(F) that are not

1 apportioned under paragraph (1) or (2) shall be
2 apportioned in accordance with this paragraph.

3 “(B) APPORTIONMENT BASED ON LAND
4 AREA AND POPULATION IN NONURBANIZED
5 AREAS.—

6 “(i) IN GENERAL.—83.15 percent of
7 the amount described in subparagraph (A)
8 shall be apportioned to the States in ac-
9 cordance with this subparagraph.

10 “(ii) LAND AREA.—

11 “(I) IN GENERAL.—Subject to
12 subclause (II), each State shall receive
13 an amount that is equal to 20 percent
14 of the amount apportioned under
15 clause (i), multiplied by the ratio of
16 the land area in areas other than ur-
17 banized areas in that State and di-
18 vided by the land area in all areas
19 other than urbanized areas in the
20 United States, as shown by the most
21 recent decennial census of population.

22 “(II) MAXIMUM APPORTION-
23 MENT.—No State shall receive more
24 than 5 percent of the amount appor-
25 tioned under subclause (I).

1 “(iii) POPULATION.—Each State shall
2 receive an amount equal to 80 percent of
3 the amount apportioned under clause (i),
4 multiplied by the ratio of the population of
5 areas other than urbanized areas in that
6 State and divided by the population of all
7 areas other than urbanized areas in the
8 United States, as shown by the most re-
9 cent decennial census of population.

10 “(C) APPORTIONMENT BASED ON LAND
11 AREA, VEHICLE REVENUE MILES, AND LOW-IN-
12 COME INDIVIDUALS IN NONURBANIZED
13 AREAS.—

14 “(i) IN GENERAL.—16.85 percent of
15 the amount described in subparagraph (A)
16 shall be apportioned to the States in ac-
17 cordance with this subparagraph.

18 “(ii) LAND AREA.—Subject to clause
19 (v), each State shall receive an amount
20 that is equal to 29.68 percent of the
21 amount apportioned under clause (i), mul-
22 tiplied by the ratio of the land area in
23 areas other than urbanized areas in that
24 State and divided by the land area in all
25 areas other than urbanized areas in the

1 United States, as shown by the most re-
2 cent decennial census of population.

3 “(iii) VEHICLE REVENUE MILES.—
4 Subject to clause (v), each State shall re-
5 ceive an amount that is equal to 29.68 per-
6 cent of the amount apportioned under
7 clause (i), multiplied by the ratio of vehicle
8 revenue miles in areas other than urban-
9 ized areas in that State and divided by the
10 vehicle revenue miles in all areas other
11 than urbanized areas in the United States,
12 as determined by national transit database
13 reporting.

14 “(iv) LOW-INCOME INDIVIDUALS.—
15 Each State shall receive an amount that is
16 equal to 40.64 percent of the amount ap-
17 portioned under clause (i), multiplied by
18 the ratio of low-income individuals in areas
19 other than urbanized areas in that State
20 and divided by the number of low-income
21 individuals in all areas other than urban-
22 ized areas in the United States, as shown
23 by the Bureau of the Census.

24 “(v) MAXIMUM APPORTIONMENT.—No
25 State shall receive—

1 “(I) more than 5 percent of the
2 amount apportioned under clause (ii);

3 or

4 “(II) more than 5 percent of the
5 amount apportioned under clause (iii).

6 “(d) USE FOR LOCAL TRANSPORTATION SERVICE.—

7 A State may use an amount apportioned under this sec-
8 tion for a project included in a program under subsection
9 (b) of this section and eligible for assistance under this
10 chapter if the project will provide local transportation
11 service, as defined by the Secretary of Transportation, in
12 an area other than an urbanized area.

13 “(e) USE FOR ADMINISTRATION, PLANNING, AND

14 TECHNICAL ASSISTANCE.—The Secretary may allow a

15 State to use not more than 15 percent of the amount ap-

16 portioned under this section to administer this section and

17 provide technical assistance to a subrecipient, including

18 project planning, program and management development,

19 coordination of public transportation programs, and re-

20 search the State considers appropriate to promote effec-

21 tive delivery of public transportation to an area other than

22 an urbanized area.

23 “(f) INTERCITY BUS TRANSPORTATION.—

24 “(1) IN GENERAL.—A State shall expend at

25 least 15 percent of the amount made available in

1 each fiscal year to carry out a program to develop
2 and support intercity bus transportation. Eligible ac-
3 tivities under the program include—

4 “(A) planning and marketing for intercity
5 bus transportation;

6 “(B) capital grants for intercity bus shel-
7 ters;

8 “(C) joint-use stops and depots;

9 “(D) operating grants through purchase-
10 of-service agreements, user-side subsidies, and
11 demonstration projects; and

12 “(E) coordinating rural connections be-
13 tween small public transportation operations
14 and intercity bus carriers.

15 “(2) CERTIFICATION.—A State does not have
16 to comply with paragraph (1) of this subsection in
17 a fiscal year in which the Governor of the State cer-
18 tifies to the Secretary, after consultation with af-
19 fected intercity bus service providers, that the inter-
20 city bus service needs of the State are being met
21 adequately.

22 “(g) ACCESS TO JOBS PROJECTS.—

23 “(1) IN GENERAL.—Amounts made available
24 under section 5338(a)(2)(F) may be used to carry

1 out a program to develop and maintain job access
2 projects. Eligible projects may include—

3 “(A) projects relating to the development
4 and maintenance of public transportation serv-
5 ices designed to transport eligible low-income
6 individuals to and from jobs and activities re-
7 lated to their employment, including—

8 “(i) public transportation projects to
9 finance planning, capital, and operating
10 costs of providing access to jobs under this
11 chapter;

12 “(ii) promoting public transportation
13 by low-income workers, including the use
14 of public transportation by workers with
15 nontraditional work schedules;

16 “(iii) promoting the use of transit
17 vouchers for welfare recipients and eligible
18 low-income individuals; and

19 “(iv) promoting the use of employer-
20 provided transportation, including the
21 transit pass benefit program under section
22 132 of the Internal Revenue Code of 1986;
23 and

1 “(B) transportation projects designed to
2 support the use of public transportation includ-
3 ing—

4 “(i) enhancements to existing public
5 transportation service for workers with
6 non-traditional hours or reverse commutes;

7 “(ii) guaranteed ride home programs;

8 “(iii) bicycle storage facilities; and

9 “(iv) projects that otherwise facilitate
10 the provision of public transportation serv-
11 ices to employment opportunities.

12 “(2) PROJECT SELECTION AND PLAN DEVELOP-
13 MENT.—Each grant recipient under this subsection
14 shall certify that—

15 “(A) the projects selected were included in
16 a locally developed, coordinated public transit-
17 human services transportation plan;

18 “(B) the plan was developed and approved
19 through a process that included participation by
20 low-income individuals, representatives of pub-
21 lic, private, and nonprofit transportation and
22 human services providers, and the public;

23 “(C) to the maximum extent feasible, serv-
24 ices funded under this subsection are coordi-

1 nated with transportation services funded by
2 other Federal departments and agencies; and

3 “(D) allocations of the grant to subrecipi-
4 ents, if any, are distributed on a fair and equi-
5 table basis.

6 “(3) COMPETITIVE PROCESS FOR GRANTS TO
7 SUBRECIPIENTS.—

8 “(A) STATEWIDE SOLICITATIONS.—A
9 State may conduct a statewide solicitation for
10 applications for grants to recipients and sub-
11 recipients under this subsection.

12 “(B) APPLICATION.—If the State elects to
13 engage in a competitive process, recipients and
14 subrecipients seeking to receive a grant from
15 apportioned funds shall submit to the State an
16 application in the form and in accordance with
17 such requirements as the State shall establish.

18 “(h) GOVERNMENT SHARE OF COSTS.—

19 “(1) CAPITAL PROJECTS.—

20 “(A) IN GENERAL.—Except as provided by
21 subparagraph (B), a grant awarded under this
22 section for a capital project or project adminis-
23 trative expenses shall be for 80 percent of the
24 net costs of the project, as determined by the
25 Secretary.

1 “(B) EXCEPTION.—A State described in
2 section 120(b) of title 23 shall receive a Gov-
3 ernment share of the net costs in accordance
4 with the formula under that section.

5 “(2) OPERATING ASSISTANCE.—

6 “(A) IN GENERAL.—Except as provided by
7 subparagraph (B), a grant made under this sec-
8 tion for operating assistance may not exceed 50
9 percent of the net operating costs of the
10 project, as determined by the Secretary.

11 “(B) EXCEPTION.—A State described in
12 section 120(b) of title 23 shall receive a Gov-
13 ernment share of the net operating costs equal
14 to 62.5 percent of the Government share pro-
15 vided for under paragraph (1)(B).

16 “(3) REMAINDER.—The remainder of net
17 project costs—

18 “(A) may be provided from an undistrib-
19 uted cash surplus, a replacement or deprecia-
20 tion cash fund or reserve, a service agreement
21 with a State or local social service agency or a
22 private social service organization, or new cap-
23 ital;

24 “(B) may be derived from amounts appro-
25 priated or otherwise made available to a depart-

1 ment or agency of the Government (other than
2 the Department of Transportation) that are eli-
3 gible to be expended for transportation; and

4 “(C) notwithstanding subparagraph (B),
5 may be derived from amounts made available to
6 carry out the Federal lands highway program
7 established by section 204 of title 23.

8 “(4) USE OF CERTAIN FUNDS.—For purposes
9 of paragraph (3)(B), the prohibitions on the use of
10 funds for matching requirements under section
11 403(a)(5)(C)(vii) of the Social Security Act (42
12 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
13 or State funds to be used for transportation pur-
14 poses.

15 “(5) LIMITATION ON OPERATING ASSIST-
16 ANCE.—A State carrying out a program of operating
17 assistance under this section may not limit the level
18 or extent of use of the Government grant for the
19 payment of operating expenses.

20 “(i) TRANSFER OF FACILITIES AND EQUIPMENT.—
21 With the consent of the recipient currently having a facil-
22 ity or equipment acquired with assistance under this sec-
23 tion, a State may transfer the facility or equipment to any
24 recipient eligible to receive assistance under this chapter

1 if the facility or equipment will continue to be used as
2 required under this section.

3 “(j) RELATIONSHIP TO OTHER LAWS.—

4 “(1) IN GENERAL.—Section 5333(b) applies to
5 this section if the Secretary of Labor utilizes a spe-
6 cial warranty that provides a fair and equitable ar-
7 rangement to protect the interests of employees.

8 “(2) RULE OF CONSTRUCTION.—This sub-
9 section does not affect or discharge a responsibility
10 of the Secretary of Transportation under a law of
11 the United States.

12 “(k) FORMULA GRANTS FOR PUBLIC TRANSPOR-
13 TATION ON INDIAN RESERVATIONS.—

14 “(1) APPORTIONMENT.—

15 “(A) IN GENERAL.—Of the amounts de-
16 scribed in subsection (c)(1)(B)—

17 “(i) 50 percent of the total amount
18 shall be apportioned so that each Indian
19 tribe providing public transportation serv-
20 ice shall receive an amount equal to the
21 total amount apportioned under this clause
22 multiplied by the ratio of the number of
23 vehicle revenue miles provided by an In-
24 dian tribe divided by the total number of

1 vehicle revenue miles provided by all In-
2 dian tribes, as reported to the Secretary;

3 “(ii) 25 percent of the total amount
4 shall be apportioned equally among each
5 Indian tribe providing at least 200,000 ve-
6 hicle revenue miles of public transportation
7 service annually, as reported to the Sec-
8 retary; and

9 “(iii) 25 percent of the total amount
10 shall be apportioned among each Indian
11 tribe providing public transportation on
12 tribal lands on which more than 1,000 low-
13 income individuals reside (as determined
14 by the Bureau of the Census) so that each
15 Indian tribe shall receive an amount equal
16 to the total amount apportioned under this
17 clause multiplied by the ratio of the num-
18 ber of low-income individuals residing on
19 an Indian tribe’s lands divided by the total
20 number of low-income individuals on tribal
21 lands on which more than 1,000 low-in-
22 come individuals reside.

23 “(B) LIMITATION.—No recipient shall re-
24 ceive more than \$300,000 of the amounts ap-

1 portioned under subparagraph (A)(iii) in a fis-
2 cal year.

3 “(C) REMAINING AMOUNTS.—Of the
4 amounts made available under subparagraph
5 (A)(iii), any amounts not apportioned under
6 that subparagraph shall be allocated among In-
7 dian tribes receiving less than \$300,000 in a
8 fiscal year according to the formula specified in
9 that clause.

10 “(D) LOW-INCOME INDIVIDUALS.—For
11 purposes of subparagraph (A)(iii), the term
12 ‘low-income individual’ means an individual
13 whose family income is at or below 100 percent
14 of the poverty line, as that term is defined in
15 section 673(2) of the Community Services
16 Block Grant Act (42 U.S.C. 9902(2)), including
17 any revision required by that section, for a fam-
18 ily of the size involved.

19 “(2) NON-TRIBAL SERVICE PROVIDERS.—A re-
20 cipient that is an Indian tribe may use funds appor-
21 tioned under this subsection to finance public trans-
22 portation services provided by a non-tribal provider
23 of public transportation that connects residents of
24 tribal lands with surrounding communities, improves

1 access to employment or healthcare, or otherwise ad-
2 dresses the mobility needs of tribal members.”.

3 (b) PILOT PROGRAM FOR INTERCITY BUS SERV-
4 ICE.—

5 (1) DEFINITIONS.—In this subsection, the fol-
6 lowing definitions shall apply:

7 (A) ELIGIBLE PROJECT.—The term “eligi-
8 ble project” means an intercity bus project eli-
9 gible under section 5311(f) of title 49, United
10 States Code, as amended by this section, that
11 includes both feeder service and an unsub-
12 sidized segment of the intercity bus network to
13 which it connects.

14 (B) FEEDER SERVICE.—The term “feeder
15 service” means the provision of intercity con-
16 nections to allow for the coordination of rural
17 connections between small public transportation
18 systems and providers of intercity bus service.

19 (C) INTERCITY BUS SERVICE.—The term
20 “intercity bus service” means regularly sched-
21 uled bus service provided by private operators
22 for the general public that operates with limited
23 stops over fixed routes connecting two or more
24 urban areas not in close proximity, that has the
25 capacity for transporting baggage carried by

1 passengers, and that makes meaningful connec-
2 tions with scheduled intercity bus service to
3 more distant points, if such service is available.

4 (D) SECRETARY.—The term “Secretary”
5 means the Secretary of Transportation.

6 (2) IN-KIND MATCH.—The Secretary shall es-
7 tablish a pilot program under which the Secretary
8 may allow not more than 20 States using funding
9 provided to carry out section 5311(f) of title 49,
10 United States Code, as amended by this section, to
11 support intercity bus service using the capital costs
12 of unsubsidized service provided by a private oper-
13 ator as in-kind match for an eligible project.

14 (3) STUDY.—The Comptroller General of the
15 United States shall conduct a study not later than
16 1 year after the date of enactment of this Act to de-
17 termine the efficacy of the pilot program in improv-
18 ing and expanding intercity bus service and the ef-
19 fect of the pilot program on public transportation
20 providers and the commuting public.

21 **SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
22 **AND DEPLOYMENT PROJECTS.**

23 Section 5312 of title 49, United States Code, is
24 amended to read as follows:

1 **“§ 5312. Research, development, demonstration, and**
2 **deployment projects**

3 “(a) RESEARCH, DEVELOPMENT, DEMONSTRATION,
4 AND DEPLOYMENT PROJECTS.—

5 “(1) IN GENERAL.—The Secretary may make
6 grants and enter into contracts, cooperative agree-
7 ments, and other agreements for research, develop-
8 ment, demonstration, and deployment projects, and
9 evaluation of research and technology of national
10 significance to public transportation, that the Sec-
11 retary determines will improve public transportation.

12 “(2) AGREEMENTS.—In order to carry out
13 paragraph (1), the Secretary may make grants to
14 and enter into contracts, cooperative agreements,
15 and other agreements with—

16 “(A) departments, agencies, and instru-
17 mentalities of the Government;

18 “(B) State and local governmental entities;

19 “(C) providers of public transportation;

20 “(D) private or non-profit organizations;

21 “(E) institutions of higher education; and

22 “(F) technical and community colleges.

23 “(3) APPLICATION.—

24 “(A) IN GENERAL.—To receive a grant,
25 contract, cooperative agreement, or other agree-
26 ment under this section, an entity described in

1 paragraph (2) shall submit an application to
2 the Secretary.

3 “(B) FORM AND CONTENTS.—An applica-
4 tion under subparagraph (A) shall be in such
5 form and contain such information as the Sec-
6 retary may require, including—

7 “(i) a statement of purpose detailing
8 the need being addressed;

9 “(ii) the short- and long-term goals of
10 the project, including opportunities for fu-
11 ture innovation and development, the po-
12 tential for deployment, and benefits to rid-
13 ers and public transportation; and

14 “(iii) the short- and long-term funding
15 requirements to complete the project and
16 any future objectives of the project.

17 “(b) RESEARCH.—

18 “(1) IN GENERAL.—The Secretary may make a
19 grant to or enter into a contract, cooperative agree-
20 ment, or other agreement under this section with an
21 entity described in subsection (a)(2) to carry out a
22 public transportation research project that has as its
23 ultimate goal the development and deployment of
24 new and innovative ideas, practices, and approaches.

1 “(2) PROJECT ELIGIBILITY.—A public trans-
2 portation research project that receives assistance
3 under paragraph (1) shall focus on—

4 “(A) providing more effective and efficient
5 public transportation service, including services
6 to—

7 “(i) seniors;

8 “(ii) individuals with disabilities; and

9 “(iii) low-income individuals;

10 “(B) mobility management and improve-
11 ments and travel management systems;

12 “(C) data and communication system ad-
13 vancements;

14 “(D) system capacity, including—

15 “(i) train control;

16 “(ii) capacity improvements; and

17 “(iii) performance management;

18 “(E) capital and operating efficiencies;

19 “(F) planning and forecasting modeling
20 and simulation;

21 “(G) advanced vehicle design;

22 “(H) advancements in vehicle technology;

23 “(I) asset maintenance and repair systems
24 advancement;

25 “(J) construction and project management;

1 “(K) alternative fuels;
2 “(L) the environment and energy effi-
3 ciency;
4 “(M) safety improvements; or
5 “(N) any other area that the Secretary de-
6 termines is important to advance the interests
7 of public transportation.

8 “(c) INNOVATION AND DEVELOPMENT.—

9 “(1) IN GENERAL.—The Secretary may make a
10 grant to or enter into a contract, cooperative agree-
11 ment, or other agreement under this section with an
12 entity described in subsection (a)(2) to carry out a
13 public transportation innovation and development
14 project that seeks to improve public transportation
15 systems nationwide in order to provide more efficient
16 and effective delivery of public transportation serv-
17 ices, including through technology and technological
18 capacity improvements.

19 “(2) PROJECT ELIGIBILITY.—A public trans-
20 portation innovation and development project that
21 receives assistance under paragraph (1) shall focus
22 on—

23 “(A) the development of public transpor-
24 tation research projects that received assistance

1 under subsection (b) that the Secretary deter-
2 mines were successful;

3 “(B) planning and forecasting modeling
4 and simulation;

5 “(C) capital and operating efficiencies;

6 “(D) advanced vehicle design;

7 “(E) advancements in vehicle technology;

8 “(F) the environment and energy effi-
9 ciency;

10 “(G) system capacity, including train con-
11 trol and capacity improvements; or

12 “(H) any other area that the Secretary de-
13 termines is important to advance the interests
14 of public transportation.

15 “(d) DEMONSTRATION, DEPLOYMENT, AND EVALUA-
16 TION.—

17 “(1) IN GENERAL.—The Secretary may, under
18 terms and conditions that the Secretary prescribes,
19 make a grant to or enter into a contract, cooperative
20 agreement, or other agreement with an entity de-
21 scribed in paragraph (2) to promote the early de-
22 ployment and demonstration of innovation in public
23 transportation that has broad applicability.

24 “(2) PARTICIPANTS.—An entity described in
25 this paragraph is—

1 “(A) an entity described in subsection
2 (a)(2); or

3 “(B) a consortium of entities described in
4 subsection (a)(2), including a provider of public
5 transportation, that will share the costs, risks,
6 and rewards of early deployment and dem-
7 onstration of innovation.

8 “(3) PROJECT ELIGIBILITY.—A project that re-
9 ceives assistance under paragraph (1) shall seek to
10 build on successful research, innovation, and devel-
11 opment efforts to facilitate—

12 “(A) the deployment of research and tech-
13 nology development resulting from private ef-
14 forts or federally funded efforts; and

15 “(B) the implementation of research and
16 technology development to advance the interests
17 of public transportation.

18 “(4) EVALUATION.—Not later than 2 years
19 after the date on which a project receives assistance
20 under paragraph (1), the Secretary shall conduct a
21 comprehensive evaluation of the success or failure of
22 the projects funded under this subsection and any
23 plan for broad-based implementation of the innova-
24 tion promoted by successful projects.

1 “(e) ANNUAL REPORT ON RESEARCH.—Not later
2 than the first Monday in February of each year, the Sec-
3 retary shall submit to the Committee on Banking, Hous-
4 ing, and Urban Affairs and the Committee on Appropria-
5 tions of the Senate and the Committee on Transportation
6 and Infrastructure and the Committee on Appropriations
7 of the House of Representatives a report that includes—

8 “(1) a description of each project that received
9 assistance under this section during the preceding
10 fiscal year;

11 “(2) an evaluation of each project described in
12 paragraph (1), including any evaluation conducted
13 under subsection (d)(4) for the preceding fiscal year;
14 and

15 “(3) a proposal for allocations of amounts for
16 assistance under this section for the subsequent fis-
17 cal year.

18 “(f) GOVERNMENT SHARE OF COSTS.—

19 “(1) IN GENERAL.—The Government share of
20 the cost of a project carried out under this section
21 shall not exceed 80 percent.

22 “(2) NON-GOVERNMENT SHARE.—The non-Gov-
23 ernment share of the cost of a project carried out
24 under this section may be derived from in-kind con-
25 tributions.

1 “(3) FINANCIAL BENEFIT.—If the Secretary
 2 determines that there would be a clear and direct fi-
 3 nancial benefit to an entity under a grant, contract,
 4 cooperative agreement, or other agreement under
 5 this section, the Secretary shall establish a Govern-
 6 ment share of the costs of the project to be carried
 7 out under the grant, contract, cooperative agree-
 8 ment, or other agreement that is consistent with the
 9 benefit.”.

10 **SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DE-**
 11 **VELOPMENT.**

12 Section 5314 of title 49, United States Code, is
 13 amended to read as follows:

14 **“§ 5314. Technical assistance and standards develop-**
 15 **ment**

16 “(a) TECHNICAL ASSISTANCE AND STANDARDS DE-
 17 VELOPMENT.—

18 “(1) IN GENERAL.—The Secretary may make
 19 grants and enter into contracts, cooperative agree-
 20 ments, and other agreements (including agreements
 21 with departments, agencies, and instrumentalities of
 22 the Government) to carry out activities that the Sec-
 23 retary determines will assist recipients of assistance
 24 under this chapter to—

1 “(A) more effectively and efficiently pro-
2 vide public transportation service;

3 “(B) administer funds received under this
4 chapter in compliance with Federal law; and

5 “(C) improve public transportation.

6 “(2) ELIGIBLE ACTIVITIES.—The activities car-
7 ried out under paragraph (1) may include—

8 “(A) technical assistance; and

9 “(B) the development of standards and
10 best practices by the public transportation in-
11 dustry.

12 “(b) TECHNICAL ASSISTANCE CENTERS.—

13 “(1) DEFINITION.—In this subsection, the term
14 ‘eligible entity’ means a nonprofit organization, an
15 institution of higher education, or a technical or
16 community college.

17 “(2) IN GENERAL.—The Secretary may make
18 grants to and enter into contracts, cooperative
19 agreements, and other agreements with eligible enti-
20 ties to administer centers to provide technical assist-
21 ance, including—

22 “(A) the development of tools and guid-
23 ance; and

24 “(B) the dissemination of best practices.

1 “(3) COMPETITIVE PROCESS.—The Secretary
2 may make grants and enter into contracts, coopera-
3 tive agreements, and other agreements under para-
4 graph (2) through a competitive process on a bien-
5 nial basis for technical assistance in each of the fol-
6 lowing categories:

7 “(A) Human services transportation co-
8 ordination, including—

9 “(i) transportation for seniors;

10 “(ii) transportation for individuals
11 with disabilities; and

12 “(iii) coordination of local resources
13 and programs to assist low-income individ-
14 uals and veterans in gaining access to
15 training and employment opportunities.

16 “(B) Transit-oriented development.

17 “(C) Transportation equity with regard to
18 the impact that transportation planning, invest-
19 ment, and operations have on low-income and
20 minority individuals.

21 “(D) Financing mechanisms, including—

22 “(i) public-private partnerships;

23 “(ii) bonding; and

24 “(iii) State and local capacity build-
25 ing.

1 “(E) Any other activity that the Secretary
2 determines is important to advance the inter-
3 ests of public transportation.

4 “(4) EXPERTISE OF TECHNICAL ASSISTANCE
5 CENTERS.—In selecting an eligible entity to admin-
6 ister a center under this subsection, the Secretary
7 shall consider—

8 “(A) the demonstrated subject matter ex-
9 pertise of the eligible entity; and

10 “(B) the capacity of the eligible entity to
11 deliver technical assistance on a regional or na-
12 tionwide basis.

13 “(5) PARTNERSHIPS.—An eligible entity may
14 partner with another eligible entity to provide tech-
15 nical assistance under this subsection.

16 “(c) GOVERNMENT SHARE OF COSTS.—

17 “(1) IN GENERAL.—The Government share of
18 the cost of an activity under this section may not ex-
19 ceed 80 percent.

20 “(2) NON-GOVERNMENT SHARE.—The non-Gov-
21 ernment share of the cost of an activity under this
22 section may be derived from in-kind contributions.”.

23 **SEC. 20015. BUS TESTING FACILITIES.**

24 Section 5318 of title 49, United States Code, is
25 amended to read as follows:

1 **“§ 5318. Bus testing facilities**

2 “(a) FACILITIES.—The Secretary shall certify not
3 more than 4 comprehensive facilities for testing new bus
4 models for maintainability, reliability, safety, performance
5 (including braking performance), structural integrity, fuel
6 economy, emissions, and noise.

7 “(b) COOPERATIVE AGREEMENT.—The Secretary
8 shall enter into a cooperative agreement with not more
9 than 4 qualified entities to test public transportation vehi-
10 cles under subsection (a).

11 “(c) FEES.—An entity that operates and maintains
12 a facility certified under subsection (a) shall establish and
13 collect reasonable fees for the testing of vehicles at the
14 facility. The Secretary must approve the fees.

15 “(d) AVAILABILITY OF AMOUNTS TO PAY FOR TEST-
16 ING.—

17 “(1) IN GENERAL.—The Secretary shall enter
18 into a cooperative agreement with an entity that op-
19 erates and maintains a facility certified under sub-
20 section (a), under which 80 percent of the fee for
21 testing a vehicle at the facility may be available from
22 amounts apportioned to a recipient under section
23 5336 or from amounts appropriated to carry out
24 this section.

25 “(2) PROHIBITION.—An entity that operates
26 and maintains a facility described in subsection (a)

1 shall not have a financial interest in the outcome of
 2 the testing carried out at the facility.

3 “(e) ACQUIRING NEW BUS MODELS.—Amounts ap-
 4 propriated or made available under this chapter may be
 5 obligated or expended to acquire a new bus model only
 6 if—

7 “(1) a bus of that model has been tested at a
 8 facility described in subsection (a); and

9 “(2) the bus tested under paragraph (1) met—

10 “(A) performance standards for maintain-
 11 ability, reliability, performance (including brak-
 12 ing performance), structural integrity, fuel
 13 economy, emissions, and noise, as established
 14 by the Secretary by rule; and

15 “(B) the minimum safety performance
 16 standards established by the Secretary pursuant
 17 to section 5329(b).”.

18 **SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DE-**
 19 **VELOPMENT AND HUMAN RESOURCE PRO-**
 20 **GRAMS.**

21 Section 5322 of title 49, United States Code, is
 22 amended to read as follows:

1 **“§ 5322. Public transportation workforce develop-**
2 **ment and human resource programs**

3 “(a) IN GENERAL.—The Secretary may undertake,
4 or make grants or enter into contracts for, activities that
5 address human resource needs as the needs apply to public
6 transportation activities, including activities that—

7 “(1) educate and train employees;

8 “(2) develop the public transportation work-
9 force through career outreach and preparation;

10 “(3) develop a curriculum for workforce devel-
11 opment;

12 “(4) conduct outreach programs to increase mi-
13 nority and female employment in public transpor-
14 tation;

15 “(5) conduct research on public transportation
16 personnel and training needs;

17 “(6) provide training and assistance for minor-
18 ity business opportunities;

19 “(7) advance training relating to maintenance
20 of alternative energy, energy efficiency, or zero emis-
21 sion vehicles and facilities used in public transpor-
22 tation; and

23 “(8) address a current or projected workforce
24 shortage in an area that requires technical expertise.

25 “(b) FUNDING.—

1 “(1) URBANIZED AREA FORMULA GRANTS.—A
2 recipient or subrecipient of funding under section
3 5307 shall expend not less than 0.5 percent of such
4 funding for activities consistent with subsection (a).

5 “(2) WAIVER.—The Secretary may waive the
6 requirement under paragraph (1) with respect to a
7 recipient or subrecipient if the Secretary determines
8 that the recipient or subrecipient—

9 “(A) has an adequate workforce develop-
10 ment program; or

11 “(B) has partnered with a local edu-
12 cational institution in a manner that suffi-
13 ciently promotes or addresses workforce devel-
14 opment and human resource needs.

15 “(c) INNOVATIVE PUBLIC TRANSPORTATION WORK-
16 FORCE DEVELOPMENT PROGRAM.—

17 “(1) PROGRAM ESTABLISHED.—The Secretary
18 shall establish a competitive grant program to assist
19 the development of innovative activities eligible for
20 assistance under subsection (a).

21 “(2) SELECTION OF RECIPIENTS.—To the max-
22 imum extent feasible, the Secretary shall select re-
23 cipients that—

24 “(A) are geographically diverse;

1 “(B) address the workforce and human re-
2 sources needs of large public transportation
3 providers;

4 “(C) address the workforce and human re-
5 sources needs of small public transportation
6 providers;

7 “(D) address the workforce and human re-
8 sources needs of urban public transportation
9 providers;

10 “(E) address the workforce and human re-
11 sources needs of rural public transportation
12 providers;

13 “(F) advance training related to mainte-
14 nance of alternative energy, energy efficiency,
15 or zero emission vehicles and facilities used in
16 public transportation;

17 “(G) target areas with high rates of unem-
18 ployment; and

19 “(H) address current or projected work-
20 force shortages in areas that require technical
21 expertise.

22 “(d) GOVERNMENT’S SHARE OF COSTS.—The Gov-
23 ernment share of the cost of a project carried out using
24 a grant under this section shall be 50 percent.

1 “(e) REPORT.—Not later than 2 years after the date
2 of enactment of the Federal Public Transportation Act of
3 2012, the Secretary shall submit to the Committee on
4 Banking, Housing, and Urban Affairs of the Senate and
5 the Committee on Transportation and Infrastructure of
6 the House of Representatives a report concerning the
7 measurable outcomes and impacts of the programs funded
8 under this section.”.

9 **SEC. 20017. GENERAL PROVISIONS.**

10 Section 5323 of title 49, United States Code, is
11 amended to read as follows:

12 **“§ 5323. General provisions**

13 “(a) INTERESTS IN PROPERTY.—

14 “(1) IN GENERAL.—Financial assistance pro-
15 vided under this chapter to a State or a local gov-
16 ernmental authority may be used to acquire an in-
17 terest in, or to buy property of, a private company
18 engaged in public transportation, for a capital
19 project for property acquired from a private com-
20 pany engaged in public transportation after July 9,
21 1964, or to operate a public transportation facility
22 or equipment in competition with, or in addition to,
23 transportation service provided by an existing public
24 transportation company, only if—

1 “(A) the Secretary determines that such fi-
2 nancial assistance is essential to a program of
3 projects required under sections 5303 and
4 5304;

5 “(B) the Secretary determines that the
6 program provides for the participation of pri-
7 vate companies engaged in public transpor-
8 tation to the maximum extent feasible; and

9 “(C) just compensation under State or
10 local law will be paid to the company for its
11 franchise or property.

12 “(2) LIMITATION.—A governmental authority
13 may not use financial assistance of the United
14 States Government to acquire land, equipment, or a
15 facility used in public transportation from another
16 governmental authority in the same geographic area.

17 “(b) RELOCATION AND REAL PROPERTY REQUIRE-
18 MENTS.—The Uniform Relocation Assistance and Real
19 Property Acquisition Policies Act of 1970 (42 U.S.C. 4601
20 et seq.) shall apply to financial assistance for capital
21 projects under this chapter.

22 “(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND
23 ENVIRONMENTAL INTERESTS.—

24 “(1) COOPERATION AND CONSULTATION.—In
25 carrying out the goal described in section

1 5301(c)(2), the Secretary shall cooperate and con-
2 sult with the Secretary of the Interior and the Ad-
3 ministrator of the Environmental Protection Agency
4 on each project that may have a substantial impact
5 on the environment.

6 “(2) COMPLIANCE WITH NEPA.—The National
7 Environmental Policy Act of 1969 (42 U.S.C. 4321
8 et seq.) shall apply to financial assistance for capital
9 projects under this chapter.

10 “(d) CORRIDOR PRESERVATION.—

11 “(1) IN GENERAL.—The Secretary may assist a
12 recipient in acquiring right-of-way before the com-
13 pletion of the environmental reviews for any project
14 that may use the right-of-way if the acquisition is
15 otherwise permitted under Federal law. The Sec-
16 retary may establish restrictions on such an acquisi-
17 tion as the Secretary determines to be necessary and
18 appropriate.

19 “(2) ENVIRONMENTAL REVIEWS.—Right-of-way
20 acquired under this subsection may not be developed
21 in anticipation of the project until all required envi-
22 ronmental reviews for the project have been com-
23 pleted.

24 “(e) CONDITION ON CHARTER BUS TRANSPOR-
25 TATION SERVICE.—

1 “(1) AGREEMENTS.—Financial assistance
2 under this chapter may be used to buy or operate
3 a bus only if the applicant, governmental authority,
4 or publicly owned operator that receives the assist-
5 ance agrees that, except as provided in the agree-
6 ment, the governmental authority or an operator of
7 public transportation for the governmental authority
8 will not provide charter bus transportation service
9 outside the urban area in which it provides regularly
10 scheduled public transportation service. An agree-
11 ment shall provide for a fair arrangement the Sec-
12 retary of Transportation considers appropriate to
13 ensure that the assistance will not enable a govern-
14 mental authority or an operator for a governmental
15 authority to foreclose a private operator from pro-
16 viding intercity charter bus service if the private op-
17 erator can provide the service.

18 “(2) VIOLATIONS.—

19 “(A) INVESTIGATIONS.—On receiving a
20 complaint about a violation of the agreement
21 required under paragraph (1), the Secretary
22 shall investigate and decide whether a violation
23 has occurred.

24 “(B) ENFORCEMENT OF AGREEMENTS.—If
25 the Secretary decides that a violation has oc-

1 curred, the Secretary shall correct the violation
2 under terms of the agreement.

3 “(C) ADDITIONAL REMEDIES.—In addition
4 to any remedy specified in the agreement, the
5 Secretary shall bar a recipient or an operator
6 from receiving Federal transit assistance in an
7 amount the Secretary considers appropriate if
8 the Secretary finds a pattern of violations of
9 the agreement.

10 “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL
11 SHARE.—

12 “(1) USE AS LOCAL MATCHING FUNDS.—Not-
13 withstanding any other provision of law, a recipient
14 of assistance under section 5307, 5309, or 5337
15 may use the proceeds from the issuance of revenue
16 bonds as part of the local matching funds for a cap-
17 ital project.

18 “(2) MAINTENANCE OF EFFORT.—The Sec-
19 retary shall approve of the use of the proceeds from
20 the issuance of revenue bonds for the remainder of
21 the net project cost only if the Secretary finds that
22 the aggregate amount of financial support for public
23 transportation in the urbanized area provided by the
24 State and affected local governmental authorities
25 during the next 3 fiscal years, as programmed in the

1 State transportation improvement program under
2 section 5304, is not less than the aggregate amount
3 provided by the State and affected local govern-
4 mental authorities in the urbanized area during the
5 preceding 3 fiscal years.

6 “(3) DEBT SERVICE RESERVE.—The Secretary
7 may reimburse an eligible recipient for deposits of
8 bond proceeds in a debt service reserve that the re-
9 cipient establishes pursuant to section 5302(3)(J)
10 from amounts made available to the recipient under
11 section 5309.

12 “(g) SCHOOLBUS TRANSPORTATION.—

13 “(1) AGREEMENTS.—Financial assistance
14 under this chapter may be used for a capital project,
15 or to operate public transportation equipment or a
16 public transportation facility, only if the applicant
17 agrees not to provide schoolbus transportation that
18 exclusively transports students and school personnel
19 in competition with a private schoolbus operator.
20 This subsection does not apply—

21 “(A) to an applicant that operates a school
22 system in the area to be served and a separate
23 and exclusive schoolbus program for the school
24 system; and

1 “(B) unless a private schoolbus operator
2 can provide adequate transportation that com-
3 plies with applicable safety standards at reason-
4 able rates.

5 “(2) VIOLATIONS.—If the Secretary finds that
6 an applicant, governmental authority, or publicly
7 owned operator has violated the agreement required
8 under paragraph (1), the Secretary shall bar a re-
9 cipient or an operator from receiving Federal transit
10 assistance in an amount the Secretary considers ap-
11 propriate.

12 “(h) BUYING BUSES UNDER OTHER LAWS.—Sub-
13 sections (e) and (g) of this section apply to financial as-
14 sistance to buy a bus under sections 133 and 142 of title
15 23.

16 “(i) GRANT AND LOAN PROHIBITIONS.—A grant or
17 loan may not be used to—

18 “(1) pay ordinary governmental or nonproject
19 operating expenses; or

20 “(2) support a procurement that uses an exclu-
21 sionary or discriminatory specification.

22 “(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN
23 PROJECTS.—A grant for a project to be assisted under
24 this chapter that involves acquiring vehicle-related equip-
25 ment or facilities required by the Americans with Disabil-

ities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(k) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

1 “(C) when procuring rolling stock (includ-
2 ing train control, communication, and traction
3 power equipment) under this chapter—

4 “(i) the cost of components and sub-
5 components produced in the United States
6 is more than 60 percent of the cost of all
7 components of the rolling stock; and

8 “(ii) final assembly of the rolling
9 stock has occurred in the United States; or

10 “(D) including domestic material will in-
11 crease the cost of the overall project by more
12 than 25 percent.

13 “(3) WRITTEN WAIVER DETERMINATION AND
14 ANNUAL REPORT.—

15 “(A) WRITTEN DETERMINATION.—Before
16 issuing a waiver under paragraph (2), the Sec-
17 retary shall—

18 “(i) publish in the Federal Register
19 and make publicly available in an easily
20 identifiable location on the website of the
21 Department of Transportation a detailed
22 written explanation of the waiver deter-
23 mination; and

1 “(ii) provide the public with a reason-
2 able period of time for notice and com-
3 ment.

4 “(B) ANNUAL REPORT.—Not later than 1
5 year after the date of enactment of the Federal
6 Public Transportation Act of 2012, and annu-
7 ally thereafter, the Secretary shall submit to
8 the Committee on Banking, Housing, and
9 Urban Affairs of the Senate and the Committee
10 on Transportation and Infrastructure of the
11 House of Representatives a report listing any
12 waiver issued under paragraph (2) during the
13 preceding year.

14 “(4) LABOR COSTS FOR FINAL ASSEMBLY.—In
15 this subsection, labor costs involved in final assembly
16 are not included in calculating the cost of compo-
17 nents.

18 “(5) WAIVER PROHIBITED.—The Secretary may
19 not make a waiver under paragraph (2) of this sub-
20 section for goods produced in a foreign country if
21 the Secretary, in consultation with the United States
22 Trade Representative, decides that the government
23 of that foreign country—

24 “(A) has an agreement with the United
25 States Government under which the Secretary

1 has waived the requirement of this subsection;
2 and

3 “(B) has violated the agreement by dis-
4 criminating against goods to which this sub-
5 section applies that are produced in the United
6 States and to which the agreement applies.

7 “(6) PENALTY FOR MISLABELING AND MIS-
8 REPRESENTATION.—A person is ineligible under
9 subpart 9.4 of the Federal Acquisition Regulation,
10 or any successor thereto, to receive a contract or
11 subcontract made with amounts authorized under
12 the Federal Public Transportation Act of 2012 if a
13 court or department, agency, or instrumentality of
14 the Government decides the person intentionally—

15 “(A) affixed a ‘Made in America’ label, or
16 a label with an inscription having the same
17 meaning, to goods sold in or shipped to the
18 United States that are used in a project to
19 which this subsection applies but not produced
20 in the United States; or

21 “(B) represented that goods described in
22 subparagraph (A) of this paragraph were pro-
23 duced in the United States.

24 “(7) STATE REQUIREMENTS.—The Secretary
25 may not impose any limitation on assistance pro-

1 vided under this chapter that restricts a State from
2 imposing more stringent requirements than this sub-
3 section on the use of articles, materials, and supplies
4 mined, produced, or manufactured in foreign coun-
5 tries in projects carried out with that assistance or
6 restricts a recipient of that assistance from com-
7 plying with those State-imposed requirements.

8 “(8) OPPORTUNITY TO CORRECT INADVERTENT
9 ERROR.—The Secretary may allow a manufacturer
10 or supplier of steel, iron, or manufactured goods to
11 correct after bid opening any certification of non-
12 compliance or failure to properly complete the cer-
13 tification (but not including failure to sign the cer-
14 tification) under this subsection if such manufac-
15 turer or supplier attests under penalty of perjury
16 that such manufacturer or supplier submitted an in-
17 correct certification as a result of an inadvertent or
18 clerical error. The burden of establishing inadvertent
19 or clerical error is on the manufacturer or supplier.

20 “(9) ADMINISTRATIVE REVIEW.—A party ad-
21 versely affected by an agency action under this sub-
22 section shall have the right to seek review under sec-
23 tion 702 of title 5.

24 “(10) APPLICATION TO TRANSIT PROGRAMS.—
25 The requirements under this subsection shall apply

1 to all contracts eligible for assistance under this
2 chapter for a project carried out within the scope of
3 the applicable finding, determination, or decision
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.), regardless of the
6 funding source of such contracts, if at least 1 con-
7 tract for the project is funded with amounts made
8 available to carry out this chapter.

9 “(l) PARTICIPATION OF GOVERNMENTAL AGENCIES
10 IN DESIGN AND DELIVERY OF TRANSPORTATION SERV-
11 ICES.—Governmental agencies and nonprofit organiza-
12 tions that receive assistance from Government sources
13 (other than the Department of Transportation) for non-
14 emergency transportation services shall—

15 “(1) participate and coordinate with recipients
16 of assistance under this chapter in the design and
17 delivery of transportation services; and

18 “(2) be included in the planning for those serv-
19 ices.

20 “(m) RELATIONSHIP TO OTHER LAWS.—

21 “(1) FRAUD AND FALSE STATEMENTS.—Sec-
22 tion 1001 of title 18 applies to a certificate, submis-
23 sion, or statement provided under this chapter. The
24 Secretary may terminate financial assistance under
25 this chapter and seek reimbursement directly, or by

1 offsetting amounts, available under this chapter if
2 the Secretary determines that a recipient of such fi-
3 nancial assistance has made a false or fraudulent
4 statement or related act in connection with a Fed-
5 eral public transportation program.

6 “(2) POLITICAL ACTIVITIES OF NON-
7 SUPERVISORY EMPLOYEES.—The provision of assist-
8 ance under this chapter shall not be construed to re-
9 quire the application of chapter 15 of title 5 to any
10 nonsupervisory employee of a public transportation
11 system (or any other agency or entity performing re-
12 lated functions) to whom such chapter does not oth-
13 erwise apply.

14 “(n) PREAWARD AND POSTDELIVERY REVIEW OF
15 ROLLING STOCK PURCHASES.—The Secretary shall pre-
16 scribe regulations requiring a preaward and postdelivery
17 review of a grant under this chapter to buy rolling stock
18 to ensure compliance with Government motor vehicle safe-
19 ty requirements, subsection (k) of this section, and bid
20 specifications requirements of grant recipients under this
21 chapter. Under this subsection, independent inspections
22 and review are required, and a manufacturer certification
23 is not sufficient. Rolling stock procurements of 20 vehicles
24 or fewer made for the purpose of serving other than ur-
25 banized areas and urbanized areas with populations of

1 200,000 or fewer shall be subject to the same require-
2 ments as established for procurements of 10 or fewer
3 buses under the post-delivery purchaser's requirements
4 certification process under section 663.37(e) of title 49,
5 Code of Federal Regulations.

6 “(o) SUBMISSION OF CERTIFICATIONS.—A certifi-
7 cation required under this chapter and any additional cer-
8 tification or assurance required by law or regulation to
9 be submitted to the Secretary may be consolidated into
10 a single document to be submitted annually as part of a
11 grant application under this chapter. The Secretary shall
12 publish annually a list of all certifications required under
13 this chapter with the publication required under section
14 5336(d)(2).

15 “(p) GRANT REQUIREMENTS.—The grant require-
16 ments under sections 5307, 5309, and 5337 apply to any
17 project under this chapter that receives any assistance or
18 other financing under chapter 6 (other than section 609)
19 of title 23.

20 “(q) ALTERNATIVE FUELING FACILITIES.—A recipi-
21 ent of assistance under this chapter may allow the inci-
22 dental use of federally funded alternative fueling facilities
23 and equipment by nontransit public entities and private
24 entities if—

1 “(1) the incidental use does not interfere with
2 the recipient’s public transportation operations;

3 “(2) all costs related to the incidental use are
4 fully recaptured by the recipient from the nontransit
5 public entity or private entity;

6 “(3) the recipient uses revenues received from
7 the incidental use in excess of costs for planning,
8 capital, and operating expenses that are incurred in
9 providing public transportation; and

10 “(4) private entities pay all applicable excise
11 taxes on fuel.

12 “(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

13 “(1) STUDY.—Not later than 6 months after
14 the date of enactment of the Federal Public Trans-
15 portation Act of 2012, the Secretary shall conduct a
16 study to determine the feasibility of providing a cat-
17 egorical exclusion for streetcar, bus rapid transit,
18 and light rail projects located within an existing
19 transportation right-of-way from the requirements of
20 the National Environmental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.) in accordance with the Council
22 on Environmental Quality implementing regulations
23 under parts 1500 through 1508 of title 40, Code of
24 Federal Regulations, or any successor thereto.

1 “(2) FINDINGS AND RULES.—Not later than 1
2 year after the date of enactment of the Federal Pub-
3 lic Transportation Act of 2012, the Secretary shall
4 issue findings and, if appropriate, issue rules to pro-
5 vide categorical exclusions for suitable categories of
6 projects.”.

7 **SEC. 20018. CONTRACT REQUIREMENTS.**

8 Section 5325 of title 49, United States Code, is
9 amended—

10 (1) in subsection (e), by striking paragraph (1)
11 and inserting the following:

12 “(1) CONTRACTS.—A recipient procuring roll-
13 ing stock with Government financial assistance
14 under this chapter may make a multiyear contract
15 to buy the rolling stock and replacement parts under
16 which the recipient has an option to buy additional
17 rolling stock or replacement parts for—

18 “(A) not more than 5 years after the date
19 of the original contract for bus procurements;
20 and

21 “(B) not more than 7 years after the date
22 of the original contract for rail procurements,
23 provided that such option does not allow for
24 significant changes or alterations to the rolling
25 stock.”.

1 (2) in subsection (h), by striking “Federal Pub-
2 lic Transportation Act of 2005” and inserting “Fed-
3 eral Public Transportation Act of 2012”;

4 (3) in subsection (j)(2)(C), by striking “, in-
5 cluding the performance reported in the Contractor
6 Performance Assessment Reports required under
7 section 5309(l)(2)”;

8 (4) by adding at the end the following:

9 “(k) VETERANS EMPLOYMENT.—Recipients and sub-
10 recipients of Federal financial assistance under this chap-
11 ter shall ensure that contractors working on a capital
12 project funded using such assistance give a hiring pref-
13 erence to veterans, as defined in section 2108 of title 5,
14 who have the requisite skills and abilities to perform the
15 construction work required under the contract.”.

16 **SEC. 20019. TRANSIT ASSET MANAGEMENT.**

17 Section 5326 of title 49, United States Code, is
18 amended to read as follows:

19 **“§ 5326. Transit asset management**

20 “(a) DEFINITIONS.—In this section the following
21 definitions shall apply:

22 “(1) CAPITAL ASSET.—The term ‘capital asset’
23 includes equipment, rolling stock, infrastructure, and
24 facilities for use in public transportation and owned

1 or leased by a recipient or subrecipient of Federal fi-
2 nancial assistance under this chapter.

3 “(2) TRANSIT ASSET MANAGEMENT PLAN.—

4 The term ‘transit asset management plan’ means a
5 plan developed by a recipient of funding under this
6 chapter that—

7 “(A) includes, at a minimum, capital asset
8 inventories and condition assessments, decision
9 support tools, and investment prioritization;
10 and

11 “(B) the recipient certifies complies with
12 the rule issued under this section.

13 “(3) TRANSIT ASSET MANAGEMENT SYSTEM.—

14 The term ‘transit asset management system’ means
15 a strategic and systematic process of operating,
16 maintaining, and improving public transportation
17 capital assets effectively throughout the life cycle of
18 such assets.

19 “(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The
20 Secretary shall establish and implement a national transit
21 asset management system, which shall include—

22 “(1) a definition of the term ‘state of good re-
23 pair’ that includes objective standards for measuring
24 the condition of capital assets of recipients, includ-

1 ing equipment, rolling stock, infrastructure, and fa-
2 cilities;

3 “(2) a requirement that recipients and sub-
4 recipients of Federal financial assistance under this
5 chapter develop a transit asset management plan;

6 “(3) a requirement that each recipient of Fed-
7 eral financial assistance under this chapter report on
8 the condition of the system of the recipient and pro-
9 vide a description of any change in condition since
10 the last report;

11 “(4) an analytical process or decision support
12 tool for use by public transportation systems that—

13 “(A) allows for the estimation of capital
14 investment needs of such systems over time;
15 and

16 “(B) assists with asset investment
17 prioritization by such systems; and

18 “(5) technical assistance to recipients of Fed-
19 eral financial assistance under this chapter.

20 “(c) PERFORMANCE MEASURES AND TARGETS.—

21 “(1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of the Federal Public Trans-
23 portation Act of 2012, the Secretary shall issue a
24 final rule to establish performance measures based

1 on the state of good repair standards established
2 under subsection (b)(1).

3 “(2) TARGETS.—Not later than 3 months after
4 the date on which the Secretary issues a final rule
5 under paragraph (1), and each fiscal year thereafter,
6 each recipient of Federal financial assistance under
7 this chapter shall establish performance targets in
8 relation to the performance measures established by
9 the Secretary.

10 “(3) REPORTS.—Each recipient of Federal fi-
11 nancial assistance under this chapter shall submit to
12 the Secretary an annual report that describes—

13 “(A) the progress of the recipient during
14 the fiscal year to which the report relates to-
15 ward meeting the performance targets estab-
16 lished under paragraph (2) for that fiscal year;
17 and

18 “(B) the performance targets established
19 by the recipient for the subsequent fiscal year.

20 “(d) RULEMAKING.—Not later than 1 year after the
21 date of enactment of the Federal Public Transportation
22 Act of 2012, the Secretary shall issue a final rule to imple-
23 ment the transit asset management system described in
24 subsection (b).”.

1 **SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.**

2 Section 5327 of title 49, United States Code, is
3 amended—

4 (1) in subsection (a)—

5 (A) in the matter preceding paragraph (1),
6 by striking “United States” and all that follows
7 through “Secretary of Transportation” and in-
8 serting the following: “Federal financial assist-
9 ance for a major capital project for public
10 transportation under this chapter or any other
11 provision of Federal law, a recipient must pre-
12 pare a project management plan approved by
13 the Secretary and carry out the project in ac-
14 cordance with the project management plan”;
15 and

16 (B) in paragraph (12), by striking “each
17 month” and inserting “quarterly”;

18 (2) by striking subsections (c), (d), and (f);

19 (3) by inserting after subsection (b) the fol-
20 lowing:

21 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
22 ent of Federal financial assistance for public transpor-
23 tation under this chapter or any other provision of Federal
24 law shall provide the Secretary and a contractor the Sec-
25 retary chooses under section 5338(g) with access to the

1 construction sites and records of the recipient when rea-
 2 sonably necessary.”;

3 (4) by redesignating subsection (e) as sub-
 4 section (d); and

5 (5) in subsection (d), as so redesignated—

6 (A) in paragraph (1), by striking “sub-
 7 section (c) of this section” and inserting “sec-
 8 tion 5338(g)”;

9 (B) in paragraph (2)—

10 (i) by striking “preliminary engineer-
 11 ing stage” and inserting “project develop-
 12 ment phase”;

13 (ii) by striking “another stage” and
 14 inserting “another phase”.

15 **SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

16 (a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—
 17 Section 5329 of title 49, United States Code, is amended
 18 to read as follows:

19 **“§ 5329. Public transportation safety program**

20 “(a) DEFINITION.—In this section, the term ‘recipi-
 21 ent’ means a State or local governmental authority, or any
 22 other operator of a public transportation system, that re-
 23 ceives financial assistance under this chapter.

24 “(b) NATIONAL PUBLIC TRANSPORTATION SAFETY
 25 PLAN.—

1 “(1) IN GENERAL.—The Secretary shall create
2 and implement a national public transportation safe-
3 ty plan to improve the safety of all public transpor-
4 tation systems that receive funding under this chap-
5 ter.

6 “(2) CONTENTS OF PLAN.—The national public
7 transportation safety plan under paragraph (1) shall
8 include—

9 “(A) safety performance criteria for all
10 modes of public transportation;

11 “(B) the definition of the term ‘state of
12 good repair’ established under section 5326(b);

13 “(C) minimum safety performance stand-
14 ards for public transportation vehicles used in
15 revenue operations that—

16 “(i) do not apply to rolling stock oth-
17 erwise regulated by the Secretary or any
18 other Federal agency; and

19 “(ii) to the extent practicable, take
20 into consideration—

21 “(I) relevant recommendations of
22 the National Transportation Safety
23 Board; and

24 “(II) recommendations of, and
25 best practices standards developed by,

1 the public transportation industry;
2 and

3 “(D) a public transportation safety certifi-
4 cation training program, as described in sub-
5 section (c).

6 “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-
7 CATION TRAINING PROGRAM.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a public transportation safety certification train-
10 ing program for Federal and State employees, or
11 other designated personnel, who conduct safety au-
12 dits and examinations of public transportation sys-
13 tems and employees of public transportation agen-
14 cies directly responsible for safety oversight.

15 “(2) INTERIM PROVISIONS.—Not later than 90
16 days after the date of enactment of the Federal
17 Public Transportation Act of 2012, the Secretary
18 shall establish interim provisions for the certification
19 and training of the personnel described in paragraph
20 (1), which shall be in effect until the effective date
21 of the final rule issued by the Secretary to imple-
22 ment this subsection.

23 “(d) PUBLIC TRANSPORTATION AGENCY SAFETY
24 PLAN.—

1 “(1) IN GENERAL.—Effective 1 year after the
2 effective date of a final rule issued by the Secretary
3 to carry out this subsection, each recipient shall cer-
4 tify that the recipient has established a comprehen-
5 sive agency safety plan that includes, at a min-
6 imum—

7 “(A) a requirement that the board of di-
8 rectors (or equivalent entity) of the recipient
9 approve the agency safety plan and any updates
10 to the agency safety plan;

11 “(B) methods for identifying and evalu-
12 ating safety risks throughout all elements of the
13 public transportation system of the recipient;

14 “(C) strategies to minimize the exposure of
15 the public, personnel, and property to hazards
16 and unsafe conditions;

17 “(D) a process and timeline for conducting
18 an annual review and update of the safety plan
19 of the recipient;

20 “(E) performance targets based on the
21 safety performance criteria and state of good
22 repair standards established under subpara-
23 graphs (A) and (B), respectively, of subsection
24 (b)(2);

1 “(F) assignment of an adequately trained
2 safety officer who reports directly to the general
3 manager, president, or equivalent officer of the
4 recipient; and

5 “(G) a comprehensive staff training pro-
6 gram for the operations personnel and per-
7 sonnel directly responsible for safety of the re-
8 cipient that includes—

9 “(i) the completion of a safety train-
10 ing program; and

11 “(ii) continuing safety education and
12 training.

13 “(2) INTERIM AGENCY SAFETY PLAN.—A sys-
14 tem safety plan developed pursuant to part 659 of
15 title 49, Code of Federal Regulations, as in effect on
16 the date of enactment of the Federal Public Trans-
17 portation Act of 2012, shall remain in effect until
18 such time as this subsection takes effect.

19 “(e) STATE SAFETY OVERSIGHT PROGRAM.—

20 “(1) APPLICABILITY.—This subsection applies
21 only to eligible States.

22 “(2) DEFINITION.—In this subsection, the term
23 ‘eligible State’ means a State that has—

24 “(A) a rail fixed guideway public transpor-
25 tation system within the jurisdiction of the

1 State that is not subject to regulation by the
2 Federal Railroad Administration; or

3 “(B) a rail fixed guideway public transpor-
4 tation system in the engineering or construction
5 phase of development within the jurisdiction of
6 the State that will not be subject to regulation
7 by the Federal Railroad Administration.

8 “(3) IN GENERAL.—In order to obligate funds
9 apportioned under section 5338 to carry out this
10 chapter, effective 3 years after the date on which a
11 final rule under this subsection becomes effective, an
12 eligible State shall have in effect a State safety over-
13 sight program approved by the Secretary under
14 which the State—

15 “(A) assumes responsibility for overseeing
16 rail fixed guideway public transportation safety;

17 “(B) adopts and enforces Federal law on
18 rail fixed guideway public transportation safety;

19 “(C) establishes a State safety oversight
20 agency;

21 “(D) determines, in consultation with the
22 Secretary, an appropriate staffing level for the
23 State safety oversight agency that is commensu-
24 rate with the number, size, and complexity of

1 the rail fixed guideway public transportation
2 systems in the eligible State;

3 “(E) requires that employees and other
4 designated personnel of the eligible State safety
5 oversight agency who are responsible for rail
6 fixed guideway public transportation safety
7 oversight are qualified to perform such func-
8 tions through appropriate training, including
9 successful completion of the public transpor-
10 tation safety certification training program es-
11 tablished under subsection (c); and

12 “(F) prohibits any public transportation
13 agency from providing funds to the State safety
14 oversight agency or an entity designated by the
15 eligible State as the State safety oversight
16 agency under paragraph (4).

17 “(4) STATE SAFETY OVERSIGHT AGENCY.—

18 “(A) IN GENERAL.—Each State safety
19 oversight program shall establish a State safety
20 oversight agency that—

21 “(i) is an independent legal entity re-
22 sponsible for the safety of rail fixed guide-
23 way public transportation systems;

24 “(ii) is financially and legally inde-
25 pendent from any public transportation en-

1 tity that the State safety oversight agency
2 oversees;

3 “(iii) does not fund, promote, or pro-
4 vide public transportation services;

5 “(iv) does not employ any individual
6 who is also responsible for the administra-
7 tion of public transportation programs;

8 “(v) has the authority to review, ap-
9 prove, oversee, and enforce the implemen-
10 tation by the rail fixed guideway public
11 transportation agency of the public trans-
12 portation agency safety plan required
13 under subsection (d);

14 “(vi) has investigative and enforce-
15 ment authority with respect to the safety
16 of rail fixed guideway public transportation
17 systems of the eligible State;

18 “(vii) audits, at least once triennially,
19 the compliance of the rail fixed guideway
20 public transportation systems in the eligi-
21 ble State subject to this subsection with
22 the public transportation agency safety
23 plan required under subsection (d); and

24 “(viii) provides, at least once annu-
25 ally, a status report on the safety of the

1 rail fixed guideway public transportation
2 systems the State safety oversight agency
3 oversees to—

4 “(I) the Federal Transit Admin-
5 istration;

6 “(II) the Governor of the eligible
7 State; and

8 “(III) the board of directors, or
9 equivalent entity, of any rail fixed
10 guideway public transportation system
11 that the State safety oversight agency
12 oversees.

13 “(B) WAIVER.—At the request of an eligi-
14 ble State, the Secretary may waive clauses (i)
15 and (iii) of subparagraph (A) for eligible States
16 with 1 or more rail fixed guideway systems in
17 revenue operations, design, or construction,
18 that—

19 “(i) have fewer than 1,000,000 com-
20 bined actual and projected rail fixed guide-
21 way revenue miles per year; or

22 “(ii) provide fewer than 10,000,000
23 combined actual and projected unlinked
24 passenger trips per year.

1 “(5) ENFORCEMENT.—Each State safety over-
2 sight agency shall have the authority to request that
3 the Secretary take enforcement actions available
4 under subsection (g) against a rail fixed guideway
5 public transportation system that is not in compli-
6 ance with Federal safety laws.

7 “(6) PROGRAMS FOR MULTI-STATE RAIL FIXED
8 GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An
9 eligible State that has within the jurisdiction of the
10 eligible State a rail fixed guideway public transpor-
11 tation system that operates in more than 1 eligible
12 State shall—

13 “(A) jointly with all other eligible States in
14 which the rail fixed guideway public transpor-
15 tation system operates, ensure uniform safety
16 standards and enforcement procedures that
17 shall be in compliance with this section, and es-
18 tablish and implement a State safety oversight
19 program approved by the Secretary; or

20 “(B) jointly with all other eligible States in
21 which the rail fixed guideway public transpor-
22 tation system operates, designate an entity hav-
23 ing characteristics consistent with the charac-
24 teristics described in paragraph (3) to carry out

1 the State safety oversight program approved by
2 the Secretary.

3 “(7) GRANTS.—

4 “(A) IN GENERAL.—The Secretary may
5 make a grant to an eligible State to develop or
6 carry out a State safety oversight program, if
7 the eligible State submits—

8 “(i) a proposal for the establishment
9 of a State safety oversight program to the
10 Secretary for review and written approval
11 before implementing a State safety over-
12 sight program; and

13 “(ii) any amendment to the State
14 safety oversight program of the eligible
15 State to the Secretary for review not later
16 than 60 days before the effective date of
17 the amendment.

18 “(B) DETERMINATION BY SECRETARY.—

19 “(i) IN GENERAL.—The Secretary
20 shall transmit written approval to an eligi-
21 ble State that submits a State safety over-
22 sight program, if the Secretary determines
23 the State safety oversight program meets
24 the requirements of this subsection and the

1 State safety oversight program is adequate
2 to promote the purposes of this section.

3 “(ii) AMENDMENT.—The Secretary
4 shall transmit to an eligible State that sub-
5 mits an amendment under subparagraph
6 (A)(ii) a written determination with re-
7 spect to the amendment.

8 “(iii) NO WRITTEN DECISION.—If an
9 eligible State does not receive a written de-
10 cision from the Secretary with respect to
11 an amendment submitted under subpara-
12 graph (A)(ii) before the end of the 60-day
13 period beginning on the date on which the
14 eligible State submits the amendment, the
15 amendment shall be deemed to be ap-
16 proved.

17 “(iv) DISAPPROVAL.—If the Secretary
18 determines that a State safety oversight
19 program does not meet the requirements of
20 this subsection, the Secretary shall trans-
21 mit to the eligible State a written expla-
22 nation and allow the eligible State to mod-
23 ify and resubmit the State safety oversight
24 program for approval.

25 “(C) GOVERNMENT SHARE.—

1 “(i) IN GENERAL.—The Government
2 share of the reasonable cost of a State
3 safety oversight program developed or car-
4 ried out using a grant under this para-
5 graph shall be 80 percent.

6 “(ii) IN-KIND CONTRIBUTIONS.—Any
7 calculation of the non-Government share of
8 a State safety oversight program shall in-
9 clude in-kind contributions by an eligible
10 State.

11 “(iii) NON-GOVERNMENT SHARE.—
12 The non-Government share of the cost of
13 a State safety oversight program developed
14 or carried out using a grant under this
15 paragraph may not be met by—

16 “(I) any Federal funds;

17 “(II) any funds received from a
18 public transportation agency; or

19 “(III) any revenues earned by a
20 public transportation agency.

21 “(iv) SAFETY TRAINING PROGRAM.—
22 The Secretary may reimburse an eligible
23 State or a recipient for the full costs of
24 participation in the public transportation
25 safety certification training program estab-

1 lished under subsection (c) by an employee
2 of a State safety oversight agency or a re-
3 cipient who is directly responsible for safe-
4 ty oversight.

5 “(8) CONTINUAL EVALUATION OF PROGRAM.—

6 The Secretary shall continually evaluate the imple-
7 mentation of a State safety oversight program by a
8 State safety oversight agency, on the basis of—

9 “(A) reports submitted by the State safety
10 oversight agency under paragraph (4)(A)(viii);
11 and

12 “(B) audits carried out by the Secretary.

13 “(9) INADEQUATE PROGRAM.—

14 “(A) IN GENERAL.—If the Secretary finds
15 that a State safety oversight program approved
16 by the Secretary is not being carried out in ac-
17 cordance with this section or has become inad-
18 equate to ensure the enforcement of Federal
19 safety regulations, the Secretary shall—

20 “(i) transmit to the eligible State a
21 written explanation of the reason the pro-
22 gram has become inadequate and inform
23 the State of the intention to withhold
24 funds, including the amount of funds pro-
25 posed to be withheld under this section, or

1 withdraw approval of the State safety over-
2 sight program; and

3 “(ii) allow the eligible State a reason-
4 able period of time to modify the State
5 safety oversight program or implementa-
6 tion of the program and submit an up-
7 dated proposal for the State safety over-
8 sight program to the Secretary for ap-
9 proval.

10 “(B) FAILURE TO CORRECT.—If the Sec-
11 retary determines that a modification by an eli-
12 gible State of the State safety oversight pro-
13 gram is not sufficient to ensure the enforcement
14 of Federal safety regulations, the Secretary
15 may—

16 “(i) withhold funds available under
17 this section in an amount determined by
18 the Secretary; or

19 “(ii) provide written notice of with-
20 drawal of State safety oversight program
21 approval.

22 “(C) TEMPORARY OVERSIGHT.—In the
23 event the Secretary takes action under subpara-
24 graph (B)(ii), the Secretary shall provide over-
25 sight of the rail fixed guideway systems in an

1 eligible State until the State submits a State
2 safety oversight program approved by the Sec-
3 retary.

4 “(D) RESTORATION.—

5 “(i) CORRECTION.—The eligible State
6 shall address any inadequacy to the satis-
7 faction of the Secretary prior to the Sec-
8 retary restoring funds withheld under this
9 paragraph.

10 “(ii) AVAILABILITY AND REALLOCA-
11 TION.—Any funds withheld under this
12 paragraph shall remain available for res-
13 toration to the eligible State until the end
14 of the first fiscal year after the fiscal year
15 in which the funds were withheld, after
16 which time the funds shall be available to
17 the Secretary for allocation to other eligi-
18 ble States under this section.

19 “(10) FEDERAL OVERSIGHT.—The Secretary
20 shall—

21 “(A) oversee the implementation of each
22 State safety oversight program under this sub-
23 section;

1 “(B) audit the operations of each State
2 safety oversight agency at least once triennially;
3 and

4 “(C) issue rules to carry out this sub-
5 section.

6 “(f) AUTHORITY OF SECRETARY.—In carrying out
7 this section, the Secretary may—

8 “(1) conduct inspections, investigations, audits,
9 examinations, and testing of the equipment, facili-
10 ties, rolling stock, and operations of the public
11 transportation system of a recipient;

12 “(2) make reports and issue directives with re-
13 spect to the safety of the public transportation sys-
14 tem of a recipient;

15 “(3) in conjunction with an accident investiga-
16 tion or an investigation into a pattern or practice of
17 conduct that negatively affects public safety, issue a
18 subpoena to, and take the deposition of, any em-
19 ployee of a recipient or a State safety oversight
20 agency, if—

21 “(A) before the issuance of the subpoena,
22 the Secretary requests a determination by the
23 Attorney General of the United States as to
24 whether the subpoena will interfere with an on-
25 going criminal investigation; and

1 “(B) the Attorney General—

2 “(i) determines that the subpoena will
3 not interfere with an ongoing criminal in-
4 vestigation; or

5 “(ii) fails to make a determination
6 under clause (i) before the date that is 30
7 days after the date on which the Secretary
8 makes a request under subparagraph (A);

9 “(4) require the production of documents by,
10 and prescribe recordkeeping and reporting require-
11 ments for, a recipient or a State safety oversight
12 agency;

13 “(5) investigate public transportation accidents
14 and incidents and provide guidance to recipients re-
15 garding prevention of accidents and incidents;

16 “(6) at reasonable times and in a reasonable
17 manner, enter and inspect equipment, facilities, roll-
18 ing stock, operations, and relevant records of the
19 public transportation system of a recipient; and

20 “(7) issue rules to carry out this section.

21 “(g) ENFORCEMENT ACTIONS.—

22 “(1) TYPES OF ENFORCEMENT ACTIONS.—The
23 Secretary may take enforcement action against a re-
24 cipient that does not comply with Federal law with

1 respect to the safety of the public transportation
2 system, including—

3 “(A) issuing directives;

4 “(B) requiring more frequent oversight of
5 the recipient by a State safety oversight agency
6 or the Secretary;

7 “(C) imposing more frequent reporting re-
8 quirements;

9 “(D) requiring that any Federal financial
10 assistance provided under this chapter be spent
11 on correcting safety deficiencies identified by
12 the Secretary or the State safety oversight
13 agency before such funds are spent on other
14 projects;

15 “(E) subject to paragraph (2), withholding
16 Federal financial assistance, in an amount to be
17 determined by the Secretary, from the recipient,
18 until such time as the recipient comes into com-
19 pliance with this section; and

20 “(F) subject to paragraph (3), imposing a
21 civil penalty, in an amount to be determined by
22 the Secretary.

23 “(2) USE OR WITHHOLDING OF FUNDS.—

24 “(A) IN GENERAL.—The Secretary may re-
25 quire the use of funds in accordance with para-

1 graph (1)(D), or withhold funds under para-
2 graph (1)(E), only if the Secretary finds that a
3 recipient is engaged in a pattern or practice of
4 serious safety violations or has otherwise re-
5 fused to comply with Federal law relating to the
6 safety of the public transportation system.

7 “(B) NOTICE.—Before withholding funds
8 from a recipient under paragraph (1)(E), the
9 Secretary shall provide to the recipient—

10 “(i) written notice of a violation and
11 the amount proposed to be withheld; and

12 “(ii) a reasonable period of time with-
13 in which the recipient may address the vio-
14 lation or propose and initiate an alter-
15 native means of compliance that the Sec-
16 retary determines is acceptable.

17 “(C) FAILURE TO ADDRESS.—If the recipi-
18 ent does not address the violation or propose an
19 alternative means of compliance that the Sec-
20 retary determines is acceptable within the pe-
21 riod of time specified in the written notice, the
22 Secretary may withhold funds under paragraph
23 (1)(E).

24 “(D) RESTORATION.—

1 “(i) CORRECTION.—The recipient
2 shall address any violation to the satisfac-
3 tion of the Secretary prior to the Secretary
4 restoring funds withheld under paragraph
5 (1)(E).

6 “(ii) AVAILABILITY AND REALLOCA-
7 TION.—Any funds withheld under para-
8 graph (1)(E) shall remain available for res-
9 toration to the recipient until the end of
10 the first fiscal year after the fiscal year in
11 which the funds were withheld, after which
12 time the funds shall be available to the
13 Secretary for allocation to other eligible re-
14 cipients.

15 “(E) NOTIFICATION.—Not later than 3
16 days before taking any action under subpara-
17 graph (C), the Secretary shall notify the Com-
18 mittee on Banking, Housing, and Urban Affairs
19 of the Senate and the Committee on Transpor-
20 tation and Infrastructure of the House of Rep-
21 resentatives of such action.

22 “(3) CIVIL PENALTIES.—

23 “(A) IMPOSITION OF CIVIL PENALTIES.—

1 “(i) IN GENERAL.—The Secretary
2 may impose a civil penalty under para-
3 graph (1)(F) only if—

4 “(I) the Secretary has exhausted
5 the enforcement actions available
6 under subparagraphs (A) through (E)
7 of paragraph (1); and

8 “(II) the recipient continues to
9 be in violation of Federal safety law.

10 “(ii) EXCEPTION.—The Secretary
11 may waive the requirement under clause
12 (i)(I) if the Secretary determines that such
13 a waiver is in the public interest.

14 “(B) NOTICE.—Before imposing a civil
15 penalty on a recipient under paragraph (1)(F),
16 the Secretary shall provide to the recipient—

17 “(i) written notice of any violation
18 and the penalty proposed to be imposed;
19 and

20 “(ii) a reasonable period of time with-
21 in which the recipient may address the vio-
22 lation or propose and initiate an alter-
23 native means of compliance that the Sec-
24 retary determines is acceptable.

1 “(C) FAILURE TO ADDRESS.—If the recipi-
2 ent does not address the violation or propose an
3 alternative means of compliance that the Sec-
4 retary determines is acceptable within the pe-
5 riod of time specified in the written notice, the
6 Secretary may impose a civil penalty under
7 paragraph (1)(F).

8 “(D) NOTIFICATION.—Not later than 3
9 days before taking any action under subpara-
10 graph (C), the Secretary shall notify the Com-
11 mittee on Banking, Housing, and Urban Affairs
12 of the Senate and the Committee on Transpor-
13 tation and Infrastructure of the House of Rep-
14 resentatives of such action.

15 “(E) DEPOSIT OF CIVIL PENALTIES.—Any
16 amounts collected by the Secretary under this
17 paragraph shall be deposited into the Mass
18 Transit Account of the Highway Trust Fund.

19 “(4) ENFORCEMENT BY THE ATTORNEY GEN-
20 ERAL.—At the request of the Secretary, the Attor-
21 ney General may bring a civil action—

22 “(A) for appropriate injunctive relief to en-
23 sure compliance with this section;

24 “(B) to collect a civil penalty imposed
25 under paragraph (1)(F); and

1 “(C) to enforce a subpoena, request for ad-
2 missions, request for production of documents
3 or other tangible things, or request for testi-
4 mony by deposition issued by the Secretary
5 under this section.

6 “(h) COST-BENEFIT ANALYSIS.—

7 “(1) ANALYSIS REQUIRED.—In carrying out
8 this section, the Secretary shall take into consider-
9 ation the costs and benefits of each action the Sec-
10 retary proposes to take under this section.

11 “(2) WAIVER.—The Secretary may waive the
12 requirement under this subsection if the Secretary
13 determines that such a waiver is in the public inter-
14 est.

15 “(i) CONSULTATION BY THE SECRETARY OF HOME-
16 LAND SECURITY.—The Secretary of Homeland Security
17 shall consult with the Secretary of Transportation before
18 the Secretary of Homeland Security issues a rule or order
19 that the Secretary of Transportation determines affects
20 the safety of public transportation design, construction, or
21 operations.

22 “(j) PREEMPTION OF STATE LAW.—

23 “(1) NATIONAL UNIFORMITY OF REGULA-
24 TION.—Laws, regulations, and orders related to pub-

1 lic transportation safety shall be nationally uniform
2 to the extent practicable.

3 “(2) IN GENERAL.—A State may adopt or con-
4 tinue in force a law, regulation, or order related to
5 the safety of public transportation until the Sec-
6 retary issues a rule or order covering the subject
7 matter of the State requirement.

8 “(3) MORE STRINGENT LAW.—A State may
9 adopt or continue in force a law, regulation, or order
10 related to the safety of public transportation that is
11 consistent with, in addition to, or more stringent
12 than a regulation or order of the Secretary if the
13 Secretary determines that the law, regulation, or
14 order—

15 “(A) has a safety benefit;

16 “(B) is not incompatible with a law, regu-
17 lation, or order, or the terms and conditions of
18 a financial assistance agreement of the United
19 States Government; and

20 “(C) does not unreasonably burden inter-
21 state commerce.

22 “(4) ACTIONS UNDER STATE LAW.—

23 “(A) RULE OF CONSTRUCTION.—Nothing
24 in this section shall be construed to preempt an
25 action under State law seeking damages for

1 personal injury, death, or property damage al-
2 leging that a party has failed to comply with—

3 “(i) a Federal standard of care estab-
4 lished by a regulation or order issued by
5 the Secretary under this section;

6 “(ii) its own program, rule, or stand-
7 ard that it created pursuant to a rule or
8 order issued by the Secretary; or

9 “(iii) a State law, regulation, or order
10 that is not incompatible with paragraph
11 (2).

12 “(B) EFFECTIVE DATE.—This paragraph
13 shall apply to any cause of action under State
14 law arising from an event or activity occurring
15 on or after the date of enactment of the Fed-
16 eral Public Transportation Act of 2012.

17 “(5) JURISDICTION.—Nothing in this section
18 shall be construed to create a cause of action under
19 Federal law on behalf of an injured party or confer
20 Federal question jurisdiction for a State law cause
21 of action.

22 “(k) ANNUAL REPORT.—The Secretary shall submit
23 to the Committee on Banking, Housing, and Urban Af-
24 fairs of the Senate and the Committee on Transportation

1 and Infrastructure of the House of Representatives an an-
2 nual report that—

3 “(1) analyzes public transportation safety
4 trends among the States and documents the most ef-
5 fective safety programs implemented using grants
6 under this section; and

7 “(2) describes the effect on public transpor-
8 tation safety of activities carried out using grants
9 under this section.”.

10 (b) BUS SAFETY STUDY.—

11 (1) DEFINITION.—In this subsection, the term
12 “highway route” means a route where 50 percent or
13 more of the route is on roads having a speed limit
14 of more than 45 miles per hour.

15 (2) STUDY.—Not later than 180 days after the
16 date of enactment of this Act, the Secretary of
17 Transportation shall submit to the Committee on
18 Banking, Housing, and Urban Affairs of the Senate
19 and the Committee on Transportation and Infra-
20 structure of the House of Representatives a report
21 that—

22 (A) examines the safety of public transpor-
23 tation buses that travel on highway routes;

24 (B) examines laws and regulations that
25 apply to commercial over-the-road buses; and

1 (C) makes recommendations as to whether
2 additional safety measures should be required
3 for public transportation buses that travel on
4 highway routes.

5 **SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES**
6 **TESTING.**

7 Section 5331(b)(2) of title 49, United States Code,
8 is amended—

9 (1) by redesignating subparagraphs (A) and
10 (B) as subparagraphs (B) and (C), respectively; and

11 (2) by inserting before subparagraph (B), as so
12 redesignated, the following:

13 “(A) shall establish and implement an enforce-
14 ment program that includes the imposition of pen-
15 alties for failure to comply with this section;”.

16 **SEC. 20023. NONDISCRIMINATION.**

17 (a) AMENDMENTS.—Section 5332 of title 49, United
18 States Code, is amended—

19 (1) in subsection (b)—

20 (A) by striking “creed” and inserting “reli-
21 gion”; and

22 (B) by inserting “disability,” after “sex,”;
23 and

24 (2) in subsection (d)(3), by striking “and” and
25 inserting “or”.

1 (b) EVALUATION AND REPORT.—

2 (1) EVALUATION.—The Comptroller General of
3 the United States shall evaluate the progress and ef-
4 fectiveness of the Federal Transit Administration in
5 assisting recipients of assistance under chapter 53 of
6 title 49, United States Code, to comply with section
7 5332(b) of title 49, including—

8 (A) by reviewing discrimination complaints,
9 reports, and other relevant information collected
10 or prepared by the Federal Transit Administra-
11 tion or recipients of assistance from the Federal
12 Transit Administration pursuant to any appli-
13 cable civil rights statute, regulation, or other re-
14 quirement; and

15 (B) by reviewing the process that the Fed-
16 eral Transit Administration uses to resolve dis-
17 crimination complaints filed by members of the
18 public.

19 (2) REPORT.—Not later than 1 year after the
20 date of enactment of this Act, the Comptroller Gen-
21 eral shall submit to the Committee on Banking,
22 Housing, and Urban Affairs of the Senate and the
23 Committee on Transportation and Infrastructure of
24 the House of Representatives a report concerning
25 the evaluation under paragraph (1) that includes—

1 (A) a description of the ability of the Fed-
2 eral Transit Administration to address discrimi-
3 nation and foster equal opportunities in feder-
4 ally funded public transportation projects, pro-
5 grams, and activities;

6 (B) recommendations for improvements if
7 the Comptroller General determines that im-
8 provements are necessary; and

9 (C) information upon which the evaluation
10 under paragraph (1) is based.

11 **SEC. 20024. LABOR STANDARDS.**

12 Section 5333(b) of title 49, United States Code, is
13 amended—

14 (1) in paragraph (1), by striking “sections
15 5307–5312, 5316, 5318, 5323(a)(1), 5323(b),
16 5323(d), 5328, 5337, and 5338(b)” each place that
17 term appears and inserting “sections 5307, 5308,
18 5309, 5311, and 5337”; and

19 (2) in paragraph (5), by inserting “of Labor”
20 after “Secretary”.

21 **SEC. 20025. ADMINISTRATIVE PROVISIONS.**

22 Section 5334 of title 49, United States Code, is
23 amended—

24 (1) in subsection (a)(1), by striking “under sec-
25 tions 5307 and 5309–5311 of this title” and insert-

1 ing “that receives Federal financial assistance under
2 this chapter”;

3 (2) in subsection (b)(1)—

4 (A) by inserting after “emergency,” the
5 following: “or for purposes of establishing and
6 enforcing a program to improve the safety of
7 public transportation systems in the United
8 States,”; and

9 (B) by striking “chapter, nor may the Sec-
10 retary” and inserting “chapter. The Secretary
11 may not”;

12 (3) in subsection (c)(4), by striking “section
13 (except subsection (i)) and sections 5318(e),
14 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and in-
15 serting “subsection”;

16 (4) in subsection (h)(3), by striking “another”
17 and inserting “any other”;

18 (5) in subsection (i)(1), by striking “title 23
19 shall” and inserting “title 23 may”;

20 (6) by striking subsection (j); and

21 (7) by redesignating subsections (k) and (l) as
22 subsections (j) and (k), respectively.

23 **SEC. 20026. NATIONAL TRANSIT DATABASE.**

24 Section 5335 of title 49, United States Code, is
25 amended by adding at the end the following:

1 “(c) DATA REQUIRED TO BE REPORTED.—The re-
 2 cipient of a grant under this chapter shall report to the
 3 Secretary, for inclusion in the National Transit Database,
 4 any information relating to—

5 “(1) the causes of a reportable incident, as de-
 6 fined by the Secretary; and

7 “(2) a transit asset inventory or condition as-
 8 sessment conducted by the recipient.”.

9 **SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR**
 10 **FORMULA GRANTS.**

11 Section 5336 of title 49, United States Code, is
 12 amended to read as follows:

13 **“§ 5336. Apportionment of appropriations for formula**
 14 **grants**

15 “(a) BASED ON URBANIZED AREA POPULATION.—
 16 Of the amount apportioned under subsection (h)(4) to
 17 carry out section 5307—

18 “(1) 9.32 percent shall be apportioned each fis-
 19 cal year only in urbanized areas with a population
 20 of less than 200,000 so that each of those areas is
 21 entitled to receive an amount equal to—

22 “(A) 50 percent of the total amount appor-
 23 tioned multiplied by a ratio equal to the popu-
 24 lation of the area divided by the total popu-
 25 lation of all urbanized areas with populations of

1 less than 200,000 as shown in the most recent
2 decennial census; and

3 “(B) 50 percent of the total amount appor-
4 tioned multiplied by a ratio for the area based
5 on population weighted by a factor, established
6 by the Secretary, of the number of inhabitants
7 in each square mile; and

8 “(2) 90.68 percent shall be apportioned each
9 fiscal year only in urbanized areas with populations
10 of at least 200,000 as provided in subsections (b)
11 and (c) of this section.

12 “(b) BASED ON FIXED GUIDEWAY VEHICLE REV-
13 ENUE MILES, DIRECTIONAL ROUTE MILES, AND PAS-
14 Senger MILES.—(1) In this subsection, ‘fixed guideway
15 vehicle revenue miles’ and ‘fixed guideway directional
16 route miles’ include passenger ferry operations directly or
17 under contract by the designated recipient.

18 “(2) Of the amount apportioned under subsection
19 (a)(2) of this section, 33.29 percent shall be apportioned
20 as follows:

21 “(A) 95.61 percent of the total amount appor-
22 tioned under this subsection shall be apportioned so
23 that each urbanized area with a population of at
24 least 200,000 is entitled to receive an amount equal
25 to—

1 “(i) 60 percent of the 95.61 percent appor-
2 tioned under this subparagraph multiplied by a
3 ratio equal to the number of fixed guideway ve-
4 hicle revenue miles attributable to the area, as
5 established by the Secretary, divided by the
6 total number of all fixed guideway vehicle rev-
7 enue miles attributable to all areas; and

8 “(ii) 40 percent of the 95.61 percent ap-
9 portioned under this subparagraph multiplied
10 by a ratio equal to the number of fixed guide-
11 way directional route miles attributable to the
12 area, established by the Secretary, divided by
13 the total number of all fixed guideway direc-
14 tional route miles attributable to all areas.

15 An urbanized area with a population of at least
16 750,000 in which commuter rail transportation is
17 provided shall receive at least .75 percent of the
18 total amount apportioned under this subparagraph.

19 “(B) 4.39 percent of the total amount appor-
20 tioned under this subsection shall be apportioned so
21 that each urbanized area with a population of at
22 least 200,000 is entitled to receive an amount equal
23 to—

24 “(i) the number of fixed guideway vehicle
25 passenger miles traveled multiplied by the num-

1 ber of fixed guideway vehicle passenger miles
2 traveled for each dollar of operating cost in an
3 area; divided by

4 “(ii) the total number of fixed guideway
5 vehicle passenger miles traveled multiplied by
6 the total number of fixed guideway vehicle pas-
7 senger miles traveled for each dollar of oper-
8 ating cost in all areas.

9 An urbanized area with a population of at least
10 750,000 in which commuter rail transportation is
11 provided shall receive at least .75 percent of the
12 total amount apportioned under this subparagraph.

13 “(C) Under subparagraph (A) of this para-
14 graph, fixed guideway vehicle revenue or directional
15 route miles, and passengers served on those miles, in
16 an urbanized area with a population of less than
17 200,000, where the miles and passengers served oth-
18 erwise would be attributable to an urbanized area
19 with a population of at least 1,000,000 in an adja-
20 cent State, are attributable to the governmental au-
21 thority in the State in which the urbanized area with
22 a population of less than 200,000 is located. The au-
23 thority is deemed an urbanized area with a popu-
24 lation of at least 200,000 if the authority makes a
25 contract for the service.

1 “(D) A recipient’s apportionment under sub-
2 paragraph (A)(i) of this paragraph may not be re-
3 duced if the recipient, after satisfying the Secretary
4 that energy or operating efficiencies would be
5 achieved, reduces vehicle revenue miles but provides
6 the same frequency of revenue service to the same
7 number of riders.

8 “(c) BASED ON BUS VEHICLE REVENUE MILES AND
9 PASSENGER MILES.—Of the amount apportioned under
10 subsection (a)(2) of this section, 66.71 percent shall be
11 apportioned as follows:

12 “(1) 90.8 percent of the total amount appor-
13 tioned under this subsection shall be apportioned as
14 follows:

15 “(A) 73.39 percent of the 90.8 percent ap-
16 portioned under this paragraph shall be appor-
17 tioned so that each urbanized area with a popu-
18 lation of at least 1,000,000 is entitled to receive
19 an amount equal to—

20 “(i) 50 percent of the 73.39 percent
21 apportioned under this subparagraph mul-
22 tiplied by a ratio equal to the total bus ve-
23 hicle revenue miles operated in or directly
24 serving the urbanized area divided by the

1 total bus vehicle revenue miles attributable
2 to all areas;

3 “(ii) 25 percent of the 73.39 percent
4 apportioned under this subparagraph mul-
5 tiplied by a ratio equal to the population of
6 the area divided by the total population of
7 all areas, as shown in the most recent de-
8 cennial census; and

9 “(iii) 25 percent of the 73.39 percent
10 apportioned under this subparagraph mul-
11 tiplied by a ratio for the area based on
12 population weighted by a factor, estab-
13 lished by the Secretary, of the number of
14 inhabitants in each square mile.

15 “(B) 26.61 percent of the 90.8 percent ap-
16 portioned under this paragraph shall be appor-
17 tioned so that each urbanized area with a popu-
18 lation of at least 200,000 but not more than
19 999,999 is entitled to receive an amount equal
20 to—

21 “(i) 50 percent of the 26.61 percent
22 apportioned under this subparagraph mul-
23 tiplied by a ratio equal to the total bus ve-
24 hicle revenue miles operated in or directly
25 serving the urbanized area divided by the

1 total bus vehicle revenue miles attributable
2 to all areas;

3 “(ii) 25 percent of the 26.61 percent
4 apportioned under this subparagraph mul-
5 tiplied by a ratio equal to the population of
6 the area divided by the total population of
7 all areas, as shown by the most recent de-
8 cennial census; and

9 “(iii) 25 percent of the 26.61 percent
10 apportioned under this subparagraph mul-
11 tiplied by a ratio for the area based on
12 population weighted by a factor, estab-
13 lished by the Secretary, of the number of
14 inhabitants in each square mile.

15 “(2) 9.2 percent of the total amount appor-
16 tioned under this subsection shall be apportioned so
17 that each urbanized area with a population of at
18 least 200,000 is entitled to receive an amount equal
19 to—

20 “(A) the number of bus passenger miles
21 traveled multiplied by the number of bus pas-
22 senger miles traveled for each dollar of oper-
23 ating cost in an area; divided by

24 “(B) the total number of bus passenger
25 miles traveled multiplied by the total number of

1 bus passenger miles traveled for each dollar of
2 operating cost in all areas.

3 “(d) DATE OF APPORTIONMENT.—The Secretary
4 shall—

5 “(1) apportion amounts appropriated under sec-
6 tion 5338(a)(2)(C) of this title to carry out section
7 5307 of this title not later than the 10th day after
8 the date the amounts are appropriated or October 1
9 of the fiscal year for which the amounts are appro-
10 priated, whichever is later; and

11 “(2) publish apportionments of the amounts, in-
12 cluding amounts attributable to each urbanized area
13 with a population of more than 50,000 and amounts
14 attributable to each State of a multistate urbanized
15 area, on the apportionment date.

16 “(e) AMOUNTS NOT APPORTIONED TO DESIGNATED
17 RECIPIENTS.—The Governor of a State may expend in an
18 urbanized area with a population of less than 200,000 an
19 amount apportioned under this section that is not appor-
20 tioned to a designated recipient, as defined in section
21 5302(4).

22 “(f) TRANSFERS OF APPORTIONMENTS.—(1) The
23 Governor of a State may transfer any part of the State’s
24 apportionment under subsection (a)(1) of this section to
25 supplement amounts apportioned to the State under sec-

1 tion 5311(c)(3). The Governor may make a transfer only
2 after consulting with responsible local officials and pub-
3 licly owned operators of public transportation in each area
4 for which the amount originally was apportioned under
5 this section.

6 “(2) The Governor of a State may transfer any part
7 of the State’s apportionment under section 5311(c)(3) to
8 supplement amounts apportioned to the State under sub-
9 section (a)(1) of this section.

10 “(3) The Governor of a State may use throughout
11 the State amounts of a State’s apportionment remaining
12 available for obligation at the beginning of the 90-day pe-
13 riod before the period of the availability of the amounts
14 expires.

15 “(4) A designated recipient for an urbanized area
16 with a population of at least 200,000 may transfer a part
17 of its apportionment under this section to the Governor
18 of a State. The Governor shall distribute the transferred
19 amounts to urbanized areas under this section.

20 “(5) Capital and operating assistance limitations ap-
21 plicable to the original apportionment apply to amounts
22 transferred under this subsection.

23 “(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An
24 amount apportioned under this section may be obligated
25 by the recipient for 5 years after the fiscal year in which

1 the amount is apportioned. Not later than 30 days after
 2 the end of the 5-year period, an amount that is not obli-
 3 gated at the end of that period shall be added to the
 4 amount that may be apportioned under this section in the
 5 next fiscal year.

6 “(h) APPORTIONMENTS.—Of the amounts made
 7 available for each fiscal year under section
 8 5338(a)(2)(C)—

9 “(1) \$35,000,000 shall be set aside to carry out
 10 section 5307(i);

11 “(2) 3.07 percent shall be apportioned to ur-
 12 banized areas in accordance with subsection (j);

13 “(3) of amounts not apportioned under para-
 14 graphs (1) and (2), 1 percent shall be apportioned
 15 to urbanized areas with populations of less than
 16 200,000 in accordance with subsection (i); and

17 “(4) any amount not apportioned under para-
 18 graphs (1), (2), and (3) shall be apportioned to ur-
 19 banized areas in accordance with subsections (a)
 20 through (c).

21 “(i) SMALL TRANSIT INTENSIVE CITIES FOR-
 22 MULA.—

23 “(1) DEFINITIONS.—In this subsection, the fol-
 24 lowing definitions apply:

1 “(A) ELIGIBLE AREA.—The term ‘eligible
2 area’ means an urbanized area with a popu-
3 lation of less than 200,000 that meets or ex-
4 ceeds in one or more performance categories the
5 industry average for all urbanized areas with a
6 population of at least 200,000 but not more
7 than 999,999, as determined by the Secretary
8 in accordance with subsection (c)(2).

9 “(B) PERFORMANCE CATEGORY.—The
10 term ‘performance category’ means each of the
11 following:

12 “(i) Passenger miles traveled per vehi-
13 cle revenue mile.

14 “(ii) Passenger miles traveled per ve-
15 hicle revenue hour.

16 “(iii) Vehicle revenue miles per capita.

17 “(iv) Vehicle revenue hours per capita.

18 “(v) Passenger miles traveled per cap-
19 ita.

20 “(vi) Passengers per capita.

21 “(2) APPORTIONMENT.—

22 “(A) APPORTIONMENT FORMULA.—The
23 amount to be apportioned under subsection
24 (h)(3) shall be apportioned among eligible areas
25 in the ratio that—

1 “(i) the number of performance cat-
2 egories for which each eligible area meets
3 or exceeds the industry average in urban-
4 ized areas with a population of at least
5 200,000 but not more than 999,999; bears
6 to

7 “(ii) the aggregate number of per-
8 formance categories for which all eligible
9 areas meet or exceed the industry average
10 in urbanized areas with a population of at
11 least 200,000 but not more than 999,999.

12 “(B) DATA USED IN FORMULA.—The Sec-
13 retary shall calculate apportionments under this
14 subsection for a fiscal year using data from the
15 national transit database used to calculate ap-
16 portionments for that fiscal year under this sec-
17 tion.

18 “(j) APPORTIONMENT FORMULA.—The amounts ap-
19 portioned under subsection (h)(2) shall be apportioned
20 among urbanized areas as follows:

21 “(1) 75 percent of the funds shall be appor-
22 tioned among designated recipients for urbanized
23 areas with a population of 200,000 or more in the
24 ratio that—

1 “(A) the number of eligible low-income in-
2 dividuals in each such urbanized area; bears to

3 “(B) the number of eligible low-income in-
4 dividuals in all such urbanized areas.

5 “(2) 25 percent of the funds shall be appor-
6 tioned among designated recipients for urbanized
7 areas with a population of less than 200,000 in the
8 ratio that—

9 “(A) the number of eligible low-income in-
10 dividuals in each such urbanized area; bears to

11 “(B) the number of eligible low-income in-
12 dividuals in all such urbanized areas.”.

13 **SEC. 20028. STATE OF GOOD REPAIR GRANTS.**

14 Section 5337 of title 49, United States Code, is
15 amended to read as follows:

16 **“§ 5337. State of good repair grants**

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

19 “(1) FIXED GUIDEWAY.—The term ‘fixed
20 guideway’ means a public transportation facility—

21 “(A) using and occupying a separate right-
22 of-way for the exclusive use of public transpor-
23 tation;

24 “(B) using rail;

25 “(C) using a fixed catenary system;

1 “(D) for a passenger ferry system; or

2 “(E) for a bus rapid transit system.

3 “(2) STATE.—The term ‘State’ means the 50
4 States, the District of Columbia, and Puerto Rico.

5 “(3) STATE OF GOOD REPAIR.—The term ‘state
6 of good repair’ has the meaning given that term by
7 the Secretary, by rule, under section 5326(b).

8 “(4) TRANSIT ASSET MANAGEMENT PLAN.—
9 The term ‘transit asset management plan’ means a
10 plan developed by a recipient of funding under this
11 chapter that—

12 “(A) includes, at a minimum, capital asset
13 inventories and condition assessments, decision
14 support tools, and investment prioritization;
15 and

16 “(B) the recipient certifies that the recipi-
17 ent complies with the rule issued under section
18 5326(d).

19 “(b) GENERAL AUTHORITY.—

20 “(1) ELIGIBLE PROJECTS.—The Secretary may
21 make grants under this section to assist State and
22 local governmental authorities in financing capital
23 projects to maintain public transportation systems in
24 a state of good repair, including projects to replace
25 and rehabilitate—

1 “(A) rolling stock;

2 “(B) track;

3 “(C) line equipment and structures;

4 “(D) signals and communications;

5 “(E) power equipment and substations;

6 “(F) passenger stations and terminals;

7 “(G) security equipment and systems;

8 “(H) maintenance facilities and equipment;

9 “(I) operational support equipment, includ-
10 ing computer hardware and software;

11 “(J) development and implementation of a
12 transit asset management plan; and

13 “(K) other replacement and rehabilitation
14 projects the Secretary determines appropriate.

15 “(2) INCLUSION IN PLAN.—A recipient shall in-
16 clude a project carried out under paragraph (1) in
17 the transit asset management plan of the recipient
18 upon completion of the plan.

19 “(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF
20 GOOD REPAIR FORMULA.—

21 “(1) IN GENERAL.—Of the amount authorized
22 or made available under section 5338(a)(2)(M),
23 \$1,874,763,500 shall be apportioned to recipients in
24 accordance with this subsection.

25 “(2) AREA SHARE.—

1 “(A) IN GENERAL.—50 percent of the
2 amount described in paragraph (1) shall be ap-
3 portioned for fixed guideway systems in accord-
4 ance with this paragraph.

5 “(B) SHARE.—A recipient shall receive an
6 amount equal to the amount described in sub-
7 paragraph (A), multiplied by the amount the
8 recipient would have received under this section,
9 as in effect for fiscal year 2011, if the amount
10 had been calculated in accordance with section
11 5336(b)(1) and using the definition of the term
12 ‘fixed guideway’ under subsection (a) of this
13 section, as such sections are in effect on the
14 day after the date of enactment of the Federal
15 Public Transportation Act of 2012, and divided
16 by the total amount apportioned for all areas
17 under this section for fiscal year 2011.

18 “(C) RECIPIENT.—For purposes of this
19 paragraph, the term ‘recipient’ means an entity
20 that received funding under this section, as in
21 effect for fiscal year 2011.

22 “(3) VEHICLE REVENUE MILES AND DIREC-
23 TIONAL ROUTE MILES.—

24 “(A) IN GENERAL.—50 percent of the
25 amount described in paragraph (1) shall be ap-

1 portioned to recipients in accordance with this
2 paragraph.

3 “(B) VEHICLE REVENUE MILES.—A recipi-
4 ent in an urbanized area shall receive an
5 amount equal to 60 percent of the amount de-
6 scribed in subparagraph (A), multiplied by the
7 number of fixed guideway vehicle revenue miles
8 attributable to the urbanized area, as estab-
9 lished by the Secretary, divided by the total
10 number of all fixed guideway vehicle revenue
11 miles attributable to all urbanized areas.

12 “(C) DIRECTIONAL ROUTE MILES.—A re-
13 cipient in an urbanized area shall receive an
14 amount equal to 40 percent of the amount de-
15 scribed in subparagraph (A), multiplied by the
16 number of fixed guideway directional route
17 miles attributable to the urbanized area, as es-
18 tablished by the Secretary, divided by the total
19 number of all fixed guideway directional route
20 miles attributable to all urbanized areas.

21 “(4) LIMITATION.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the share of the total
24 amount apportioned under this section that is
25 apportioned to an area under this subsection

1 shall not decrease by more than 0.25 percent-
2 age points compared to the share apportioned
3 to the area under this subsection in the pre-
4 vious fiscal year.

5 “(B) SPECIAL RULE FOR FISCAL YEAR
6 2012.—In fiscal year 2012, the share of the
7 total amount apportioned under this section
8 that is apportioned to an area under this sub-
9 section shall not decrease by more than 0.25
10 percentage points compared to the share that
11 would have been apportioned to the area under
12 this section, as in effect for fiscal year 2011, if
13 the share had been calculated using the defini-
14 tion of the term ‘fixed guideway’ under sub-
15 section (a) of this section, as in effect on the
16 day after the date of enactment of the Federal
17 Public Transportation Act of 2012.

18 “(5) USE OF FUNDS.—Amounts made available
19 under this subsection shall be available for the exclu-
20 sive use of fixed guideway projects.

21 “(6) RECEIVING APPORTIONMENT.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), for an area with a fixed
24 guideway system, the amounts provided under
25 this section shall be apportioned to the des-

1 ignated recipient for the urbanized area in
2 which the system operates.

3 “(B) EXCEPTION.—An area described in
4 the amendment made by section 3028(a) of the
5 Transportation Equity Act for the 21st Century
6 (Public Law 105–178; 112 Stat. 366) shall re-
7 ceive an individual apportionment under this
8 subsection.

9 “(7) APPORTIONMENT REQUIREMENTS.—For
10 purposes of determining the number of fixed guide-
11 way vehicle revenue miles or fixed guideway direc-
12 tional route miles attributable to an urbanized area
13 for a fiscal year under this subsection, only segments
14 of fixed guideway systems placed in revenue service
15 not later than 7 years before the first day of the fis-
16 cal year shall be deemed to be attributable to an ur-
17 banized area.

18 “(d) FIXED GUIDEWAY STATE OF GOOD REPAIR
19 GRANT PROGRAM.—

20 “(1) IN GENERAL.—The Secretary may make
21 grants under this section to assist State and local
22 governmental authorities in financing fixed guideway
23 capital projects to maintain public transportation
24 systems in a state of good repair.

1 “(2) COMPETITIVE PROCESS.—The Secretary
2 shall solicit grant applications and make grants for
3 eligible projects on a competitive basis.

4 “(3) PRIORITY CONSIDERATION.—In making
5 grants under this subsection, the Secretary shall give
6 priority to grant applications received from recipi-
7 ents receiving an amount under this section that is
8 not less than 2 percent less than the amount the re-
9 cipient would have received under this section, as in
10 effect for fiscal year 2011, if the amount had been
11 calculated using the definition of the term ‘fixed
12 guideway’ under subsection (a) of this section, as in
13 effect on the day after the date of enactment of the
14 Federal Public Transportation Act of 2012.

15 “(e) HIGH INTENSITY MOTORBUS STATE OF GOOD
16 REPAIR.—

17 “(1) DEFINITION.—For purposes of this sub-
18 section, the term ‘high intensity motorbus’ means
19 public transportation that is provided on a facility
20 with access for other high-occupancy vehicles.

21 “(2) APPORTIONMENT.—Of the amount author-
22 ized or made available under section 5338(a)(2)(M),
23 \$112,500,000 shall be apportioned to urbanized
24 areas for high intensity motorbus state of good re-
25 pair in accordance with this subsection.

1 “(3) VEHICLE REVENUE MILES AND DIREC-
2 TIONAL ROUTE MILES.—

3 “(A) IN GENERAL.—\$60,000,000 of the
4 amount described in paragraph (2) shall be ap-
5 portioned to each area in accordance with this
6 paragraph.

7 “(B) VEHICLE REVENUE MILES.—Each
8 area shall receive an amount equal to 60 per-
9 cent of the amount described in subparagraph
10 (A), multiplied by the number of high intensity
11 motorbus vehicle revenue miles attributable to
12 the area, as established by the Secretary, di-
13 vided by the total number of all high intensity
14 motorbus vehicle revenue miles attributable to
15 all areas.

16 “(C) DIRECTIONAL ROUTE MILES.—Each
17 area shall receive an amount equal to 40 per-
18 cent of the amount described in subparagraph
19 (A), multiplied by the number of high intensity
20 motorbus directional route miles attributable to
21 the area, as established by the Secretary, di-
22 vided by the total number of all high intensity
23 motorbus directional route miles attributable to
24 all areas.

1 “(4) SPECIAL RULE FOR HIGH INTENSITY
2 MOTORBUS.—

3 “(A) IN GENERAL.—\$52,500,000 of the
4 amount described in paragraph (2) shall be ap-
5 portioned—

6 “(i) in accordance with this para-
7 graph; and

8 “(ii) among urbanized areas within a
9 State in the same proportion as funds are
10 apportioned within a State under section
11 5336, except subsection (b), and shall be
12 added to such amounts.

13 “(B) TERRITORIES.—Of the amount de-
14 scribed in subparagraph (A), \$500,000 shall be
15 distributed among the territories, as determined
16 by the Secretary.

17 “(C) STATES.—Of the amount described in
18 subparagraph (A), each State shall receive
19 \$1,000,000.

20 “(5) USE OF FUNDS.—A recipient may transfer
21 any part of the apportionment under this subsection
22 for use under subsection (c).

23 “(6) APPORTIONMENT REQUIREMENTS.—For
24 purposes of determining the number of high inten-
25 sity motorbus vehicle revenue miles or high intensity

1 motorbus directional route miles attributable to an
2 urbanized area for a fiscal year under this sub-
3 section, only segments of high intensity motorbus
4 systems placed in revenue service not later than 7
5 years before the first day of the fiscal year shall be
6 deemed to be attributable to an urbanized area.

7 “(f) BUS AND BUS FACILITIES STATE OF GOOD RE-
8 PAIR GRANT PROGRAM.—

9 “(1) IN GENERAL.—The Secretary may make
10 grants under this subsection to assist State and local
11 governmental authorities in financing bus and bus
12 facility capital projects to maintain public transpor-
13 tation systems in a state of good repair.

14 “(2) COMPETITIVE PROCESS.—The Secretary
15 shall solicit grant applications and make grants for
16 capital projects on a competitive basis.

17 “(3) DISTRIBUTION.—The Secretary shall en-
18 sure that not less than 40 percent of the funds allo-
19 cated on a competitive basis are distributed to rural
20 areas.

21 “(4) PRIORITY CONSIDERATION.—In making
22 grants under this subsection, the Secretary shall give
23 priority to recipients providing bus-only or high-in-
24 tensity motorbus service (as defined in subsection
25 (e)(1)) in a State whose recipients’ total apportion-

1 ment from section 5338(a) in fiscal year 2012 minus
 2 the recipients' total apportionment from section
 3 5338(a) in fiscal year 2011 does not exceed 90 per-
 4 cent of the average annual amount the recipients in
 5 the State received under section 5309(m)(2)(e), as
 6 in effect on October 1, 2011, in fiscal years 2006
 7 through 2011.”.

8 **SEC. 20029. AUTHORIZATIONS.**

9 Section 5338 of title 49, United States Code, is
 10 amended to read as follows:

11 **“§ 5338. Authorizations**

12 “(a) FORMULA GRANTS.—

13 “(1) IN GENERAL.—There shall be available
 14 from the Mass Transit Account of the Highway
 15 Trust Fund to carry out sections 5305, 5307, 5308,
 16 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335,
 17 and 5340, subsections (c) and (e) of section 5337,
 18 and section 20005(b) of the Federal Public Trans-
 19 portation Act of 2012, \$8,360,565,000 for each of
 20 fiscal years 2012 and 2013.

21 “(2) ALLOCATION OF FUNDS.—Of the amounts
 22 made available under paragraph (1)—

23 “(A) \$124,850,000 for each of fiscal years
 24 2012 and 2013 shall be available to carry out
 25 section 5305;

1 “(B) \$20,000,000 for each of fiscal years
2 2012 and 2013 shall be available to carry out
3 section 20005(b) of the Federal Public Trans-
4 portation Act of 2012;

5 “(C) \$4,756,161,500 for each of fiscal
6 years 2012 and 2013 shall be allocated in ac-
7 cordance with section 5336 to provide financial
8 assistance for urbanized areas under section
9 5307;

10 “(D) \$65,150,000 for each of fiscal years
11 2012 and 2013 shall be available to carry out
12 section 5308, of which not less than \$8,500,000
13 shall be used to carry out activities under sec-
14 tion 5312;

15 “(E) \$248,600,000 for each of fiscal years
16 2012 and 2013 shall be available to provide fi-
17 nancial assistance for services for the enhanced
18 mobility of seniors and individuals with disabil-
19 ities under section 5310;

20 “(F) \$591,190,000 for each of fiscal years
21 2012 and 2013 shall be available to provide fi-
22 nancial assistance for other than urbanized
23 areas under section 5311, of which not less
24 than \$30,000,000 shall be available to carry out

1 section 5311(c)(1) and \$20,000,000 shall be
2 available to carry out section 5311(c)(2);

3 “(G) \$34,000,000 for each of fiscal years
4 2012 and 2013 shall be available to carry out
5 research, development, demonstration, and de-
6 ployment projects under section 5312;

7 “(H) \$6,500,000 for each of fiscal years
8 2012 and 2013 shall be available to carry out
9 a transit cooperative research program under
10 section 5313;

11 “(I) \$4,500,000 for each of fiscal years
12 2012 and 2013 shall be available for technical
13 assistance and standards development under
14 section 5314;

15 “(J) \$5,000,000 for each of fiscal years
16 2012 and 2013 shall be available for the Na-
17 tional Transit Institute under section 5315;

18 “(K) \$2,000,000 for each of fiscal years
19 2012 and 2013 shall be available for workforce
20 development and human resource grants under
21 section 5322;

22 “(L) \$3,850,000 for each of fiscal years
23 2012 and 2013 shall be available to carry out
24 section 5335;

1 “(M) \$1,987,263,500 for each of fiscal
2 years 2012 and 2013 shall be available to carry
3 out subsections (c) and (e) of section 5337; and

4 “(N) \$511,500,000 for each of fiscal years
5 2012 and 2013 shall be allocated in accordance
6 with section 5340 to provide financial assist-
7 ance for urbanized areas under section 5307
8 and other than urbanized areas under section
9 5311.

10 “(b) EMERGENCY RELIEF PROGRAM.—There are au-
11 thorized to be appropriated such sums as are necessary
12 to carry out section 5306.

13 “(c) CAPITAL INVESTMENT GRANTS.—There are au-
14 thorized to be appropriated to carry out section 5309,
15 \$1,955,000,000 for each of fiscal years 2012 and 2013,
16 of which not less than \$75,000,000 shall be available to
17 carry out section 5337(f).

18 “(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—
19 There are authorized to be appropriated to carry out sec-
20 tion 5320, \$26,900,000 for each of fiscal years 2012 and
21 2013.

22 “(e) FIXED GUIDEWAY STATE OF GOOD REPAIR
23 GRANT PROGRAM.—There are authorized to be appro-
24 priated to carry out section 5337(d), \$7,463,000 for each
25 of fiscal years 2012 and 2013.

1 “(f) ADMINISTRATION.—

2 “(1) IN GENERAL.—There are authorized to be
3 appropriated to carry out section 5334,
4 \$108,350,000 for each of fiscal years 2012 and
5 2013.

6 “(2) SECTION 5329.—Of the amounts author-
7 ized to be appropriated under paragraph (1), not
8 less than \$10,000,000 shall be available to carry out
9 section 5329.

10 “(3) SECTION 5326.—Of the amounts made
11 available under paragraph (2), not less than
12 \$1,000,000 shall be available to carry out section
13 5326.

14 “(g) OVERSIGHT.—

15 “(1) IN GENERAL.—Of the amounts made
16 available to carry out this chapter for a fiscal year,
17 the Secretary may use not more than the following
18 amounts for the activities described in paragraph
19 (2):

20 “(A) 0.5 percent of amounts made avail-
21 able to carry out section 5305.

22 “(B) 0.75 percent of amounts made avail-
23 able to carry out section 5307.

24 “(C) 1 percent of amounts made available
25 to carry out section 5309.

1 “(D) 1 percent of amounts made available
2 to carry out section 601 of the Passenger Rail
3 Investment and Improvement Act of 2008
4 (Public Law 110–432; 126 Stat. 4968).

5 “(E) 0.5 percent of amounts made avail-
6 able to carry out section 5310.

7 “(F) 0.5 percent of amounts made avail-
8 able to carry out section 5311.

9 “(G) 0.5 percent of amounts made avail-
10 able to carry out section 5320.

11 “(H) 0.75 percent of amounts made avail-
12 able to carry out section 5337(c).

13 “(2) ACTIVITIES.—The activities described in
14 this paragraph are as follows:

15 “(A) Activities to oversee the construction
16 of a major capital project.

17 “(B) Activities to review and audit the
18 safety and security, procurement, management,
19 and financial compliance of a recipient or sub-
20 recipient of funds under this chapter.

21 “(C) Activities to provide technical assist-
22 ance generally, and to provide technical assist-
23 ance to correct deficiencies identified in compli-
24 ance reviews and audits carried out under this
25 section.

1 “(3) GOVERNMENT SHARE OF COSTS.—The
2 Government shall pay the entire cost of carrying out
3 a contract under this subsection.

4 “(4) AVAILABILITY OF CERTAIN FUNDS.—
5 Funds made available under paragraph (1)(C) shall
6 be made available to the Secretary before allocating
7 the funds appropriated to carry out any project
8 under a full funding grant agreement.

9 “(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

10 “(1) GRANTS FINANCED FROM HIGHWAY TRUST
11 FUND.—A grant or contract that is approved by the
12 Secretary and financed with amounts made available
13 from the Mass Transit Account of the Highway
14 Trust Fund pursuant to this section is a contractual
15 obligation of the Government to pay the Government
16 share of the cost of the project.

17 “(2) GRANTS FINANCED FROM GENERAL
18 FUND.—A grant or contract that is approved by the
19 Secretary and financed with amounts appropriated
20 in advance from the General Fund of the Treasury
21 pursuant to this section is a contractual obligation
22 of the Government to pay the Government share of
23 the cost of the project only to the extent that
24 amounts are appropriated for such purpose by an
25 Act of Congress.

1 “(i) AVAILABILITY OF AMOUNTS.—Amounts made
2 available by or appropriated under this section shall re-
3 main available until expended.”.

4 **SEC. 20030. APPORTIONMENTS BASED ON GROWING**
5 **STATES AND HIGH DENSITY STATES FOR-**
6 **MULA FACTORS.**

7 Section 5340 of title 49, United States Code, is
8 amended to read as follows:

9 **“§ 5340. Apportionments based on growing States and**
10 **high density States formula factors**

11 “(a) DEFINITION.—In this section, the term ‘State’
12 shall mean each of the 50 States of the United States.

13 “(b) ALLOCATION.—Of the amounts made available
14 for each fiscal year under section 5338(a)(2)(N), the Sec-
15 retary shall apportion—

16 “(1) 50 percent to States and urbanized areas
17 in accordance with subsection (c); and

18 “(2) 50 percent to States and urbanized areas
19 in accordance with subsection (d).

20 “(c) GROWING STATE APPORTIONMENTS.—

21 “(1) APPORTIONMENT AMONG STATES.—The
22 amounts apportioned under subsection (b)(1) shall
23 provide each State with an amount equal to the total
24 amount apportioned multiplied by a ratio equal to
25 the population of that State forecast for the year

1 that is 15 years after the most recent decennial cen-
2 sus, divided by the total population of all States
3 forecast for the year that is 15 years after the most
4 recent decennial census. Such forecast shall be based
5 on the population trend for each State between the
6 most recent decennial census and the most recent
7 estimate of population made by the Secretary of
8 Commerce.

9 “(2) APPORTIONMENTS BETWEEN URBANIZED
10 AREAS AND OTHER THAN URBANIZED AREAS IN
11 EACH STATE.—

12 “(A) IN GENERAL.—The Secretary shall
13 apportion amounts to each State under para-
14 graph (1) so that urbanized areas in that State
15 receive an amount equal to the amount appor-
16 tioned to that State multiplied by a ratio equal
17 to the sum of the forecast population of all ur-
18 banized areas in that State divided by the total
19 forecast population of that State. In making the
20 apportionment under this subparagraph, the
21 Secretary shall utilize any available forecasts
22 made by the State. If no forecasts are available,
23 the Secretary shall utilize data on urbanized
24 areas and total population from the most recent
25 decennial census.

1 “(B) REMAINING AMOUNTS.—Amounts re-
2 maining for each State after apportionment
3 under subparagraph (A) shall be apportioned to
4 that State and added to the amount made avail-
5 able for grants under section 5311.

6 “(3) APPORTIONMENTS AMONG URBANIZED
7 AREAS IN EACH STATE.—The Secretary shall appor-
8 tion amounts made available to urbanized areas in
9 each State under paragraph (2)(A) so that each ur-
10 banized area receives an amount equal to the
11 amount apportioned under paragraph (2)(A) multi-
12 plied by a ratio equal to the population of each ur-
13 banized area divided by the sum of populations of all
14 urbanized areas in the State. Amounts apportioned
15 to each urbanized area shall be added to amounts
16 apportioned to that urbanized area under section
17 5336, and made available for grants under section
18 5307.

19 “(d) HIGH DENSITY STATE APPORTIONMENTS.—
20 Amounts to be apportioned under subsection (b)(2) shall
21 be apportioned as follows:

22 “(1) ELIGIBLE STATES.—The Secretary shall
23 designate as eligible for an apportionment under this
24 subsection all States with a population density in ex-
25 cess of 370 persons per square mile.

1 “(2) STATE URBANIZED LAND FACTOR.—For
2 each State qualifying for an apportionment under
3 paragraph (1), the Secretary shall calculate an
4 amount equal to—

5 “(A) the total land area of the State (in
6 square miles); multiplied by

7 “(B) 370; multiplied by

8 “(C)(i) the population of the State in ur-
9 banized areas; divided by

10 “(ii) the total population of the State.

11 “(3) STATE APPORTIONMENT FACTOR.—For
12 each State qualifying for an apportionment under
13 paragraph (1), the Secretary shall calculate an
14 amount equal to the difference between the total
15 population of the State less the amount calculated in
16 paragraph (2).

17 “(4) STATE APPORTIONMENT.—Each State
18 qualifying for an apportionment under paragraph
19 (1) shall receive an amount equal to the amount to
20 be apportioned under this subsection multiplied by
21 the amount calculated for the State under paragraph
22 (3) divided by the sum of the amounts calculated
23 under paragraph (3) for all States qualifying for an
24 apportionment under paragraph (1).

1 “(5) APPORTIONMENTS AMONG URBANIZED
2 AREAS IN EACH STATE.—The Secretary shall appor-
3 tion amounts made available to each State under
4 paragraph (4) so that each urbanized area receives
5 an amount equal to the amount apportioned under
6 paragraph (4) multiplied by a ratio equal to the pop-
7 ulation of each urbanized area divided by the sum
8 of populations of all urbanized areas in the State.
9 Amounts apportioned to each urbanized area shall
10 be added to amounts apportioned to that urbanized
11 area under section 5336, and made available for
12 grants under section 5307.”.

13 **SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

14 (a) SECTION 5305.—Section 5305 of title 49, United
15 States Code, is amended—

16 (1) in subsection (c), by striking “sections
17 5303, 5304, and 5306” and inserting “sections
18 5303 and 5304”;

19 (2) in subsection (d), by striking “sections 5303
20 and 5306” each place that term appears and insert-
21 ing “section 5303”;

22 (3) in subsection (e)(1)(A), by striking “sec-
23 tions 5304, 5306, 5315, and 5322” and inserting
24 “section 5304”;

25 (4) in subsection (f)—

1 (A) in the heading, by striking “GOVERN-
2 MENT’S” and inserting “GOVERNMENT”; and

3 (B) by striking “Government’s” and in-
4 serting “Government”; and

5 (5) in subsection (g), by striking “section
6 5338(c) for fiscal years 2005 through 2011 and for
7 the period beginning on October 1, 2011, and ending
8 on March 31, 2012” and inserting “section
9 5338(a)(2)(A) for a fiscal year”.

10 (b) SECTION 5313.—Section 5313(a) of title 49,
11 United States Code, is amended—

12 (1) in the first sentence, by striking “sub-
13 sections (a)(5)(C)(iii) and (d)(1) of section 5338”
14 and inserting section “5338(a)(2)(H)”; and

15 (2) in the second sentence, by striking “of
16 Transportation”.

17 (c) SECTION 5319.—Section 5319 of title 49, United
18 States Code, is amended, in the second sentence—

19 (1) by striking “sections 5307(e), 5309(h), and
20 5311(g) of this title” and inserting “sections
21 5307(e), 5309(k), and 5311(h)”; and

22 (2) by striking “of the United States” and in-
23 serting “made by the”.

24 (d) SECTION 5325.—Section 5325(b)(2)(A) of title
25 49, United States Code, is amended by striking “title 48,

1 Code of Federal Regulations (commonly known as the
2 Federal Acquisition Regulation)” and inserting “the Fed-
3 eral Acquisition Regulation, or any successor thereto”.

4 (e) SECTION 5330.—Effective 3 years after the effec-
5 tive date of the final rules issued by the Secretary of
6 Transportation under section 5329(e) of title 49, United
7 States Code, as amended by this division, section 5330
8 of title 49, United States Code, is repealed.

9 (f) SECTION 5331.—Section 5331 of title 49, United
10 States Code, is amended by striking “Secretary of Trans-
11 portation” each place that term appears and inserting
12 “Secretary”.

13 (g) SECTION 5332.—Section 5332(c)(1) of title 49,
14 United States Code, is amended by striking “of Transpor-
15 tation”.

16 (h) SECTION 5333.—Section 5333(a) of title 49,
17 United States Code, is amended by striking “sections
18 3141–3144” and inserting “sections 3141 through 3144”.

19 (i) SECTION 5334.—Section 5334 of title 49, United
20 States Code, is amended—

21 (1) in subsection (c)—

22 (A) by striking “Secretary of Transpor-
23 tation” each place that term appears and in-
24 serting “Secretary”; and

1 (B) in paragraph (1), by striking “Com-
2 mittees on Transportation and Infrastructure
3 and Appropriations of the House of Representa-
4 tives and the Committees on Banking, Housing,
5 and Urban Affairs and Appropriations of the
6 Senate” and inserting “Committee on Banking,
7 Housing, and Urban Affairs and the Committee
8 on Appropriations of the Senate and the Com-
9 mittee on Transportation and Infrastructure
10 and the Committee on Appropriations of the
11 House of Representatives”;

12 (2) in subsection (d), by striking “of Transpor-
13 tation”;

14 (3) in subsection (e), by striking “of Transpor-
15 tation”;

16 (4) in subsection (f), by striking “of Transpor-
17 tation”;

18 (5) in subsection (g), in the matter preceding
19 paragraph (1)—

20 (A) by striking “of Transportation”; and

21 (B) by striking “subsection (a)(3) or (4) of
22 this section” and inserting “paragraph (3) or
23 (4) of subsection (a)”;

24 (6) in subsection (h)—

1 (A) in paragraph (1), in the matter pre-
2 ceding subparagraph (A), by striking “of
3 Transportation”; and

4 (B) in paragraph (2), by striking “of this
5 section”;

6 (7) in subsection (i)(1), by striking “of Trans-
7 portation”; and

8 (8) in subsection (j), as so redesignated by sec-
9 tion 20025 of this division, by striking “Committees
10 on Banking, Housing, and Urban Affairs and Ap-
11 propriations of the Senate and Committees on
12 Transportation and Infrastructure and Appropria-
13 tions of the House of Representatives” and inserting
14 “Committee on Banking, Housing, and Urban Af-
15 fairs and the Committee on Appropriations of the
16 Senate and the Committee on Transportation and
17 Infrastructure and the Committee on Appropriations
18 of the House of Representatives”.

19 (j) SECTION 5335.—Section 5335(a) of title 49,
20 United States Code, is amended by striking “of Transpor-
21 tation”.

22 (k) TABLE OF SECTIONS.—The table of sections for
23 chapter 53 of title 49, United States Code, is amended
24 to read as follows:

“Sec.

“5301. Policies, purposes, and goals.

“5302. Definitions.

- “5303. Metropolitan transportation planning.
- “5304. Statewide and nonmetropolitan transportation planning.
- “5305. Planning programs.
- “5306. Public transportation emergency relief program.
- “5307. Urbanized area formula grants.
- “5308. Clean fuel grant program.
- “5309. Fixed guideway capital investment grants.
- “5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
- “5311. Formula grants for other than urbanized areas.
- “5312. Research, development, demonstration, and deployment projects.
- “5313. Transit cooperative research program.
- “5314. Technical assistance and standards development.
- “5315. National Transit Institute.
- “[5316. Repealed.]
- “[5317. Repealed.]
- “5318. Bus testing facilities.
- “5319. Bicycle facilities.
- “5320. Alternative transportation in parks and public lands.
- “[5321. Repealed.]
- “5322. Public transportation workforce development and human resource programs.
- “5323. General provisions.
- “[5324. Repealed.]
- “5325. Contract requirements.
- “5326. Transit asset management.
- “5327. Project management oversight.
- “[5328. Repealed.]
- “5329. Public transportation safety program.
- “5330. State safety oversight.
- “5331. Alcohol and controlled substances testing.
- “5332. Nondiscrimination.
- “5333. Labor standards.
- “5334. Administrative provisions.
- “5335. National transit database.
- “5336. Apportionment of appropriations for formula grants.
- “5337. State of good repair grants.
- “5338. Authorizations.
- “[5339. Repealed.]
- “5340. Apportionments based on growing States and high density States formula factors.

1 **DIVISION C—TRANSPORTATION**
 2 **SAFETY AND SURFACE**
 3 **TRANSPORTATION POLICY**
 4 **TITLE I—MOTOR VEHICLE AND**
 5 **HIGHWAY SAFETY IMPROVE-**
 6 **MENT ACT OF 2012**

7 **SEC. 31001. SHORT TITLE.**

8 This title may be cited as the “Motor Vehicle and
 9 Highway Safety Improvement Act of 2012” or “Mariah’s
 10 Act”.

11 **SEC. 31002. DEFINITION.**

12 In this title, the term “Secretary” means the Sec-
 13 retary of Transportation.

14 **Subtitle A—Highway Safety**

15 **SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.**

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

19 (1) HIGHWAY SAFETY PROGRAMS.—For car-
 20 rying out section 402 of title 23, United States
 21 Code—

22 (A) \$243,000,000 for fiscal year 2012; and

23 (B) \$243,000,000 for fiscal year 2013.

1 (2) HIGHWAY SAFETY RESEARCH AND DEVEL-
2 OPMENT.—For carrying out section 403 of title 23,
3 United States Code—

4 (A) \$130,000,000 for fiscal year 2012; and

5 (B) \$139,000,000 for fiscal year 2013.

6 (3) COMBINED OCCUPANT PROTECTION
7 GRANTS.—For carrying out section 405 of title 23,
8 United States Code—

9 (A) \$44,000,000 for fiscal year 2012; and

10 (B) \$44,000,000 for fiscal year 2013.

11 (4) STATE TRAFFIC SAFETY INFORMATION SYS-
12 TEM IMPROVEMENTS.—For carrying out section 408
13 of title 23, United States Code—

14 (A) \$44,000,000 for fiscal year 2012; and

15 (B) \$44,000,000 for fiscal year 2013.

16 (5) IMPAIRED DRIVING COUNTERMEASURES.—
17 For carrying out section 410 of title 23, United
18 States Code—

19 (A) \$139,000,000 for fiscal year 2012; and

20 (B) \$139,000,000 for fiscal year 2013.

21 (6) DISTRACTED DRIVING GRANTS.—For car-
22 rying out section 411 of title 23, United States
23 Code—

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

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

1 (7) NATIONAL DRIVER REGISTER.—For the Na-
2 tional Highway Traffic Safety Administration to
3 carry out chapter 303 of title 49, United States
4 Code—

5 (A) \$5,000,000 for fiscal year 2012; and

6 (B) \$5,000,000 for fiscal year 2013.

7 (8) HIGH VISIBILITY ENFORCEMENT PRO-
8 GRAM.—For carrying out section 2009 of
9 SAFETEA-LU (23 U.S.C. 402 note)—

10 (A) \$37,000,000 for fiscal year 2012; and

11 (B) \$37,000,000 for fiscal year 2013.

12 (9) MOTORCYCLIST SAFETY.—For carrying out
13 section 2010 of SAFETEA-LU (23 U.S.C. 402
14 note)—

15 (A) \$6,000,000 for fiscal year 2012; and

16 (B) \$6,000,000 for fiscal year 2013.

17 (10) ADMINISTRATIVE EXPENSES.—For admin-
18 istrative and related operating expenses of the Na-
19 tional Highway Traffic Safety Administration in car-
20 rying out chapter 4 of title 23, United States Code,
21 and this subtitle—

22 (A) \$25,581,280 for fiscal year 2012; and

23 (B) \$25,862,674 for fiscal year 2013.

1 (11) DRIVER ALCOHOL DETECTION SYSTEM
2 FOR SAFETY RESEARCH.—For carrying out section
3 413 of title 23, United States Code—

4 (A) \$12,000,000 for fiscal year 2012; and

5 (B) \$12,000,000 for fiscal year 2013.

6 (12) STATE GRADUATED DRIVER LICENSING
7 LAWS.—For carrying out section 414 of title 23,
8 United States Code—

9 (A) \$22,000,000 for fiscal year 2012; and

10 (B) \$22,000,000 for fiscal year 2013.

11 (b) PROHIBITION ON OTHER USES.—Except as oth-
12 erwise provided in chapter 4 of title 23, United States
13 Code, in this subtitle, and in the amendments made by
14 this subtitle, the amounts made available from the High-
15 way Trust Fund (other than the Mass Transit Account)
16 for a program under such chapter—

17 (1) shall only be used to carry out such pro-
18 gram; and

19 (2) may not be used by States or local govern-
20 ments for construction purposes.

21 (c) APPLICABILITY OF TITLE 23.—Except as other-
22 wise provided in chapter 4 of title 23, United States Code,
23 and in this subtitle, amounts made available under sub-
24 section (a) for fiscal years 2012 and 2013 shall be avail-
25 able for obligation in the same manner as if such funds

1 were apportioned under chapter 1 of title 23, United
2 States Code.

3 (d) REGULATORY AUTHORITY.—Grants awarded
4 under this subtitle shall be in accordance with regulations
5 issued by the Secretary.

6 (e) STATE MATCHING REQUIREMENTS.—If a grant
7 awarded under this subtitle requires a State to share in
8 the cost, the aggregate of all expenditures for highway
9 safety activities made during any fiscal year by the State
10 and its political subdivisions (exclusive of Federal funds)
11 for carrying out the grant (other than planning and ad-
12 ministration) shall be available for the purpose of crediting
13 the State during such fiscal year for the non-Federal share
14 of the cost of any project under this subtitle (other than
15 planning or administration) without regard to whether
16 such expenditures were actually made in connection with
17 such project.

18 (f) MAINTENANCE OF EFFORT.—

19 (1) REQUIREMENT.—No grant may be made to
20 a State under section 405, 408, or 410 of title 23,
21 United States Code, in any fiscal year unless the
22 State enters into such agreements with the Sec-
23 retary as the Secretary may require to ensure that
24 the State will maintain its aggregate expenditures
25 from all State and local sources for programs de-

1 scribed in such sections at or above the average level
2 of such expenditures in its 2 fiscal years preceding
3 the date of enactment of this Act.

4 (2) WAIVER.—Upon the request of a State, the
5 Secretary may waive or modify the requirements
6 under paragraph (1) for not more than 1 fiscal year
7 if the Secretary determines that such a waiver would
8 be equitable due to exceptional or uncontrollable cir-
9 cumstances.

10 (g) TRANSFERS.—In each fiscal year, the Secretary
11 may transfer any amounts remaining available under
12 paragraphs (3), (4), (5), (6), (9), (11), and (12) of sub-
13 section (a) to the amounts made available under para-
14 graph (1) or any other of such paragraphs in order to
15 ensure, to the maximum extent possible, that all funds are
16 obligated.

17 (h) GRANT APPLICATION AND DEADLINE.—To re-
18 ceive a grant under this subtitle, a State shall submit an
19 application, and the Secretary shall establish a single
20 deadline for such applications to enable the award of
21 grants early in the next fiscal year.

22 (i) ALLOCATION TO SUPPORT STATE DISTRACTED
23 DRIVING LAWS.—Of the amounts available under sub-
24 section (a)(6) for distracted driving grants, the Secretary
25 may expend, in each fiscal year, up to \$5,000,000 for the

1 development and placement of broadcast media to support
2 the enforcement of State distracted driving laws.

3 **SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

4 (a) PROGRAMS INCLUDED.—Section 402(a) of title
5 23, United States Code, is amended to read as follows:

6 “(a) PROGRAM REQUIRED.—

7 “(1) IN GENERAL.—Each State shall have a
8 highway safety program, approved by the Secretary,
9 that is designed to reduce traffic accidents and the
10 resulting deaths, injuries, and property damage.

11 “(2) UNIFORM GUIDELINES.—Programs re-
12 quired under paragraph (1) shall comply with uni-
13 form guidelines, promulgated by the Secretary and
14 expressed in terms of performance criteria, that—

15 “(A) include programs—

16 “(i) to reduce injuries and deaths re-
17 sulting from motor vehicles being driven in
18 excess of posted speed limits;

19 “(ii) to encourage the proper use of
20 occupant protection devices (including the
21 use of safety belts and child restraint sys-
22 tems) by occupants of motor vehicles;

23 “(iii) to reduce injuries and deaths re-
24 sulting from persons driving motor vehicles

1 while impaired by alcohol or a controlled
2 substance;

3 “(iv) to prevent accidents and reduce
4 injuries and deaths resulting from acci-
5 dents involving motor vehicles and motor-
6 cycles;

7 “(v) to reduce injuries and deaths re-
8 sulting from accidents involving school
9 buses;

10 “(vi) to reduce accidents resulting
11 from unsafe driving behavior (including ag-
12 gressive or fatigued driving and distracted
13 driving arising from the use of electronic
14 devices in vehicles); and

15 “(vii) to improve law enforcement
16 services in motor vehicle accident preven-
17 tion, traffic supervision, and post-accident
18 procedures;

19 “(B) improve driver performance, includ-
20 ing—

21 “(i) driver education;

22 “(ii) driver testing to determine pro-
23 ficiency to operate motor vehicles; and

24 “(iii) driver examinations (physical,
25 mental, and driver licensing);

1 “(C) improve pedestrian performance and
2 bicycle safety;

3 “(D) include provisions for—

4 “(i) an effective record system of acci-
5 dents (including resulting injuries and
6 deaths);

7 “(ii) accident investigations to deter-
8 mine the probable causes of accidents, in-
9 juries, and deaths;

10 “(iii) vehicle registration, operation,
11 and inspection; and

12 “(iv) emergency services; and

13 “(E) to the extent determined appropriate
14 by the Secretary, are applicable to federally ad-
15 ministered areas where a Federal department
16 or agency controls the highways or supervises
17 traffic operations.”.

18 (b) ADMINISTRATION OF STATE PROGRAMS.—Sec-
19 tion 402(b)(1) of title 23, United States Code, is amend-
20 ed—

21 (1) in subparagraph (D), by striking “and” at
22 the end;

23 (2) by redesignating subparagraph (E) as sub-
24 paragraph (F);

1 (3) by inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) beginning on October 1, 2012, pro-
4 vide for a robust, data-driven traffic safety en-
5 forcement program to prevent traffic violations,
6 crashes, and crash fatalities and injuries in
7 areas most at risk for such incidents, to the
8 satisfaction of the Secretary;”;

9 (4) in subparagraph (F), as redesignated—

10 (A) in clause (i), by inserting “and high-
11 visibility law enforcement mobilizations coordi-
12 nated by the Secretary” after “mobilizations”;

13 (B) in clause (iii), by striking “and” at the
14 end;

15 (C) in clause (iv), by striking the period at
16 the end and inserting “; and”; and

17 (D) by adding at the end the following:

18 “(v) ensuring that the State will co-
19 ordinate its highway safety plan, data col-
20 lection, and information systems with the
21 State strategic highway safety plan (as de-
22 fined in section 148(a)).”.

23 (c) APPROVED HIGHWAY SAFETY PROGRAMS.—Sec-
24 tion 402(c) of title 23, United States Code, is amended—

1 (1) by striking “(c) Funds authorized” and in-
2 serting the following:

3 “(c) USE OF FUNDS.—

4 “(1) IN GENERAL.—Funds authorized”;

5 (2) by striking “Such funds” and inserting the
6 following:

7 “(2) APPORTIONMENT.—Except for amounts
8 identified in subsection (1) and section 403(e), funds
9 described in paragraph (1)”;

10 (3) by striking “The Secretary shall not” and
11 all that follows through “subsection, a highway safe-
12 ty program” and inserting “A highway safety pro-
13 gram”;

14 (4) by inserting “A State may use the funds
15 apportioned under this section, in cooperation with
16 neighboring States, for highway safety programs or
17 related projects that may confer benefits on such
18 neighboring States.” after “in every State.”;

19 (5) by striking “50 per centum” and inserting
20 “20 percent”; and

21 (6) by striking “The Secretary shall promptly”
22 and all that follows and inserting the following:

23 “(3) REAPPORTIONMENT.—The Secretary shall
24 promptly apportion the funds withheld from a
25 State’s apportionment to the State if the Secretary

1 approves the State’s highway safety program or de-
2 termines that the State has begun implementing an
3 approved program, as appropriate, not later than
4 July 31st of the fiscal year for which the funds were
5 withheld. If the Secretary determines that the State
6 did not correct its failure within such period, the
7 Secretary shall reapportion the withheld funds to the
8 other States in accordance with the formula speci-
9 fied in paragraph (2) not later than the last day of
10 the fiscal year.”.

11 (d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—
12 Section 402(g) of title 23, United States Code, is amended
13 to read as follows:

14 “(g) SAVINGS PROVISION.—

15 “(1) IN GENERAL.—Except as provided under
16 paragraph (2), nothing in this section may be con-
17 strued to authorize the appropriation or expenditure
18 of funds for—

19 “(A) highway construction, maintenance,
20 or design (other than design of safety features
21 of highways to be incorporated into guidelines);
22 or

23 “(B) any purpose for which funds are au-
24 thorized by section 403.

1 “(2) DEMONSTRATION PROJECTS.—A State
2 may use funds made available to carry out this sec-
3 tion to assist in demonstration projects carried out
4 by the Secretary under section 403.”.

5 (e) IN GENERAL.—Section 402 of title 23, United
6 States Code, is amended—

7 (1) by striking subsections (k) and (m);

8 (2) by redesignating subsections (i) and (j) as
9 subsections (h) and (i), respectively; and

10 (3) by redesignating subsection (l) as subsection
11 (j).

12 (f) HIGHWAY SAFETY PLAN AND REPORTING RE-
13 QUIREMENTS.—Section 402 of title 23, United States
14 Code, as amended by this section, is further amended by
15 adding at the end the following:

16 “(k) HIGHWAY SAFETY PLAN AND REPORTING RE-
17 QUIREMENTS.—

18 “(1) IN GENERAL.—The Secretary shall require
19 each State to develop and submit to the Secretary
20 a highway safety plan that complies with the re-
21 quirements under this subsection not later than July
22 1, 2012, and annually thereafter.

23 “(2) CONTENTS.—State highway safety plans
24 submitted under paragraph (1) shall include—

1 “(A) performance measures required by
2 the Secretary or otherwise necessary to support
3 additional State safety goals, including—

4 “(i) documentation of current safety
5 levels for each performance measure;

6 “(ii) quantifiable annual performance
7 targets for each performance measure; and

8 “(iii) a justification for each perform-
9 ance target;

10 “(B) a strategy for programming funds ap-
11 portioned to the State under this section on
12 projects and activities that will allow the State
13 to meet the performance targets described in
14 subparagraph (A);

15 “(C) data and data analysis supporting the
16 effectiveness of proposed countermeasures;

17 “(D) a description of any Federal, State,
18 local, or private funds that the State plans to
19 use, in addition to funds apportioned to the
20 State under this section, to carry out the strat-
21 egy described in subparagraph (B);

22 “(E) beginning with the plan submitted by
23 July 1, 2013, a report on the State’s success in
24 meeting State safety goals set forth in the pre-
25 vious year’s highway safety plan; and

1 “(F) an application for any additional
2 grants available to the State under this chapter.

3 “(3) PERFORMANCE MEASURES.—For the first
4 highway safety plan submitted under this subsection,
5 the performance measures required by the Secretary
6 under paragraph (2)(A) shall be limited to those de-
7 veloped by the National Highway Traffic Safety Ad-
8 ministration and the Governor’s Highway Safety As-
9 sociation and described in the report, ‘Traffic Safety
10 Performance Measures for States and Federal Agen-
11 cies’ (DOT HS 811 025). For subsequent highway
12 safety plans, the Secretary shall consult with the
13 Governor’s Highway Safety Association and safety
14 experts if the Secretary makes revisions to the set
15 of required performance measures.

16 “(4) REVIEW OF HIGHWAY SAFETY PLANS.—

17 “(A) IN GENERAL.—Not later than 60
18 days after the date on which a State’s highway
19 safety plan is received by the Secretary, the
20 Secretary shall review and approve or dis-
21 approve the plan.

22 “(B) APPROVALS AND DISAPPROVALS.—

23 “(i) APPROVALS.—The Secretary shall
24 approve a State’s highway safety plan if
25 the Secretary determines that—

1 “(I) the plan is evidence-based
2 and supported by data;

3 “(II) the performance targets are
4 adequate; and

5 “(III) the plan, once imple-
6 mented, will allow the State to meet
7 such targets.

8 “(ii) DISAPPROVALS.—The Secretary
9 shall disapprove a State’s highway safety
10 plan if the Secretary determines that the
11 plan does not—

12 “(I) set appropriate performance
13 targets; or

14 “(II) provide for evidence-based
15 programming of funding in a manner
16 sufficient to allow the State to meet
17 such targets.

18 “(C) ACTIONS UPON DISAPPROVAL.—If the
19 Secretary disapproves a State’s highway safety
20 plan, the Secretary shall—

21 “(i) inform the State of the reasons
22 for such disapproval; and

23 “(ii) require the State to resubmit the
24 plan with any modifications that the Sec-
25 retary determines to be necessary.

1 “(D) REVIEW OF RESUBMITTED PLANS.—

2 If the Secretary requires a State to resubmit a
3 highway safety plan, with modifications, the
4 Secretary shall review and approve or dis-
5 approve the modified plan not later than 30
6 days after the date on which the Secretary re-
7 ceives such plan.

8 “(E) REPROGRAMMING AUTHORITY.—If

9 the Secretary determines that the modifications
10 contained in a State’s resubmitted highway
11 safety plan do not provide for the programming
12 of funding in a manner sufficient to meet the
13 State’s performance goals, the Secretary, in
14 consultation with the State, shall take such ac-
15 tion as may be necessary to bring the State’s
16 plan into compliance with the performance tar-
17 gets.

18 “(F) PUBLIC NOTICE.—A State shall make

19 the State’s highway safety plan, and decisions
20 of the Secretary concerning approval or dis-
21 approval of a revised plan, available to the pub-
22 lic.”.

23 (g) COOPERATIVE RESEARCH AND EVALUATION.—

24 Section 402 of title 23, United States Code, as amended

1 by this section, is further amended by adding at the end
2 the following:

3 “(l) COOPERATIVE RESEARCH AND EVALUATION.—

4 “(1) ESTABLISHMENT AND FUNDING.—Not-
5 withstanding the apportionment formula set forth in
6 subsection (c)(2), \$2,500,000 of the total amount
7 available for apportionment to the States for high-
8 way safety programs under subsection (c) in each
9 fiscal year shall be available for expenditure by the
10 Secretary, acting through the Administrator of the
11 National Highway Traffic Safety Administration, for
12 a cooperative research and evaluation program to re-
13 search and evaluate priority highway safety counter-
14 measures.

15 “(2) ADMINISTRATION.—The program estab-
16 lished under paragraph (1)—

17 “(A) shall be administered by the Adminis-
18 trator of the National Highway Traffic Safety
19 Administration; and

20 “(B) shall be jointly managed by the Gov-
21 ernors Highway Safety Association and the Na-
22 tional Highway Traffic Safety Administration.”.

23 (h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402
24 of title 23, United States Code, as amended by this sec-

1 tion, is further amended by adding at the end the fol-
 2 lowing:

3 “(m) TEEN TRAFFIC SAFETY PROGRAM.—

4 “(1) PROGRAM AUTHORIZED.—Subject to the
 5 requirements of a State’s highway safety plan, as
 6 approved by the Secretary under subsection (k), a
 7 State may use a portion of the amounts received
 8 under this section to implement a statewide teen
 9 traffic safety program to improve traffic safety for
 10 teen drivers.

11 “(2) STRATEGIES.—The program implemented
 12 under paragraph (1)—

13 “(A) shall include peer-to-peer education
 14 and prevention strategies in schools and com-
 15 munities designed to—

16 “(i) increase safety belt use;

17 “(ii) reduce speeding;

18 “(iii) reduce impaired and distracted
 19 driving;

20 “(iv) reduce underage drinking; and

21 “(v) reduce other behaviors by teen
 22 drivers that lead to injuries and fatalities;
 23 and

24 “(B) may include—

1 “(i) working with student-led groups
2 and school advisors to plan and implement
3 teen traffic safety programs;

4 “(ii) providing subgrants to schools
5 throughout the State to support the estab-
6 lishment and expansion of student groups
7 focused on teen traffic safety;

8 “(iii) providing support, training, and
9 technical assistance to establish and ex-
10 pand school and community safety pro-
11 grams for teen drivers;

12 “(iv) creating statewide or regional
13 websites to publicize and circulate informa-
14 tion on teen safety programs;

15 “(v) conducting outreach and pro-
16 viding educational resources for parents;

17 “(vi) establishing State or regional
18 advisory councils comprised of teen drivers
19 to provide input and recommendations to
20 the governor and the governor’s safety rep-
21 resentative on issues related to the safety
22 of teen drivers;

23 “(vii) collaborating with law enforce-
24 ment;

1 “(viii) organizing and hosting State
2 and regional conferences for teen drivers;

3 “(ix) establishing partnerships and
4 promoting coordination among community
5 stakeholders, including public, not-for-prof-
6 it, and for profit entities; and

7 “(x) funding a coordinator position
8 for the teen safety program in the State or
9 region.”.

10 **SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOP-**
11 **MENT.**

12 Section 403 of title 23, United States Code, is
13 amended to read as follows:

14 **“§ 403. Highway safety research and development**

15 “(a) DEFINED TERM.—In this section, the term
16 ‘Federal laboratory’ includes—

17 “(1) a government-owned, government-operated
18 laboratory; and

19 “(2) a government-owned, contractor-operated
20 laboratory.

21 “(b) GENERAL AUTHORITY.—

22 “(1) RESEARCH AND DEVELOPMENT ACTIVI-
23 TIES.—The Secretary may conduct research and de-
24 velopment activities, including demonstration
25 projects and the collection and analysis of highway

1 and motor vehicle safety data and related informa-
2 tion needed to carry out this section, with respect
3 to—

4 “(A) all aspects of highway and traffic
5 safety systems and conditions relating to—

6 “(i) vehicle, highway, driver, pas-
7 senger, motorcyclist, bicyclist, and pedes-
8 trian characteristics;

9 “(ii) accident causation and investiga-
10 tions;

11 “(iii) communications;

12 “(iv) emergency medical services; and

13 “(v) transportation of the injured;

14 “(B) human behavioral factors and their
15 effect on highway and traffic safety, includ-
16 ing—

17 “(i) driver education;

18 “(ii) impaired driving;

19 “(iii) distracted driving; and

20 “(iv) new technologies installed in, or
21 brought into, vehicles;

22 “(C) an evaluation of the effectiveness of
23 countermeasures to increase highway and traf-
24 fic safety, including occupant protection and

1 alcohol- and drug-impaired driving technologies
2 and initiatives;

3 “(D) the development of technologies to
4 detect drug impaired drivers; and

5 “(E) the effect of State laws on any as-
6 pects, activities, or programs described in sub-
7 paragraphs (A) through (D).

8 “(2) COOPERATION, GRANTS, AND CON-
9 TRACTS.—The Secretary may carry out this sec-
10 tion—

11 “(A) independently;

12 “(B) in cooperation with other Federal de-
13 partments, agencies, and instrumentalities and
14 Federal laboratories;

15 “(C) by entering into contracts, coopera-
16 tive agreements, and other transactions with
17 the National Academy of Sciences, any Federal
18 laboratory, State or local agency, authority, as-
19 sociation, institution, foreign country, or person
20 (as defined in chapter 1 of title 1); or

21 “(D) by making grants to the National
22 Academy of Sciences, any Federal laboratory,
23 State or local agency, authority, association, in-
24 stitution, or person (as defined in chapter 1 of
25 title 1).

1 “(c) COLLABORATIVE RESEARCH AND DEVELOP-
2 MENT.—

3 “(1) IN GENERAL.—To encourage innovative
4 solutions to highway safety problems, stimulate vol-
5 untary improvements in highway safety, and stimu-
6 late the marketing of new highway safety related
7 technology by private industry, the Secretary is au-
8 thorized to carry out, on a cost-shared basis, collabo-
9 rative research and development with—

10 “(A) non-Federal entities, including State
11 and local governments, foreign countries, col-
12 leges, universities, corporations, partnerships,
13 sole proprietorships, organizations serving the
14 interests of children, people with disabilities,
15 low-income populations, and older adults, and
16 trade associations that are incorporated or es-
17 tablished under the laws of any State or the
18 United States; and

19 “(B) Federal laboratories.

20 “(2) AGREEMENTS.—In carrying out this sub-
21 section, the Secretary may enter into cooperative re-
22 search and development agreements (as defined in
23 section 12 of the Stevenson-Wydler Technology In-
24 novation Act of 1980 (15 U.S.C. 3710a)) in which
25 the Secretary provides not more than 50 percent of

1 the cost of any research or development project
2 under this subsection.

3 “(3) USE OF TECHNOLOGY.—The research, de-
4 velopment, or use of any technology pursuant to an
5 agreement under this subsection, including the terms
6 under which technology may be licensed and the re-
7 sulting royalties may be distributed, shall be subject
8 to the provisions of the Stevenson-Wydler Tech-
9 nology Innovation Act of 1980 (15 U.S.C. 3701 et
10 seq.).

11 “(d) TITLE TO EQUIPMENT.—In furtherance of the
12 purposes set forth in section 402, the Secretary may vest
13 title to equipment purchased for demonstration projects
14 with funds authorized under this section to State or local
15 agencies on such terms and conditions as the Secretary
16 determines to be appropriate.

17 “(e) TRAINING.—Notwithstanding the apportionment
18 formula set forth in section 402(c)(2), 1 percent of the
19 total amount available for apportionment to the States for
20 highway safety programs under section 402(c) in each fis-
21 cal year shall be available, through the end of the suc-
22 ceeding fiscal year, to the Secretary, acting through the
23 Administrator of the National Highway Traffic Safety Ad-
24 ministration—

1 “(1) to provide training, conducted or developed
2 by Federal or non-Federal entity or personnel, to
3 Federal, State, and local highway safety personnel;
4 and

5 “(2) to pay for any travel, administrative, and
6 other expenses related to such training.

7 “(f) DRIVER LICENSING AND FITNESS TO DRIVE
8 CLEARINGHOUSE.—From amounts made available under
9 this section, the Secretary, acting through the Adminis-
10 trator of the National Highway Traffic Safety Administra-
11 tion, is authorized to expend \$1,280,000 between the date
12 of enactment of the Motor Vehicle and Highway Safety
13 Improvement Act of 2012 and September 30, 2013, to es-
14 tablish an electronic clearinghouse and technical assist-
15 ance service to collect and disseminate research and anal-
16 ysis of medical and technical information and best prac-
17 tices concerning drivers with medical issues that may be
18 used by State driver licensing agencies in making licensing
19 qualification decisions.

20 “(g) INTERNATIONAL HIGHWAY SAFETY INFORMA-
21 TION AND COOPERATION.—

22 “(1) ESTABLISHMENT.—The Secretary, acting
23 through the Administrator of the National Highway
24 Traffic Safety Administration, may establish an

1 international highway safety information and co-
2 operation program to—

3 “(A) inform the United States highway
4 safety community of laws, projects, programs,
5 data, and technology in foreign countries that
6 could be used to enhance highway safety in the
7 United States;

8 “(B) permit the exchange of information
9 with foreign countries about laws, projects, pro-
10 grams, data, and technology that could be used
11 to enhance highway safety; and

12 “(C) allow the Secretary, represented by
13 the Administrator, to participate and cooperate
14 in international activities to enhance highway
15 safety.

16 “(2) COOPERATION.—The Secretary may carry
17 out this subsection in cooperation with any appro-
18 priate Federal agency, State or local agency or au-
19 thority, foreign government, or multinational institu-
20 tion.

21 “(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any
22 report of the National Highway Traffic Safety Adminis-
23 tration, or of any officer, employee, or contractor of the
24 National Highway Traffic Safety Administration, relating
25 to any highway traffic accident or the investigation of such

1 accident conducted pursuant to this chapter or chapter
2 301 shall be made available to the public in a manner that
3 does not identify individuals.

4 “(i) MODEL SPECIFICATIONS FOR DEVICES.—The
5 Secretary, acting through the Administrator of the Na-
6 tional Highway Traffic Safety Administration, may—

7 “(1) develop model specifications and testing
8 procedures for devices, including devices designed to
9 measure the concentration of alcohol in the body;

10 “(2) conduct periodic tests of such devices;

11 “(3) publish a Conforming Products List of
12 such devices that have met the model specifications;
13 and

14 “(4) may require that any necessary tests of
15 such devices are conducted by a Federal laboratory
16 and paid for by the device manufacturers.”.

17 **SEC. 31104. NATIONAL DRIVER REGISTER.**

18 Section 30302(b) of title 49, United States Code, is
19 amended by adding at the end the following: “The Sec-
20 retary shall make continual improvements to modernize
21 the Register’s data processing system.”.

22 **SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.**

23 (a) IN GENERAL.—Section 405 of title 23, United
24 States Code, is amended to read as follows:

1 **“§ 405. Combined occupant protection grants**

2 “(a) GENERAL AUTHORITY.—Subject to the require-
3 ments of this section, the Secretary of Transportation
4 shall award grants to States that adopt and implement
5 effective occupant protection programs to reduce highway
6 deaths and injuries resulting from individuals riding unre-
7 strained or improperly restrained in motor vehicles.

8 “(b) FEDERAL SHARE.—The Federal share of the
9 costs of activities funded using amounts from grants
10 awarded under this section may not exceed 80 percent for
11 each fiscal year for which a State receives a grant.

12 “(c) ELIGIBILITY.—

13 “(1) HIGH SEAT BELT USE RATE.—A State
14 with an observed seat belt use rate of 90 percent or
15 higher, based on the most recent data from a survey
16 that conforms with national criteria established by
17 the National Highway Traffic Safety Administra-
18 tion, shall be eligible for a grant in a fiscal year if
19 the State—

20 “(A) submits an occupant protection plan
21 during the first fiscal year;

22 “(B) participates in the Click It or Ticket
23 national mobilization;

24 “(C) has an active network of child re-
25 straint inspection stations; and

1 “(D) has a plan to recruit, train, and
2 maintain a sufficient number of child passenger
3 safety technicians.

4 “(2) LOWER SEAT BELT USE RATE.—A State
5 with an observed seat belt use rate below 90 percent,
6 based on the most recent data from a survey that
7 conforms with national criteria established by the
8 National Highway Traffic Safety Administration,
9 shall be eligible for a grant in a fiscal year if—

10 “(A) the State meets all of the require-
11 ments under subparagraphs (A) through (D) of
12 paragraph (1); and

13 “(B) the Secretary determines that the
14 State meets at least 3 of the following criteria:

15 “(i) The State conducts sustained (on-
16 going and periodic) seat belt enforcement
17 at a defined level of participation during
18 the year.

19 “(ii) The State has enacted and en-
20 forces a primary enforcement seat belt use
21 law.

22 “(iii) The State has implemented
23 countermeasure programs for high-risk
24 populations, such as drivers on rural road-

1 ways, unrestrained nighttime drivers, or
2 teenage drivers.

3 “(iv) The State has enacted and en-
4 forces occupant protection laws requiring
5 front and rear occupant protection use by
6 all occupants in an age-appropriate re-
7 straint.

8 “(v) The State has implemented a
9 comprehensive occupant protection pro-
10 gram in which the State has—

11 “(I) conducted a program assess-
12 ment;

13 “(II) developed a statewide stra-
14 tegic plan;

15 “(III) designated an occupant
16 protection coordinator; and

17 “(IV) established a statewide oc-
18 cupant protection task force.

19 “(vi) The State—

20 “(I) completed an assessment of
21 its occupant protection program dur-
22 ing the 3-year period preceding the
23 grant year; or

1 “(II) will conduct such an assess-
2 ment during the first year of the
3 grant.

4 “(d) USE OF GRANT AMOUNTS.—Grant funds re-
5 ceived pursuant to this section may be used to—

6 “(1) carry out a program to support high-visi-
7 bility enforcement mobilizations, including paid
8 media that emphasizes publicity for the program,
9 and law enforcement;

10 “(2) carry out a program to train occupant pro-
11 tection safety professionals, police officers, fire and
12 emergency medical personnel, educators, and parents
13 concerning all aspects of the use of child restraints
14 and occupant protection;

15 “(3) carry out a program to educate the public
16 concerning the proper use and installation of child
17 restraints, including related equipment and informa-
18 tion systems;

19 “(4) carry out a program to provide community
20 child passenger safety services, including programs
21 about proper seating positions for children and how
22 to reduce the improper use of child restraints;

23 “(5) purchase and distribute child restraints to
24 low-income families if not more than 5 percent of

1 the funds received in a fiscal year are used for this
2 purpose;

3 “(6) establish and maintain information sys-
4 tems containing data concerning occupant protec-
5 tion, including the collection and administration of
6 child passenger safety and occupant protection sur-
7 veys; and

8 “(7) carry out a program to educate the public
9 concerning the dangers of leaving children unat-
10 tended in vehicles.

11 “(e) GRANT AMOUNT.—The allocation of grant funds
12 under this section to a State for a fiscal year shall be in
13 proportion to the State’s apportionment under section 402
14 for fiscal year 2009.

15 “(f) REPORT.—A State that receives a grant under
16 this section shall submit a report to the Secretary that
17 documents the manner in which the grant amounts were
18 obligated and expended and identifies the specific pro-
19 grams carried out with the grant funds. The report shall
20 be in a form prescribed by the Secretary and may be com-
21 bined with other State grant reporting requirements under
22 chapter 4 of title 23, United States Code.

23 “(g) DEFINITIONS.—In this section:

24 “(1) CHILD RESTRAINT.—The term ‘child re-
25 straint’ means any device (including child safety

1 seat, booster seat, harness, and excepting seat belts)
 2 designed for use in a motor vehicle to restrain, seat,
 3 or position children who weigh 65 pounds (30 kilo-
 4 grams) or less, and certified to the Federal motor
 5 vehicle safety standard prescribed by the National
 6 Highway Traffic Safety Administration for child re-
 7 straints.

8 “(2) SEAT BELT.—The term ‘seat belt’
 9 means—

10 “(A) with respect to open-body motor vehi-
 11 cles, including convertibles, an occupant re-
 12 straint system consisting of a lap belt or a lap
 13 belt and a detachable shoulder belt; and

14 “(B) with respect to other motor vehicles,
 15 an occupant restraint system consisting of inte-
 16 grated lap and shoulder belts.”.

17 (b) CONFORMING AMENDMENT.—The analysis for
 18 chapter 4 of title 23, United States Code, is amended by
 19 striking the item relating to section 405 and inserting the
 20 following:

“405. Combined occupant protection grants.”.

21 **SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
 22 **IMPROVEMENTS.**

23 Section 408 of title 23, United States Code, is
 24 amended to read as follows:

1 **“§ 408. State traffic safety information system im-**
2 **provements**

3 “(a) GENERAL AUTHORITY.—Subject to the require-
4 ments of this section, the Secretary of Transportation
5 shall award grants to States to support the development
6 and implementation of effective State programs that—

7 “(1) improve the timeliness, accuracy, complete-
8 ness, uniformity, integration, and accessibility of the
9 State safety data that is needed to identify priorities
10 for Federal, State, and local highway and traffic
11 safety programs;

12 “(2) evaluate the effectiveness of efforts to
13 make such improvements;

14 “(3) link the State data systems, including traf-
15 fic records, with other data systems within the
16 State, such as systems that contain medical, road-
17 way, and economic data;

18 “(4) improve the compatibility and interoper-
19 ability of the data systems of the State with national
20 data systems and data systems of other States; and

21 “(5) enhance the ability of the Secretary to ob-
22 serve and analyze national trends in crash occur-
23 rences, rates, outcomes, and circumstances.

24 “(b) FEDERAL SHARE.—The Federal share of the
25 cost of adopting and implementing in a fiscal year a State

1 program described in this section may not exceed 80 per-
2 cent.

3 “(c) ELIGIBILITY.—A State is not eligible for a grant
4 under this section in a fiscal year unless the State dem-
5 onstrates, to the satisfaction of the Secretary, that the
6 State—

7 “(1) has a functioning traffic records coordi-
8 nating committee (referred to in this subsection as
9 ‘TRCC’) that meets at least 3 times a year;

10 “(2) has designated a TRCC coordinator;

11 “(3) has established a State traffic record stra-
12 tegic plan that has been approved by the TRCC and
13 describes specific quantifiable and measurable im-
14 provements anticipated in the State’s core safety
15 databases, including crash, citation or adjudication,
16 driver, emergency medical services or injury surveil-
17 lance system, roadway, and vehicle databases;

18 “(4) has demonstrated quantitative progress in
19 relation to the significant data program attribute
20 of—

21 “(A) accuracy;

22 “(B) completeness;

23 “(C) timeliness;

24 “(D) uniformity;

25 “(E) accessibility; or

1 “(F) integration of a core highway safety
2 database; and

3 “(5) has certified to the Secretary that an as-
4 sessment of the State’s highway safety data and
5 traffic records system was conducted or updated
6 during the preceding 5 years.

7 “(d) USE OF GRANT AMOUNTS.—Grant funds re-
8 ceived by a State under this section shall be used for mak-
9 ing data program improvements to core highway safety
10 databases related to quantifiable, measurable progress in
11 any of the 6 significant data program attributes set forth
12 in subsection (c)(4).

13 “(e) GRANT AMOUNT.—The allocation of grant funds
14 under this section to a State for a fiscal year shall be in
15 proportion to the State’s apportionment under section 402
16 for fiscal year 2009.”.

17 **SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

18 (a) IN GENERAL.—Section 410 of title 23, United
19 States Code, is amended to read as follows:

20 **“§ 410. Impaired driving countermeasures**

21 “(a) GRANTS AUTHORIZED.—Subject to the require-
22 ments of this section, the Secretary of Transportation
23 shall award grants to States that adopt and implement—

1 “(1) effective programs to reduce driving under
2 the influence of alcohol, drugs, or the combination of
3 alcohol and drugs; or

4 “(2) alcohol-ignition interlock laws.

5 “(b) FEDERAL SHARE.—The Federal share of the
6 costs of activities funded using amounts from grants
7 under this section may not exceed 80 percent in any fiscal
8 year in which the State receives a grant.

9 “(c) ELIGIBILITY.—

10 “(1) LOW-RANGE STATES.—Low-range States
11 shall be eligible for a grant under this section.

12 “(2) MID-RANGE STATES.—A mid-range State
13 shall be eligible for a grant under this section if—

14 “(A) a statewide impaired driving task
15 force in the State developed a statewide plan
16 during the most recent 3 calendar years to ad-
17 dress the problem of impaired driving; or

18 “(B) the State will convene a statewide im-
19 paired driving task force to develop such a plan
20 during the first year of the grant.

21 “(3) HIGH-RANGE STATES.—A high-range
22 State shall be eligible for a grant under this section
23 if the State—

1 “(A)(i) conducted an assessment of the
2 State’s impaired driving program during the
3 most recent 3 calendar years; or

4 “(ii) will conduct such an assessment dur-
5 ing the first year of the grant;

6 “(B) convenes, during the first year of the
7 grant, a statewide impaired driving task force
8 to develop a statewide plan that—

9 “(i) addresses any recommendations
10 from the assessment conducted under sub-
11 paragraph (A);

12 “(ii) includes a detailed plan for
13 spending any grant funds provided under
14 this section; and

15 “(iii) describes how such spending
16 supports the statewide program;

17 “(C)(i) submits the statewide plan to the
18 National Highway Traffic Safety Administra-
19 tion during the first year of the grant for the
20 agency’s review and approval;

21 “(ii) annually updates the statewide plan
22 in each subsequent year of the grant; and

23 “(iii) submits each updated statewide plan
24 for the agency’s review and comment; and

1 “(D) appoints a full or part-time impaired
2 driving coordinator—

3 “(i) to coordinate the State’s activities
4 to address enforcement and adjudication of
5 laws to address driving while impaired by
6 alcohol; and

7 “(ii) to oversee the implementation of
8 the statewide plan.

9 “(d) USE OF GRANT AMOUNTS.—

10 “(1) REQUIRED PROGRAMS.—High-range
11 States shall use grant funds for—

12 “(A) high visibility enforcement efforts;
13 and

14 “(B) any of the activities described in
15 paragraph (2) if—

16 “(i) the activity is described in the
17 statewide plan; and

18 “(ii) the Secretary approves the use of
19 funding for such activity.

20 “(2) AUTHORIZED PROGRAMS.—Medium-range
21 and low-range States may use grant funds for—

22 “(A) any of the purposes described in
23 paragraph (1);

24 “(B) paid and earned media in support of
25 high visibility enforcement efforts;

1 “(C) hiring a full-time or part-time im-
2 paired driving coordinator of the State’s activi-
3 ties to address the enforcement and adjudica-
4 tion of laws regarding driving while impaired by
5 alcohol;

6 “(D) court support of high visibility en-
7 forcement efforts;

8 “(E) alcohol ignition interlock programs;

9 “(F) improving blood-alcohol concentration
10 testing and reporting;

11 “(G) establishing driving while intoxicated
12 courts;

13 “(H) conducting—

14 “(i) standardized field sobriety train-
15 ing;

16 “(ii) advanced roadside impaired driv-
17 ing evaluation training; and

18 “(iii) drug recognition expert training
19 for law enforcement;

20 “(I) training and education of criminal jus-
21 tice professionals (including law enforcement,
22 prosecutors, judges and probation officers) to
23 assist such professionals in handling impaired
24 driving cases;

25 “(J) traffic safety resource prosecutors;

1 “(K) judicial outreach liaisons;

2 “(L) equipment and related expenditures
3 used in connection with impaired driving en-
4 forcement in accordance with criteria estab-
5 lished by the National Highway Traffic Safety
6 Administration;

7 “(M) training on the use of alcohol screen-
8 ing and brief intervention;

9 “(N) developing impaired driving informa-
10 tion systems; and

11 “(O) costs associated with a ‘24-7 sobriety
12 program’.

13 “(3) OTHER PROGRAMS.—Low-range States
14 may use grant funds for any expenditure designed to
15 reduce impaired driving based on problem identifica-
16 tion. Medium and high-range States may use funds
17 for such expenditures upon approval by the Sec-
18 retary.

19 “(e) GRANT AMOUNT.—Subject to subsection (f), the
20 allocation of grant funds to a State under this section for
21 a fiscal year shall be in proportion to the State’s appor-
22 tionment under section 402(c) for fiscal year 2009.

23 “(f) GRANTS TO STATES THAT ADOPT AND EN-
24 FORCE MANDATORY ALCOHOL-IGNITION INTERLOCK
25 LAWS.—

1 “(1) IN GENERAL.—The Secretary shall make a
2 separate grant under this section to each State that
3 adopts and is enforcing a mandatory alcohol-ignition
4 interlock law for all individuals convicted of driving
5 under the influence of alcohol or of driving while in-
6 toxicated.

7 “(2) USE OF FUNDS.—Such grants may be
8 used by recipient States only for costs associated
9 with the State’s alcohol-ignition interlock program,
10 including screening, assessment, and program and
11 offender oversight.

12 “(3) ALLOCATION.—Funds made available
13 under this subsection shall be allocated among
14 States described in paragraph (1) on the basis of the
15 apportionment formula under section 402(c).

16 “(4) FUNDING.—Not more than 15 percent of
17 the amounts made available to carry out this section
18 in a fiscal year shall be made available by the Sec-
19 retary for making grants under this subsection.

20 “(g) DEFINITIONS.—In this section:

21 “(1) 24-7 SOBRIETY PROGRAM.—The term ‘24-
22 7 sobriety program’ means a State law or program
23 that authorizes a State court or a State agency, as
24 a condition of sentence, probation, parole, or work
25 permit, to—

1 “(A) require an individual who plead guilty
2 or was convicted of driving under the influence
3 of alcohol or drugs to totally abstain from alco-
4 hol or drugs for a period of time; and

5 “(B) require the individual to be subject to
6 testing for alcohol or drugs—

7 “(i) at least twice a day;

8 “(ii) by continuous transdermal alco-
9 hol monitoring via an electronic monitoring
10 device; or

11 “(iii) by an alternate method with the
12 concurrence of the Secretary.

13 “(2) AVERAGE IMPAIRED DRIVING FATALITY
14 RATE.—The term ‘average impaired driving fatality
15 rate’ means the number of fatalities in motor vehicle
16 crashes involving a driver with a blood alcohol con-
17 centration of at least 0.08 for every 100,000,000 ve-
18 hicle miles traveled, based on the most recently re-
19 ported 3 calendar years of final data from the Fatal-
20 ity Analysis Reporting System, as calculated in ac-
21 cordance with regulations prescribed by the Adminis-
22 trator of the National Highway Traffic Safety Ad-
23 ministration.

1 “(3) HIGH-RANGE STATE.—The term ‘high-
2 range State’ means a State that has an average im-
3 paired driving fatality rate of 0.60 or higher.

4 “(4) LOW-RANGE STATE.—The term ‘low-range
5 State’ means a State that has an average impaired
6 driving fatality rate of 0.30 or lower.

7 “(5) MID-RANGE STATE.—The term ‘mid-range
8 State’ means a State that has an average impaired
9 driving fatality rate that is higher than 0.30 and
10 lower than 0.60.”.

11 (b) CONFORMING AMENDMENT.—The analysis for
12 chapter 4 of title 23, United States Code, is amended by
13 striking the item relating to section 410 and inserting the
14 following:

 “410. Impaired driving countermeasures.”.

15 **SEC. 31108. DISTRACTED DRIVING GRANTS.**

16 (a) IN GENERAL.—Section 411 of title 23, United
17 States Code, is amended to read as follows:

18 **“§ 411. Distracted driving grants**

19 “(a) IN GENERAL.—The Secretary shall award a
20 grant under this section to any State that enacts and en-
21 forces a statute that meets the requirements set forth in
22 subsections (b) and (c).

23 “(b) PROHIBITION ON TEXTING WHILE DRIVING.—
24 A State statute meets the requirements set forth in this
25 subsection if the statute—

1 “(1) prohibits drivers from texting through a
2 personal wireless communications device while driv-
3 ing;

4 “(2) makes violation of the statute a primary
5 offense;

6 “(3) establishes—

7 “(A) a minimum fine for a first violation
8 of the statute; and

9 “(B) increased fines for repeat violations;
10 and

11 “(4) provides increased civil and criminal pen-
12 alties than would otherwise apply if a vehicle acci-
13 dent is caused by a driver who is using such a device
14 in violation of the statute.

15 “(c) PROHIBITION ON YOUTH CELL PHONE USE
16 WHILE DRIVING.—A State statute meets the require-
17 ments set forth in this subsection if the statute—

18 “(1) prohibits a driver who is younger than 18
19 years of age from using a personal wireless commu-
20 nications device while driving;

21 “(2) makes violation of the statute a primary
22 offense;

23 “(3) requires distracted driving issues to be
24 tested as part of the State driver’s license examina-
25 tion;

1 “(4) establishes—

2 “(A) a minimum fine for a first violation
3 of the statute; and

4 “(B) increased fines for repeat violations;
5 and

6 “(5) provides increased civil and criminal pen-
7 alties than would otherwise apply if a vehicle acci-
8 dent is caused by a driver who is using such a device
9 in violation of the statute.

10 “(d) PERMITTED EXCEPTIONS.—A statute that
11 meets the requirements set forth in subsections (b) and
12 (c) may provide exceptions for—

13 “(1) a driver who uses a personal wireless com-
14 munications device to contact emergency services;

15 “(2) emergency services personnel who use a
16 personal wireless communications device while—

17 “(A) operating an emergency services vehi-
18 cle; and

19 “(B) engaged in the performance of their
20 duties as emergency services personnel; and

21 “(3) an individual employed as a commercial
22 motor vehicle driver or a school bus driver who uses
23 a personal wireless communications device within the
24 scope of such individual’s employment if such use is

1 permitted under the regulations promulgated pursu-
2 ant to section 31152 of title 49.

3 “(e) USE OF GRANT FUNDS.—Of the grant funds re-
4 ceived by a State under this section—

5 “(1) at least 50 percent shall be used—

6 “(A) to educate the public through adver-
7 tising containing information about the dangers
8 of texting or using a cell phone while driving;

9 “(B) for traffic signs that notify drivers
10 about the distracted driving law of the State; or

11 “(C) for law enforcement costs related to
12 the enforcement of the distracted driving law;
13 and

14 “(2) up to 50 percent may be used for other
15 projects that—

16 “(A) improve traffic safety; and

17 “(B) are consistent with the criteria set
18 forth in section 402(a).

19 “(f) ADDITIONAL GRANTS.—In fiscal year 2012, the
20 Secretary may use up to 25 percent of the funding avail-
21 able for grants under this section to award grants to
22 States that—

23 “(1) enacted statutes before July 1, 2011,
24 which meet the requirements under paragraphs (1)
25 and (2) of subsection (b); and

1 “(2) are otherwise ineligible for a grant under
2 this section.

3 “(g) DISTRACTED DRIVING STUDY.—

4 “(1) IN GENERAL.—The Secretary shall con-
5 duct a study of all forms of distracted driving.

6 “(2) COMPONENTS.—The study conducted
7 under paragraph (1) shall—

8 “(A) examine the effect of distractions
9 other than the use of personal wireless commu-
10 nications on motor vehicle safety;

11 “(B) identify metrics to determine the na-
12 ture and scope of the distracted driving prob-
13 lem;

14 “(C) identify the most effective methods to
15 enhance education and awareness; and

16 “(D) identify the most effective method of
17 reducing deaths and injuries caused by all
18 forms of distracted driving.

19 “(3) REPORT.—Not later than 1 year after the
20 date of enactment of the Motor Vehicle and High-
21 way Safety Improvement Act of 2012, the Secretary
22 shall submit a report containing the results of the
23 study conducted under this subsection to—

24 “(A) the Committee on Commerce,
25 Science, and Transportation of the Senate; and

1 “(B) the Committee on Transportation
2 and Infrastructure of the House of Representa-
3 tives.

4 “(h) DEFINITIONS.—In this section:

5 “(1) DRIVING.—The term ‘driving’—

6 “(A) means operating a motor vehicle on a
7 public road, including operation while tempo-
8 rarily stationary because of traffic, a traffic
9 light or stop sign, or otherwise; and

10 “(B) does not include operating a motor
11 vehicle when the vehicle has pulled over to the
12 side of, or off, an active roadway and has
13 stopped in a location where it can safely remain
14 stationary.

15 “(2) PERSONAL WIRELESS COMMUNICATIONS
16 DEVICE.—The term ‘personal wireless communica-
17 tions device’—

18 “(A) means a device through which per-
19 sonal wireless services (as defined in section
20 332(c)(7)(C)(i) of the Communications Act of
21 1934 (47 U.S.C. 332(c)(7)(C)(i))) are trans-
22 mitted; and

23 “(B) does not include a global navigation
24 satellite system receiver used for positioning,
25 emergency notification, or navigation purposes.

1 “(3) PRIMARY OFFENSE.—The term ‘primary
2 offense’ means an offense for which a law enforce-
3 ment officer may stop a vehicle solely for the pur-
4 pose of issuing a citation in the absence of evidence
5 of another offense.

6 “(4) PUBLIC ROAD.—The term ‘public road’
7 has the meaning given that term in section 402(c).

8 “(5) TEXTING.—The term ‘texting’ means
9 reading from or manually entering data into a per-
10 sonal wireless communications device, including
11 doing so for the purpose of SMS texting, e-mailing,
12 instant messaging, or engaging in any other form of
13 electronic data retrieval or electronic data commu-
14 nication.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
16 chapter 4 of title 23, United States Code, is amended by
17 striking the item relating to section 411 and inserting the
18 following:

“411. Distracted driving grants.”.

19 **SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

20 Section 2009 of SAFETEA-LU (23 U.S.C. 402
21 note) is amended—

22 (1) in subsection (a)—

23 (A) by striking “at least 2” and inserting

24 “at least 3”; and

1 (B) by striking “years 2006 through
2 2012.” and inserting “fiscal years 2012 and
3 2013. The Administrator may also initiate and
4 support additional campaigns in each of fiscal
5 years 2012 and 2013 for the purposes specified
6 in subsection (b).”;

7 (2) in subsection (b) by striking “either or
8 both” and inserting “outcomes related to at least
9 1”;

10 (3) in subsection (c), by inserting “and Inter-
11 net-based outreach” after “print media advertising”;

12 (4) in subsection (e), by striking “subsections
13 (a), (c), and (f)” and inserting “subsection (c)”;

14 (5) by striking subsection (f); and

15 (6) by redesignating subsection (g) as sub-
16 section (f).

17 **SEC. 31110. MOTORCYCLIST SAFETY.**

18 Section 2010 of SAFETEA-LU (23 U.S.C. 402
19 note) is amended—

20 (1) by striking subsections (b) and (g);

21 (2) by redesignating subsections (c), (d), (e),
22 and (f) as subsections (b), (c), (d), and (e), respec-
23 tively; and

24 (3) in subsection (c)(1), as redesignated, by
25 striking “to the satisfaction of the Secretary—” and

1 all that follows and inserting “, to the satisfaction
2 of the Secretary, at least 2 of the 6 criteria listed
3 in paragraph (2).”.

4 **SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR**
5 **SAFETY RESEARCH.**

6 (a) IN GENERAL.—Chapter 4 of title 23, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 413. In-vehicle alcohol detection device research**

10 “(a) IN GENERAL.—The Administrator of the Na-
11 tional Highway Traffic Safety Administration shall carry
12 out a collaborative research effort under chapter 301 of
13 title 49, United States Code, to continue to explore the
14 feasibility and the potential benefits of, and the public pol-
15 icy challenges associated with, more widespread deploy-
16 ment of in-vehicle technology to prevent alcohol-impaired
17 driving.

18 “(b) REPORTS.—The Administrator shall submit a
19 report annually to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Represent-
21 atives Committee on Transportation and Infrastructure—

22 “(1) describing progress in carrying out the col-
23 laborative research effort; and

1 “(2) including an accounting for the use of
2 Federal funds obligated or expended in carrying out
3 that effort.

4 “(c) DEFINITIONS.—In this title:

5 “(1) ALCOHOL-IMPAIRED DRIVING.—The term
6 ‘alcohol-impaired driving’ means operation of a
7 motor vehicle (as defined in section 30102(a)(6) of
8 title 49, United States Code) by an individual whose
9 blood alcohol content is at or above the legal limit.

10 “(2) LEGAL LIMIT.—The term ‘legal limit’
11 means a blood alcohol concentration of 0.08 percent
12 or greater (as specified by chapter 163 of title 23,
13 United States Code) or such other percentage limita-
14 tion as may be established by applicable Federal,
15 State, or local law.”.

16 (b) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 4 of title 23, United States Code, is amended by insert-
18 ing after the item relating to section 412 the following:
 “413. In-vehicle alcohol detection device research.”.

19 **SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.**

20 (a) IN GENERAL.—Chapter 4 of title 23, United
21 States Code, as amended by this title, is further amended
22 by adding at the end the following:

1 **“§ 414. State Graduated Driver Licensing Incentive**
2 **Grant**

3 “(a) GRANTS AUTHORIZED.—Subject to the require-
4 ments of this section, the Secretary shall award grants to
5 States that adopt and implement graduated driver licens-
6 ing laws in accordance with the requirements set forth in
7 subsection (b).

8 “(b) MINIMUM REQUIREMENTS.—

9 “(1) IN GENERAL.—A State meets the require-
10 ments set forth in this subsection if the State has
11 a graduated driver licensing law that requires novice
12 drivers younger than 21 years of age to comply with
13 the 2-stage licensing process described in paragraph
14 (2) before receiving an unrestricted driver’s license.

15 “(2) LICENSING PROCESS.—A State is in com-
16 pliance with the 2-stage licensing process described
17 in this paragraph if the State’s driver’s license laws
18 include—

19 “(A) a learner’s permit stage that—

20 “(i) is at least 6 months in duration;

21 “(ii) prohibits the driver from using a
22 cellular telephone or any communications
23 device in a nonemergency situation; and

24 “(iii) remains in effect until the driv-
25 er—

1 “(I) reaches 16 years of age and
2 enters the intermediate stage; or

3 “(II) reaches 18 years of age;

4 “(B) an intermediate stage that—

5 “(i) commences immediately after the
6 expiration of the learner’s permit stage;

7 “(ii) is at least 6 months in duration;

8 “(iii) prohibits the driver from using a
9 cellular telephone or any communications
10 device in a nonemergency situation;

11 “(iv) restricts driving at night;

12 “(v) prohibits the driver from oper-
13 ating a motor vehicle with more than 1
14 nonfamilial passenger younger than 21
15 years of age unless a licensed driver who is
16 at least 21 years of age is in the motor ve-
17 hicle; and

18 “(vi) remains in effect until the driver
19 reaches 18 years of age; and

20 “(C) any other requirement prescribed by
21 the Secretary of Transportation, including—

22 “(i) in the learner’s permit stage—

23 “(I) at least 40 hours of behind-
24 the-wheel training with a licensed
25 driver who is at least 21 years of age;

1 “(II) a driver training course;
2 and

3 “(III) a requirement that the
4 driver be accompanied and supervised
5 by a licensed driver, who is at least 21
6 years of age, at all times while such
7 driver is operating a motor vehicle;
8 and

9 “(ii) in the learner’s permit or inter-
10 mediate stage, a requirement, in addition
11 to any other penalties imposed by State
12 law, that the grant of an unrestricted driv-
13 er’s license be automatically delayed for
14 any individual who, during the learner’s
15 permit or intermediate stage, is convicted
16 of a driving-related offense, including—

17 “(I) driving while intoxicated;

18 “(II) misrepresentation of his or
19 her true age;

20 “(III) reckless driving;

21 “(IV) driving without wearing a
22 seat belt;

23 “(V) speeding; or

1 “(VI) any other driving-related
2 offense, as determined by the Sec-
3 retary.

4 “(c) RULEMAKING.—

5 “(1) IN GENERAL.—The Secretary shall pro-
6 mulgate regulations necessary to implement the re-
7 quirements under subsection (b), in accordance with
8 the notice and comment provisions under section
9 553 of title 5, United States Code.

10 “(2) EXCEPTION.—A State that otherwise
11 meets the minimum requirements set forth in sub-
12 section (b) shall be deemed by the Secretary to be
13 in compliance with the requirement set forth in sub-
14 section (b) if the State enacted a law before January
15 1, 2011, establishing a class of license that permits
16 licensees or applicants younger than 18 years of age
17 to drive a motor vehicle—

18 “(A) in connection with work performed
19 on, or for the operation of, a farm owned by
20 family members who are directly related to the
21 applicant or licensee; or

22 “(B) if demonstrable hardship would result
23 from the denial of a license to the licensees or
24 applicants.

1 “(d) ALLOCATION.—Grant funds allocated to a State
2 under this section for a fiscal year shall be in proportion
3 to a State’s apportionment under section 402 for such fis-
4 cal year.

5 “(e) USE OF FUNDS.—Grant funds received by a
6 State under this section may be used for—

7 “(1) enforcing a 2-stage licensing process that
8 complies with subsection (b)(2);

9 “(2) training for law enforcement personnel and
10 other relevant State agency personnel relating to the
11 enforcement described in paragraph (1);

12 “(3) publishing relevant educational materials
13 that pertain directly or indirectly to the State grad-
14 uated driver licensing law;

15 “(4) carrying out other administrative activities
16 that the Secretary considers relevant to the State’s
17 2-stage licensing process; and

18 “(5) carrying out a teen traffic safety program
19 described in section 402(m).”.

20 **SEC. 31113. AGENCY ACCOUNTABILITY.**

21 Section 412 of title 23, United States Code, is
22 amended—

23 (1) by amending subsection (a) to read as fol-
24 lows:

25 “(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

1 “(1) IN GENERAL.—Except as provided under
2 paragraph (2), the Secretary shall conduct a review
3 of each State highway safety program at least once
4 every 3 years.

5 “(2) EXCEPTIONS.—The Secretary may con-
6 duct reviews of the highway safety programs of the
7 United States Virgin Islands, Guam, American
8 Samoa, and the Commonwealth of the Northern
9 Mariana Islands as often as the Secretary deter-
10 mines to be appropriate.

11 “(3) COMPONENTS.—Reviews under this sub-
12 section shall include—

13 “(A) a management evaluation of all grant
14 programs funded under this chapter;

15 “(B) an assessment of State data collec-
16 tion and evaluation relating to performance
17 measures established by the Secretary;

18 “(C) a comparison of State efforts under
19 subparagraphs (A) and (B) to best practices
20 and programs that have been evaluated for ef-
21 fectiveness; and

22 “(D) the development of recommendations
23 on how each State could—

24 “(i) improve the management and
25 oversight of its grant activities; and

1 “(ii) provide a management and over-
2 sight plan for such grant programs.”; and
3 (2) by striking subsection (f).

4 **SEC. 31114. EMERGENCY MEDICAL SERVICES.**

5 Section 10202 of Public Law 109–59 (42 U.S.C.
6 300d–4), is amended by adding at the end the following:

7 “(b) NATIONAL EMERGENCY MEDICAL SERVICES
8 ADVISORY COUNCIL.—

9 “(1) ESTABLISHMENT.—The Secretary of
10 Transportation, in coordination with the Secretary
11 of Health and Human Services and the Secretary of
12 Homeland Security, shall establish a National Emer-
13 gency Medical Services Advisory Council (referred to
14 in this subsection as the ‘Advisory Council’).

15 “(2) MEMBERSHIP.—The Advisory Council
16 shall be composed of 25 members, who—

17 “(A) shall be appointed by the Secretary of
18 Transportation; and

19 “(B) shall collectively be representative of
20 all sectors of the emergency medical services
21 community.

22 “(3) PURPOSES.—The purposes of the Advisory
23 Council are to advise and consult with—

1 “(A) the Federal Interagency Committee
2 on Emergency Medical Services on matters re-
3 lating to emergency medical services issues; and

4 “(B) the Secretary of Transportation on
5 matters relating to emergency medical services
6 issues affecting the Department of Transpor-
7 tation.

8 “(4) ADMINISTRATION.—The Administrator of
9 the National Highway Traffic Safety Administration
10 shall provide administrative support to the Advisory
11 Council, including scheduling meetings, setting agen-
12 das, keeping minutes and records, and producing re-
13 ports.

14 “(5) LEADERSHIP.—The members of the Advi-
15 sory Council shall annually select a chairperson of
16 the Council.

17 “(6) MEETINGS.—The Advisory Council shall
18 meet as frequently as is determined necessary by the
19 chairperson of the Council.

20 “(7) ANNUAL REPORTS.—The Advisory Council
21 shall prepare an annual report to the Secretary of
22 Transportation regarding the Council’s actions and
23 recommendations.”.

1 **Subtitle B—Enhanced Safety**
2 **Authorities**

3 **SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.**

4 Section 30102(a)(7)(C) of title 49, United States
5 Code, is amended to read as follows:

6 “(C) any device or an article or apparel,
7 including a motorcycle helmet and excluding
8 medicine or eyeglasses prescribed by a licensed
9 practitioner, that—

10 “(i) is not a system, part, or compo-
11 nent of a motor vehicle; and

12 “(ii) is manufactured, sold, delivered,
13 or offered to be sold for use on public
14 streets, roads, and highways with the ap-
15 parent purpose of safeguarding motor vehi-
16 cles and highway users against risk of acci-
17 dent, injury, or death.”.

18 **SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF**
19 **SAFETY BELTS.**

20 (a) IN GENERAL.—Chapter 301 of title 49, United
21 States Code, is amended—

22 (1) in section 30122, by striking subsection (d);

23 and

24 (2) by amending section 30124 to read as fol-
25 lows:

1 **“§ 30124. Nonuse of safety belts**

2 “A motor vehicle safety standard prescribed under
3 this chapter may not require a manufacturer to comply
4 with the standard by using a safety belt interlock designed
5 to prevent starting or operating a motor vehicle if an occu-
6 pant is not using a safety belt.”.

7 (b) CONFORMING AMENDMENT.—The analysis for
8 chapter 301 of title 49, United States Code, is amended
9 by striking the item relating to section 30124 and insert-
10 ing the following:

“Sec. 30124. Nonuse of safety belts.”.

11 **SEC. 31203. CIVIL PENALTIES.**

12 (a) IN GENERAL.—Section 30165 of title 49, United
13 States Code, is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) by striking “30123(d)” and insert-
17 ing “30123(a)”; and

18 (ii) by striking “\$15,000,000” and in-
19 serting “\$250,000,000”; and

20 (B) in paragraph (3), by striking
21 “\$15,000,000” and inserting “\$250,000,000”;
22 and

23 (2) by amending subsection (c) to read as fol-
24 lows:

1 “(c) RELEVANT FACTORS IN DETERMINING AMOUNT
2 OF PENALTY OR COMPROMISE.—In determining the
3 amount of a civil penalty or compromise under this sec-
4 tion, the Secretary of Transportation shall consider the
5 nature, circumstances, extent, and gravity of the violation.
6 Such determination shall include, as appropriate—

7 “(1) the nature of the defect or noncompliance;

8 “(2) knowledge by the person charged of its ob-
9 ligation to recall or notify the public;

10 “(3) the severity of the risk of injury;

11 “(4) the occurrence or absence of injury;

12 “(5) the number of motor vehicles or items of
13 motor vehicle equipment distributed with the defect
14 or noncompliance;

15 “(6) the existence of an imminent hazard;

16 “(7) actions taken by the person charged to
17 identify, investigate, or mitigate the condition;

18 “(8) the appropriateness of such penalty in re-
19 lation to the size of the business of the person
20 charged, including the potential for undue adverse
21 economic impacts;

22 “(9) whether the person has previously been as-
23 sessed civil penalties under this section during the
24 most recent 5 years; and

25 “(10) other appropriate factors.”.

1 (b) CIVIL PENALTY CRITERIA.—Not later than 1
 2 year after the date of the enactment of this Act, the Sec-
 3 retary shall issue a final rule, in accordance with the pro-
 4 cedures of section 553 of title 5, United States Code,
 5 which provides an interpretation of the penalty factors de-
 6 scribed in section 30165(c) of title 49, United States
 7 Code.

8 (c) CONSTRUCTION.—Nothing in this section may be
 9 construed as preventing the imposition of penalties under
 10 section 30165 of title 49, United States Code, before the
 11 issuance of a final rule under subsection (b).

12 **SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DE-**
 13 **VELOPMENT.**

14 (a) IN GENERAL.—Chapter 301 of title 49, United
 15 States Code, is amended by adding at the end the fol-
 16 lowing:

17 “SUBCHAPTER V—MOTOR VEHICLE SAFETY
 18 RESEARCH AND DEVELOPMENT

19 “§ 30181. Policy

20 “The Secretary of Transportation shall conduct re-
 21 search, development, and testing on any area or aspect
 22 of motor vehicle safety necessary to carry out this chapter.

23 “§ 30182. Powers and duties

24 “(a) IN GENERAL.—The Secretary of Transportation
 25 shall—

1 “(1) conduct motor vehicle safety research, de-
2 velopment, and testing programs and activities, in-
3 cluding new and emerging technologies that impact
4 or may impact motor vehicle safety;

5 “(2) collect and analyze all types of motor vehi-
6 cle and highway safety data and related information
7 to determine the relationship between motor vehicle
8 or motor vehicle equipment performance characteris-
9 tics and—

10 “(A) accidents involving motor vehicles;

11 and

12 “(B) deaths or personal injuries resulting
13 from those accidents;

14 “(3) promote, support, and advance the edu-
15 cation and training of motor vehicle safety staff of
16 the National Highway Traffic Safety Administra-
17 tion, including using program funds for—

18 “(A) planning, implementing, conducting,

19 and presenting results of program activities;

20 and

21 “(B) travel and related expenses;

22 “(4) obtain experimental and other motor vehi-
23 cles and motor vehicle equipment for research or
24 testing;

1 “(5)(A) use any test motor vehicles and motor
2 vehicle equipment suitable for continued use, as de-
3 termined by the Secretary to assist in carrying out
4 this chapter or any other chapter of this title; or

5 “(B) sell or otherwise dispose of test motor ve-
6 hicles and motor vehicle equipment and use the re-
7 sulting proceeds to carry out this chapter;

8 “(6) award grants to States and local govern-
9 ments, interstate authorities, and nonprofit institu-
10 tions; and

11 “(7) enter into cooperative agreements, collabo-
12 rative research, or contracts with Federal agencies,
13 interstate authorities, State and local governments,
14 other public entities, private organizations and per-
15 sons, nonprofit institutions, colleges and universities,
16 consumer advocacy groups, corporations, partner-
17 ships, sole proprietorships, trade associations, Fed-
18 eral laboratories (including government-owned, gov-
19 ernment-operated laboratories and government-
20 owned, contractor-operated laboratories), and foreign
21 governments and research organizations.

22 “(b) USE OF PUBLIC AGENCIES.—In carrying out
23 this subchapter, the Secretary shall avoid duplication by
24 using the services, research, and testing facilities of public
25 agencies, as appropriate.

1 “(c) FACILITIES.—The Secretary may plan, design,
2 and build a new facility or modify an existing facility to
3 conduct research, development, and testing in traffic safe-
4 ty, highway safety, and motor vehicle safety.

5 “(d) AVAILABILITY OF INFORMATION, PATENTS, AND
6 DEVELOPMENTS.—When the United States Government
7 makes more than a minimal contribution to a research or
8 development activity under this chapter, the Secretary
9 shall include in the arrangement for the activity a provi-
10 sion to ensure that all information, patents, and develop-
11 ments related to the activity are available to the public
12 without charge. The owner of a background patent may
13 not be deprived of a right under the patent.

14 **“§ 30183. Prohibition on certain disclosures.**

15 “Any report of the National Highway Traffic Safety
16 Administration, or of any officer, employee, or contractor
17 of the National Highway Traffic Safety Administration,
18 relating to any highway traffic accident or the investiga-
19 tion of such accident conducted pursuant to this chapter
20 or section 403 of title 23, shall be made available to the
21 public in a manner that does not identify individuals.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) AMENDMENT OF CHAPTER ANALYSIS.—The
24 chapter analysis for chapter 301 of title 49, United

1 States Code, is amended by adding at the end the
 2 following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

3 (2) DELETION OF REDUNDANT MATERIAL.—
 4 Chapter 301 of title 49, United States Code, is
 5 amended—

6 (A) in the chapter analysis, by striking the
 7 item relating to section 30168; and

8 (B) by striking section 30168.

9 **SEC. 31205. ODOMETER REQUIREMENTS.**

10 (a) DEFINITION.—Section 32702(5) of title 49,
 11 United States Code, is amended by inserting “or system
 12 of components” after “instrument”.

13 (b) ELECTRONIC DISCLOSURES OF ODOMETER IN-
 14 FORMATION.—Section 32705 of title 49, United States
 15 Code, is amended by adding at the end the following:

16 “(g) ELECTRONIC DISCLOSURES.—Not later than 18
 17 months after the date of enactment of the Motor Vehicle
 18 and Highway Safety Improvement Act of 2012, in car-
 19 rying out this section, the Secretary shall prescribe regula-
 20 tions permitting any written disclosures or notices and re-
 21 lated matters to be provided electronically.”.

1 **SEC. 31206. INCREASED PENALTIES AND DAMAGES FOR**
2 **ODOMETER FRAUD.**

3 Chapter 327 of title 49, United States Code, is
4 amended—

5 (1) in section 32709(a)(1)—

6 (A) by striking “\$2,000” and inserting
7 “\$10,000”; and

8 (B) by striking “\$100,000” and inserting
9 “\$1,000,000”; and

10 (2) in section 32710(a), by striking “\$1,500”
11 and inserting “\$10,000”.

12 **SEC. 31207. EXTEND PROHIBITIONS ON IMPORTING NON-**
13 **COMPLIANT VEHICLES AND EQUIPMENT TO**
14 **DEFECTIVE VEHICLES AND EQUIPMENT.**

15 Section 30112 of title 49, United States Code, is
16 amended—

17 (1) in subsection (a), by adding at the end the
18 following:

19 “(3) Except as provided in this section, section
20 30114, subsections (i) and (j) of section 30120, and sub-
21 chapter III, a person may not sell, offer for sale, introduce
22 or deliver for introduction in interstate commerce, or im-
23 port into the United States any motor vehicle or motor
24 vehicle equipment if the vehicle or equipment contains a
25 defect related to motor vehicle safety about which notice
26 was given under section 30118(c) or an order was issued

1 under section 30118(b). Nothing in this paragraph may
 2 be construed to prohibit the importation of a new motor
 3 vehicle that receives a required recall remedy before being
 4 sold to a consumer in the United States.”; and

5 (2) in subsection (b)(2)—

6 (A) in subparagraph (A), by striking “or”
 7 at the end;

8 (B) in subparagraph (B), by adding “or”
 9 at the end; and

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

11 “(C) having no reason to know, despite ex-
 12 ercising reasonable care, that a motor vehicle or
 13 motor vehicle equipment contains a defect re-
 14 lated to motor vehicle safety about which notice
 15 was given under section 30118(c) or an order
 16 was issued under section 30118(b);”.

17 **SEC. 31208. FINANCIAL RESPONSIBILITY REQUIREMENTS**
 18 **FOR IMPORTERS.**

19 Chapter 301 of title 49, United States Code, is
 20 amended—

21 (1) in the chapter analysis, by striking the item
 22 relating to subchapter III and inserting the fol-
 23 lowing:

“SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT”;

24 (2) in the heading for subchapter III, by strik-
 25 ing “NONCOMPLYING”; and

1 (3) in section 30147, by amending subsection
2 (b) to read as follows:

3 “(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—

4 “(1) RULEMAKING.—The Secretary of Trans-
5 portation may issue regulations requiring each per-
6 son that imports a motor vehicle or motor vehicle
7 equipment into the customs territory of the United
8 States, including a registered importer (or any suc-
9 cessor in interest), provide and maintain evidence,
10 satisfactory to the Secretary, of sufficient financial
11 responsibility to meet its obligations under section
12 30117(b), sections 30118 through 30121, and sec-
13 tion 30166(f). In making a determination of suffi-
14 cient financial responsibility under this Rule, the
15 Secretary, to avoid duplicative requirements, shall
16 first, to the extent practicable, rely on existing re-
17 porting and recordkeeping requirements and other
18 information available to the Secretary, and shall co-
19 ordinate with other Federal agencies, including the
20 Securities and Exchange Commission, to access in-
21 formation collected and made publicly available
22 under existing reporting and recordkeeping require-
23 ments.

24 “(2) REFUSAL OF ADMISSION.—If the Sec-
25 retary of Transportation believes that a person de-

1 scribed in paragraph (1) has not provided and main-
2 tained evidence of sufficient financial responsibility
3 to meet the obligations referred to in paragraph (1),
4 the Secretary of Homeland Security shall first offer
5 the person an opportunity to remedy the deficiency
6 within 30 days, and if not remedied thereafter may
7 refuse the admission into the customs territory of
8 the United States of any motor vehicle or motor ve-
9 hicle equipment imported by the person.

10 “(3) EXCEPTION.—This subsection shall not
11 apply to original manufacturers (or wholly owned
12 subsidiaries) of motor vehicles that, prior to the date
13 of enactment of the Motor Vehicle and Highway
14 Safety Improvement Act of 2012—

15 “(A) have imported motor vehicles into the
16 United States that are certified to comply with
17 all applicable Federal motor vehicle safety
18 standards;

19 “(B) have submitted to the Secretary ap-
20 propriate manufacturer identification informa-
21 tion under part 566 of title 49, Code of Federal
22 Regulations; and

23 “(C) if applicable, have identified a current
24 agent for service of process in accordance with

1 part 551 of title 49, Code of Federal Regula-
 2 tions.”.

3 **SEC. 31209. CONDITIONS ON IMPORTATION OF VEHICLES**
 4 **AND EQUIPMENT.**

5 Chapter 301 of title 49, United States Code, is
 6 amended—

7 (1) in the chapter analysis, by striking the item
 8 relating to section 30164 and inserting the fol-
 9 lowing:

“30164. Service of process; conditions on importation of vehicles and equip-
 ment.”;

10 and

11 (2) in section 30164—

12 (A) in the section heading, by adding “;
 13 **CONDITIONS ON IMPORTATION OF VEHI-**
 14 **CLES AND EQUIPMENT**” at the end; and

15 (B) by adding at the end the following:

16 “(c) IDENTIFYING INFORMATION.—A manufacturer
 17 (including an importer) offering a motor vehicle or motor
 18 vehicle equipment for import shall provide such informa-
 19 tion as the Secretary may, by rule, request including—

20 “(1) the product by name and the manufactur-
 21 er’s address; and

22 “(2) each retailer or distributor to which the
 23 manufacturer directly supplied motor vehicles or

1 motor vehicle equipment over which the Secretary
2 has jurisdiction under this chapter.

3 “(d) RULEMAKING.—In issuing a rulemaking, the
4 Secretary shall seek to reduce duplicative requirements by
5 coordinating with Department of Homeland Security. The
6 Secretary may issue regulations that—

7 “(1) condition the import of a motor vehicle or
8 motor vehicle equipment on the manufacturer’s com-
9 pliance with—

10 “(A) the requirements under this section;

11 “(B) any rules issued with respect to such
12 requirements; or

13 “(C) any other requirements under this
14 chapter or rules issued with respect to such re-
15 quirements;

16 “(2) provide an opportunity for the manufac-
17 turer to present information before the Secretary’s
18 determination as to whether the manufacturer’s im-
19 ports should be restricted; and

20 “(3) establish a process by which a manufac-
21 turer may petition for reinstatement of its ability to
22 import motor vehicles or motor vehicle equipment.

23 “(e) EXCEPTION.—The requirements of subsections
24 (c) and (d) shall not apply to original manufacturers (or
25 wholly owned subsidiaries) of motor vehicles that, prior to

1 the date of enactment of the Motor Vehicle and Highway
2 Safety Improvement Act of 2012—

3 “(1) have imported motor vehicles into the
4 United States that are certified to comply with all
5 applicable Federal motor vehicle safety standards,

6 “(2) have submitted to the Secretary appro-
7 priate manufacturer identification information under
8 part 566 of title 49, Code of Federal Regulations;
9 and

10 “(3) if applicable, have identified a current
11 agent for service of process in accordance with part
12 551 of title 49, Code of Federal Regulations.”.

13 **SEC. 31210. PORT INSPECTIONS; SAMPLES FOR EXAMINA-**
14 **TION OR TESTING.**

15 Section 30166(c) of title 49, United States Code, is
16 amended—

17 (1) in paragraph (2), by striking “and” at the
18 end;

19 (2) in paragraph (3)—

20 (A) in subparagraph (A), by inserting “(in-
21 cluding at United States ports of entry)” after
22 “held for introduction in interstate commerce”;
23 and

1 (B) in subparagraph (D), by striking the
2 period at the end and inserting a semicolon;
3 and

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

5 “(4) shall enter into a memorandum of under-
6 standing with the Secretary of Homeland Security
7 for inspections and sampling of motor vehicle equip-
8 ment being offered for import to determine compli-
9 ance with this chapter or a regulation or order
10 issued under this chapter.”.

11 **Subtitle C—Transparency and** 12 **Accountability**

13 **SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFE-** 14 **TY ADMINISTRATION VEHICLE SAFETY DATA-** 15 **BASE.**

16 (a) IN GENERAL.—Not later than 2 years after the
17 date of enactment of this Act, the Secretary shall improve
18 public accessibility to information on the National High-
19 way Traffic Safety Administration’s publicly accessible ve-
20 hicle safety databases by—

21 (1) improving organization and functionality,
22 including modern web design features, and allowing
23 for data to be searched, aggregated, and
24 downloaded;

1 (2) providing greater consistency in presen-
2 tation of vehicle safety issues; and

3 (3) improving searchability about specific vehi-
4 cles and issues through standardization of commonly
5 used search terms.

6 (b) VEHICLE RECALL INFORMATION.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary
9 shall require that motor vehicle safety recall infor-
10 mation—

11 (A) is available to the public on the Inter-
12 net;

13 (B) is searchable by vehicle make and
14 model and vehicle identification number;

15 (C) is in a format that preserves consumer
16 privacy; and

17 (D) includes information about each recall
18 that has not been completed for each vehicle.

19 (2) RULEMAKING.—The Secretary may initiate
20 a rulemaking proceeding to require each manufac-
21 turer to provide the information described in para-
22 graph (1), with respect to that manufacturer’s motor
23 vehicles, at no cost on a publicly accessible Internet
24 website.

1 (3) DATABASE AWARENESS PROMOTION ACTIVI-
2 TIES.—The Secretary, in consultation with the heads
3 of other relevant agencies, shall promote consumer
4 awareness of the information made available to the
5 public pursuant to this subsection.

6 **SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**
7 **TRATION HOTLINE FOR MANUFACTURER,**
8 **DEALER, AND MECHANIC PERSONNEL.**

9 The Secretary shall—

10 (1) establish a means by which mechanics, pas-
11 senger motor vehicle dealership personnel, and pas-
12 senger motor vehicle manufacturer personnel may
13 directly and confidentially contact the National
14 Highway Traffic Safety Administration to report po-
15 tential passenger motor vehicle safety defects; and

16 (2) publicize the means for contacting the Na-
17 tional Highway Traffic Safety Administration in a
18 manner that targets mechanics, passenger motor ve-
19 hicle dealership personnel, and manufacturer per-
20 sonnel.

21 **SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES**
22 **AND OTHER COMMUNICATIONS WITH DEAL-**
23 **ERS.**

24 (a) INTERNET ACCESSIBILITY.—Section 30166(f) of
25 title 49, United States Code, is amended—

1 (1) by striking “A manufacturer shall give the
2 Secretary of Transportation” and inserting the fol-
3 lowing:

4 “(1) IN GENERAL.—A manufacturer shall give
5 the Secretary of Transportation, and make available
6 on a publicly accessible Internet website,”; and

7 (2) by adding at the end the following:

8 “(2) NOTICES.—Communications required to be
9 submitted to the Secretary and made available on a
10 publicly accessible Internet website under this sub-
11 section shall include all notices to dealerships of
12 software upgrades and modifications recommended
13 by a manufacturer for all previously sold vehicles.
14 Notice is required even if the software upgrade or
15 modification is not related to a safety defect or non-
16 compliance with a motor vehicle safety standard.
17 The notice shall include a plain language description
18 of the purpose of the update and that description
19 shall be prominently placed at the beginning of the
20 notice.

21 “(3) INDEX.—Communications required to be
22 submitted to the Secretary under this subsection
23 shall be accompanied by an index to each commu-
24 nication, which—

1 “(A) identifies the make, model, and model
2 year of the affected vehicles;

3 “(B) includes a concise summary of the
4 subject matter of the communication; and

5 “(C) shall be made available by the Sec-
6 retary to the public on the Internet in a search-
7 able format.”.

8 **SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING**
9 **DATA.**

10 Section 30166(m) of title 49, United States Code, is
11 amended in paragraph (4), by amending subparagraph (C)
12 to read as follows:

13 “(C) DISCLOSURE.—

14 “(i) IN GENERAL.—The information
15 provided to the Secretary pursuant to this
16 subsection shall be disclosed publicly unless
17 exempt from disclosure under section
18 552(b) of title 5.

19 “(ii) PRESUMPTION.—In admin-
20 istering this subparagraph, the Secretary
21 shall presume in favor of maximum public
22 availability of information.”.

1 **SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL**
2 **HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
3 **REPORTS.**

4 (a) IN GENERAL.—Section 30166 of title 49, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

8 “(1) IN GENERAL.—The Secretary shall require
9 a senior official responsible for safety in each com-
10 pany submitting information to the Secretary in re-
11 sponse to a request for information in a safety de-
12 fect or compliance investigation under this chapter
13 to certify that—

14 “(A) the signing official has reviewed the
15 submission; and

16 “(B) based on the official’s knowledge, the
17 submission does not—

18 “(i) contain any untrue statement of a
19 material fact; or

20 “(ii) omit to state a material fact nec-
21 essary in order to make the statements
22 made not misleading, in light of the cir-
23 cumstances under which such statements
24 were made.

1 “(2) NOTICE.—The certification requirements
2 of this section shall be clearly stated on any request
3 for information under paragraph (1).”.

4 (b) CIVIL PENALTY.—Section 30165(a) of title 49,
5 United States Code, is amended—

6 (1) in paragraph (3), by striking “A person”
7 and inserting “Except as provided in paragraph (4),
8 a person”; and

9 (2) by adding at the end the following:

10 “(4) FALSE, MISLEADING, OR INCOMPLETE RE-
11 PORTS.—A person who knowingly and willfully sub-
12 mits materially false, misleading, or incomplete in-
13 formation to the Secretary, after certifying the same
14 information as accurate and complete under the cer-
15 tification process established pursuant to section
16 30166(o), shall be subject to a civil penalty of not
17 more than \$5,000 per day. The maximum penalty
18 under this paragraph for a related series of daily
19 violations is \$5,000,000.”.

20 **SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION**
21 **PROGRAM.**

22 (a) DEFINITION.—Section 32301 of title 49, United
23 States Code, is amended—

24 (1) by redesignating paragraphs (1) and (2) as
25 paragraphs (2) and (3), respectively;

1 (2) by inserting before paragraph (2), as redesi-
 2 gnated, the following:

3 “(1) ‘crash avoidance’ means preventing or
 4 mitigating a crash;” and

5 (3) in paragraph (2), as redesignated, by strik-
 6 ing the period at the end and inserting “; and”.

7 (b) INFORMATION INCLUDED.—Section 32302(a) of
 8 title 49, United States Code, is amended—

9 (1) in paragraph (2), by inserting “, crash
 10 avoidance, and any other areas the Secretary deter-
 11 mines will improve the safety of passenger motor ve-
 12 hicles” after “crashworthiness”; and

13 (2) by striking paragraph (4).

14 **SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

15 Section 32302 of title 49, United States Code, is
 16 amended by adding at the end the following:

17 “(d) MOTOR VEHICLE DEFECT REPORTING INFOR-
 18 MATION.—

19 “(1) RULEMAKING REQUIRED.—Not later than
 20 1 year after the date of the enactment of the Motor
 21 Vehicle and Highway Safety Improvement Act of
 22 2012, the Secretary shall prescribe regulations that
 23 require passenger motor vehicle manufacturers—

24 “(A) to affix, in the glove compartment or
 25 in another readily accessible location on the ve-

1 hicle, a sticker, decal, or other device that pro-
2 vides, in simple and understandable language,
3 information about how to submit a safety-re-
4 lated motor vehicle defect complaint to the Na-
5 tional Highway Traffic Safety Administration;

6 “(B) to prominently print the information
7 described in subparagraph (A) on a separate
8 page within the owner’s manual; and

9 “(C) to not place such information on the
10 label required under section 3 of the Auto-
11 mobile Information Disclosure Act (15 U.S.C.
12 1232).

13 “(2) APPLICATION.—The requirements under
14 paragraph (1) shall apply to passenger motor vehi-
15 cles manufactured in any model year beginning more
16 than 1 year after the date on which a final rule is
17 published under paragraph (1).”.

18 **SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR**
19 **VEHICLE MANUFACTURERS, PART SUP-**
20 **PLIERS, AND DEALERSHIP EMPLOYEES.**

21 (a) IN GENERAL.—Subchapter IV of chapter 301 of
22 title 49, United States Code, is amended by adding at the
23 end the following:

1 **“§ 30171. Protection of employees providing motor ve-**
2 **hicle safety information**

3 “(a) DISCRIMINATION AGAINST EMPLOYEES OF
4 MANUFACTURERS, PART SUPPLIERS, AND DEALER-
5 SHIPS.—No motor vehicle manufacturer, part supplier, or
6 dealership may discharge an employee or otherwise dis-
7 criminate against an employee with respect to compensa-
8 tion, terms, conditions, or privileges of employment be-
9 cause the employee (or any person acting pursuant to a
10 request of the employee)—

11 “(1) provided, caused to be provided, or is
12 about to provide (with any knowledge of the em-
13 ployer) or cause to be provided to the employer or
14 the Secretary of Transportation information relating
15 to any motor vehicle defect, noncompliance, or any
16 violation or alleged violation of any notification or
17 reporting requirement of this chapter;

18 “(2) has filed, caused to be filed, or is about to
19 file (with any knowledge of the employer) or cause
20 to be filed a proceeding relating to any violation or
21 alleged violation of any motor vehicle defect, non-
22 compliance, or any violation or alleged violation of
23 any notification or reporting requirement of this
24 chapter;

25 “(3) testified or is about to testify in such a
26 proceeding;

1 “(4) assisted or participated or is about to as-
2 sist or participate in such a proceeding; or

3 “(5) objected to, or refused to participate in,
4 any activity that the employee reasonably believed to
5 be in violation of any provision of any Act enforced
6 by the Secretary of Transportation, or any order,
7 rule, regulation, standard, or ban under any such
8 Act.

9 “(b) COMPLAINT PROCEDURE.—

10 “(1) FILING AND NOTIFICATION.—A person
11 who believes that he or she has been discharged or
12 otherwise discriminated against by any person in
13 violation of subsection (a) may, not later than 180
14 days after the date on which such violation occurs,
15 file (or have any person file on his or her behalf) a
16 complaint with the Secretary of Labor (hereinafter
17 in this section referred to as the ‘Secretary’) alleging
18 such discharge or discrimination. Upon receipt of
19 such a complaint, the Secretary shall notify, in writ-
20 ing, the person named in the complaint of the filing
21 of the complaint, of the allegations contained in the
22 complaint, of the substance of evidence supporting
23 the complaint, and of the opportunities that will be
24 afforded to such person under paragraph (2).

25 “(2) INVESTIGATION; PRELIMINARY ORDER.—

1 “(A) IN GENERAL.—Not later than 60
2 days after the date of receipt of a complaint
3 filed under paragraph (1) and after affording
4 the person named in the complaint an oppor-
5 tunity to submit to the Secretary a written re-
6 sponse to the complaint and an opportunity to
7 meet with a representative of the Secretary to
8 present statements from witnesses, the Sec-
9 retary shall conduct an investigation and deter-
10 mine whether there is reasonable cause to be-
11 lieve that the complaint has merit and notify, in
12 writing, the complainant and the person alleged
13 to have committed a violation of subsection (a)
14 of the Secretary’s findings. If the Secretary
15 concludes that there is a reasonable cause to
16 believe that a violation of subsection (a) has oc-
17 curred, the Secretary shall accompany the Sec-
18 retary’s findings with a preliminary order pro-
19 viding the relief prescribed by paragraph
20 (3)(B). Not later than 30 days after the date
21 of notification of findings under this paragraph,
22 either the person alleged to have committed the
23 violation or the complainant may file objections
24 to the findings or preliminary order, or both,
25 and request a hearing on the record. The filing

1 of such objections shall not operate to stay any
2 reinstatement remedy contained in the prelimi-
3 nary order. Such hearings shall be conducted
4 expeditiously. If a hearing is not requested in
5 such 30-day period, the preliminary order shall
6 be deemed a final order that is not subject to
7 judicial review.

8 “(B) REQUIREMENTS.—

9 “(i) REQUIRED SHOWING BY COM-
10 PLAINANT.—The Secretary shall dismiss a
11 complaint filed under this subsection and
12 shall not conduct an investigation other-
13 wise required under subparagraph (A) un-
14 less the complainant makes a prima facie
15 showing that any behavior described in
16 paragraphs (1) through (5) of subsection
17 (a) was a contributing factor in the unfa-
18 vorable personnel action alleged in the
19 complaint.

20 “(ii) SHOWING BY EMPLOYER.—Not-
21 withstanding a finding by the Secretary
22 that the complainant has made the show-
23 ing required under clause (i), no investiga-
24 tion otherwise required under subpara-
25 graph (A) shall be conducted if the em-

1 employer demonstrates, by clear and con-
2 vincing evidence, that the employer would
3 have taken the same unfavorable personnel
4 action in the absence of that behavior.

5 “(iii) CRITERIA FOR DETERMINATION
6 BY SECRETARY.—The Secretary may de-
7 termine that a violation of subsection (a)
8 has occurred only if the complainant dem-
9 onstrates that any behavior described in
10 paragraphs (1) through (5) of subsection
11 (a) was a contributing factor in the unfa-
12 vorable personnel action alleged in the
13 complaint.

14 “(iv) PROHIBITION.—Relief may not
15 be ordered under subparagraph (A) if the
16 employer demonstrates, by clear and con-
17 vincing evidence, that the employer would
18 have taken the same unfavorable personnel
19 action in the absence of that behavior.

20 “(3) FINAL ORDER.—

21 “(A) DEADLINE FOR ISSUANCE; SETTLE-
22 MENT AGREEMENTS.—Not later than 120 days
23 after the date of conclusion of a hearing under
24 paragraph (2), the Secretary shall issue a final
25 order providing the relief prescribed by this

1 paragraph or denying the complaint. At any
2 time before issuance of a final order, a pro-
3 ceeding under this subsection may be termi-
4 nated on the basis of a settlement agreement
5 entered into by the Secretary, the complainant,
6 and the person alleged to have committed the
7 violation.

8 “(B) REMEDY.—If, in response to a com-
9 plaint filed under paragraph (1), the Secretary
10 determines that a violation of subsection (a)
11 has occurred, the Secretary shall order the per-
12 son who committed such violation—

13 “(i) to take affirmative action to
14 abate the violation;

15 “(ii) to reinstate the complainant to
16 his or her former position together with
17 the compensation (including back pay) and
18 restore the terms, conditions, and privi-
19 leges associated with his or her employ-
20 ment; and

21 “(iii) to provide compensatory dam-
22 ages to the complainant.

23 “(C) ATTORNEYS’ FEES.—If such an order
24 is issued under this paragraph, the Secretary,
25 at the request of the complainant, shall assess

1 against the person against whom the order is
2 issued a sum equal to the aggregate amount of
3 all costs and expenses (including attorneys' and
4 expert witness fees) reasonably incurred, as de-
5 termined by the Secretary, by the complainant
6 for, or in connection with, bringing the com-
7 plaint upon which the order was issued.

8 “(D) FRIVOLOUS COMPLAINTS.—If the
9 Secretary determines that a complaint under
10 paragraph (1) is frivolous or has been brought
11 in bad faith, the Secretary may award to the
12 prevailing employer a reasonable attorney's fee
13 not exceeding \$1,000.

14 “(E) DE NOVO REVIEW.—With respect to
15 a complaint under paragraph (1), if the Sec-
16 retary of Labor has not issued a final decision
17 within 210 days after the filing of the com-
18 plaint and if the delay is not due to the bad
19 faith of the employee, the employee may bring
20 an original action at law or equity for de novo
21 review in the appropriate district court of the
22 United States, which shall have jurisdiction
23 over such an action without regard to the
24 amount in controversy, and which action shall,
25 at the request of either party to the action, be

1 tried by the court with a jury. The action shall
2 be governed by the same legal burdens of proof
3 specified in paragraph (2)(B) for review by the
4 Secretary of Labor.

5 “(4) REVIEW.—

6 “(A) APPEAL TO COURT OF APPEALS.—

7 Any person adversely affected or aggrieved by
8 an order issued under paragraph (3) may ob-
9 tain review of the order in the United States
10 Court of Appeals for the circuit in which the
11 violation, with respect to which the order was
12 issued, allegedly occurred or the circuit in which
13 the complainant resided on the date of such vio-
14 lation. The petition for review shall be filed not
15 later than 60 days after the date of the
16 issuance of the final order of the Secretary. Re-
17 view shall conform to chapter 7 of title 5. The
18 commencement of proceedings under this sub-
19 paragraph shall not, unless ordered by the
20 court, operate as a stay of the order.

21 “(B) LIMITATION ON COLLATERAL AT-
22 TACK.—An order of the Secretary with respect
23 to which review could have been obtained under
24 subparagraph (A) shall not be subject to judi-

1 cial review in any criminal or other civil pro-
2 ceeding.

3 “(5) ENFORCEMENT OF ORDER BY SEC-
4 RETARY.—Whenever any person fails to comply with
5 an order issued under paragraph (3), the Secretary
6 may file a civil action in the United States district
7 court for the district in which the violation was
8 found to occur to enforce such order. In actions
9 brought under this paragraph, the district courts
10 shall have jurisdiction to grant all appropriate relief,
11 including injunctive relief and compensatory dam-
12 ages.

13 “(6) ENFORCEMENT OF ORDER BY PARTIES.—

14 “(A) COMMENCEMENT OF ACTION.—A per-
15 son on whose behalf an order was issued under
16 paragraph (3) may commence a civil action
17 against the person to whom such order was
18 issued to require compliance with such order.
19 The appropriate United States district court
20 shall have jurisdiction, without regard to the
21 amount in controversy or the citizenship of the
22 parties, to enforce such order.

23 “(B) ATTORNEY FEES.—The court, in
24 issuing any final order under this paragraph,
25 may award costs of litigation (including reason-

1 able attorney and expert witness fees) to any
 2 party whenever the court determines such
 3 award is appropriate.

4 “(c) MANDAMUS.—Any nondiscretionary duty im-
 5 posed under this section shall be enforceable in a man-
 6 damus proceeding brought under section 1361 of title 28.

7 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-
 8 TIONS.—Subsection (a) shall not apply with respect to an
 9 employee of a motor vehicle manufacturer, part supplier,
 10 or dealership who, acting without direction from such
 11 motor vehicle manufacturer, part supplier, or dealership
 12 (or such person’s agent), deliberately causes a violation
 13 of any requirement relating to motor vehicle safety under
 14 this chapter.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
 16 tions for chapter 301 of title 49, United States Code, is
 17 amended by inserting after the item relating to section
 18 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

19 **SEC. 31309. ANTI-REVOLVING DOOR.**

20 (a) AMENDMENT.—Subchapter I of chapter 301 of
 21 title 49, United States Code, is amended by adding at the
 22 end the following:

1 **“§ 30107. Restriction on covered motor vehicle safety**
2 **officials**

3 “(a) IN GENERAL.—During the 2-year period after
4 the termination of his or her service or employment, a cov-
5 ered vehicle safety official may not knowingly make, with
6 the intent to influence, any communication to or appear-
7 ance before any officer or employee of the National High-
8 way Traffic Safety Administration on behalf of any manu-
9 facturer subject to regulation under this chapter in con-
10 nection with any matter involving motor vehicle safety on
11 which such person seeks official action by any officer or
12 employee of the National Highway Traffic Safety Admin-
13 istration.

14 “(b) MANUFACTURERS.—It is unlawful for any man-
15 ufacturer or other person subject to regulation under this
16 chapter to employ or contract for the services of an indi-
17 vidual to whom subsection (a) applies during the 2-year
18 period commencing on the individual’s termination of em-
19 ployment with the National Highway Traffic Safety Ad-
20 ministration in a capacity in which the individual is pro-
21 hibited from serving during that period.

22 “(c) SPECIAL RULE FOR DETAILEES.—For purposes
23 of this section, a person who is detailed from 1 depart-
24 ment, agency, or other entity to another department,
25 agency, or other entity shall, during the period such per-

1 son is detailed, be deemed to be an officer or employee
2 of both departments, agencies, or such entities.

3 “(d) SAVINGS PROVISION.—Nothing in this section
4 may be construed to expand, contract, or otherwise affect
5 the application of any waiver or criminal penalties under
6 section 207 of title 18.

7 “(e) EXCEPTION FOR TESTIMONY.—Nothing in this
8 section may be construed to prevent an individual from
9 giving testimony under oath, or from making statements
10 required to be made under penalty of perjury.

11 “(f) DEFINED TERM.—In this section, the term ‘cov-
12 ered vehicle safety official’ means any officer or employee
13 of the National Highway Traffic Safety Administration—

14 “(1) who, during the final 12 months of his or
15 her service or employment with the agency, serves or
16 served in a technical or legal capacity, and whose job
17 responsibilities include or included vehicle safety de-
18 fect investigation, vehicle safety compliance, vehicle
19 safety rulemaking, or vehicle safety research; and

20 “(2) who serves in a supervisory or manage-
21 ment capacity over an officer or employee described
22 in paragraph (1).

23 “(g) EFFECTIVE DATE.—This section shall apply to
24 covered vehicle safety officials who terminate service or
25 employment with the National Highway Traffic Safety

1 Administration after the date of enactment of the Motor
2 Vehicle and Highway Safety Improvement Act of 2012.”.

3 (b) CIVIL PENALTY.—Section 30165(a) of title 49,
4 United States Code, as amended by this subtitle, is further
5 amended by adding at the end the following:

6 “(5) IMPROPER INFLUENCE.—An individual
7 who violates section 30107(a) is liable to the United
8 States Government for a civil penalty, as determined
9 under section 216(b) of title 18, for an offense
10 under section 207 of that title. A manufacturer or
11 other person subject to regulation under this chapter
12 who violates section 30107(b) is liable to the United
13 States Government for a civil penalty equal to the
14 sum of—

15 “(A) an amount equal to not less than
16 \$100,000; and

17 “(B) an amount equal to 90 percent of the
18 annual compensation or fee paid or payable to
19 the individual with respect to whom the viola-
20 tion occurred.”.

21 (c) STUDY OF DEPARTMENT OF TRANSPORTATION
22 POLICIES ON OFFICIAL COMMUNICATION WITH FORMER
23 MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later
24 than 1 year after the date of the enactment of this Act,

1 the Inspector General of the Department of Transpor-
2 tation shall—

3 (1) review the Department of Transportation’s
4 policies and procedures applicable to official commu-
5 nication with former employees concerning motor ve-
6 hicle safety compliance matters for which they had
7 responsibility during the last 12 months of their ten-
8 ure at the Department, including any limitations on
9 the ability of such employees to submit comments, or
10 otherwise communicate directly with the Depart-
11 ment, on motor vehicle safety issues; and

12 (2) submit a report to the Committee on Com-
13 merce, Science, and Transportation of the Senate
14 and the Committee on Energy and Commerce of the
15 House of Representatives that contains the Inspec-
16 tor General’s findings, conclusions, and rec-
17 ommendations for strengthening those policies and
18 procedures to minimize the risk of undue influence
19 without compromising the ability of the Department
20 to employ and retain highly qualified individuals for
21 such responsibilities.

22 (d) POST-EMPLOYMENT POLICY STUDY.—

23 (1) IN GENERAL.—The Inspector General of
24 the Department of Transportation shall conduct a
25 study of the Department’s policies relating to post-

1 employment restrictions on employees who perform
2 functions related to transportation safety.

3 (2) REPORT.—Not later than 1 year after the
4 date of enactment of this Act, the Inspector General
5 shall submit a report containing the results of the
6 study conducted under paragraph (1) to—

7 (A) the Committee on Commerce, Science,
8 and Transportation of the Senate;

9 (B) the Committee on Energy and Com-
10 merce of the House of Representatives; and

11 (C) the Secretary of Transportation.

12 (3) USE OF RESULTS.—The Secretary of
13 Transportation shall review the results of the study
14 conducted under paragraph (1) and take whatever
15 action the Secretary determines to be appropriate.

16 (e) CONFORMING AMENDMENT.—The table of con-
17 tents for chapter 301 of title 49, United States Code, is
18 amended by inserting after the item relating to section
19 30106 the following:

“30107. Restriction on covered motor vehicle safety officials.”.

20 **SEC. 31310. STUDY OF CRASH DATA COLLECTION.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, the Secretary shall submit
23 a report to the Committee on Commerce, Science, and
24 Transportation of the Senate the Committee on Energy
25 and Commerce of the House of Representatives regarding

1 the quality of data collected through the National Auto-
2 motive Sampling System, including the Special Crash In-
3 vestigations Program.

4 (b) REVIEW.—The Administrator of the National
5 Highway Traffic Safety Administration (referred to in this
6 section as the “Administration”) shall conduct a com-
7 prehensive review of the data elements collected from each
8 crash to determine if additional data should be collected.
9 The review under this subsection shall include input from
10 interested parties, including suppliers, automakers, safety
11 advocates, the medical community, and research organiza-
12 tions.

13 (c) CONTENTS.—The report issued under this section
14 shall include—

15 (1) the analysis and conclusions the Adminis-
16 tration can reach from the amount of motor vehicle
17 crash data collected in a given year;

18 (2) the additional analysis and conclusions the
19 Administration could reach if more crash investiga-
20 tions were conducted each year;

21 (3) the number of investigations per year that
22 would allow for optimal data analysis and crash in-
23 formation;

24 (4) the results of the comprehensive review con-
25 ducted pursuant to subsection (b);

1 (5) recommendations for improvements to the
2 Administration's data collection program; and

3 (6) the resources needed by the Administration
4 to implement such recommendations.

5 **SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION;**
6 **IMPROVING EFFICACY OF RECALLS.**

7 (a) UPDATE OF MEANS OF PROVIDING NOTIFICA-
8 TION.—Section 30119(d) of title 49, United States Code,
9 is amended—

10 (1) by striking, in paragraph (1), “by first class
11 mail” and inserting “in the manner prescribed by
12 the Secretary, by regulation”;

13 (2) in paragraph (2)—

14 (A) by striking “(except a tire) shall be
15 sent by first class mail” and inserting “shall be
16 sent in the manner prescribed by the Secretary,
17 by regulation,”; and

18 (B) by striking the second sentence;

19 (3) in paragraph (3)—

20 (A) by striking the first sentence;

21 (B) by inserting “to the notification re-
22 quired under paragraphs (1) and (2)” after
23 “addition”; and

24 (C) by inserting “by the manufacturer”
25 after “given”; and

1 (4) in paragraph (4), by striking “by certified
2 mail or quicker means if available” and inserting “in
3 the manner prescribed by the Secretary, by regula-
4 tion”.

5 (b) IMPROVING EFFICACY OF RECALLS.—Section
6 30119(e) of title 49, United States Code, is amended—

7 (1) in the subsection heading, by striking “SEC-
8 OND” and inserting “ADDITIONAL”;

9 (2) by striking “If the Secretary” and inserting
10 the following:

11 “(1) SECOND NOTIFICATION.—If the Sec-
12 retary”; and

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

14 “(2) ADDITIONAL NOTIFICATIONS.—If the Sec-
15 retary determines, after considering the severity of
16 the defect or noncompliance, that the second notifi-
17 cation by a manufacturer does not result in an ade-
18 quate number of motor vehicles or items of replace-
19 ment equipment being returned for remedy, the Sec-
20 retary may order the manufacturer—

21 “(A) to send additional notifications in the
22 manner prescribed by the Secretary, by regula-
23 tion;

24 “(B) to take additional steps to locate and
25 notify each person registered under State law

1 as the owner or lessee or the most recent pur-
2 chaser or lessee, as appropriate; and

3 “(C) to emphasize the magnitude of the
4 safety risk caused by the defect or noncompli-
5 ance in such notification.”.

6 **SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE**
7 **TO MANUFACTURERS OF REPLACEMENT**
8 **EQUIPMENT.**

9 Section 30120 of title 49, United States Code, is
10 amended—

11 (1) in subsection (a)(1), by amending subpara-
12 graph (B) to read as follows:

13 “(B) if replacement equipment, by repair-
14 ing the equipment, replacing the equipment
15 with identical or reasonably equivalent equip-
16 ment, or by refunding the purchase price.”;

17 (2) in the heading of subsection (i), by adding
18 “OF NEW VEHICLES OR EQUIPMENT” at the end;
19 and

20 (3) in the heading of subsection (j), by striking
21 “REPLACED” and inserting “REPLACEMENT”.

1 **SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF**
2 **MANUFACTURER.**

3 (a) IN GENERAL.—Chapter 301 of title 49, United
4 States Code, is amended by inserting the following after
5 section 30120:

6 **“§ 30120A. Recall obligations and bankruptcy of a**
7 **manufacturer**

8 “A manufacturer’s filing of a petition in bankruptcy
9 under chapter 11 of title 11, does not negate the manufac-
10 turer’s duty to comply with section 30112 or sections
11 30115 through 30120 of this title. In any bankruptcy pro-
12 ceeding, the manufacturer’s obligations under such sec-
13 tions shall be treated as a claim of the United States Gov-
14 ernment against such manufacturer, subject to subchapter
15 II of chapter 37 of title 31, United States Code, and given
16 priority pursuant to section 3713(a)(1)(A) of such chap-
17 ter, notwithstanding section 3713(a)(2), to ensure that
18 consumers are adequately protected from any safety defect
19 or noncompliance determined to exist in the manufactur-
20 er’s products. This section shall apply equally to actions
21 of a manufacturer taken before or after the filing of a
22 petition in bankruptcy.”

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis of chapter 301 of title 49, United States Code, is

1 amended by inserting after the item relating to section
2 30120 the following:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

3 **SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFOR-**
4 **MATION PROVISION.**

5 Chapter 331 of title 49, United States Code, is
6 amended—

7 (1) in the chapter analysis, by striking the item
8 relating to section 33112; and

9 (2) by striking section 33112.

10 **SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL**
11 **SAFETY RATING CATEGORIES.**

12 Section 3(g)(2) of the Automobile Information Dis-
13 closure Act (15 U.S.C. 1232(g)(2)), is amended by insert-
14 ing “safety rating categories that may include” after “re-
15 fers to”.

16 **Subtitle D—Vehicle Electronics**
17 **and Safety Standards**

18 **SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**
19 **TRATION ELECTRONICS, SOFTWARE, AND EN-**
20 **GINEERING EXPERTISE.**

21 (a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE
22 SOFTWARE, AND EMERGING TECHNOLOGIES.—

23 (1) IN GENERAL.—The Secretary shall estab-
24 lish, within the National Highway Traffic Safety Ad-
25 ministration, a Council for Vehicle Electronics, Vehi-

1 cle Software, and Emerging Technologies (referred
2 to in this section as the “Council”) to build, inte-
3 grate, and aggregate the Administration’s expertise
4 in passenger motor vehicle electronics and other new
5 and emerging technologies.

6 (2) IMPLEMENTATION OF ROADMAP.—The
7 Council shall research the inclusion of emerging
8 lightweight plastic and composite technologies in
9 motor vehicles to increase fuel efficiency, lower emis-
10 sions, meet fuel economy standards, and enhance
11 passenger motor vehicle safety through continued
12 utilization of the Administration’s Plastic and Com-
13 posite Intensive Vehicle Safety Roadmap (Report
14 No. DOT HS 810 863).

15 (3) INTRA-AGENCY COORDINATION.—The Coun-
16 cil shall coordinate with all components of the Ad-
17 ministration responsible for vehicle safety, including
18 research and development, rulemaking, and defects
19 investigation.

20 (b) HONORS RECRUITMENT PROGRAM.—

21 (1) ESTABLISHMENT.—The Secretary shall es-
22 tablish, within the National Highway Traffic Safety
23 Administration, an honors program for engineering
24 students, computer science students, and other stu-
25 dents interested in vehicle safety that will enable

1 such students to train with engineers and other safe-
2 ty officials for a career in vehicle safety.

3 (2) STIPEND.—The Secretary is authorized to
4 provide a stipend to students during their participa-
5 tion in the program established pursuant to para-
6 graph (1).

7 (c) ASSESSMENT.—The Council, in consultation with
8 affected stakeholders, shall assess the implications of
9 emerging safety technologies in passenger motor vehicles,
10 including the effect of such technologies on consumers,
11 product availability, and cost.

12 **SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE**
13 **OVERRIDE STANDARD.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Secretary shall prescribe a Federal motor
16 vehicle safety standard that—

17 (1) mitigates unintended acceleration in pas-
18 senger motor vehicles;

19 (2) establishes performance requirements, based
20 on the speed, size, and weight of the vehicle, that en-
21 able a driver to bring a passenger motor vehicle
22 safely to a full stop by normal braking application
23 even if the vehicle is simultaneously receiving accel-
24 erator input signals, including a full-throttle input
25 signal;

1 (3) may permit compliance through a system
2 that requires brake pedal application, after a period
3 of time determined by the Secretary, to override an
4 accelerator pedal input signal in order to stop the
5 vehicle;

6 (4) requires that redundant circuits or other
7 mechanisms be built into accelerator control sys-
8 tems, including systems controlled by electronic
9 throttle, to maintain vehicle control in the event of
10 failure of the primary circuit or mechanism; and

11 (5) may permit vehicles to incorporate a means
12 to temporarily disengage the function required under
13 paragraph (2) to facilitate operations, such as ma-
14 neuvering trailers or climbing steep hills, which may
15 require the simultaneous operation of brake and ac-
16 celerator.

17 **SEC. 31403. PEDAL PLACEMENT STANDARD.**

18 (a) IN GENERAL.—The Secretary shall initiate a
19 rulemaking proceeding to consider a Federal motor vehicle
20 safety standard that would mitigate potential obstruction
21 of pedal movement in passenger motor vehicles, after tak-
22 ing into account—

23 (1) various pedal mounting configurations; and

24 (2) minimum clearances for passenger motor
25 vehicle foot pedals with respect to other pedals, the

1 vehicle floor (including aftermarket floor coverings),
2 and any other potential obstructions to pedal move-
3 ment that the Secretary determines to be relevant.

4 (b) DEADLINE.—

5 (1) IN GENERAL.—Except as provided under
6 paragraph (2), the Secretary shall issue a final rule
7 to implement the safety standard described in sub-
8 section (a) not later than 3 years after the date of
9 the enactment of this Act.

10 (2) REPORT.—If the Secretary determines that
11 a pedal placement standard does not meet the re-
12 quirements and considerations set forth in sub-
13 sections (a) and (b) of section 30111 of title 49,
14 United States Code, the Secretary shall submit a re-
15 port describing the reasons for not prescribing such
16 standard to—

17 (A) the Committee on Commerce, Science,
18 and Transportation of the Senate; and

19 (B) the Committee on Energy and Com-
20 merce of the House of Representatives.

21 (c) COMBINED RULEMAKING.—The Secretary may
22 combine the rulemaking proceeding required under sub-
23 section (a) with the rulemaking proceeding required under
24 section 31402.

1 **SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STAND-**
2 **ARD.**

3 (a) IN GENERAL.—Not later than 2 years after the
4 date of enactment of this Act, the Secretary shall initiate
5 a rulemaking proceeding to consider prescribing or amend-
6 ing a Federal motor vehicle safety standard that—

7 (1) requires electronic systems in passenger
8 motor vehicles to meet minimum performance re-
9 quirements; and

10 (2) may include requirements for—

11 (A) electronic components;

12 (B) the interaction of electronic compo-
13 nents;

14 (C) security needs for those electronic sys-
15 tems to prevent unauthorized access; or

16 (D) the effect of surrounding environments
17 on those electronic systems.

18 (b) DEADLINE.—

19 (1) IN GENERAL.—Except as provided under
20 paragraph (2), the Secretary shall issue a final rule
21 to implement the safety standard described in sub-
22 section (a) not later than 4 years after the date of
23 enactment of this Act.

24 (2) REPORT.—If the Secretary determines that
25 such a standard does not meet the requirements and
26 considerations set forth in subsections (a) and (b) of

1 section 30111 of title 49, United States Code, the
2 Secretary shall submit a report describing the rea-
3 sons for not prescribing such standard to—

4 (A) the Committee on Commerce, Science,
5 and Transportation of the Senate; and

6 (B) the Committee on Energy and Com-
7 merce of the House of Representatives.

8 (c) NATIONAL ACADEMY OF SCIENCES.—In con-
9 ducting the rulemaking under subsection (a), the Sec-
10 retary shall consider the findings and recommendations of
11 the National Academy of Sciences, if any, pursuant to its
12 study of electronic vehicle controls.

13 **SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.**

14 (a) PUSHBUTTON IGNITION STANDARD.—

15 (1) IN GENERAL.—The Secretary shall initiate
16 a rulemaking proceeding to consider a Federal
17 motor vehicle safety standard for passenger motor
18 vehicles with pushbutton ignition systems that estab-
19 lishes a standardized operation of such systems
20 when used by drivers, including drivers who may be
21 unfamiliar with such systems, in an emergency situ-
22 ation when the vehicle is in motion.

23 (2) OTHER IGNITION SYSTEMS.—In the rule-
24 making proceeding initiated under paragraph (1),
25 the Secretary may include any other ignition-start-

1 ing mechanism that the Secretary determines should
2 be considered.

3 (b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The
4 term “pushbutton ignition system” means a mechanism,
5 such as the push of a button, for starting a passenger
6 motor vehicle that does not involve the physical insertion
7 and turning of a tangible key.

8 (c) DEADLINE.—

9 (1) IN GENERAL.—Except as provided under
10 paragraph (2), the Secretary shall issue a final rule
11 to implement the standard described in subsection
12 (a) not later than 2 years after the date of the en-
13 actment of this Act.

14 (2) REPORT.—If the Secretary determines that
15 a standard does not meet the requirements and con-
16 siderations set forth in subsections (a) and (b) of
17 section 30111 of title 49, United States Code, the
18 Secretary shall submit a report describing the rea-
19 sons for not prescribing such standard to—

20 (A) the Committee on Commerce, Science,
21 and Transportation of the Senate; and

22 (B) the Committee on Energy and Com-
23 merce of the House of Representatives.

24 **SEC. 31406. VEHICLE EVENT DATA RECORDERS.**

25 (a) MANDATORY EVENT DATA RECORDERS.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Sec-
3 retary shall revise part 563 of title 49, Code of Fed-
4 eral Regulations, to require, beginning with model
5 year 2015, that new passenger motor vehicles sold in
6 the United States be equipped with an event data
7 recorder that meets the requirements under that
8 part.

9 (2) PENALTY.—The violation of any provision
10 under part 563 of title 49, Code of Federal Regula-
11 tions—

12 (A) shall be deemed to be a violation of
13 section 30112 of title 49, United States Code;

14 (B) shall be subject to civil penalties under
15 section 30165(a) of that title; and

16 (C) shall not subject a manufacturer (as
17 defined in section 30102(a)(5) of that title) to
18 the requirements under section 30120 of that
19 title.

20 (b) LIMITATIONS ON INFORMATION RETRIEVAL.—

21 (1) OWNERSHIP OF DATA.—Any data in an
22 event data recorder required under part 563 of title
23 49, Code of Federal Regulations, regardless of when
24 the passenger motor vehicle in which it is installed
25 was manufactured, is the property of the owner, or

1 in the case of a leased vehicle, the lessee of the pas-
2 senger motor vehicle in which the data recorder is
3 installed.

4 (2) PRIVACY.—Data recorded or transmitted by
5 such a data recorder may not be retrieved by a per-
6 son other than the owner or lessee of the motor vehi-
7 cle in which the recorder is installed unless—

8 (A) a court authorizes retrieval of the in-
9 formation in furtherance of a legal proceeding;

10 (B) the owner or lessee consents to the re-
11 trieval of the information for any purpose, in-
12 cluding the purpose of diagnosing, servicing, or
13 repairing the motor vehicle;

14 (C) the information is retrieved pursuant
15 to an investigation or inspection authorized
16 under section 1131(a) or 30166 of title 49,
17 United States Code, and the personally identifi-
18 able information of the owner, lessee, or driver
19 of the vehicle and the vehicle identification
20 number is not disclosed in connection with the
21 retrieved information; or

22 (D) the information is retrieved for the
23 purpose of determining the need for, or facili-
24 tating, emergency medical response in response
25 to a motor vehicle crash.

1 (c) REPORT TO CONGRESS.—Two years after the
2 date of implementation of subsection (a), the Secretary
3 shall study the safety impact and the impact on individual
4 privacy of event data recorders in passenger motor vehicles
5 and report its findings to the Committee on Commerce,
6 Science, and Transportation of the Senate and the Com-
7 mittee on Energy and Commerce of the House of Rep-
8 resentatives. The report shall include—

9 (1) the safety benefits gained from installation
10 of event data recorders;

11 (2) the recommendations on what, if any, addi-
12 tional data the event data recorder should be modi-
13 fied to record;

14 (3) the additional safety benefit such informa-
15 tion would yield;

16 (4) the estimated cost to manufacturers to im-
17 plement the new enhancements;

18 (5) an analysis of how the information proposed
19 to be recorded by an event data recorder conforms
20 to applicable legal, regulatory, and policy require-
21 ments regarding privacy;

22 (6) a determination of the risks and effects of
23 collecting and maintaining the information proposed
24 to be recorded by an event data recorder;

1 (7) an examination and evaluation of the pro-
2 tections and alternative processes for handling infor-
3 mation recorded by an event data recorder to miti-
4 gate potential privacy risks.

5 (d) REVISED REQUIREMENTS FOR EVENT DATA RE-
6 CORDERS.—Based on the findings of the study under sub-
7 section (c), the Secretary shall initiate a rulemaking pro-
8 ceeding to revise part 563 of title 49, Code of Federal
9 Regulations. The rule—

10 (1) shall require event data recorders to capture
11 and store data related to motor vehicle safety cov-
12 ering a reasonable time period before, during, and
13 after a motor vehicle crash or airbag deployment, in-
14 cluding a rollover;

15 (2) shall require that data stored on such event
16 data recorders be accessible, regardless of vehicle
17 manufacturer or model, with commercially available
18 equipment in a specified data format;

19 (3) shall establish requirements for preventing
20 unauthorized access to the data stored on an event
21 data recorder in order to protect the security, integ-
22 rity, and authenticity of the data; and

23 (4) may require an interoperable data access
24 port to facilitate universal accessibility and analysis.

1 (e) DISCLOSURE OF EXISTENCE AND PURPOSE OF
2 EVENT DATA RECORDER.—The rule issued under sub-
3 section (d) shall require that any owner’s manual or simi-
4 lar documentation provided to the first purchaser of a pas-
5 senger motor vehicle for purposes other than resale—

6 (1) disclose that the vehicle is equipped with
7 such a data recorder; and

8 (2) explain the purpose of the data recorder.

9 (f) ACCESS TO EVENT DATA RECORDERS IN AGENCY
10 INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49,
11 United States Code, is amended by inserting “, including
12 any electronic data contained within the vehicle’s diag-
13 nostic system or event data recorder” after “equipment.”

14 (g) DEADLINE FOR RULEMAKING.—The Secretary
15 shall issue a final rule under subsection (d) not later than
16 4 years after the date of enactment of this Act.

17 **SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTER-**
18 **TAINMENT IN DRIVER’S VIEW.**

19 (a) VISUAL ENTERTAINMENT SCREENS IN DRIVER’S
20 VIEW.—Not later than 2 years after the date of enactment
21 of this Act, the Secretary of Transportation shall issue a
22 final rule that prescribes a Federal motor vehicle safety
23 standard prohibiting electronic screens from displaying
24 broadcast television, movies, video games, and other forms

1 of similar visual entertainment that is visible to the driver
2 while driving.

3 (b) EXCEPTIONS.—The standard prescribed under
4 subsection (a) shall allow electronic screens that display
5 information or images regarding operation of the vehicle,
6 vehicle surroundings, and telematic functions, such as the
7 vehicles navigation and communications system, weather,
8 time, or the vehicle’s audio system.

9 **SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER**
10 **PREVENTION AND CRASH MITIGATION.**

11 (a) RULEMAKING.—Not later than 3 months after
12 the date of enactment of this Act, the Secretary of Trans-
13 portation shall initiate a rulemaking proceeding pursuant
14 to section 30111 of title 49, United States Code, to pre-
15 scribe or amend a Federal motor vehicle safety standard
16 to reduce commercial motor vehicle rollover and loss of
17 control crashes and mitigate deaths and injuries associ-
18 ated with such crashes for air-braked truck tractors and
19 motorcoaches with a gross vehicle weight rating of more
20 than 26,000 pounds.

21 (b) REQUIRED PERFORMANCE STANDARDS.—The
22 rulemaking proceeding initiated under subsection (a) shall
23 establish standards to reduce the occurrence of rollovers
24 and loss of control crashes consistent with stability en-

1 hancing technologies, such as electronic stability control
2 systems.

3 (c) DEADLINE.—Not later than 18 months after the
4 date of enactment of this Act, the Secretary shall issue
5 a final rule under subsection (a).

6 **Subtitle E—Child Safety Standards**

7 **SEC. 31501. CHILD SAFETY SEATS.**

8 (a) PROTECTION FOR LARGER CHILDREN.—Not
9 later than 1 year after the date of enactment of this Act,
10 the Secretary shall issue a final rule amending Federal
11 Motor Vehicle Safety Standard Number 213 to establish
12 frontal crash protection requirements for child restraint
13 systems for children weighing more than 65 pounds.

14 (b) SIDE IMPACT CRASHES.—Not later than 2 years
15 after the date of enactment of this Act, the Secretary shall
16 issue a final rule amending Federal Motor Vehicle Safety
17 Standard Number 213 to improve the protection of chil-
18 dren seated in child restraint systems during side impact
19 crashes.

20 (c) FRONTAL IMPACT TEST PARAMETERS.—

21 (1) COMMENCEMENT.—Not later than 2 years
22 after the date of enactment of this Act, the Sec-
23 retary shall commence a rulemaking proceeding to
24 amend test parameters under Federal Motor Vehicle

1 Safety Standard Number 213 to better replicate real
2 world conditions.

3 (2) FINAL RULE.—Not later than 4 years after
4 the date of enactment of this Act, the Secretary
5 shall issue a final rule pursuant to paragraph (1).

6 **SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

7 (a) INITIATION OF RULEMAKING PROCEEDING.—Not
8 later than 1 year after the date of enactment of this Act,
9 the Secretary shall initiate a rulemaking proceeding to—

10 (1) amend Federal Motor Vehicle Safety Stand-
11 ard Number 225 (relating to child restraint anchor-
12 age systems) to improve the visibility of, accessibility
13 to, and ease of use for lower anchorages and tethers
14 in all rear seat seating positions if such anchorages
15 and tethers are feasible; and

16 (2) amend Federal Motor Vehicle Safety Stand-
17 ard Number 213 (relating to child restraint systems)
18 or Federal Motor Vehicle Safety Standard Number
19 225 (relating to child restraint anchorage sys-
20 tems)—

21 (A) to establish a maximum allowable
22 weight of the child and child restraint for
23 standardizing the recommended use of child re-
24 straint anchorage systems in all vehicles; and

1 (B) to provide the information described in
2 subparagraph (A) to the consumer.

3 (b) FINAL RULE.—

4 (1) IN GENERAL.—Except as provided under
5 paragraph (2), the Secretary shall issue a final rule
6 under subsection (a) not later than 3 years after the
7 date of the enactment of this Act.

8 (2) REPORT.—If the Secretary determines that
9 an amendment to the standard referred to in sub-
10 section (a) does not meet the requirements and con-
11 siderations set forth in subsections (a) and (b) of
12 section 30111 of title 49, United States Code, the
13 Secretary shall submit a report describing the rea-
14 sons for not prescribing such a standard to—

15 (A) the Committee on Commerce, Science,
16 and Transportation of the Senate; and

17 (B) the Committee on Energy and Com-
18 merce of the House of Representatives.

19 **SEC. 31503. REAR SEAT BELT REMINDERS.**

20 (a) INITIATION OF RULEMAKING PROCEEDING.—Not
21 later than 2 years after the date of enactment of this Act,
22 the Secretary shall initiate a rulemaking proceeding to
23 amend Federal Motor Vehicle Safety Standard Number
24 208 (relating to occupant crash protection) to provide a

1 safety belt use warning system for designated seating posi-
2 tions in the rear seat.

3 (b) FINAL RULE.—

4 (1) IN GENERAL.—Except as provided under
5 paragraph (2), the Secretary shall issue a final rule
6 under subsection (a) not later than 3 years after the
7 date of enactment of this Act.

8 (2) REPORT.—If the Secretary determines that
9 an amendment to the standard referred to in sub-
10 section (a) does not meet the requirements and con-
11 siderations set forth in subsections (a) and (b) of
12 section 30111 of title 49, United States Code, the
13 Secretary shall submit a report describing the rea-
14 sons for not prescribing such a standard to—

15 (A) the Committee on Commerce, Science,
16 and Transportation of the Senate; and

17 (B) the Committee on Energy and Com-
18 merce of the House of Representatives.

19 **SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

20 (a) SAFETY RESEARCH INITIATIVE.—Not later than
21 2 years after the date of enactment of this Act, the Sec-
22 retary shall complete research into the development of per-
23 formance requirements to warn drivers that a child or
24 other unattended passenger remains in a rear seating posi-
25 tion after the vehicle motor is disengaged.

1 (b) SPECIFICATIONS.—In carrying out subsection (a),
2 the Secretary shall consider performance requirements
3 that—

4 (1) sense weight, the presence of a buckled seat
5 belt, or other indications of the presence of a child
6 or other passenger; and

7 (2) provide an alert to prevent hyperthermia
8 and hypothermia that can result in death or severe
9 injuries.

10 (c) RULEMAKING OR REPORT.—

11 (1) RULEMAKING.—Not later than 1 year after
12 the completion of each research and testing initiative
13 required under subsection (a), the Secretary shall
14 initiate a rulemaking proceeding to issue a Federal
15 motor vehicle safety standard if the Secretary deter-
16 mines that such a standard meets the requirements
17 and considerations set forth in subsections (a) and
18 (b) of section 30111 of title 49, United States Code.

19 (2) REPORT.—If the Secretary determines that
20 the standard described in subsection (a) does not
21 meet the requirements and considerations set forth
22 in subsections (a) and (b) of section 30111 of title
23 49, United States Code, the Secretary shall submit
24 a report describing the reasons for not prescribing
25 such a standard to—

1 (A) the Committee on Commerce, Science,
2 and Transportation of the Senate; and

3 (B) the Committee on Energy and Com-
4 merce of the House of Representatives.

5 **SEC. 31505. NEW DEADLINE.**

6 If the Secretary determines that any deadline for
7 issuing a final rule under this Act cannot be met, the Sec-
8 retary shall—

9 (1) provide the Committee on Commerce,
10 Science, and Transportation of the Senate and the
11 Committee on Energy and Commerce of the House
12 of Representatives with an explanation for why such
13 deadline cannot be met; and

14 (2) establish a new deadline for that rule.

15 **Subtitle F—Improved Daytime and**
16 **Nighttime Visibility of Agricul-**
17 **tural Equipment**

18 **SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICUL-**
19 **TURAL EQUIPMENT.**

20 (a) DEFINITIONS.—In this section:

21 (1) AGRICULTURAL EQUIPMENT.—The term
22 “agricultural equipment” has the meaning given the
23 term “agricultural field equipment” in ASABE
24 Standard 390.4, entitled “Definitions and Classifica-
25 tions of Agricultural Field Equipment”, which was

1 published in January 2005 by the American Society
2 of Agriculture and Biological Engineers, or any suc-
3 cessor standard.

4 (2) PUBLIC ROAD.—The term “public road”
5 has the meaning given the term in section
6 101(a)(27) of title 23, United States Code.

7 (b) RULEMAKING.—

8 (1) IN GENERAL.—Not later than 2 years after
9 the date of enactment of this Act, the Secretary of
10 Transportation, after consultation with representa-
11 tives of the American Society of Agricultural and Bi-
12 ological Engineers and appropriate Federal agencies,
13 and with other appropriate persons, shall promul-
14 gate a rule to improve the daytime and nighttime
15 visibility of agricultural equipment that may be oper-
16 ated on a public road.

17 (2) MINIMUM STANDARDS.—The rule promul-
18 gated pursuant to this subsection shall—

19 (A) establish minimum lighting and mark-
20 ing standards for applicable agricultural equip-
21 ment manufactured at least 1 year after the
22 date on which such rule is promulgated; and

23 (B) provide for the methods, materials,
24 specifications, and equipment to be employed to
25 comply with such standards, which shall be

1 equivalent to ASABE Standard 279.14, entitled
2 “Lighting and Marking of Agricultural Equip-
3 ment on Highways”, which was published in
4 July 2008 by the American Society of Agricul-
5 tural and Biological Engineers, or any successor
6 standard.

7 (c) REVIEW.—Not less frequently than once every 5
8 years, the Secretary of Transportation shall—

9 (1) review the standards established pursuant
10 to subsection (b); and

11 (2) revise such standards to reflect the revision
12 of ASABE Standard 279 that is in effect at the
13 time of such review.

14 (d) LIMITATIONS.—

15 (1) COMPLIANCE WITH SUCCESSOR STAND-
16 ARDS.—Any rule promulgated pursuant to this sec-
17 tion may not prohibit the operation on public roads
18 of agricultural equipment that is equipped in accord-
19 ance with any adopted revision of ASABE Standard
20 279 that is later than the revision of such standard
21 that was referenced during the promulgation of the
22 rule.

23 (2) NO RETROFITTING REQUIRED.—Any rule
24 promulgated pursuant to this section may not re-
25 quire the retrofitting of agricultural equipment that

1 was manufactured before the date on which the
2 lighting and marking standards are enforceable
3 under subsection (b)(2)(A).

4 (3) NO EFFECT ON ADDITIONAL MATERIALS
5 AND EQUIPMENT.—Any rule promulgated pursuant
6 to this section may not prohibit the operation on
7 public roads of agricultural equipment that is
8 equipped with materials or equipment that are in
9 addition to the minimum materials and equipment
10 specified in the standard upon which such rule is
11 based.

12 **TITLE II—COMMERCIAL MOTOR**
13 **VEHICLE SAFETY ENHANCE-**
14 **MENT ACT OF 2012**

15 **SEC. 32001. SHORT TITLE.**

16 This title may be cited as the “Commercial Motor Ve-
17 hicle Safety Enhancement Act of 2012”.

18 **SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES**

19 **CODE.**

20 Except as otherwise expressly provided, whenever in
21 this title an amendment or repeal is expressed in terms
22 of an amendment to, or a repeal of, a section or other
23 provision, the reference shall be considered to be made to
24 a section or other provision of title 49, United States
25 Code.

1 **Subtitle A—Commercial Motor**
2 **Vehicle Registration**

3 **SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

4 (a) REGISTRATION REQUIREMENTS.—Section
5 13902(a)(1) is amended to read as follows:

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided in this section, the Secretary of Transportation
8 may not register a person to provide transportation
9 subject to jurisdiction under subchapter I of chapter
10 135 as a motor carrier unless the Secretary deter-
11 mines that the person—

12 “(A) is willing and able to comply with—

13 “(i) this part and the applicable regu-
14 lations of the Secretary and the Board;

15 “(ii) any safety regulations imposed
16 by the Secretary;

17 “(iii) the duties of employers and em-
18 ployees established by the Secretary under
19 section 31135;

20 “(iv) the safety fitness requirements
21 established by the Secretary under section
22 31144;

23 “(v) the accessibility requirements es-
24 tablished by the Secretary under subpart
25 H of part 37 of title 49, Code of Federal

1 Regulations (or successor regulations), for
2 transportation provided by an over-the-
3 road bus; and

4 “(vi) the minimum financial responsi-
5 bility requirements established by the Sec-
6 retary under sections 13906, 31138, and
7 31139;

8 “(B) has submitted a comprehensive man-
9 agement plan documenting that the person has
10 management systems in place to ensure compli-
11 ance with safety regulations imposed by the
12 Secretary;

13 “(C) has disclosed any relationship involv-
14 ing common ownership, common management,
15 common control, or common familial relation-
16 ship between that person and any other motor
17 carrier, freight forwarder, or broker, or any
18 other applicant for motor carrier, freight for-
19 warder, or broker registration, or a successor
20 (as that term is defined under section 31153),
21 if the relationship occurred in the 5-year period
22 preceding the date of the filing of the applica-
23 tion for registration; and

24 “(D) after the Secretary establishes a writ-
25 ten proficiency examination pursuant to section

1 32101(b) of the Commercial Motor Vehicle
2 Safety Enhancement Act of 2012, has passed
3 the written proficiency examination.”.

4 (b) WRITTEN PROFICIENCY EXAMINATION.—

5 (1) ESTABLISHMENT.—Not later than 18
6 months after the date of enactment of this Act, the
7 Secretary shall establish a written proficiency exam-
8 ination for applicant motor carriers pursuant to sec-
9 tion 13902(a)(1)(D) of title 49, United States Code.
10 The written proficiency examination shall test a per-
11 son’s knowledge of applicable safety regulations,
12 standards, and orders of the Federal government
13 and State government.

14 (2) ADDITIONAL FEE.—The Secretary may as-
15 sess a fee to cover the expenses incurred by the De-
16 partment of Transportation in—

17 (A) developing and administering the writ-
18 ten proficiency examination; and

19 (B) reviewing the comprehensive manage-
20 ment plan required under section
21 13902(a)(1)(B) of title 49, United States Code.

22 (c) CONFORMING AMENDMENT.—Section 210(b) of
23 the Motor Carrier Safety Improvement Act of 1999 (49
24 U.S.C. 31144 note) is amended—

1 (1) by inserting “, commercial regulations, and
2 provisions of subpart H of part 37 of title 49, Code
3 of Federal Regulations, or successor regulations”
4 after “applicable safety regulations”; and

5 (2) by striking “consider the establishment of”
6 and inserting “establish”.

7 (d) TRANSPORTATION OF AGRICULTURAL COMMOD-
8 ITIES AND FARM SUPPLIES.—Section 229(a)(1) of the
9 Motor Carrier Safety Improvement Act of 1999 (49
10 U.S.C. 31136 note) is amended to read as follows:

11 “(1) TRANSPORTATION OF AGRICULTURAL COM-
12 MODITIES AND FARM SUPPLIES.—Regulations pre-
13 scribed by the Secretary under sections 31136 and
14 31502 regarding maximum driving and on-duty time
15 for drivers used by motor carriers shall not apply
16 during planting and harvest periods, as determined
17 by each State, to—

18 “(A) drivers transporting agricultural com-
19 modities in the State from the source of the ag-
20 ricultural commodities to a location within a
21 100 air-mile radius from the source;

22 “(B) drivers transporting farm supplies for
23 agricultural purposes in the State from a whole-
24 sale or retail distribution point of the farm sup-
25 plies to a farm or other location where the farm

1 supplies are intended to be used within a 100
2 air-mile radius from the distribution point; or

3 “(C) drivers transporting farm supplies for
4 agricultural purposes in the State from a whole-
5 sale distribution point of the farm supplies to a
6 retail distribution point of the farm supplies
7 within a 100 air-mile radius from the wholesale
8 distribution point.”.

9 **SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

10 (a) SAFETY REVIEWS OF NEW OPERATORS.—Section
11 31144(g)(1) is amended to read as follows:

12 “(1) SAFETY REVIEW.—

13 “(A) IN GENERAL.—The Secretary shall
14 require, by regulation, each owner and each op-
15 erator granted new registration under section
16 13902 or 31134 to undergo a safety review not
17 later than 12 months after the owner or oper-
18 ator, as the case may be, begins operations
19 under such registration.

20 “(B) PROVIDERS OF MOTORCOACH SERV-
21 ICES.—The Secretary may register a person to
22 provide motorcoach services under section
23 13902 or 31134 after the person undergoes a
24 pre-authorization safety audit, including
25 verification, in a manner sufficient to dem-

1 onstrate the ability to comply with Federal
2 rules and regulations, as described in section
3 13902. The Secretary shall continue to monitor
4 the safety performance of each owner and each
5 operator subject to this section for 12 months
6 after the owner or operator is granted registra-
7 tion under section 13902 or 31134. The reg-
8 istration of each owner and each operator sub-
9 ject to this section shall become permanent
10 after the motorcoach service provider is granted
11 registration following a pre-authorization safety
12 audit and the expiration of the 12 month moni-
13 toring period.

14 “(C) PRE-AUTHORIZATION SAFETY
15 AUDIT.—The Secretary may require, by regula-
16 tion, that the pre-authorization safety audit
17 under subparagraph (B) be completed on-site
18 not later than 90 days after the submission of
19 an application for operating authority.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect 1 year after the date of
22 enactment of this Act.

23 **SEC. 32103. REINCARNATED CARRIERS.**

24 (a) EFFECTIVE PERIODS OF REGISTRATION.—

1 (1) SUSPENSIONS, AMENDMENTS, AND REVOCA-
2 TIONS.—Section 13905(d) is amended—

3 (A) by redesignating paragraph (2) as
4 paragraph (4);

5 (B) by striking paragraph (1) and insert-
6 ing the following:

7 “(1) APPLICATIONS.—On application of the
8 registrant, the Secretary may amend or revoke a
9 registration.

10 “(2) COMPLAINTS AND ACTIONS ON SEC-
11 RETARY’S OWN INITIATIVE.—On complaint or on the
12 Secretary’s own initiative and after notice and an
13 opportunity for a proceeding, the Secretary may—

14 “(A) suspend, amend, or revoke any part
15 of the registration of a motor carrier, broker, or
16 freight forwarder for willful failure to comply
17 with—

18 “(i) this part;

19 “(ii) an applicable regulation or order
20 of the Secretary or the Board, including
21 the accessibility requirements established
22 by the Secretary under subpart H of part
23 37 of title 49, Code of Federal Regulations
24 (or successor regulations), for transpor-
25 tation provided by an over-the-road bus; or

1 “(iii) a condition of its registration;

2 “(B) withhold, suspend, amend, or revoke
3 any part of the registration of a motor carrier,
4 broker, or freight forwarder for failure—

5 “(i) to pay a civil penalty imposed
6 under chapter 5, 51, 149, or 311;

7 “(ii) to arrange and abide by an ac-
8 ceptable payment plan for such civil pen-
9 alty, not later than 90 days after the date
10 specified by order of the Secretary for the
11 payment of such penalty; or

12 “(iii) for failure to obey a subpoena
13 issued by the Secretary;

14 “(C) withhold, suspend, amend, or revoke
15 any part of a registration of a motor carrier,
16 broker, or freight forwarder following a deter-
17 mination by the Secretary that the motor car-
18 rier, broker, or freight forwarder failed to dis-
19 close, in its application for registration, a mate-
20 rial fact relevant to its willingness and ability to
21 comply with—

22 “(i) this part;

23 “(ii) an applicable regulation or order
24 of the Secretary or the Board; or

25 “(iii) a condition of its registration; or

1 “(D) withhold, suspend, amend, or revoke
2 any part of a registration of a motor carrier,
3 broker, or freight forwarder if the Secretary
4 finds that—

5 “(i) the motor carrier, broker, or
6 freight forwarder is or was related through
7 common ownership, common management,
8 common control, or common familial rela-
9 tionship to any other motor carrier, broker,
10 or freight forwarder, or any other appli-
11 cant for motor carrier, broker, or freight
12 forwarder registration that the Secretary
13 determines is or was unwilling or unable to
14 comply with the relevant requirements list-
15 ed in section 13902, 13903, or 13904; or

16 “(ii) the person is the successor, as
17 defined in section 31153, to a person who
18 is or was unwilling or unable to comply
19 with the relevant requirements of section
20 13902, 13903, or 13904.

21 “(3) LIMITATION.—Paragraph (2)(B) shall not
22 apply to a person who is unable to pay a civil pen-
23 alty because the person is a debtor in a case under
24 chapter 11 of title 11.”; and

1 (C) in paragraph (4), as redesignated by
2 section 32103(a)(1)(A) of this Act, by striking
3 “paragraph (1)(B)” and inserting “paragraph
4 (2)(B)”.

5 (2) PROCEDURE.—Section 13905(e) is amended
6 by inserting “or if the Secretary determines that the
7 registrant failed to disclose a material fact in an ap-
8 plication for registration in accordance with sub-
9 section (d)(2)(C),” after “registrant,”.

10 (b) 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 person or em-
18 ployer is or was related, through common own-
19 ership, common management, common control,
20 or common familial relationship, to any other
21 person, employer, or any other applicant for
22 registration under section 13902 or 31134.”.

23 **SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

24 (a) REPORT.—Not later than 6 months after the date
25 of enactment of this Act, the Secretary shall—

1 (1) issue a report on the appropriateness of—

2 (A) the current minimum financial respon-
3 sibility requirements under sections 31138 and
4 31139 of title 49, United States Code; and

5 (B) the current bond and insurance re-
6 quirements under section 13904(f) of title 49,
7 United States Code; and

8 (2) submit the report issued under paragraph
9 (1) to the Committee on Commerce, Science, and
10 Transportation of the Senate and the Committee on
11 Transportation and Infrastructure of the House of
12 Representatives.

13 (b) RULEMAKING.—Not later than 6 months after
14 the publication of the report under subsection (a), the Sec-
15 retary shall initiate a rulemaking—

16 (1) to revise the minimum financial responsi-
17 bility requirements under sections 31138 and 31139
18 of title 49, United States Code and

19 (2) to revise the bond and insurance require-
20 ments under section 13904(f) of such title, as appro-
21 priate, based on the findings of the report submitted
22 under subsection (a).

23 (c) DEADLINE.—Not later than 1 year after the start
24 of the rulemaking under subsection (b), the Secretary
25 shall—

1 (1) issue a final rule; or

2 (2) if the Secretary determines that a rule-
3 making is not required following the Secretary's
4 analysis, submit a report stating the reason for not
5 increasing the minimum financial responsibility re-
6 quirements to the Committee on Commerce, Science,
7 and Transportation of the Senate and the Com-
8 mittee on Transportation and Infrastructure of the
9 House of Representatives.

10 (d) BIENNIAL REVIEWS.—Not less than once every
11 2 years, the Secretary shall review the requirements pre-
12 scribed under subsection (b) and revise the requirements,
13 as appropriate.

14 **SEC. 32105. USDOT NUMBER REGISTRATION REQUIRE-**
15 **MENT.**

16 (a) IN GENERAL.—Chapter 311 is amended by in-
17 serting after section 31133 the following:

18 **“§ 31134. Requirement for registration and USDOT**
19 **number**

20 “(a) IN GENERAL.—Upon application, and subject to
21 subsections (b) and (c), the Secretary shall register an em-
22 ployer or person subject to the safety jurisdiction of this
23 subchapter. An employer or person may operate a com-
24 mercial motor vehicle in interstate commerce only if the
25 employer or person is registered by the Secretary under

1 this section and receives a USDOT number. Nothing in
2 this section shall preclude registration by the Secretary
3 of an employer or person not engaged in interstate com-
4 merce. An employer or person subject to jurisdiction under
5 subchapter I of chapter 135 of this title shall apply for
6 commercial registration under section 13902 of this title.

7 “(b) WITHHOLDING REGISTRATION.—The Secretary
8 may withhold registration under subsection (a), after no-
9 tice and an opportunity for a proceeding, if the Secretary
10 determines that—

11 “(1) the employer or person seeking registra-
12 tion is unwilling or unable to comply with the re-
13 quirements of this subchapter and the regulations
14 prescribed thereunder and chapter 51 and the regu-
15 lations prescribed thereunder;

16 “(2) the employer or person is or was related
17 through common ownership, common management,
18 common control, or common familial relationship to
19 any other person or applicant for registration sub-
20 ject to this subchapter who is or was unfit, unwill-
21 ing, or unable to comply with the requirements listed
22 in subsection (b)(1); or

23 “(3) the person is the successor, as defined in
24 section 31153, to a person who is or was unfit, un-

1 willing, or unable to comply with the requirements
2 listed in subsection (b)(1).

3 “(c) REVOCATION OR SUSPENSION OF REGISTRA-
4 TION.—The Secretary shall revoke the registration of an
5 employer or person under subsection (a) after notice and
6 an opportunity for a proceeding, or suspend the registra-
7 tion after giving notice of the suspension to the employer
8 or person, if the Secretary determines that—

9 “(1) the employer’s or person’s authority to op-
10 erate pursuant to chapter 139 of this title would be
11 subject to revocation or suspension under sections
12 13905(d)(1) or 13905(f) of this title;

13 “(2) the employer or person is or was related
14 through common ownership, common management,
15 common control, or common familial relationship to
16 any other person or applicant for registration sub-
17 ject to this subchapter that the Secretary determines
18 is or was unfit, unwilling, or unable to comply with
19 the requirements listed in subsection (b)(1);

20 “(3) the person is the successor, as defined in
21 section 31153, to a person the Secretary determines
22 is or was unfit, unwilling, or unable to comply with
23 the requirements listed in subsection (b)(1); or

1 “(4) the employer or person failed or refused to
2 submit to the safety review required by section
3 31144(g) of this title.

4 “(d) PERIODIC REGISTRATION UPDATE.—The Sec-
5 retary may require an employer to update a registration
6 under this section periodically or not later than 30 days
7 after a change in the employer’s address, other contact
8 information, officers, process agent, or other essential in-
9 formation, as determined by the Secretary.”.

10 (b) CONFORMING AMENDMENT.—The analysis of
11 chapter 311 is amended by inserting after the item relat-
12 ing to section 31133 the following:

 “31134. Requirement for registration and USDOT number.”.

13 **SEC. 32106. REGISTRATION FEE SYSTEM.**

14 Section 13908(d)(1) is amended by striking “but
15 shall not exceed \$300”.

16 **SEC. 32107. REGISTRATION UPDATE.**

17 (a) PERIODIC MOTOR CARRIER UPDATE.—Section
18 13902 is amended by adding at the end the following:

19 “(h) UPDATE OF REGISTRATION.—The Secretary
20 may require a registrant to update its registration under
21 this section periodically or not later than 30 days after
22 a change in the registrant’s address, other contact infor-
23 mation, officers, process agent, or other essential informa-
24 tion, as determined by the Secretary.”.

1 (b) PERIODIC FREIGHT FORWARDER UPDATE.—Sec-
 2 tion 13903 is amended by adding at the end the following:

3 “(c) UPDATE OF REGISTRATION.—The Secretary
 4 may require a freight forwarder to update its registration
 5 under this section periodically or not later than 30 days
 6 after a change in the freight forwarder’s address, other
 7 contact information, officers, process agent, or other es-
 8 sential information, as determined by the Secretary.”.

9 (c) PERIODIC BROKER UPDATE.—Section 13904 is
 10 amended by adding at the end the following:

11 “(e) UPDATE OF REGISTRATION.—The Secretary
 12 may require a broker to update its registration under this
 13 section periodically or not later than 30 days after a
 14 change in the broker’s address, other contact information,
 15 officers, process agent, or other essential information, as
 16 determined by the Secretary.”.

17 **SEC. 32108. INCREASED PENALTIES FOR OPERATING WITH-**
 18 **OUT REGISTRATION.**

19 (a) PENALTIES.—Section 14901(a) is amended—

20 (1) by striking “\$500” and inserting “\$1,000”;

21 (2) by striking “who is not registered under
 22 this part to provide transportation of passengers,”;

23 (3) by striking “with respect to providing trans-
 24 portation of passengers,” and inserting “or section
 25 13902(c) of this title,”; and

1 (2) by striking “subpena” and inserting “sub-
2 poena”;

3 (3) by striking “\$100” and inserting “\$1,000”;

4 (4) by striking “\$5,000” and inserting
5 “\$10,000”; and

6 (5) by adding at the end the following:

7 “The Secretary may withhold, suspend, amend, or re-
8 voke any part of the registration of a person required to
9 register under chapter 139 for failing to obey a subpoena
10 or requirement of the Secretary under this chapter to ap-
11 pear and testify or produce records.”.

12 **SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OP-**
13 **ERATING WITHOUT REQUIRED REGISTRA-**
14 **TION.**

15 Section 13902(e)(1) is amended—

16 (1) by striking “motor vehicle” and inserting
17 “motor carrier” after “the Secretary determines that
18 a”; and

19 (2) by striking “order the vehicle” and inserting
20 “order the motor carrier operations” after “the Sec-
21 retary may”.

22 **SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF**
23 **SAFETY VIOLATIONS.**

24 Section 31135 is amended—

1 (1) by striking subsection (b) and inserting the
2 following:

3 “(b) NONCOMPLIANCE.—

4 “(1) MOTOR CARRIERS.—Two or more motor
5 carriers, employers, or persons shall not use common
6 ownership, common management, common control,
7 or common familial relationship to enable any or all
8 such motor carriers, employers, or persons to avoid
9 compliance, or mask or otherwise conceal non-com-
10 pliance, or a history of non-compliance, with regula-
11 tions prescribed under this subchapter or an order
12 of the Secretary issued under this subchapter.

13 “(2) PATTERN.—If the Secretary finds that a
14 motor carrier, employer, or person engaged in a pat-
15 tern or practice of avoiding compliance, or masking
16 or otherwise concealing noncompliance, with regula-
17 tions prescribed under this subchapter, the Sec-
18 retary—

19 “(A) may withhold, suspend, amend, or re-
20 voke any part of the motor carrier’s, employ-
21 er’s, or person’s registration in accordance with
22 section 13905 or 31134; and

23 “(B) shall take into account such non-com-
24 pliance for purposes of determining civil penalty
25 amounts under section 521(b)(2)(D).

1 “(3) OFFICERS.—If the Secretary finds, after
2 notice and an opportunity for proceeding, that an of-
3 ficer of a motor carrier, employer, or owner or oper-
4 ator engaged in a pattern or practice of violating
5 regulations prescribed under this subchapter, or as-
6 sisted a motor carrier, employer, or owner or oper-
7 ator in avoiding compliance, or masking or otherwise
8 concealing noncompliance, the Secretary may impose
9 appropriate sanctions, subject to the limitations in
10 paragraph (4), including—

11 “(A) suspension or revocation of registra-
12 tion granted to the officer individually under
13 section 13902 or 31134;

14 “(B) temporary or permanent suspension
15 or bar from association with any motor carrier,
16 employer, or owner or operator registered under
17 section 13902 or 31134; or

18 “(C) any appropriate sanction approved by
19 the Secretary.

20 “(4) LIMITATIONS.—The sanctions described in
21 subparagraphs (A) through (C) of subsection (b)(3)
22 shall apply to—

23 “(A) intentional or knowing conduct, in-
24 cluding reckless conduct that violates applicable
25 laws (including regulations); and

1 “(B) repeated instances of negligent con-
2 duct that violates applicable laws (including
3 regulations).”; and

4 (2) by striking subsection (c) and inserting the
5 following:

6 “(c) AVOIDING COMPLIANCE.—For purposes of this
7 section, ‘avoiding compliance’ or ‘masking or otherwise
8 concealing noncompliance’ includes serving as an officer
9 or otherwise exercising controlling influence over 2 or
10 more motor carriers where—

11 “(1) one of the carriers was placed out of serv-
12 ice, or received notice from the Secretary that it will
13 be placed out of service, following—

14 “(A) a determination of unfitness under
15 section 31144(b);

16 “(B) a suspension or revocation of reg-
17 istration under section 13902, 13905, or
18 31144(g);

19 “(C) issuance of an imminent hazard out
20 of service order under section 521(b)(5) or sec-
21 tion 5121(d); or

22 “(D) notice of failure to pay a civil penalty
23 or abide by a penalty payment plan; and

24 “(2) one or more of the carriers is the ‘suc-
25 cessor,’ as that term is defined in section 31153, to

1 the carrier that is the subject of the action in para-
2 graph (1).”.

3 **SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

4 (a) IN GENERAL.—Chapter 311 is amended by add-
5 ing after section 31152, as added by section 32508 of this
6 Act, the following:

7 **“§ 31153. Federal successor standard**

8 “(a) FEDERAL SUCCESSOR STANDARD.—Notwith-
9 standing any other provision of Federal or State law, the
10 Secretary may take an action authorized under chapters
11 5, 51, 131 through 149, subchapter III of chapter 311
12 (except sections 31138 and 31139), or sections 31302,
13 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of
14 this title, or a regulation issued under any of those provi-
15 sions, against a successor of a motor carrier (as defined
16 in section 13102), a successor of an employer (as defined
17 in section 31132), or a successor of an owner or operator
18 (as that term is used in subchapter III of chapter 311),
19 to the same extent and on the same basis as the Secretary
20 may take the action against the motor carrier, employer,
21 or owner or operator.

22 “(b) SUCCESSOR DEFINED.—For purposes of this
23 section, the term ‘successor’ means a motor carrier, em-
24 ployer, or owner or operator that the Secretary deter-
25 mines, after notice and an opportunity for a proceeding,

1 has 1 or more features that correspond closely with the
2 features of another existing or former motor carrier, em-
3 ployer, or owner or operator, such as—

4 “(1) consideration paid for assets purchased or
5 transferred;

6 “(2) dates of corporate creation and dissolution
7 or termination of operations;

8 “(3) commonality of ownership;

9 “(4) commonality of officers and management
10 personnel and their functions;

11 “(5) commonality of drivers and other employ-
12 ees;

13 “(6) identity of physical or mailing addresses,
14 telephone, fax numbers, or e-mail addresses;

15 “(7) identity of motor vehicle equipment;

16 “(8) continuity of liability insurance policies;

17 “(9) commonality of coverage under liability in-
18 surance policies;

19 “(10) continuation of carrier facilities and other
20 physical assets;

21 “(11) continuity of the nature and scope of op-
22 erations, including customers;

23 “(12) commonality of the nature and scope of
24 operations, including customers;

1 “(13) advertising, corporate name, or other acts
2 through which the motor carrier, employer, or owner
3 or operator holds itself out to the public;

4 “(14) history of safety violations and pending
5 orders or enforcement actions of the Secretary; and

6 “(15) additional factors that the Secretary con-
7 siders appropriate.

8 “(c) EFFECTIVE DATE.—Notwithstanding any other
9 provision of law, this section shall apply to any action com-
10 menced on or after the date of enactment of the Commer-
11 cial Motor Vehicle Safety Enhancement Act of 2012 with-
12 out regard to whether the violation that is the subject of
13 the action, or the conduct that caused the violation, oc-
14 curred before the date of enactment.

15 “(d) RIGHTS NOT AFFECTED.—Nothing in this sec-
16 tion shall affect the rights, functions, or responsibilities
17 under law of any other Department, Agency, or instru-
18 mentality of the United States, the laws of any State, or
19 any rights between a private party and a motor carrier,
20 employer, or owner or operator.”.

21 (b) CONFORMING AMENDMENT.—The analysis of
22 chapter 311 is amended by inserting after the item related
23 to section 31152, as added by section 32508 of this Act,
24 the following:

“31153. Federal successor standard.”.

1 **Subtitle B—Commercial Motor**
2 **Vehicle Safety**

3 **SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EX-**
4 **CEPTION FOR BROKERS OF MOTOR CAR-**
5 **RIERS OF PASSENGERS.**

6 (a) IN GENERAL.—Section 13506(a) is amended—

7 (1) by inserting “or” at the end of paragraph

8 (13);

9 (2) by striking paragraph (14); and

10 (3) by redesignating paragraph (15) as para-
11 graph (14).

12 (b) CONFORMING AMENDMENT.—Section 13904(a)
13 is amended by striking “of property” in the first sentence.

14 **SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.**

15 Paragraph (3) of section 31132 is amended to read
16 as follows:

17 “(3) ‘employer’—

18 “(A) means a person engaged in a business
19 affecting interstate commerce that—

20 “(i) owns or leases a commercial
21 motor vehicle in connection with that busi-
22 ness, or assigns an employee to operate the
23 commercial motor vehicle; or

24 “(ii) offers for rent or lease a motor
25 vehicle designed or used to transport more

1 than 8 passengers, including the driver,
2 and from the same location or as part of
3 the same business provides names or con-
4 tact information of drivers, or holds itself
5 out to the public as a charter bus com-
6 pany; but

7 “(B) does not include the Government, a
8 State, or a political subdivision of a State.”.

9 **SEC. 32203. CRASHWORTHINESS STANDARDS.**

10 (a) IN GENERAL.—Not later than 18 months after
11 the date of enactment of this Act, the Secretary shall con-
12 duct a comprehensive analysis on the need for crash-
13 worthiness standards on property-carrying commercial
14 motor vehicles with a gross vehicle weight rating or gross
15 vehicle weight of at least 26,001 pounds involved in inter-
16 state commerce, including an evaluation of the need for
17 roof strength, pillar strength, air bags, and frontal and
18 back wall standards.

19 (b) REPORT.—Not later than 90 days after com-
20 pleting the comprehensive analysis under subsection (a),
21 the Secretary shall report the results of the analysis and
22 any recommendations to the Committee on Commerce,
23 Science, and Transportation of the Senate and the Com-
24 mittee on Transportation and Infrastructure of the House
25 of Representatives.

1 **SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

2 Section 31144 is amended by adding at the end the
3 following:

4 “(h) **RECOGNITION OF CANADIAN MOTOR CARRIER**
5 **SAFETY FITNESS DETERMINATIONS.**—

6 “(1) If an authorized agency of the Canadian
7 federal government or a Canadian Territorial or
8 Provincial government determines, by applying the
9 procedure and standards prescribed by the Secretary
10 under subsection (b) or pursuant to an agreement
11 under paragraph (2), that a Canadian employer is
12 unfit and prohibits the employer from operating a
13 commercial motor vehicle in Canada or any Cana-
14 dian Province, the Secretary may prohibit the em-
15 ployer from operating such vehicle in interstate and
16 foreign commerce until the authorized Canadian
17 agency determines that the employer is fit.

18 “(2) The Secretary may consult and participate
19 in negotiations with authorized officials of the Cana-
20 dian federal government or a Canadian Territorial
21 or Provincial government, as necessary, to provide
22 reciprocal recognition of each country’s motor car-
23 rier safety fitness determinations. An agreement
24 shall provide, to the maximum extent practicable,
25 that each country will follow the procedure and
26 standards prescribed by the Secretary under sub-

1 section (b) in making motor carrier safety fitness de-
2 terminations.”.

3 **SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL**
4 **DRIVER CONVICTIONS.**

5 (a) DEFINITION OF FOREIGN COMMERCIAL DRIV-
6 ER.—Section 31301 is amended—

7 (1) by redesignating paragraphs (10) through
8 (14) as paragraphs (11) through (15), respectively;
9 and

10 (2) by inserting after paragraph (9) the fol-
11 lowing:

12 “(10) ‘foreign commercial driver’ means an in-
13 dividual licensed to operate a commercial motor ve-
14 hicle by an authority outside the United States, or
15 a citizen of a foreign country who operates a com-
16 mercial motor vehicle in the United States.”.

17 (b) STATE REPORTING OF CONVICTIONS.—Section
18 31311(a) is amended by adding after paragraph (21) the
19 following:

20 “(22) The State shall report a conviction of a
21 foreign commercial driver by that State to the Fed-
22 eral Convictions and Withdrawal Database, or an-
23 other information system designated by the Sec-
24 retary to record the convictions. A report shall in-
25 clude—

1 “(A) for a driver holding a foreign com-
2 mercial driver’s license—

3 “(i) each conviction relating to the op-
4 eration of a commercial motor vehicle; and

5 “(ii) a non-commercial motor vehicle;
6 and

7 “(B) for an unlicensed driver or a driver
8 holding a foreign non-commercial driver’s li-
9 cense, each conviction for operating a commer-
10 cial motor vehicle.”.

11 **SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMER-**
12 **CIAL DRIVERS.**

13 Section 31310 is amended by adding at the end the
14 following:

15 “(k) FOREIGN COMMERCIAL DRIVERS.—A foreign
16 commercial driver shall be subject to disqualification
17 under this section.”.

18 **SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OP-**
19 **ERATING AUTHORITY FOR FAILURE TO PAY**
20 **CIVIL PENALTIES.**

21 Section 13905(d)(2), as amended by section
22 32103(a) of this Act, is amended by inserting “foreign
23 motor carrier, foreign motor private carrier,” after “reg-
24 istration of a motor carrier,” each place it appears.

1 **SEC. 32208. RENTAL TRUCK ACCIDENT STUDY.**

2 (a) DEFINITIONS.—In this section:

3 (1) RENTAL TRUCK.—The term “rental truck”
4 means a motor vehicle with a gross vehicle weight
5 rating of between 10,000 and 26,000 pounds that is
6 made available for rental by a rental truck company.

7 (2) RENTAL TRUCK COMPANY.—The term
8 “rental truck company” means a person or company
9 that is in the business of renting or leasing rental
10 trucks to the public or for private use.

11 (b) STUDY.—

12 (1) IN GENERAL.—The Secretary shall conduct
13 a study of the safety of rental trucks during the 7-
14 year period ending on December 31, 2011.

15 (2) REQUIREMENTS.—The study conducted
16 under paragraph (1) shall—

17 (A) evaluate available data on the number
18 of crashes, fatalities, and injuries involving
19 rental trucks and the cause of such crashes, uti-
20 lizing police accident reports and other sources;

21 (B) estimate the property damage and
22 costs resulting from a subset of crashes involv-
23 ing rental truck operations, which the Secretary
24 believes adequately reflect all crashes involving
25 rental trucks;

1 (C) analyze State and local laws regulating
2 rental truck companies, including safety and in-
3 spection requirements;

4 (D) assess the rental truck maintenance
5 programs of a selection of small, medium, and
6 large rental truck companies, as selected by the
7 Secretary, including the frequency of rental
8 truck maintenance inspections, and compare
9 such programs with inspection requirements for
10 passenger vehicles and commercial motor vehi-
11 cles;

12 (E) include any other information available
13 regarding the safety of rental trucks; and

14 (F) review any other information that the
15 Secretary determines to be appropriate.

16 (c) REPORT.—Not later than 1 year after the date
17 of the enactment of this Act, the Secretary shall submit
18 a report to the Committee on Commerce, Science, and
19 Transportation of the Senate and the Committee on
20 Transportation and Infrastructure of the House of Rep-
21 resentatives that contains—

22 (1) the findings of the study conducted pursu-
23 ant to subsection (b); and

24 (2) any recommendations for legislation that
25 the Secretary determines to be appropriate.

1 **Subtitle C—Driver Safety**

2 **SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.**

3 (a) GENERAL AUTHORITY.—Section 31137 is amend-
4 ed—

5 (1) by amending the section heading to read as
6 follows:

7 **“§ 31137. Electronic on-board recording devices and**
8 **brake maintenance regulations”;**

9 (2) by redesignating subsection (b) as sub-
10 section (e); and

11 (3) by amending (a) to read as follows:

12 “(a) ELECTRONIC ON-BOARD RECORDING DE-
13 VICES.—Not later than 1 year after the date of enactment
14 of the Commercial Motor Vehicle Safety Enhancement Act
15 of 2012, the Secretary of Transportation shall prescribe
16 regulations—

17 “(1) requiring a commercial motor vehicle in-
18 volved in interstate commerce and operated by a
19 driver subject to the hours of service and the record
20 of duty status requirements under part 395 of title
21 49, Code of Federal Regulations, be equipped with
22 an electronic on-board recording device to improve
23 compliance by an operator of a vehicle with hours of
24 service regulations prescribed by the Secretary; and

1 “(2) ensuring that an electronic on-board re-
2 cording device is not used to harass a vehicle oper-
3 ator.

4 “(b) ELECTRONIC ON-BOARD RECORDING DEVICE
5 REQUIREMENTS.—

6 “(1) IN GENERAL.—The regulations prescribed
7 under subsection (a) shall—

8 “(A) require an electronic on-board record-
9 ing device—

10 “(i) to accurately record commercial
11 driver hours of service;

12 “(ii) to record the location of a com-
13 mercial motor vehicle;

14 “(iii) to be tamper resistant; and

15 “(iv) to be integrally synchronized
16 with an engine’s control module;

17 “(B) allow law enforcement to access the
18 data contained in the device during a roadside
19 inspection; and

20 “(C) apply to a commercial motor vehicle
21 beginning on the date that is 2 years after the
22 date that the regulations are published as a
23 final rule.

1 “(2) PERFORMANCE AND DESIGN STAND-
2 ARDS.—The regulations prescribed under subsection
3 (a) shall establish performance standards—

4 “(A) defining a standardized user interface
5 to aid vehicle operator compliance and law en-
6 forcement review;

7 “(B) establishing a secure process for
8 standardized—

9 “(i) and unique vehicle operator iden-
10 tification;

11 “(ii) data access;

12 “(iii) data transfer for vehicle opera-
13 tors between motor vehicles;

14 “(iv) data storage for a motor carrier;

15 and

16 “(v) data transfer and transportability
17 for law enforcement officials;

18 “(C) establishing a standard security level
19 for an electronic on-board recording device and
20 related components to be tamper resistant by
21 using a methodology endorsed by a nationally
22 recognized standards organization; and

23 “(D) identifying each driver subject to the
24 hours of service and record of duty status re-

1 requirements under part 395 of title 49, Code of
2 Federal Regulations.

3 “(c) CERTIFICATION CRITERIA.—

4 “(1) IN GENERAL.—The regulations prescribed
5 by the Secretary under this section shall establish
6 the criteria and a process for the certification of an
7 electronic on-board recording device to ensure that
8 the device meets the performance requirements
9 under this section.

10 “(2) EFFECT OF NONCERTIFICATION.—An elec-
11 tronic on-board recording device that is not certified
12 in accordance with the certification process referred
13 to in paragraph (1) shall not be acceptable evidence
14 of hours of service and record of duty status require-
15 ments under part 395 of title 49, Code of Federal
16 Regulations.

17 “(d) ELECTRONIC ON-BOARD RECORDING DEVICE
18 DEFINED.—In this section, the term ‘electronic on-board
19 recording device’ means an electronic device that—

20 “(1) is capable of recording a driver’s hours of
21 service and duty status accurately and automatically;
22 and

23 “(2) meets the requirements established by the
24 Secretary through regulation.”.

1 (b) CIVIL PENALTIES.—Section 30165(a)(1) is
 2 amended by striking “or 30141 through 30147” and in-
 3 serting “30141 through 30147, or 31137”.

4 (c) CONFORMING AMENDMENT.—The analysis for
 5 chapter 311 is amended by striking the item relating to
 6 section 31137 and inserting the following:

“31137. Electronic on-board recording devices and brake maintenance regula-
 tions.”.

7 **SEC. 32302. SAFETY FITNESS.**

8 (a) SAFETY FITNESS RATING METHODOLOGY.—The
 9 Secretary shall—

10 (1) incorporate into its Compliance, Safety, Ac-
 11 countability program a safety fitness rating method-
 12 ology that assigns sufficient weight to adverse vehi-
 13 cle and driver performance based-data that elevate
 14 crash risks to warrant an unsatisfactory rating for
 15 a carrier; and

16 (2) ensure that the data to support such assess-
 17 ments is accurate.

18 (b) INTERIM MEASURES.—Not later than March 31,
 19 2012, the Secretary shall take interim measures to imple-
 20 ment a similar safety fitness rating methodology in its cur-
 21 rent safety rating system if the Compliance, Safety, Ac-
 22 countability program is not fully implemented.

1 **SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.**

2 (a) DEADLINE FOR ESTABLISHMENT OF NATIONAL
3 REGISTRY OF MEDICAL EXAMINERS.—Not later than 1
4 year after the date of enactment of this Act, the Secretary
5 shall establish a national registry of medical examiners in
6 accordance with section 31149(d)(1) of title 49, United
7 States Code.

8 (b) EXAMINATION REQUIREMENT FOR NATIONAL
9 REGISTRY OF MEDICAL EXAMINERS.—Section
10 31149(c)(1)(D) is amended to read as follows:

11 “(D) not later than 1 year after enactment
12 of the Commercial Motor Vehicle Safety En-
13 hancement Act of 2012, develop requirements
14 for a medical examiner to be listed in the na-
15 tional registry under this section, including—

16 “(i) the completion of specific courses
17 and materials;

18 “(ii) certification, including self-cer-
19 tification, if the Secretary determines that
20 self-certification is necessary for sufficient
21 participation in the national registry, to
22 verify that a medical examiner completed
23 specific training, including refresher
24 courses, that the Secretary determines nec-
25 essary to be listed in the national registry;

1 “(iii) an examination that requires a
2 passing grade; and

3 “(iv) demonstration of a medical ex-
4 aminer’s willingness to meet the reporting
5 requirements established by the Sec-
6 retary;”.

7 (c) ADDITIONAL OVERSIGHT OF LICENSING AU-
8 THORITIES.—

9 (1) IN GENERAL.—Section 31149(c)(1) is
10 amended—

11 (A) by amending subparagraph (E) to read
12 as follows:

13 “(E) require medical examiners to trans-
14 mit electronically, on at least a monthly basis,
15 the name of the applicant, a numerical identi-
16 fier, and additional information contained on
17 the medical examiner’s certificate for any com-
18 pleted medical examination report required
19 under section 391.43 of title 49, Code of Fed-
20 eral Regulations, to the chief medical exam-
21 iner;”;

22 (B) in subparagraph (F), by striking the
23 period at the end and inserting “; and”; and

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

1 “(G) annually review the implementation
2 of commercial driver’s license requirements by
3 not fewer than 10 States to assess the accu-
4 racy, validity, and timeliness of—

5 “(i) the submission of physical exam-
6 ination reports and medical certificates to
7 State licensing agencies; and

8 “(ii) the processing of the submissions
9 by State licensing agencies.”.

10 (2) INTERNAL OVERSIGHT POLICY.—

11 (A) IN GENERAL.—Not later than 2 years
12 after the date of enactment of this Act, the Sec-
13 retary shall establish an oversight policy and
14 procedure to carry out section 31149(c)(1)(G)
15 of title 49, United States Code, as added by
16 section 32303(c)(1) of this Act.

17 (B) EFFECTIVE DATE.—The amendments
18 made by section 32303(c)(1) of this Act shall
19 take effect on the date the oversight policies
20 and procedures are established pursuant to sub-
21 paragraph (A).

22 (d) ELECTRONIC FILING OF MEDICAL EXAMINATION
23 CERTIFICATES.—Section 31311(a), as amended by sec-
24 tions 32205(b) and 32306(b) of this Act, is amended by
25 adding at the end the following:

1 “(24) Not later than 1 year after the date of
2 enactment of the Commercial Motor Vehicle Safety
3 Enhancement Act of 2012, the State shall establish
4 and maintain, as part of its driver information sys-
5 tem, the capability to receive an electronic copy of
6 a medical examiner’s certificate, from a certified
7 medical examiner, for each holder of a commercial
8 driver’s license issued by the State who operates or
9 intends to operate in interstate commerce.”.

10 (e) FUNDING.—

11 (1) AUTHORIZATION OF APPROPRIATIONS.—Of
12 the funds provided for Data and Technology Grants
13 under section 31104(a) of title 49, United States
14 Code, there are authorized to be appropriated from
15 the Highway Trust Fund (other than the Mass
16 Transit Account) for the Secretary to make grants
17 to States or an organization representing agencies
18 and officials of the States to support development
19 costs of the information technology needed to carry
20 out section 31311(a)(24) of title 49, United States
21 Code—

22 (A) up to \$1,000,000 for fiscal year 2012;

23 and

24 (B) up to \$1,000,000 for fiscal year 2013.

1 (2) PERIOD OF AVAILABILITY.—The amounts
2 made available under this subsection shall remain
3 available until expended.

4 **SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICA-**
5 **TION SYSTEM.**

6 (a) IN GENERAL.—Section 31304 is amended—

7 (1) by striking “An employer” and inserting the
8 following:

9 “(a) IN GENERAL.—An employer”; and

10 (2) by adding at the end the following:

11 “(b) DRIVER VIOLATION RECORDS.—

12 “(1) PERIODIC REVIEW.—Except as provided in
13 paragraph (3), an employer shall ascertain the driv-
14 ing record of each driver it employs—

15 “(A) by making an inquiry at least once
16 every 12 months to the appropriate State agen-
17 cy in which the driver held or holds a commer-
18 cial driver's license or permit during such time
19 period;

20 “(B) by receiving occurrence-based reports
21 of changes in the status of a driver's record
22 from 1 or more driver record notification sys-
23 tems that meet minimum standards issued by
24 the Secretary; or

1 “(C) by a combination of inquiries to
2 States and reports from driver record notifica-
3 tion systems.

4 “(2) RECORD KEEPING.—A copy of the reports
5 received under paragraph (1) shall be maintained in
6 the driver’s qualification file.

7 “(3) EXCEPTIONS TO RECORD REVIEW RE-
8 QUIREMENT.—Paragraph (1) shall not apply to a
9 driver employed by an employer who, in any 7-day
10 period, is employed or used as a driver by more than
11 1 employer—

12 “(A) if the employer obtains the driver’s
13 identification number, type, and issuing State
14 of the driver’s commercial motor vehicle license;
15 or

16 “(B) if the information described in sub-
17 paragraph (A) is furnished by another employer
18 and the employer that regularly employs the
19 driver meets the other requirements under this
20 section.

21 “(4) DRIVER RECORD NOTIFICATION SYSTEM
22 DEFINED.—In this section, the term ‘driver record
23 notification system’ means a system that automati-
24 cally furnishes an employer with a report, generated
25 by the appropriate agency of a State, on the change

1 in the status of an employee's driver's license due to
2 a conviction for a moving violation, a failure to ap-
3 pear, an accident, driver's license suspension, driv-
4 er's license revocation, or any other action taken
5 against the driving privilege.”.

6 (b) STANDARDS FOR DRIVER RECORD NOTIFICATION
7 SYSTEMS.—Not later than 1 year after the date of enact-
8 ment of this Act, the Secretary shall issue minimum
9 standards for driver notification systems, including stand-
10 ards for the accuracy, consistency, and completeness of the
11 information provided.

12 (c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

13 (1) DEVELOPMENT.—Not later than 2 years
14 after the date of enactment of this Act, the Sec-
15 retary shall develop recommendations and a plan for
16 the development and implementation of a national
17 driver record notification system, including—

18 (A) an assessment of the merits of achiev-
19 ing a national system by expanding the Com-
20 mercial Driver's License Information System;
21 and

22 (B) an estimate of the fees that an em-
23 ployer will be charged to offset the operating
24 costs of the national system.

1 (2) SUBMISSION TO CONGRESS.—Not later than
2 90 days after the recommendations and plan are de-
3 veloped under paragraph (1), the Secretary shall
4 submit a report on the recommendations and plan to
5 the Committee on Commerce, Science, and Trans-
6 portation of the Senate and the Committee on
7 Transportation and Infrastructure of the House of
8 Representatives.

9 **SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR**
10 **TRAINING.**

11 (a) IN GENERAL.—Section 31305 is amended by
12 adding at the end the following:

13 “(c) STANDARDS FOR TRAINING.—Not later than 6
14 months after the date of enactment of the Commercial
15 Motor Vehicle Safety Enhancement Act of 2012, the Sec-
16 retary shall issue final regulations establishing minimum
17 entry-level training requirements for an individual oper-
18 ating a commercial motor vehicle—

19 “(1) addressing the knowledge and skills that—

20 “(A) are necessary for an individual oper-
21 ating a commercial motor vehicle to safely oper-
22 ate a commercial motor vehicle; and

23 “(B) must be acquired before obtaining a
24 commercial driver’s license for the first time or

1 upgrading from one class of commercial driver’s
2 license to another class;

3 “(2) addressing the specific training needs of a
4 commercial motor vehicle operator seeking passenger
5 or hazardous materials endorsements, including for
6 an operator seeking a passenger endorsement train-
7 ing—

8 “(A) to suppress motorcoach fires; and

9 “(B) to evacuate passengers from
10 motorcoaches safely;

11 “(3) requiring effective instruction to acquire
12 the knowledge, skills, and training referred to in
13 paragraphs (1) and (2), including classroom and be-
14 hind-the-wheel instruction;

15 “(4) requiring certification that an individual
16 operating a commercial motor vehicle meets the re-
17 quirements established by the Secretary; and

18 “(5) requiring a training provider (including a
19 public or private driving school, motor carrier, or
20 owner or operator of a commercial motor vehicle)
21 that offers training that results in the issuance of a
22 certification to an individual under paragraph (4) to
23 demonstrate that the training meets the require-
24 ments of the regulations, through a process estab-
25 lished by the Secretary.”.

1 (b) COMMERCIAL DRIVER'S LICENSE UNIFORM
 2 STANDARDS.—Section 31308(1) is amended to read as
 3 follows:

4 “(1) an individual issued a commercial driver's
 5 license—

6 “(A) pass written and driving tests for the
 7 operation of a commercial motor vehicle that
 8 comply with the minimum standards prescribed
 9 by the Secretary under section 31305(a); and

10 “(B) present certification of completion of
 11 driver training that meets the requirements es-
 12 tablished by the Secretary under section
 13 31305(c);”.

14 (c) CONFORMING AMENDMENT.—The section head-
 15 ing for section 31305 is amended to read as follows:

16 “§ 31305. **General driver fitness, testing, and train-**
 17 **ing”.**

18 (d) CONFORMING AMENDMENT.—The analysis for
 19 chapter 313 is amended by striking the item relating to
 20 section 31305 and inserting the following:

“31305. General driver fitness, testing, and training.”.

21 **SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.**

22 (a) IN GENERAL.—Section 31309 is amended—

23 (1) in subsection (e)(4), by amending subpara-
 24 graph (A) to read as follows:

1 “(A) IN GENERAL.—The plan shall speci-
2 fy—

3 “(i) a date by which all States shall
4 be operating commercial driver’s license in-
5 formation systems that are compatible with
6 the modernized information system under
7 this section; and

8 “(ii) that States must use the systems
9 to receive and submit conviction and dis-
10 qualification data.”; and

11 (2) in subsection (f), by striking “use” and in-
12 serting “use, subject to section 31313(a),”.

13 (b) REQUIREMENTS FOR STATE PARTICIPATION.—
14 Section 31311 is amended—

15 (1) in subsection (a), as amended by section
16 32205(b) of this Act—

17 (A) in paragraph (5), by striking “At
18 least” and all that follows through “regula-
19 tion),” and inserting: “Not later than the time
20 period prescribed by the Secretary by regula-
21 tion,”; and

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

23 “(23) Not later than 1 year after the date of
24 enactment of the Commercial Motor Vehicle Safety
25 Enhancement Act of 2012, the State shall imple-

1 ment a system and practices for the exclusive elec-
2 tronic exchange of driver history record information
3 on the system the Secretary maintains under section
4 31309, including the posting of convictions, with-
5 drawals, and disqualifications.”; and

6 (2) by adding at the end the following:

7 “(d) CRITICAL REQUIREMENTS.—

8 “(1) IDENTIFICATION OF CRITICAL REQUIRE-
9 MENTS.—After reviewing the requirements under
10 subsection (a), including the regulations issued pur-
11 suant to subsection (a) and section 31309(e)(4), the
12 Secretary shall identify the requirements that are
13 critical to an effective State commercial driver’s li-
14 cense program.

15 “(2) GUIDANCE.—Not later than 180 days
16 after the date of enactment of the Commercial
17 Motor Vehicle Safety Enhancement Act of 2012, the
18 Secretary shall issue guidance to assist States in
19 complying with the critical requirements identified
20 under paragraph (1). The guidance shall include a
21 description of the actions that each State must take
22 to collect and share accurate and complete data in
23 a timely manner.

24 “(e) STATE COMMERCIAL DRIVER’S LICENSE PRO-
25 GRAM PLAN.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the Secretary issues guidance under subsection
3 (d)(2), a State shall submit a plan to the Secretary
4 for complying with the requirements under this sec-
5 tion during the period beginning on the date the
6 plan is submitted and ending on September 30,
7 2016.

8 “(2) CONTENTS.—A plan submitted by a State
9 under paragraph (1) shall identify—

10 “(A) the actions that the State will take to
11 comply with the critical requirements identified
12 under subsection (d)(1);

13 “(B) the actions that the State will take to
14 address any deficiencies in the State’s commer-
15 cial driver’s license program, as identified by
16 the Secretary in the most recent audit of the
17 program; and

18 “(C) other actions that the State will take
19 to comply with the requirements under sub-
20 section (a).

21 “(3) PRIORITY.—

22 “(A) IMPLEMENTATION SCHEDULE.—A
23 plan submitted by a State under paragraph (1)
24 shall include a schedule for the implementation
25 of the actions identified under paragraph (2).

1 In establishing the schedule, the State shall
2 prioritize the actions identified under para-
3 graphs (2)(A) and (2)(B).

4 “(B) DEADLINE FOR COMPLIANCE WITH
5 CRITICAL REQUIREMENTS.—A plan submitted
6 by a State under paragraph (1) shall include
7 assurances that the State will take the nec-
8 essary actions to comply with the critical re-
9 quirements pursuant to subsection (d) not later
10 than September 30, 2015.

11 “(4) APPROVAL AND DISAPPROVAL.—The Sec-
12 retary shall—

13 “(A) review each plan submitted under
14 paragraph (1);

15 “(B) approve a plan that the Secretary de-
16 termines meets the requirements under this
17 subsection and promotes the goals of this chap-
18 ter; and

19 “(C) disapprove a plan that the Secretary
20 determines does not meet the requirements or
21 does not promote the goals.

22 “(5) MODIFICATION OF DISAPPROVED PLANS.—
23 If the Secretary disapproves a plan under paragraph
24 (4)(C), the Secretary shall—

1 “(A) provide a written explanation of the
2 disapproval to the State; and

3 “(B) allow the State to modify the plan
4 and resubmit it for approval.

5 “(6) PLAN UPDATES.—The Secretary may re-
6 quire a State to review and update a plan, as appro-
7 priate.

8 “(f) ANNUAL COMPARISON OF STATE LEVELS OF
9 COMPLIANCE.—The Secretary shall annually—

10 “(1) compare the relative levels of compliance
11 by States with the requirements under subsection
12 (a); and

13 “(2) make the results of the comparison avail-
14 able to the public.”.

15 “(c) DECERTIFICATION AUTHORITY.—Section 31312
16 is amended—

17 (1) by redesignating subsections (b) and (c) as
18 subsections (c) and (d), respectively; and

19 (2) by inserting after subsection (a) the fol-
20 lowing:

21 “(b) DEADLINE FOR COMPLIANCE WITH CRITICAL
22 REQUIREMENTS.—Beginning on October 1, 2016, in mak-
23 ing a determination under subsection (a), the Secretary
24 shall consider a State to be in substantial noncompliance
25 with this chapter if the Secretary determines that—

1 “(1) the State is not complying with a critical
2 requirement under section 31311(d)(1); and

3 “(2) sufficient grant funding was made avail-
4 able to the State under section 31313(a) to comply
5 with the requirement.”.

6 **SEC. 32307. COMMERCIAL DRIVER’S LICENSE REQUIRE-**
7 **MENTS.**

8 (a) LICENSING STANDARDS.—Section 31305(a)(7) is
9 amended by inserting “would not be subject to a disquali-
10 fication under section 31310(g) of this title and” after
11 “taking the tests”.

12 (b) DISQUALIFICATIONS.—Section 31310(g)(1) is
13 amended by deleting “who holds a commercial driver’s li-
14 cense and”.

15 **SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFOR-**
16 **MATION SYSTEMS.**

17 Section 31106(c) is amended—

18 (1) by striking the subsection heading and in-
19 serting “(1) IN GENERAL.—”;

20 (2) by redesignating paragraphs (1) through
21 (4) as subparagraphs (A) through (D); and

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

23 “(2) ACCESS TO RECORDS.—The Secretary may
24 require a State, as a condition of an award of grant
25 money under this section, to provide the Secretary

1 access to all State licensing status and driver history
 2 records via an electronic information system, subject
 3 to section 2721 of title 18.”.

4 **SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMER-**
 5 **CIAL MOTOR VEHICLE OPERATIONS.**

6 (a) **FIRST OFFENSE.**—Section 31310(b)(1)(D) is
 7 amended by striking “commercial” after “revoked, sus-
 8 pended, or canceled based on the individual’s operation of
 9 a,” and before “motor vehicle”.

10 (b) **SECOND OFFENSE.**—Section 31310(c)(1)(D) is
 11 amended by striking “commercial” after “revoked, sus-
 12 pended, or canceled based on the individual’s operation of
 13 a,” and before “motor vehicle”.

14 **SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.**

15 (a) **DISQUALIFICATION DEFINED.**—Section 31301,
 16 as amended by section 32205 of this Act, is amended—

17 (1) by redesignating paragraphs (6) through
 18 (15) as paragraphs (7) through (16), respectively;

19 and

20 (2) by inserting after paragraph (5) the fol-
 21 lowing:

22 “(6) ‘Disqualification’ means—

23 “(A) the suspension, revocation, or can-
 24 cellation of a commercial driver’s license by the
 25 State of issuance;

1 “(B) a withdrawal of an individual’s privi-
 2 lege to drive a commercial motor vehicle by a
 3 State or other jurisdiction as the result of a vio-
 4 lation of State or local law relating to motor ve-
 5 hicle traffic control, except for a parking, vehi-
 6 cle weight, or vehicle defect violation;

7 “(C) a determination by the Secretary that
 8 an individual is not qualified to operate a com-
 9 mercial motor vehicle; or

10 “(D) a determination by the Secretary that
 11 a commercial motor vehicle driver is unfit under
 12 section 31144(g).”.

13 (b) COMMERCIAL DRIVER’S LICENSE INFORMATION
 14 SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended
 15 by inserting after “disqualified” the following: “by the
 16 State that issued the individual a commercial driver’s li-
 17 cense, or by the Secretary,”.

18 (c) STATE ACTION ON FEDERAL DISQUALIFICA-
 19 TION.—Section 31310(h) is amended by inserting after
 20 the first sentence the following:

21 “If the State has not disqualified the individual from
 22 operating a commercial vehicle under subsections (b)
 23 through (g), the State shall disqualify the individual if the
 24 Secretary determines under section 31144(g) that the in-

1 individual is disqualified from operating a commercial motor
2 vehicle.”.

3 **SEC. 32311. EMPLOYER RESPONSIBILITIES.**

4 Section 31304, as amended by section 32304 of this
5 Act, is amended in subsection (a)—

6 (1) by striking “knowingly”; and

7 (2) by striking “in which” and inserting “that
8 the employer knows or should reasonably know
9 that”.

10 **SEC. 32312. IMPROVING AND EXPEDITING SAFETY ASSES-**
11 **MENTS IN THE COMMERCIAL DRIVER’S LI-**
12 **CENSE APPLICATION PROCESS FOR MEM-**
13 **BERS AND FORMER MEMBERS OF THE**
14 **ARMED FORCES.**

15 (a) STUDY.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of the enactment of this Act, the Secretary,
18 in coordination with the Secretary of Defense, and
19 in consultation with the States and other relevant
20 stakeholders, shall commence a study to assess Fed-
21 eral and State regulatory, economic, and administra-
22 tive challenges faced by members and former mem-
23 bers of the Armed Forces, who received safety train-
24 ing and operated qualifying motor vehicles during
25 their service, in obtaining commercial driver’s li-

1 censes (as defined in section 31301(3) of title 49,
2 United States Code).

3 (2) REQUIREMENTS.—The study under this
4 subsection shall—

5 (A) identify written and behind-the-wheel
6 safety training, qualification standards, knowl-
7 edge and skills tests, or other operating experi-
8 ence members of the Armed Forces must meet
9 that satisfy the minimum standards prescribed
10 by the Secretary of Transportation for the oper-
11 ation of commercial motor vehicles under sec-
12 tion 31305 of title 49, United States Code;

13 (B) compare the alcohol and controlled
14 substances testing requirements for members of
15 the Armed Forces with those required for hold-
16 ers of a commercial driver’s license;

17 (C) evaluate the cause of delays in review-
18 ing applications for commercial driver’s licenses
19 of members and former members of the Armed
20 Forces;

21 (D) identify duplicative application costs;

22 (E) identify residency, domicile, training
23 and testing requirements, and other safety or
24 health assessments that affect or delay the
25 issuance of commercial driver’s licenses to

1 members and former members of the Armed
2 Forces; and

3 (F) include other factors that the Sec-
4 retary determines to be appropriate to meet the
5 requirements of the study.

6 (b) REPORT.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the commencement of the study under sub-
9 section (a), the Secretary shall submit a report to
10 the Committee on Commerce, Science, and Trans-
11 portation of the Senate and the Committee on Fi-
12 nancial Services of the House of Representatives
13 that contains the findings and recommendations
14 from the study.

15 (2) ELEMENTS.—The report under paragraph
16 (1) shall include—

17 (A) findings related to the study require-
18 ments under subsection (a)(2);

19 (B) recommendations for the Federal and
20 State legislative, regulatory, and administrative
21 actions necessary to address challenges identi-
22 fied in subparagraph (A); and

23 (C) a plan to implement the recommenda-
24 tions for which the Secretary has authority.

1 (c) IMPLEMENTATION.—Upon the completion of the
2 report under subsection (b), the Secretary shall implement
3 the plan described in subsection (b)(2)(C).

4 **Subtitle D—Safe Roads Act of 2012**

5 **SEC. 32401. SHORT TITLE.**

6 This subtitle may be cited as the “Safe Roads Act
7 of 2012”.

8 **SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED** 9 **SUBSTANCE AND ALCOHOL TEST RESULTS OF** 10 **COMMERCIAL MOTOR VEHICLE OPERATORS.**

11 (a) IN GENERAL.—Chapter 313 is amended—

12 (1) in section 31306(a), by inserting “and sec-
13 tion 31306a” after “this section”; and

14 (2) by inserting after section 31306 the fol-
15 lowing:

16 **“§ 31306a. National clearinghouse for controlled sub-**
17 **stance and alcohol test results of com-**
18 **mercial motor vehicle operators**

19 “(a) ESTABLISHMENT.—

20 “(1) IN GENERAL.—Not later than 2 years
21 after the date of enactment of the Safe Roads Act
22 of 2012, the Secretary of Transportation shall estab-
23 lish a national clearinghouse for records relating to
24 alcohol and controlled substances testing of commer-
25 cial motor vehicle operators.

1 “(2) PURPOSES.—The purposes of the clearing-
2 house shall be—

3 “(A) to improve compliance with the De-
4 partment of Transportation’s alcohol and con-
5 trolled substances testing program applicable to
6 commercial motor vehicle operators;

7 “(B) to facilitate access to information
8 about an individual before employing the indi-
9 vidual as a commercial motor vehicle operator;

10 “(C) to enhance the safety of our United
11 States roadways by reducing accident fatalities
12 involving commercial motor vehicles; and

13 “(D) to reduce the number of impaired
14 commercial motor vehicle operators.

15 “(3) CONTENTS.—The clearinghouse shall func-
16 tion as a repository for records relating to the posi-
17 tive test results and test refusals of commercial
18 motor vehicle operators and violations by such oper-
19 ators of prohibitions set forth in subpart B of part
20 382 of title 49, Code of Federal Regulations (or any
21 subsequent corresponding regulations).

22 “(4) ELECTRONIC EXCHANGE OF RECORDS.—
23 The Secretary shall ensure that records can be elec-
24 tronically submitted to, and requested from, the
25 clearinghouse by authorized users.

1 “(5) AUTHORIZED OPERATOR.—The Secretary
2 may authorize a qualified and experienced private
3 entity to operate and maintain the clearinghouse and
4 to collect fees on behalf of the Secretary under sub-
5 section (e). The entity shall establish, operate, main-
6 tain and expand the clearinghouse and permit access
7 to driver information and records from the clearing-
8 house in accordance with this section.

9 “(b) DESIGN OF CLEARINGHOUSE.—

10 “(1) USE OF FEDERAL MOTOR CARRIER SAFETY
11 ADMINISTRATION RECOMMENDATIONS.—In estab-
12 lishing the clearinghouse, the Secretary shall con-
13 sider—

14 “(A) the findings and recommendations
15 contained in the Federal Motor Carrier Safety
16 Administration’s March 2004 report to Con-
17 gress required under section 226 of the Motor
18 Carrier Safety Improvement Act of 1999 (49
19 U.S.C. 31306 note); and

20 “(B) the findings and recommendations
21 contained in the Government Accountability Of-
22 fice’s May 2008 report to Congress entitled
23 ‘Motor Carrier Safety: Improvements to Drug
24 Testing Programs Could Better Identify Illegal
25 Drug Users and Keep Them off the Road.’.

1 “(2) DEVELOPMENT OF SECURE PROCESSES.—

2 In establishing the clearinghouse, the Secretary shall
3 develop a secure process for—

4 “(A) administering and managing the
5 clearinghouse in compliance with applicable
6 Federal security standards;

7 “(B) registering and authenticating au-
8 thorized users of the clearinghouse;

9 “(C) registering and authenticating per-
10 sons required to report to the clearinghouse
11 under subsection (g);

12 “(D) preventing the unauthorized access of
13 information from the clearinghouse;

14 “(E) storing and transmitting data;

15 “(F) persons required to report to the
16 clearinghouse under subsection (g) to timely
17 and accurately submit electronic data to the
18 clearinghouse;

19 “(G) generating timely and accurate re-
20 ports from the clearinghouse in response to re-
21 quests for information by authorized users; and

22 “(H) updating an individual’s record upon
23 completion of the return-to-duty process de-
24 scribed in title 49, Code of Federal Regulations.

1 “(3) EMPLOYER ALERT OF POSITIVE TEST RE-
2 SULT.—In establishing the clearinghouse, the Sec-
3 retary shall develop a secure method for electroni-
4 cally notifying an employer of each additional posi-
5 tive test result or other noncompliance—

6 “(A) for an employee, that is entered into
7 the clearinghouse during the 7-day period im-
8 mediately following an employer’s inquiry about
9 the employee; and

10 “(B) for an employee who is listed as hav-
11 ing multiple employers.

12 “(4) ARCHIVE CAPABILITY.—In establishing the
13 clearinghouse, the Secretary shall develop a process
14 for archiving all clearinghouse records, including the
15 depositing of personal records, records relating to
16 each individual in the database, and access requests
17 for personal records, for the purposes of—

18 “(A) auditing and evaluating the timeli-
19 ness, accuracy, and completeness of data in the
20 clearinghouse; and

21 “(B) auditing to monitor compliance and
22 enforce penalties for noncompliance.

23 “(5) FUTURE NEEDS.—

1 “(A) INTEROPERABILITY WITH OTHER
2 DATA SYSTEMS.—In establishing the clearing-
3 house, the Secretary shall consider—

4 “(i) the existing data systems con-
5 taining regulatory and safety data for com-
6 mercial motor vehicle operators;

7 “(ii) the efficacy of using or com-
8 bining clearinghouse data with 1 or more
9 of such systems; and

10 “(iii) the potential interoperability of
11 the clearinghouse with such systems.

12 “(B) SPECIFIC CONSIDERATIONS.—In car-
13 rying out subparagraph (A), the Secretary shall
14 determine—

15 “(i) the clearinghouse’s capability for
16 interoperability with—

17 “(I) the National Driver Register
18 established under section 30302;

19 “(II) the Commercial Driver’s Li-
20 cense Information System established
21 under section 31309;

22 “(III) the Motor Carrier Manage-
23 ment Information System for pre-
24 employment screening services under
25 section 31150; and

1 “(IV) other data systems, as ap-
2 propriate; and

3 “(ii) any change to the administration
4 of the current testing program, such as
5 forms, that is necessary to collect data for
6 the clearinghouse.

7 “(c) STANDARD FORMATS.—The Secretary shall de-
8 velop standard formats to be used—

9 “(1) by an authorized user of the clearinghouse
10 to—

11 “(A) request a record from the clearing-
12 house; and

13 “(B) obtain the consent of an individual
14 who is the subject of a request from the clear-
15 inghouse, if applicable; and

16 “(2) to notify an individual that a positive alco-
17 hol or controlled substances test result, refusing to
18 test, and a violation of any of the prohibitions under
19 subpart B of part 382 of title 49, Code of Federal
20 Regulations (or any subsequent corresponding regu-
21 lations), will be reported to the clearinghouse.

22 “(d) PRIVACY.—A release of information from the
23 clearinghouse shall—

1 “(1) comply with applicable Federal privacy
2 laws, including the fair information practices under
3 the Privacy Act of 1974 (5 U.S.C. 552a);

4 “(2) comply with applicable sections of the Fair
5 Credit Reporting Act (15 U.S.C. 1681 et seq.); and

6 “(3) not be made to any person or entity unless
7 expressly authorized or required by law.

8 “(e) FEES.—

9 “(1) AUTHORITY TO COLLECT FEES.—Except
10 as provided under paragraph (3), the Secretary may
11 collect a reasonable, customary, and nominal fee
12 from an authorized user of the clearinghouse for a
13 request for information from the clearinghouse.

14 “(2) USE OF FEES.—Fees collected under this
15 subsection shall be used for the operation and main-
16 tenance of the clearinghouse.

17 “(3) LIMITATION.—The Secretary may not col-
18 lect a fee from an individual requesting information
19 from the clearinghouse that pertains to the record of
20 that individual.

21 “(f) EMPLOYER REQUIREMENTS.—

22 “(1) DETERMINATION CONCERNING USE OF
23 CLEARINGHOUSE.—The Secretary shall determine if
24 an employer is authorized to use the clearinghouse
25 to meet the alcohol and controlled substances testing

1 requirements under title 49, Code of Federal Regu-
2 lations.

3 “(2) APPLICABILITY OF EXISTING REQUIRE-
4 MENTS.—Each employer and service agent shall
5 comply with the alcohol and controlled substances
6 testing requirements under title 49, Code of Federal
7 Regulations.

8 “(3) EMPLOYMENT PROHIBITIONS.—Beginning
9 30 days after the date that the clearinghouse is es-
10 tablished under subsection (a), an employer shall not
11 hire an individual to operate a commercial motor ve-
12 hicle unless the employer determines that the indi-
13 vidual, during the preceding 3-year period—

14 “(A) if tested for the use of alcohol and
15 controlled substances, as required under title
16 49, Code of Federal Regulations—

17 “(i) did not test positive for the use of
18 alcohol or controlled substances in violation
19 of the regulations; or

20 “(ii) tested positive for the use of al-
21cohol or controlled substances and com-
22pleted the required return-to-duty process
23under title 49, Code of Federal Regula-
24tions;

1 “(B)(i) did not refuse to take an alcohol or
2 controlled substance test under title 49, Code of
3 Federal Regulations; or

4 “(ii) refused to take an alcohol or con-
5 trolled substance test and completed the
6 required return-to-duty process under title
7 49, Code of Federal Regulations; and

8 “(C) did not violate any other provision of
9 subpart B of part 382 of title 49, Code of Fed-
10 eral Regulations (or any subsequent cor-
11 responding regulations).

12 “(4) ANNUAL REVIEW.—Beginning 30 days
13 after the date that the clearinghouse is established
14 under subsection (a), an employer shall request and
15 review a commercial motor vehicle operator’s record
16 from the clearinghouse annually for as long as the
17 commercial motor vehicle operator is under the em-
18 ploy of the employer.

19 “(g) REPORTING OF RECORDS.—

20 “(1) IN GENERAL.—Beginning 30 days after
21 the date that the clearinghouse is established under
22 subsection (a), a medical review officer, employer,
23 service agent, and other appropriate person, as de-
24 termined by the Secretary, shall promptly submit to

1 the Secretary any record generated after the clear-
2 inghouse is initiated of an individual who—

3 “(A) refuses to take an alcohol or con-
4 trolled substances test required under title 49,
5 Code of Federal Regulations;

6 “(B) tests positive for alcohol or a con-
7 trolled substance in violation of the regulations;
8 or

9 “(C) violates any other provision of sub-
10 part B of part 382 of title 49, Code of Federal
11 Regulations (or any subsequent corresponding
12 regulations).

13 “(2) INCLUSION OF RECORDS IN CLEARING-
14 HOUSE.—The Secretary shall include in the clearing-
15 house the records of positive test results and test re-
16 fusals received under paragraph (1).

17 “(3) MODIFICATIONS AND DELETIONS.—If the
18 Secretary determines that a record contained in the
19 clearinghouse is not accurate, the Secretary shall
20 modify or delete the record, as appropriate.

21 “(4) NOTIFICATION.—The Secretary shall expe-
22 ditiously notify an individual, unless such notifica-
23 tion would be duplicative, when—

24 “(A) a record relating to the individual is
25 received by the clearinghouse;

1 “(B) a record in the clearinghouse relating
2 to the individual is modified or deleted, and in-
3 clude in the notification the reason for the
4 modification or deletion; or

5 “(C) a record in the clearinghouse relating
6 to the individual is released to an employer and
7 specify the reason for the release.

8 “(5) DATA QUALITY AND SECURITY STANDARDS
9 FOR REPORTING AND RELEASING.—The Secretary
10 may establish additional requirements, as appro-
11 priate, to ensure that—

12 “(A) the submission of records to the
13 clearinghouse is timely and accurate;

14 “(B) the release of data from the clearing-
15 house is timely, accurate, and released to the
16 appropriate authorized user under this section;
17 and

18 “(C) an individual with a record in the
19 clearinghouse has a cause of action for any in-
20 appropriate use of information included in the
21 clearinghouse.

22 “(6) RETENTION OF RECORDS.—The Secretary
23 shall—

1 “(A) retain a record submitted to the
2 clearinghouse for a 5-year period beginning on
3 the date the record is submitted;

4 “(B) remove the record from the clearing-
5 house at the end of the 5-year period, unless
6 the individual fails to meet a return-to-duty or
7 follow-up requirement under title 49, Code of
8 Federal Regulations; and

9 “(C) retain a record after the end of the
10 5-year period in a separate location for
11 archiving and auditing purposes.

12 “(h) AUTHORIZED USERS.—

13 “(1) EMPLOYERS.—The Secretary shall estab-
14 lish a process for an employer to request and receive
15 an individual’s record from the clearinghouse.

16 “(A) CONSENT.—An employer may not ac-
17 cess an individual’s record from the clearing-
18 house unless the employer—

19 “(i) obtains the prior written or elec-
20 tronic consent of the individual for access
21 to the record; and

22 “(ii) submits proof of the individual’s
23 consent to the Secretary.

24 “(B) ACCESS TO RECORDS.—After receiv-
25 ing a request from an employer for an individ-

1 ual’s record under subparagraph (A), the Sec-
2 retary shall grant access to the individual’s
3 record to the employer as expeditiously as prac-
4 ticable.

5 “(C) RETENTION OF RECORD RE-
6 QUESTS.—The Secretary shall require an em-
7 ployer to retain for a 3-year period—

8 “(i) a record of each request made by
9 the employer for records from the clearing-
10 house; and

11 “(ii) the information received pursu-
12 ant to the request.

13 “(D) USE OF RECORDS.—An employer
14 may use an individual’s record received from
15 the clearinghouse only to assess and evaluate
16 the qualifications of the individual to operate a
17 commercial motor vehicle for the employer.

18 “(E) PROTECTION OF PRIVACY OF INDI-
19 VIDUALS.—An employer that receives an indi-
20 vidual’s record from the clearinghouse under
21 subparagraph (B) shall—

22 “(i) protect the privacy of the indi-
23 vidual and the confidentiality of the record;
24 and

1 “(ii) ensure that information con-
2 tained in the record is not divulged to a
3 person or entity that is not directly in-
4 volved in assessing and evaluating the
5 qualifications of the individual to operate a
6 commercial motor vehicle for the employer.

7 “(2) STATE LICENSING AUTHORITIES.—The
8 Secretary shall establish a process for the chief com-
9 mercial driver’s licensing official of a State to re-
10 quest and receive an individual’s record from the
11 clearinghouse if the individual is applying for a com-
12 mercial driver’s license from the State.

13 “(A) CONSENT.—The Secretary may grant
14 access to an individual’s record in the clearing-
15 house under this paragraph without the prior
16 written or electronic consent of the individual.
17 An individual who holds a commercial driver’s
18 license shall be deemed to consent to such ac-
19 cess by obtaining a commercial driver’s license.

20 “(B) PROTECTION OF PRIVACY OF INDI-
21 VIDUALS.—A chief commercial driver’s licensing
22 official of a State that receives an individual’s
23 record from the clearinghouse under this para-
24 graph shall—

1 “(i) protect the privacy of the indi-
2 vidual and the confidentiality of the record;
3 and

4 “(ii) ensure that the information in
5 the record is not divulged to any person
6 that is not directly involved in assessing
7 and evaluating the qualifications of the in-
8 dividual to operate a commercial motor ve-
9 hicle.

10 “(3) NATIONAL TRANSPORTATION SAFETY
11 BOARD.—The Secretary shall establish a process for
12 the National Transportation Safety Board to request
13 and receive an individual’s record from the clearing-
14 house if the individual is involved in an accident that
15 is under investigation by the National Transpor-
16 tation Safety Board.

17 “(A) CONSENT.—The Secretary may grant
18 access to an individual’s record in the clearing-
19 house under this paragraph without the prior
20 written or electronic consent of the individual.
21 An individual who holds a commercial driver’s
22 license shall be deemed to consent to such ac-
23 cess by obtaining a commercial driver’s license.

24 “(B) PROTECTION OF PRIVACY OF INDI-
25 VIDUALS.—An official of the National Trans-

1 portation Safety Board that receives an individ-
2 ual's record from the clearinghouse under this
3 paragraph shall—

4 “(i) protect the privacy of the indi-
5 vidual and the confidentiality of the record;
6 and

7 “(ii) unless the official determines
8 that the information in the individual's
9 record should be reported under section
10 1131(e), ensure that the information in the
11 record is not divulged to any person that
12 is not directly involved with investigating
13 the accident.

14 “(4) ADDITIONAL AUTHORIZED USERS.—The
15 Secretary shall consider whether to grant access to
16 the clearinghouse to additional users. The Secretary
17 may authorize access to an individual's record from
18 the clearinghouse to an additional user if the Sec-
19 retary determines that granting access will further
20 the purposes under subsection (a)(2). In determining
21 whether the access will further the purposes under
22 subsection (a)(2), the Secretary shall consider,
23 among other things—

24 “(A) what use the additional user will
25 make of the individual's record;

1 “(B) the costs and benefits of the use; and

2 “(C) how to protect the privacy of the indi-
3 vidual and the confidentiality of the record.

4 “(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish a process for an individual to request and re-
7 ceive information from the clearinghouse—

8 “(A) to determine whether the clearing-
9 house contains a record pertaining to the indi-
10 vidual;

11 “(B) to verify the accuracy of a record;

12 “(C) to update an individual’s record, in-
13 cluding completing the return-to-duty process
14 described in title 49, Code of Federal Regula-
15 tions; and

16 “(D) to determine whether the clearing-
17 house received requests for the individual’s in-
18 formation.

19 “(2) DISPUTE PROCEDURE.—The Secretary
20 shall establish a procedure, including an appeal
21 process, for an individual to dispute and remedy an
22 administrative error in the individual’s record.

23 “(j) PENALTIES.—

24 “(1) IN GENERAL.—An employer, employee,
25 medical review officer, or service agent who violates

1 any provision of this section shall be subject to civil
2 penalties under section 521(b)(2)(C) and criminal
3 penalties under section 521(b)(6)(B), and any other
4 applicable civil and criminal penalties, as determined
5 by the Secretary.

6 “(2) VIOLATION OF PRIVACY.—The Secretary
7 shall establish civil and criminal penalties, consistent
8 with paragraph (1), for an authorized user who vio-
9 lates paragraph (2)(B) or (3)(B) of subsection (h).

10 “(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

11 “(1) PREEMPTION.—Except as provided under
12 paragraph (2), any law, regulation, order, or other
13 requirement of a State, political subdivision of a
14 State, or Indian tribe related to a commercial driv-
15 er’s license holder subject to alcohol or controlled
16 substance testing under title 49, Code of Federal
17 Regulations, that is inconsistent with this section or
18 a regulation issued pursuant to this section is pre-
19 empted.

20 “(2) APPLICABILITY.—The preemption under
21 paragraph (1) shall include—

22 “(A) the reporting of valid positive results
23 from alcohol screening tests and drug tests;

24 “(B) the refusal to provide a specimen for
25 an alcohol screening test or drug test; and

1 “(C) other violations of subpart B of part
2 382 of title 49, Code of Federal Regulations (or
3 any subsequent corresponding regulations).

4 “(3) EXCEPTION.—A law, regulation, order, or
5 other requirement of a State, political subdivision of
6 a State, or Indian tribe shall not be preempted
7 under this subsection to the extent it relates to an
8 action taken with respect to a commercial motor ve-
9 hicle operator’s commercial driver’s license or driv-
10 ing record as a result of the driver’s—

11 “(A) verified positive alcohol or drug test
12 result;

13 “(B) refusal to provide a specimen for the
14 test; or

15 “(C) other violations of subpart B of part
16 382 of title 49, Code of Federal Regulations (or
17 any subsequent corresponding regulations).

18 “(l) DEFINITIONS.—In this section—

19 “(1) AUTHORIZED USER.—The term ‘author-
20 ized user’ means an employer, State licensing au-
21 thority, National Transportation Safety Board, or
22 other person granted access to the clearinghouse
23 under subsection (h).

24 “(2) CHIEF COMMERCIAL DRIVER’S LICENSING
25 OFFICIAL.—The term ‘chief commercial driver’s li-

1 censing official’ means the official in a State who is
2 authorized to—

3 “(A) maintain a record about commercial
4 driver’s licenses issued by the State; and

5 “(B) take action on commercial driver’s li-
6 censes issued by the State.

7 “(3) CLEARINGHOUSE.—The term ‘clearing-
8 house’ means the clearinghouse established under
9 subsection (a).

10 “(4) COMMERCIAL MOTOR VEHICLE OPER-
11 ATOR.—The term ‘commercial motor vehicle oper-
12 ator’ means an individual who—

13 “(A) possesses a valid commercial driver’s
14 license issued in accordance with section 31308;
15 and

16 “(B) is subject to controlled substances
17 and alcohol testing under title 49, Code of Fed-
18 eral Regulations.

19 “(5) EMPLOYER.—The term ‘employer’ means
20 a person or entity employing, or seeking to employ,
21 1 or more employees (including an individual who is
22 self-employed) to be commercial motor vehicle opera-
23 tors.

1 “(6) MEDICAL REVIEW OFFICER.—The term
2 ‘medical review officer’ means a licensed physician
3 who is responsible for—

4 “(A) receiving and reviewing a laboratory
5 result generated under the testing program;

6 “(B) evaluating a medical explanation for
7 a controlled substances test under title 49,
8 Code of Federal Regulations; and

9 “(C) interpreting the results of a con-
10 trolled substances test.

11 “(7) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Transportation.

13 “(8) SERVICE AGENT.—The term ‘service
14 agent’ means a person or entity, other than an em-
15 ployee of the employer, who provides services to em-
16 ployers or employees under the testing program.

17 “(9) TESTING PROGRAM.—The term ‘testing
18 program’ means the alcohol and controlled sub-
19 stances testing program required under title 49,
20 Code of Federal Regulations.”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 chapter 313 is amended by inserting after the item relat-
23 ing to section 31306 the following:

 “31306a. National clearinghouse for positive controlled substance and alcohol
 test results of commercial motor vehicle operators.”.

1 **SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.**

2 Chapter 313 is amended—

3 (1) by redesignating section 31306(f) as
4 31306(f)(1); and

5 (2) by inserting after section 31306(f)(1) the
6 following:

7 “(2) **ADDITIONAL SANCTIONS.**—The Secretary
8 may require a State to revoke, suspend, or cancel
9 the commercial driver’s license of a commercial
10 motor vehicle operator who is found, based on a test
11 conducted and confirmed under this section, to have
12 used alcohol or a controlled substance in violation of
13 law until the commercial motor vehicle operator
14 completes the rehabilitation process under subsection
15 (e).”; and

16 (3) by amending section 31310(d) to read as
17 follows:

18 “(d) **CONTROLLED SUBSTANCE VIOLATIONS.**—The
19 Secretary may permanently disqualify an individual from
20 operating a commercial vehicle if the individual—

21 “(1) uses a commercial motor vehicle in the
22 commission of a felony involving manufacturing, dis-
23 tributing, or dispensing a controlled substance, or
24 possession with intent to manufacture, distribute, or
25 dispense a controlled substance; or

1 “(2) uses alcohol or a controlled substance, in
2 violation of section 31306, 3 or more times.”.

3 **SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

4 From the funds authorized to be appropriated under
5 section 31104(h) of title 49, United States Code, up to
6 \$5,000,000 is authorized to be appropriated from the
7 Highway Trust Fund (other than the Mass Transit Ac-
8 count) for the Secretary of Transportation to develop, de-
9 sign, and implement the national clearinghouse required
10 by section 32402 of this Act.

11 **Subtitle E—Enforcement**

12 **SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CRE-**
13 **DENTIALS.**

14 (a) SAFETY INVESTIGATIONS.—Section 504(c) is
15 amended—

16 (1) by inserting “, or an employee of the recipi-
17 ent of a grant issued under section 31102 of this
18 title” after “a contractor”; and

19 (2) by inserting “, in person or in writing”
20 after “proper credentials”.

21 (b) CIVIL PENALTY.—Section 521(b)(2)(E) is
22 amended—

23 (1) by redesignating subparagraph (E) as sub-
24 paragraph (E)(i); and

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

1 **SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION**
 2 **OUT OF SERVICE ORDERS.**

3 Section 521(b)(2) is amended by adding at the end
 4 the following:

5 “(F) PENALTY FOR VIOLATIONS RELATING
 6 TO OUT OF SERVICE ORDERS.—A motor carrier
 7 or employer (as defined in section 31132) that
 8 operates a commercial motor vehicle in com-
 9 merce in violation of a prohibition on transpor-
 10 tation under section 31144(c) of this title or an
 11 imminent hazard out of service order issued
 12 under subsection (b)(5) of this section or sec-
 13 tion 5121(d) of this title shall be liable for a
 14 civil penalty not to exceed \$25,000.”.

15 **SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR**
 16 **UNFIT CARRIERS.**

17 (a) IN GENERAL.—Section 31144(c)(1) is amended
 18 by inserting “, and such period shall be for not less than
 19 10 days” after “operator is fit”.

20 (b) OWNERS OR OPERATORS TRANSPORTING PAS-
 21 SENGERS.—Section 31144(c)(2) is amended by inserting
 22 “, and such period shall be for not less than 10 days”
 23 after “operator is fit”.

24 (c) OWNERS OR OPERATORS TRANSPORTING HAZ-
 25 ARDOUS MATERIAL.—Section 31144(c)(3) is amended by
 26 inserting before the period at the end of the first sentence

1 the following: “, and such period shall be for not less than
2 10 days”.

3 **SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

4 Section 521(b)(7) is amended by adding at the end
5 the following:

6 “The penalties may include a minimum duration for
7 any out of service period, not to exceed 90 days.”.

8 **SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COM-**
9 **MERCIAL MOTOR VEHICLES FOR IMMINENT**
10 **HAZARD.**

11 Section 521(b) is amended by adding at the end the
12 following:

13 “(15) IMPOUNDMENT OF COMMERCIAL MOTOR
14 VEHICLES.—

15 “(A) ENFORCEMENT OF IMMINENT HAZ-
16 ARD OUT-OF-SERVICE ORDERS.—

17 “(i) The Secretary, or an authorized
18 State official carrying out motor carrier
19 safety enforcement activities under section
20 31102, may enforce an imminent hazard
21 out-of-service order issued under chapters
22 5, 51, 131 through 149, 311, 313, or 315
23 of this title, or a regulation promulgated
24 thereunder, by towing and impounding a

1 commercial motor vehicle until the order is
2 rescinded.

3 “(ii) Enforcement shall not unreason-
4 ably interfere with the ability of a shipper,
5 carrier, broker, or other party to arrange
6 for the alternative transportation of any
7 cargo or passenger being transported at
8 the time the commercial motor vehicle is
9 immobilized. In the case of a commercial
10 motor vehicle transporting passengers, the
11 Secretary or authorized State official shall
12 provide reasonable, temporary, and secure
13 shelter and accommodations for passengers
14 in transit.

15 “(iii) The Secretary’s designee or an
16 authorized State official carrying out
17 motor carrier safety enforcement activities
18 under section 31102, shall immediately no-
19 tify the owner of a commercial motor vehi-
20 cle of the impoundment and the oppor-
21 tunity for review of the impoundment. A
22 review shall be provided in accordance with
23 section 554 of title 5, except that the re-
24 view shall occur not later than 10 days
25 after the impoundment.

1 “(B) ISSUANCE OF REGULATIONS.—The
 2 Secretary shall promulgate regulations on the
 3 use of impoundment or immobilization of com-
 4 mercial motor vehicles as a means of enforcing
 5 additional out-of-service orders issued under
 6 chapters 5, 51, 131 through 149, 311, 313, or
 7 315 of this title, or a regulation promulgated
 8 thereunder. Regulations promulgated under this
 9 subparagraph shall include consideration of
 10 public safety, the protection of passengers and
 11 cargo, inconvenience to passengers, and the se-
 12 curity of the commercial motor vehicle.

13 “(C) DEFINITION.—In this paragraph, the
 14 term ‘impoundment’ or ‘impounding’ means the
 15 seizing and taking into custody of a commercial
 16 motor vehicle or the immobilizing of a commer-
 17 cial motor vehicle through the attachment of a
 18 locking device or other mechanical or electronic
 19 means.”.

20 **SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGU-**
 21 **LATIONS.**

22 (a) PENALTIES.—Section 524 is amended—

23 (1) by striking “knowingly and willfully”;

24 (2) by inserting after “this chapter” the fol-
 25 lowing: “, chapter 51, subchapter III of chapter 311

1 (except sections 31138 and 31139) or section
 2 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or
 3 31502 of this title, or a regulation issued under any
 4 of those provisions,”;

5 (3) by striking “\$200 but not more than \$500”
 6 and inserting “\$2,000 but not more than \$5,000”;
 7 and

8 (4) by striking “\$250 but not more than
 9 \$2,000” and inserting “\$2,500 but not more than
 10 \$7,500”.

11 (b) EVASION OF REGULATION.—Section 14906 is
 12 amended—

13 (1) by striking “\$200” and inserting “at least
 14 \$2,000”;

15 (2) by striking “\$250” and inserting “\$5,000”;
 16 and

17 (3) by inserting after “a subsequent violation”
 18 the following:

19 “, and may be subject to criminal penalties”.

20 **SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DIS-**
 21 **QUALIFYING OFFENSE.**

22 (a) IN GENERAL.—Chapter 311 is amended by in-
 23 serting after section 31151 the following:

1 **“§ 31152. Disqualification for failure to pay**

2 “An individual assessed a civil penalty under this
3 chapter, or chapters 5, 51, or 149 of this title, or a regula-
4 tion issued under any of those provisions, who fails to pay
5 the penalty or fails to comply with the terms of a settle-
6 ment with the Secretary, shall be disqualified from oper-
7 ating a commercial motor vehicle after the individual is
8 notified in writing and is given an opportunity to respond.
9 A disqualification shall continue until the penalty is paid,
10 or the individual complies with the terms of the settle-
11 ment, unless the nonpayment is because the individual is
12 a debtor in a case under chapter 11 of title 11, United
13 States Code.”.

14 (b) TECHNICAL AMENDMENTS.—Section 31310, as
15 amended by sections 32206 and 32310 of this Act, is
16 amended—

17 (1) by redesignating subsections (h) through (k)
18 as subsections (i) through (l), respectively; and

19 (2) by inserting after subsection (g) the fol-
20 lowing:

21 “(h) DISQUALIFICATION FOR FAILURE TO PAY.—
22 The Secretary shall disqualify from operating a commer-
23 cial motor vehicle any individual who fails to pay a civil
24 penalty within the prescribed period, or fails to conform
25 to the terms of a settlement with the Secretary. A disquali-
26 fication shall continue until the penalty is paid, or the in-

1 individual conforms to the terms of the settlement, unless
 2 the nonpayment is because the individual is a debtor in
 3 a case under chapter 11 of title 11, United States Code.”;
 4 and

5 (3) in subsection (i), as redesignated, by strik-
 6 ing “Notwithstanding subsections (b) through (g)”
 7 and inserting “Notwithstanding subsections (b)
 8 through (h)”.

9 (c) CONFORMING AMENDMENT.—The analysis of
 10 chapter 311 is amended by inserting after the item relat-
 11 ing to section 31151 the following:

“31152. Disqualification for failure to pay.”.

12 **SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL**
 13 **MOTOR VEHICLE SAFETY REGULATION AND**
 14 **OPERATORS.**

15 Section 521(b)(2)(D) is amended by striking “ability
 16 to pay,”.

17 **SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMI-**
 18 **NENT HAZARD.**

19 Section 31310(f) is amended—

20 (1) in paragraph (1) by inserting “section 521
 21 or” before “section 5102”; and

22 (2) in paragraph (2) by inserting “section 521
 23 or” before “section 5102”.

1 **SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE**
2 **MOTOR CARRIERS.**

3 (a) **PROHIBITED TRANSPORTATION.**—Section
4 521(b)(5) is amended by inserting after subparagraph (B)
5 the following:

6 “(C) If an employee, vehicle, or all or part
7 of an employer’s commercial motor vehicle oper-
8 ations is ordered out of service under paragraph
9 (5)(A), the commercial motor vehicle operations
10 of the employee, vehicle, or employer that affect
11 interstate commerce are also prohibited.”.

12 (b) **PROHIBITION ON OPERATION IN INTERSTATE**
13 **COMMERCE AFTER NONPAYMENT OF PENALTIES.**—Sec-
14 tion 521(b)(8) is amended—

15 (1) by redesignating subparagraph (B) as sub-
16 paragraph (C); and

17 (2) by inserting after subparagraph (A) the fol-
18 lowing:

19 “(B) **ADDITIONAL PROHIBITION.**—A per-
20 son prohibited from operating in interstate com-
21 merce under paragraph (8)(A) may not operate
22 any commercial motor vehicle where the oper-
23 ation affects interstate commerce.”.

1 **SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULA-**
2 **TIONS.**

3 (a) ENFORCEMENT OF SAFETY LAWS AND REGULA-
4 TIONS.—Chapter 311, as amended by sections 32113 and
5 32508 of this Act, is amended by adding after section
6 31153 the following:

7 **“§ 31154. Enforcement of safety laws and regulations**

8 “(a) IN GENERAL.—The Secretary may bring a civil
9 action to enforce this part, or a regulation or order of the
10 Secretary under this part, when violated by an employer,
11 employee, or other person providing transportation or
12 service under this subchapter or subchapter I.

13 “(b) VENUE.—In a civil action under subsection
14 (a)—

15 “(1) trial shall be in the judicial district in
16 which the employer, employee, or other person oper-
17 ates;

18 “(2) process may be served without regard to
19 the territorial limits of the district or of the State
20 in which the action is instituted; and

21 “(3) a person participating with a carrier or
22 broker in a violation may be joined in the civil action
23 without regard to the residence of the person.”.

1 (b) CONFORMING AMENDMENT.—The analysis of
2 chapter 311 is amended by inserting after the item relat-
3 ing to section 31153 the following:

“31154. Enforcement of safety laws and regulations.”.

4 **SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW EN-**
5 **FORCEMENT AGENCIES.**

6 Section 31106(e) is amended—

7 (1) by redesignating subsection (e) as sub-
8 section (e)(1); and

9 (2) by inserting at the end the following:

10 “(2) IN GENERAL.—Notwithstanding any prohi-
11 bition on disclosure of information in section
12 31105(h) or 31143(b) of this title or section 552a
13 of title 5, the Secretary may disclose information
14 maintained by the Secretary pursuant to chapters
15 51, 135, 311, or 313 of this title to appropriate per-
16 sonnel of a State agency or instrumentality author-
17 ized to carry out State commercial motor vehicle
18 safety activities and commercial driver’s license laws,
19 or appropriate personnel of a local law enforcement
20 agency, in accordance with standards, conditions,
21 and procedures as determined by the Secretary. Dis-
22 closure under this section shall not operate as a
23 waiver by the Secretary of any applicable privilege
24 against disclosure under common law or as a basis

1 for compelling disclosure under section 552 of title
2 5.”.

3 **SEC. 32514. GRADE CROSSING SAFETY REGULATIONS.**

4 Section 112(2) of the Hazardous Materials Transpor-
5 tation Authorization Act of 1994 (Public Law 103–311)
6 is amended by striking “315 of such title (relating to
7 motor carrier safety)” and inserting “311 of such title (re-
8 lating to commercial motor vehicle safety)”.

9 **Subtitle F—Compliance, Safety,**
10 **Accountability**

11 **SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

12 (a) IN GENERAL.—Section 31102 is amended—

13 (1) by amending the section heading to read:

14 **“§ 31102. Compliance, safety, and accountability**
15 **grants”;**

16 (2) by amending subsection (a) to read as fol-
17 lows:

18 “(a) GENERAL AUTHORITY.—Subject to this section,
19 the Secretary of Transportation shall make and admin-
20 ister a compliance, safety, and accountability grant pro-
21 gram to assist States, local governments, and other enti-
22 ties and persons with motor carrier safety and enforce-
23 ment on highways and other public roads, new entrant
24 safety audits, border enforcement, hazardous materials
25 safety and security, consumer protection and household

1 goods enforcement, and other programs and activities re-
2 quired to improve the safety of motor carriers as deter-
3 mined by the Secretary. The Secretary shall allocate fund-
4 ing in accordance with section 31104 of this title.”;

5 (3) in subsection (b)—

6 (A) by amending the heading to read as
7 follows:

8 “(b) MOTOR CARRIER SAFETY ASSISTANCE PRO-
9 GRAM.—”;

10 (B) by redesignating paragraphs (1)
11 through (3) as (2) through (4), respectively;

12 (C) by inserting before paragraph (2), as
13 redesignated, the following:

14 “(1) PROGRAM GOAL.—The goal of the Motor
15 Carrier Safety Assistance Program is to ensure that
16 the Secretary, States, local government agencies,
17 and other political jurisdictions work in partnership
18 to establish programs to improve motor carrier, com-
19 mercial motor vehicle, and driver safety to support
20 a safe and efficient surface transportation system
21 by—

22 “(A) making targeted investments to pro-
23 mote safe commercial motor vehicle transpor-
24 tation, including transportation of passengers
25 and hazardous materials;

1 “(B) investing in activities likely to gen-
2 erate maximum reductions in the number and
3 severity of commercial motor vehicle crashes
4 and fatalities resulting from such crashes;

5 “(C) adopting and enforcing effective
6 motor carrier, commercial motor vehicle, and
7 driver safety regulations and practices con-
8 sistent with Federal requirements; and

9 “(D) assessing and improving statewide
10 performance by setting program goals and
11 meeting performance standards, measures, and
12 benchmarks.”;

13 (D) in paragraph (2), as redesignated—

14 (i) by striking “make a declaration
15 of” in subparagraph (I) and inserting
16 “demonstrate”;

17 (ii) by amending subparagraph (M) to
18 read as follows:

19 “(M) ensures participation in appropriate
20 Federal Motor Carrier Safety Administration
21 systems and other information systems by all
22 appropriate jurisdictions receiving Motor Car-
23 rier Safety Assistance Program funding;”;

1 (iii) in subparagraph (Q), by inserting
2 “and dedicated sufficient resources to” be-
3 tween “established” and “a program”;

4 (iv) in subparagraph (W), by striking
5 “and” after the semicolon;

6 (v) by amending subparagraph (X) to
7 read as follows:

8 “(X) except in the case of an imminent or
9 obvious safety hazard, ensures that an inspec-
10 tion of a vehicle transporting passengers for a
11 motor carrier of passengers is conducted at a
12 station, terminal, border crossing, maintenance
13 facility, destination, weigh station, rest stop,
14 turnpike service area, or a location where ade-
15 quate food, shelter, and sanitation facilities are
16 available for passengers, and reasonable accom-
17 modation is available for passengers with dis-
18 abilities; and”;

19 (vi) by adding after subparagraph (X)
20 the following:

21 “(Y) ensures that the State will transmit
22 to its roadside inspectors the notice of each
23 Federal exemption granted pursuant to section
24 31315(b) and provided to the State by the Sec-
25 retary, including the name of the person grant-

1 ed the exemption and any terms and conditions
2 that apply to the exemption.”; and

3 (E) by amending paragraph (4), as reded-
4 ignedated, to read as follows:

5 “(4) MAINTENANCE OF EFFORT.—

6 “(A) IN GENERAL.—A plan submitted by a
7 State under paragraph (2) shall provide that
8 the total expenditure of amounts of the lead
9 State agency responsible for implementing the
10 plan will be maintained at a level at least equal
11 to the average level of that expenditure for fis-
12 cal years 2004 and 2005.

13 “(B) AVERAGE LEVEL OF STATE EXPENDI-
14 TURES.—In estimating the average level of
15 State expenditure under subparagraph (A), the
16 Secretary—

17 “(i) may allow the State to exclude
18 State expenditures for Government-spon-
19 sored demonstration or pilot programs;
20 and

21 “(ii) shall require the State to exclude
22 State matching amounts used to receive
23 Government financing under this sub-
24 section.

1 “(C) WAIVER.—Upon the request of a
2 State, the Secretary may waive or modify the
3 requirements of this paragraph for 1 fiscal
4 year, if the Secretary determines that a waiver
5 is equitable due to exceptional or uncontrollable
6 circumstances, such as a natural disaster or a
7 serious decline in the financial resources of the
8 State motor carrier safety assistance program
9 agency.”;

10 (4) by redesignating subsection (e) as sub-
11 section (h); and

12 (5) by inserting after subsection (d) the fol-
13 lowing:

14 “(e) NEW ENTRANT SAFETY ASSURANCE PRO-
15 GRAM.—

16 “(1) PROGRAM GOAL.—The Secretary may
17 make grants to States and local governments for
18 pre-authorization safety audits and new entrant
19 motor carrier audits as described in section
20 31144(g).

21 “(2) RECIPIENTS.—Grants made in support of
22 this program may be provided to States and local
23 governments.

24 “(3) FEDERAL SHARE.—The Federal share of a
25 grant made under this program is 100 percent.

1 “(4) ELIGIBLE ACTIVITIES.—Eligible activities
2 will be in accordance with criteria developed by the
3 Secretary and posted in the Federal Register in ad-
4 vance of the grant application period.

5 “(5) DETERMINATION.—If the Secretary deter-
6 mines that a State or local government is unable to
7 conduct a new entrant motor carrier audit, the Sec-
8 retary may use the funds to conduct the audit.

9 “(f) BORDER ENFORCEMENT.—

10 “(1) PROGRAM GOAL.—The Secretary of Trans-
11 portation may make a grant for carrying out border
12 commercial motor vehicle safety programs and re-
13 lated enforcement activities and projects.

14 “(2) RECIPIENTS.—The Secretary of Transpor-
15 tation may make a grant to an entity, State, or
16 other person for carrying out border commercial
17 motor vehicle safety programs and related enforce-
18 ment activities and projects.

19 “(3) FEDERAL SHARE.—The Secretary shall re-
20 imburse a grantee at least 100 percent of the costs
21 incurred in a fiscal year for carrying out border
22 commercial motor vehicle safety programs and re-
23 lated enforcement activities and projects.

24 “(4) ELIGIBLE ACTIVITIES.—An eligible activity
25 will be in accordance with criteria developed by the

1 Secretary and posted in the Federal Register in ad-
2 vance of the grant application period.

3 “(g) HIGH PRIORITY INITIATIVES.—

4 “(1) PROGRAM GOAL.—The Secretary may
5 make grants to carry out high priority activities and
6 projects that improve commercial motor vehicle safe-
7 ty and compliance with commercial motor vehicle
8 safety regulations, including activities and projects
9 that—

10 “(A) are national in scope;

11 “(B) increase public awareness and edu-
12 cation;

13 “(C) target unsafe driving of commercial
14 motor vehicles and non-commercial motor vehi-
15 cles in areas identified as high risk crash cor-
16 ridors;

17 “(D) improve consumer protection and en-
18 forcement of household goods regulations;

19 “(E) improve the movement of hazardous
20 materials safely and securely, including activi-
21 ties related to the establishment of uniform
22 forms and application procedures that improve
23 the accuracy, timeliness, and completeness of
24 commercial motor vehicle safety data reported
25 to the Secretary; or

1 (1) by amending paragraph (3)(C) to read as
2 follows—

3 “(C) establish and implement a process—

4 “(i) to cancel the motor vehicle reg-
5 istration and seize the registration plates
6 of a vehicle when an employer is found lia-
7 ble under section 31310(j)(2)(C) for know-
8 ingly allowing or requiring an employee to
9 operate such a commercial motor vehicle in
10 violation of an out-of-service order; and

11 “(ii) to reinstate the vehicle registra-
12 tion or return the registration plates of the
13 commercial motor vehicle, subject to sanc-
14 tions under clause (i), if the Secretary per-
15 mits such carrier to resume operations
16 after the date of issuance of such order.”;

17 and

18 (2) by striking paragraph (4).

19 **SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

20 Section 31101(1) is amended to read as follows:

21 “(1) ‘commercial motor vehicle’ means (except
22 under section 31106) a self-propelled or towed vehi-
23 cle used on the highways in commerce to transport
24 passengers or property, if the vehicle—

1 “(A) has a gross vehicle weight rating or
2 gross vehicle weight of at least 10,001 pounds,
3 whichever is greater;

4 “(B) is designed or used to transport more
5 than 8 passengers, including the driver, for
6 compensation;

7 “(C) is designed or used to transport more
8 than 15 passengers, including the driver, and is
9 not used to transport passengers for compensa-
10 tion; or

11 “(D) is used in transporting material
12 found by the Secretary of Transportation to be
13 hazardous under section 5103 and transported
14 in a quantity requiring placarding under regula-
15 tions prescribed by the Secretary under section
16 5103.”.

17 **SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

18 Section 31144, as amended by section 32204 of this
19 Act, is amended by adding at the end the following:

20 “(i) **COMMERCIAL MOTOR VEHICLE DRIVERS.**—The
21 Secretary may maintain by regulation a procedure for de-
22 termining the safety fitness of a commercial motor vehicle
23 driver and for prohibiting the driver from operating in
24 interstate commerce. The procedure and prohibition shall
25 include the following:

1 “(1) Specific initial and continuing require-
2 ments that a driver must comply with to dem-
3 onstrate safety fitness.

4 “(2) The methodology and continually updated
5 safety performance data that the Secretary will use
6 to determine whether a driver is fit, including in-
7 spection results, serious traffic offenses, and crash
8 involvement data.

9 “(3) Specific time frames within which the Sec-
10 retary will determine whether a driver is fit.

11 “(4) A prohibition period or periods, not to ex-
12 ceed 1 year, that a driver that the Secretary deter-
13 mines is not fit will be prohibited from operating a
14 commercial motor vehicle in interstate commerce.
15 The period or periods shall begin on the 46th day
16 after the date of the fitness determination and con-
17 tinue until the Secretary determines the driver is fit
18 or until the prohibition period expires.

19 “(5) A review by the Secretary, not later than
20 30 days after an unfit driver requests a review, of
21 the driver’s compliance with the requirements the
22 driver failed to comply with and that resulted in the
23 Secretary determining that the driver was not fit.
24 The burden of proof shall be on the driver to dem-
25 onstrate fitness.

1 “(6) The eligibility criteria for reinstatement,
2 including the remedial measures the unfit driver
3 must take for reinstatement.”.

4 **SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COM-**
5 **MERCIAL MOTOR VEHICLE INSPECTIONS.**

6 (a) **IN GENERAL.**—Chapter 311 is amended by add-
7 ing after section 31109 the following:

8 **“§ 31110. Withholding amounts for State noncompli-**
9 **ance**

10 “(a) **FIRST FISCAL YEAR.**—Subject to criteria estab-
11 lished by the Secretary of Transportation, the Secretary
12 may withhold up to 50 percent of the amount a State is
13 otherwise eligible to receive under section 31102(b) on the
14 first day of the fiscal year after the first fiscal year fol-
15 lowing the date of enactment of the Commercial Motor
16 Vehicle Safety Enhancement Act of 2012 in which the
17 State uses for at least 180 days an electronic commercial
18 motor vehicle inspection selection system that does not
19 employ a selection methodology approved by the Secretary.

20 “(b) **SECOND FISCAL YEAR.**—The Secretary shall
21 withhold up to 75 percent of the amount a State is other-
22 wise eligible to receive under section 31102(b) on the first
23 day of the fiscal year after the second fiscal year following
24 the date of enactment of the Commercial Motor Vehicle
25 Safety Enhancement Act of 2012 in which the State uses

1 for at least 180 days an electronic commercial motor vehi-
 2 cle inspection selection system that does not employ a se-
 3 lection methodology approved by the Secretary.

4 “(c) SUBSEQUENT AVAILABILITY OF WITHHELD
 5 FUNDS.—The Secretary may make the amounts withheld
 6 under subsection (a) or subsection (b) available to the
 7 State if the Secretary determines that the State has sub-
 8 stantially complied with the requirement described under
 9 subsection (a) or subsection (b) not later than 180 days
 10 after the beginning of the fiscal year in which amounts
 11 were withheld.”.

12 (b) CONFORMING AMENDMENT.—The analysis of
 13 chapter 311 is amended by inserting after the item relat-
 14 ing to section 31109 the following:

“31110. Withholding amounts for State noncompliance.”.

15 **SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 31104 is amended to read as follows:

17 **“§ 31104. Availability of amounts**

18 “(a) IN GENERAL.—There are authorized to be ap-
 19 propriated from Highway Trust Fund (other than the
 20 Mass Transit Account) for Federal Motor Carrier Safety
 21 Administration programs the following:

22 “(1) COMPLIANCE, SAFETY, AND ACCOUNT-
 23 ABILITY GRANTS UNDER SECTION 31102.—

24 “(A) \$249,717,000 for fiscal year 2012,
 25 provided that the Secretary shall set aside not

1 less than \$168,388,000 to carry out the motor
2 carrier safety assistance program under section
3 31102(b); and

4 “(B) \$253,814,000 for fiscal year 2013,
5 provided that the Secretary shall set aside not
6 less than \$171,813,000 to carry out the motor
7 carrier safety assistance program under section
8 31102(b).

9 “(2) DATA AND TECHNOLOGY GRANTS UNDER
10 SECTION 31109.—

11 “(A) \$30,000,000 for fiscal year 2012; and

12 “(B) \$30,000,000 for fiscal year 2013.

13 “(3) DRIVER SAFETY GRANTS UNDER SECTION
14 31313.—

15 “(A) \$31,000,000 for fiscal year 2012; and

16 “(B) \$31,000,000 for fiscal year 2013.

17 “(4) CRITERIA.—The Secretary shall develop
18 criteria to allocate the remaining funds under para-
19 graphs (1), (2), and (3) for fiscal year 2013 and for
20 each fiscal year thereafter not later than April 1 of
21 the prior fiscal year.

22 “(b) AVAILABILITY AND REALLOCATION OF
23 AMOUNTS.—

24 “(1) ALLOCATIONS AND REALLOCATIONS.—

25 Amounts made available under subsection (a)(1) re-

1 main available until expended. Allocations to a State
2 remain available for expenditure in the State for the
3 fiscal year in which they are allocated and for the
4 next fiscal year. Amounts not expended by a State
5 during those 2 fiscal years are released to the Sec-
6 retary for reallocation.

7 “(2) REDISTRIBUTION OF AMOUNTS.—The Sec-
8 retary may, after August 1 of each fiscal year, upon
9 a determination that a State does not qualify for
10 funding under section 31102(b) or that the State
11 will not expend all of its existing funding, reallocate
12 the State’s funding. In revising the allocation and
13 redistributing the amounts, the Secretary shall give
14 preference to those States that require additional
15 funding to meet program goals under section
16 31102(b).

17 “(3) PERIOD OF AVAILABILITY FOR DATA AND
18 TECHNOLOGY GRANTS.—Amounts made available
19 under subsection (a)(2) remain available for obliga-
20 tion for the fiscal year and the next 2 years in which
21 they are appropriated. Allocations remain available
22 for expenditure in the State for 5 fiscal years after
23 they were obligated. Amounts not expended by a
24 State during those 3 fiscal years are released to the
25 Secretary for reallocation.

1 “(4) PERIOD OF AVAILABILITY FOR DRIVER
2 SAFETY GRANTS.—Amounts made available under
3 subsection (a)(3) of this section remain available for
4 obligation for the fiscal year and the next fiscal year
5 in which they are appropriated. Allocations to a
6 State remain available for expenditure in the State
7 for the fiscal year in which they are allocated and
8 for the following 2 fiscal years. Amounts not ex-
9 pended by a State during those 3 fiscal years are re-
10 leased to the Secretary for reallocation.

11 “(5) REALLOCATION.—The Secretary, upon a
12 request by a State, may reallocate grant funds pre-
13 viously awarded to the State under a grant program
14 authorized by section 31102, 31109, or 31313 to an-
15 other grant program authorized by those sections
16 upon a showing by the State that it is unable to ex-
17 pend the funds within the 12 months prior to their
18 expiration provided that the State agrees to expend
19 the funds within the remaining period of expendi-
20 ture.

21 “(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-
22 proval by the Secretary of a grant under sections 31102,
23 31109, and 31313 is a contractual obligation of the Gov-
24 ernment for payment of the Government’s share of costs
25 incurred in developing and implementing programs to im-

1 prove commercial motor vehicle safety and enforce com-
2 mercial driver's license regulations, standards, and orders.

3 “(d) DEDUCTION FOR ADMINISTRATIVE EX-
4 PENSES.—

5 “(1) IN GENERAL.—On October 1 of each fiscal
6 year or as soon after that as practicable, the Sec-
7 retary may deduct, from amounts made available
8 under—

9 “(A) subsection (a)(1) for that fiscal year,
10 not more than 1.5 percent of those amounts for
11 administrative expenses incurred in carrying
12 out section 31102 in that fiscal year;

13 “(B) subsection (a)(2) for that fiscal year,
14 not more than 1.4 percent of those amounts for
15 administrative expenses incurred in carrying
16 out section 31109 in that fiscal year; and

17 “(C) subsection (a)(3) for that fiscal year,
18 not more than 1.4 percent of those amounts for
19 administrative expenses incurred in carrying
20 out section 31313 in that fiscal year.

21 “(2) TRAINING.—The Secretary may use at
22 least 50 percent of the amounts deducted from the
23 amounts made available under sections (a)(1) and
24 (a)(3) to train non-Government employees and to de-

1 velop related training materials to carry out sections
2 31102, 31311, and 31313 of this title.

3 “(3) CONTRACTS.—The Secretary may use
4 amounts deducted under paragraph (1) to enter into
5 contracts and cooperative agreements with States,
6 local governments, associations, institutions, cor-
7 porations, and other persons, if the Secretary deter-
8 mines the contracts and cooperative agreements are
9 cost-effective, benefit multiple jurisdictions of the
10 United States, and enhance safety programs and re-
11 lated enforcement activities.

12 “(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

13 “(1) On October 1 of each fiscal year or as
14 soon as practicable after that date after making the
15 deduction under subsection (d)(1)(A), the Secretary
16 shall allocate amounts made available to carry out
17 section 31102(b) for such fiscal year among the
18 States with plans approved under that section. Allo-
19 cation shall be made under the criteria prescribed by
20 the Secretary.

21 “(2) On October 1 of each fiscal year or as
22 soon as practicable after that date and after making
23 the deduction under subsection (d)(1)(B) or
24 (d)(1)(C), the Secretary shall allocate amounts made

1 available to carry out sections 31109(a) and
2 31313(b)(1).

3 “(f) INTRASTATE COMPATIBILITY.—The Secretary
4 shall prescribe regulations specifying tolerance guidelines
5 and standards for ensuring compatibility of intrastate
6 commercial motor vehicle safety laws and regulations with
7 Government motor carrier safety regulations to be en-
8 forced under section 31102(b). To the extent practicable,
9 the guidelines and standards shall allow for maximum
10 flexibility while ensuring a degree of uniformity that will
11 not diminish transportation safety. In reviewing State
12 plans and allocating amounts or making grants under sec-
13 tion 153 of title 23, United States Code, the Secretary
14 shall ensure that the guidelines and standards are applied
15 uniformly.

16 “(g) WITHHOLDING AMOUNTS FOR STATE NON-
17 COMPLIANCE.—

18 “(1) IN GENERAL.—Subject to criteria estab-
19 lished by the Secretary, the Secretary may withhold
20 up to 100 percent of the amounts a State is other-
21 wise eligible to receive under section 31102(b) on
22 October 1 of each fiscal year beginning after the
23 date of enactment of the Commercial Motor Vehicle
24 Safety Enhancement Act of 2012 and continuing for

1 the period that the State does not comply substan-
2 tially with a requirement under section 31109(b).

3 “(2) SUBSEQUENT AVAILABILITY OF WITHHELD
4 FUNDS.—The Secretary may make the amounts
5 withheld in accordance with paragraph (1) available
6 to a State if the Secretary determines that the State
7 has substantially complied with a requirement under
8 section 31109(b) not later than 180 days after the
9 beginning of the fiscal year in which the amounts
10 are withheld.

11 “(h) ADMINISTRATIVE EXPENSES.—

12 “(1) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated from the
14 Highway Trust Fund (other than the Mass Transit
15 Account) for the Secretary to pay administrative ex-
16 penses of the Federal Motor Carrier Safety Adminis-
17 tration—

18 “(A) \$250,819,000 for fiscal year 2012;

19 and

20 “(B) \$248,523,000 for fiscal year 2013.

21 “(2) USE OF FUNDS.—The funds authorized by
22 this subsection shall be used for personnel costs, ad-
23 ministrative infrastructure, rent, information tech-
24 nology, programs for research and technology, infor-
25 mation management, regulatory development, the

1 administration of the performance and registration
2 information system management, outreach and edu-
3 cation, other operating expenses, and such other ex-
4 penses as may from time to time be necessary to im-
5 plement statutory mandates of the Administration
6 not funded from other sources.

7 “(i) AVAILABILITY OF FUNDS.—

8 “(1) PERIOD OF AVAILABILITY.—The amounts
9 made available under this section shall remain avail-
10 able until expended.

11 “(2) INITIAL DATE OF AVAILABILITY.—Author-
12 izations from the Highway Trust Fund (other than
13 the Mass Transit Account) for this section shall be
14 available for obligation on the date of their appor-
15 tionment or allocation or on October 1 of the fiscal
16 year for which they are authorized, whichever occurs
17 first.”

18 “(j) PAYMENT TO RECIPIENTS OF FINANCIAL AS-
19 SISTANCE FOR COSTS.—Each grantee shall submit vouch-
20 ers to the Secretary for costs the grantee has incurred
21 under sections 31102, 31109, and 31313. The Secretary
22 shall pay the grantee an amount equal to not more than
23 the Government share of costs incurred as of the date on
24 which the vouchers are submitted.”

1 **SEC. 32607. HIGH RISK CARRIER REVIEWS.**

2 (a) HIGH RISK CARRIER REVIEWS.—Section
3 31104(h), as amended by section 32606 of this Act, is
4 amended by adding at the end of paragraph (2) the fol-
5 lowing:

6 “From the funds authorized by this subsection, the
7 Secretary shall ensure that a review is completed on each
8 motor carrier that demonstrates through performance
9 data that it poses the highest safety risk. At a minimum,
10 a review shall be conducted whenever a motor carrier is
11 among the highest risk carriers for 2 consecutive
12 months.”.

13 (b) CONFORMING AMENDMENT.—Section 4138 of the
14 Safe, Accountable, Flexible, Efficient Transportation Eq-
15 uity Act: A Legacy for Users (49 U.S.C. 31144 note) is
16 repealed.

17 **SEC. 32608. DATA AND TECHNOLOGY GRANTS.**

18 (a) IN GENERAL.—Section 31109 is amended to read
19 as follows:

20 **“§ 31109. Data and technology grants**

21 “(a) GENERAL AUTHORITY.—The Secretary of
22 Transportation shall establish and administer a data and
23 technology grant program to assist the States with the im-
24 plementation and maintenance of data systems. The Sec-
25 retary shall allocate the funds in accordance with section
26 31104.

1 “(b) PERFORMANCE GOALS.—The Secretary may
2 make a grant to a State to implement the performance
3 and registration information system management require-
4 ments of section 31106(b) to develop, implement, and
5 maintain commercial vehicle information systems and net-
6 works, and other innovative technologies that the Sec-
7 retary determines improve commercial motor vehicle safe-
8 ty.

9 “(c) ELIGIBILITY.—To be eligible for a grant to im-
10 plement the requirements of section 31106(b), the State
11 shall design a program that—

12 “(1) links Federal motor carrier safety informa-
13 tion systems with the State’s motor carrier informa-
14 tion systems;

15 “(2) determines the safety fitness of a motor
16 carrier or registrant when licensing or registering
17 the registrant or motor carrier or while the license
18 or registration is in effect; and

19 “(3) denies, suspends, or revokes the commer-
20 cial motor vehicle registrations of a motor carrier or
21 registrant that was issued an operations out-of-serv-
22 ice order by the Secretary.

23 “(d) REQUIRED PARTICIPATION.—The Secretary
24 shall require States that participate in the program under
25 section 31106 to—

1 “(1) comply with the uniform policies, proce-
2 dures, and technical and operational standards pre-
3 scribed by the Secretary under section 31106(b);

4 “(2) possess or seek the authority to possess for
5 a time period not longer than determined reasonable
6 by the Secretary, to impose sanctions relating to
7 commercial motor vehicle registration on the basis of
8 a Federal safety fitness determination; and

9 “(3) establish and implement a process to can-
10 cel the motor vehicle registration and seize the reg-
11 istration plates of a vehicle when an employer is
12 found liable under section 31310(j)(2)(C) for know-
13 ingly allowing or requiring an employee to operate
14 such a commercial motor vehicle in violation of an
15 out of service order.

16 “(e) FEDERAL SHARE.—The total Federal share of
17 the cost of a project payable from all eligible Federal
18 sources shall be at least 80 percent.”.

19 (b) CONFORMING AMENDMENT.—The analysis of
20 chapter 311 is amended by striking the item relating to
21 section 31109 and inserting the following:

 “31109. Data and technology grants.”.

22 **SEC. 32609. DRIVER SAFETY GRANTS.**

23 (a) DRIVER FOCUSED GRANT PROGRAM.—Section
24 31313 is amended to read as follows:

1 **“§ 31313. Driver safety grants**

2 “(a) GENERAL AUTHORITY.—The Secretary shall
3 make and administer a driver focused grant program to
4 assist the States, local governments, entities, and other
5 persons with commercial driver’s license systems, pro-
6 grams, training, fraud detection, reporting of violations
7 and other programs required to improve the safety of driv-
8 ers as the Federal Motor Carrier Safety Administration
9 deems critical. The Secretary shall allocate the funds for
10 the program in accordance with section 31104.

11 “(b) COMMERCIAL DRIVER’S LICENSE PROGRAM IM-
12 PROVEMENT GRANTS.—

13 “(1) PROGRAM GOAL.—The Secretary of Trans-
14 portation may make a grant to a State in a fiscal
15 year—

16 “(A) to comply with the requirements of
17 section 31311;

18 “(B) in the case of a State that is making
19 a good faith effort toward substantial compli-
20 ance with the requirements of this section and
21 section 31311, to improve its implementation of
22 its commercial driver’s license program;

23 “(C) for research, development demonstra-
24 tion projects, public education, and other spe-
25 cial activities and projects relating to commer-
26 cial driver licensing and motor vehicle safety

1 that are of benefit to all jurisdictions of the
2 United States or are designed to address na-
3 tional safety concerns and circumstances;

4 “(D) for commercial driver’s license pro-
5 gram coordinators;

6 “(E) to implement or maintain a system to
7 notify an employer of an operator of a commer-
8 cial motor vehicle of the suspension or revoca-
9 tion of the operator’s commercial driver’s li-
10 cense consistent with the standards developed
11 under section 32304(b) of the Commercial
12 Motor Vehicle Safety Enhancement Act of
13 2012; or

14 “(F) to train operators of commercial
15 motor vehicles, as defined under section 31301,
16 and to train operators and future operators in
17 the safe use of such vehicles. Funding priority
18 for this discretionary grant program shall be to
19 regional or multi-state educational or nonprofit
20 associations serving economically distressed re-
21 gions of the United States.

22 “(2) PRIORITY.—The Secretary shall give pri-
23 ority, in making grants under paragraph (1)(B), to
24 a State that will use the grants to achieve compli-
25 ance with the requirements of the Motor Carrier

1 Safety Improvement Act of 1999 (113 Stat. 1748),
2 including the amendments made by the Commercial
3 Motor Vehicle Safety Enhancement Act of 2012.

4 “(3) RECIPIENTS.—The Secretary may allocate
5 grants to State agencies, local governments, and
6 other persons for carrying out activities and projects
7 that improve commercial driver’s license safety and
8 compliance with commercial driver’s license and
9 commercial motor vehicle safety regulations in ac-
10 cordance with the program goals under paragraph
11 (1) and that train operators on commercial motor
12 vehicles. The Secretary may make a grant to a State
13 to comply with section 31311 for commercial driver’s
14 license program coordinators and for notification
15 systems.

16 “(4) FEDERAL SHARE.—The Federal share of a
17 grant made under this program shall be at least 80
18 percent, except that the Federal share of grants for
19 commercial driver license program coordinators and
20 training commercial motor vehicle operators shall be
21 100 percent.”.

22 (b) CONFORMING AMENDMENT.—The analysis of
23 chapter 313 is amended by striking the item relating to
24 section 31313 and inserting the following:

“31313. Driver safety grants.”.

1 **SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYS-**
2 **TEMS AND NETWORKS.**

3 Not later than 6 months after the date of enactment
4 of this Act, the Secretary shall submit a report to the
5 Committee on Commerce, Science, and Transportation of
6 the Senate and the Committee on Transportation and In-
7 frastructure of the House of Representatives that in-
8 cludes—

9 (1) established time frames and milestones for
10 resuming the Commercial Vehicle Information Sys-
11 tems and Networks Program; and

12 (2) a strategic workforce plan for its grants
13 management office to ensure that it has determined
14 the skills and competencies that are critical to
15 achieving its mission goals.

16 **Subtitle G—Motorcoach Enhanced**
17 **Safety Act of 2012**

18 **SEC. 32701. SHORT TITLE.**

19 This subtitle may be cited as the “Motorcoach En-
20 hanced Safety Act of 2012”.

21 **SEC. 32702. DEFINITIONS.**

22 In this subtitle:

23 (1) **ADVANCED GLAZING.**—The term “advanced
24 glazing” means glazing installed in a portal on the
25 side or the roof of a motorcoach that is designed to

1 be highly resistant to partial or complete occupant
2 ejection in all types of motor vehicle crashes.

3 (2) BUS.—The term “bus” has the meaning
4 given the term in section 571.3(b) of title 49, Code
5 of Federal Regulations (as in effect on the day be-
6 fore the date of enactment of this Act).

7 (3) COMMERCIAL MOTOR VEHICLE.—Except as
8 otherwise specified, the term “commercial motor ve-
9 hicle” has the meaning given the term in section
10 31132(1) of title 49, United States Code.

11 (4) DIRECT TIRE PRESSURE MONITORING SYS-
12 TEM.—The term “direct tire pressure monitoring
13 system” means a tire pressure monitoring system
14 that is capable of directly detecting when the air
15 pressure level in any tire is significantly under-in-
16 flated and providing the driver a low tire pressure
17 warning as to which specific tire is significantly
18 under-inflated.

19 (5) ELECTRONIC ON-BOARD RECORDER.—The
20 term “electronic on-board recorder” means an elec-
21 tronic device that acquires and stores data showing
22 the record of duty status of the vehicle operator and
23 performs the functions required of an automatic on-
24 board recording device in section 395.15(b) of title
25 49, Code of Federal Regulations.

1 (6) **EVENT DATA RECORDER.**—The term “event
2 data recorder” has the meaning given that term in
3 section 563.5 of title 49, Code of Federal Regula-
4 tions.

5 (7) **MOTOR CARRIER.**—The term “motor car-
6 rier” means—

7 (A) a motor carrier (as defined in section
8 13102(14) of title 49, United States Code); or

9 (B) a motor private carrier (as defined in
10 section 13102(15) of that title).

11 (8) **MOTORCOACH.**—The term “motorcoach”
12 has the meaning given the term “over-the-road bus”
13 in section 3038(a)(3) of the Transportation Equity
14 Act for the 21st Century (49 U.S.C. 5310 note), but
15 does not include—

16 (A) a bus used in public transportation
17 provided by, or on behalf of, a public transpor-
18 tation agency; or

19 (B) a school bus, including a multifunction
20 school activity bus.

21 (9) **MOTORCOACH SERVICES.**—The term “mo-
22 torcoach services” means passenger transportation
23 by motorcoach for compensation.

24 (10) **MULTIFUNCTION SCHOOL ACTIVITY BUS.**—
25 The term “multifunction school activity bus” has the

1 meaning given the term in section 571.3(b) of title
2 49, Code of Federal Regulations (as in effect on the
3 day before the date of enactment of this Act).

4 (11) PORTAL.—The term “portal” means any
5 opening on the front, side, rear, or roof of a motor-
6 coach that could, in the event of a crash involving
7 the motorcoach, permit the partial or complete ejection
8 of any occupant from the motorcoach, including
9 a young child.

10 (12) PROVIDER OF MOTORCOACH SERVICES.—
11 The term “provider of motorcoach services” means
12 a motor carrier that provides passenger transportation
13 services with a motorcoach, including per-trip
14 compensation and contracted or chartered compensation.
15

16 (13) PUBLIC TRANSPORTATION.—The term
17 “public transportation” has the meaning given the
18 term in section 5302 of title 49, United States Code.

19 (14) SAFETY BELT.—The term “safety belt”
20 has the meaning given the term in section
21 153(i)(4)(B) of title 23, United States Code.

22 (15) SECRETARY.—The term “Secretary”
23 means the Secretary of Transportation.

1 **SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PRO-**
2 **TECTION, PASSENGER EVACUATION, AND**
3 **CRASH AVOIDANCE.**

4 (a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not
5 later than 1 year after the date of enactment of this Act,
6 the Secretary shall prescribe regulations requiring safety
7 belts to be installed in motorcoaches at each designated
8 seating position.

9 (b) REGULATIONS REQUIRED WITHIN 2 YEARS.—
10 Not later than 2 years after the date of enactment of this
11 Act, the Secretary shall prescribe the following commercial
12 motor vehicle regulations:

13 (1) ROOF STRENGTH AND CRUSH RESIST-
14 ANCE.—The Secretary shall establish improved roof
15 and roof support standards for motorcoaches that
16 substantially improve the resistance of motorcoach
17 roofs to deformation and intrusion to prevent serious
18 occupant injury in rollover crashes involving
19 motorcoaches.

20 (2) ANTI-EJECTION SAFETY COUNTER-
21 MEASURES.—The Secretary shall require advanced
22 glazing to be installed in each motorcoach portal and
23 shall consider other portal improvements to prevent
24 partial and complete ejection of motorcoach pas-
25 sengers, including children. In prescribing such
26 standards, the Secretary shall consider the impact of

1 such standards on the use of motorcoach portals as
2 a means of emergency egress.

3 (3) ROLLOVER CRASH AVOIDANCE.—The Sec-
4 retary shall require motorcoaches to be equipped
5 with stability enhancing technology, such as elec-
6 tronic stability control and torque vectoring, to re-
7 duce the number and frequency of rollover crashes
8 among motorcoaches.

9 (c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE
10 MONITORING SYSTEMS.—Not later than 3 years after the
11 date of enactment of this Act, the Secretary shall prescribe
12 the following commercial vehicle regulation:

13 (1) IN GENERAL.—The Secretary shall require
14 motorcoaches to be equipped with direct tire pres-
15 sure monitoring systems that warn the operator of
16 a commercial motor vehicle when any tire exhibits a
17 level of air pressure that is below a specified level of
18 air pressure established by the Secretary.

19 (2) PERFORMANCE REQUIREMENTS.—The regu-
20 lation prescribed by the Secretary under this sub-
21 section shall include performance requirements to
22 ensure that direct tire pressure monitoring systems
23 are capable of—

24 (A) providing a warning to the driver when
25 1 or more tires are underinflated;

1 (B) activating in a specified time period
2 after the underinflation is detected; and

3 (C) operating at different vehicle speeds.

4 (d) APPLICATION OF REGULATIONS.—

5 (1) NEW MOTORCOACHES.—Any regulation pre-
6 scribed in accordance with subsection (a), (b), or (c)
7 shall apply to all motorcoaches manufactured more
8 than 2 years after the date on which the regulation
9 is published as a final rule.

10 (2) RETROFIT REQUIREMENTS FOR EXISTING
11 MOTORCOACHES.—

12 (A) IN GENERAL.—The Secretary may, by
13 regulation, provide for the application of any re-
14 quirement established under subsection (a) or
15 (b)(2) to motorcoaches manufactured before the
16 date on which the requirement applies to new
17 motorcoaches under paragraph (1) based on an
18 assessment of the feasibility, benefits, and costs
19 of retrofitting the older motorcoaches.

20 (B) ASSESSMENT.—The Secretary shall
21 complete an assessment with respect to safety
22 belt retrofits not later than 1 year after the
23 date of enactment of this Act and with respect
24 to anti-ejection countermeasure retrofits not

1 later than 2 years after the date of enactment
2 of this Act.

3 (e) FAILURE TO MEET DEADLINE.—If the Secretary
4 determines that a final rule cannot be issued before the
5 deadline established under this section, the Secretary
6 shall—

7 (1) submit a report to the Committee on Com-
8 merce, Science, and Transportation of the Senate
9 and the Committee on Energy and Commerce of the
10 House of Representatives that explains why the
11 deadline cannot be met; and

12 (2) establish a new deadline for the issuance of
13 the final rule.

14 **SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

15 (a) EVALUATIONS.—Not later than 18 months after
16 the date of enactment of this Act, the Secretary shall ini-
17 tiate the following rulemaking proceedings:

18 (1) FLAMMABILITY STANDARD FOR EXTERIOR
19 COMPONENTS.—The Secretary shall establish re-
20 quirements for fire hardening or fire resistance of
21 motorcoach exterior components to prevent fire and
22 smoke inhalation injuries to occupants.

23 (2) SMOKE SUPPRESSION.—The Secretary shall
24 update Federal Motor Vehicle Safety Standard
25 Number 302 (49 C.F.R. 571.302; relating to flam-

1 mability of interior materials) to improve the resist-
2 ance of motorcoach interiors and components to
3 burning and permit sufficient time for the safe evac-
4 uation of passengers from motorcoaches.

5 (3) PREVENTION OF, AND RESISTANCE TO,
6 WHEEL WELL FIRES.—The Secretary shall establish
7 requirements—

8 (A) to prevent and mitigate the propaga-
9 tion of wheel well fires into the passenger com-
10 partment; and

11 (B) to substantially reduce occupant
12 deaths and injuries from such fires.

13 (4) AUTOMATIC FIRE SUPPRESSION.—The Sec-
14 retary shall establish requirements for motorcoaches
15 to be equipped with highly effective fire suppression
16 systems that automatically respond to and suppress
17 all fires in such motorcoaches.

18 (5) PASSENGER EVACUATION.—The Secretary
19 shall establish requirements for motorcoaches to be
20 equipped with—

21 (A) improved emergency exit window, door,
22 roof hatch, and wheelchair lift door designs to
23 expedite access and use by passengers of
24 motorcoaches under all emergency cir-
25 cumstances, including crashes and fires; and

1 (B) emergency interior lighting systems,
2 including luminescent or retroreflectorized de-
3 lineation of evacuation paths and exits, which
4 are triggered by a crash or other emergency in-
5 cident to accomplish more rapid and effective
6 evacuation of passengers.

7 (6) CAUSATION AND PREVENTION OF MOTOR-
8 COACH FIRES.—The Secretary shall examine the
9 principle causes of motorcoach fires and vehicle de-
10 sign changes intended to reduce the number of mo-
11 torcoach fires resulting from those principle causes.

12 (b) DEADLINE.—Not later than 42 months after the
13 date of enactment of this Act, the Secretary shall—

14 (1) issue final rules in accordance with sub-
15 section (a); or

16 (2) if the Secretary determines that any stand-
17 ard is not warranted based on the requirements and
18 considerations set forth in subsection (a) and (b) of
19 section 30111 of title 49, United States Code, sub-
20 mit a report that describes the reasons for not pre-
21 scribing such a standard to—

22 (A) the Committee on Commerce, Science,
23 and Transportation of the Senate; and

24 (B) the Committee on Energy and Com-
25 merce of the House of Representatives.

1 (c) TIRE PERFORMANCE STANDARD.—Not later than
 2 3 years after the date of enactment of this Act, the Sec-
 3 retary shall—

4 (1) issue a final rule upgrading performance
 5 standards for tires used on motorcoaches, including
 6 an enhanced endurance test and a new high-speed
 7 performance test; or

8 (2) if the Secretary determines that a standard
 9 is not warranted based on the requirements and con-
 10 siderations set forth in subsections (a) and (b) of
 11 section 30111 of title 49, United States Code, sub-
 12 mit a report that describes the reasons for not pre-
 13 scribing such a standard to—

14 (A) the Committee on Commerce, Science,
 15 and Transportation of the Senate; and

16 (B) the Committee on Energy and Com-
 17 merce of the House of Representatives.

18 **SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOID-**
 19 **ANCE, FIRE CAUSATION, AND FIRE EXTIN-**
 20 **GUISHER RESEARCH AND TESTING.**

21 (a) SAFETY RESEARCH INITIATIVES.—Not later than
 22 2 years after the date of enactment of this Act, the Sec-
 23 retary shall complete the following research and testing:

24 (1) IMPROVED FIRE EXTINGUISHERS.—The
 25 Secretary shall research and test the need to install

1 improved fire extinguishers or other readily available
2 firefighting equipment in motorcoaches to effectively
3 extinguish fires in motorcoaches and prevent pas-
4 senger deaths and injuries.

5 (2) INTERIOR IMPACT PROTECTION.—The Sec-
6 retary shall research and test enhanced occupant im-
7 pact protection standards for motorcoach interiors to
8 reduce substantially serious injuries for all pas-
9 sengers of motorcoaches.

10 (3) COMPARTMENTALIZATION SAFETY COUN-
11 TERMEASURES.—The Secretary shall require en-
12 hanced compartmentalization safety counter-
13 measures for motorcoaches, including enhanced seat-
14 ing designs, to substantially reduce the risk of pas-
15 sengers being thrown from their seats and colliding
16 with other passengers, interior surfaces, and compo-
17 nents in the event of a crash involving a motorcoach.

18 (4) COLLISION AVOIDANCE SYSTEMS.—The Sec-
19 retary shall research and test forward and lateral
20 crash warning systems applications for
21 motorcoaches.

22 (b) RULEMAKING.—Not later than 2 years after the
23 completion of each research and testing initiative required
24 under subsection (a), the Secretary shall issue final motor
25 vehicle safety standards if the Secretary determines that

1 such standards are warranted based on the requirements
2 and considerations set forth in subsections (a) and (b) of
3 section 30111 of title 49, United States Code.

4 **SEC. 32706. MOTORCOACH REGISTRATION.**

5 (a) REGISTRATION REQUIREMENTS.—Section
6 13902(b) is amended—

7 (1) by redesignating paragraphs (1) through
8 (8) as paragraphs (4) through (11), respectively;
9 and

10 (2) by inserting before paragraph (4), as reded-
11 icated, the following:

12 “(1) ADDITIONAL REGISTRATION REQUIRE-
13 MENTS FOR PROVIDERS OR MOTORCOACH SERV-
14 ICES.—In addition to meeting the requirements
15 under subsection (a)(1), the Secretary may not reg-
16 ister a person to provide motorcoach services until
17 after the person—

18 “(A) undergoes a preauthorization safety
19 audit, including verification, in a manner suffi-
20 cient to demonstrate the ability to comply with
21 Federal rules and regulations, of—

22 “(i) a drug and alcohol testing pro-
23 gram under part 40 of title 49, Code of
24 Federal Regulations;

1 “(ii) the carrier’s system of compli-
2 ance with hours-of-service rules, including
3 hours-of-service records;

4 “(iii) the ability to obtain required in-
5 surance;

6 “(iv) driver qualifications, including
7 the validity of the commercial driver’s li-
8 cense of each driver who will be operating
9 under such authority;

10 “(v) disclosure of common ownership,
11 common control, common management,
12 common familial relationship, or other cor-
13 porate relationship with another motor car-
14 rier or applicant for motor carrier author-
15 ity during the past 3 years;

16 “(vi) records of the State inspections,
17 or of a Level I or V Commercial Vehicle
18 Safety Alliance Inspection, for all vehicles
19 that will be operated by the carrier;

20 “(vii) safety management programs,
21 including vehicle maintenance and repair
22 programs; and

23 “(viii) the ability to comply with the
24 Americans with Disabilities Act of 1990
25 (42 U.S.C. 12101 et seq.), and the Over-

1 the-Road Bus Transportation Accessibility
 2 Act of 2007 (122 Stat. 2915);

3 “(B) has been interviewed to review safety
 4 management controls and the carrier’s written
 5 safety oversight policies and practices; and

6 “(C) through the successful completion of
 7 a written examination developed by the Sec-
 8 retary, has demonstrated proficiency to comply
 9 with and carry out the requirements and regu-
 10 lations described in subsection (a)(1).

11 “(2) PRE-AUTHORIZATION SAFETY AUDIT.—
 12 The pre-authorization safety audit required under
 13 paragraph (1)(A) shall be completed on-site not later
 14 than 90 days following the submission of an applica-
 15 tion for operating authority.

16 “(3) FEE.—The Secretary may establish, under
 17 section 9701 of title 31, a fee of not more than
 18 \$1,200 for new registrants that as nearly as possible
 19 covers the costs of performing a preauthorization
 20 safety audit. Amounts collected under this sub-
 21 section shall be deposited in the Highway Trust
 22 Fund (other than the Mass Transit Account).”.

23 (b) SAFETY REVIEWS OF NEW OPERATORS.—Section
 24 31144(g)(1) is amended by inserting “transporting prop-
 25 erty” after “each operator”.

1 (c) CONFORMING AMENDMENT.—Section
 2 24305(a)(3)(A)(i) is amended by striking “section
 3 13902(b)(8)(A)” and inserting “section
 4 13902(b)(11)(A)”.

5 (d) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect 1 year after the date of enact-
 7 ment of this Act.

8 **SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERV-**
 9 **ICE PROVIDERS.**

10 (a) SAFETY REVIEWS.—Section 31144, as amended
 11 by sections 32204 and 32604 of this Act, is amended by
 12 adding at the end the following:

13 “(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF
 14 MOTORCOACH SERVICES.—

15 “(1) SAFETY REVIEW.—

16 “(A) IN GENERAL.—The Secretary shall—

17 “(i) determine the safety fitness of all
 18 providers of motorcoach services registered
 19 with the Federal Motor Carrier Safety Ad-
 20 ministration through a simple and under-
 21 standable rating system that allows motor-
 22 coach passengers to compare the safety
 23 performance of motorcoach operators; and

24 “(ii) assign a safety fitness rating to
 25 each such provider.

1 “(B) APPLICABILITY.—Subparagraph (A)
2 shall apply—

3 “(i) to any provider of motorcoach
4 services registered with the Administration
5 after the date of enactment of the Motor-
6 coach Enhanced Safety Act of 2012 begin-
7 ning not later than 2 years after the date
8 of such registration; and

9 “(ii) to any provider of motorcoach
10 services registered with the Administration
11 on or before the date of enactment of that
12 Act beginning not later than 3 years after
13 the date of enactment of that Act.

14 “(2) PERIODIC REVIEW.—The Secretary shall
15 establish, by regulation, a process for monitoring the
16 safety performance of each provider of motorcoach
17 services on a regular basis following the assignment
18 of a safety fitness rating, including progressive inter-
19 vention to correct unsafe practices.

20 “(3) ENFORCEMENT STRIKE FORCES.—In addi-
21 tion to the enhanced monitoring and enforcement ac-
22 tions required under paragraph (2), the Secretary
23 may organize special enforcement strike forces tar-
24 geting providers of motorcoach services.

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘motorcoach’ has
3 the meaning given to the term ‘over-the-road
4 bus’ in section 3038(a)(3) of the Transpor-
5 tation Equity Act for the 21st Century (49
6 U.S.C. 5310 note).

7 “(B) EXCLUSIONS.—The term ‘motor-
8 coach’ does not include—

9 “(i) a bus used in public transpor-
10 tation that is provided by a State or local
11 government; or

12 “(ii) a school bus (as defined in sec-
13 tion 30125(a)(1)), including a multi-
14 function school activity bus.

15 “(2) MOTORCOACH SERVICES AND OPER-
16 ATIONS.—The term ‘motorcoach services and oper-
17 ations’ means passenger transportation by a motor-
18 coach for compensation.

19 “(b) DISPLAY OF MOTOR CARRIER IDENTIFICA-
20 TION.—

21 “(1) REQUIREMENT.—Beginning on the date
22 that is 1 year after the date of the enactment of the
23 Moving Ahead for Progress in the 21st Century Act,
24 no person may sell or offer to sell interstate motor-
25 coach transportation services, or provide broker serv-

1 ices related to such transportation, unless the per-
2 son, at the point of sale or provision of broker serv-
3 ices, conspicuously displays—

4 “(A) the legal name and USDOT number
5 of the single motor carrier responsible for the
6 transportation and for compliance with the
7 Federal Motor Carrier Safety Regulations
8 under parts 350 through 399 of title 49, Code
9 of Federal Regulations; and

10 “(B) the URL for the Federal Motor Car-
11 rier Safety Administration’s public website
12 where the Administration has posted motor car-
13 rier and commercial motor vehicle driver scores
14 in the Safety Measurement System.

15 “(2) CIVIL PENALTIES.—A person who violates
16 paragraph (1) shall be liable for civil penalties to the
17 same extent as a person who does not prepare a
18 record in the form and manner prescribed under sec-
19 tion 14901(a).

20 “(c) RULEMAKING.—

21 “(1) IN GENERAL.—Not later than 2 years
22 after the date on which the safety fitness determina-
23 tion rule is implemented, the Secretary shall require,
24 by regulation—

1 “(A) each motor carrier that owns or
2 leases 1 or more motorcoaches that transport
3 passengers subject to the Secretary’s jurisdic-
4 tion under section 13501 to prominently display
5 the safety fitness rating assigned under section
6 31144(j)(1)(A)(ii)—

7 “(i) in each terminal of departure;

8 “(ii) in the motorcoach and visible
9 from a position exterior to the vehicle at
10 the point of departure, if the motorcoach
11 does not depart from a terminal; and

12 “(iii) at all points of sale for such mo-
13 torcoach services and operations; and

14 “(B) any person who sells tickets for mo-
15 torcoach services and operations to display the
16 rating system described in subparagraph (A) at
17 all points of sale for such motorcoach services
18 and operations.

19 “(2) ITEMS INCLUDED IN THE RULEMAKING.—

20 In promulgating safety performance ratings for
21 motorcoaches pursuant to the rulemaking required
22 under paragraph (1), the Secretary shall consider—

23 “(A) the need and extent to which safety
24 performance ratings should be made available
25 in languages other than English; and

1 Infrastructure of the House of Representatives that de-
2 scribes the feasibility, benefits, and costs of establishing
3 a system of certification of public and private schools and
4 of motor carriers and motorcoach operators that provide
5 motorcoach driver training.

6 **SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS**
7 **FOR 9- TO 15-PASSENGER VANS.**

8 (a) IN GENERAL.—Not later than 18 months after
9 the date of enactment of this Act, the Secretary shall sub-
10 mit a report to the Committee on Commerce, Science, and
11 Transportation of the Senate and the Committee on
12 Transportation and Infrastructure of the House of Rep-
13 resentatives that examines requiring all or certain classes
14 of drivers operating a vehicle, which is designed or used
15 to transport not fewer than 9 and not more than 15 pas-
16 sengers (including a driver) in interstate commerce, to
17 have a commercial driver's license passenger-carrying en-
18 dorsement and be tested in accordance with a drug and
19 alcohol testing program under part 40 of title 49, Code
20 of Federal Regulations.

21 (b) CONSIDERATIONS.—In developing the report
22 under subsection (a), the Secretary shall consider—

23 (1) the safety benefits of the requirement de-
24 scribed in subsection (a);

1 (2) the scope of the population that would be
2 impacted by such requirement;

3 (3) the cost to the Federal Government and
4 State governments to meet such requirement; and

5 (4) the impact on safety benefits and cost from
6 limiting the application of such requirement to cer-
7 tain drivers of such vehicles, such as drivers who are
8 compensated for driving.

9 **SEC. 32710. EVENT DATA RECORDERS.**

10 (a) **EVALUATION.**—Not later than 1 year after the
11 date of enactment of this Act, the Secretary, after consid-
12 ering the performance requirements for event data record-
13 ers for passenger vehicles under part 563 of title 49, Code
14 of Federal Regulations, shall complete an evaluation of
15 event data recorders, including requirements regarding
16 specific types of vehicle operations, events and incidents,
17 and systems information to be recorded, for event data
18 recorders to be used on motorcoaches used by motor car-
19 riers in interstate commerce.

20 (b) **STANDARDS AND REGULATIONS.**—Not later than
21 2 years after completing the evaluation required under
22 subsection (a), the Secretary shall issue standards and
23 regulations based on the results of that evaluation.

1 **SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMER-**
 2 **CIAL MOTOR VEHICLES OF PASSENGERS.**

3 Not later than 3 years after the date of enactment
 4 of this Act, the Secretary shall complete a rulemaking pro-
 5 ceeding to consider requiring States to conduct annual in-
 6 spections of commercial motor vehicles designed or used
 7 to transport passengers, including an assessment of—

8 (1) the risks associated with improperly main-
 9 tained or inspected commercial motor vehicles de-
 10 signed or used to transport passengers;

11 (2) the effectiveness of existing Federal stand-
 12 ards for the inspection of such vehicles in—

13 (A) mitigating the risks described in para-
 14 graph (1); and

15 (B) ensuring the safe and proper operation
 16 condition of such vehicles; and

17 (3) the costs and benefits of a mandatory State
 18 inspection program.

19 **SEC. 32712. DISTRACTED DRIVING.**

20 (a) IN GENERAL.—Chapter 311, as amended by sec-
 21 tions 32113, 32508, and 32512 of this Act, is amended
 22 by adding after section 31154 the following:

23 **“§ 31155. Regulation of the use of distracting devices**
 24 **in motorcoaches**

25 “(a) IN GENERAL.—Not later than 1 year after the
 26 date of enactment of the Motorcoach Enhanced Safety Act

1 of 2012, the Secretary of Transportation shall prescribe
2 regulations on the use of electronic or wireless devices, in-
3 cluding cell phones and other distracting devices, by an
4 individual employed as the operator of a motorcoach (as
5 defined in section 32702 of that Act).

6 “(b) BASIS FOR REGULATIONS.—The Secretary shall
7 base the regulations prescribed under subsection (a) on
8 accident data analysis, the results of ongoing research,
9 and other information, as appropriate.

10 “(c) PROHIBITED USE.—Except as provided under
11 subsection (d), the Secretary shall prohibit the use of the
12 devices described in subsection (a) in circumstances in
13 which the Secretary determines that their use interferes
14 with a driver’s safe operation of a motorcoach.

15 “(d) PERMITTED USE.—The Secretary may permit
16 the use of a device that is otherwise prohibited under sub-
17 section (c) if the Secretary determines that such use is
18 necessary for the safety of the driver or the public in emer-
19 gency circumstances.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 311 is amended by inserting after the item relat-
22 ing to section 31154 the following:

“31155. Regulation of the use of distracting devices in motorcoaches.”.

23 **SEC. 32713. REGULATIONS.**

24 Any standard or regulation prescribed or modified
25 pursuant to the Motorcoach Enhanced Safety Act of 2012

1 shall be prescribed or modified in accordance with section
2 553 of title 5, United States Code.

3 **Subtitle H—Safe Highways and**
4 **Infrastructure Preservation**

5 **SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT**
6 **LIMITS STUDY.**

7 (a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not
8 later than 90 days after the date of enactment of this Act,
9 the Secretary, in consultation with each relevant State and
10 other applicable Federal agencies, shall commence a com-
11 prehensive truck size and weight limits study. The study
12 shall—

13 (1) provide data on accident frequency and fac-
14 tors related to accident risk of each route of the Na-
15 tional Highway System in each State that allows a
16 vehicle to operate with size and weight limits that
17 are in excess of the Federal law and regulations and
18 its correlation to truck size and weight limits;

19 (2) evaluate the impacts to the infrastructure of
20 each route of the National Highway System in each
21 State that allows a vehicle to operate with size and
22 weight limits that are in excess of the Federal law
23 and regulations, including—

24 (A) an analysis that quantifies the cost
25 and benefits of the impacts in dollars;

1 (B) an analysis of the percentage of trucks
2 operating in excess of the Federal size and
3 weight limits; and

4 (C) an analysis that examines the ability of
5 each State to recover the cost for the impacts,
6 or the benefits incurred;

7 (3) evaluate the impacts and frequency of viola-
8 tions in excess of the Federal size and weight law
9 and regulations to determine the cost of the enforce-
10 ment of the law and regulations, and the effective-
11 ness of the enforcement methods;

12 (4) examine the relationship between truck per-
13 formance and crash involvement and its correlation
14 to Federal size and weight limits, including the im-
15 pacts on crashes;

16 (5) assess the impacts that truck size and
17 weight limits in excess of the Federal law and regu-
18 lations have in the risk of bridge failure contributing
19 to the structural deficiencies of bridges or in the
20 useful life of a bridge, including the impacts result-
21 ing from the number of bridge loadings;

22 (6) analyze the impacts on safety and infra-
23 structure in each State that allows a truck to oper-
24 ate in excess of Federal size and weight limitations
25 in truck-only lanes;

1 (7) compare and contrast the safety and infra-
2 structure impacts of the Federal limits regarding
3 truck size and weight limits in relation to—

4 (A) six-axle and other alternative configu-
5 rations of tractor-trailers; and

6 (B) safety records of foreign nations with
7 truck size and weight limits and tractor-trailer
8 configurations that differ from the Federal law
9 and regulations; and

10 (8) estimate—

11 (A) the extent to which freight would be
12 diverted from other surface transportation
13 modes to principal arterial routes and National
14 Highway System intermodal connectors if each
15 covered truck configuration is allowed to oper-
16 ate and the effect that any such diversion would
17 have on other modes of transportation;

18 (B) the effect that any such diversion
19 would have on public safety, infrastructure, cost
20 responsibilities, fuel efficiency, and the environ-
21 ment;

22 (C) the effect on the transportation net-
23 work of the United States that allowing each
24 covered truck configuration to operate would
25 have; and

1 (D) whether allowing each covered truck
2 configuration to operate would result in an in-
3 crease or decrease in the total number of trucks
4 operating on principal arterial routes and Na-
5 tional Highway System intermodal connectors;
6 and

7 (9) identify all Federal rules and regulations
8 impacted by changes in truck size and weight limits.

9 (b) REPORT.—Not later than 2 years after the date
10 that the study is commenced under subsection (a), the
11 Secretary shall submit a final report on the study, includ-
12 ing all findings and recommendations, to the Committee
13 on Commerce, Science, and Transportation and the Com-
14 mittee on Environment and Public Works of the Senate
15 and the Committee on Transportation and Infrastructure
16 of the House of Representatives.

17 **SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE**
18 **AND WEIGHT LIMIT LAWS.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 date of enactment of this Act, the Secretary, in consulta-
21 tion with the States, shall begin to compile—

22 (1) a list for each State, as applicable, that de-
23 scribes each route of the National Highway System
24 that allows a vehicle to operate in excess of the Fed-
25 eral truck size and weight limits that—

1 (A) was authorized under State law on or
2 before the date of enactment of this Act; and

3 (B) was in actual and lawful operation on
4 a regular or periodic basis (including seasonal
5 operations) on or before the date of enactment
6 of this Act;

7 (2) a list for each State, as applicable, that de-
8 scribes—

9 (A) the size and weight limitations applica-
10 ble to each segment of the National Highway
11 System in that State as listed under paragraph
12 (1);

13 (B) each combination that exceeds the
14 Interstate weight limit, but that the Depart-
15 ment of Transportation, other Federal agency,
16 or a State agency has determined on or before
17 the date of enactment of this Act, could be or
18 could have been lawfully operated in the State;
19 and

20 (C) each combination that exceeds the
21 Interstate weight limit, but that the Secretary
22 determines could have been lawfully operated on
23 a non-Interstate segment of the National High-
24 way System in the State on or before the date
25 of enactment of this Act; and

1 (3) a list of each State law that designates or
2 allows designation of size and weight limitations in
3 excess of Federal law and regulations on routes of
4 the National Highway System, including nondivisible
5 loads.

6 (b) SPECIFICATIONS.—The Secretary, in consultation
7 with the States, shall specify whether the determinations
8 under paragraphs (1) and (2) of subsection (a) were made
9 by the Department of Transportation, other Federal agen-
10 cy, or a State agency.

11 (c) REPORT.—Not later than 2 years after the date
12 of enactment of this Act, the Secretary shall submit a final
13 report of the compilation under subsection (a) to the Com-
14 mittee on Commerce, Science, and Transportation and the
15 Committee on Environment and Public Works of the Sen-
16 ate and the Committee on Transportation and Infrastruc-
17 ture of the House of Representatives.

18 **Subtitle I—Miscellaneous**

19 **PART I—MISCELLANEOUS**

20 **SEC. 32911. DETENTION TIME STUDY.**

21 (a) STUDY.—Not later than 30 days after the date
22 of enactment of this Act, the Secretary shall task the
23 Motor Carrier Safety Advisory Committee to study the ex-
24 tent to which detention time contributes to drivers vio-

1 lating hours of service requirements and driver fatigue. In
2 conducting this study, the Committee shall—

3 (1) examine data collected from driver and vehi-
4 cle inspections;

5 (2) consult with—

6 (A) motor carriers and drivers, shippers,
7 and representatives of ports and other facilities
8 where goods are loaded and unloaded;

9 (B) government officials; and

10 (C) other parties as appropriate; and

11 (3) provide recommendations to the Secretary
12 for addressing issues identified in the study.

13 (b) REPORT.—Not later than 18 months after the
14 date of enactment of this Act, the Secretary shall provide
15 a report to the Committee on Commerce, Science, and
16 Transportation of the Senate and the Committee on
17 Transportation and Infrastructure of the House of Rep-
18 resentatives that includes recommendations for legislation
19 and for addressing the results of the study.

20 **SEC. 32912. PROHIBITION OF COERCION.**

21 Section 31136(a) is amended by—

22 (1) striking “and” at the end of paragraph (3);

23 (2) striking the period at the end of paragraph

24 (4) and inserting “; and”; and

25 (3) adding after subsection (4) the following:

1 “(5) an operator of a commercial motor vehicle
 2 is not coerced by a motor carrier, shipper, receiver,
 3 or transportation intermediary to operate a commer-
 4 cial motor vehicle in violation of a regulation pro-
 5 mulgated under this section, or chapter 51 or chap-
 6 ter 313 of this title.”.

7 **SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COM-**
 8 **MITTEE.**

9 (a) MEMBERSHIP.—Section 4144(b)(1) of the Safe,
 10 Accountable, Flexible, Efficient Transportation Equity
 11 Act: A Legacy for Users (49 U.S.C. 31100 note), is
 12 amended by inserting “nonprofit employee labor organiza-
 13 tions representing commercial motor vehicle drivers,”
 14 after “industry,”.

15 (b) TERMINATION DATE.—Section 4144(d) of the
 16 Safe, Accountable, Flexible, Efficient Transportation Eq-
 17 uity Act: A Legacy for Users (49 U.S.C. 31100 note), is
 18 amended by striking “March 31, 2012” and inserting
 19 “September 30, 2013”.

20 **SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

21 (a) WAIVER STANDARDS.—Section 31315(a) is
 22 amended—

23 (1) by inserting “and” at the end of paragraph

24 (2);

25 (2) by striking paragraph (3); and

1 (3) redesignating paragraph (4) as paragraph
2 (3).

3 (b) EXEMPTION STANDARDS.—Section 31315(b)(4)
4 is amended—

5 (1) in subparagraph (A), by inserting “(or, in
6 the case of a request for an exemption from the
7 physical qualification standards for commercial
8 motor vehicle drivers, post on a web site established
9 by the Secretary to implement the requirements of
10 section 31149)” after “Federal Register”;

11 (2) by amending subparagraph (B) to read as
12 follows:

13 “(B) UPON GRANTING A REQUEST.—Upon
14 granting a request and before the effective date
15 of the exemption, the Secretary shall publish in
16 the Federal Register (or, in the case of an ex-
17 emption from the physical qualification stand-
18 ards for commercial motor vehicle drivers, post
19 on a web site established by the Secretary to
20 implement the requirements of section 31149)
21 the name of the person granted the exemption,
22 the provisions from which the person is exempt,
23 the effective period, and the terms and condi-
24 tions of the exemption.”; and

1 (3) in subparagraph (C), by inserting “(or, in
2 the case of a request for an exemption from the
3 physical qualification standards for commercial
4 motor vehicle drivers, post on a web site established
5 by the Secretary to implement the requirements of
6 section 31149)” after “Federal Register”.

7 (c) PROVIDING NOTICE OF EXEMPTIONS TO STATE
8 PERSONNEL.—Section 31315(b)(7) is amended to read as
9 follows:

10 “(7) NOTIFICATION OF STATE COMPLIANCE
11 AND ENFORCEMENT PERSONNEL.—Before the effec-
12 tive date of an exemption, the Secretary shall notify
13 a State safety compliance and enforcement agency,
14 and require the agency pursuant to section
15 31102(b)(1)(Y) to notify the State’s roadside inspec-
16 tors, that a person will be operating pursuant to an
17 exemption and the terms and conditions that apply
18 to the exemption.”.

19 (d) PILOT PROGRAMS.—Section 31315(c)(1) is
20 amended by striking “in the Federal Register”.

21 (e) REPORT TO CONGRESS.—Section 31315 is
22 amended by adding after subsection (d) the following:

23 “(e) REPORT TO CONGRESS.—The Secretary shall
24 submit an annual report to the Committee on Commerce,
25 Science, and Transportation of the Senate and the Com-

1 mittee on Transportation and Infrastructure of the House
2 of Representatives listing the waivers, exemptions, and
3 pilot programs granted under this section, and any im-
4 pacts on safety.

5 “(f) WEB SITE.—The Secretary shall ensure that the
6 Federal Motor Carrier Safety Administration web site in-
7 cludes a link to the web site established by the Secretary
8 to implement the requirements under sections 31149 and
9 31315. The link shall be in a clear and conspicuous loca-
10 tion on the home page of the Federal Motor Carrier Safety
11 Administration web site and be easily accessible to the
12 public.”

13 **SEC. 32915. REGISTRATION REQUIREMENTS.**

14 (a) REQUIREMENTS FOR REGISTRATION.—Section
15 13901 is amended to read as follows:

16 **“§ 13901. Requirements for registration**

17 “(a) IN GENERAL.—A person may not provide trans-
18 portation as a motor carrier subject to jurisdiction under
19 subchapter I of chapter 135 or service as a freight for-
20 warder subject to jurisdiction under subchapter III of such
21 chapter, or be a broker for transportation subject to juris-
22 diction under subchapter I of such chapter unless the per-
23 son is registered under this chapter to provide such trans-
24 portation or service.

25 “(b) REGISTRATION NUMBERS.—

1 “(1) IN GENERAL.—If the Secretary registers a
2 person under this chapter to provide transportation
3 or service, including as a motor carrier, freight for-
4 warder, or broker, the Secretary shall issue a dis-
5 tinctive registration number to the person for each
6 such authority to provide transportation or service
7 for which the person is registered.

8 “(2) TRANSPORTATION OR SERVICE TYPE INDI-
9 CATOR.—A number issued under paragraph (1) shall
10 include an indicator of the type of transportation or
11 service for which the registration number is issued,
12 including whether the registration number is issued
13 for registration of a motor carrier, freight forwarder,
14 or broker.

15 “(c) SPECIFICATION OF AUTHORITY.—For each
16 agreement to provide transportation or service for which
17 registration is required under this chapter, the registrant
18 shall specify, in writing, the authority under which the
19 person is providing such transportation or service.”.

20 (b) AVAILABILITY OF INFORMATION.—

21 (1) IN GENERAL.—Chapter 139 is amended by
22 adding at the end the following:

1 **“§ 13909. Availability of information**

2 “The Secretary shall make information relating to
3 registration and financial security required by this chapter
4 publicly available on the Internet, including—

5 “(1) the names and business addresses of the
6 principals of each entity holding such registration;
7 and

8 “(2) the electronic address of the entity’s surety
9 provider for the submission of claims.”.

10 (2) CONFORMING AMENDMENT.—The analysis
11 for chapter 139 is amended by adding at the end the
12 following:

“13909. Availability of information.”.

13 **SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION**
14 **REQUIREMENTS.**

15 Section 13902, as amended by sections 32101 and
16 32107(a) of this Act, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by inserting “using
19 self-propelled vehicles the motor carrier owns or
20 leases” after “motor carrier”; and

21 (B) by adding at the end the following:

22 “(6) SEPARATE REGISTRATION REQUIRED.—A
23 motor carrier may not broker transportation services
24 unless the motor carrier has registered as a broker
25 under this chapter.”; and

1 (2) by inserting after subsection (h) the fol-
2 lowing:

3 “(i) REGISTRATION AS FREIGHT FORWARDER OR
4 BROKER REQUIRED.—A motor carrier registered under
5 this chapter—

6 “(1) may only provide transportation of prop-
7 erty with self-propelled motor vehicles owned or
8 leased by the motor carrier or interchanges under
9 regulations issued by the Secretary if the originating
10 carrier—

11 “(A) physically transports the cargo at
12 some point; and

13 “(B) retains liability for the cargo and for
14 payment of interchanged carriers; and

15 “(2) may not arrange transportation described
16 in paragraph (1) unless the motor carrier has ob-
17 tained a separate registration as a freight forwarder
18 or broker for transportation under section 13903 or
19 13904, as applicable.”.

20 **SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND**
21 **BROKERS.**

22 (a) REGISTRATION OF FREIGHT FORWARDERS.—
23 Section 13903, as amended by section 32107(b) of this
24 Act, is amended—

25 (1) in subsection (a)—

1 (A) by striking “finds that the person is
2 fit” and inserting the following: “determines
3 that the person—

4 “(1) has sufficient experience to qualify the per-
5 son to act as a freight forwarder; and

6 “(2) is fit”; and

7 (B) by striking “and the Board”;

8 (2) by redesignating subsections (b) and (c) as
9 subsections (d) and (e), respectively;

10 (3) by inserting after subsection (a) the fol-
11 lowing:

12 “(b) DURATION.—A registration issued under sub-
13 section (a) shall only remain in effect while the freight
14 forwarder is in compliance with section 13906(c).

15 “(c) EXPERIENCE OR TRAINING REQUIREMENT.—
16 Each freight forwarder shall employ, as an officer, an indi-
17 vidual who—

18 “(1) has at least 3 years of relevant experience;

19 or

20 “(2) provides the Secretary with satisfactory
21 evidence of the individual’s knowledge of related
22 rules, regulations, and industry practices.”; and

23 (4) by amending subsection (d), as redesign-
24 nated, to read as follows:

1 “(d) REGISTRATION AS MOTOR CARRIER RE-
2 QUIRED.—A freight forwarder may not provide transpor-
3 tation as a motor carrier unless the freight forwarder has
4 registered separately under this chapter to provide trans-
5 portation as a motor carrier.”.

6 (b) REGISTRATION OF BROKERS.—Section 13904, as
7 amended by section 32107(e) of this Act, is amended—

8 (1) in subsection (a), by striking “finds that the
9 person is fit” and inserting the following: “deter-
10 mines that the person—

11 “(1) has sufficient experience to qualify the per-
12 son to act as a broker for transportation; and

13 “(2) is fit”;

14 (2) by redesignating subsections (b), (c), (d),
15 and (e) as subsections (d), (e), (f), and (g) respec-
16 tively;

17 (3) by inserting after subsection (a) the fol-
18 lowing:

19 “(b) DURATION.—A registration issued under sub-
20 section (a) shall only remain in effect while the broker for
21 transportation is in compliance with section 13906(b).

22 “(c) EXPERIENCE OR TRAINING REQUIREMENTS.—
23 Each broker shall employ, as an officer, an individual
24 who—

1 “(1) has at least 3 years of relevant experience;

2 or

3 “(2) provides the Secretary with satisfactory
4 evidence of the individual’s knowledge of related
5 rules, regulations, and industry practices.”; and

6 (4) by amending subsection (d), as redesignig-
7 nated, to read as follows:

8 “(d) REGISTRATION AS MOTOR CARRIER RE-
9 QUIRED.—A broker for transportation may not provide
10 transportation as a motor carrier unless the broker has
11 registered separately under this chapter to provide trans-
12 portation as a motor carrier.”.

13 **SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.**

14 Section 13905(c) is amended to read as follows:

15 “(c) EFFECTIVE PERIOD.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided in this part, each registration issued under
18 section 13902, 13903, or 13904—

19 “(A) shall be effective beginning on the
20 date specified by the Secretary; and

21 “(B) shall remain in effect for such period
22 as the Secretary determines appropriate by reg-
23 ulation.

24 “(2) REISSUANCE OF REGISTRATION.—

1 “(A) REQUIREMENT.—Not later than 4
2 years after the date of the enactment of the
3 Commercial Motor Vehicle Safety Enhancement
4 Act of 2012, the Secretary shall require a
5 freight forwarder or broker to renew its reg-
6 istration issued under this chapter.

7 “(B) EFFECTIVE PERIOD.—Each registra-
8 tion renewal under subparagraph (A)—

9 “(i) shall expire not later than 5 years
10 after the date of such renewal; and

11 “(ii) may be further renewed as pro-
12 vided under this chapter.

13 “(3) REGISTRATION UPDATE.—The Secretary
14 shall require a motor carrier, freight forwarder, or
15 broker to update its registration under this chapter
16 periodically or not later than 30 days after any
17 change in address, other contact information, offi-
18 cers, process agent, or other essential information,
19 as determined by the Secretary and published in the
20 Federal Register.”.

21 **SEC. 32919. FINANCIAL SECURITY OF BROKERS AND**
22 **FREIGHT FORWARDERS.**

23 (a) IN GENERAL.—Section 13906 is amended by
24 striking subsections (b) and (c) and inserting the fol-
25 lowing:

1 “(b) BROKER FINANCIAL SECURITY REQUIRE-
2 MENTS.—

3 “(1) REQUIREMENTS.—

4 “(A) IN GENERAL.—The Secretary may
5 register a person as a broker under section
6 13904 only if the person files with the Sec-
7 retary a surety bond, proof of trust fund, or
8 other financial security, or a combination there-
9 of, in a form and amount, and from a provider,
10 determined by the Secretary to be adequate to
11 ensure financial responsibility.

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 ap-
22 proved by the Secretary of the Treasury.

23 “(D) PROOF OF TRUST OR OTHER FINAN-
24 CIAL SECURITY.—For purposes of subpara-
25 graph (A), a trust fund or other financial secu-

1 rity may be acceptable to the Secretary only if
2 the trust fund or other financial security con-
3 sists of assets readily available to pay claims
4 without resort to personal guarantees or collec-
5 tion of pledged accounts receivable.

6 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

7 “(A) PAYMENT OF CLAIMS.—A surety
8 bond, trust fund, or other financial security ob-
9 tained under paragraph (1) shall be available to
10 pay any claim against a broker arising from its
11 failure to pay freight charges under its con-
12 tracts, agreements, or arrangements for trans-
13 portation subject to jurisdiction under chapter
14 135 if—

15 “(i) subject to the review by the sur-
16 ety provider, the broker consents to the
17 payment;

18 “(ii) in any case in which the broker
19 does not respond to adequate notice to ad-
20 dress the validity of the claim, the surety
21 provider determines that the claim is valid;
22 or

23 “(iii) the claim is not resolved within
24 a reasonable period of time following a rea-
25 sonable attempt by the claimant to resolve

1 the claim under clauses (i) and (ii), and
2 the claim is reduced to a judgment against
3 the broker.

4 “(B) RESPONSE OF SURETY PROVIDERS
5 TO CLAIMS.—If a surety provider receives notice
6 of a claim described in subparagraph (A), the
7 surety provider shall—

8 “(i) respond to the claim on or before
9 the 30th day following the date on which
10 the notice was received; and

11 “(ii) in the case of a denial, set forth
12 in writing for the claimant the grounds for
13 the denial.

14 “(C) COSTS AND ATTORNEY’S FEES.—In
15 any action against a surety provider to recover
16 on a claim described in subparagraph (A), the
17 prevailing party shall be entitled to recover its
18 reasonable costs and attorney’s fees.

19 “(3) MINIMUM FINANCIAL SECURITY.—Each
20 broker subject to the requirements of this section
21 shall provide financial security of \$100,000 for pur-
22 poses of this subsection, regardless of the number of
23 branch offices or sales agents of the broker.

24 “(4) CANCELLATION NOTICE.—If a financial se-
25 curity required under this subsection is canceled—

1 “(A) the holder of the financial security
2 shall provide electronic notification to the Sec-
3 retary of the cancellation not later than 30 days
4 before the effective date of the cancellation; and

5 “(B) the Secretary shall immediately post
6 such notification on the public Internet Website
7 of the Department of Transportation.

8 “(5) SUSPENSION.—The Secretary shall imme-
9 diately suspend the registration of a broker issued
10 under this chapter if the available financial security
11 of that person falls below the amount required under
12 this subsection.

13 “(6) PAYMENT OF CLAIMS IN CASES OF FINAN-
14 CIAL FAILURE OR INSOLVENCY.—If a broker reg-
15 istered under this chapter experiences financial fail-
16 ure or insolvency, the surety provider of the broker
17 shall—

18 “(A) submit a notice to cancel the financial
19 security to the Administrator in accordance
20 with paragraph (4);

21 “(B) publicly advertise for claims for 60
22 days beginning on the date of publication by the
23 Secretary of the notice to cancel the financial
24 security; and

1 “(C) pay, not later than 30 days after the
2 expiration of the 60-day period for submission
3 of claims—

4 “(i) all uncontested claims received
5 during such period; or

6 “(ii) a pro rata share of such claims
7 if the total amount of such claims exceeds
8 the financial security available.

9 “(7) PENALTIES.—

10 “(A) CIVIL ACTIONS.—Either the Sec-
11 retary or the Attorney General of the United
12 States may bring a civil action in an appro-
13 priate district court of the United States to en-
14 force the requirements of this subsection or a
15 regulation prescribed or order issued under this
16 subsection. The court may award appropriate
17 relief, including injunctive relief.

18 “(B) CIVIL PENALTIES.—If the Secretary
19 determines, after notice and opportunity for a
20 hearing, that a surety provider of a broker reg-
21 istered under this chapter has violated the re-
22 quirements of this subsection or a regulation
23 prescribed under this subsection, the surety
24 provider shall be liable to the United States for

1 a civil penalty in an amount not to exceed
2 \$10,000.

3 “(C) ELIGIBILITY.—If the Secretary deter-
4 mines, after notice and opportunity for a hear-
5 ing, that a surety provider of a broker reg-
6 istered under this chapter has violated the re-
7 quirements of this subsection or a regulation
8 prescribed under this subsection, the surety
9 provider shall be ineligible to provider broker fi-
10 nancial security for 3 years.

11 “(8) FINANCIAL SECURITY AMOUNT ASSESS-
12 MENT.—Every 5 years, the Secretary shall review,
13 with public notice and comment, the amount of the
14 financial security required under this subsection to
15 determine whether such amounts are sufficient to
16 provide adequate financial security, and shall be au-
17 thorized to increase those amounts, if necessary,
18 based upon that determination.

19 “(c) FREIGHT FORWARDER FINANCIAL SECURITY
20 REQUIREMENTS.—

21 “(1) REQUIREMENTS.—

22 “(A) IN GENERAL.—The Secretary may
23 register a person as a freight forwarder under
24 section 13903 only if the person files with the
25 Secretary a surety bond, proof of trust fund,

1 other financial security, or a combination of
2 such instruments, in a form and amount, and
3 from a provider, determined by the Secretary to
4 be adequate to ensure financial responsibility.

5 “(B) USE OF A GROUP SURETY BOND,
6 TRUST FUND, OR OTHER FINANCIAL SECUR-
7 RITY.—In implementing the standards estab-
8 lished under subparagraph (A), the Secretary
9 may authorize the use of a group surety bond,
10 trust fund, other financial security, or a com-
11 bination of such instruments, that meets the re-
12 quirements of this subsection.

13 “(C) SURETY BONDS.—A surety bond ob-
14 tained under this section may only be obtained
15 from a bonding company that has been ap-
16 proved by the Secretary of the Treasury.

17 “(D) PROOF OF TRUST OR OTHER FINAN-
18 CIAL SECURITY.—For purposes of subpara-
19 graph (A), a trust fund or other financial secu-
20 rity may not be accepted by the Secretary un-
21 less the trust fund or other financial security
22 consists of assets readily available to pay claims
23 without resort to personal guarantees or collec-
24 tion of pledged accounts receivable.

25 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

1 “(A) PAYMENT OF CLAIMS.—A surety
2 bond, trust fund, or other financial security ob-
3 tained under paragraph (1) shall be available to
4 pay any claim against a freight forwarder aris-
5 ing from its failure to pay freight charges under
6 its contracts, agreements, or arrangements for
7 transportation subject to jurisdiction under
8 chapter 135 if—

9 “(i) subject to the review by the sur-
10 ety provider, the freight forwarder con-
11 sents to the payment;

12 “(ii) in the case the freight forwarder
13 does not respond to adequate notice to ad-
14 dress the validity of the claim, the surety
15 provider determines the claim is valid; or

16 “(iii) the claim—

17 “(I) is not resolved within a rea-
18 sonable period of time following a rea-
19 sonable attempt by the claimant to re-
20 solve the claim under clauses (i) and
21 (ii); and

22 “(II) is reduced to a judgment
23 against the freight forwarder.

24 “(B) RESPONSE OF SURETY PROVIDERS
25 TO CLAIMS.—If a surety provider receives notice

1 of a claim described in subparagraph (A), the
2 surety provider shall—

3 “(i) respond to the claim on or before
4 the 30th day following receipt of the no-
5 tice; and

6 “(ii) in the case of a denial, set forth
7 in writing for the claimant the grounds for
8 the denial.

9 “(C) COSTS AND ATTORNEY’S FEES.—In
10 any action against a surety provider to recover
11 on a claim described in subparagraph (A), the
12 prevailing party shall be entitled to recover its
13 reasonable costs and attorney’s fees.

14 “(3) FREIGHT FORWARDER INSURANCE.—

15 “(A) IN GENERAL.—The Secretary may
16 register a person as a freight forwarder under
17 section 13903 only if the person files with the
18 Secretary a surety bond, insurance policy, or
19 other type of financial security that meets
20 standards prescribed by the Secretary.

21 “(B) LIABILITY INSURANCE.—A financial
22 security filed by a freight forwarder under sub-
23 paragraph (A) shall be sufficient to pay an
24 amount, not to exceed the amount of the finan-
25 cial security, for each final judgment against

1 the freight forwarder for bodily injury to, or
2 death of, an individual, or loss of, or damage to,
3 property (other than property referred to in
4 subparagraph (C)), resulting from the negligent
5 operation, maintenance, or use of motor vehi-
6 cles by, or under the direction and control of,
7 the freight forwarder while providing transfer,
8 collection, or delivery service under this part.

9 “(C) CARGO INSURANCE.—The Secretary
10 may require a registered freight forwarder to
11 file with the Secretary a surety bond, insurance
12 policy, or other type of financial security ap-
13 proved by the Secretary, that will pay an
14 amount, not to exceed the amount of the finan-
15 cial security, for loss of, or damage to, property
16 for which the 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 for-
8 warder issued under this chapter if its available fi-
9 nancial security falls below the amount required
10 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
18 with 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
22 security; and

23 “(C) pay, not later than 30 days after the
24 expiration of the 60-day period for submission
25 of claims—

1 “(i) all uncontested claims received
2 during such period; or

3 “(ii) a pro rata share of such claims
4 if the total amount of such claims exceeds
5 the financial security available.

6 “(8) PENALTIES.—

7 “(A) CIVIL ACTIONS.—Either the Sec-
8 retary or the Attorney General may bring a civil
9 action in an appropriate district court of the
10 United States to enforce the requirements of
11 this subsection or a regulation prescribed or
12 order issued under this subsection. The court
13 may award appropriate relief, including injunc-
14 tive relief.

15 “(B) CIVIL PENALTIES.—If the Secretary
16 determines, after notice and opportunity for a
17 hearing, that a surety provider of a freight for-
18 warder registered under this chapter has vio-
19 lated the requirements of this subsection or a
20 regulation prescribed under this subsection, the
21 surety provider shall be liable to the United
22 States for a civil penalty in an amount not to
23 exceed \$10,000.

24 “(C) ELIGIBILITY.—If the Secretary deter-
25 mines, after notice and opportunity for a hear-

1 ing, that a surety provider of a freight for-
2 warder registered under this chapter has vio-
3 lated the requirements of this subsection or a
4 regulation prescribed under this subsection, the
5 surety provider shall be ineligible to provide
6 freight forwarder financial security for 3 years.

7 “(9) FINANCIAL SECURITY AND INSURANCE
8 AMOUNT ASSESSMENT.—Not less frequently than
9 once every 5 years, the Secretary—

10 “(A) shall review, with public notice and
11 comment, the amount of the financial security
12 and insurance required under this subsection to
13 determine whether such amounts are sufficient
14 to provide adequate financial security; and

15 “(B) may increase such amounts, if nec-
16 essary, based upon the determination under
17 subparagraph (A).”.

18 (b) RULEMAKING.—Not later than 1 year after the
19 date of enactment of this Act, the Secretary shall issue
20 regulations to implement and enforce the requirements
21 under subsections (b) and (c) of section 13906 of title 49,
22 United States Code, as amended by subsection (a).

23 (c) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall take effect on the date that is 1 year
25 after the date of enactment of this Act.

1 **SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.**

2 (a) IN GENERAL.—Chapter 149 is amended by add-
3 ing at the end the following:

4 **“§ 14916. Unlawful brokerage activities**

5 “(a) PROHIBITED ACTIVITIES.—Any person that acts
6 as a broker, other than a non-vessel-operating common
7 carrier (as defined in section 40102(16) of title 46) or an
8 ocean freight forwarder providing brokerage as part of an
9 international through movement involving ocean transpor-
10 tation between the United States and a foreign port, is
11 prohibited from providing interstate brokerage services as
12 a broker unless that person—

13 “(1) is registered under, and in compliance
14 with, section 13903; and

15 “(2) has satisfied the financial security require-
16 ments under section 13904.

17 “(b) CIVIL PENALTIES AND PRIVATE CAUSE OF AC-
18 TION.—Any person who knowingly authorizes, consents to,
19 or permits, directly or indirectly, either alone or in con-
20 junction with any other person, a violation of subsection
21 (a) is liable—

22 “(1) to the United States Government for a
23 civil penalty in an amount not to exceed \$10,000 for
24 each violation; and

25 “(2) to the injured party for all valid claims in-
26 curred without regard to amount.

1 “(c) **LIABLE PARTIES.**—The liability for civil pen-
2 alties and for claims under this section for unauthorized
3 brokering shall apply, jointly and severally—

4 “(1) to any corporate entity or partnership in-
5 volved; and

6 “(2) to the individual officers, directors, and
7 principals of such entities.”.

8 (b) **CLERICAL AMENDMENT.**—The analysis for chap-
9 ter 149 is amended by adding at the end the following:
“14916. Unlawful brokerage activities.”.

10 **PART II—HOUSEHOLD GOODS TRANSPORTATION**

11 **SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS**

12 **FOR HOUSEHOLD GOODS MOTOR CARRIERS.**

13 (a) Section 13902(a)(2) is amended—

14 (1) in subparagraph (B), by striking “section
15 13702(c);” and inserting “section 13702(c); and”;

16 (2) by amending subparagraph (C) to read as
17 follows:

18 “(C) demonstrates, before being registered,
19 through successful completion of a proficiency
20 examination established by the Secretary,
21 knowledge and intent to comply with applicable
22 Federal laws relating to consumer protection,
23 estimating, consumers’ rights and responsibil-
24 ities, and options for limitations of liability for
25 loss and damage.”; and

1 (3) by striking subparagraph (D).

2 (b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD
3 GOODS MOTOR CARRIERS.—Section 31144(g), as amend-
4 ed by section 32102 of this Act, is amended by adding
5 at the end the following:

6 “(6) ADDITIONAL REQUIREMENTS FOR HOUSE-
7 HOLD GOODS MOTOR CARRIERS.—(A) In addition to
8 the requirements of this subsection, the Secretary
9 shall require, by regulation, each registered house-
10 hold goods motor carrier to undergo a consumer pro-
11 tection standards review not later than 18 months
12 after the household goods motor carrier begins oper-
13 ations under such authority.

14 “(B) ELEMENTS.—In the regulations
15 issued pursuant to subparagraph (A), the Sec-
16 retary shall establish the elements of the con-
17 sumer protections standards review, including
18 basic management controls. In establishing the
19 elements, the Secretary shall consider the ef-
20 fects on small businesses and shall consider es-
21 tablishing alternate locations where such re-
22 views may be conducted for the convenience of
23 small businesses.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect 2 years after the date of en-
3 actment of this Act.

4 **SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSE-**
5 **HOLD GOODS.**

6 (a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is
7 amended by striking “and 14103” and inserting “, 14103,
8 and 14915(c)”.

9 (b) CIVIL PENALTIES.—Section 14915(a)(1) is
10 amended by adding at the end the following:

11 “The United States may assign all or a portion of
12 the civil penalty to an aggrieved shipper. The Secretary
13 of Transportation shall establish criteria upon which such
14 assignments shall be made. The Secretary may order,
15 after notice and an opportunity for a proceeding, that a
16 person found holding a household goods shipment hostage
17 return the goods to an aggrieved shipper.”.

18 **SEC. 32923. SETTLEMENT AUTHORITY.**

19 (a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—
20 Section 14901 is amended by adding at the end the fol-
21 lowing:

22 “(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL
23 PENALTIES.—Nothing in this section shall be construed
24 to prohibit the Secretary from accepting partial payment
25 of a civil penalty as part of a settlement agreement in the

1 public interest, or from holding imposition of any part of
2 a civil penalty in abeyance.”.

3 (b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL
4 PENALTIES.—Section 14915(a) is amended by adding at
5 the end the following:

6 “(4) SETTLEMENT AUTHORITY.—Nothing in
7 this section shall be construed as prohibiting the
8 Secretary from accepting partial payment of a civil
9 penalty as part of a settlement agreement in the
10 public interest, or from holding imposition of any
11 part of a civil penalty in abeyance.”.

12 **SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSIST-**
13 **ANCE PROGRAM.**

14 (a) JOINT ASSISTANCE PROGRAM.—Not later than
15 18 months after the date of enactment of this Act, the
16 Secretary shall develop and implement a joint assistance
17 program, through the Federal Motor Carrier Safety Ad-
18 ministration—

19 (1) to educate consumers about the household
20 goods motor carrier industry pursuant to the rec-
21 ommendations of the task force established under
22 section 32925 of this Act;

23 (2) to improve the Federal Motor Carrier Safe-
24 ty Administration’s implementation, monitoring, and

1 coordination of Federal and State household goods
2 enforcement activities;

3 (3) to assist a consumer with the timely resolu-
4 tion of an interstate household goods hostage situa-
5 tion, as appropriate; and

6 (4) to conduct other enforcement activities as
7 designated by the Secretary.

8 (b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—
9 The Secretary—

10 (1) may partner with 1 or more household
11 goods motor carrier industry groups to implement
12 the joint assistance program under subsection (a);
13 and

14 (2) shall ensure that each participating house-
15 hold goods motor carrier industry group—

16 (A) implements the joint assistance pro-
17 gram in the best interest of the consumer;

18 (B) implements the joint assistance pro-
19 gram in the public interest;

20 (C) accurately represents its financial in-
21 terests in providing household goods mover
22 services in the normal course of business and in
23 assisting consumers resolving hostage situa-
24 tions;

1 to ensure that a consumer is informed of Federal law con-
2 cerning the transportation of household goods by a motor
3 carrier, including recommendations—

4 (1) on how to condense publication ESA 03005
5 of the Federal Motor Carrier Safety Administration
6 into a format that can be more easily used by a con-
7 sumer; and

8 (2) on the use of state-of-the-art education
9 techniques and technologies, including the use of the
10 Internet as an educational tool.

11 (b) TASK FORCE MEMBERS.—The task force shall be
12 comprised of—

13 (1) individuals with expertise in consumer af-
14 fairs;

15 (2) educators with expertise in how people learn
16 most effectively; and

17 (3) representatives of the household goods mov-
18 ing industry.

19 (c) RECOMMENDATIONS.—Not later than 1 year after
20 the date of enactment of this Act, the task force shall com-
21 plete its recommendations under subsection (a). Not later
22 than 1 year after the task force completes its rec-
23 ommendations under subsection (a), the Secretary shall
24 issue regulations implementing the recommendations, as
25 appropriate.

1 (d) FEDERAL ADVISORY COMMITTEE ACT EXEMP-
2 TION.—The Federal Advisory Committee Act (5 U.S.C.
3 App.) shall not apply to the task force.

4 (e) TERMINATION.—The task force shall terminate 2
5 years after the date of enactment of this Act.

6 **PART III—TECHNICAL AMENDMENTS**

7 **SEC. 32931. UPDATE OF OBSOLETE TEXT.**

8 (a) Section 31137(e), as redesignated by section
9 32301 of this Act, is amended by striking “Not later than
10 December 1, 1990, the Secretary shall prescribe” and in-
11 serting “The Secretary shall maintain”.

12 (b) Section 31151(a) is amended—

13 (1) by amending paragraph (1) to read as fol-
14 lows:

15 “(1) IN GENERAL.—The Secretary of Transpor-
16 tation shall maintain a program to ensure that inter-
17 modal equipment used to transport intermodal con-
18 tainers is safe and systematically maintained.”; and

19 (2) by striking paragraph (4).

20 (c) Section 31307(b) is amended by striking “Not
21 later than December 18, 1994, the Secretary shall pre-
22 scribe” and inserting “The Secretary shall maintain”.

23 (d) Section 31310(g)(1) is amended by striking “Not
24 later than 1 year after the date of enactment of this Act,
25 the” and inserting “The”.

1 (e) Section 4123(f) of the Safe, Accountable, Flexi-
 2 ble, Efficient Transportation Equity Act: A Legacy for
 3 Users (119 Stat. 1736), is amended by striking “Not later
 4 than 1 year after the date of enactment of this Act, the”
 5 and inserting “The”.

6 **SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COM-**
 7 **MISSION REFERENCES.**

8 (a) SAFETY INFORMATION AND INTERVENTION IN
 9 INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—
 10 Chapter 3 is amended—

11 (1) by repealing section 307;

12 (2) in the analysis, by striking the item relating
 13 to section 307;

14 (3) in section 333(d)(1)(C), by striking “Inter-
 15 state Commerce Commission” and inserting “Sur-
 16 face Transportation Board”; and

17 (4) in section 333(e)—

18 (A) by striking “Interstate Commerce
 19 Commission” and inserting “Surface Transpor-
 20 tation Board”; and

21 (B) by striking “Commission” and insert-
 22 ing “Board”.

23 (b) FILING AND PROCEDURE FOR APPLICATION TO
 24 ABANDON OR DISCONTINUE.—Section 10903(b)(2) is

1 amended by striking “24706(e) of this title” and inserting
2 “24706(e) of this title before May 31, 1998”.

3 (c) TECHNICAL AMENDMENTS TO PART C OF SUB-
4 TITLE V.—

5 (1) Section 24307(b)(3) is amended by striking
6 “Interstate Commerce Commission” and inserting
7 “Surface Transportation Board”.

8 (2) Section 24311 is amended—

9 (A) by striking “Interstate Commerce
10 Commission” and inserting “Surface Transpor-
11 tation Board”;

12 (B) by striking “Commission” each place it
13 appears and inserting “Board”; and

14 (C) by striking “Commission’s” and insert-
15 ing “Board’s”.

16 (3) Section 24902 is amended—

17 (A) by striking “Interstate Commerce
18 Commission” each place it appears and insert-
19 ing “Surface Transportation Board”; and

20 (B) by striking “Commission” each place it
21 appears and inserting “Board”.

22 (4) Section 24904 is amended—

23 (A) by striking “Interstate Commerce
24 Commission” and inserting “Surface Transpor-
25 tation Board”; and

1 (B) by striking “Commission” each place it
2 appears and inserting “Board”.

3 **SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

4 (a) Section 13905(f)(1)(A) is amended by striking
5 “section 13904(c)” and inserting “section 13904(e)”;

6 (b) Section 14504a(c)(1) is amended—

7 (1) in subparagraph (C), by striking “sections”
8 and inserting “section”; and

9 (2) in subparagraph (D)(ii)(II) by striking the
10 period at the end and inserting “; and”.

11 (c) Section 31103(a) is amended by striking “section
12 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

13 (d) Section 31103(b) is amended by striking “author-
14 ized by section 31104(f)(2)”.

15 (e) Section 31309(b)(2) is amended by striking
16 “31308(2)” and inserting “31308(3)”.

17 **TITLE III—SURFACE TRANSPOR-**
18 **TATION AND FREIGHT POL-**
19 **ICY ACT OF 2012**

20 **SEC. 33001. SHORT TITLE.**

21 This title may be cited as the “Surface Transpor-
22 tation and Freight Policy Act of 2012”.

1 **SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE**
2 **TRANSPORTATION AND FREIGHT POLICY.**

3 (a) IN GENERAL.—Subchapter I of chapter 3 of title
4 49, United States Code, as amended by section 32932 of
5 the Commercial Motor Vehicle Safety Enhancement Act
6 of 2012, is amended—

7 (1) by redesignating sections 304 through 306
8 as sections 307 through 309, respectively;

9 (2) by redesignating sections 308 and 309 as
10 sections 310 and 311, respectively;

11 (3) by redesignating sections 303 and 303a as
12 sections 305 and 306, respectively; and

13 (4) by inserting after section 302 the following:

14 **“§ 303. National surface transportation policy**

15 “(a) POLICY.—It is the policy of the United States
16 to develop a comprehensive national surface transpor-
17 tation system that advances the national interest and de-
18 fense, interstate and foreign commerce, the efficient and
19 safe interstate mobility of people and goods, and the pro-
20 tection of the environment. The system shall be built,
21 maintained, managed, and operated as a partnership be-
22 tween the Federal, State, and local governments and the
23 private sector and shall be coordinated with the overall
24 transportation system of the United States, including the
25 Nation’s air, rail, pipeline, and water transportation sys-

1 tems. The Secretary of Transportation shall be responsible
2 for carrying out this policy.

3 “(b) OBJECTIVES.—The objectives of the policy shall
4 be to facilitate and advance—

5 “(1) the improved accessibility and reduced
6 travel times for persons and goods within and be-
7 tween nations, regions, States, and metropolitan
8 areas;

9 “(2) the safety of the public;

10 “(3) the security of the Nation and the public;

11 “(4) environmental protection;

12 “(5) energy conservation and security, including
13 reducing transportation-related energy use;

14 “(6) international and interstate freight move-
15 ment, trade enhancement, job creation, and eco-
16 nomic development;

17 “(7) responsible planning to address population
18 distribution and employment and sustainable devel-
19 opment;

20 “(8) the preservation and adequate performance
21 of system-critical transportation assets, as defined
22 by the Secretary;

23 “(9) reasonable access to the national surface
24 transportation system for all system users, including
25 rural communities;

1 “(10) the sustainable and adequate financing of
2 the national surface transportation system; and

3 “(11) innovation in transportation services, in-
4 frastructure, and technology.

5 “(c) GOALS.—

6 “(1) SPECIFIC GOALS.—The goals of the policy
7 shall be—

8 “(A) to reduce average per capita peak pe-
9 riod travel times on an annual basis;

10 “(B) to reduce national motor vehicle-re-
11 lated and truck-related fatalities by 50 percent
12 by 2030;

13 “(C) to reduce national surface transpor-
14 tation delays per capita on an annual basis;

15 “(D) to improve the access to employment
16 opportunities and other economic activities;

17 “(E) to increase the percentage of system-
18 critical surface transportation assets, as defined
19 by the Secretary, that are in a state of good re-
20 pair by 20 percent by 2030;

21 “(F) to improve access to public transpor-
22 tation, intercity passenger rail services, and
23 non-motorized transportation where travel de-
24 mand warrants;

1 “(G) to reduce passenger and freight
2 transportation infrastructure-related delays en-
3 tering into and out of international points of
4 entry on an annual basis;

5 “(H) to increase travel time reliability on
6 major freight corridors that connect major pop-
7 ulation centers to freight generators and inter-
8 national gateways on an annual basis;

9 “(I) to ensure adequate transportation of
10 domestic energy supplies and promote energy
11 security;

12 “(J) to maintain or reduce the percentage
13 of gross domestic product consumed by trans-
14 portation costs; and

15 “(K) to reduce transportation-related im-
16 pacts on the environment and on communities.

17 “(2) BASELINES.—Not later than 2 years after
18 the date of enactment of the Surface Transportation
19 and Freight Policy Act of 2012, the Secretary shall
20 develop baselines for the goals and shall determine
21 appropriate methods of data collection to measure
22 the attainment of the goals.”.

23 (b) FREIGHT POLICY.—Subchapter I of chapter 3 of
24 title 49, United States Code, as amended by section

1 33002(a) of this Act, is amended by adding at the end
2 the following:

3 **“§ 312. National freight transportation policy.**

4 “(a) NATIONAL FREIGHT TRANSPORTATION POL-
5 ICY.—It is the policy of the United States to improve the
6 efficiency, operation, and security of the national trans-
7 portation system to move freight by leveraging invest-
8 ments and promoting partnerships that advance interstate
9 and foreign commerce, promote economic competitiveness
10 and job creation, improve the safe and efficient mobility
11 of goods, and protect the public health and the environ-
12 ment.

13 “(b) OBJECTIVES.—The objectives of the policy
14 are—

15 “(1) to target investment in freight transpor-
16 tation projects that strengthen the economic com-
17 petitiveness of the United States with a focus on do-
18 mestic industries and businesses and the creation
19 and retention of high-value jobs;

20 “(2) to promote and advance energy conserva-
21 tion and the environmental sustainability of freight
22 movements;

23 “(3) to facilitate and advance the safety and
24 health of the public, including communities adjacent
25 to freight movements;

1 “(4) to provide for systematic and balanced in-
2 vestment to improve the overall performance and re-
3 liability of the national transportation system to
4 move freight, including ensuring trade facilitation
5 and transportation system improvements are mutu-
6 ally supportive;

7 “(5) to promote partnerships between Federal,
8 State, and local governments, the private sector, and
9 other transportation stakeholders to leverage invest-
10 ments in freight transportation projects; and

11 “(6) to encourage adoption of operational poli-
12 cies, such as intelligent transportation systems, to
13 improve the efficiency of freight-related transpor-
14 tation movements and infrastructure.”.

15 (c) CONFORMING AMENDMENTS.—The table of con-
16 tents for chapter 3 of title 49, United States Code, is
17 amended—

18 (1) by redesignating the items relating to sec-
19 tions 304 through 306 as sections 307 through 309,
20 respectively;

21 (2) by redesignating the items relating to sec-
22 tions 308 and 309 as sections 310 and 311, respec-
23 tively;

1 “(1) an assessment of the current performance
2 of the national surface transportation system and an
3 analysis of the system’s ability to achieve the policy,
4 objectives, and goals set forth in sections 303 and
5 312;

6 “(2) an analysis of emerging and long-term pro-
7 jected trends, including economic and national trade
8 policies, that will impact the performance, needs,
9 and uses of the national surface transportation sys-
10 tem, including the system to move freight;

11 “(3) a description of the major challenges to ef-
12 fectively meeting the policy, objectives, and goals set
13 forth in sections 303 and 312 and a plan to address
14 such challenges;

15 “(4) a comprehensive strategy and investment
16 plan to meet the policy, objectives, and goals set
17 forth in sections 303 and 312, including a strategy
18 to develop the coalitions, partnerships, and other col-
19 laborative financing efforts necessary to ensure sta-
20 ble, reliable funding and completion of freight cor-
21 ridors and projects;

22 “(5) initiatives to improve transportation mod-
23 eling, research, data collection, and analysis, includ-
24 ing those to assess impacts on public health, and en-
25 vironmental conditions;

1 “(6) guidelines to encourage the appropriate
2 balance of means to finance the national transpor-
3 tation system to move freight to implement the plan
4 and the investment plan proposed under paragraph
5 (4); and

6 “(7) a list of priority freight corridors and gate-
7 ways to be improved and developed to meet the pol-
8 icy, objectives, and goals set forth in section 312.

9 “(c) CONSULTATION.—In developing the plan re-
10 quired by subsection (a), the Secretary shall—

11 “(1) consult with appropriate Federal agencies,
12 local, State, and tribal governments, public and pri-
13 vate transportation stakeholders, non-profit organi-
14 zations representing transportation employees, ap-
15 propriate foreign governments, and other interested
16 parties;

17 “(2) consider on-going Federal, State, and cor-
18 ridor-wide transportation plans;

19 “(3) provide public notice and hearings and so-
20 licit public comments on the plan, and

21 “(4) as appropriate, establish advisory commit-
22 tees to assist with developing the plan.

23 “(d) SUBMITTAL AND PUBLICATION.—The Secretary
24 shall—

1 “(1) submit the completed plan to the Com-
2 mittee on Commerce, Science, and Transportation of
3 the Senate and the Committee on Transportation
4 and Infrastructure of the House of Representatives;
5 and

6 “(2) post the completed plan on the Depart-
7 ment of Transportation’s public web site.

8 “(e) PROGRESS REPORTS.—The Secretary shall sub-
9 mit biennial progress reports on the implementation of the
10 plan beginning 2 years after the date of submittal of the
11 plan under subsection (d)(1). Each progress report shall—

12 “(1) describe progress made toward fully imple-
13 menting the plan and achieving the policies, objec-
14 tives, and goals established under sections 303 and
15 312;

16 “(2) describe challenges and obstacles to full
17 implementation;

18 “(3) describe updates to the plan necessary to
19 reflect changed circumstances or new developments;
20 and

21 “(4) make policy and legislative recommenda-
22 tions the Secretary believes are necessary and appro-
23 priate to fully implement the plan.

24 “(f) DATA.—The Secretary shall have the authority
25 to conduct studies, gather information, and require the

1 production of data necessary to develop or update this
2 plan, consistent with Federal privacy standards.

3 “(g) IMPLEMENTATION.—The Secretary shall—

4 “(1) develop appropriate performance criteria
5 and data collections systems for each Federal sur-
6 face transportation program consistent with this
7 chapter and the Secretary’s statutory authority with-
8 in these programs to evaluate:

9 “(A) whether such programs are consistent
10 with the policy, objectives, and goals established
11 by sections 303 and 312; and

12 “(B) how effective such programs are in
13 contributing to the achievement of the policy,
14 objectives, and goals established by sections 303
15 and 312;

16 “(2) using the criteria developed under para-
17 graph (1), periodically evaluate each such program
18 and provide the results to the public;

19 “(3) based on the evaluation performed under
20 paragraph (2), make any necessary changes or im-
21 provements to such programs to ensure such consist-
22 ency and effectiveness consistent with the Sec-
23 retary’s statutory authority within these programs;

1 “(4) implement this section in a manner that is
2 consistent with sections 302, 5301, 5503, 10101,
3 and 13101 of this title and section 101 of title 23;

4 “(5) review all relevant surface transportation
5 planning requirements to determine whether such re-
6 gional, State, and local surface transportation plan-
7 ning efforts funded with Federal funds are con-
8 sistent with the policy, objectives, and goals estab-
9 lished by this section; and

10 “(6) require States and metropolitan planning
11 organizations to report on the use of Federal surface
12 transportation funds, consistent with ongoing report-
13 ing requirements, to provide the Secretary with suf-
14 ficient information to determine—

15 “(A) which projects and priorities were
16 funded with such funds;

17 “(B) the rationale and method employed
18 for apportioning such funds to the projects and
19 priorities; and

20 “(C) how the obligation of such funds is
21 consistent with or advances the policy, objec-
22 tives, and goals established by sections 303 and
23 312 and the statutory sections referenced in
24 paragraph (4).”.

1 (b) CONFORMING AMENDMENT.—The table of con-
 2 tents for chapter 3 of title 49, United States Code, is
 3 amended by inserting after the item relating to section
 4 303 the following:

“304. National surface transportation and freight strategic performance plan.”.

5 **SEC. 33004. TRANSPORTATION INVESTMENT DATA AND**
 6 **PLANNING TOOLS.**

7 (a) IN GENERAL.—Not later than 2 years after the
 8 date of enactment of this Act, the Secretary shall—

9 (1) develop new tools or improve existing tools
 10 to support an outcome-oriented, performance-based
 11 approach to evaluate proposed freight-related and
 12 other surface transportation projects. These new or
 13 improved tools shall include—

14 (A) a systematic cost-benefit analysis that
 15 supports a valuation of modal alternatives;

16 (B) an evaluation of external effects on
 17 congestion, pollution, the environment, and the
 18 public health; and

19 (C) other elements to assist in effective
 20 transportation planning; and

21 (2) facilitate the collection of transportation-re-
 22 lated data to support a broad range of evaluation
 23 methods and techniques such as demand forecasts,
 24 modal diversion forecasts, estimates of the effect of
 25 proposed investments on congestion, pollution, public

1 health, and other factors, to assist in making trans-
2 portation investment decisions. At a minimum, the
3 Secretary, in consultation with other relevant Fed-
4 eral agencies, shall consider any improvements to
5 the Commodity Flow Survey that reduce identified
6 freight data gaps and deficiencies and help evaluate
7 forecasts of transportation demand.

8 (b) CONSULTATION.—To the extent practicable, the
9 Secretary shall consult with Federal, State, and local
10 transportation planners to develop, improve, and imple-
11 ment the tools and collect the data under subsection (a).

12 (c) ESTABLISHMENT OF PILOT PROGRAM.—

13 (1) ESTABLISHMENT.—To assist in the develop-
14 ment of tools under subsection (a) and to inform the
15 National Surface Transportation and Freight Per-
16 formance Plan required by section 304 of title 49,
17 United States Code, the Secretary shall establish a
18 pilot program under which the Secretary shall con-
19 duct case studies of States and metropolitan plan-
20 ning organizations that are designed—

21 (A) to provide more detailed, in-depth
22 analysis and data collection with respect to
23 transportation programs; and

24 (B) to apply rigorous methods of meas-
25 uring and addressing the effectiveness of pro-

1 gram participants in achieving national trans-
2 portation goals.

3 (2) PRELIMINARY REQUIREMENTS.—

4 (A) SOLICITATION.—The Secretary shall
5 solicit applications to participate in the pilot
6 program from States and metropolitan planning
7 organizations.

8 (B) NOTIFICATION.—A State or metropoli-
9 tan planning organization that desires to par-
10 ticipate in the pilot program shall notify the
11 Secretary of such desire before a date deter-
12 mined by the Secretary.

13 (C) SELECTION.—

14 (i) NUMBER OF PROGRAM PARTICI-
15 PANTS.—The Secretary shall select to par-
16 ticipate in the pilot program—

17 (I) not fewer than 3, and not
18 more than 5, States; and

19 (II) not fewer than 3, and not
20 more than 5, metropolitan planning
21 organizations.

22 (ii) TIMING.—The Secretary shall se-
23 lect program participants not later than 3
24 months after the date of enactment of this
25 Act.

1 (iii) DIVERSITY OF PROGRAM PARTICI-
2 PANTS.—The Secretary shall, to the extent
3 practicable, select program participants
4 that represent a broad range of geographic
5 and demographic areas (including rural
6 and urban areas) and types of transpor-
7 tation programs.

8 (d) CASE STUDIES.—

9 (1) BASELINE REPORT.—Not later than 6
10 months after the date of enactment of this Act, each
11 program participant shall submit to the Secretary a
12 baseline report that—

13 (A) describes the reporting and data collec-
14 tion processes of the program participant for
15 transportation investments that are in effect on
16 the date of the report;

17 (B) assesses how effective the program
18 participant is in achieving the national surface
19 transportation goals in section 303 of title 49,
20 United States Code;

21 (C) describes potential improvements to
22 the methods and metrics used to measure the
23 effectiveness of the program participant in
24 achieving national surface transportation goals
25 in section 303 of title 49, United States Code,

1 and the challenges to implementing such im-
2 provements; and

3 (D) includes an assessment of whether,
4 and specific reasons why, the preparation and
5 submission of the baseline report may be lim-
6 ited, incomplete, or unduly burdensome, includ-
7 ing any recommendations for facilitating the
8 preparation and submission of similar reports
9 in the future.

10 (2) EVALUATION.—Each program participant
11 shall work cooperatively with the Secretary to evalu-
12 ate the methods and metrics used to measure the ef-
13 fectiveness of the program participant in achieving
14 national surface transportation goals in section 303
15 of title 49, United States Code, including—

16 (A) by considering the degree to which
17 such methods and metrics take into account—

18 (i) the factors that influence the effec-
19 tiveness of the program participant in
20 achieving the national surface transpor-
21 tation goals;

22 (ii) all modes of transportation; and

23 (iii) the transportation program as a
24 whole, rather than individual projects with-
25 in the transportation program; and

1 (B) by identifying steps that could be used
2 to implement the potential improvements identi-
3 fied under paragraph (1)(C).

4 (3) FINAL REPORT.—Not later than 18 months
5 after the date of enactment of this section, each pro-
6 gram participant shall submit to the Secretary a
7 comprehensive final report that—

8 (A) contains an updated assessment of the
9 effectiveness of the program participant in
10 achieving national surface transportation goals
11 under section 303 of title 49, United States
12 Code; and

13 (B) describes the ways in which the per-
14 formance of the program participant in col-
15 lecting and reporting data and carrying out the
16 transportation program of the program partici-
17 pant has improved or otherwise changed since
18 the date of submission of the baseline report
19 under subparagraph (A).

20 **SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INI-**
21 **TIATIVE.**

22 Section 50302(c)(3)(C) of title 46, United States
23 Code, is amended to read as follows:

24 “(C) TRANSFERS.—Amounts appropriated
25 or otherwise made available for any fiscal year

1 for a marine facility or intermodal facility that
 2 includes maritime transportation may be trans-
 3 ferred, at the option of the recipient of such
 4 amounts, to the Fund and administered by the
 5 Administrator as a component of a project
 6 under the program.”.

7 **SEC. 33006. SAFETY FOR MOTORIZED AND NONMOTORIZED**
 8 **USERS.**

9 (a) IN GENERAL.—Chapter 4 of title 23, United
 10 States Code, is amended by adding at the end the fol-
 11 lowing:

12 **“§ 413. Safety for motorized and nonmotorized users**

13 “(a) IN GENERAL.—Not later than 2 years after the
 14 date of enactment of the Surface Transportation and
 15 Freight Policy Act of 2012, subject to subsection (b), the
 16 Secretary shall establish standards to ensure that the de-
 17 sign of Federal surface transportation projects provides
 18 for the safe and adequate accommodation, in all phases
 19 of project planning, development, and operation, of all
 20 users of the transportation network, including motorized
 21 and nonmotorized users.

22 “(b) WAIVER FOR STATE LAW OR POLICY.—The Sec-
 23 retary may waive the application of standards established
 24 under subsection (a) to a State that has adopted a law
 25 or policy that provides for the safe and adequate accom-

1 modulation as certified by the State (or other grantee), in
 2 all phases of project planning and development, of users
 3 of the transportation network on federally funded surface
 4 transportation projects, as determined by the Secretary.

5 “(c) COMPLIANCE.—

6 “(1) IN GENERAL.—Each State department of
 7 transportation shall submit to the Secretary, at such
 8 time, in such manner, and containing such informa-
 9 tion as the Secretary shall require, a report describ-
 10 ing the implementation by the State of measures to
 11 achieve compliance with this section.

12 “(2) DETERMINATION BY SECRETARY.—On re-
 13 ceipt of a report under paragraph (1), the Secretary
 14 shall determine whether the applicable State has
 15 achieved compliance with this section.”.

16 (b) CONFORMING AMENDMENT.—The analysis for
 17 chapter 4 of title 23, United States Code, is amended by
 18 adding at the end the following:

“413. Safety for motorized and nonmotorized users.”.

19 **SEC. 33007. BUY AMERICA WAIVER REQUIREMENTS.**

20 (a) NOTICE AND COMMENT OPPORTUNITIES.—

21 (1) IN GENERAL.—If the Secretary receives a
 22 request for a waiver under section 313(b) of title 23,
 23 United States Code, or under section 24305(f)(4) or
 24 24405(a)(2) of title 49, United States Code, the
 25 Secretary shall provide notice of, and an opportunity

1 for public comment on, the request not later than 15
2 days before making a finding based on such request.

3 (2) NOTICE REQUIREMENTS.—Each notice pro-
4 vided under paragraph (1)—

5 (A) shall include the information available
6 to the Secretary concerning the request, includ-
7 ing the requestor’s justification for such re-
8 quest; and

9 (B) shall be provided electronically, includ-
10 ing on the official public Internet website of the
11 Department.

12 (3) PUBLICATION OF DETAILED JUSTIFICA-
13 TION.—If the Secretary issues a waiver pursuant to
14 the authority granted under a provision referenced
15 in paragraph (1), the Secretary shall publish, in the
16 Federal Register, a detailed justification for the
17 waiver that—

18 (A) addresses the public comments re-
19 ceived under paragraph (1); and

20 (B) is published before the waiver takes ef-
21 fect.

22 (b) CONSISTENCY WITH INTERNATIONAL AGREE-
23 MENTS.—This section shall be applied in a manner that
24 is consistent with United States obligations under relevant
25 international agreements.

1 (c) REVIEW OF NATIONWIDE WAIVERS.—Not later
2 than 1 year after the date of the enactment of the Moving
3 Ahead for Progress in the 21st Century Act, and at least
4 once every 5 years thereafter, the Secretary shall review
5 each standing nationwide waiver issued pursuant to the
6 authority granted under any of the provisions referenced
7 in paragraph (1) to determine whether continuing such
8 waiver is necessary.

9 (d) BUY AMERICA REPORTING.—Section 308 of title
10 49, United States Code, is amended by inserting after sub-
11 section (c) the following:

12 “(d) Not later than February 1, 2013, and annually
13 thereafter, the Secretary shall submit a report to Congress
14 that—

15 “(1) specifies each highway, public transpor-
16 tation, or railroad project for which the Secretary
17 issued a waiver from a Buy America requirement
18 pursuant to the authority granted under section
19 313(b) of title 23, United States Code, or under sec-
20 tion 24305(f)(4) or 24405(a)(2) of title 49, United
21 States Code, during the preceding calendar year;

22 “(2) identifies the country of origin and product
23 specifications for the steel, iron, or manufactured
24 goods acquired pursuant to each of the waivers spec-
25 ified under paragraph (1); and

1 “(3) summarizes the monetary value of con-
2 tracts awarded pursuant to each such waiver.”.

3 **SEC. 33008. MAKE IT IN AMERICA INITIATIVE.**

4 (a) **MEMORANDUM OF AGREEMENT.**—The term
5 “Memorandum of Agreement” means the August 2011
6 Memorandum of Agreement between the Department of
7 Transportation and the Department of Commerce entitled
8 “Development of a Domestic Supply Base for Intermodal
9 Transportation in the U.S.”.

10 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
11 gress that collaboration between the Department of Trans-
12 portation and the Department of Commerce can signifi-
13 cantly improve the scope and depth of the domestic supply
14 base for transportation infrastructure, particularly for
15 small businesses in the United States.

16 (c) **IMPLEMENTATION.**—

17 (1) **IN GENERAL.**—The Secretary of Transpor-
18 tation and the Secretary of Commerce shall
19 prioritize the implementation of the Memorandum of
20 Agreement.

21 (2) **SAVINGS PROVISION.**—The requirement
22 under paragraph (1) may not be construed to re-
23 quire the expenditure of additional funds.

1 **SEC. 33009. CAPACITY-BUILDING FOR NATURAL DISASTERS**
2 **AND EXTREME WEATHER.**

3 (a) DEFINITIONS.—In this section, the following defi-
4 nitions apply:

5 (1) EXTREME WEATHER.—The term “extreme
6 weather” includes severe or unseasonable weather,
7 heavy precipitation, a storm surge, flooding,
8 drought, windstorms (including hurricanes, torna-
9 does, and associated storm surges), extreme heat,
10 and extreme cold.

11 (2) SECRETARY.—The term “Secretary” means
12 the Secretary of Transportation, in consultation
13 with—

14 (A) the Director of the National Institute
15 of Standards and Technology;

16 (B) the Administrator of the Federal
17 Emergency Management Agency; and

18 (C) as appropriate—

19 (i) the Administrator of the National
20 Oceanic and Atmospheric Administration;

21 (ii) the Director of the United States
22 Geological Survey;

23 (iii) the Administrator of the National
24 Aeronautics and Space Administration;

25 (iv) the Administrator of the Environ-
26 mental Protection Agency; and

1 (v) the heads of other Federal agen-
2 cies.

3 (b) DATA.—The Secretary shall determine and pro-
4 vide to transportation planners appropriate data on the
5 impact on infrastructure of natural disasters and a higher
6 frequency of extreme weather.

7 (c) TRANSPORTATION INFRASTRUCTURE.—

8 (1) IN GENERAL.—The Secretary shall issue
9 guidance and establish design standards for trans-
10 portation infrastructure to help States, metropolitan
11 planning organizations, and local governments plan
12 for natural disasters and a greater frequency of ex-
13 treme weather events in the process of planning,
14 siting, designing, and developing transportation in-
15 frastructure by assessing vulnerabilities to a chang-
16 ing climate and the costs and benefits of adaptation
17 measures (including economic, social, and environ-
18 mental costs and benefits).

19 (2) COORDINATION.—If appropriate, guidance
20 and design standards under paragraph (1) shall, to
21 the maximum extent practicable, be carried out
22 through the coordination mechanism provided
23 under—

24 (A) the National Windstorm Impact Re-
25 duction Program established under section 204

1 of the National Windstorm Impact Reduction
2 Act of 2004 (42 U.S.C. 15703); and

3 (B) the National Earthquake Hazard Re-
4 duction Program established under section 5 of
5 the Earthquake Hazards Reduction Act of 1977
6 (42 U.S.C. 7704).

7 **SEC. 33010. TOLL FAIRNESS STUDY.**

8 (a) REVIEW.—As soon as practicable after the date
9 of the enactment of this Act, the Comptroller General of
10 the United States shall conduct a review of toll rate set-
11 ting practices by selected interstate tolling authorities—

12 (1) over any bridge constructed under the Act
13 of March 23, 1906 (33 U.S.C. 491 et seq.) (com-
14 monly known as the Bridge Act of 1906), the Gen-
15 eral Bridge Act of 1946 (33 U.S.C. 525 et seq.), or
16 the International Bridge Act of 1972 (33 U.S.C.
17 535 et seq.); and

18 (2) over or through any bridge or tunnel con-
19 structed on a Federal-aid highway (as defined in
20 section 101(a) of title 23, United States Code).

21 (b) EVALUATION.—The review under subsection (a)
22 shall include an evaluation of—

23 (1) the extent to which the use of tolling rev-
24 enue by interstate authorities is consistent with their
25 mandates; and

1 (2) the transparency and accountability of the
2 funding and management decisions by those authori-
3 ties.

4 (c) REPORT TO CONGRESS.—The Comptroller Gen-
5 eral of the United States shall submit a report to the Com-
6 mittee on Commerce, Science, and Transportation of the
7 Senate and the Committee on Transportation and Infra-
8 structure of the House of Representatives that contains—

9 (1) the results of the review conducted under
10 this section; and

11 (2) any appropriate recommendations.

12 **TITLE IV—HAZARDOUS MATE-**
13 **RIALS TRANSPORTATION**
14 **SAFETY IMPROVEMENT ACT**
15 **OF 2012**

16 **SEC. 34001. SHORT TITLE.**

17 This title may be cited as the “Hazardous Materials
18 Transportation Safety Improvement Act of 2012”.

19 **SEC. 34002. DEFINITION.**

20 In this title, the term “Secretary” means the Sec-
21 retary of Transportation.

22 **SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES**
23 **CODE.**

24 Except as otherwise expressly provided, whenever in
25 this title an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
2 sion, the reference shall be considered to be made to a
3 section or other provision of title 49, United States Code.

4 **SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

5 (a) TRAINING CURRICULUM.—Section 5115 is
6 amended—

7 (1) in subsection (b)(1)(B), by striking “basic”;

8 (2) in subsection (b)(2), by striking “basic”;

9 and

10 (3) in subsection (c), by striking “basic”.

11 (b) OPERATIONS LEVEL TRAINING.—Section 5116 is
12 amended—

13 (1) in subsection (b)(1), by adding at the end
14 the following: “To the extent that a grant is used to
15 train emergency responders, the State or Indian
16 tribe shall provide written certification to the Sec-
17 retary that the emergency responders who receive
18 training under the grant will have the ability to pro-
19 tect nearby persons, property, and the environment
20 from the effects of accidents or incidents involving
21 the transportation of hazardous material in accord-
22 ance with existing regulations or National Fire Pro-
23 tection Association standards for competence of re-
24 sponders to hazardous materials.”;

25 (2) in subsection (j)—

1 (A) by redesignating paragraph (5) as
2 paragraph (7); and

3 (B) by inserting after paragraph (4) the
4 following:

5 “(5) The Secretary may not award a grant to
6 an organization under this subsection unless the or-
7 ganization ensures that emergency responders who
8 receive training under the grant will have the ability
9 to protect nearby persons, property, and the environ-
10 ment from the effects of accidents or incidents in-
11 volving the transportation of hazardous material in
12 accordance with existing regulations or National
13 Fire Protection Association standards for com-
14 petence of responders to hazardous materials.

15 “(6) Notwithstanding paragraphs (1) and (3),
16 to the extent determined appropriate by the Sec-
17 retary, a grant awarded by the Secretary to an orga-
18 nization under this subsection to conduct hazardous
19 material response training programs may be used to
20 train individuals with responsibility to respond to ac-
21 cidents and incidents involving hazardous material.”;
22 and

23 (3) in subsection (k)—

24 (A) by striking “annually” and inserting
25 “an annual report”;

1 (B) by inserting “the report” after “make
2 available”;

3 (C) by striking “information” and insert-
4 ing “. The report submitted under this sub-
5 section shall include information”; and

6 (D) by striking “The report shall identify”
7 and all that follows and inserting the following:
8 “The report submitted under this subsection
9 shall identify the ultimate recipients of such
10 grants and include—

11 “(A) a detailed accounting and description
12 of each grant expenditure by each grant recipi-
13 ent, including the amount of, and purpose for,
14 each expenditure;

15 “(B) the number of persons trained under
16 the grant program, by training level;

17 “(C) an evaluation of the efficacy of such
18 planning and training programs; and

19 “(D) any recommendations the Secretary
20 may have for improving such grant programs.”.

21 **SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT**
22 **PROGRAM.**

23 (a) IN GENERAL.—The Secretary may conduct pilot
24 projects to evaluate the feasibility and effectiveness of
25 using paperless hazard communications systems. At least

1 1 of the pilot projects under this section shall take place
2 in a rural area.

3 (b) REQUIREMENTS.—In conducting pilot projects
4 under this section, the Secretary—

5 (1) may not waive the requirements under sec-
6 tion 5110 of title 49, United States Code; and

7 (2) shall consult with organizations rep-
8 resenting—

9 (A) fire services personnel;

10 (B) law enforcement and other appropriate
11 enforcement personnel;

12 (C) other emergency response providers;

13 (D) persons who offer hazardous material
14 for transportation;

15 (E) persons who transport hazardous ma-
16 terial by air, highway, rail, and water; and

17 (F) employees of persons who transport or
18 offer for transportation hazardous material by
19 air, highway, rail, and water.

20 (c) REPORT.—Not later than 2 years after the date
21 of the enactment of this Act, the Secretary shall—

22 (1) prepare a report on the results of the pilot
23 projects carried out under this section, including—

24 (A) a detailed description of the pilot
25 projects;

1 (B) an evaluation of each pilot project, in-
2 cluding an evaluation of the performance of
3 each paperless hazard communications system
4 in such project;

5 (C) an assessment of the safety and secu-
6 rity impact of using paperless hazard commu-
7 nications systems, including any impact on the
8 public, emergency response, law enforcement,
9 and the conduct of inspections and investiga-
10 tions; and

11 (D) a recommendation on whether
12 paperless hazard communications systems
13 should be permanently incorporated into the
14 Federal hazardous material transportation safe-
15 ty program under chapter 51 of title 49, United
16 States Code; and

17 (2) submit a final report to the Committee on
18 Commerce, Science, and Transportation of the Sen-
19 ate and the Committee on Transportation and Infra-
20 structure of the House of Representatives that con-
21 tains the results of the pilot projects carried out
22 under this section, including the matters described
23 in paragraph (1).

24 (d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM
25 DEFINED.—In this section, the term “paperless hazard

1 communications system” means the use of advanced com-
2 munications methods, such as wireless communications
3 devices, to convey hazard information between all parties
4 in the transportation chain, including emergency respond-
5 ers and law enforcement personnel. The format of commu-
6 nication may be equivalent to that used by the carrier.

7 **SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND**
8 **REPORTING.**

9 (a) ASSESSMENT.—

10 (1) IN GENERAL.—Not later than 6 months
11 after the date of the enactment of this Act, the Sec-
12 retary, in coordination with the Secretary of Home-
13 land Security, as appropriate, shall conduct an as-
14 sessment to improve the collection, analysis, report-
15 ing, and use of data related to accidents and inci-
16 dents involving the transportation of hazardous ma-
17 terial.

18 (2) REVIEW.—The assessment conducted under
19 this subsection shall review the methods used by the
20 Pipeline and Hazardous Materials Safety Adminis-
21 tration (referred to in this section as the “Adminis-
22 tration”) for collecting, analyzing, and reporting ac-
23 cidents and incidents involving the transportation of
24 hazardous material, including the adequacy of—

1 (A) information requested on the accident
2 and incident reporting forms required to be
3 submitted to the Administration;

4 (B) methods used by the Administration to
5 verify that the information provided on such
6 forms is accurate and complete;

7 (C) accident and incident reporting re-
8 quirements, including whether such require-
9 ments should be expanded to include shippers
10 and consignees of hazardous materials;

11 (D) resources of the Administration related
12 to data collection, analysis, and reporting, in-
13 cluding staff and information technology; and

14 (E) the database used by the Administra-
15 tion for recording and reporting such accidents
16 and incidents, including the ability of users to
17 adequately search the database and find infor-
18 mation.

19 (b) DEVELOPMENT OF ACTION PLAN.—Not later
20 than 9 months after the date of the enactment of this Act,
21 the Secretary shall develop an action plan and timeline
22 for improving the collection, analysis, reporting, and use
23 of data by the Administration, including revising the data-
24 base of the Administration, as appropriate.

1 (c) SUBMISSION TO CONGRESS.—Not later than 15
2 days after the completion of the action plan and timeline
3 under subsection (c), the Secretary shall submit the action
4 plan and timeline to the Committee on Commerce,
5 Science, and Transportation of the Senate and the Com-
6 mittee on Transportation and Infrastructure of the House
7 of Representatives.

8 (d) REPORTING REQUIREMENTS.—Section
9 5125(b)(1)(D) is amended by inserting “and other haz-
10 ardous materials transportation incident reporting to the
11 9–1–1 emergency system or involving State or local emer-
12 gency responders in the initial response to the incident”
13 before the period at the end.

14 **SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MA-**
15 **TERIALS.**

16 (a) RULEMAKING.—Not later than 2 years after date
17 of the enactment of this Act, the Secretary, after consulta-
18 tion with the Department of Labor and the Environmental
19 Protection Agency, as appropriate, and after providing no-
20 tice and an opportunity for public comment shall prescribe
21 regulations establishing uniform procedures among facili-
22 ties for the safe loading and unloading of hazardous mate-
23 rials on and off tank cars and cargo tank trucks.

1 (b) INCLUSION.—The regulations prescribed under
2 subsection (a) may include procedures for equipment in-
3 spection, personnel protection, and necessary safeguards.

4 (c) CONSIDERATION.—In prescribing regulations
5 under subsection (a), the Secretary shall give due consid-
6 eration to carrier rules and procedures that produce an
7 equivalent level of safety.

8 **SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESS-**
9 **MENT, RESEARCH AND DEVELOPMENT, AND**
10 **ANALYSIS PROGRAM.**

11 (a) IN GENERAL.—Chapter 51 is amended by insert-
12 ing after section 5117 the following:

13 **“§ 5118. Hazardous material technical assessment, re-**
14 **search and development, and analysis**
15 **program**

16 “(a) RISK REDUCTION.—

17 “(1) PROGRAM AUTHORIZED.—The Secretary of
18 Transportation may develop and implement a haz-
19 ardous material technical assessment, research and
20 development, and analysis program for the purpose
21 of—

22 “(A) reducing the risks associated with the
23 transportation of hazardous material; and

1 “(B) identifying and evaluating new tech-
2 nologies to facilitate the safe, secure, and effi-
3 cient transportation of hazardous material.

4 “(2) COORDINATION.—In developing the pro-
5 gram under paragraph (1), the Secretary shall—

6 “(A) utilize information gathered from
7 other modal administrations with similar pro-
8 grams; and

9 “(B) coordinate with other modal adminis-
10 trations, as appropriate.

11 “(b) COOPERATION.—In carrying out subsection (a),
12 the Secretary may work cooperatively with regulated and
13 other entities, including shippers, carriers, emergency re-
14 sponders, State and local officials, and academic institu-
15 tions.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
17 ysis for chapter 51 is amended by inserting after the item
18 relating to section 5117 the following:

 “5118. Hazardous material technical assessment, research and development, and
 analysis program.”.

19 **SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAIN-**
20 **ING PROGRAM.**

21 (a) IN GENERAL.—The Secretary shall establish a
22 multimodal hazardous material enforcement training pro-
23 gram for government hazardous materials inspectors and
24 investigators—

1 (1) to develop uniform performance standards
2 for training hazardous material inspectors and inves-
3 tigators; and

4 (2) to train hazardous material inspectors and
5 investigators on—

6 (A) how to collect, analyze, and publish
7 findings from inspections and investigations of
8 accidents or incidents involving the transpor-
9 tation of hazardous material; and

10 (B) how to identify noncompliance with
11 regulations issued under chapter 51 of title 49,
12 United States Code, and take appropriate en-
13 forcement action.

14 (b) STANDARDS AND GUIDELINES.—Under the pro-
15 gram established under this section, the Secretary may de-
16 velop—

17 (1) guidelines for hazardous material inspector
18 and investigator qualifications;

19 (2) best practices and standards for hazardous
20 material inspector and investigator training pro-
21 grams; and

22 (3) standard protocols to coordinate investiga-
23 tion efforts among Federal, State, and local jurisdic-
24 tions on accidents or incidents involving the trans-
25 portation of hazardous material.

1 (c) AVAILABILITY.—The standards, protocols, and
2 findings of the program established under this section—

3 (1) shall be mandatory for—

4 (A) the Department of Transportation’s
5 multimodal personnel conducting hazardous
6 material enforcement inspections or investiga-
7 tions; and

8 (B) State employees who conduct federally
9 funded compliance reviews, inspections, or in-
10 vestigations; and

11 (2) shall be made available to Federal, State,
12 and local hazardous materials safety enforcement
13 personnel.

14 **SEC. 34010. INSPECTIONS.**

15 (a) NOTICE OF ENFORCEMENT MEASURES.—Section
16 5121(c)(1) is amended—

17 (1) in subparagraph (E), by striking “and” at
18 the end;

19 (2) in subparagraph (F), by striking the period
20 at the end and inserting “; and”; and

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

22 “(G) shall provide to the affected offeror,
23 carrier, packaging manufacturer or tester, or
24 other person responsible for the package rea-
25 sonable notice of—

1 “(i) his or her decision to exercise his
2 or her authority under paragraph (1);

3 “(ii) any findings made; and

4 “(iii) any actions being taken as a re-
5 sult of a finding of noncompliance.”.

6 (b) REGULATIONS.—Section 5121(e) is amended by
7 adding at the end the following:

8 “(3) MATTERS TO BE ADDRESSED.—The regu-
9 lations issued under this subsection shall address—

10 “(A) the safe and expeditious resumption
11 of transportation of perishable hazardous mate-
12 rial, including radiopharmaceuticals and other
13 medical products, that may require timely deliv-
14 ery due to life-threatening situations;

15 “(B) the means by which—

16 “(i) noncompliant packages that
17 present an imminent hazard are placed
18 out-of-service until the condition is cor-
19 rected; and

20 “(ii) noncompliant packages that do
21 not present a hazard are moved to their
22 final destination;

23 “(C) appropriate training and equipment
24 for inspectors; and

1 “(D) the proper closure of packaging in
2 accordance with the hazardous material regula-
3 tions.”.

4 (c) GRANTS AND COOPERATIVE AGREEMENTS.—Sec-
5 tion 5121(g)(1) is amended by inserting “safety and” be-
6 fore “security”.

7 **SEC. 34011. CIVIL PENALTIES.**

8 Section 5123 is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1), by striking
11 “\$50,000” and inserting “\$75,000”; and

12 (B) in paragraph (2), by striking
13 “\$100,000” and inserting “\$175,000”; and

14 (2) by adding at the end the following:

15 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS
16 AND INVESTIGATIONS.—The Secretary may impose a pen-
17 alty on a person who obstructs or prevents the Secretary
18 from carrying out inspections or investigations under sub-
19 section (c) or (i) of section 5121.

20 “(i) PROHIBITION ON HAZARDOUS MATERIAL OPER-
21 ATIONS AFTER NONPAYMENT OF PENALTIES.—

22 “(1) IN GENERAL.—Except as provided under
23 paragraph (2), a person subject to the jurisdiction of
24 the Secretary under this chapter who fails to pay a
25 civil penalty assessed under this chapter, or fails to

1 arrange and abide by an acceptable payment plan
2 for such civil penalty, may not conduct any activity
3 regulated under this chapter beginning on the 91st
4 day after the date specified by order of the Secretary
5 for payment of such penalty unless the person has
6 filed a formal administrative or judicial appeal of the
7 penalty.

8 “(2) EXCEPTION.—Paragraph (1) shall not
9 apply to any person who is unable to pay a civil pen-
10 alty because such person is a debtor in a case under
11 chapter 11 of title 11.

12 “(3) RULEMAKING.—Not later than 2 years
13 after the date of the enactment of this subsection,
14 the Secretary, after providing notice and an oppor-
15 tunity for public comment, shall issue regulations
16 that—

17 “(A) set forth procedures to require a per-
18 son who is delinquent in paying civil penalties
19 to cease any activity regulated under this chap-
20 ter until payment has been made or an accept-
21 able payment plan has been arranged; and

22 “(B) ensures that the person described in
23 subparagraph (A)—

24 “(i) is notified in writing; and

1 “(ii) is given an opportunity to re-
2 spond before the person is required to
3 cease the activity.”.

4 **SEC. 34012. REPORTING OF FEES.**

5 Section 5125(f)(2) is amended by striking “, upon
6 the Secretary’s request,” and inserting “biennially”.

7 **SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLU-**
8 **SIONS.**

9 (a) IN GENERAL.—Section 5117 is amended to read
10 as follows:

11 **“§ 5117. Special permits, approvals, and exclusions**

12 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

13 “(1) CONDITIONS.—The Secretary of Transpor-
14 tation may issue, modify, or terminate a special per-
15 mit implementing new technologies or authorizing a
16 variance from a provision under this chapter or a
17 regulation prescribed under section 5103(b), 5104,
18 5110, or 5112 to a person performing a function
19 regulated by the Secretary under section 5103(b)(1)
20 to achieve—

21 “(A) a safety level at least equal to the
22 safety level required under this chapter; or

23 “(B) a safety level consistent with the pub-
24 lic interest and this chapter, if a required safety
25 level does not exist.

1 “(2) FINDINGS REQUIRED.—

2 “(A) IN GENERAL.—Before issuing, renew-
3 ing, or modifying a special permit or granting
4 party status to a special permit, the Secretary
5 shall determine that the person is fit to conduct
6 the activity authorized by such permit in a
7 manner that achieves the level of safety re-
8 quired under paragraph (1).

9 “(B) CONSIDERATIONS.—In making the
10 determination under subparagraph (A), the
11 Secretary shall consider—

12 “(i) the person’s safety history (in-
13 cluding prior compliance history);

14 “(ii) the person’s accident and inci-
15 dent history; and

16 “(iii) any other information the Sec-
17 retary considers appropriate to make such
18 a determination.

19 “(3) EFFECTIVE PERIOD.—A special permit
20 issued under this section—

21 “(A) shall be for an initial period of not
22 more than 2 years;

23 “(B) may be renewed by the Secretary
24 upon application—

1 “(i) for successive periods of not more
2 than 4 years each; or

3 “(ii) in the case of a special permit re-
4 lating to section 5112, for an additional
5 period of not more than 2 years.

6 “(b) APPLICATIONS.—

7 “(1) REQUIRED DOCUMENTATION.—When ap-
8 plying for a special permit or the renewal or modi-
9 fication of a special permit or requesting party sta-
10 tus to a special permit under this section, the Sec-
11 retary shall require the person to submit an applica-
12 tion that contains—

13 “(A) a detailed description of the person’s
14 request;

15 “(B) a listing of the person’s current facili-
16 ties and addresses where the special permit will
17 be utilized;

18 “(C) a safety analysis prescribed by the
19 Secretary that justifies the special permit;

20 “(D) documentation to support the safety
21 analysis;

22 “(E) a certification of safety fitness; and

23 “(F) proof of registration, as required
24 under section 5108.

25 “(2) PUBLIC NOTICE.—The Secretary shall—

1 “(A) publish notice in the Federal Register
2 that an application for a special permit has
3 been filed; and

4 “(B) provide the public an opportunity to
5 inspect and comment on the application.

6 “(3) SAVINGS CLAUSE.—This subsection does
7 not require the release of information protected by
8 law from public disclosure.

9 “(c) COORDINATE AND COMMUNICATE WITH MODAL
10 CONTACT OFFICIALS.—

11 “(1) IN GENERAL.—In evaluating applications
12 under subsection (b), and making the findings and
13 determinations under subsections (a), (e), and (h),
14 the Administrator of the Pipeline and Hazardous
15 Materials Safety Administration shall consult, co-
16 ordinate, or notify the modal contact official respon-
17 sible for the specified mode of transportation that
18 will be utilized under a special permit or approval
19 before—

20 “(A) issuing, modifying, or renewing the
21 special permit;

22 “(B) granting party status to the special
23 permit; or

24 “(C) issuing or renewing the special permit
25 or approval.

1 “(2) MODAL CONTACT OFFICIAL DEFINED.—In
2 this section, the term ‘modal contact official’
3 means—

4 “(A) the Administrator of the Federal
5 Aviation Administration;

6 “(B) the Administrator of the Federal
7 Motor Carrier Safety;

8 “(C) the Administrator of the Federal
9 Railroad Administration; and

10 “(D) the Commandant of the Coast Guard.

11 “(d) APPLICATIONS TO BE DEALT WITH PROMPT-
12 LY.—The Secretary shall—

13 “(1) issue, modify, renew, or grant party status
14 to a special permit or approval for which a request
15 was filed under this section, or deny the issuance,
16 modification, renewal, or grant, on or before the last
17 day of the 180-day period beginning on the first day
18 of the month following the date of the filing of the
19 request; or

20 “(2) publish a statement in the Federal Reg-
21 ister that—

22 “(A) describes the reason for the delay of
23 the Secretary’s decision on the special permit or
24 approval; and

1 “(B) includes an estimate of the additional
2 time necessary before the decision is made.

3 “(e) EMERGENCY PROCESSING OF SPECIAL PER-
4 MITS.—

5 “(1) FINDINGS REQUIRED.—The Secretary may
6 not grant a request for emergency processing of a
7 special permit unless the Secretary determines
8 that—

9 “(A) a special permit is necessary for na-
10 tional security purposes;

11 “(B) processing on a routine basis under
12 this section would result in significant injury to
13 persons or property; or

14 “(C) a special permit is necessary to pre-
15 vent significant economic loss or damage to the
16 environment that could not be prevented if the
17 application were processed on a routine basis.

18 “(2) WAIVER OF FITNESS TEST.—The Sec-
19 retary may waive the requirement under subsection
20 (a)(2) for a request for which the Secretary makes
21 a determination under subparagraph (A) or (B) of
22 paragraph (1).

23 “(3) NOTIFICATION.—Not later than 90 days
24 after the date of issuance of a special permit under
25 this subsection, the Secretary shall publish a notice

1 in the Federal Register of the issuance that in-
2 cludes—

3 “(A) a statement of the basis for the find-
4 ing of emergency; and

5 “(B) the scope and duration of the special
6 permit.

7 “(4) EFFECTIVE PERIOD.—A special permit
8 issued under this subsection shall be effective for a
9 period not to exceed 180 days.

10 “(f) EXCLUSIONS.—

11 “(1) IN GENERAL.—The Secretary shall ex-
12 clude, in any part, from this chapter and regulations
13 prescribed under this chapter—

14 “(A) a public vessel (as defined in section
15 2101 of title 46);

16 “(B) a vessel exempted under section 3702
17 of title 46 or from chapter 37 of title 46; and

18 “(C) a vessel to the extent it is regulated
19 under the Ports and Waterways Safety Act of
20 1972 (33 U.S.C. 1221, et seq.).

21 “(2) FIREARMS.—This chapter and regulations
22 prescribed under this chapter do not prohibit—

23 “(A) or regulate transportation of a fire-
24 arm (as defined in section 232 of title 18), or

1 ammunition for a firearm, by an individual for
2 personal use; or

3 “(B) transportation of a firearm or ammu-
4 nition in commerce.

5 “(g) LIMITATION ON AUTHORITY.—Unless the Sec-
6 retary decides that an emergency exists, a person subject
7 to this chapter may only be granted a variance from this
8 chapter through a special permit or renewal granted under
9 this section.

10 “(h) APPROVALS.—

11 “(1) FINDINGS REQUIRED.—

12 “(A) IN GENERAL.—The Secretary may
13 not issue an approval or grant the renewal of
14 an approval pursuant to part 107 of title 49,
15 Code of Federal Regulations until the Secretary
16 has determined that the person is fit, willing,
17 and able to conduct the activity authorized by
18 the approval in a manner that achieves the level
19 of safety required under subsection (a)(1).

20 “(B) CONSIDERATIONS.—In making a de-
21 termination under subparagraph (A), the Sec-
22 retary shall consider—

23 “(i) the person’s safety history (in-
24 cluding prior compliance history);

1 “(ii) the person’s accident and inci-
2 dent history; and

3 “(iii) any other information the Sec-
4 retary considers appropriate to make such
5 a determination.

6 “(2) REQUIRED DOCUMENTATION.—When ap-
7 plying for an approval or renewal or modification of
8 an approval under this section, the Secretary shall
9 require the person to submit an application that con-
10 tains—

11 “(A) a detailed description of the person’s
12 request;

13 “(B) a listing of the persons current facili-
14 ties and addresses where the approval will be
15 utilized;

16 “(C) a safety analysis prescribed by the
17 Secretary that justifies the approval;

18 “(D) documentation to support the safety
19 analysis;

20 “(E) a certification of safety fitness; and

21 “(F) the verification of registration re-
22 quired under section 5108.

23 “(3) SAVINGS PROVISION.—Nothing in this sub-
24 section may be construed to require the release of
25 information protected by law from public disclosure.

1 “(i) NONCOMPLIANCE.—The Secretary may modify,
2 suspend, or terminate a special permit or approval if the
3 Secretary determines that—

4 “(1) the person who was granted the special
5 permit or approval has violated the special permit or
6 approval or the regulations issued under this chapter
7 in a manner that demonstrates that the person is
8 not fit to conduct the activity authorized by the spe-
9 cial permit or approval; or

10 “(2) the special permit or approval is unsafe.

11 “(j) RULEMAKING.—Not later than 2 years after the
12 date of the enactment of the Hazardous Materials Trans-
13 portation Safety Improvement Act of 2012, the Secretary,
14 after providing notice and an opportunity for public com-
15 ment, shall issue regulations that establish—

16 “(1) standard operating procedures to support
17 administration of the special permit and approval
18 programs; and

19 “(2) objective criteria to support the evaluation
20 of special permit and approval applications.

21 “(k) ANNUAL REVIEW OF CERTAIN SPECIAL PER-
22 MITS.—

23 “(1) REVIEW.—The Secretary shall conduct an
24 annual review and analysis of special permits—

1 “(A) to identify consistently used and long-
2 standing special permits with an established
3 safety record; and

4 “(B) to determine whether such permits
5 may be converted into the hazardous materials
6 regulations.

7 “(2) FACTORS.—In conducting the review and
8 analysis under paragraph (1), the Secretary may
9 consider—

10 “(A) the safety record for hazardous mate-
11 rials transported under the special permit;

12 “(B) the application of a special permit;

13 “(C) the suitability of provisions in the
14 special permit for incorporation into the haz-
15 ardous materials regulations; and

16 “(D) rulemaking activity in related areas.

17 “(3) RULEMAKING.—After completing the re-
18 view and analysis under paragraph (1) and providing
19 notice and opportunity for public comment, the Sec-
20 retary shall issue regulations, as needed.”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 chapter 51 is amended by striking the item relating to
23 section 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

1 **SEC. 34014. HIGHWAY ROUTING DISCLOSURES.**

2 (a) LIST OF ROUTE DESIGNATIONS.—Section
3 5112(c) is amended—

4 (1) by striking “In coordination” and inserting
5 the following:

6 “(1) IN GENERAL.—In coordination”; and

7 (2) by adding at the end the following:

8 “(2) STATE RESPONSIBILITIES.—

9 “(A) IN GENERAL.—Each State shall sub-
10 mit to the Secretary, in a form and manner to
11 be determined by the Secretary and in accord-
12 ance with subparagraph (B)—

13 “(i) the name of the State agency re-
14 sponsible for hazardous material highway
15 route designations; and

16 “(ii) a list of the State’s currently ef-
17 fective hazardous material highway route
18 designations.

19 “(B) FREQUENCY.—Each State shall sub-
20 mit the information described in subparagraph
21 (A)(ii)—

22 “(i) at least once every 2 years; and

23 “(ii) not later than 60 days after a
24 hazardous material highway route designa-
25 tion is established, amended, or discon-
26 tinued.”.

1 (b) COMPLIANCE WITH SECTION 5112.—Section
2 5125(c)(1) is amended by inserting “, and is published
3 in the Department’s hazardous materials route registry
4 under section 5112(c)” before the period at the end.

5 **SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 5128 is amended to read as follows:

7 **“§ 5128. Authorization of appropriations**

8 “(a) IN GENERAL.—There are authorized to be ap-
9 propriated to the Secretary to carry out this chapter (ex-
10 cept sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and
11 5119)—

12 “(1) \$42,338,000 for fiscal year 2012; and

13 “(2) \$42,762,000 for fiscal year 2013.

14 “(b) HAZARDOUS MATERIALS EMERGENCY PRE-
15 PAREDNESS FUND.—From the Hazardous Materials
16 Emergency Preparedness Fund established under section
17 5116(i), the Secretary may expend, during each of fiscal
18 years 2012 and 2013—

19 “(1) \$188,000 to carry out section 5115;

20 “(2) \$21,800,000 to carry out subsections (a)
21 and (b) of section 5116, of which not less than
22 \$13,650,000 shall be available to carry out section
23 5116(b);

24 “(3) \$150,000 to carry out section 5116(f);

1 “(4) \$625,000 to publish and distribute the
2 Emergency Response Guidebook under section
3 5116(i)(3); and

4 “(5) \$1,000,000 to carry out section 5116(j).

5 “(c) HAZARDOUS MATERIALS TRAINING GRANTS.—
6 From the Hazardous Materials Emergency Preparedness
7 Fund established pursuant to section 5116(i), the Sec-
8 retary may expend \$4,000,000 for each of the fiscal years
9 2012 and 2013 to carry out section 5107(e).

10 “(d) CREDITS TO APPROPRIATIONS.—

11 “(1) EXPENSES.—In addition to amounts oth-
12 erwise made available to carry out this chapter, the
13 Secretary may credit amounts received from a State,
14 Indian tribe, or other public authority or private en-
15 tity for expenses the Secretary incurs in providing
16 training to the State, authority, or entity.

17 “(2) AVAILABILITY OF AMOUNTS.—Amounts
18 made available under this section shall remain avail-
19 able until expended.”.

1 **TITLE V—NATIONAL RAIL SYS-**
2 **TEM PRESERVATION, EXPAN-**
3 **SION, AND DEVELOPMENT**
4 **ACT OF 2012**

5 **SEC. 35001. SHORT TITLE.**

6 This title may be cited as the “National Rail System
7 Preservation, Expansion, and Development Act of 2012”.

8 **SEC. 35002. REFERENCES TO TITLE 49, UNITED STATES**
9 **CODE.**

10 Except as otherwise expressly provided, whenever in
11 this title an amendment or repeal is expressed in terms
12 of an amendment to, or a repeal of, a section or other
13 provision, the reference shall be considered to be made to
14 a section or other provision of title 49, United States
15 Code.

16 **Subtitle A—Federal and State**
17 **Roles in Rail Planning and De-**
18 **velopment Tools**

19 **SEC. 35101. RAIL PLANS.**

20 (a) LONG-RANGE NATIONAL RAIL PLAN.—Section
21 103 is amended by amending subsection (j)(2) to read as
22 follows:

23 “(2) in coordination with the Secretary of
24 Transportation, develop and routinely update a long-
25 range national rail plan pursuant to chapter 227;”.

1 (b) NATIONAL RAIL PLAN.—Chapter 227 is amended
2 to read as follows:

3 **“§ 22701. National Rail Plan**

4 “(a) IN GENERAL.—The Secretary of Transportation
5 shall—

6 “(1) not later than 1 year after the date of en-
7 actment of the National Rail System Preservation,
8 Expansion, and Development Act of 2012—

9 “(A) develop a long-range national rail
10 plan—

11 “(i) in coordination with the Adminis-
12 trator of the Federal Railroad Administra-
13 tion and the Surface Transportation
14 Board; and

15 “(ii) in consultation with Amtrak,
16 freight railroads, nonprofit employee labor
17 organizations, and other rail industry
18 stakeholders; and

19 “(B) submit the national rail plan under
20 subparagraph (A) to the Committee on Com-
21 merce, Science, and Transportation of the Sen-
22 ate and the Committee on Transportation and
23 Infrastructure of the House of Representatives;

24 “(2) routinely update the national rail plan—

1 “(A) in coordination with the Adminis-
2 trator of the Federal Railroad Administration
3 and the Surface Transportation Board; and

4 “(B) in consultation with Amtrak, freight
5 railroads, nonprofit employee labor organiza-
6 tions, and other rail industry stakeholders; and

7 “(3) submit the updated national rail plan
8 under paragraph (2) at the same time as the Presi-
9 dent’s budget submission.

10 “(b) NATIONAL RAIL PLAN.—The national rail plan
11 shall—

12 “(1) be subject to refinement by regional and
13 State rail plans;

14 “(2) be consistent with the rail needs of the
15 Nation and Federal surface transportation or multi-
16 modal policies and plans, as determined by the Sec-
17 retary;

18 “(3) promote an integrated, cohesive, safe, effi-
19 cient, and optimized national rail system for the
20 movement of goods and people and to support the
21 national economy and other national needs; and

22 “(4) contain a specific national intercity pas-
23 senger rail development plan and a freight rail plan
24 that are consistent with other Federal strategy,
25 planning, and investment efforts.

1 “(c) OBJECTIVES.—The objectives of the national rail
2 plan are—

3 “(1) to implement a national policy and strat-
4 egy to support, preserve, improve, and further de-
5 velop existing and future high-speed and intercity
6 passenger rail transportation and freight rail trans-
7 portation; and

8 “(2) to provide a national framework to be re-
9 fined and implemented by regional rail plans under
10 section 22702 and State rail plans under 22703.

11 “(d) CONTENTS.—The national rail plan shall in-
12 clude—

13 “(1) the conditions under which Federal invest-
14 ments in intercity passenger rail and freight rail are
15 justified, including consideration of—

16 “(A) population size and density;

17 “(B) projected population and economic
18 growth and changing demographic characteris-
19 tics;

20 “(C) connections to local rail and bus tran-
21 sit, alternative transportation options, and
22 multi-modal freight transportation nodes;

23 “(D) economic profile of specific markets;

24 “(E) congestion on existing transportation
25 facilities and constraints on future capacity en-

1 hancements, in relation to efficient movement of
2 both goods and people;

3 “(F) distances between markets;

4 “(G) geographic characteristics;

5 “(H) demand for present and future
6 freight rail transportation services;

7 “(I) ability to serve underserved commu-
8 nities and enhance intra-and inter-regional
9 connectivity of mega-regions;

10 “(J) transportation safety data and anal-
11 yses;

12 “(K) travel market size; and

13 “(L) availability and quality of service
14 from other transportation modes within a mar-
15 ket;

16 “(2) a national map with a prioritized designa-
17 tion of existing and developing markets to be served
18 by specific rail routes and services that meet the cri-
19 teria described in paragraph (1);

20 “(3) defined corridor and service categories, in-
21 cluding—

22 “(A) services to be offered;

23 “(B) peak or average speeds to be
24 achieved;

25 “(C) frequencies to be offered; and

1 “(D) populations to be served;

2 “(4) a schedule and strategy for the phased im-
3 plementation of corridors and services identified in
4 the plan;

5 “(5) a discussion of benefits and costs of poten-
6 tial investments in high-speed or intercity passenger
7 rail or freight rail that considers all system user and
8 public benefits and costs from a network perspective,
9 including factors such as potential ridership, travel
10 time reductions and improved reliability, benefits of
11 enhanced mobility of goods and people, environ-
12 mental benefits, economic development benefits, and
13 other public benefits;

14 “(6) a strategy for investments in passenger
15 stations, including investment in intermodal stations
16 that are linked to local public transportation, other
17 intercity transportation modes, and non-motorized
18 transportation options, and that connect residential
19 areas, commercial areas, and other nearby transpor-
20 tation facilities that support intercity passenger rail
21 and high-speed rail service, and in freight-related fa-
22 cilities, that is consistent with other Federal strat-
23 egy, planning, and investment efforts;

1 “(7) performance standards for fiscal and oper-
2 ational performance of new and enhanced high-speed
3 and intercity passenger rail services;

4 “(8) analysis of the environmental impacts of
5 the national rail plan;

6 “(9) recommendations for project financing,
7 management and implementation for corridor devel-
8 opment, station development, freight capacity devel-
9 opment, and similar projects;

10 “(10) recommendations for the integration of
11 freight and passenger service in a manner that pro-
12 vides for mutual and complementary growth;

13 “(11) a plan for integrating any proposed new
14 services with existing services;

15 “(12) service design and project execution pro-
16 tocols, including design and construction standards,
17 requirements needed to ensure interoperability, and
18 any other protocols the Secretary deems appropriate;
19 and

20 “(13) additional factors that the Secretary
21 deems relevant.

22 **“§ 22702. Regional rail plans**

23 “(a) IN GENERAL.—The Secretary shall—

24 “(1) develop a regional rail plan for each re-
25 gion, except the Northeast Corridor, that contains a

1 detailed plan for implementing the national rail plan,
2 including any plans for public investment in projects
3 that contribute to efficient movement and increased
4 capacity for freight by—

5 “(A) regional rail authorities, as defined by
6 the Secretary; or

7 “(B) any 2 or more States that have en-
8 tered into interstate compacts, agreements, or
9 organizations for the purpose of developing
10 such plans; and

11 “(2) in developing each regional rail plan, co-
12 ordinate with—

13 “(A) States;

14 “(B) local communities;

15 “(C) railroad infrastructure owners;

16 “(D) regional air quality planning agen-
17 cies;

18 “(E) Amtrak;

19 “(F) passenger rail service operators;

20 “(G) freight railroad operators;

21 “(H) metropolitan planning organizations;

22 “(I) governing authorities for transit sys-
23 tems or airports;

24 “(J) tribal governments;

1 “(K) the general public, including low-in-
2 come and minority populations, people with dis-
3 abilities, and older Americans; and

4 “(L) non-profit labor employee organiza-
5 tions.

6 “(b) PURPOSES.—The purposes of a regional rail
7 plan shall be to refine and advance the implementation
8 of the national rail plan under section 22701.

9 “(c) CONTENTS.—A regional rail plan shall include—

10 “(1) a map—

11 “(A) that indicates detailed alignment al-
12 ternatives for any new corridor identified in the
13 national rail plan under section 22701; and

14 “(B) that identifies the location of each
15 potential new station;

16 “(2) a phasing plan for developing or upgrading
17 specific segments of the regional network;

18 “(3) the identification of any environmental im-
19 pact analyses required under the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
21 or other laws (including regulations);

22 “(4) a full capital cost estimate for developing
23 the regional network;

24 “(5) an analysis of operating financial fore-
25 casts;

1 “(6) a benefit-cost analysis for the regional net-
2 work that considers both user and public benefits
3 and the costs from a network perspective, including
4 factors such as ridership projections, travel time re-
5 ductions, enhanced mobility benefits, environmental
6 benefits, economic benefits, and other public bene-
7 fits;

8 “(7) an analysis of potential land use policies
9 and strategies for areas near high-speed and inter-
10 city passenger rail stations;

11 “(8) potential non-Federal funding sources, in-
12 cluding a detailed consideration of anticipated pri-
13 vate sector participation;

14 “(9) a proposal for the institutional and govern-
15 ance structures that will be necessary to develop the
16 regional network;

17 “(10) other project implementation consider-
18 ations, including an analysis of the readiness of spe-
19 cific corridors to proceed for development;

20 “(11) an examination of multi-modal connec-
21 tions that considers the most cost-effective means
22 for achieving the region’s transportation goals and
23 objectives;

24 “(12) identification of plans for cost-effective,
25 public investment in intercity passenger rail projects

1 that contribute toward the efficient movement and
2 increased capacity for freight rail operations;

3 “(13) a list of capital projects needed to imple-
4 ment a region’s portion of the national rail plan;

5 “(14) a plan for coordinating service and cap-
6 ital projects with adjacent regions;

7 “(15) a plan for crossing international borders,
8 as appropriate;

9 “(16) a plan for integrating any proposed new
10 services with existing service; and

11 “(17) a description of how the regional rail plan
12 refines and advances the implementation of the na-
13 tional rail plan.

14 “(d) UPDATES.—Not later than 1 year after the pub-
15 lication of the national rail plan under section 22701 and
16 periodically thereafter, the Secretary shall update each re-
17 gional rail plan—

18 “(1) to reflect any material changes to the con-
19 tents under subsection (c); and

20 “(2) to include any changes made to the na-
21 tional rail plan under section 22701.

22 “(e) WAIVER.—The Secretary may waive a content
23 requirement under subsection (c) as necessary to accom-
24 modate a unique characteristic or situation in a region.

1 **“§ 22703. State rail plans**

2 “(a) IN GENERAL.—A State may prepare and main-
3 tain a State rail plan. A State rail plan shall—

4 “(1) be consistent with the national rail plan
5 under section 22701;

6 “(2) be consistent with the regional rail plans
7 under section 22702;

8 “(3) coordinate with other State transportation
9 planning goals and programs, including the state-
10 wide transportation plans under section 135 of title
11 23, and

12 “(4) set forth rail transportation’s role within
13 the State’s transportation system.

14 “(b) PURPOSES.—The purposes of a State rail plan
15 shall be to refine and advance the implementation of the
16 national rail plan and relevant regional rail plan under
17 sections 22701 and 22702.

18 “(c) OBJECTIVES.—The objectives of a State rail
19 plan shall be—

20 “(1) to set forth the State’s policy on freight
21 and intercity passenger rail transportation, including
22 commuter rail operations, within the State;

23 “(2) to establish the time period covered by the
24 State rail plan;

1 “(3) to present the priorities and strategies to
2 enhance rail service within the State that benefits
3 the public; and

4 “(4) to serve as the basis for Federal and State
5 rail investments within the State.

6 “(d) REQUIREMENTS.—

7 “(1) ESTABLISHMENT.—The Secretary shall es-
8 tablish minimum requirements, consistent with sec-
9 tions 22701 and 22702, for the preparation and
10 periodic revision of a State rail plan, including—

11 “(A) the establishment or designation of a
12 State rail transportation authority to prepare,
13 maintain, coordinate, and administer the State
14 rail plan;

15 “(B) the establishment or designation of a
16 State approval authority to approve the State
17 rail plan;

18 “(C) the submission of the State’s ap-
19 proved State rail plan to the Secretary for re-
20 view and approval; and

21 “(D) the revision and resubmittal of a
22 State-approved State rail plan for review and
23 approval by the Secretary not less than once
24 every 5 years.

1 “(2) REVIEW.—The Secretary shall prescribe
2 procedures for a State to submit a State rail plan
3 for review and approval, including standardized for-
4 mat and data requirements.

5 “(3) COMPLIANCE.—The Secretary shall deem
6 a State rail plan to be in compliance with this chap-
7 ter if the State rail plan—

8 “(A) is completed before the date of enact-
9 ment of the National Rail System Preservation,
10 Expansion, and Development Act of 2012; and

11 “(B) substantially meets the requirements
12 of chapter 227 as in effect on the day before
13 the date of enactment of the National Rail Sys-
14 tem Preservation, Expansion, and Development
15 Act of 2012.

16 “(4) UPDATES.—A State rail plan that is
17 deemed in compliance under paragraph (3) shall be
18 updated not later than 1 year after the date of en-
19 actment of the National Rail System Preservation,
20 Expansion, and Development Act of 2012.

21 “(e) CONTENTS.—A State rail plan shall include—

22 “(1) an inventory of the existing overall rail
23 transportation system and rail services and facilities
24 within the State;

1 “(2) an analysis of the role of rail transpor-
2 tation within the State’s surface transportation sys-
3 tem;

4 “(3) a review of all rail lines within the State,
5 including any proposed high-speed rail corridors and
6 significant rail line segments not currently in serv-
7 ice;

8 “(4) a statement of the State’s passenger rail
9 service objectives, including minimum service levels,
10 for rail transportation routes within the State;

11 “(5) a general analysis of rail’s transportation,
12 economic, and environmental impacts within the
13 State, including congestion mitigation, trade and
14 economic development, air quality, land-use, energy-
15 use, and community impacts;

16 “(6) a long-range rail service and investment
17 program for current and future freight and intercity
18 passenger infrastructure within the State that meets
19 the requirements under subsection (f);

20 “(7) a statement of the public financing issues
21 for rail projects or service within the State, includ-
22 ing a list of current and prospective public capital
23 and operating funding resources, public subsidies,
24 State taxation, and other financial policies relating
25 to rail infrastructure development;

1 “(8) the identification of rail infrastructure
2 issues within the State, after consulting with rel-
3 evant stakeholders;

4 “(9) a review of major passenger and freight
5 intermodal rail connections and facilities within the
6 State, including seaports;

7 “(10) a list of prioritized options to maximize
8 service integration and efficiency between rail and
9 other modes of transportation within the State;

10 “(11) a review of publicly funded projects with-
11 in the State to improve rail transportation safety
12 and security, including major projects funded under
13 section 130 of title 23;

14 “(12) a performance evaluation of passenger
15 rail services operating in the State, including pos-
16 sible improvements to those services and a descrip-
17 tion of strategies to achieve the improvements;

18 “(13) a compilation of studies and reports on
19 high-speed rail corridor development within the
20 State that were not included in a prior plan under
21 this chapter;

22 “(14) a plan for funding any recommended de-
23 velopment of a high-speed rail corridor within the
24 State; and

1 “(15) a statement that the State is in compli-
2 ance with the requirements of section 22102.

3 “(f) LONG-RANGE RAIL SERVICE AND INVESTMENT
4 PROGRAM.—

5 “(1) CONTENTS.—A long-range rail service and
6 investment program under subsection (e)(6) shall in-
7 clude—

8 “(A) a prioritized list of any freight or
9 intercity passenger rail capital projects expected
10 to be commenced or supported in whole or in
11 part by the State; and

12 “(B) a detailed capital and operating fund-
13 ing plan for each rail capital project under sub-
14 paragraph (A).

15 “(2) RAIL CAPITAL PROJECTS LIST.—

16 “(A) CONTENTS.—A list of rail capital
17 projects under paragraph (1)(A) shall include—

18 “(i) a description of the anticipated
19 public and private benefits of each rail cap-
20 ital project; and

21 “(ii) a statement of the correlation be-
22 tween—

23 “(I) public funding contributions
24 for each rail capital project; and

25 “(II) the public benefits.

1 “(B) CONSIDERATIONS.—A State rail
2 transportation authority shall consider, when
3 preparing a list of rail capital projects under
4 this subsection—

5 “(i) contributions made by non-Fed-
6 eral and non-State sources through user
7 fees, matching funds, or other private cap-
8 ital involvement;

9 “(ii) rail capacity and congestion ef-
10 fects;

11 “(iii) effects on highway, aviation, and
12 maritime capacity, congestion, and safety;

13 “(iv) regional balance;

14 “(v) environmental impact;

15 “(vi) economic and employment im-
16 pacts; and

17 “(vii) projected ridership and other
18 service measures for passenger rail
19 projects.

20 “(g) A State shall not be eligible to receive financial
21 assistance under chapter 244 or 261 unless the State com-
22 pletes a State rail plan pursuant to this section.

23 **“§ 22704. Transparency and coordination**

24 “(a) PREPARATION AND REVIEW.—

1 “(1) FEDERAL TRANSPARENCY.—The Secretary
2 of Transportation shall provide adequate and rea-
3 sonable notice and an opportunity for comment to
4 the public, rail carriers, commuter and transit au-
5 thorities (operating in or affected by rail operations
6 within the region or State), units of local govern-
7 ment, and other interested parties when the Sec-
8 retary prepares or reviews the national rail plan
9 under section 22701 or a regional rail plan under
10 section 22702.

11 “(2) STATE TRANSPARENCY.—A State shall
12 provide adequate and reasonable notice and an op-
13 portunity for comment to the public, rail carriers,
14 commuter and transit authorities (operating in or
15 affected by rail operations within the region or the
16 State), units of local government, and other inter-
17 ested parties, when the State prepares or reviews a
18 State rail plan under section 22703.

19 “(b) INTERGOVERNMENTAL COORDINATION.—A
20 State shall—

21 “(1) review the freight and passenger rail serv-
22 ice activities and initiatives by regional planning
23 agencies, regional transportation authorities, and
24 municipalities (within the State or within the region

1 in which the State is located) when preparing a
2 State rail plan; and

3 “(2) include any recommendations made by the
4 regional planning agencies, regional transportation
5 authorities, and municipalities (within the State or
6 within the region in which the State is located), as
7 deemed appropriate by the State.

8 **“§ 22705. Definitions**

9 “In this chapter:

10 “(1) PRIVATE BENEFIT.—The term ‘private
11 benefit’ means a benefit—

12 “(A) that is determined on a project-by-
13 project basis, based upon an agreement between
14 the parties;

15 “(B) that is accrued to a person or private
16 entity, other than Amtrak, that directly im-
17 proves the economic and competitive condition
18 of the person or private entity through im-
19 proved assets, cost reductions, service improve-
20 ments, or other means as defined by the Sec-
21 retary; or

22 “(C) that is defined by the Secretary, with
23 advice from the States and rail carriers if the
24 Secretary deems such advice necessary.

1 “(2) PUBLIC BENEFIT.—The term ‘public ben-
2 efit’ means a benefit—

3 “(A) that is determined on a project-by-
4 project basis, based upon an agreement between
5 the parties;

6 “(B) that is accrued to the public, includ-
7 ing Amtrak, in the form of enhanced mobility
8 of people or goods, environmental protection or
9 enhancement, congestion mitigation, enhanced
10 trade and economic development, improved air
11 quality or land use, more efficient energy use,
12 enhanced public safety or security, reduction of
13 public expenditures due to improved transpor-
14 tation efficiency or infrastructure preservation,
15 and any other positive community effects as de-
16 fined by the Secretary; or

17 “(C) that is defined by the Secretary, with
18 advice from the States and rail carriers if the
19 Secretary deems such advice necessary.

20 “(3) STATE.—The term ‘State’ means any of
21 the 50 States and the District of Columbia.

22 “(4) STATE RAIL TRANSPORTATION AUTHOR-
23 ITY.—The term ‘State rail transportation authority’
24 means the State agency or official responsible under
25 the direction of the Governor of the State or a State

1 law for the preparation, maintenance, coordination,
2 and administration of the State rail plan.”.

3 **SEC. 35102. IMPROVED DATA ON DELAY.**

4 Not later than 1 year after the date of enactment
5 of this Act, the Secretary of Transportation, in coordina-
6 tion with Amtrak, freight railroads, and other parties, as
7 appropriate, shall develop guidance for developing im-
8 proved, including automated, means of measuring on-time
9 performance delays.

10 **SEC. 35103. DATA AND MODELING.**

11 (a) DATA.—Not later than 1 year after the date of
12 enactment of this Act, the Secretary of Transportation
13 shall conduct a data needs assessment, in consultation
14 with the Surface Transportation Board, Amtrak, freight
15 railroads, and State and local governments, to support the
16 development of an efficient and effective intercity pas-
17 senger rail network. The data needs assessment shall,
18 among other things—

19 (1) identify the data needed to conduct cost-ef-
20 fective modeling and analysis for high-speed and
21 intercity passenger rail development programs;

22 (2) determine limitations to the data used for
23 inputs and develop a strategy to address the limita-
24 tions;

25 (3) identify barriers to accessing existing data;

1 (4) include recommendations regarding whether
2 the authorization of additional data collection for
3 intercity passenger rail travel is warranted; and

4 (5) determine which entities will be responsible
5 for generating or collecting needed data.

6 (b) MODELING.—Not later than 1 year after the date
7 of enactment of this Act, the Secretary of Transportation
8 shall develop or improve modeling capabilities to support
9 the development of an efficient and effective intercity pas-
10 senger rail network, including service development, capac-
11 ity expansion, cost-effectiveness, and ridership estimates.

12 (c) BENEFIT-COST ANALYSIS.—Not later than 1 year
13 after the date of enactment of this Act, the Secretary of
14 Transportation shall enhance the usefulness of assess-
15 ments of benefits and costs, for both intercity passenger
16 rail and freight rail projects by—

17 (1) providing ongoing guidance and training on
18 developing benefit and cost information for rail
19 projects;

20 (2) providing more direct and consistent re-
21 quirements for assessing benefits and costs across
22 transportation funding programs, including the ap-
23 propriate use of discount rates;

24 (3) requiring an applicant to clearly commu-
25 nicate the methodology that is used to calculate the

1 project benefits and costs, including information on
2 assumptions underlying calculations, strengths and
3 limitations of data used, and the level of uncertainty
4 in estimates of project benefits and costs; and

5 (4) ensuring that an applicant receives clear
6 and consistent guidance on values to apply for key
7 assumptions used to estimate potential project bene-
8 fits and costs.

9 (d) CONFIDENTIAL DATA.—For the purposes of this
10 section, the Secretary of Transportation shall protect any
11 confidential data from public disclosure and such con-
12 fidential data shall only be provided on the basis of a vol-
13 untary agreement.

14 **SEC. 35104. SHARED-USE CORRIDOR STUDY.**

15 (a) IN GENERAL.—Not later than 2 years after the
16 date of enactment of this Act, the Secretary shall complete
17 a shared-use corridor study, in consultation with the Sur-
18 face Transportation Board, Amtrak, freight railroads,
19 States, non-profit employee labor organizations, and other
20 users of the rail system, as appropriate, to evaluate the
21 best means to enhance and support the further develop-
22 ment of high-speed and intercity passenger rail service
23 within United States shared-use corridors.

24 (b) CONTENTS.—In conducting the shared-use cor-
25 ridor study, the Secretary shall—

1 (1) survey the access arrangements for high-
2 speed and intercity passenger rail service for use of
3 rail infrastructure, assets and facilities owned by
4 freight railroads, commuter authorities, or other en-
5 tities, and standard processes for the resolution of
6 disputes relating to such access;

7 (2) evaluate the roles and responsibilities of
8 high-speed and intercity passenger rail, freight rail,
9 and commuter rail service providers and infrastruc-
10 ture owners in complying with Federal, State, and
11 local applicable requirements within United States
12 shared-use corridors;

13 (3) evaluate the roles and responsibilities of
14 Federal, State, and local governments, infrastruc-
15 ture owners, and high speed and intercity passenger
16 rail, freight rail, and commuter rail service providers
17 in supporting both the preservation and expansion of
18 high-speed and intercity passenger rail service,
19 freight transportation, and commuter transportation
20 on shared infrastructure or rights-of-way;

21 (4) evaluate the roles and responsibilities of
22 high-speed and intercity passenger rail, freight rail,
23 and commuter rail service providers in achieving sat-
24 isfactory on time performance for passenger and
25 freight rail services in shared use corridors; and

1 (5) evaluate other issues identified by the Sec-
2 retary.

3 (c) REPORT.—Not later than 90 days after the date
4 the shared-use corridor study is completed under sub-
5 section (a), the Secretary shall—

6 (1) report the results of the shared-use corridor
7 study to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Rep-
9 resentatives Committee on Transportation and In-
10 frastructure; and

11 (2) make the shared-use corridor study avail-
12 able to the public on the Department of Transpor-
13 tation’s website.

14 **SEC. 35105. COOPERATIVE EQUIPMENT POOL.**

15 (a) IN GENERAL.—The Next Generation Corridor
16 Equipment Pool Committee established under section 305
17 of the Passenger Rail Investment and Improvement Act
18 of 2008 (49 U.S.C. 24101 note) shall continue to imple-
19 ment its authorized functions, as appropriate, and shall
20 maintain and update, as needed, the specifications created
21 by the Committee.

22 (b) EQUIPMENT POOLING ENTITY.—Section 305 of
23 the Passenger Rail Investment and Improvement Act of
24 2008 (49 U.S.C. 24101 note), is amended by adding at
25 the end the following:

1 “(f) EQUIPMENT POOLING ENTITY.—

2 “(1) ESTABLISHMENT.—Not later than 1 year
3 after the date of enactment of the National Rail
4 System Preservation, Expansion, and Development
5 Act of 2012, the Committee shall create an equip-
6 ment pooling entity that includes—

7 “(A) Amtrak;

8 “(B) States that purchase, with Federal
9 funds, intercity passenger rail rolling stock and
10 equipment that is built in accordance with the
11 specifications created by the Next Generation
12 Corridor Equipment Pool Committee; and

13 “(C) other States and entities, as appro-
14 priate.

15 “(2) IN GENERAL.—The equipment pooling en-
16 tity—

17 “(A) may—

18 “(i) be a corporation or other coopera-
19 tive entity; and

20 “(ii) be owned or jointly-owned by
21 Amtrak, a participating State, or other en-
22 tity; and

23 “(B) shall be authorized to—

24 “(i) lease or acquire intercity pas-
25 senger rail rolling stock and equipment

1 used in State-supported corridor services
2 on routes that are not more than 750
3 miles between end points, including by en-
4 tering into agreements for the funding, fi-
5 nancing, procurement, remanufacture,
6 ownership, and disposal of the intercity
7 passenger rail rolling stock and equipment;

8 “(ii) maintain, manage, and allocate
9 intercity passenger rail rolling stock and
10 equipment for use in State-supported cor-
11 ridor services, including by charging appro-
12 priate amounts for the use (including de-
13 preciation and financing costs) of the
14 intercity passenger rail rolling stock and
15 equipment; and

16 “(iii) ensure adequate quantity and
17 quality of appropriate intercity passenger
18 rail rolling stock and equipment to support
19 the State-supported corridor services’
20 needs as identified in the national rail
21 plan, regional rail plans, or State rail plans
22 under chapter 227.

23 “(3) TRANSFER OF EQUIPMENT.—Amtrak,
24 after consultation with the Secretary, may sell, lease,
25 or otherwise transfer equipment currently owned or

1 leased by Amtrak to the equipment pooling entity.
2 The operation and utilization of any equipment
3 transferred to the equipment pooling entity shall be
4 covered by section 24405(b).

5 “(4) TRANSFER REQUIREMENT.—A State shall
6 sell, lease, or otherwise transfer equipment built in
7 accordance with the specifications created by the
8 Next Generation Corridor Equipment Pool Com-
9 mittee and purchased with Federal funds to the
10 equipment pooling entity unless the Secretary ex-
11 empts a State from this requirement.

12 “(g) GRANT FUNDING.—A capital project to carry
13 out this section shall be eligible for grants under chapter
14 244. The equipment pooling entity shall be an eligible
15 grant recipient under chapter 244.”.

16 **SEC. 35106. PROJECT MANAGEMENT OVERSIGHT AND**
17 **PLANNING.**

18 Section 101(d) of the Passenger Rail Investment and
19 Improvement Act of 2008 (122 Stat. 4908) is amended—

20 (1) by striking “1/2 of”; and

21 (2) by inserting “and joint capital planning”

22 after “oversight”.

1 **SEC. 35107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE**
2 **PROGRAMS.**

3 (a) AMENDMENTS TO CHAPTER 244.—Chapter 244
4 is amended—

5 (1) in section 24401(1)—

6 (A) by striking “or” the first place it ap-
7 pears; and

8 (B) by striking “service.” and inserting
9 “service, or Amtrak.”;

10 (2) by amending section 24402(b) to read as
11 follows:

12 “(b) PROJECT AS PART OF THE NATIONAL RAIL
13 PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.—

14 “(1) GRANT APPROVAL.—The Secretary may
15 not approve a grant for a project under this section
16 unless the Secretary finds that—

17 “(A) the project is part of the national rail
18 plan, a regional rail plan, or a State rail plan
19 under chapter 227; or

20 “(B) the project is part of the capital
21 spending plan under section 211 of the Pas-
22 senger Rail Investment and Improvement Act of
23 2008 (49 U.S.C. 24902 note); and

24 “(C) the applicant or recipient has or will
25 have directly or through appropriate agree-

1 ments with other entities, as approved by the
2 Secretary—

3 “(i) the legal, financial, and technical
4 capacity to carry out the project;

5 “(ii) satisfactory continuing control
6 over the use of the equipment or facilities;
7 and

8 “(iii) the capability and willingness to
9 maintain the equipment or facilities.

10 “(2) PROVISION OF INFORMATION.—An appli-
11 cant or recipient shall provide sufficient information
12 for the Secretary to make the required findings
13 under this subsection.

14 “(3) JUSTIFICATION.—An applicant or recipi-
15 ent, except for Amtrak, that did not select the pro-
16 posed operator of its service competitively shall pro-
17 vide written justification to the Secretary substan-
18 tiating—

19 “(A) why the proposed operator is the
20 best, taking into account price and other fac-
21 tors; and

22 “(B) that the use of the proposed operator
23 will not unnecessarily increase the cost of the
24 project.”;

25 (3) in section 24402(c)—

1 (A) by amending paragraph (1)(A) to read
2 as follows:

3 “(1) that the project be part of the national rail
4 plan, a regional rail plan, or a State rail plan under
5 chapter 227, or the capital spending plan under sec-
6 tion 211 of the Passenger Rail Investment and Im-
7 provement Act of 2008 (49 U.S.C. 24902 note);”;

8 (B) in paragraph (1)(D), by inserting “,
9 except for Amtrak,” after “an applicant”;

10 (C) by amending paragraph (1)(F) to read
11 as follows:

12 “(F) that each project be compatible with
13 and operate in conformance with plans devel-
14 oped pursuant to the requirements of section
15 135 of title 23, United States Code;”;

16 (D) in paragraph (2)(C), by striking
17 “and”;

18 (E) in paragraph (3)(B)(iii), by striking
19 the period and inserting “; and”; and

20 (F) by adding at the end the following:

21 “(4) achieve the appropriate mix of projects se-
22 lected for funding to ensure the advancement of the
23 national rail plan, including both the development of
24 new or expanded routes and services and the mainte-
25 nance and improvement of the current rail system.”;

1 (4) by amending section 24402(d) to read as
2 follows:

3 “(d) STATE RAIL PLANS.—State rail plans completed
4 before the date of enactment of the Passenger Rail Invest-
5 ment and Improvement Act of 2008 (122 Stat. 4907) that
6 substantially meet the requirements of chapter 227 as in
7 effect on the day before the date of enactment of the Na-
8 tional Rail System Preservation, Expansion, and Develop-
9 ment Act of 2012, shall be deemed by the Secretary to
10 have met the requirements of subsection (c)(1)(A) of this
11 section.”;

12 (5) by amending section 24402(e) to read as
13 follows:

14 “(e) PROJECT TRANSFERS.—The Secretary may per-
15 mit a recipient under this section to enter into a coopera-
16 tive agreement to transfer the grant and related respon-
17 sibilities and requirements to Amtrak to expedite, en-
18 hance, or otherwise facilitate the completion of the project
19 and any such transfer shall be subject to the requirements
20 of this chapter.”;

21 (6) in the heading of section 24402(f), by strik-
22 ing “AND EARLY SYSTEMS WORK AGREEMENTS”;

23 (7) by amending section 24402(f)(1) to read as
24 follows:

1 “(1) In implementing this section, the Secretary
2 may issue a letter of intent to an applicant announce-
3 ing an intention to obligate, for a major capital
4 project under this section, an amount from future
5 available budget authority specified in law that is
6 not more than the amount stipulated as the financial
7 participation of the Secretary in the project.”;

8 (8) in section 24402(g) by—

9 (A) amending paragraph (1)(B) to read as
10 follows:

11 “(B) A grant—

12 “(i) for a project designated as part
13 of a priority corridor or service by the na-
14 tional rail plan and scheduled within the
15 national rail plan to be implemented within
16 a time frame consistent with the grant ap-
17 plication shall not exceed 80 percent of the
18 project net capital cost;

19 “(ii) for a project to implement a per-
20 formance improvement plan under section
21 24710 shall not exceed 100 percent of the
22 net project capital cost; and

23 “(iii) for any other project shall not
24 exceed 50 percent of the net project capital
25 cost.”; and

1 (B) by adding at the end the following:

2 “(5) When Amtrak is an applicant under this
3 chapter, it may use ticket and other revenues gen-
4 erated from its operations and other sources to sat-
5 isfy the non-Federal share requirements under this
6 subsection, except that Amtrak may not use Federal
7 funds authorized under subsections (a) or (c) of sec-
8 tion 101 of the Passenger Rail Investment and Im-
9 provement Act of 2008 (122 Stat. 4908).”;

10 (9) in section 24402(h), by striking “2” each
11 place it appears and inserting “3”;

12 (10) in section 24402(i)(1), by striking “A met-
13 ropolitan planning organization, State transportation
14 department, or other project sponsor” and inserting
15 “An applicant”;

16 (11) by amending section 24402(k) to read as
17 follows:

18 “(k) SMALL CAPITAL PROJECTS.—The Secretary
19 shall make not less than 5 percent annually available from
20 the amounts appropriated under section 24406 beginning
21 in fiscal year 2009 for grants for capital projects eligible
22 under this section not exceeding \$10,000,000, including
23 costs eligible under section 209(d) of the Passenger Rail
24 Investment and Improvement Act of 2008 (49 U.S.C.
25 24101 note). For grants awarded under this subsection,

1 the Secretary may waive one or more of the requirements
2 of this section, including State rail plan requirements, or
3 of section 24405(c)(1)(B), as appropriate.”;

4 (12) by amending section 24403(b) to read as
5 follows:

6 “(b) SECRETARIAL OVERSIGHT AND PARTICIPA-
7 TION.—

8 “(1) The Secretary may use not more than 1
9 percent of amounts made available in a fiscal year
10 for capital projects under this chapter to participate
11 in the planning, management, and oversight of the
12 development and implementation of any such
13 projects.

14 “(2) The Secretary may use amounts available
15 under paragraph (1) to directly undertake or make
16 contracts for project planning and design participa-
17 tion or safety, procurement, management, and finan-
18 cial compliance reviews and audits of a recipient of
19 grants awarded under this chapter.

20 “(3) The Federal Government shall pay the en-
21 tire cost of carrying out a contract under this sub-
22 section.”; and

23 (13) in section 24405 by adding “or between
24 Amtrak and the railroad” after “railroad” in sub-
25 section (c)(1).

1 (b) CHAPTER 244 GRANT PROCEDURES.—Not later
 2 than 180 days after the date of enactment of this Act,
 3 the Secretary of Transportation shall issue a final rule es-
 4 tablishing grant procedures, as required by section
 5 24402(a) of title 49, United States Code.

6 (c) AMENDMENTS TO CHAPTER 261.—Chapter 261
 7 is amended—

8 (1) in section 26106—

9 (A) by amending subsection (a) to read as
 10 follows:

11 “(a) IN GENERAL.—The Secretary of Transportation
 12 shall establish and implement a high-speed rail corridor
 13 program consistent with the national rail plan, regional
 14 rail plans, and State rail plans required by chapter 227
 15 of title 49, United States Code.”;

16 (B) by amending subsection (b)(2) to read
 17 as follows:

18 “(2) CORRIDOR.—The term ‘corridor’ means—

19 “(A) a corridor designated by the Sec-
 20 retary pursuant to section 104(d)(2) of title 23;

21 or

22 “(B) a corridor expected to achieve high-
 23 speed service pursuant to section 22701 of title
 24 49.”;

25 (C) in subsection (e)(2)(A)—

1 (i) in clause (ii), by inserting “, di-
2 rectly or through appropriate agreements
3 with other entities,” after “have”;

4 (ii) in clause (v), by inserting “, ex-
5 cept for Amtrak,” after “applicant”;

6 (iii) in clause (vi), by striking “; and”
7 and inserting a semicolon;

8 (iv) in clause (vii)(II), by striking “(if
9 it is available)”;

10 (v) by adding at the end the following:

11 “(viii) that the project and the high-
12 speed rail services it supports are coordi-
13 nated and integrated with existing and
14 planned conventional intercity passenger
15 rail services;

16 “(ix) that the Secretary, and Amtrak
17 at the Secretary’s request, are permitted to
18 participate in the planning, design, man-
19 agement, and delivery of the project, as
20 necessary to ensure project success and
21 promote interstate commerce; and

22 “(x) that the Federal government is
23 accorded an appropriate participation,
24 oversight, ownership, or control in the
25 project commensurate with the level of

1 Federal investment as determined by the
2 Secretary;” and

3 (D) in subsection (e)(4), by striking “pur-
4 suant to section 22506 of this title”.

5 (d) CONGESTION GRANTS.—Section 24105 is amend-
6 ed—

7 (1) in subsection (a)—

8 (A) by striking “in cooperation with
9 States” and “high priority rail corridor”;

10 (B) by striking “congestion” and inserting
11 “freight or commuter railroad congestion that
12 impacts intercity passenger trains, enhance
13 route performance, preserve service,” and

14 (C) by striking the period and inserting
15 “on routes defined under section
16 24102(5)(C).”;

17 (2) in subsection (b)—

18 (A) by inserting “or the Federal Railroad
19 Administration” after “Amtrak”;

20 (B) by striking “congestion” and inserting
21 “freight or commuter railroad congestion that
22 impacts intercity passenger trains, enhance
23 route performance, preserve service,”;

24 (C) by striking “; and” and inserting a pe-
25 riod; and

1 (D) by striking paragraph (3);

2 (3) in subsection (c), by striking “80” and in-
3 sserting “100”; and

4 (4) in subsection (d), by inserting “, except that
5 the Secretary may waive the requirements of section
6 24405(c)(1)(B), as appropriate, for grants totaling
7 less than \$10,000,000” after “title”.

8 (e) **ADDITIONAL HIGH-SPEED RAIL PROJECTS.**—
9 The Passenger Rail Investment and Improvement Act of
10 2008 (122 Stat. 4907) is amended by striking section 502.

11 **SEC. 35108. LIABILITY.**

12 (a) **CLARIFICATION OF COMMUTER RAIL LIABIL-**
13 **ITY.**—Section 28103 is amended—

14 (1) in subsection (a)(2), by inserting, “, includ-
15 ing commuter rail passengers,” after “rail pas-
16 sengers,”;

17 (2) by amending subsection (b) to read as fol-
18 lows:

19 “(b) **CONTRACTUAL OBLIGATIONS.**—A provider of
20 rail passenger transportation may enter into contracts
21 that allocate financial responsibility for claims. Such con-
22 tracts shall be enforceable notwithstanding any other pro-
23 vision of law, common law, or public policy, or the nature
24 of the conduct giving rise to the damages or liability.”;
25 and

1 (3) in subsection (e)—

2 (A) by striking “and” at the end of para-
3 graph (2);

4 (B) by striking the period at the end of
5 paragraph (3) and inserting “; and”; and

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

7 “(4) the term ‘rail passenger transportation’ in-
8 cludes commuter rail transportation.”.

9 (b) STUDY.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary of
12 Transportation shall conduct a study regarding op-
13 tions for clarifying and improving passenger rail li-
14 ability requirements and arrangements, including
15 those related to environmental liability, necessary for
16 supporting the continued development and improve-
17 ment of the national passenger rail system and the
18 furtherance of the national rail plan under chapter
19 227 of title 49, United States Code. The study shall
20 consider—

21 (A) whether to expand statutory liability
22 limits to third parties; and

23 (B) whether to revise the current statutory
24 liability limits based on inflation or other meth-

1 ods to improve the certainty of liability cov-
2 erage.

3 (2) REPORT.—Not later than 90 days after the
4 date of completion of the study, the Secretary shall
5 submit the results of the study and any associated
6 recommendations to the Committee on Commerce,
7 Science, and Transportation of the Senate and the
8 Committee on Transportation and Infrastructure of
9 the House of Representatives.

10 **SEC. 35109. DISADVANTAGED BUSINESS ENTERPRISES.**

11 (a) DEFINITIONS.—In this section:

12 (1) SECRETARY.—The term “Secretary” means
13 the Secretary of Transportation.

14 (2) SMALL BUSINESS CONCERN.—The term
15 “small business concern” has the meaning given the
16 term in section 3 of the Small Business Act (15
17 U.S.C. 632), except the term does not include any
18 concern or group of concerns that—

19 (A) are controlled by the same socially and
20 economically disadvantaged individual or indi-
21 viduals; and

22 (B) have average annual gross receipts
23 over the preceding 3 fiscal years in excess of
24 \$22,410,000, as adjusted annually by the Sec-
25 retary for inflation.

1 (3) SOCIALLY AND ECONOMICALLY DISADVAN-
2 TAGED INDIVIDUALS.—

3 (A) IN GENERAL.—

4 (i) SOCIALLY DISADVANTAGED INDI-
5 VIDUALS.—The term “socially disadvan-
6 tagged individuals” has the meaning given
7 the term in section 8(a)(5) of the Small
8 Business Act (15 U.S.C. 637(a)(5)), and
9 relevant subcontracting regulations issued
10 pursuant to that Act.

11 (ii) ECONOMICALLY DISADVANTAGED
12 INDIVIDUALS.—The term “economically
13 disadvantaged individuals” has the mean-
14 ing given the term in section 8(a)(6) of the
15 Small Business Act (15 U.S.C. 637(a)(6)),
16 and relevant subcontracting regulations
17 issued pursuant to that Act.

18 (B) INCLUSIONS.—For purposes of this
19 section, women shall be presumed to be socially
20 and economically disadvantaged individuals.

21 (b) IN GENERAL.—Except to the extent that the Sec-
22 retary determines otherwise, not less than 10 percent of
23 the amounts made available for any program under chap-
24 ter 244, section 24105, or section 26106 of title 49,
25 United States Code, shall be expended through a small

1 business concern owned and controlled by 1 or more so-
2 cially and economically disadvantaged individuals.

3 (c) ANNUAL LISTING OF DISADVANTAGED SMALL
4 BUSINESS CONCERNS.—Each State shall annually—

5 (1) survey each small business concern in the
6 State;

7 (2) compile a list of all of the small business
8 concerns in the State, including the location of each
9 small business concern in the State; and

10 (3) notify the Secretary, in writing, of the per-
11 centage of the small business concerns that—

12 (A) are controlled by women;

13 (B) are controlled by socially and economi-
14 cally disadvantaged individuals (except for
15 women); and

16 (C) are controlled by individuals who are
17 women and who are socially and economically
18 disadvantaged individuals.

19 (d) UNIFORM CERTIFICATION.—The Secretary shall
20 establish minimum uniform criteria for State governments
21 to use in certifying whether a small business concern
22 qualifies under this section. The minimum uniform criteria
23 shall include—

24 (1) an on-site visit;

25 (2) a personal interview;

- 1 (3) a license;
- 2 (4) an analysis of stock ownership;
- 3 (5) an analysis of bonding capacity;
- 4 (6) the listing of equipment;
- 5 (7) the listing of work completed; and
- 6 (8) a resume of each principal owner, the finan-
7 cial capacity, and the type of work preferred.

8 (e) REPORTING.—The Secretary shall establish min-
9 imum requirements for State governments to use in re-
10 porting to the Secretary information concerning disadvan-
11 taged business enterprise awards, commitments, and
12 achievements, and such other information as the Secretary
13 determines appropriate for the proper monitoring of the
14 disadvantaged business enterprise program.

15 (f) COMPLIANCE WITH COURT ORDERS.—Nothing in
16 this section shall limit the eligibility of a person to receive
17 funds made available under chapter 244, section 24105,
18 or section 26106 of title 49, United States Code, if the
19 person is prevented, in whole or in part, from complying
20 with subsection (b) because a Federal court issues a final
21 order in which the court finds that the requirement of sub-
22 section (b) or the program established under subsection
23 (b) is unconstitutional.

1 **SEC. 35110. WORKFORCE DEVELOPMENT.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Secretary of Transportation shall, in con-
4 sultation with the States, local governments, Amtrak,
5 freight railroad, and non-profit employee labor organiza-
6 tions—

7 (1) complete a study regarding workforce devel-
8 opment needs in the passenger and freight rail in-
9 dustry, including what knowledge and skill gaps in
10 planning, financing, engineering, and operating pas-
11 senger and freight rail systems exist, to assist in cre-
12 ating programs to help improve the rail industry;

13 (2) make recommendations based on the results
14 of the study; and

15 (3) report the findings and recommendations to
16 the Committee on Commerce, Science, and Trans-
17 portation of the Senate and the Committee on
18 Transportation and Infrastructure of the House of
19 Representatives.

20 **SEC. 35111. VETERANS EMPLOYMENT.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Secretary of Transportation shall—

23 (1) conduct a study to evaluate the best means
24 for providing a preference to veterans in the award-
25 ing of contracts and subcontracts using amounts

1 made available under chapter 244, and sections
2 24105 and 26104 of title 49, United States Code;

3 (2) make recommendations based on the results
4 of the study; and

5 (3) report the findings and recommendations to
6 the Committee on Commerce, Science, and Trans-
7 portation of the Senate and the Committee on
8 Transportation and Infrastructure of the House of
9 Representatives.

10 **Subtitle B—Amtrak**

11 **SEC. 35201. STATE-SUPPORTED ROUTES.**

12 (a) GRANT AVAILABILITY.—In addition to the uses
13 permitted under section 209(d) of the Passenger Rail In-
14 vestment and Improvement Act of 2008 (49 U.S.C. 24101
15 note), a State may use funds provided under section
16 24406 of title 49, United States Code, to temporarily pay
17 Amtrak some or all of the operating costs for services
18 identified under section 24102(5)(D) of title 49, United
19 States Code, determined under the methodology estab-
20 lished pursuant to section 209 of the Passenger Rail In-
21 vestment and Improvement Act of 2008 (49 U.S.C. 24101
22 note), that exceed—

23 (1) the operating costs (adjusted for inflation)
24 that the State paid Amtrak for the same services in

1 the year prior to the implementation of section 209
2 of that Act; or

3 (2) if the services were not fully State-sup-
4 ported in that year, the full cost the State would
5 have paid Amtrak under the State-supported service
6 costing methodology then in effect.

7 (b) TRANSITION ASSISTANCE GUIDANCE.—Not later
8 than 180 days after the Surface Transportation Board de-
9 termines the appropriate methodology pursuant to section
10 209 of the Passenger Rail Investment and Improvement
11 Act of 2008 (49 U.S.C. 24101 note), the Secretary shall
12 develop a transition assistance guidance that includes—

13 (1) criteria for phasing-out the temporary oper-
14 ating assistance under this section not later than
15 October 1, 2017;

16 (2) a grant application process that permits—

17 (A) States to apply for such funds individ-
18 ually or collectively; and

19 (B) Amtrak to be considered the grant re-
20 cipient of such funds upon an agreement be-
21 tween a State or States and Amtrak; and

22 (3) policies governing financial terms, repay-
23 ment conditions, and other terms of financial assist-
24 ance.

1 (c) ELIGIBILITY.—To be eligible for Federal transi-
2 tion assistance, an intercity passenger rail service shall
3 provide high-speed or intercity passenger rail revenue op-
4 eration on routes that are subject to section 209 of the
5 Passenger Rail Investment and Improvement Act of 2008
6 (49 U.S.C. 24101 note).

7 (d) FEDERAL SHARE.—The Federal share of grants
8 under this paragraph for eligible costs may be up to 100
9 percent of the total costs under subsection (a).

10 **SEC. 35202. NORTHEAST CORRIDOR INFRASTRUCTURE AND**
11 **OPERATIONS ADVISORY COMMISSION.**

12 (a) NORTHEAST CORRIDOR INFRASTRUCTURE AND
13 OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.—
14 Section 24905 is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE**
18 **AND OPERATIONS ADVISORY COMMISSION**
19 **IMPROVEMENTS.”;**

20 (2) by redesignating subsection (e) as sub-
21 section (g);

22 (3) by striking subsections (a), (b), (c), (d), and
23 (f) and inserting before subsection (g), as redesign-
24 nated, the following:

1 “(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND
2 OPERATIONS ADVISORY COMMISSION.—

3 “(1) IN GENERAL.—The Secretary of Transpor-
4 tation shall establish a Northeast Corridor Infra-
5 structure and Operations Advisory Commission (re-
6 ferred to in this section as the ‘Commission’) to fos-
7 ter the creation and implementation of a unified, re-
8 gional, long-term investment strategy for the North-
9 east Corridor and to promote mutual cooperation
10 and planning pertaining to the capital investment,
11 rail operations and related activities of the North-
12 east Corridor. The Commission shall be made up
13 of—

14 “(A) members representing Amtrak;

15 “(B) members representing the Depart-
16 ment of Transportation, including the Federal
17 Railroad Administration and the Office of the
18 Secretary;

19 “(C) 1 member from each of the States
20 (including the District of Columbia) that con-
21 stitute the Northeast Corridor as defined in sec-
22 tion 24102, designated by, and serving at the
23 pleasure of, the chief executive officer thereof;
24 and

1 “(D) non-voting representatives of freight
2 railroad carriers using the Northeast Corridor
3 selected by the Secretary.

4 “(2) MEMBERSHIP.—The Secretary shall en-
5 sure that the membership belonging to any of the
6 groups enumerated under paragraph (1) shall not
7 constitute a majority of the Commission’s member-
8 ships.

9 “(3) MEETINGS.—The Commission shall—

10 “(A) establish a schedule and location for
11 convening meetings;

12 “(B) meet not less than 4 times per fiscal
13 year; and

14 “(C) develop rules and procedures to gov-
15 ern the Commission’s proceedings.

16 “(4) VACANCIES.—A vacancy in the Commis-
17 sion shall be filled in the manner in which the origi-
18 nal appointment was made.

19 “(5) TRAVEL EXPENSES.—Members shall serve
20 without pay but shall receive travel expenses, includ-
21 ing per diem in lieu of subsistence, in accordance
22 with sections 5702 and 5703 of title 5.

23 “(6) CHAIRPERSON.—The Chairperson of the
24 Commission shall be elected by the members.

1 “(7) PERSONNEL.—The Commission may ap-
2 point and fix the pay of such personnel as the Com-
3 mission considers appropriate.

4 “(8) DETAILEES.—Upon request of the Com-
5 mission, the head of any department or agency of
6 the United States may detail, on a reimbursable
7 basis, any of the personnel of that department or
8 agency to the Commission to assist it in carrying out
9 its duties under this section.

10 “(9) ADMINISTRATIVE SUPPORT.—Upon the re-
11 quest of the Commission, the Administrator of Gen-
12 eral Services shall provide to the Commission, on a
13 reimbursable basis, the administrative support serv-
14 ices necessary for the Commission to carry out its
15 responsibilities under this section.

16 “(10) CONSULTATION WITH OTHER ENTI-
17 TIES.—The Commission shall consult with other en-
18 tities as appropriate.

19 “(b) STATEMENT OF GOALS AND RECOMMENDA-
20 TIONS.—

21 “(1) STATEMENT OF GOALS.—The Commission
22 shall develop a statement of goals concerning the fu-
23 ture of Northeast Corridor rail infrastructure and
24 operations based on achieving expanded and im-
25 proved intercity, commuter, and freight rail services

1 operating with greater safety and reliability, reduced
2 travel times, increased frequencies, and enhanced
3 intermodal connections designed to address airport
4 and highway congestion, reduce transportation en-
5 ergy consumption, improve air quality, and increase
6 economic development of the Northeast Corridor re-
7 gion.

8 “(2) RECOMMENDATIONS.—The Commission
9 shall develop recommendations based on the state-
10 ment of goals developed under this section address-
11 ing, as appropriate—

12 “(A) short-term and long-term capital in-
13 vestment needs beyond those specified in the
14 state-of-good-repair plan under section 211 of
15 the Passenger Rail Investment and Improve-
16 ment Act of 2008 (49 U.S.C. 24902 note);

17 “(B) future funding requirements for cap-
18 ital improvements and maintenance;

19 “(C) operational improvements of intercity
20 passenger rail, commuter rail, and freight rail
21 services;

22 “(D) opportunities for additional non-rail
23 uses of the Northeast Corridor;

24 “(E) scheduling and dispatching;

25 “(F) safety and security enhancements;

1 “(G) equipment design;
2 “(H) marketing of rail services;
3 “(I) future capacity requirements; and
4 “(J) potential funding and financing mech-
5 anisms for projects of corridor-wide signifi-
6 cance.

7 “(c) NORTHEAST CORRIDOR HIGH SPEED AND
8 INTERCITY SERVICE DEVELOPMENT PLAN.—

9 “(1) LONG-RANGE NORTHEAST CORRIDOR
10 SERVICE DEVELOPMENT PLAN.—The Federal Rail-
11 road Administration, in coordination with the Com-
12 mission, Amtrak, the States, and other corridor
13 users, shall complete a long-range Northeast Cor-
14 ridor Service Development Plan not later than De-
15 cember 31, 2014.

16 “(2) COLLABORATION AND COOPERATION.—
17 The parties comprising the Commission, acting sepa-
18 rately and collectively, shall collaborate and cooper-
19 ate to the maximum extent permitted by law in—

20 “(A) the preparation of the service devel-
21 opment plan;

22 “(B) the programmatic environmental re-
23 view process; and

24 “(C) the subsequent requirements required
25 by the National Environmental Policy Act of

1 1969 (42 U.S.C. 4321 et seq.), including the
2 development of supporting documentation.

3 “(d) COMPREHENSIVE LONG-RANGE NORTHEAST
4 CORRIDOR STRATEGY.—

5 “(1) IN GENERAL.—Not later than 1 year after
6 completion of the service development plan under
7 subsection (c), the Commission shall develop a com-
8 prehensive long-range strategy for the future high-
9 speed, intercity, commuter, and freight rail utiliza-
10 tion of the Northeast Corridor that considers—

11 “(A) the statement of goals developed
12 under subsection (b)(1);

13 “(B) the recommendations developed under
14 subsection (b)(2);

15 “(C) the economic development report
16 under subsection (h);

17 “(D) the service development plan and re-
18 lated alternatives developed through the pro-
19 grammatic environmental review for the North-
20 east Corridor;

21 “(E) the capital and operating plans of all
22 entities operating on the Northeast Corridor;

23 “(F) improvement programs and service
24 initiatives planned by corridor owners and
25 users;

1 “(G) relevant local, State, and Federal
2 transportation plans; and

3 “(H) other plans, as appropriate.

4 “(2) STRATEGY COMPONENTS.—The com-
5 prehensive long-range strategy shall include—

6 “(A) a comprehensive program containing
7 a description and the planned phasing of all
8 Northeast Corridor improvement programs, in-
9 vestments, and other anticipated changes;

10 “(B) the impacts of the comprehensive
11 program on:

12 “(i) highway and aviation congestion;

13 “(ii) economic development;

14 “(iii) job creation; and

15 “(iv) the environment;

16 “(C) the potential financing sources for the
17 comprehensive program, including Federal,
18 State, local, and private sector sources;

19 “(D) new institutional or other structures
20 necessary to implement the comprehensive pro-
21 gram;

22 “(E) the types of collaboration, participa-
23 tion, arrangements, and support between Am-
24 trak and the Federal Government, the State
25 and local governments in the Northeast Cor-

1 ridor, the commuter rail authorities and freight
2 railroads that utilize the Northeast Corridor,
3 the private sector, and others, as appropriate,
4 that are necessary to achieve the comprehensive
5 program; and

6 “(F) any regulatory or statutory changes
7 necessary to efficiently advance the comprehen-
8 sive program.

9 “(e) ACCESS COSTS.—

10 “(1) DEVELOPMENT OF STANDARDIZED FOR-
11 MULA.—Not later than September 30, 2013, the
12 Commission shall—

13 “(A) develop a standardized formula for
14 determining and allocating costs, revenues, and
15 compensation for Northeast Corridor commuter
16 rail passenger transportation (as defined in sec-
17 tion 24102) on the Northeast Corridor main
18 line between Boston, Massachusetts, and Wash-
19 ington, District of Columbia, and the Northeast
20 Corridor branch lines connecting to Harrisburg,
21 Pennsylvania, Springfield, Massachusetts, and
22 Spuyten Duyvil, New York, that use Amtrak fa-
23 cilities or services or that provide such facilities
24 or services to Amtrak that ensures that—

1 “(i) there is no cross-subsidization of
2 commuter rail passenger, intercity rail pas-
3 senger, or freight rail transportation;

4 “(ii) each service is assigned the costs
5 incurred only for the benefit of that serv-
6 ice, and a proportionate share, based upon
7 factors that reasonably reflect relative use,
8 of costs incurred for the common benefit of
9 more than 1 service; and

10 “(iii) all financial contributions made
11 by an operator of a service that benefit an
12 infrastructure owner other than the oper-
13 ator are considered, including any capital
14 infrastructure investments and in-kind
15 services;

16 “(B) develop a proposed timetable for im-
17 plementing the formula not later than Decem-
18 ber 31, 2014;

19 “(C) transmit the proposed timetable to
20 the Surface Transportation Board; and

21 “(D) at the request of a Commission mem-
22 ber, petition the Surface Transportation Board
23 to appoint a mediator to assist the Commission
24 members through non-binding mediation to
25 reach an agreement under this section.

1 “(2) IMPLEMENTATION.—Amtrak and public
2 authorities providing commuter rail passenger trans-
3 portation on the Northeast Corridor shall implement
4 new agreements for usage of facilities or services
5 based on the standardized formula under paragraph
6 (1) in accordance with the timetable established
7 therein. If the entities fail to implement the new
8 agreements in accordance with the timetable, the
9 Commission shall petition the Surface Transpor-
10 tation Board to determine the appropriate com-
11 pensation amounts for such services under section
12 24904(c). The Surface Transportation Board shall
13 enforce its determination on the party or parties in-
14 volved.

15 “(3) REVISIONS.—The Commission may make
16 necessary revisions to the standardized formula de-
17 veloped under paragraph (1), including revisions
18 based on Amtrak’s financial accounting system de-
19 veloped under section 203 of the Passenger Rail In-
20 vestment and Improvement Act of 2008 (49 U.S.C.
21 24101 note).

22 “(f) TRANSMISSION OF STATEMENT OF GOALS, REC-
23 OMMENDATIONS, AND PLANS.—The Commission shall
24 transmit to the Committee on Commerce, Science, and
25 Transportation of the Senate and the Committee on

1 Transportation and Infrastructure of the House of Rep-
2 resentatives—

3 “(1) not later than 60 days after the date of
4 enactment of the National Rail System Preservation,
5 Expansion, and Development Act of 2012, the state-
6 ment of goals under subsection (b);

7 “(2) annually beginning on December 31, 2012,
8 the recommendations under subsection (b)(2) and
9 the standardized formula and timetable under sub-
10 section (e)(1); and

11 “(3) the comprehensive long-range strategy
12 under this section.”; and

13 (4) by inserting after subsection (g), as redesign-
14 nated, the following

15 “(h) REPORT ON NORTHEAST CORRIDOR ECONOMIC
16 DEVELOPMENT.—Not later than September 30, 2013, the
17 Commission shall transmit a report to the Committee on
18 Commerce, Science, and Transportation of the Senate and
19 the Committee on Transportation and Infrastructure of
20 the House of Representatives on the role of Amtrak’s
21 Northeast Corridor service between Washington, District
22 of Columbia, and Boston, Massachusetts, in the economic
23 development of the Northeast Corridor region. The report
24 shall examine how to enhance the utilization of the North-

1 east Corridor for greater economic development, includ-
2 ing—

3 “(1) improving real estate utilization;

4 “(2) improved intercity, commuter, and freight
5 services; and

6 “(3) improving optimum utility utilization.

7 “(i) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a Northeast Corridor Safety Committee com-
10 posed of members appointed by the Secretary. The
11 members shall be representatives of—

12 “(A) the Department of Transportation,
13 including the Federal Railroad Administration;

14 “(B) Amtrak;

15 “(C) freight carriers operating more than
16 150,000 train miles a year on the main line of
17 the Northeast Corridor;

18 “(D) commuter rail agencies;

19 “(E) rail passengers;

20 “(F) rail labor; and

21 “(G) other individuals and organizations
22 the Secretary decides have a significant interest
23 in rail safety or security.

24 “(2) FUNCTION; MEETINGS.—The Secretary
25 shall consult with the Committee about safety and

1 security improvements on the Northeast Corridor
2 main line. The Committee shall meet not less than
3 2 times per year to consider safety and security mat-
4 ters on the main line.

5 “(3) REPORT.—At the beginning of the first
6 session of each Congress, the Secretary shall submit
7 a report to the Commission and to the Committee on
8 Commerce, Science, and Transportation of the Sen-
9 ate and the Committee on Transportation and Infra-
10 structure of the House of Representatives on the
11 status of efforts to improve safety and security on
12 the Northeast Corridor main line. The report shall
13 include the safety and security recommendations of
14 the Committee and the comments of the Secretary
15 on those recommendations.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for chapter 249 is amended by striking the item re-
18 lating to section 24905 and inserting the following:

“24905. Northeast corridor infrastructure and operations advisory commission
improvements.”.

19 **SEC. 35203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IM-**
20 **PROVEMENT PLAN.**

21 (a) PLANS.—Not later than 180 days after the date
22 of enactment of this Act, Amtrak shall—

1 (1) complete a refined vision for an integrated
2 program of improvements on the Northeast Corridor
3 that will result in, by 2040—

4 (A) the development and operation of a
5 new high-speed rail system capable of high ca-
6 pacity, 200 mile-per-hour or greater operation
7 between Washington, District of Columbia and
8 Boston, Massachusetts;

9 (B) the completion of the improvements
10 identified in the Northeast Corridor Infrastruc-
11 ture Master Plan published by Amtrak on May
12 19, 2010; and

13 (C) the continued operation of existing and
14 currently planned intercity, commuter, and
15 freight services utilizing the Northeast Corridor
16 during the implementation of the program; and

17 (2) complete a business and financing plan to
18 achieve the program under paragraph (1) that iden-
19 tifies the estimated—

20 (A) benefits and costs of the program, in-
21 cluding ridership, revenues, capital and oper-
22 ating costs, and cash flow projections;

23 (B) implementation schedule, including the
24 phasing of the program into achievable seg-

1 ments that maximize the benefits and support
2 the ultimate completion of the program;

3 (C) potential financing sources for the pro-
4 gram, including Federal, State, local, and pri-
5 vate sector sources; and

6 (D) organization changes, new institutional
7 or corporate arrangements, partnerships, pro-
8 curement techniques, and other structures nec-
9 essary to implement the program.

10 (b) SUPPORT.—The Secretary of Transportation
11 shall provide appropriate support, assistance, oversight,
12 and guidance to Amtrak during the preparation of the
13 plans under subsection (a).

14 (c) SUBMISSION.—Amtrak shall submit the refined
15 vision and an appropriate elements of the business and
16 financing plan to the Federal Railroad Administration and
17 the Northeast Corridor Infrastructure and Operations Ad-
18 visory Commission for use in the development of the
19 Northeast Corridor High Speed and Intercity Service De-
20 velopment Plan and the Comprehensive Long-Range
21 Northeast Corridor Strategy.

22 (d) HIGH-SPEED RAIL EQUIPMENT.—The Secretary
23 of Transportation shall not preclude the use of Federal
24 funds made available to purchase rolling stock to purchase
25 any equipment used for “high-speed rail” (as defined in

1 section 26106(b)(4) of title 49, United States Code) that
2 otherwise complies with all applicable Federal standards.

3 **SEC. 35204. NORTHEAST CORRIDOR ENVIRONMENTAL RE-**
4 **VIEW PROCESS.**

5 (a) NORTHEAST CORRIDOR.—Not later than 90 days
6 after the date of enactment of this Act, the Secretary shall
7 complete a plan and a schedule for the completion of the
8 programmatic environmental review for the Northeast
9 Corridor. The schedule shall require the completion of the
10 programmatic environmental review for the Northeast
11 Corridor not later than 3 years after the date of enactment
12 of this Act.

13 (b) COORDINATION WITH THE NORTHEAST COR-
14 RIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY
15 COMMISSION.—The Federal Railroad Administration shall
16 closely coordinate the programmatic environmental review
17 process with the Northeast Corridor Infrastructure and
18 Operations Advisory Commission.

19 **SEC. 35205. DELEGATION AUTHORITY.**

20 (a) DELEGATION OF AUTHORITY.—In carrying out
21 programmatic or project level environmental reviews for
22 high speed and intercity passenger rail programs, projects,
23 or services, the Secretary may delegate to Amtrak any or
24 all of the Secretary's authority and responsibility under
25 the National Environmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.), section 106 of the National Historic Preser-
2 vation Act of 1966 (16 U.S.C. 470f), section 4(f) of the
3 Department of Transportation Act (80 Stat. 934), section
4 404 of the Federal Water Pollution Control Act (33
5 U.S.C. 1344), and section 7 of the Endangered Species
6 Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak
7 any related funding provided to the Secretary for such
8 purposes as the Secretary deems necessary if—

9 (1) Amtrak agrees in writing to assume the del-
10 egated authority and responsibility;

11 (2) Amtrak has or can obtain sufficient re-
12 sources or the Secretary provides such resources to
13 Amtrak to appropriately carry out such authority or
14 responsibility; and

15 (3) delegating the authority and responsibility
16 will improve the quality or timeliness of the environ-
17 mental review.

18 **SEC. 35206. AMTRAK INSPECTOR GENERAL.**

19 (a) IN GENERAL.—Chapter 243 is amended by add-
20 ing after section 24316 the following:

21 **“§ 24317. Inspector general**

22 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Office of the In-
24 spector General of Amtrak the following amounts:

25 “(1) For fiscal year 2009, \$20,000,000.

1 “(2) For fiscal year 2010, \$21,000,000.

2 “(3) For fiscal year 2011, \$22,000,000.

3 “(4) For fiscal year 2012, \$22,000,000.

4 “(5) For fiscal year 2013, \$23,000,000.

5 “(b) AUTHORITY.—

6 “(1) IN GENERAL.—The Inspector General of
7 Amtrak shall have the authority available to other
8 Inspectors General, as necessary in carrying out the
9 duties specified in the Inspector General Act 1978
10 (5 U.S.C. App. 3), to investigate any alleged viola-
11 tion of sections 286, 287, 371, 641, 1001, 1002 and
12 1516 of title 18.

13 “(2) AGENCY.—Solely for purposes of sections
14 286, 287, 371, 641, 1001, 1002, and 1516 of title
15 18, Amtrak and the Amtrak Office of the Inspector
16 General, shall be considered a corporation in which
17 the United States has a proprietary interest as set
18 forth in section 6 of such title.

19 “(c) FALSE CLAIMS.—Claims made or presented to
20 Amtrak shall be considered as claims under section
21 3729(b)(2)(A)(ii) of title 31. Statements made or pre-
22 sented to Amtrak shall be considered as statements under
23 subparagraphs (B) and (G) of section 3729(a)(1) of such
24 title.

1 “(d) LIMITATION.—Subsections (b) and (c) shall be
2 effective only with respect to a fiscal year for which Am-
3 trak receives a Federal subsidy.

4 “(e) QUALIFIED IMMUNITY.—

5 “(1) IN GENERAL.—An employee of the Amtrak
6 Office of Inspector General shall enjoy the same per-
7 sonal qualified immunity from lawsuit or liability as
8 the employees of the Department of Transportation
9 Office of Inspector General with respect to the per-
10 formance of investigative, audit, inspection, or eval-
11 uation functions authorized under the Inspector
12 General Act of 1978 (5 U.S.C. App.) that are car-
13 ried out for the Amtrak Office of Inspector General.

14 “(2) FEDERAL GOVERNMENT LIABILITY.—No
15 liability of any kind shall attach to or rest upon the
16 United States for any damages from or by any ac-
17 tions of the Amtrak Office of Inspector General, its
18 employees, agents, or representatives.

19 “(f) SERVICES.—Amtrak and the Inspector General
20 of Amtrak may obtain services under sections 502(a) and
21 602 of title 40, including travel programs, from the Ad-
22 ministrator of General Services. The Administrator of
23 General Services shall provide services under sections
24 502(a) and 602 of title 40, to Amtrak and the Inspector
25 General.”.

1 (b) MANAGEMENT ASSESSMENT.—Section 24310 is
2 amended to read as follows:

3 “(a) IN GENERAL.—Not later than 3 years after the
4 date of enactment of the Passenger Rail Investment and
5 Improvement Act of 2008 (122 Stat. 4907) and 2 years
6 thereafter—

7 “(1) the Inspector General of the Department
8 of Transportation shall complete an overall assess-
9 ment of the progress made by the Department of
10 Transportation in implementing the provisions of
11 that Act; and

12 “(2) the Inspector General of Amtrak shall
13 complete an overall assessment of the progress made
14 by Amtrak management in implementing the provi-
15 sions of the Passenger Rail Investment and Im-
16 provement Act of 2008 (122 Stat. 4907).

17 “(b) ASSESSMENT.—The management assessment by
18 the Amtrak Inspector General may include a review of—

19 “(1) the effectiveness in improving annual fi-
20 nancial planning;

21 “(2) the effectiveness in improving financial ac-
22 counting;

23 “(3) Amtrak management’s efforts to imple-
24 ment minimum train performance standards;

1 “(4) Amtrak management’s progress toward
2 maximizing revenues, minimizing Federal subsidies,
3 and improving financial results; and

4 “(5) any other aspect of Amtrak operations
5 that the Amtrak Inspector General finds appro-
6 priate.”.

7 (c) INSPECTOR GENERAL POLICIES AND PROCE-
8 DURES.—The Amtrak Inspector General and Amtrak
9 shall—

10 (1) continue to follow the policies and proce-
11 dures for interacting with one another in a manner
12 that is consistent with the Inspector General Act of
13 1978 (5 U.S.C. App.), as approved by the Council
14 of the Inspectors General on Integrity and Effi-
15 ciency; and

16 (2) work toward establishing proper protocols
17 and firewalls to maintain the Amtrak Inspector Gen-
18 eral’s independence, as appropriate.

19 (d) IMPROVEMENTS.—The Amtrak Inspector General
20 and Amtrak shall identify any funding needs and author-
21 ity improvements necessary to effectuate the policies, pro-
22 cedures, protocols, and firewalls under subsection (c) and
23 submit a report of the necessary funding and authority
24 improvements as part of their annual budget requests.

1 (e) TECHNICAL AMENDMENT.—Section 101 of the
2 Passenger Rail Investment and Improvement Act of 2008
3 (122 Stat. 4907), is amended by striking subsection (b)
4 and inserting the following:

5 “(b) [Reserved].”

6 (f) CLERICAL AMENDMENT.—The table of contents
7 for chapter 243 is amended by adding at the end the fol-
8 lowing:

“24317. Inspector General.”

9 **SEC. 35207. COMPENSATION FOR PRIVATE-SECTOR USE OF**
10 **FEDERALLY-FUNDED ASSETS.**

11 If capital assets that are owned by a public entity
12 or Amtrak built or improved with Federal funds author-
13 ized under subtitle V of title 49, United States Code, are
14 made available for exclusive use by a for-profit entity, ex-
15 cept for an entity owned or controlled by the Department
16 of Transportation, for the purpose of providing intercity
17 passenger rail service, the Secretary may require, as ap-
18 propriate, that the for-profit entity provide adequate com-
19 pensation, as determined by the Secretary, to the United
20 States for the use of the capital assets in an amount that
21 reflects the benefit of the Federal funding to the for-profit
22 entity.

23 **SEC. 35208. ON-TIME PERFORMANCE.**

24 Where the on time performance of any intercity pas-
25 senger train averages less than 80 percent for any 2 con-

1 secutive calendar quarters and the failure to meet such
2 performance levels is solely the responsibility of the host
3 railroad, Amtrak shall not pay the host railroad any incen-
4 tive payments for on time performance of the subject
5 intercity passenger train during such calendar quarters.

6 **SEC. 35209. BOARD OF DIRECTORS.**

7 Section 24302(a)(3) is amended by striking “5” the
8 second place it appears and inserting “4”.

9 **SEC. 35210. AMTRAK.**

10 Section 24305(f) of title 49, United States Code, is
11 amended by adding at the end the following:

12 “(5) The requirements under this subsection
13 shall apply to all contracts eligible for assistance
14 under this chapter for a project carried out within
15 the scope of the applicable finding, determination, or
16 decision under the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of
18 the funding source of such contracts, if at least 1
19 contract for the project is funded with amounts
20 made available to carry out this chapter.”.

21 **Subtitle C—Rail Safety**
22 **Improvements**

23 **SEC. 35301. POSITIVE TRAIN CONTROL.**

24 (a) REVIEW AND APPROVAL.—Section 20157(c) is
25 amended to read as follows:

1 “(c) REVIEW AND APPROVAL.—

2 “(1) REVIEW.—Not later than 90 days after
3 the Secretary receives a proposed plan, the Secretary
4 shall review and approve or disapprove it. If a pro-
5 posed plan is not approved, the Secretary shall no-
6 tify the affected railroad carrier or other entity as
7 to the specific deficiencies in the proposed plan. The
8 railroad carrier or other entity shall correct the defi-
9 ciencies not later than 30 days after receipt of the
10 written notice.

11 “(2) AMENDMENTS.—The Secretary shall re-
12 view any amendments to a plan in the time frame
13 required by section (1).

14 “(3) ANNUAL REVIEW.—The Secretary shall
15 conduct an annual review to ensure that each rail-
16 road carrier and entity is complying with its plan,
17 including a railroad carrier or entity that elects to
18 fully implement a positive train control system prior
19 to the required deadline.”.

20 (b) REPORT CRITERIA.—Section 20157(d) is amend-
21 ed to read as follows:

22 “(d) REPORT.—Not later than June 30, 2012, the
23 Secretary shall submit a report to the Committee on Com-
24 merce, Science, and Transportation of the Senate and the
25 Committee on Transportation and Infrastructure of the

1 House of Representatives on the progress of the railroad
2 carriers in implementing the positive train control sys-
3 tems, including—

4 “(1) the likelihood that each railroad will meet
5 the December 31, 2015 deadline;

6 “(2) the obstacles to each railroad’s successful
7 implementation, including the obstacles identified in
8 the General Accountability Office’s report issued on
9 December 15, 2010, and titled ‘Rail Safety: Federal
10 Railroad Administration Should Report on Risks to
11 Successful Implementation of Mandated Safety
12 Technology’ (GAO–11–133); and

13 “(3) the actions that Congress, railroads, rel-
14 evant Federal entities, and other stakeholders can
15 take to mitigate obstacles to successful implementa-
16 tion.”.

17 (c) EXTENSION AUTHORITY.—Section 20157 is
18 amended—

19 (1) by redesignating subsections (h) and (i) as
20 subsections (i) and (j), respectively; and

21 (2) by inserting after subsection (g) the fol-
22 lowing:

23 “(h) EXTENSION.—

24 “(1) IN GENERAL.—After completing the report
25 under subsection (d), the Secretary may extend in 1

1 year increments, upon application, the implementa-
2 tion deadline, if the Secretary—

3 “(A) determines that—

4 “(i) full implementation will likely be
5 infeasible due to circumstances beyond the
6 control of the applicant, including funding
7 availability, spectrum acquisition, resource
8 and technology availability, and interoper-
9 ability standards;

10 “(ii) the applicant has demonstrated
11 good faith in its positive train control im-
12 plementation;

13 “(iii) the applicant has presented a re-
14 vised positive train control implementation
15 plan indicating how it will fully implement
16 positive train control as soon as feasible,
17 and not later than December 31, 2018;
18 and

19 “(iv) such extension will not extend
20 beyond December 31, 2018; and

21 “(B) takes into consideration—

22 “(i) whether the affected areas of
23 track have been identified as areas of
24 greater risk to the public and railroad em-
25 ployees in the applicant’s positive train

1 control implementation plan under section
2 236.1011(a)(4) of title 49, Code of Federal
3 Regulations; and

4 “(ii) the risk of operational failure to
5 the affected service areas and the appli-
6 cant.

7 “(2) APPLICATION REVIEW.—The Secretary
8 shall review an application submitted pursuant to
9 paragraph (1) and approve or disapprove the appli-
10 cation not later than 10 days after the application
11 is received.”.

12 (d) APPLICABILITY.—Section 20157 is amended by
13 striking “transported;” in subsection (a)(1)(B) and insert-
14 ing “transported on or after December 31, 2015;”.

15 **SEC. 35302. ADDITIONAL ELIGIBILITY FOR RAILROAD RE-**
16 **HABILITATION AND IMPROVEMENT FINANC-**
17 **ING.**

18 (a) POSITIVE TRAIN CONTROL SYSTEMS.—Section
19 502(b)(1) of the Railroad Revitalization and Regulatory
20 Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

21 (1) in subparagraph (B) by striking “or”;

22 (2) in subparagraph (C) by striking “facilities.”

23 and inserting “facilities; or”; and

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

1 “(D) implement a positive train control
2 system, as required by section 20157 of title
3 49, United States Code.”.

4 (b) POSITIVE TRAIN CONTROL COLLATERAL.—Sec-
5 tion 502(h)(2) of the Railroad Revitalization and Regu-
6 latory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is
7 amended by adding at the end the following:

8 “For purposes of making a finding under sub-
9 section (g)(4) for a loan for positive train control,
10 the total cost of the labor and materials associated
11 with installing positive train control shall be deemed
12 to be equal to the collateral value of that asset.”.

13 **SEC. 35303. FCC STUDY OF SPECTRUM AVAILABILITY.**

14 (a) SPECTRUM NEEDS ASSESSMENT.—Not later than
15 120 days after the date of enactment of this Act, the Sec-
16 retary of Transportation and the Chairman of the Federal
17 Communications Commission shall coordinate to assess
18 spectrum needs and availability for implementing positive
19 train control systems, as defined in section 20157 of title
20 49, United States Code. In conducting the spectrum needs
21 assessment, the Secretary and the Chairman shall—

22 (1) evaluate the information provided in the
23 Federal Communications Commission WT-11-79
24 proceeding;

1 (2) evaluate the positive train control imple-
2 mentations plans and any subsequent amendments
3 or waivers to those plans provided to the Federal
4 Railroad Administration; and

5 (3) evaluate individual railroad spectrum de-
6 mand studies.

7 (b) RECOMMENDATIONS.—Not later than 90 days
8 after the completion of the spectrum needs assessment
9 under subsection (a), the Secretary and the Chairman
10 shall submit a plan to the Committee on Commerce,
11 Science, and Transportation of the Senate and the Com-
12 mittee on Transportation and Infrastructure of the House
13 of Representatives, for approximate resolution to any
14 issues that may prevent railroad carriers or entities from
15 complying with the December 31, 2015, positive train con-
16 trol implementation deadline.

17 **Subtitle D—Freight Rail**

18 **SEC. 35401. RAIL LINE RELOCATION.**

19 Section 20154 is amended—

20 (1) in subsection (b)—

21 (A) by striking “either”;

22 (B) by striking “or” at the end of para-
23 graph (1);

24 (C) by striking the period at the end of
25 paragraph (2) and inserting “; or”; and

1 (D) by adding at the end the following:

2 “(3) involves a lateral or vertical relocation of
3 any portion of a road.”;

4 (2) in subsection (e)(1), by striking “10” and
5 inserting “20”; and

6 (3) in subsection (h)(3), by inserting “a public
7 agency,” after “of a State,”.

8 **SEC. 35402. COMPILATION OF COMPLAINTS.**

9 (a) IN GENERAL.—Section 704 is amended—

10 (1) by striking the section heading and insert-
11 ing the following:

12 **“§ 704. Reports”;**

13 (2) by inserting “(a) ANNUAL REPORT.—” be-
14 fore “The Board”; and

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

16 “(b) COMPLAINTS.—

17 “(1) IN GENERAL.—The Board shall establish
18 and maintain a database of complaints received by
19 the Board.

20 “(2) QUARTERLY REPORT.—The Board shall
21 post a quarterly report of formal and informal serv-
22 ice complaints received by the Board during the pre-
23 vious quarter that includes—

24 “(A) a list of the type of each complaint;

1 “(B) the geographic region of the com-
2 plaint; and

3 “(C) the resolution of the complaint, if ap-
4 propriate.

5 “(3) WRITTEN CONSENT.—The quarterly report
6 may identify a complainant that submitted an infor-
7 mal complaint only upon the written consent of the
8 complainant.

9 “(4) WEBSITE POSTING.—The report shall be
10 posted on the Board’s public website.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
12 tents for chapter 7 is amended by striking the item relat-
13 ing to section 704 and inserting the following:

“704. Reports.”.

14 **SEC. 35403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

15 (a) IN GENERAL.—The Surface Transportation
16 Board shall revise the maximum amount of rate relief
17 available to railroad shippers in cases brought pursuant
18 to the method developed under section 10701(d)(3) of title
19 49, United States Code, as that section existed as of the
20 date of enactment of this Act, to be as follows:

21 (1) \$1,500,000 in a rate case brought using the
22 Surface Transportation Board’s “three-benchmark”
23 procedure.

1 (2) \$10,000,000 in a rate case brought using
2 the Surface Transportation Board’s “simplified
3 stand-alone cost” procedure.

4 (b) PERIODIC REVIEW.—The Board shall periodically
5 review the amounts established by subsection (a) and re-
6 vise the amounts, as appropriate.

7 **SEC. 35404. RATE REVIEW TIMELINES.**

8 In stand-alone cost rate challenges, the Surface
9 Transportation Board shall comply with the following
10 timelines unless it extends them, after a request from any
11 party or in the interest of due process:

12 (1) For discovery, 150 days after the date on
13 which the challenge is initiated.

14 (2) For development of the evidentiary record,
15 155 days after that date.

16 (3) For submission of parties’ closing briefs, 60
17 days after that date.

18 (4) For a final Board decision, 180 days after
19 the date on which the parties submit closing briefs.

20 **SEC. 35405. REVENUE ADEQUACY STUDY.**

21 (a) REVENUE ADEQUACY STUDY.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of enactment of this Act, the Surface
24 Transportation Board shall initiate a study to pro-

1 vide further guidance on how it will apply its revenue
2 adequacy constraint.

3 (2) CONSIDERATIONS.—In conducting the
4 study, the Surface Transportation Board shall consider
5 whether to apply the revenue adequacy constraint
6 using replacement costs to value the assets of
7 rail facilities and equipment.

8 (b) PUBLIC NOTICE.—In conducting the study under
9 subsection (a), the Surface Transportation Board shall—

10 (1) provide public notice;

11 (2) an opportunity for comment; and

12 (3) conduct 1 or more public hearings.

13 (c) REPORT.—Not later than 60 days after the study
14 under subsection (a) is complete, the Surface Transportation
15 Board shall submit the findings of the study to the
16 Commerce, Science, and Transportation Committee of the
17 Senate and the Transportation and Infrastructure Committee
18 of the House of Representatives.

19 **SEC. 35406. QUARTERLY REPORTS.**

20 Not later than 60 days after the date of enactment
21 of this Act, the Surface Transportation Board shall provide
22 quarterly reports to the Commerce, Science, and
23 Transportation Committee of the Senate and the Transportation
24 and Infrastructure Committee of the House of
25 Representatives on the Surface Transportation Board's

1 progress toward addressing issues raised in unfinished
2 regulatory proceedings, regardless of whether a proceeding
3 is subject to a statutory or regulatory deadline.

4 **SEC. 35407. WORKFORCE REVIEW.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of enactment of this Act, the Chairman of the Sur-
7 face Transportation Board, in consultation with the Direc-
8 tor of the Office of Personnel Management, shall conduct
9 a review of the Surface Transportation Board workforce
10 to assist in the development of a comprehensive, long-term
11 human capital improvement plan.

12 (b) PLAN.—Not later than 180 days after the review
13 under subsection (a) is complete, the Chairman shall de-
14 velop a comprehensive, long-term human capital improve-
15 ment plan for Surface Transportation Board personnel to
16 identify—

17 (1) the optimal workforce size of the Surface
18 Transportation Board to address its current and fu-
19 ture program needs;

20 (2) the hiring, training, managing, and com-
21 pensation needs to recruit and retain qualified per-
22 sonnel, including experts to assess long-standing and
23 emerging railroad industry trends;

24 (3) the means for improving the current organi-
25 zational structure and workforce to most efficiently

1 execute the Surface Transportation Board’s mission;
2 and

3 (4) any recommendations for potential coordi-
4 nation with colleges, universities, or other non-profit
5 organizations for training programs to support
6 workforce development.

7 (c) REPORT.—The Chairman shall submit the plan
8 to the Committee on Commerce, Science, and Transpor-
9 tation of the Senate and the Committee on Transportation
10 and Infrastructure of the House of Representatives.

11 **SEC. 35408. RAILROAD REHABILITATION AND IMPROVE-**
12 **MENT FINANCING.**

13 (a) CONDITIONS OF ASSISTANCE.—Section 502(h)(2)
14 of the Railroad Revitalization and Regulatory Reform Act
15 of 1976 (45 U.S.C. 822(h)(2)), as amended by section
16 36302 of this Act, is amended by adding at the end the
17 following:

18 “The Secretary shall accept, for the purpose of mak-
19 ing a finding with regard to adequate collateral for a pub-
20 lic entity, the net present value on a future stream of State
21 or local subsidy income or a dedicated revenue as collateral
22 offered to secure a loan.”.

23 (b) ELIGIBLE PURPOSES.—Section 502(b)(1) of the
24 Railroad Revitalization and Regulatory Reform Act of

1 1976 (45 U.S.C. 822(b)(1)), as amended by section 36302
2 of this Act, is further amended—

3 (1) by striking “or” at the end of subparagraph
4 (C);

5 (2) by striking the period at the end of sub-
6 paragraph (D) and inserting “; or”; and

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

8 “(E) conduct preliminary engineering, en-
9 vironmental review, permitting, or other pre-
10 construction activities.”.

11 (c) STUDY.—The Secretary shall submit a report to
12 the Committee on Commerce, Science, and Transportation
13 of the Senate and the Committee on Transportation and
14 Infrastructure of the House of Representatives detailing
15 recommendations for improving the Railroad Rehabilita-
16 tion and Improvement Financing program administration,
17 including timely processing of applications, expansion of
18 eligibilities, and other issues that impede passenger and
19 rail carriers from utilizing the program.

20 **Subtitle E—Technical Corrections**

21 **SEC. 35501. TECHNICAL CORRECTIONS.**

22 (a) RAIL SAFETY IMPROVEMENT ACT OF 2008.—

23 (1) The table of contents in section 1(b) of the
24 Rail Safety Improvement Act of 2008 (122 Stat.
25 4848) is amended—

1 (A) by striking the item relating to section
2 201 and inserting the following:

“Sec. 201. Pedestrian safety at or near railroad passenger stations.”; and

3 (B) by striking the item relating to section
4 403 and inserting the following:

“Sec. 403. Study and rulemaking on track inspection time; rulemaking on concrete cross-ties.”.

5 (2) Section 2(a)(1) of the Rail Safety Improve-
6 ment Act of 2008 (49 U.S.C. 20102 note), is
7 amended by inserting a comma after “railroad
8 tracks at grade”.

9 (3) Section 102(a) of the Rail Safety Improve-
10 ment Act of 2008 (49 U.S.C. 20101 note), is
11 amended—

12 (A) by striking “, at a minimum,”;

13 (B) in paragraph (1), by inserting a
14 comma after “railroads”; and

15 (C) by amending paragraph (6) to read as
16 follows:

17 “(6) Improving the safety of railroad bridges,
18 tunnels, and related infrastructure to prevent acci-
19 dents, incidents, injuries, and fatalities caused by
20 catastrophic and other failures of such infrastruc-
21 ture.”.

22 (4) Section 108(f)(1) of the Rail Safety Im-
23 provement Act of 2008 (49 U.S.C. 21101 note), is

1 amended by striking “requirements for record-
2 keeping and reporting for Hours of Service of Rail-
3 road Employees” and inserting “requirements for
4 record keeping and reporting for hours of service of
5 railroad employees”.

6 (5) Section 201 of the Rail Safety Improvement
7 Act of 2008 (49 U.S.C. 20134 note), is amended—

8 (A) in the section heading, by striking
9 “**PEDESTRIAN CROSSING SAFETY.**” and in-
10 sserting “**PEDESTRIAN SAFETY AT OR NEAR**
11 **RAILROAD PASSENGER STATIONS.**”;

12 (B) by striking “strategies and methods to
13 prevent pedestrian accidents, incidents, injuries,
14 and fatalities at or near passenger stations, in-
15 cluding” and inserting “strategies and methods
16 to prevent train-related accidents, incidents, in-
17 juries, and fatalities that involve a pedestrian at
18 or near a railroad passenger station, including”;
19 and

20 (C) in paragraph (1) by striking “at rail-
21 road passenger stations”.

22 (6) Section 206(a) of the Rail Safety Improve-
23 ment Act of 2008 (49 U.S.C. 22501 note), is
24 amended by striking “Public Service Announce-

1 ments” and inserting “public service announce-
2 ments”.

3 (7) Section 403 of the Rail Safety Improvement
4 Act of 2008 (49 U.S.C. 20142 note), is amended—

5 (A) in the section heading, by striking
6 **“TRACK INSPECTION TIME STUDY.”** and in-
7 serting **“STUDY AND RULEMAKING ON**
8 **TRACK INSPECTION TIME; RULEMAKING**
9 **ON CONCRETE CROSSTIES.”**; and

10 (B) in subsection (d)—

11 (i) by striking “CROSS TIES” in the
12 subsection heading and inserting “CROSS-
13 TIES”;

14 (ii) by striking “cross ties” and in-
15 serting “crossties”; and

16 (iii) in paragraph (2), by striking
17 “cross tie” and inserting “crosstie”.

18 (8) Section 405 of the Rail Safety Improvement
19 Act of 2008 (49 U.S.C. 20103 note), is amended—

20 (A) in subsection (a), by striking “cell
21 phones” and inserting “cellular telephones”;
22 and

23 (B) in subsection (d)—

24 (i) by striking “of Transportation”;

25 and

1 (ii) by striking “cell phones” and in-
2 sserting “cellular telephones”.

3 (9) Section 411(a) of the Rail Safety Improve-
4 ment Act of 2008 (49 U.S.C. 5103 note), is amend-
5 ed—

6 (A) by striking “5101(a)” and inserting
7 “5105(a)”; and

8 (B) by striking “5101(b)” and inserting
9 “5105(b)”.

10 (10) Section 412 of the Rail Safety Improve-
11 ment Act of 2008 (49 U.S.C. 20140 note), is
12 amended by striking “of Transportation”.

13 (11) Section 414(2) of the Rail Safety Improve-
14 ment Act of 2008 (49 U.S.C. 20103 note), is
15 amended—

16 (A) by striking “parts” and inserting “sec-
17 tions”; and

18 (B) by striking “part” and inserting “sec-
19 tion”.

20 (12) Section 416 of the Rail Safety Improve-
21 ment Act of 2008 (49 U.S.C. 20107 note), is
22 amended—

23 (A) by striking “of Transportation”;

1 (B) in paragraphs (3) and (4), by striking
2 “Federal Railroad Administration” and insert-
3 ing “Secretary”; and

4 (C) in paragraph (4), by striking “sub-
5 section” and inserting “section”.

6 (13) Section 417(c) of the Rail Safety Improve-
7 ment Act of 2008 (49 U.S.C. 20103 note), is
8 amended by striking “each railroad” and inserting
9 “each railroad carrier”.

10 (14) Section 503 of the Rail Safety Improve-
11 ment Act of 2008 (49 U.S.C. 1139 note), is amend-
12 ed—

13 (A) in subsection (a), by striking “rail ac-
14 cidents” and inserting “rail passenger acci-
15 dents”;

16 (B) in subsection (b)—

17 (i) by striking “passenger rail acci-
18 dents” and inserting “rail passenger acci-
19 dents”; and

20 (ii) by striking “passenger rail acci-
21 dent” each place it appears and inserting
22 “rail passenger accidents”; and

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

24 “(d) DEFINITIONS.—In this section, the terms ‘pas-
25 senger’, ‘rail passenger accident’, and ‘rail passenger car-

1 rier' have the meanings given the terms in section 1139
2 of title 49, United States Code.”

3 “(e) FUNDING.—Out of the funds appropriated pur-
4 suant to section 20117(a)(1)(A) of title 49, United States
5 Code, there shall be made available to the Secretary of
6 Transportation \$500,000 for fiscal year 2009 to carry out
7 this section. Amounts made available pursuant to this sub-
8 section shall remain available until expended.”.

9 (b) PASSENGER RAIL INVESTMENT AND IMPROVE-
10 MENT ACT OF 2008.—

11 (1) Section 206(a) of the Passenger Rail In-
12 vestment and Improvement Act of 2008 (49 U.S.C.
13 24101 note), is amended by inserting “of this divi-
14 sion” after “302”.

15 (2) Section 211 of the Passenger Rail Invest-
16 ment and Improvement Act of 2008 (49 U.S.C.
17 24902 note), is amended—

18 (A) in subsection (d), by inserting “of this
19 division” after “101(c)”; and

20 (B) in subsection (e), by inserting “of this
21 division” after “101(d)”.

22 (c) TITLE 49 OF THE UNITED STATE CODE.—

23 (1) Section 1139 is amended—

1 (A) in subsection (a)(1), by striking
2 “phone number” and inserting “telephone num-
3 ber”;

4 (B) in subsection (a)(2), by striking “post
5 trauma” and inserting “post-trauma”;

6 (C) in subsections (h)(1)(A) and
7 (h)(2)(A)—

8 (i) by striking “interstate”; and

9 (ii) by striking “such term is”;

10 (D) in subsection (g)(1), by striking
11 “board” in the heading and inserting “BOARD”;

12 (E) in subsections (h)(1)(B) and
13 (h)(2)(B)—

14 (i) by striking “interstate or intra-
15 state”; and

16 (ii) by striking “such term is”;

17 (F) in subsection (j)(1)—

18 (i) by striking “(other than subsection
19 (g))” and inserting “(except for sub-
20 sections (g) and (k))”; and

21 (ii) by striking “railroad passenger ac-
22 cident” and inserting “rail passenger acci-
23 dent”; and

1 (G) in subsection (j)(2), by striking “rail-
2 road passenger accident” and inserting “rail
3 passenger accident”.

4 (2) Section 10909(b) is amended—

5 (A) by striking “Railroad” and inserting
6 “Railroads”; and

7 (B) in paragraph (2), by inserting a
8 comma after “comment”.

9 (3) Section 20109 is amended—

10 (A) in subsection (e)(1), by striking “the
11 railroad shall promptly arrange” and inserting
12 “the railroad carrier shall promptly arrange”;

13 (B) in subsection (d)(2)(A)(i), by striking
14 “(d)” and inserting “paragraph” after “under”;

15 (C) in subsection (d)(2)(A)(iii), by insert-
16 ing “section” after “set forth in”; and

17 (D) in subsection (d)(4)(i), by striking
18 “must” and inserting “shall”.

19 (4) Section 20120(a) is amended—

20 (A) by striking “(a) IN GENERAL” and in-
21 serting “Not”;

22 (B) in paragraph (2)(G), by inserting
23 “and” after the semicolon;

24 (C) in paragraph (4), by striking “provide”
25 and inserting “provides”;

1 (D) in paragraph (5)(B), by striking “Ad-
2 ministrative Hearing Officer or Administrative
3 Law Judge” and inserting “administrative
4 hearing officer or administrative law judge”;
5 and

6 (E) in paragraph (7), by striking “its” and
7 inserting “the Secretary’s or the Federal Rail-
8 road Administrator’s”.

9 (5) Section 20151(d)(1) is amended by striking
10 “to drive around a grade crossing gate” and insert-
11 ing “to drive through, around, or under a grade
12 crossing gate”.

13 (6) Section 20152(b) is amended by striking
14 “rail carriers” and inserting “railroad carriers”.

15 (7) Section 20156 is amended—

16 (A) in subsection (c), by inserting a
17 comma after “In developing its railroad safety
18 risk reduction program”; and

19 (B) in subsection (g)(1), by striking “non-
20 profit” and inserting “nonprofit”.

21 (8) Section 20157(a)(1) is amended—

22 (A) by striking “Class I railroad carrier”
23 and inserting “Class I railroad”; and

24 (B) by striking “parts” and inserting “sec-
25 tions”.

1 (9) Section 20158(b)(3) is amended by striking
2 “20156(e)(2)” and inserting “20156(e)”.

3 (10) Section 20159 is amended by inserting “of
4 Transportation” after “the Secretary”.

5 (11) Section 20160 is amended—

6 (A) in subsection (a)(1), by striking “or
7 with respect to” and inserting “with respect
8 to”;

9 (B) in subsection (b)(1), by striking “On a
10 periodic basis beginning not” and inserting
11 “Not”; and

12 (C) in subsection (b)(1)(A), by striking “or
13 with respect to” and inserting “with respect
14 to”.

15 (12) Section 20162(a)(3) is amended by strik-
16 ing “railroad compliance with Federal standards”
17 and inserting “railroad carrier compliance with Fed-
18 eral standards”.

19 (13) Section 20164(a) is amended by striking
20 “Railroad Safety Enhancement Act of 2008” and in-
21 serting “Rail Safety Improvement Act of 2008”.

22 (14) Section 21102(e)(4) is amended by redesi-
23 gnating subparagraphs (C) and (D) as subpara-
24 graphs (B) and (C), respectively.

1 (15) Section 22106(b) is amended by striking
2 “interest thereof” and inserting “interest thereon”.

3 (16) Section 24101(b) is amended by striking
4 “subsection (d)” and inserting “subsection (c)”.

5 (17) Section 24316 is amended by striking sub-
6 section (g).

7 (18) The item relating to section 24316 in the
8 table of contents for chapter 243 is amended by
9 striking “assist” and inserting “address needs of”.

10 (19) Section 24702(a) is amended by striking
11 “not included in the national rail passenger trans-
12 portation system”.

13 (20) Section 24706 is amended—

14 (A) in subsection (a)(1), by striking “a dis-
15 continuance under section 24704 or or”;

16 (B) in subsection (a)(2), by striking “sec-
17 tion 24704 or”; and

18 (C) in subsection (b), by striking “section
19 24704 or”.

20 (21) Section 24709 is amended by striking
21 “The Secretary of the Treasury and the Attorney
22 General,” and inserting “The Secretary of Home-
23 land Security,”.

24 **SEC. 35502. CONDEMNATION AUTHORITY.**

25 Section 24311(c) is amended—

1 (1) in paragraph (1), by striking “Interstate
2 Commerce Commission” and inserting “Surface
3 Transportation Board”;

4 (2) in paragraph (2), by striking “Commis-
5 sion’s” and inserting “Board’s”; and

6 (3) by striking “Commission” each place it ap-
7 pears and inserting “Board”.

8 **Subtitle F—Licensing and Insur-**
9 **ance Requirements for Pas-**
10 **senger Rail Carriers**

11 **SEC. 35601. CERTIFICATION OF PASSENGER RAIL CAR-**
12 **RIERS.**

13 (a) Section 10901 is amended by adding at the end
14 the following:

15 “(e) Not later than 2 years after the date of enact-
16 ment of the National Rail System Preservation, Expans-
17 sion, and Development Act of 2012, the Board shall estab-
18 lish a certification process to authorize a person to provide
19 passenger rail transportation over a railroad line that is
20 subject to the jurisdiction of the Board, except that such
21 certification shall not be required for or apply to a freight
22 railroad providing or hosting passenger rail transportation
23 over its own railroad line.

24 “(f) After the certification process is established
25 under subsection (e), no person may provide passenger rail

1 transportation over a railroad line subject to the jurisdic-
2 tion of the Board unless the person is granted a certificate
3 under subsection (e).

4 “(g) The certification process under subsection (e)
5 shall—

6 “(1) permit a person to initiate a proceeding for
7 a certificate by filing an application with the Board;
8 and

9 “(2) require the Board to provide reasonable
10 public notice that a proceeding was initiated, includ-
11 ing notice to the Governor of any affected State, not
12 later than 30 days after receipt of the application
13 under paragraph (1).

14 “(h) The Board may grant a certificate under sub-
15 section (e) if the Board determines after consultation with
16 the Secretary of Transportation or the Secretary of Home-
17 land Security, as appropriate, that the applicant—

18 “(1) has or will have in effect a voluntary
19 agreement with the infrastructure owner over which
20 the passenger rail transportation will be provided or
21 contractual or statutory authority that provides for
22 access to such infrastructure;

23 “(2) demonstrates sufficient financial capacity
24 and operating experience to provide passenger rail
25 transportation;

1 “(3) meets all applicable safety and security re-
2 quirements under the law;

3 “(4) maintains a total minimum liability cov-
4 erage for claims through insurance and self-insur-
5 ance of not less than the amount required by section
6 28103(a)(2) per accident or incident; and

7 “(5) complies with any additional requirements
8 the Board determines are appropriate, including re-
9 porting requirements to ensure continued compliance
10 with this section.

11 “(i) A certificate granted under subsection (e) shall
12 specify the person to provide or authorized to provide pas-
13 senger rail transportation, if different from the applicant.

14 “(j) The Board may promulgate regulations—

15 “(1) for determining the adequacy of liability
16 insurance coverage, including self-insurance; and

17 “(2) for suspending or canceling a certificate if
18 the person to provide or authorized to provide pas-
19 senger rail transportation fails to comply with sub-
20 section (h).

21 “(k) This section shall not apply to tourist, historical,
22 or excursion passenger rail transportation or other rail
23 carrier that has already obtained construction or operating
24 authority from the Board.”.

1 (b) Section 24301(c) is amended by adding
2 “10901(e),” after “sections” in the first sentence.

3 (c) Section 10501(c)(3)(A) is amended—

4 (1) in clause (ii), by striking “and”;

5 (2) in clause (iii), by striking the period at the
6 end and inserting “ ; and”; and

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

8 “(iv) section 10901(e).”.

9 (d) Section 14901 is amended—

10 (1) by redesignating subsections (f) and (g) as
11 subsections (g) and (h), respectively;

12 (2) by inserting after subsection (e) the fol-
13 lowing:

14 “(f) CERTIFICATION REQUIRED.—A person shall be
15 subject to a penalty of \$300 for each passenger trans-
16 ported if the person—

17 “(1) provides passenger rail transportation sub-
18 ject to jurisdiction under section 10501(a); and

19 “(2) does not hold a certificate required under
20 section 10901(e).”; and

21 (3) in subsection (g), as redesignated, by strik-
22 ing “through (e)” and inserting “through (f)”.

23 (e) Section 10502(g) is amended to read as follows:

24 “(g) The Board may not exercise its authority under
25 this section to relieve a rail carrier of its obligation to pro-

1 tect the interests of employees as required by this part,
 2 or of the requirements of section 10901(g).”.

3 **TITLE VI—SPORT FISH RES-**
 4 **TORATION AND REC-**
 5 **REATIONAL BOATING SAFETY**
 6 **ACT OF 2012**

7 **SEC. 36001. SHORT TITLE.**

8 This title may be cited as the “Sport Fish Restora-
 9 tion and Recreational Boating Safety Act of 2012”.

10 **SEC. 36002. AMENDMENT OF FEDERAL AID IN SPORT FISH**
 11 **RESTORATION ACT.**

12 Section 4 of the Federal Aid in Fish Restoration Act
 13 (16 U.S.C. 777c) is amended—

14 (1) in subsection (a), by striking “of fiscal
 15 years 2006 through 2011 and for the period begin-
 16 ning on October 1, 2011, and ending on March 31,
 17 2012,” and inserting “fiscal year through 2013,”;
 18 and

19 (2) in subsection (b)(1)(A), by striking “of fis-
 20 cal years 2006 through 2011 and for the period be-
 21 ginning on October 1, 2011, and ending on March
 22 31, 2012,” and inserting “fiscal year through
 23 2013,”.

1 TITLE VII—MISCELLANEOUS**2 SEC. 37001. AIRCRAFT NOISE ABATEMENT.**

3 (a) IN GENERAL.—Section 3(b)(2) of Public Law
4 100–91 (16 U.S.C. 1a–1 note) is amended by adding at
5 the end the following: “The plan shall not apply to or oth-
6 erwise affect the regulation of flights over the Grand Can-
7 yon at altitudes above the Special Flight Rules Area for
8 the Grand Canyon in effect as of the date of the enactment
9 of the MAP–21, or as subsequently modified by mutual
10 agreement of the Secretary and the Administrator.”.

11 (b) SAVINGS PROVISIONS.—

12 (1) JURISDICTION OF NATIONAL AIRSPACE.—
13 None of the recommendations required under section
14 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1
15 note), including recommendations to raise the flight-
16 free zone altitude ceilings, shall adversely affect the
17 national airspace system, as determined by the Ad-
18 ministrator of the Federal Aviation Administration.
19 If the Administrator determines that implementing
20 the recommendations would adversely affect the na-
21 tional airspace system, the Administrator shall con-
22 sult with the Secretary of the Interior to eliminate
23 the adverse effects.

24 (2) EFFECT OF NEPA DETERMINATIONS.—None
25 of the environmental thresholds, analyses, impact de-

1 terminations, or conditions prepared or used by the
2 Secretary to develop recommendations regarding the
3 substantial restoration of natural quiet and experi-
4 ence for the Grand Canyon National Park required
5 under section 3(b)(1) of Public Law 100–91 shall
6 have broader application or be given deference with
7 respect to the Administrator’s compliance with the
8 National Environmental Policy Act for proposed
9 aviation actions and decisions. Nothing in this sec-
10 tion may be construed to limit the ability of the Na-
11 tional Park Service to use its own methods of anal-
12 ysis and impact determinations for air tour manage-
13 ment planning within its purview under the National
14 Parks Air Tour Management Act of 2000 (title VIII
15 of Public Law 106–181).

16 (c) CONVERSION TO QUIET TECHNOLOGY AIR-
17 CRAFT.—

18 (1) IN GENERAL.—Not later than 15 years
19 after the date of the enactment of this Act, all com-
20 mercial air tour aircraft operating in the Grand
21 Canyon National Park Special Flight Rules Area
22 shall be required to fully convert to quiet aircraft
23 technology (as determined in accordance with regu-
24 lations in effect on the day before the date of the en-
25 actment of this Act).

1 (2) CONVERSION INCENTIVES.—Not later than
2 60 days after the date of the enactment of this Act,
3 the Secretary and the Administrator of the Federal
4 Aviation Administration shall provide incentives for
5 commercial air tour operators that convert to quiet
6 aircraft technology (as determined in accordance
7 with the regulations in effect on the day before the
8 date of the enactment of this Act) before the date
9 specified in paragraph (1), such as increasing the
10 flight allocations for such operators on a net basis
11 consistent with section 804(e) of the National Park
12 Air Tours Management Act of 2000 (title VIII of
13 Public Law 106–181), provided that the cumulative
14 impact of such operations does not increase noise at
15 Grand Canyon National Park.

16 **DIVISION D—FINANCE**

17 **SEC. 40001. SHORT TITLE.**

18 This division may be cited as the “Highway Invest-
19 ment, Job Creation, and Economic Growth Act of 2012”.

1 **TITLE I—EXTENSION OF HIGH-**
2 **WAY TRUST FUND EXPENDI-**
3 **TURE AUTHORITY AND RE-**
4 **LATED TAXES**

5 **SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AU-**
6 **THORITY.**

7 (a) **HIGHWAY TRUST FUND.**—Section 9503 of the
8 Internal Revenue Code of 1986 is amended—

9 (1) by striking “April 1, 2012” in subsections
10 (b)(6)(B), (c)(1), and (e)(3) and inserting “October
11 1, 2013”; and

12 (2) by striking “Surface Transportation Exten-
13 sion Act of 2011, Part II” in subsections (c)(1) and
14 (e)(3) and inserting “Moving Ahead for Progress in
15 the 21st Century Act”.

16 (b) **SPORT FISH RESTORATION AND BOATING TRUST**
17 **FUND.**—Section 9504 of the Internal Revenue Code of
18 1986 is amended—

19 (1) by striking “Surface Transportation Exten-
20 sion Act of 2011, Part II” each place it appears in
21 subsection (b)(2) and inserting “Moving Ahead for
22 Progress in the 21st Century Act”; and

23 (2) by striking “April 1, 2012” in subsection
24 (d)(2) and inserting “October 1, 2013”.

1 (c) LEAKING UNDERGROUND STORAGE TANK TRUST
2 FUND.—Paragraph (2) of section 9508(e) of the Internal
3 Revenue Code of 1986 is amended by striking “April 1,
4 2012” and inserting “October 1, 2013”.

5 (d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Sec-
6 tion 9503 of the Internal Revenue Code of 1986 is amend-
7 ed by adding at the end the following new subsection:

8 “(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

9 “(1) CREATION OF ACCOUNT.—There is estab-
10 lished in the Highway Trust Fund a separate ac-
11 count to be known as the ‘Solvency Account’ con-
12 sisting of such amounts as may be transferred or
13 credited to the Solvency Account as provided in this
14 section or section 9602(b).

15 “(2) TRANSFERS TO SOLVENCY ACCOUNT.—
16 The Secretary of the Treasury shall transfer to the
17 Solvency Account the excess of—

18 “(A) any amount appropriated to the
19 Highway Trust Fund before October 1, 2013,
20 by reason of the provisions of, and amendments
21 made by, the Highway Investment, Job Cre-
22 ation, and Economic Growth Act of 2012, over

23 “(B) the amount necessary to meet the re-
24 quired expenditures from the Highway Trust

1 Fund under subsection (c) for the period ending
2 before October 1, 2013.

3 “(3) EXPENDITURES FROM ACCOUNT.—
4 Amounts in the Solvency Account shall be available
5 for transfers to the Highway Account (as defined in
6 subsection (e)(5)(B)) and the Mass Transit Account
7 in such amounts as determined necessary by the
8 Secretary to ensure that each account has a surplus
9 balance of \$2,800,000,000 on September 30, 2013.

10 “(4) TERMINATION OF ACCOUNT.—The Sol-
11 vency Account shall terminate on September 30,
12 2013, and the Secretary shall transfer any remain-
13 ing balance in the Account on such date to the
14 Highway Trust Fund.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on April 1, 2012.

17 **SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

18 (a) IN GENERAL.—

19 (1) Each of the following provisions of the In-
20 ternal Revenue Code of 1986 is amended by striking
21 “March 31, 2012” and inserting “September 30,
22 2015”:

23 (A) Section 4041(a)(1)(C)(iii)(I).

24 (B) Section 4041(m)(1)(B).

25 (C) Section 4081(d)(1).

1 (2) Each of the following provisions of such
2 Code is amended by striking “April 1, 2012” and in-
3 sserting “October 1, 2015”:

4 (A) Section 4041(m)(1)(A).

5 (B) Section 4051(e).

6 (C) Section 4071(d).

7 (D) Section 4081(d)(3).

8 (b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN
9 HEAVY VEHICLES.—Each of the following provisions of
10 the Internal Revenue Code of 1986 is amended by striking
11 “2012” and inserting “2015”:

12 (1) Section 4481(f).

13 (2) Subsections (c)(4) and (d) of section 4482.

14 (c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1)
15 of the Internal Revenue Code of 1986 is amended—

16 (1) by striking “April 1, 2012” each place it
17 appears and inserting “October 1, 2015”;

18 (2) by striking “September 30, 2012” each
19 place it appears and inserting “March 31, 2016”;
20 and

21 (3) by striking “July 1, 2012” and inserting
22 “January 1, 2016”.

23 (d) EXTENSION OF CERTAIN EXEMPTIONS.—Sec-
24 tions 4221(a) and 4483(i) of the Internal Revenue Code

1 of 1986 are each amended by striking “April 1, 2012”
2 and inserting “October 1, 2015”.

3 (e) EXTENSION OF TRANSFERS OF CERTAIN
4 TAXES.—

5 (1) IN GENERAL.—Section 9503 of the Internal
6 Revenue Code of 1986 is amended—

7 (A) in subsection (b)—

8 (i) by striking “April 1, 2012” each
9 place it appears in paragraphs (1) and (2)
10 and inserting “October 1, 2015”;

11 (ii) by striking “APRIL 1, 2012” in the
12 heading of paragraph (2) and inserting
13 “OCTOBER 1, 2015”;

14 (iii) by striking “March 31, 2012” in
15 paragraph (2) and inserting “September
16 30, 2015”; and

17 (iv) by striking “January 1, 2013” in
18 paragraph (2) and inserting “July 1,
19 2016”; and

20 (B) in subsection (c)(2), by striking “Jan-
21 uary 1, 2013” and inserting “July 1, 2016”.

22 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
23 TRANSFERS.—

24 (A) IN GENERAL.—Paragraphs (3)(A)(i)
25 and (4)(A) of section 9503(c) of such Code are

1 each amended by striking “April 1, 2012” and
2 inserting “October 1, 2015”.

3 (B) CONFORMING AMENDMENTS TO LAND
4 AND WATER CONSERVATION FUND.—Section
5 201(b) of the Land and Water Conservation
6 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
7 amended—

8 (i) by striking “April 1, 2013” each
9 place it appears and inserting “October 1,
10 2016”; and

11 (ii) by striking “April 1, 2012” and
12 inserting “October 1, 2015”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on April 1, 2012.

15 **TITLE II—OTHER PROVISIONS**

16 **SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EX-** 17 **CEPTION TO TAX-EXEMPT INTEREST EX-** 18 **PENSE ALLOCATION RULES FOR FINANCIAL** 19 **INSTITUTIONS.**

20 (a) IN GENERAL.—Subparagraph (G) of section
21 265(b)(3) of the Internal Revenue Code of 1986 is amend-
22 ed—

23 (1) by striking “2009 or 2010” each place it
24 appears in clauses (i), (ii), and (iii) and inserting

1 “2009, 2010, or the period beginning after June 30,
2 2012, and before July 1, 2013”, and

3 (2) by striking “2009 AND 2010” in the heading
4 and inserting “2009, 2010, 2012, AND 2013”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to obligations issued after June
7 30, 2012.

8 **SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE**
9 **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**
10 **BONDS.**

11 (a) INTEREST ON PRIVATE ACTIVITY BONDS NOT
12 TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of
13 section 57(a)(5)(C) of the Internal Revenue Code of 1986
14 is amended—

15 (1) in subclause (I) by inserting “, or after the
16 date of enactment of the Highway Investment, Job
17 Creation, and Economic Growth Act of 2012 and be-
18 fore January 1, 2013” after “January 1, 2011”;

19 (2) in subclause (III) by inserting “before Jan-
20 uary 1, 2011” after “which is issued”; and

21 (3) by striking “AND 2010” in the heading and
22 inserting “, 2010, AND PORTIONS OF 2012”.

23 (b) NO ADJUSTMENT TO ADJUSTED CURRENT
24 EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the In-
25 ternal Revenue Code of 1986 is amended—

1 “(B) TRIP BOND.—For purposes of this
2 section, the term ‘TRIP bond’ means any bond
3 issued as part of an issue if—

4 “(i) 100 percent of the available
5 project proceeds of such issue are to be
6 used for expenditures incurred after the
7 date of the enactment of this paragraph
8 for 1 or more qualified projects pursuant
9 to an allocation of such proceeds to such
10 project or projects by a State infrastruc-
11 ture bank,

12 “(ii) the bond is issued by a State in-
13 frastructure bank and is in registered form
14 (within the meaning of section 149(a) of
15 the Internal Revenue Code of 1986),

16 “(iii) the State infrastructure bank
17 designates such bond for purposes of this
18 section, and

19 “(iv) the term of each bond which is
20 part of such issue does not exceed 30
21 years.

22 “(C) QUALIFIED PROJECT.—For purposes
23 of this subparagraph, the term ‘qualified
24 project’ means the capital improvements to any
25 transportation infrastructure project of any

1 governmental unit or other person, including
2 roads, bridges, rail and transit systems, ports,
3 and inland waterways proposed and approved
4 by a State infrastructure bank, but does not in-
5 clude costs of operations or maintenance with
6 respect to such project.”,

7 (3) by adding at the end of paragraph (5), as
8 redesignated by paragraph (1), the following new
9 subparagraph:

10 “(D) TRIP BOND ACCOUNT.—Funds de-
11 posited into the TRIP bond account shall con-
12 stitute for purposes of this section a capitaliza-
13 tion grant for the TRIP bond account of the
14 bank.”, and

15 (4) by adding at the end the following new
16 paragraph:

17 “(8) SPECIAL RULES FOR TRIP BOND ACCOUNT
18 FUNDS.—

19 “(A) IN GENERAL.—The State shall de-
20 velop a transparent competitive process for the
21 award of funds deposited into the TRIP bond
22 account that considers the impact of qualified
23 projects on the economy, the environment, state
24 of good repair, and equity.

1 “(B) APPLICABILITY OF FEDERAL LAW.—

2 The requirements of any Federal law, including
3 this title and titles 40 and 49, which would oth-
4 erwise apply to projects to which the United
5 States is a party or to funds made available
6 under such law and projects assisted with those
7 funds shall apply to—

8 “(i) funds made available under the
9 TRIP bond account for similar qualified
10 projects, and

11 “(ii) similar qualified projects assisted
12 through the use of such funds.”.

13 **SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM**
14 **INCOME FOR EMPLOYER-PROVIDED MASS**
15 **TRANSIT AND PARKING BENEFITS.**

16 (a) IN GENERAL.—Paragraph (2) of section 132(f)
17 of the Internal Revenue Code of 1986 is amended by strik-
18 ing “January 1, 2012” and inserting “January 1, 2013”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to months after December 31,
21 2011.

22 **SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
23 **WATER SUPPLY FACILITIES.**

24 (a) BONDS FOR WATER AND SEWAGE FACILITIES
25 TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE

1 ACTIVITY BONDS.—Subsection (g) of section 146 of the
2 Internal Revenue Code of 1986 is amended—

3 (1) by striking “and” at the end of paragraph
4 (3),

5 (2) by striking the period at the end of para-
6 graph (4) and inserting “, and”, and

7 (3) by inserting after paragraph (4) the fol-
8 lowing new paragraph:

9 “(5) any exempt facility bonds issued before
10 January 1, 2018, as part of an issue described in
11 paragraph (4) or (5) of section 142(a).”.

12 (b) CONFORMING CHANGE.—Paragraphs (2) and
13 (3)(B) of section 146(k) of the Internal Revenue Code of
14 1986 are both amended by striking “paragraph (4), (5),
15 (6), or (10) of section 142(a)” and inserting “paragraph
16 (4) or (5) of section 142(a) with respect to bonds issued
17 after December 31, 2017, or paragraph (6) or (10) of sec-
18 tion 142(a)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to obligations issued after the date
21 of the enactment of this Act.

1 **TITLE III—REVENUE**
2 **PROVISIONS**

3 **SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND**
4 **STORAGE TANK TRUST FUND TO HIGHWAY**
5 **TRUST FUND.**

6 (a) IN GENERAL.—Subsection (c) of section 9508 of
7 the Internal Revenue Code of 1986 is amended—

8 (1) by striking “Amounts” and inserting:

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), amounts”, and

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) TRANSFER TO HIGHWAY TRUST FUND.—

14 Out of amounts in the Leaking Underground Stor-
15 age Tank Trust Fund there is hereby appropriated
16 \$3,000,000,000 to be transferred under section
17 9503(f)(3) to the Highway Trust Fund.”.

18 (b) TRANSFER TO HIGHWAY TRUST FUND.—

19 (1) IN GENERAL.—Subsection (f) of section
20 9503 of the Internal Revenue Code of 1986 is
21 amended by inserting after paragraph (2) the fol-
22 lowing new paragraph:

23 “(3) INCREASE IN FUND BALANCE.—There is
24 hereby transferred to the Highway Trust Fund
25 amounts appropriated from the Leaking Under-

1 ground Storage Tank Trust Fund under section
2 9508(e)(2).”.

3 (2) CONFORMING AMENDMENTS.—Paragraph
4 (4) of section 9503(f) of such Code is amended—

5 (A) by inserting “or transferred” after
6 “appropriated”, and

7 (B) by striking “APPROPRIATED” in the
8 heading thereof.

9 **SEC. 40302. PORTION OF LEAKING UNDERGROUND STOR-**
10 **AGE TANK TRUST FUND FINANCING RATE**
11 **TRANSFERRED TO HIGHWAY TRUST FUND.**

12 (a) IN GENERAL.—Subsection (b) of section 9503 of
13 the Internal Revenue Code of 1986 is amended by insert-
14 ing after paragraph (2) the following new paragraph:

15 “(3) PORTION OF LEAKING UNDERGROUND
16 STORAGE TANK TRUST FUND FINANCING RATE.—
17 There are hereby appropriated to the Highway Trust
18 Fund amounts equivalent to one-third of the taxes
19 received in the Treasury under—

20 “(A) section 4041(d) (relating to addi-
21 tional taxes on motor fuels),

22 “(B) section 4081 (relating to tax on gaso-
23 line, diesel fuel, and kerosene) to the extent at-
24 tributable to the Leaking Underground Storage

1 Tank Trust Fund financing rate under such
2 section, and

3 “(C) section 4042 (relating to tax on fuel
4 used in commercial transportation on inland
5 waterways) to the extent attributable to the
6 Leaking Underground Storage Tank Trust
7 Fund financing rate under such section.

8 For purposes of this paragraph, there shall not be
9 taken into account the taxes imposed by sections
10 4041 and 4081 on diesel fuel sold for use or used
11 as fuel in a diesel-powered boat.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Paragraphs (1), (2), and (3) of section
14 9508(b) of the Internal Revenue Code of 1986 are
15 each amended by inserting “two-thirds of the” be-
16 fore “taxes”.

17 (2) Paragraph (4) of section 9503(b) of such
18 Code is amended by striking subparagraphs (A) and
19 (B) and by redesignating subparagraphs (C) and
20 (D) as subparagraphs (A) and (B), respectively.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxes received after the date
23 of the enactment of this Act.

1 **SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGH-**
2 **WAY TRUST FUND.**

3 (a) IN GENERAL.—Paragraph (1) of section 9503(b)
4 of the Internal Revenue Code of 1986 is amended by re-
5 designating subparagraphs (C), (D), and (E) as subpara-
6 graphs (D), (E), and (F), respectively, and by inserting
7 after subparagraph (B) the following new subparagraph:

8 “(B) section 4064 (relating to gas guzzler
9 tax),”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxes received after the date
12 of the enactment of this Act.

13 **SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE**
14 **OF CERTAIN UNPAID TAXES.**

15 (a) IN GENERAL.—Subchapter D of chapter 75 of the
16 Internal Revenue Code of 1986 is amended by adding at
17 the end the following new section:

18 **“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE**
19 **OF CERTAIN TAX DELINQUENCIES.**

20 “(a) IN GENERAL.—If the Secretary receives certifi-
21 cation by the Commissioner of Internal Revenue that any
22 individual has a seriously delinquent tax debt in an
23 amount in excess of \$50,000, the Secretary shall transmit
24 such certification to the Secretary of State for action with
25 respect to denial, revocation, or limitation of a passport
26 pursuant to section 4 of the Act entitled ‘An Act to regu-

1 late the issue and validity of passports, and for other pur-
2 poses’, approved July 3, 1926 (22 U.S.C. 211a et seq.),
3 commonly known as the ‘Passport Act of 1926’.

4 “(b) SERIOUSLY DELINQUENT TAX DEBT.—For pur-
5 poses of this section, the term ‘seriously delinquent tax
6 debt’ means an outstanding debt under this title for which
7 a notice of lien has been filed in public records pursuant
8 to section 6323 or a notice of levy has been filed pursuant
9 to section 6331, except that such term does not include—

10 “(1) a debt that is being paid in a timely man-
11 ner pursuant to an agreement under section 6159 or
12 7122, and

13 “(2) a debt with respect to which collection is
14 suspended because a collection due process hearing
15 under section 6330, or relief under subsection (b),
16 (c), or (f) of section 6015, is requested or pending.

17 “(c) ADJUSTMENT FOR INFLATION.—In the case of
18 a calendar year beginning after 2012, the dollar amount
19 in subsection (a) shall be increased by an amount equal
20 to—

21 “(1) such dollar amount, multiplied by

22 “(2) the cost-of-living adjustment determined
23 under section 1(f)(3) for the calendar year, deter-
24 mined by substituting ‘calendar year 2011’ for ‘cal-
25 endar year 1992’ in subparagraph (B) thereof.

1 If any amount as adjusted under the preceding sentence
2 is not a multiple of \$1,000, such amount shall be rounded
3 to the next highest multiple of \$1,000.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter D of chapter 75 of the Internal Revenue
6 Code of 1986 is amended by adding at the end the fol-
7 lowing new item:

“Sec. 7345. Revocation or denial of passport in case of certain tax delin-
quencies.”.

8 (c) AUTHORITY FOR INFORMATION SHARING.—

9 (1) IN GENERAL.—Subsection (l) of section
10 6103 of the Internal Revenue Code of 1986 is
11 amended by adding at the end the following new
12 paragraph:

13 “(23) DISCLOSURE OF RETURN INFORMATION
14 TO DEPARTMENT OF STATE FOR PURPOSES OF PASS-
15 PORT REVOCATION UNDER SECTION 7345.—

16 “(A) IN GENERAL.—The Secretary shall,
17 upon receiving a certification described in sec-
18 tion 7345, disclose to the Secretary of State re-
19 turn information with respect to a taxpayer who
20 has a seriously delinquent tax debt described in
21 such section. Such return information shall be
22 limited to—

23 “(i) the taxpayer identity information
24 with respect to such taxpayer, and

1 “(ii) the amount of such seriously de-
2 linquent tax debt.

3 “(B) RESTRICTION ON DISCLOSURE.—Re-
4 turn information disclosed under subparagraph
5 (A) may be used by officers and employees of
6 the Department of State for the purposes of,
7 and to the extent necessary in, carrying out the
8 requirements of section 4 of the Act entitled
9 ‘An Act to regulate the issue and validity of
10 passports, and for other purposes’, approved
11 July 3, 1926 (22 U.S.C. 211a et seq.), com-
12 monly known as the ‘Passport Act of 1926’.”.

13 (2) CONFORMING AMENDMENT.—Paragraph (4)
14 of section 6103(p) of such Code is amended by strik-
15 ing “or (22)” each place it appears in subparagraph
16 (F)(ii) and in the matter preceding subparagraph
17 (A) and inserting “(22), or (23)”.

18 (d) REVOCATION AUTHORIZATION.—The Act entitled
19 “An Act to regulate the issue and validity of passports,
20 and for other purposes”, approved July 3, 1926 (22
21 U.S.C. 211a et seq.), commonly known as the “Passport
22 Act of 1926”, is amended by adding at the end the fol-
23 lowing:

24 **“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

25 “(a) INELIGIBILITY.—

1 “(1) ISSUANCE.—Except as provided under
2 subsection (b), upon receiving a certification de-
3 scribed in section 7345 of the Internal Revenue
4 Code of 1986 from the Secretary of the Treasury,
5 the Secretary of State may not issue a passport or
6 passport card to any individual who has a seriously
7 delinquent tax debt described in such section.

8 “(2) REVOCATION.—The Secretary of State
9 shall revoke a passport or passport card previously
10 issued to any individual described in subparagraph
11 (A).

12 “(b) EXCEPTIONS.—

13 “(1) EMERGENCY AND HUMANITARIAN SITUA-
14 TIONS.—Notwithstanding subsection (a), the Sec-
15 retary of State may issue a passport or passport
16 card, in emergency circumstances or for humani-
17 tarian reasons, to an individual described in sub-
18 section (a)(1).

19 “(2) LIMITATION FOR RETURN TO UNITED
20 STATES.—Notwithstanding subsection (a)(2), the
21 Secretary of State, before revocation, may—

22 “(A) limit a previously issued passport or
23 passport card only for return travel to the
24 United States; or

1 “(B) issue a limited passport or passport
2 card that only permits return travel to the
3 United States.”.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on January 1, 2013.

6 **SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS**
7 **TO MEDICARE PROVIDERS AND SUPPLIERS.**

8 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
9 of the Internal Revenue Code of 1986 is amended by strik-
10 ing the period at the end and inserting “, or to a Medicare
11 provider or supplier under title XVIII of the Social Secu-
12 rity Act.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to payments made after the date
15 of the enactment of this Act.

16 **SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO**
17 **CERTAIN DUTIES ON IMPORTED VEHICLES**
18 **INTO THE HIGHWAY TRUST FUND.**

19 Section 9503(b) of the Internal Revenue Code of
20 1986, as amended by this Act, is amended by adding at
21 the end the following new paragraph:

22 “(8) CERTAIN DUTIES ON IMPORTED VEHI-
23 CLES.—There are hereby appropriated to the High-
24 way Trust Fund amounts equivalent to the amounts
25 received in the Treasury that are attributable to du-

1 ties collected on or after October 1, 2011, and before
2 October 1, 2016, on articles classified under sub-
3 heading 8703.22.00 or 8703.24.00 of the Har-
4 monized Tariff Schedule of the United States.”.

5 **SEC. 40307. TREATMENT OF SECURITIES OF A CON-**
6 **TROLLED CORPORATION EXCHANGED FOR**
7 **ASSETS IN CERTAIN REORGANIZATIONS.**

8 (a) IN GENERAL.—Section 361 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

11 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING
12 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-
13 nization described in section 368(a)(1)(D) with respect to
14 which stock or securities of the corporation to which the
15 assets are transferred are distributed in a transaction
16 which qualifies under section 355—

17 “(1) this section shall be applied by substituting
18 ‘stock other than nonqualified preferred stock (as
19 defined in section 351(g)(2))’ for ‘stock or securities’
20 in subsections (a) and (b)(1), and

21 “(2) the first sentence of subsection (b)(3) shall
22 apply only to the extent that the sum of the money
23 and the fair market value of the other property
24 transferred to such creditors does not exceed the ad-
25 justed bases of such assets transferred (reduced by

1 the amount of the liabilities assumed (within the
2 meaning of section 357(c)).”.

3 (b) CONFORMING AMENDMENT.—Paragraph (3) of
4 section 361(b) is amended by striking the last sentence.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to exchanges after the date of the enact-
9 ment of this Act.

10 (2) TRANSITION RULE.—The amendments
11 made by this section shall not apply to any exchange
12 pursuant to a transaction which is—

13 (A) made pursuant to a written agreement
14 which was binding on February 6, 2012, and at
15 all times thereafter;

16 (B) described in a ruling request submitted
17 to the Internal Revenue Service on or before
18 February 6, 2012; or

19 (C) described on or before February 6,
20 2012, in a public announcement or in a filing
21 with the Securities and Exchange Commission.

22 **SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND**
23 **THRIFT SAVINGS PLAN ACCOUNTS.**

24 Section 8437(e)(3) of title 5, United States Code, is
25 amended by inserting “, the enforcement of a Federal tax

1 levy as provided in section 6331 of the Internal Revenue
2 Code of 1986,” after “(42 U.S.C. 659)”.

3 **SEC. 40309. DEPRECIATION AND AMORTIZATION RULES**
4 **FOR HIGHWAY AND RELATED PROPERTY**
5 **SUBJECT TO LONG-TERM LEASES.**

6 (a) ACCELERATED COST RECOVERY.—

7 (1) IN GENERAL.—Section 168(g)(1) of the In-
8 ternal Revenue Code of 1986 is amended by striking
9 “and” at the end of subparagraph (D), by redesignig-
10 nating subparagraph (E) as subparagraph (F), and
11 by inserting after subparagraph (D) the following
12 new subparagraph:

13 “(E) any applicable leased highway prop-
14 erty,”.

15 (2) RECOVERY PERIOD.—The table contained in
16 subparagraph (C) of section 168(g)(2) of such Code
17 is amended by redesignating clause (iv) as clause (v)
18 and by inserting after clause (iii) the following new
19 clause:

“(iv) Applicable leased highway property 45 years.”.

20 (3) APPLICABLE LEASED HIGHWAY PROPERTY
21 DEFINED.—

22 (A) IN GENERAL.—Section 168(g) of such
23 Code is amended by redesignating paragraph

1 (7) as paragraph (8) and by inserting after
2 paragraph (6) the following new paragraph:

3 “(7) APPLICABLE LEASED HIGHWAY PROP-
4 ERTY.—For purposes of paragraph (1)(E)—

5 “(A) IN GENERAL.—The term ‘applicable
6 leased highway property’ means property to
7 which this section otherwise applies which—

8 “(i) is subject to an applicable lease,
9 and

10 “(ii) is placed in service before the
11 date of such lease.

12 “(B) APPLICABLE LEASE.—The term ‘ap-
13 plicable lease’ means a lease or other arrange-
14 ment—

15 “(i) which is between the taxpayer
16 and a State or political subdivision thereof,
17 or any agency or instrumentality of either,
18 and

19 “(ii) under which the taxpayer—

20 “(I) leases a highway and associ-
21 ated improvements,

22 “(II) receives a right-of-way on
23 the public lands underlying such high-
24 way and improvements, and

1 “(III) receives a grant of a fran-
2 chise or other intangible right permit-
3 ting the taxpayer to receive funds re-
4 lating to the operation of such high-
5 way.”.

6 (B) CONFORMING AMENDMENT.—Subpara-
7 graph (F) of section 168(g)(1) (as redesignated
8 by subsection (a)(1)) is amended by striking
9 “paragraph (7)” and inserting “paragraph
10 (8)”.

11 (b) AMORTIZATION OF INTANGIBLES.—Section
12 197(f) of the Internal Revenue Code of 1986 is amended
13 by adding at the end the following new paragraph:

14 “(11) INTANGIBLES RELATING TO APPLICABLE
15 LEASED HIGHWAY PROPERTY.—In the case of any
16 amortizable section 197 intangible property which is
17 acquired in connection with an applicable lease (as
18 defined in section 168(g)(7)(B)), the amortization
19 period under this section shall not be less than the
20 term of the applicable lease. For purposes of the
21 preceding sentence, rules similar to the rules of sec-
22 tion 168(i)(3)(A) shall apply in determining the
23 term of the applicable lease.”.

24 (c) NO PRIVATE ACTIVITY BOND FINANCING OF AP-
25 PLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e)

1 of the Internal Revenue Code of 1986 is amended by in-
2 serting “, or to finance any applicable leased highway
3 property (as defined in section 168(g)(7)(A))” after
4 “premises”.

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to leases entered into after the date of
9 the enactment of this Act.

10 (2) NO PRIVATE ACTIVITY BOND FINANCING.—

11 The amendment made by subsection (c) shall apply
12 to bonds issued after the date of the enactment of
13 this Act.

14 **SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PEN-**
15 **SION ASSETS TO RETIREE HEALTH AC-**
16 **COUNTS.**

17 (a) IN GENERAL.—Paragraph (5) of section 420(b)
18 of the Internal Revenue Code of 1986 is amended by strik-
19 ing “December 31, 2013” and inserting “December 31,
20 2021”.

21 (b) CONFORMING ERISA AMENDMENTS.—

22 (1) Sections 101(e)(3), 403(c)(1), and
23 408(b)(13) of the Employee Retirement Income Se-
24 curity Act of 1974 are each amended by striking
25 “Pension Protection Act of 2006” and inserting

1 “Highway Investment, Job Creation, and Economic
2 Growth Act of 2012”.

3 (2) Section 408(b)(13) of such Act (29 U.S.C.
4 1108(b)(13)) is amended by striking “January 1,
5 2014” and inserting “January 1, 2022”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this Act shall take effect on the date of the enactment
8 of this Act.

9 **SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RE-**
10 **TIREE GROUP TERM LIFE INSURANCE AC-**
11 **COUNTS.**

12 (a) IN GENERAL.—Subsection (a) of section 420 of
13 the Internal Revenue Code of 1986 is amended by insert-
14 ing “, or an applicable life insurance account,” after
15 “health benefits account”.

16 (b) APPLICABLE LIFE INSURANCE ACCOUNT DE-
17 FINED.—

18 (1) IN GENERAL.—Subsection (e) of section
19 420 of the Internal Revenue Code of 1986 is amend-
20 ed by redesignating paragraphs (4) and (5) as para-
21 graphs (5) and (6), respectively, and by inserting
22 after paragraph (3) the following new paragraph:

23 “(4) APPLICABLE LIFE INSURANCE AC-
24 COUNT.—The term ‘applicable life insurance ac-
25 count’ means a separate account established and

1 maintained for amounts transferred under this sec-
 2 tion for qualified current retiree liabilities based on
 3 premiums for applicable life insurance benefits.”.

4 (2) APPLICABLE LIFE INSURANCE BENEFITS
 5 DEFINED.—Paragraph (1) of section 420(e) of such
 6 Code is amended by redesignating subparagraph (D)
 7 as subparagraph (E) and by inserting after subpara-
 8 graph (C) the following new subparagraph:

9 “(D) APPLICABLE LIFE INSURANCE BENE-
 10 FITS.—The term ‘applicable life insurance bene-
 11 fits’ means group-term life insurance coverage
 12 provided to retired employees who, immediately
 13 before the qualified transfer, are entitled to re-
 14 ceive such coverage by reason of retirement and
 15 who are entitled to pension benefits under the
 16 plan, but only to the extent that such coverage
 17 is provided under a policy for retired employees
 18 and the cost of such coverage is excludable from
 19 the retired employee’s gross income under sec-
 20 tion 79.”.

21 (3) COLLECTIVELY BARGAINED LIFE INSUR-
 22 ANCE BENEFITS DEFINED.—

23 (A) IN GENERAL.—Paragraph (6) of sec-
 24 tion 420(f) of such Code is amended by redesi-
 25 gnating subparagraph (D) as subparagraph (E)

1 and by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) COLLECTIVELY BARGAINED LIFE IN-
4 SURANCE BENEFITS.—The term ‘collectively
5 bargained life insurance benefits’ means, with
6 respect to any collectively bargained transfer—

7 “(i) applicable life insurance benefits
8 which are provided to retired employees
9 who, immediately before the transfer, are
10 entitled to receive such benefits by reason
11 of retirement, and

12 “(ii) if specified by the provisions of
13 the collective bargaining agreement gov-
14 erning the transfer, applicable life insur-
15 ance benefits which will be provided at re-
16 tirement to employees who are not retired
17 employees at the time of the transfer.”.

18 (B) CONFORMING AMENDMENTS.—

19 (i) Clause (i) of section 420(e)(1)(C)
20 of such Code is amended by striking “upon
21 retirement” and inserting “by reason of re-
22 tirement”.

23 (ii) Subparagraph (C) of section
24 420(f)(6) of such Code is amended—

1 (I) by striking “which are pro-
2 vided to” in the matter preceding
3 clause (i),

4 (II) by inserting “which are pro-
5 vided to” before “retired employees”
6 in clause (i),

7 (III) by striking “upon retire-
8 ment” in clause (i) and inserting “by
9 reason of retirement”, and

10 (IV) by striking “active employ-
11 ees who, following their retirement,”
12 and inserting “which will be provided
13 at retirement to employees who are
14 not retired employees at the time of
15 the transfer and who”.

16 (c) MAINTENANCE OF EFFORT.—

17 (1) IN GENERAL.—Subparagraph (A) of section
18 420(c)(3) of the Internal Revenue Code of 1986 is
19 amended by inserting “, and each group-term life in-
20 surance plan under which applicable life insurance
21 benefits are provided,” after “health benefits are
22 provided”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Subparagraph (B) of section 420(c)(3)
25 of such Code is amended—

1 (i) by redesignating subclauses (I) and
2 (II) of clause (i) as subclauses (II) and
3 (III) of such clause, respectively, and by
4 inserting before subclause (II) of such
5 clause, as so redesignated, the following
6 new subclause:

7 “(I) separately with respect to
8 applicable health benefits and applica-
9 ble life insurance benefits,” and

10 (ii) by striking “for applicable health
11 benefits” and all that follows in clause (ii)
12 and inserting “was provided during such
13 taxable year for the benefits with respect
14 to which the determination under clause (i)
15 is made.”.

16 (B) Subparagraph (C) of section 420(c)(3)
17 of such Code is amended—

18 (i) by inserting “for applicable health
19 benefits” after “applied separately”, and

20 (ii) by inserting “, and separately for
21 applicable life insurance benefits with re-
22 spect to individuals age 65 or older at any
23 time during the taxable year and with re-
24 spect to individuals under age 65 during
25 the taxable year” before the period.

1 (C) Subparagraph (E) of section 420(e)(3)
2 of such Code is amended—

3 (i) in clause (i), by inserting “or re-
4 tiree life insurance coverage, as the case
5 may be,” after “retiree health coverage”,
6 and

7 (ii) in clause (ii), by inserting “FOR
8 RETIREE HEALTH COVERAGE” after “COST
9 REDUCTIONS” in the heading thereof, and

10 (iii) in clause (ii)(II), by inserting
11 “with respect to applicable health benefits”
12 after “liabilities of the employer”.

13 (D) Paragraph (2) of section 420(f) of
14 such Code is amended by striking “collectively
15 bargained retiree health liabilities” each place it
16 occurs and inserting “collectively bargained re-
17 tiree liabilities”.

18 (E) Clause (i) of section 420(f)(2)(D) of
19 such Code is amended—

20 (i) by inserting “, and each group-
21 term life insurance plan or arrangement
22 under which applicable life insurance bene-
23 fits are provided,” in subclause (I) after
24 “applicable health benefits are provided”,

1 (ii) by inserting “or applicable life in-
2 surance benefits, as the case may be,” in
3 subclause (I) after “provides applicable
4 health benefits”,

5 (iii) by striking “group health” in
6 subclause (II), and

7 (iv) by inserting “or collectively bar-
8 gained life insurance benefits” in subclause
9 (II) after “collectively bargained health
10 benefits”.

11 (F) Clause (ii) of section 420(f)(2)(D) of
12 such Code is amended—

13 (i) by inserting “with respect to appli-
14 cable health benefits or applicable life in-
15 surance benefits” after “requirements of
16 subsection (c)(3)”, and

17 (ii) by adding at the end the fol-
18 lowing: “Such election may be made sepa-
19 rately with respect to applicable health
20 benefits and applicable life insurance bene-
21 fits. In the case of an election with respect
22 to applicable life insurance benefits, the
23 first sentence of this clause shall be ap-
24 plied as if subsection (c)(3) as in effect be-

1 fore the amendments made by such Act
2 applied to such benefits.”

3 (G) Clause (iii) of section 420(f)(2)(D) of
4 such Code is amended—

5 (i) by striking “retiree” each place it
6 occurs, and

7 (ii) by inserting “, collectively bar-
8 gained life insurance benefits, or both, as
9 the case may be,” after “health benefits”
10 each place it occurs.

11 (d) COORDINATION WITH SECTION 79.—Section 79
12 of the Internal Revenue Code of 1986 is amended by add-
13 ing at the end the following new subsection:

14 “(f) EXCEPTION FOR LIFE INSURANCE PURCHASED
15 IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS
16 PENSION ASSETS.—Subsection (b)(3) and section
17 72(m)(3) shall not apply in the case of any cost paid
18 (whether directly or indirectly) with assets held in an ap-
19 plicable life insurance account (as defined in section
20 420(e)(4)) under a defined benefit plan.”.

21 (e) CONFORMING AMENDMENTS.—

22 (1) Section 420 of the Internal Revenue Code
23 of 1986 is amended by striking “qualified current
24 retiree health liabilities” each place it appears and
25 inserting “qualified current retiree liabilities”.

1 (2) Section 420 of such Code is amended by in-
2 serting “, or an applicable life insurance account,”
3 after “a health benefits account” each place it ap-
4 pears in subsection (b)(1)(A), subparagraphs (A),
5 (B)(i), and (C) of subsection (c)(1), subsection
6 (d)(1)(A), and subsection (f)(2)(E)(ii).

7 (3) Section 420(b) of such Code is amended—

8 (A) by adding the following at the end of
9 paragraph (2)(A): “If there is a transfer from
10 a defined benefit plan to both a health benefits
11 account and an applicable life insurance ac-
12 count during any taxable year, such transfers
13 shall be treated as 1 transfer for purposes of
14 this paragraph.”, and

15 (B) by inserting “to an account” after
16 “may be transferred” in paragraph (3).

17 (4) The heading for section 420(c)(1)(B) of
18 such Code is amended by inserting “OR LIFE INSUR-
19 ANCE” after “HEALTH BENEFITS”.

20 (5) Paragraph (1) of section 420(e) of such
21 Code is amended—

22 (A) by inserting “and applicable life insur-
23 ance benefits” in subparagraph (A) after “ap-
24 plicable health benefits”, and

1 (B) by striking “HEALTH” in the heading
2 thereof.

3 (6) Subparagraph (B) of section 420(e)(1) of
4 such Code is amended—

5 (A) in the matter preceding clause (i), by
6 inserting “(determined separately for applicable
7 health benefits and applicable life insurance
8 benefits)” after “shall be reduced by the
9 amount”,

10 (B) in clause (i), by inserting “or applica-
11 ble life insurance accounts” after “health ben-
12 efit accounts”, and

13 (C) in clause (i), by striking “qualified cur-
14 rent retiree health liability” and inserting
15 “qualified current retiree liability”.

16 (7) The heading for subsection (f) of section
17 420 of such Code is amended by striking “HEALTH”
18 each place it occurs.

19 (8) Subclause (II) of section 420(f)(2)(B)(ii) of
20 such Code is amended by inserting “or applicable
21 life insurance account, as the case may be,” after
22 “health benefits account”.

23 (9) Subclause (III) of section 420(f)(2)(E)(i) of
24 such Code is amended—

1 (A) by inserting “defined benefit” before
2 “plan maintained by an employer”, and

3 (B) by inserting “health” before “benefit
4 plans maintained by the employer”.

5 (10) Paragraphs (4) and (6) of section 420(f)
6 of such Code are each amended by striking “collec-
7 tively bargained retiree health liabilities” each place
8 it occurs and inserting “collectively bargained retiree
9 liabilities”.

10 (11) Subparagraph (A) of section 420(f)(6) of
11 such Code is amended—

12 (A) in clauses (i) and (ii), by inserting “,
13 in the case of a transfer to a health benefits ac-
14 count,” before “his covered spouse and depend-
15 ents”, and

16 (B) in clause (ii), by striking “health plan”
17 and inserting “plan”.

18 (12) Subparagraph (B) of section 420(f)(6) of
19 such Code is amended—

20 (A) in clause (i), by inserting “, and collec-
21 tively bargained life insurance benefits,” after
22 “collectively bargained health benefits”,

23 (B) in clause (ii)—

24 (i) by adding at the end the following:

25 “The preceding sentence shall be applied

1 separately for collectively bargained health
2 benefits and collectively bargained life in-
3 surance benefits.”, and

4 (ii) by inserting “, applicable life in-
5 surance accounts,” after “health benefit
6 accounts”, and

7 (C) by striking “HEALTH” in the heading
8 thereof.

9 (13) Subparagraph (E) of section 420(f)(6) of
10 such Code, as redesignated by subsection (b), is
11 amended—

12 (A) by striking “bargained health” and in-
13 serting “bargained”,

14 (B) by inserting “, or a group-term life in-
15 surance plan or arrangement for retired em-
16 ployees,” after “dependents”, and

17 (C) by striking “HEALTH” in the heading
18 thereof.

19 (14) Section 101(e) of the Employee Retire-
20 ment Income Security Act of 1974 (29 U.S.C.
21 1021(e)) is amended—

22 (A) in paragraphs (1) and (2), by inserting
23 “or applicable life insurance account” after
24 “health benefits account” each place it appears,
25 and

1 (B) in paragraph (1), by inserting “or ap-
2 plicable life insurance benefit liabilities” after
3 “health benefits liabilities”.

4 (f) TECHNICAL CORRECTION.—Clause (iii) of section
5 420(f)(6)(B) is amended by striking “416(I)(1)” and in-
6 serting “416(i)(1)”.

7 (g) REPEAL OF DEADWOOD.—

8 (1) Subparagraph (A) of section 420(b)(1) of
9 the Internal Revenue Code of 1986 is amended by
10 striking “in a taxable year beginning after December
11 31, 1990”.

12 (2) Subsection (b) of section 420 of such Code
13 is amended by striking paragraph (4) and by redesi-
14 gnating paragraph (5), as amended by this Act, as
15 paragraph (4).

16 (3) Paragraph (2) of section 420(b) of such
17 Code, as amended by this section, is amended—

18 (A) by striking subparagraph (B), and

19 (B) by striking “PER YEAR.—” and all
20 that follows through “No more than” and in-
21 serting “PER YEAR.—No more than”.

22 (4) Paragraph (2) of section 420(c) of such
23 Code is amended—

24 (A) by striking subparagraph (B),

1 (B) by moving subparagraph (A) two ems
2 to the left, and

3 (C) by striking “BEFORE TRANSFER.—”
4 and all that follows through “The requirements
5 of this paragraph” and inserting the following:
6 “BEFORE TRANSFER.—The requirements of this
7 paragraph”.

8 (5) Paragraph (2) of section 420(d) of such
9 Code is amended by striking “after December 31,
10 1990”.

11 (h) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to transfers made after the
14 date of the enactment of this Act.

15 (2) CONFORMING AMENDMENTS RELATING TO
16 PENSION PROTECTION ACT.—The amendments made
17 by subsections (b)(3)(B) and (f) shall take effect as
18 if included in the amendments made by section
19 841(a) of the Pension Protection Act of 2006.

20 **SEC. 40312. PENSION FUNDING STABILIZATION.**

21 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
22 1986.—

23 (1) IN GENERAL.—Subparagraph (C) of section
24 430(h)(2) of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new
2 clause:

3 “(iv) SEGMENT RATE STABILIZA-
4 TION.—

5 “(I) IN GENERAL.—If a segment
6 rate described in clause (i), (ii), or
7 (iii) with respect to any applicable
8 month (determined without regard to
9 this clause) is less than the applicable
10 minimum percentage, or more than
11 the applicable maximum percentage,
12 of the average of the segment rates
13 described in such clause for years in
14 the 25-year period ending with Sep-
15 tember 30 of the calendar year pre-
16 ceding the calendar year in which the
17 plan year begins, then the segment
18 rate described in such clause with re-
19 spect to the applicable month shall be
20 equal to the applicable minimum per-
21 centage or the applicable maximum
22 percentage of such average, whichever
23 is closest. The Secretary shall deter-
24 mine such average on an annual basis
25 and may prescribe equivalent rates for

1 years in any such 25-year period for
 2 which the rates described in any such
 3 clause are not available.

4 “(II) APPLICABLE MINIMUM PER-
 5 CENTAGE; APPLICABLE MAXIMUM
 6 PERCENTAGE.—For purposes of sub-
 7 clause (I), the applicable minimum
 8 percentage and the applicable max-
 9 imum percentage for a plan year be-
 10 ginning in a calendar year shall be de-
 11 termined in accordance with the fol-
 12 lowing table:

“If the calendar year is:	The applica- ble min- imum per- centage is:	The applica- ble max- imum per- centage is:
2012	90%	110%
2013	85%	115%
2014	80%	120%
2015	75%	125%
After 2015	70%	130%.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Paragraph (6) of section 404(o) of
 15 such Code is amended by inserting “(deter-
 16 mined by not taking into account any adjust-
 17 ment under clause (iv) of subsection (h)(2)(C)
 18 thereof)” before the period.

19 (B) Subparagraph (F) of section 430(h)(2)
 20 of such Code is amended by inserting “and the

1 averages determined under subparagraph
2 (C)(iv)” after “subparagraph (C)”.

3 (C) Subparagraphs (C) and (D) of section
4 417(e)(3) of such Code are each amended by
5 striking “section 430(h)(2)(C)” and inserting
6 “section 430(h)(2)(C) (determined by not tak-
7 ing into account any adjustment under clause
8 (iv) thereof)”.

9 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
10 COME SECURITY ACT OF 1974.—

11 (1) IN GENERAL.—Subparagraph (C) of section
12 303(h)(2) of the Employee Retirement Income Secu-
13 rity Act of 1974 (29 U.S.C. 1083(h)(2)) is amended
14 by adding at the end the following new clause:

15 “(iv) SEGMENT RATE STABILIZA-
16 TION.—

17 “(I) IN GENERAL.—If a segment
18 rate described in clause (i), (ii), or
19 (iii) with respect to any applicable
20 month (determined without regard to
21 this clause) is less than the applicable
22 minimum percentage, or more than
23 the applicable maximum percentage,
24 of the average of the segment rates
25 described in such clause for years in

1 the 25-year period ending with Sep-
2 tember 30 of the calendar year pre-
3 ceding the calendar year in which the
4 plan year begins, then the segment
5 rate described in such clause with re-
6 spect to the applicable month shall be
7 equal to the applicable minimum per-
8 centage or the applicable maximum
9 percentage of such average, whichever
10 is closest. The Secretary of the Treas-
11 ury shall determine such average on
12 an annual basis and may prescribe
13 equivalent rates for years in any such
14 25-year period for which the rates de-
15 scribed in any such clause are not
16 available.

17 “(II) APPLICABLE MINIMUM PER-
18 CENTAGE; APPLICABLE MAXIMUM
19 PERCENTAGE.—For purposes of sub-
20 clause (I), the applicable minimum
21 percentage and the applicable max-
22 imum percentage for a plan year be-
23 ginning in a calendar year shall be de-
24 termined in accordance with the fol-
25 lowing table:

“If the calendar year is:	The applica- ble min- imum per- centage is:	The applica- ble max- imum per- centage is:
2012	90%	110%
2013	85%	115%
2014	80%	120%
2015	75%	125%
After 2015	70%	130%.”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Subparagraph (F) of section 303(h)(2)
3 of such Act (29 U.S.C. 1083(h)(2)) is amended
4 by inserting “and the averages determined
5 under subparagraph (C)(iv)” after “subpara-
6 graph (C)”.

7 (B) Clauses (ii) and (iii) of section
8 205(g)(3)(B) of such Act (29 U.S.C.
9 1055(g)(3)(B)) are each amended by striking
10 “section 303(h)(2)(C)” and inserting “section
11 303(h)(2)(C) (determined by not taking into ac-
12 count any adjustment under clause (iv) there-
13 of)”.

14 (C) Clause (iv) of section 4006(a)(3)(E) of
15 such Act (29 U.S.C. 1306(a)(3)(E)) is amended
16 by striking “section 303(h)(2)(C)” and insert-
17 ing “section 303(h)(2)(C) (notwithstanding any
18 regulations issued by the corporation, deter-
19 mined by not taking into account any adjust-
20 ment under clause (iv) thereof)”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply with respect to plan years be-
4 ginning after December 31, 2011.

5 (2) EXCEPTION.—A plan sponsor may elect not
6 to have the amendments made by this section apply
7 to any plan year beginning on or before the date of
8 the enactment of this Act solely for purposes of de-
9 termining the adjusted funding target attainment
10 percentage under sections 436 of the Internal Rev-
11 enue Code of 1986 and 206(g) of the Employee Re-
12 tirement Income Security Act of 1974 for such plan
13 year. A plan shall not be treated as failing to meet
14 the requirements of sections 411(d)(6) of such Code
15 and 204(g) of such Act solely by reason of an elec-
16 tion under this paragraph.

17 **SEC. 40313. ADDITIONAL TRANSFERS TO HIGHWAY TRUST**
18 **FUND.**

19 Subsection (f) of section 9503 of the Internal Rev-
20 enue Code of 1986, as amended by this Act, is amended
21 by redesignating paragraph (4) as paragraph (5) and by
22 inserting after paragraph (3) the following new paragraph:

23 “(4) ADDITIONAL APPROPRIATIONS TO TRUST
24 FUND.—Out of money in the Treasury not otherwise

1 appropriated, there is hereby appropriated to the
2 Highway Trust Fund—

3 “(A) for fiscal year 2012, \$2,183,000,000,

4 “(B) for fiscal year 2013, \$2,277,000,000,

5 and

6 “(C) for fiscal year 2014, \$510,000,000.”.

7 **SEC. 40314. TRANSFERS TO FEDERAL OLD-AGE AND SUR-**
8 **VIVORS INSURANCE TRUST FUND AND FED-**
9 **ERAL DISABILITY INSURANCE TRUST FUND.**

10 Out of money in the Treasury not otherwise appro-
11 priated, there is hereby appropriated—

12 (1) for fiscal year 2012, \$27,000,000, and

13 (2) for fiscal year 2014, \$82,000,000,

14 to the Federal Old-Age and Survivors Trust Fund and the
15 Federal Disability Insurance Trust Fund established
16 under section 201 of the Social Security Act (42 U.S.C.
17 401). The Secretary of the Treasury shall allocate such
18 amounts between such Trust Funds in the ratio in which
19 amounts are appropriated to such Trust Funds under
20 clause (3) of section 201(a) and clause (1) of section
21 201(b) of such Act.

1 **DIVISION E—RESEARCH AND**
2 **EDUCATION**

3 **SEC. 50001. SHORT TITLE.**

4 This division may be cited as the “Transportation
5 Research and Innovative Technology Act of 2012”.

6 **TITLE I—FUNDING**

7 **SEC. 51001. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) **IN GENERAL.**—The following amounts are au-
9 thorized to be appropriated out of the Highway Trust
10 Fund (other than the Mass Transit Account):

11 (1) **HIGHWAY RESEARCH AND DEVELOPMENT**
12 **PROGRAM.**—To carry out sections 503(b), 503(d),
13 and 509 of title 23, United States Code,
14 \$90,000,000 for each of fiscal years 2012 and 2013.

15 (2) **TECHNOLOGY AND INNOVATION DEPLOY-**
16 **MENT PROGRAM.**—To carry out section 503(c) of
17 title 23, United States Code, \$90,000,000 for each
18 of fiscal years 2012 and 2013.

19 (3) **TRAINING AND EDUCATION.**—To carry out
20 section 504 of title 23, United States Code,
21 \$24,000,000 for each of fiscal years 2012 and 2013.

22 (4) **INTELLIGENT TRANSPORTATION SYSTEMS**
23 **PROGRAM.**—To carry out sections 512 through 518
24 of title 23, United States Code, \$100,000,000 for
25 each of fiscal years 2012 and 2013.

1 (5) UNIVERSITY TRANSPORTATION CENTERS
2 PROGRAM.—To carry out section 5505 of title 49,
3 United States Code, \$70,000,000 for each of fiscal
4 years 2012 and 2013.

5 (6) BUREAU OF TRANSPORTATION STATIS-
6 TICS.—To carry out chapter 65 of title 49, United
7 States Code, \$26,000,000 for each of fiscal years
8 2012 and 2013.

9 (b) APPLICABILITY OF TITLE 23, UNITED STATES
10 CODE.—Funds authorized to be appropriated by sub-
11 section (a) shall—

12 (1) be available for obligation in the same man-
13 ner as if those funds were apportioned under chap-
14 ter 1 of title 23, United States Code, except that the
15 Federal share of the cost of a project or activity car-
16 ried out using those funds shall be 80 percent, un-
17 less otherwise expressly provided by this Act (includ-
18 ing the amendments by this Act) or otherwise deter-
19 mined by the Secretary; and

20 (2) remain available until expended and not be
21 transferable.

1 **TITLE II—RESEARCH,**
2 **TECHNOLOGY, AND EDUCATION**

3 **SEC. 52001. RESEARCH, TECHNOLOGY, AND EDUCATION.**

4 Section 501 of title 23, United States Code, is
5 amended—

6 (1) by redesignating paragraph (2) as para-
7 graph (8);

8 (2) by inserting after paragraph (1) the fol-
9 lowing:

10 “(2) INCIDENT.—The term ‘incident’ means a
11 crash, natural disaster, workzone activity, special
12 event, or other emergency road user occurrence that
13 adversely affects or impedes the normal flow of traf-
14 fic.

15 “(3) INNOVATION LIFECYCLE.—The term ‘inno-
16 vation lifecycle’ means the process of innovating
17 through—

18 “(A) the identification of a need;

19 “(B) the establishment of the scope of re-
20 search to address that need;

21 “(C) setting an agenda;

22 “(D) carrying out research, development,
23 deployment, and testing of the resulting tech-
24 nology or innovation; and

1 “(E) carrying out an evaluation of the im-
2 pact of the resulting technology or innovation.

3 “(4) INTELLIGENT TRANSPORTATION INFRA-
4 STRUCTURE.—The term ‘intelligent transportation
5 infrastructure’ means fully integrated public sector
6 intelligent transportation system components, as de-
7 fined by the Secretary.

8 “(5) INTELLIGENT TRANSPORTATION SYS-
9 TEM.—The terms ‘intelligent transportation system’
10 and ‘ITS’ mean electronics, photonics, communica-
11 tions, or information processing used singly or in
12 combination to improve the efficiency or safety of a
13 surface transportation system.

14 “(6) NATIONAL ARCHITECTURE.—For purposes
15 of this chapter, the term ‘national architecture’
16 means the common framework for interoperability
17 that defines—

18 “(A) the functions associated with intel-
19 ligent transportation system user services;

20 “(B) the physical entities or subsystems
21 within which the functions reside;

22 “(C) the data interfaces and information
23 flows between physical subsystems; and

24 “(D) the communications requirements as-
25 sociated with the information flows.

1 “(7) PROJECT.—The term ‘project’ means an
2 undertaking to research, develop, or operationally
3 test intelligent transportation systems or any other
4 undertaking eligible for assistance under this chap-
5 ter.”; and

6 (3) by inserting after paragraph (8) (as so re-
7 designated) the following:

8 “(9) STANDARD.—The term ‘standard’ means a
9 document that—

10 “(A) contains technical specifications or
11 other precise criteria for intelligent transpor-
12 tation systems that are to be used consistently
13 as rules, guidelines, or definitions of character-
14 istics so as to ensure that materials, products,
15 processes, and services are fit for the intended
16 purposes of the materials, products, processes,
17 and services; and

18 “(B) may support the national architecture
19 and promote—

20 “(i) the widespread use and adoption
21 of intelligent transportation system tech-
22 nology as a component of the surface
23 transportation systems of the United
24 States; and

1 “(ii) interoperability among intelligent
2 transportation system technologies imple-
3 mented throughout the States.”.

4 **SEC. 52002. SURFACE TRANSPORTATION RESEARCH, DE-**
5 **VELOPMENT, AND TECHNOLOGY.**

6 (a) SURFACE TRANSPORTATION RESEARCH, DEVEL-
7 OPMENT, AND TECHNOLOGY.—Section 502 of title 23,
8 United States Code, is amended—

9 (1) in the section heading by inserting “, devel-
10 opment, and technology” after “surface transpor-
11 tation research”;

12 (2) in subsection (a)—

13 (A) by redesignating paragraphs (1)
14 through (8) as paragraphs (2) through (9), re-
15 spectively;

16 (B) by inserting before paragraph (2) (as
17 redesignated by subparagraph (A)) the fol-
18 lowing:

19 “(1) APPLICABILITY.—The research, develop-
20 ment, and technology provisions of this section shall
21 apply throughout this chapter.”;

22 (C) in paragraph (2) (as redesignated by
23 subparagraph (A))—

24 (i) by inserting “within the innovation
25 lifecycle” after “activities”; and

1 (ii) by inserting “marketing and com-
2 munications, impact analysis,” after
3 “training,”;

4 (D) in paragraph (3) (as redesignated by
5 subparagraph (A))—

6 (i) in subparagraph (B) by striking
7 “supports research in which there is a
8 clear public benefit and” and inserting
9 “delivers a clear public benefit and occurs
10 where”;

11 (ii) in subparagraph (C) by striking
12 “or” after the semicolon;

13 (iii) by redesignating subparagraph
14 (D) as subparagraph (H); and

15 (iv) by inserting after subparagraph
16 (C) the following:

17 “(D) meets and addresses current or
18 emerging needs;

19 “(E) presents the best means to align re-
20 sources with multiyear plans and priorities;

21 “(F) ensures the coordination of highway
22 research and technology transfer activities, in-
23 cluding through activities performed by univer-
24 sity transportation centers;

1 “(G) educates current and future transpor-
2 tation professionals; or”;

3 (E) in paragraph (4) (as redesignated by
4 subparagraph (A)) by striking subparagraphs
5 (B) through (D) and inserting the following:

6 “(B) partner with State highway agencies
7 and other stakeholders as appropriate, includ-
8 ing international entities, to facilitate research
9 and technology transfer activities;

10 “(C) communicate the results of ongoing
11 and completed research;

12 “(D) lead efforts to coordinate national
13 emphasis areas of highway research, technology,
14 and innovation deployment;

15 “(E) leverage partnerships with industry,
16 academia, and international entities; and

17 “(F) conduct, facilitate, and support train-
18 ing and education of current and future trans-
19 portation professionals.”;

20 (F) in paragraph (5)(C) (as redesignated
21 by subparagraph (A)) by striking “policy and
22 planning” and inserting “all highway objectives
23 seeking to improve the performance of the
24 transportation system”;

1 (G) in paragraph (6) (as redesignated by
2 subparagraph (A)) in the second sentence, by
3 inserting “tribal governments,” after “local gov-
4 ernments,”; and

5 (H) in paragraph (8) (as redesignated by
6 subparagraph (A))—

7 (i) in the first sentence, by striking
8 “To the maximum” and inserting the fol-
9 lowing:

10 “(A) IN GENERAL.—To the maximum”;

11 (ii) in the second sentence, by striking
12 “Performance measures” and inserting the
13 following:

14 “(B) PERFORMANCE MEASURES.—Per-
15 formance measures”;

16 (iii) in the third sentence, by striking
17 “All evaluations” and inserting the fol-
18 lowing:

19 “(D) AVAILABILITY OF EVALUATIONS.—All
20 evaluations under this paragraph”; and

21 (iv) by inserting after subparagraph
22 (B) the following:

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 (3) in subsection (b)—

4 (A) in paragraph (4) by striking “surface
5 transportation research and technology develop-
6 ment strategic plan developed under section
7 508” and inserting “the transportation research
8 and development strategic plan of the Sec-
9 retary”;

10 (B) in paragraph (5) by striking “section”
11 each place it appears and inserting “chapter”;

12 (C) in paragraph (6) by adding at the end
13 the following:

14 “(C) TRANSFER OF AMOUNTS AMONG
15 STATES OR TO FEDERAL HIGHWAY ADMINIS-
16 TRATION.—The Secretary may, at the request
17 of a State, transfer amounts apportioned or al-
18 located to that State under this chapter to an-
19 other State or the Federal Highway Adminis-
20 tration to fund research, development, and tech-
21 nology transfer activities of mutual interest on
22 a pooled funds basis.

23 “(D) TRANSFER OF OBLIGATION AUTHOR-
24 ITY.—Obligation authority for amounts trans-
25 ferred under this subsection shall be disbursed

1 in the same manner and for the same amount
2 as provided for the project being transferred.”;
3 and

4 (D) by adding at the end the following:

5 “(7) PRIZE COMPETITIONS.—

6 “(A) IN GENERAL.—The Secretary may
7 carry out prize competitions to award competi-
8 tive prizes for surface transportation innova-
9 tions that have the potential for application to
10 the research and technology objectives and ac-
11 tivities of the Federal Highway Administration
12 to improve system performance.

13 “(B) REQUIREMENTS.—

14 “(i) IN GENERAL.—The Secretary
15 shall use a competitive process for the se-
16 lection of prize recipients and shall widely
17 advertise and solicit participation in prize
18 competitions under this paragraph.

19 “(ii) REGISTRATION REQUIRED.—No
20 individual or entity shall participate in a
21 prize competition under this paragraph un-
22 less the individual or entity has registered
23 with the Secretary in accordance with the
24 eligibility requirements established by the
25 Secretary under clause (iii).

1 “(iii) MINIMUM REQUIREMENTS.—The
2 Secretary shall establish eligibility require-
3 ments for participation in each prize com-
4 petition under this paragraph, which, at a
5 minimum, shall—

6 “(I) limit participation in the
7 prize competition to—

8 “(aa) individuals who are
9 citizens of the United States;

10 “(bb) entities organized or
11 existing under the laws of the
12 United States or of a State; and

13 “(cc) entities organized or
14 existing under the laws of a for-
15 eign country, if the controlling
16 interest, as defined by the Sec-
17 retary, is held by an individual or
18 entity described in item (aa) or
19 (bb);

20 “(II) require any individual or
21 entity that registers for a prize com-
22 petition—

23 “(aa) to assume all risks
24 arising from participation in the
25 competition; and

1 “(bb) to waive all claims
2 against the Federal Government
3 for any damages arising out of
4 participation in the competition,
5 including all claims, whether
6 through negligence or otherwise,
7 except in the case of willful mis-
8 conduct, for—

9 “(AA) injury, death,
10 damage, or loss of property;
11 or

12 “(BB) loss of revenue
13 or profits, whether direct,
14 indirect, or consequential;
15 and

16 “(III) require any individual or
17 entity that registers for a prize com-
18 petition to waive all claims against
19 any non-Federal entity operating or
20 managing the prize competition, such
21 as a private contractor managing
22 competition activities, to the extent
23 that the Secretary believes is nec-
24 essary to protect the interests of the
25 Federal Government.

1 “(C) RELATIONSHIP TO OTHER AUTHOR-
 2 ITY.—The Secretary may exercise the authority
 3 in this section in conjunction with, or in addi-
 4 tion to, any other authority of the Secretary to
 5 acquire, support, or stimulate innovations with
 6 the potential for application to the Federal
 7 highway research technology and education pro-
 8 gram.”;

9 (4) in subsection (c)—

10 (A) in paragraph (3)(A)—

11 (i) by striking “subsection” and in-
 12 serting “chapter”; and

13 (ii) by striking “50” and inserting
 14 “80”; and

15 (B) in paragraph (4) by striking “sub-
 16 section” and inserting “chapter”; and

17 (5) by striking subsections (d) through (j).

18 (b) CONFORMING AMENDMENT.—The analysis for
 19 chapter 5 of title 23, United States Code, is amended by
 20 striking the item relating to section 502 and inserting the
 21 following:

“502. Surface transportation research, development, and technology.”.

22 **SEC. 52003. RESEARCH AND TECHNOLOGY DEVELOPMENT**
 23 **AND DEPLOYMENT.**

24 (a) IN GENERAL.—Section 503 of title 23, United
 25 States Code, is amended to read as follows:

1 **“§ 503. Research and technology development and de-**
2 **ployment**

3 “(a) IN GENERAL.—The Secretary shall—

4 “(1) carry out research, development, and de-
5 ployment activities that encompass the entire inno-
6 vation lifecycle; and

7 “(2) ensure that all research carried out under
8 this section aligns with the transportation research
9 and development strategic plan of the Secretary.

10 “(b) HIGHWAY RESEARCH AND DEVELOPMENT PRO-
11 GRAM.—

12 “(1) OBJECTIVES.—In carrying out the high-
13 way research and development program, the Sec-
14 retary, to address current and emerging highway
15 transportation needs, shall—

16 “(A) identify research topics;

17 “(B) coordinate domestic and international
18 research and development activities;

19 “(C) carry out research, testing, and eval-
20 uation activities; and

21 “(D) provide technology transfer and tech-
22 nical assistance.

23 “(2) CONTENTS.—Research and development
24 activities carried out under this section may include
25 any of the following activities:

26 “(A) IMPROVING HIGHWAY SAFETY.—

1 “(i) IN GENERAL.—The Secretary
2 shall carry out research and development
3 activities from an integrated perspective to
4 establish and implement systematic meas-
5 ures to improve highway safety.

6 “(ii) OBJECTIVES.—In carrying out
7 this subparagraph the Secretary shall
8 carry out research and development activi-
9 ties—

10 “(I) to achieve greater long-term
11 safety gains;

12 “(II) to reduce the number of fa-
13 talities and serious injuries on public
14 roads;

15 “(III) to fill knowledge gaps that
16 limit the effectiveness of research;

17 “(IV) to support the development
18 and implementation of State strategic
19 highway safety plans;

20 “(V) to advance improvements
21 in, and use of, performance prediction
22 analysis for decisionmaking; and

23 “(VI) to expand technology
24 transfer to partners and stakeholders.

1 “(iii) CONTENTS.—Research and tech-
2 nology activities carried out under this
3 subparagraph may include—

4 “(I) safety assessments and deci-
5 sionmaking tools;

6 “(II) data collection and analysis;

7 “(III) crash reduction projec-
8 tions;

9 “(IV) low-cost safety counter-
10 measures;

11 “(V) innovative operational im-
12 provements and designs of roadway
13 and roadside features;

14 “(VI) evaluation of counter-
15 measure costs and benefits;

16 “(VII) development of tools for
17 projecting impacts of safety counter-
18 measures;

19 “(VIII) rural road safety meas-
20 ures;

21 “(IX) safety measures for vulner-
22 able road users, including bicyclists
23 and pedestrians;

24 “(X) safety policy studies;

1 “(XI) human factors studies and
2 measures;

3 “(XII) safety technology deploy-
4 ment;

5 “(XIII) safety workforce profes-
6 sional capacity building initiatives;

7 “(XIV) safety program and proc-
8 ess improvements; and

9 “(XV) tools and methods to en-
10 hance safety performance, including
11 achievement of statewide safety per-
12 formance targets.

13 “(B) IMPROVING INFRASTRUCTURE INTEG-
14 RITY.—

15 “(i) IN GENERAL.—The Secretary
16 shall carry out and facilitate highway and
17 bridge infrastructure research and develop-
18 ment activities—

19 “(I) to maintain infrastructure
20 integrity;

21 “(II) to meet user needs; and

22 “(III) to link Federal transpor-
23 tation investments to improvements in
24 system performance.

1 “(ii) OBJECTIVES.—In carrying out
2 this subparagraph, the Secretary shall
3 carry out research and development activi-
4 ties—

5 “(I) to reduce the number of fa-
6 talities attributable to infrastructure
7 design characteristics and work zones;

8 “(II) to improve the safety and
9 security of highway infrastructure;

10 “(III) to increase the reliability
11 of lifecycle performance predictions
12 used in infrastructure design, con-
13 struction, and management;

14 “(IV) to improve the ability of
15 transportation agencies to deliver
16 projects that meet expectations for
17 timeliness, quality, and cost;

18 “(V) to reduce user delay attrib-
19 utable to infrastructure system per-
20 formance, maintenance, rehabilitation,
21 and construction;

22 “(VI) to improve highway condi-
23 tion and performance through in-
24 creased use of design, materials, con-

1 construction, and maintenance innova-
2 tions;

3 “(VII) to reduce the lifecycle en-
4 vironmental impacts of highway infra-
5 structure through innovations in de-
6 sign, construction, operation, preser-
7 vation, and maintenance; and

8 “(VIII) to study vulnerabilities of
9 the transportation system to seismic
10 activities and extreme events and
11 methods to reduce those
12 vulnerabilities.

13 “(iii) CONTENTS.—Research and tech-
14 nology activities carried out under this
15 subparagraph may include—

16 “(I) long-term infrastructure per-
17 formance programs addressing pave-
18 ments, bridges, tunnels, and other
19 structures;

20 “(II) short-term and accelerated
21 studies of infrastructure performance;

22 “(III) research to develop more
23 durable infrastructure materials and
24 systems;

- 1 “(IV) advanced infrastructure de-
2 sign methods;
- 3 “(V) accelerated highway and
4 bridge construction;
- 5 “(VI) performance-based speci-
6 fications;
- 7 “(VII) construction and materials
8 quality assurance;
- 9 “(VIII) comprehensive and inte-
10 grated infrastructure asset manage-
11 ment;
- 12 “(IX) infrastructure safety assur-
13 ance;
- 14 “(X) highway infrastructure se-
15 curity;
- 16 “(XI) sustainable infrastructure
17 design and construction;
- 18 “(XII) infrastructure rehabilita-
19 tion and preservation techniques, in-
20 cluding techniques to rehabilitate and
21 preserve historic infrastructure;
- 22 “(XIII) hydraulic, geotechnical,
23 and aerodynamic aspects of infra-
24 structure;

1 “(XIV) improved highway con-
2 struction technologies and practices;

3 “(XV) improved tools, tech-
4 nologies, and models for infrastruc-
5 ture management, including assess-
6 ment and monitoring of infrastructure
7 condition;

8 “(XVI) studies to improve flexi-
9 bility and resiliency of infrastructure
10 systems to withstand climate varia-
11 bility;

12 “(XVII) studies on the effective-
13 ness of fiber-based additives to im-
14 prove the durability of surface trans-
15 portation materials in various geo-
16 graphic regions;

17 “(XVIII) studies of infrastruc-
18 ture resilience and other adaptation
19 measures;

20 “(XIX) maintenance of seismic
21 research activities, including research
22 carried out in conjunction with other
23 Federal agencies to study the vulner-
24 ability of the transportation system to

1 seismic activity and methods to reduce
2 that vulnerability; and

3 “(XX) technology transfer and
4 adoption of permeable, pervious, or
5 porous paving materials, practices,
6 and systems that are designed to min-
7 imize environmental impacts,
8 stormwater runoff, and flooding and
9 to treat or remove pollutants by allow-
10 ing stormwater to infiltrate through
11 the pavement in a manner similar to
12 predevelopment hydrologic conditions.

13 “(iv) LIFECYCLE COSTS ANALYSIS
14 STUDY.—

15 “(I) IN GENERAL.—In this
16 clause, the term ‘lifecycle costs anal-
17 ysis’ means a process for evaluating
18 the total economic worth of a usable
19 project segment by analyzing initial
20 costs and discounted future costs,
21 such as maintenance, user, recon-
22 struction, rehabilitation, restoring,
23 and resurfacing costs, over the life of
24 the project segment.

1 “(II) STUDY.—The Comptroller
2 General shall conduct a study of the
3 best practices for calculating lifecycle
4 costs for federally funded highway
5 projects. At a minimum, this study
6 shall include a thorough literature re-
7 view and a survey of current lifecycle
8 cost practices of State departments of
9 transportation.

10 “(III) CONSULTATION.—In car-
11 rying out this study, the Comptroller
12 shall consult with, at a minimum—

13 “(aa) the American Associa-
14 tion of State Highway and
15 Transportation Officials;

16 “(bb) appropriate experts in
17 the field of lifecycle cost analysis;
18 and

19 “(cc) appropriate industry
20 experts and research centers.

21 “(IV) REPORT.—Not later than
22 1 year after the date of enactment of
23 the Transportation Research and In-
24 novative Technology Act of 2012, the
25 Comptroller General shall submit to

1 the Committee on Environment and
2 Public Works of the Senate and the
3 Committee on Transportation and In-
4 frastructure of the House of Rep-
5 resentatives a report on the results of
6 the study which shall include, but is
7 not limited to—

8 “(aa) a summary of the lat-
9 est research on lifecycle cost
10 analysis; and

11 “(bb) recommendations on
12 the appropriate—

13 “(AA) period of anal-
14 ysis;

15 “(BB) design period;

16 “(CC) discount rates;

17 and

18 “(DD) use of actual
19 material life and mainte-
20 nance cost data.

21 “(C) STRENGTHENING TRANSPORTATION
22 PLANNING AND ENVIRONMENTAL DECISION-
23 MAKING.—

24 “(i) IN GENERAL.—The Secretary
25 shall carry out research—

1 “(I) to improve transportation
2 planning and environmental decision-
3 making processes; and

4 “(II) to minimize the impact of
5 surface transportation on the environ-
6 ment and quality of life.

7 “(ii) OBJECTIVES.—In carrying out
8 this subparagraph the Secretary shall
9 carry out research and development activi-
10 ties—

11 “(I) to reduce the impact of high-
12 way infrastructure and operations on
13 the natural and human environment;

14 “(II) to advance improvements in
15 environmental analyses and processes
16 and context sensitive solutions for
17 transportation decisionmaking;

18 “(III) to improve construction
19 techniques;

20 “(IV) to accelerate construction
21 to reduce congestion and related emis-
22 sions;

23 “(V) to reduce the impact of
24 highway runoff on the environment;

1 “(VI) to maintain sustainability
2 of biological communities and eco-
3 systems adjacent to highway cor-
4 ridors;

5 “(VII) to improve understanding
6 and modeling of the factors that con-
7 tribute to the demand for transpor-
8 tation;

9 “(VIII) to improve transportation
10 planning decisionmaking and coordi-
11 nation; and

12 “(IX) to reduce the environ-
13 mental impacts of freight movement.

14 “(iii) CONTENTS.—Research and tech-
15 nology activities carried out under this
16 subparagraph may include—

17 “(I) creation of models and tools
18 for evaluating transportation meas-
19 ures and transportation system de-
20 signs;

21 “(II) congestion reduction ef-
22 forts;

23 “(III) transportation and eco-
24 nomic development planning in rural
25 areas and small communities;

1 “(IV) improvement of State,
2 local, and tribal capabilities relating
3 to surface transportation planning
4 and the environment;

5 “(V) environmental stewardship
6 and sustainability activities;

7 “(VI) streamlining of project de-
8 livery processes;

9 “(VII) development of effective
10 strategies and techniques to analyze
11 and minimize impacts to the natural
12 and human environment and provide
13 environmentally beneficial mitigation;

14 “(VIII) comprehensive multi-
15 national planning;

16 “(IX) multistate transportation
17 corridor planning;

18 “(X) improvement of transpor-
19 tation choices, including walking, bicy-
20 cling, and linkages to public transpor-
21 tation;

22 “(XI) ecosystem sustainability;

23 “(XII) wildlife and plant popu-
24 lation connectivity and interaction
25 across and along highway corridors;

1 “(XIII) analysis, measurement,
2 and reduction of air pollution from
3 transportation sources;

4 “(XIV) advancement in the un-
5 derstanding of health impact analyses
6 in transportation planning and project
7 development;

8 “(XV) transportation planning
9 professional development;

10 “(XVI) research on improving
11 the cooperation and integration of
12 transportation planning with other re-
13 gional plans, including land use, en-
14 ergy, water infrastructure, economic
15 development, and housing plans;

16 “(XVII) reducing the environ-
17 mental impacts of freight movement;
18 and

19 “(XVIII) alternative transpor-
20 tation fuels research.

21 “(D) REDUCING CONGESTION, IMPROVING
22 HIGHWAY OPERATIONS, AND ENHANCING
23 FREIGHT PRODUCTIVITY.—

1 “(i) IN GENERAL.—The Secretary
2 shall carry out research under this sub-
3 paragraph with the goals of—

4 “(I) addressing congestion prob-
5 lems;

6 “(II) reducing the costs of con-
7 gestion;

8 “(III) improving freight move-
9 ment;

10 “(IV) increasing productivity;
11 and

12 “(V) improving the economic
13 competitiveness of the United States.

14 “(ii) OBJECTIVES.—In carrying out
15 this subparagraph, the Secretary shall
16 carry out research and development activi-
17 ties to identify, develop, and assess innova-
18 tions that have the potential—

19 “(I) to reduce traffic congestion;

20 “(II) to improve freight move-
21 ment; and

22 “(III) to reduce freight-related
23 congestion throughout the transpor-
24 tation network.

1 “(iii) CONTENTS.—Research and tech-
2 nology activities carried out under this
3 subparagraph may include—

4 “(I) active traffic and demand
5 management;

6 “(II) acceleration of the imple-
7 mentation of Intelligent Transpor-
8 tation Systems technology;

9 “(III) advanced transportation
10 concepts and analysis;

11 “(IV) arterial management and
12 traffic signal operation;

13 “(V) congestion pricing;

14 “(VI) corridor management;

15 “(VII) emergency operations;

16 “(VIII) research relating to ena-
17 bling technologies and applications;

18 “(IX) freeway management;

19 “(X) evaluation of enabling tech-
20 nologies;

21 “(XI) freight industry profes-
22 sional development;

23 “(XII) impacts of vehicle size
24 and weight on congestion;

- 1 “(XIII) freight operations and
2 technology;
- 3 “(XIV) operations and freight
4 performance measurement and man-
5 agement;
- 6 “(XV) organization and planning
7 for operations;
- 8 “(XVI) planned special events
9 management;
- 10 “(XVII) real-time transportation
11 information;
- 12 “(XVIII) road weather manage-
13 ment;
- 14 “(XIX) traffic and freight data
15 and analysis tools;
- 16 “(XX) traffic control devices;
- 17 “(XXI) traffic incident manage-
18 ment;
- 19 “(XXII) work zone management;
- 20 “(XXIII) communication of trav-
21 el, roadway, and emergency informa-
22 tion to persons with disabilities; and
- 23 “(XXIV) research on enhanced
24 mode choice and intermodal
25 connectivity.

1 “(E) ASSESSING POLICY AND SYSTEM FI-
2 NANCING ALTERNATIVES.—

3 “(i) IN GENERAL.—The Secretary
4 shall carry out research and technology on
5 emerging issues in the domestic and inter-
6 national transportation community from a
7 policy perspective.

8 “(ii) OBJECTIVES.—Research and
9 technology activities carried out under this
10 subparagraph shall provide information to
11 policy and decisionmakers on current and
12 emerging transportation issues.

13 “(iii) RESEARCH ACTIVITIES.—Activi-
14 ties carried out under this subparagraph
15 shall include—

16 “(I) the planning and integration
17 of a coordinated program related to
18 the possible design, interoperability,
19 and institutional roles of future sus-
20 tainable transportation revenue mech-
21 anisms;

22 “(II) field trials to research po-
23 tential alternative revenue mecha-
24 nisms, and the Secretary may partner
25 with individual States, groups of

1 States, or other entities to implement
2 such trials; and

3 “(III) other activities to study
4 new methods which preserve a user-
5 fee structure to maintain the long-
6 term solvency of the Highway Trust
7 Fund.

8 “(iv) CONTENTS.—Research and tech-
9 nology activities carried out under this
10 subparagraph may include—

11 “(I) highway needs and invest-
12 ment analysis;

13 “(II) a motor fuel tax evasion
14 program;

15 “(III) advancing innovations in
16 revenue generation, financing, and
17 procurement for project delivery;

18 “(IV) improving the accuracy of
19 project cost analyses;

20 “(V) highway performance meas-
21 urement;

22 “(VI) travel demand performance
23 measurement;

24 “(VII) highway finance perform-
25 ance measurement;

1 “(VIII) international technology
2 exchange initiatives;

3 “(IX) infrastructure investment
4 needs reports;

5 “(X) promotion of the tech-
6 nologies, products, and best practices
7 of the United States; and

8 “(XI) establishment of partner-
9 ships among the United States, for-
10 eign agencies, and transportation ex-
11 perts.

12 “(v) FUNDING.—Of the funds author-
13 ized to carry out this subsection, no less
14 than 50 percent shall be used to carry out
15 clause (iii).

16 “(F) INFRASTRUCTURE INVESTMENT
17 NEEDS REPORT.—

18 “(i) IN GENERAL.—Not later than
19 July 31, 2012, and July 31 of every sec-
20 ond year thereafter, the Secretary shall
21 submit to the Committee on Transpor-
22 tation and Infrastructure of the House of
23 Representatives and the Committee on En-
24 vironment and Public Works of the Senate
25 a report that describes estimates of the fu-

1 ture highway and bridge needs of the
2 United States and the backlog of current
3 highway and bridge needs.

4 “(ii) COMPARISONS.—Each report
5 under clause (i) shall include all informa-
6 tion necessary to relate and compare the
7 conditions and service measures used in
8 the previous biennial reports to conditions
9 and service measures used in the current
10 report.

11 “(iii) INCLUSIONS.—Each report
12 under clause (i) shall provide recommenda-
13 tions to Congress on changes to the High-
14 way Performance Monitoring System that
15 address—

16 “(I) improvements to the quality
17 and standardization of data collection
18 on all functional classifications of
19 Federal-aid highways for accurate sys-
20 tem length, lane length, and vehicle-
21 mile of travel; and

22 “(II) changes to the reporting re-
23 quirements authorized under section
24 315, to reflect recommendations
25 under this paragraph for collection,

1 storage, analysis, reporting, and dis-
2 play of data for Federal-aid highways
3 and, to the maximum extent practical,
4 all public roads.

5 “(G) EXPLORING NEXT GENERATION SO-
6 LUTIONS AND CAPITALIZING ON THE HIGHWAY
7 RESEARCH CENTER.—

8 “(i) IN GENERAL.—The Secretary
9 shall carry out research and development
10 activities relating to exploratory advanced
11 research—

12 “(I) to leverage the targeted ca-
13 pabilities of the Turner-Fairbank
14 Highway Research Center to develop
15 technologies and innovations of na-
16 tional importance; and

17 “(II) to develop potentially trans-
18 formational solutions to improve the
19 durability, efficiency, environmental
20 impact, productivity, and safety as-
21 pects of highway and intermodal
22 transportation systems.

23 “(ii) CONTENTS.—Research and tech-
24 nology activities carried out under this
25 subparagraph may include—

- 1 “(I) long-term, high-risk research
2 to improve the materials used in high-
3 way infrastructure;
- 4 “(II) exploratory research to as-
5 sess the effects of transportation deci-
6 sions on human health;
- 7 “(III) advanced development of
8 surrogate measures for highway safe-
9 ty;
- 10 “(IV) transformational research
11 to affect complex environmental and
12 highway system relationships;
- 13 “(V) development of economical
14 and environmentally sensitive designs,
15 efficient and quality-controlled con-
16 struction practices, and durable mate-
17 rials;
- 18 “(VI) development of advanced
19 data acquisition techniques for system
20 condition and performance moni-
21 toring;
- 22 “(VII) inclusive research for
23 hour-to-hour operational decision-
24 making and simulation forecasting;

1 “(VIII) understanding current
2 and emerging phenomena to inform
3 next generation transportation policy
4 decisionmaking; and

5 “(IX) continued improvement
6 and advancement of the Turner-
7 Fairbank Highway Research Center.

8 “(H) ALIGNING NATIONAL CHALLENGES
9 AND DISSEMINATING INFORMATION.—

10 “(i) IN GENERAL.—The Secretary
11 shall conduct research and development ac-
12 tivities—

13 “(I) to establish a nationally co-
14 ordinated highway research agenda
15 that—

16 “(aa) focuses on topics of
17 national significance;

18 “(bb) addresses current gaps
19 in research;

20 “(cc) encourages collabora-
21 tion;

22 “(dd) reduces unnecessary
23 duplication of effort; and

24 “(ee) accelerates innovation
25 delivery; and

1 “(II) to provide relevant informa-
2 tion to researchers and highway and
3 transportation practitioners to im-
4 prove the performance of the trans-
5 portation system.

6 “(ii) CONTENTS.—Research and tech-
7 nology activities carried out under this
8 subparagraph may include—

9 “(I) coordination, development,
10 and implementation of a national
11 highway research agenda;

12 “(II) collaboration on national
13 emphasis areas of highway research
14 and coordination among international,
15 Federal, State, and university re-
16 search programs;

17 “(III) development and delivery
18 of research reports and innovation de-
19 livery messages;

20 “(IV) identification of market-
21 ready technologies and innovations;
22 and

23 “(V) provision of access to data
24 developed under this subparagraph to
25 the public, including researchers,

1 stakeholders, and customers, through
2 a publicly accessible Internet site.

3 “(c) TECHNOLOGY AND INNOVATION DEPLOYMENT
4 PROGRAM.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a technology and innovation deployment pro-
7 gram relating to all aspects of highway transpor-
8 tation, including planning, financing, operation,
9 structures, materials, pavements, environment, con-
10 struction, and the duration of time between project
11 planning and project delivery, with the goals of—

12 “(A) significantly accelerating the adoption
13 of innovative technologies by the surface trans-
14 portation community;

15 “(B) providing leadership and incentives to
16 demonstrate and promote state-of-the-art tech-
17 nologies, elevated performance standards, and
18 new business practices in highway construction
19 processes that result in improved safety, faster
20 construction, reduced congestion from construc-
21 tion, and improved quality and user satisfac-
22 tion;

23 “(C) constructing longer-lasting highways
24 through the use of innovative technologies and

1 practices that lead to faster construction of effi-
2 cient and safe highways and bridges;

3 “(D) improving highway efficiency, safety,
4 mobility, reliability, service life, environmental
5 protection, and sustainability; and

6 “(E) developing and deploying new tools,
7 techniques, and practices to accelerate the
8 adoption of innovation in all aspects of highway
9 transportation.

10 “(2) IMPLEMENTATION.—

11 “(A) IN GENERAL.—The Secretary shall
12 promote, facilitate, and carry out the program
13 established under paragraph (1) to distribute
14 the products, technologies, tools, methods, or
15 other findings that result from highway re-
16 search and development activities, including re-
17 search and development activities carried out
18 under this chapter.

19 “(B) ACCELERATED INNOVATION DEPLOY-
20 MENT.—In carrying out the program estab-
21 lished under paragraph (1), the Secretary
22 shall—

23 “(i) establish and carry out dem-
24 onstration programs;

1 “(ii) provide incentives, technical as-
2 sistance, and training to researchers and
3 developers; and

4 “(iii) develop improved tools and
5 methods to accelerate the adoption of prov-
6 en innovative practices and technologies as
7 standard practices.

8 “(C) IMPLEMENTATION OF FUTURE STRA-
9 TEGIC HIGHWAY RESEARCH PROGRAM FINDINGS
10 AND RESULTS.—

11 “(i) IN GENERAL.—The Secretary, in
12 consultation with the American Association
13 of State Highway and Transportation Offi-
14 cials and the Transportation Research
15 Board of the National Academy of
16 Sciences, shall implement the findings and
17 recommendations developed under the fu-
18 ture strategic highway research program
19 established under section 510.

20 “(ii) BASIS FOR FINDINGS.—The ac-
21 tivities carried out under this subpara-
22 graph shall be based on the report sub-
23 mitted to Congress by the Transportation
24 Research Board of the National Academy
25 of Sciences under section 510(e).

1 “(iii) PERSONNEL.—The Secretary
2 may use funds made available to carry out
3 this subsection for administrative costs
4 under this subparagraph, which funds shall
5 be used in addition to any other funds
6 made available for that purpose.

7 “(iv) FEES.—

8 “(I) IN GENERAL.—The Sec-
9 retary may impose and collect fees to
10 recover costs associated with special
11 data or analysis requests relating to
12 safety naturalistic driving databases
13 developed under the future of stra-
14 tegic highway research program.

15 “(II) USE OF FEE AMOUNTS.—

16 “(aa) IN GENERAL.—Any
17 fees collected under this clause
18 shall be made available to the
19 Secretary to carry out this sec-
20 tion and shall remain available
21 for expenditure until expended.

22 “(bb) SUPPLEMENT, NOT
23 SUPPLANT.—Any fee amounts
24 collected under this clause shall
25 supplement, but not supplant,

1 amounts made available to the
2 Secretary to carry out this title.

3 “(3) ACCELERATED IMPLEMENTATION AND DE-
4 PLOYMENT OF PAVEMENT TECHNOLOGIES.—

5 “(A) IN GENERAL.—The Secretary shall
6 establish and implement a program under the
7 technology and innovation deployment program
8 to promote, implement, deploy, demonstrate,
9 showcase, support, and document the applica-
10 tion of innovative pavement technologies, prac-
11 tices, performance, and benefits.

12 “(B) GOALS.—The goals of the accelerated
13 implementation and deployment of pavement
14 technologies program shall include—

15 “(i) the deployment of new, cost-effec-
16 tive designs, materials, recycled materials,
17 and practices to extend the pavement life
18 and performance and to improve user sat-
19 isfaction;

20 “(ii) the reduction of initial costs and
21 lifecycle costs of pavements, including the
22 costs of new construction, replacement,
23 maintenance, and rehabilitation;

24 “(iii) the deployment of accelerated
25 construction techniques to increase safety

1 and reduce construction time and traffic
2 disruption and congestion;

3 “(iv) the deployment of engineering
4 design criteria and specifications for new
5 and efficient practices, products, and mate-
6 rials for use in highway pavements;

7 “(v) the deployment of new non-
8 destructive and real-time pavement evalua-
9 tion technologies and construction tech-
10 niques; and

11 “(vi) effective technology transfer and
12 information dissemination to accelerate im-
13 plementation of new technologies and to
14 improve life, performance, cost effective-
15 ness, safety, and user satisfaction.

16 “(C) FUNDING.—The Secretary shall obli-
17 gate for each of fiscal years 2012 through 2013
18 from funds made available to carry out this
19 subsection—

20 “(i) \$6,000,000 to accelerate the de-
21 ployment and implementation of asphalt
22 pavement technology; and

23 “(ii) \$6,000,000 to accelerate the de-
24 ployment and implementation of concrete

1 pavement technology used in highways on
2 the national highway system.

3 “(D) ADMINISTRATION.—

4 “(i) IN GENERAL.—The implementa-
5 tion and deployment activities to be carried
6 out under this paragraph shall be identi-
7 fied and conducted in collaboration with
8 industry, State departments of transpor-
9 tation, the Federal Highway Administra-
10 tion, the National Academy of Sciences,
11 and other appropriate entities, using the
12 respective road maps (the Concrete Pave-
13 ment Road Map and National Asphalt
14 Roadmap) as a guide.

15 “(ii) COLLABORATION.—The Federal
16 Highway Administration shall collaborate
17 with organizations that have a proven
18 track record of effective technology deploy-
19 ment on a national scale, stakeholder in-
20 volvement, and leveraging of public sector
21 investment.

22 “(iii) ADVISORY COMMITTEE.—A
23 pavement technology implementation advi-
24 sory committee comprised of key stake-
25 holders, including the Federal Highway

1 Administration, State departments of
2 transportation, and the pavement industry,
3 shall be established to oversee and advise
4 the program efforts.

5 “(iv) REPORT.—The Secretary shall
6 annually submit to the Committee on Envi-
7 ronment and Public Works of the Senate
8 and the Committee on Transportation and
9 Infrastructure of the House of Representa-
10 tives a report that details the progress and
11 results of the activities carried out under
12 this paragraph.

13 “(d) AIR QUALITY AND CONGESTION MITIGATION
14 MEASURE OUTCOMES ASSESSMENT RESEARCH.—

15 “(1) IN GENERAL.—The Secretary, in consulta-
16 tion with the Administrator of the Environmental
17 Protection Agency, shall carry out a research pro-
18 gram to examine the outcomes of actions funded
19 under the congestion mitigation and air quality im-
20 provement program since the enactment of the
21 SAFETEA-LU (Public Law 109–59).

22 “(2) GOALS.—The goals of the program shall
23 include—

1 “(A) the assessment and documentation,
2 through outcomes research conducted on a rep-
3 resentative sample of cases, of—

4 “(i) the emission reductions achieved
5 by federally supported surface transpor-
6 tation actions intended to reduce emissions
7 or lessen traffic congestion; and

8 “(ii) the air quality and human health
9 impacts of those actions, including poten-
10 tial unrecognized or indirect consequences,
11 attributable to those actions;

12 “(B) an expanded base of empirical evi-
13 dence on the air quality and human health im-
14 pacts of actions described in paragraph (1); and

15 “(C) an increase in knowledge of—

16 “(i) the factors determining the air
17 quality and human health changes associ-
18 ated with transportation emission reduc-
19 tion actions; and

20 “(ii) other information to more accu-
21 rately understand the validity of current
22 estimation and modeling routines and ways
23 to improve those routines.

24 “(3) ADMINISTRATIVE ELEMENTS.—To carry
25 out this subsection, the Secretary shall—

1 “(A) make a grant for the coordination, se-
2 lection, management, and reporting of compo-
3 nent studies to an independent scientific re-
4 search organization with the necessary experi-
5 ence in successfully conducting accountability
6 and other studies on mobile source air pollut-
7 ants and associated health effects;

8 “(B) ensure that case studies are identified
9 and conducted by teams selected through a
10 competitive solicitation overseen by an inde-
11 pendent committee of unbiased experts; and

12 “(C) ensure that all findings and reports
13 are peer-reviewed and published in a form that
14 presents the findings together with reviewer
15 comments.

16 “(4) REPORT.—The Secretary shall submit to
17 the Committee on Environment and Public Works of
18 the Senate and the Committee on Transportation
19 and Infrastructure of the House of Representa-
20 tives—

21 “(A) not later than 1 year after the date
22 of enactment of the MAP-21, and for the fol-
23 lowing year, a report providing an initial
24 scoping and plan, and status updates, respec-

1 tively, for the program under this subsection;
2 and

3 “(B) not later than 2 years after the date
4 of enactment of the MAP–21, a final report
5 that describes the findings of, and recommenda-
6 tions resulting from, the program under this
7 subsection.

8 “(5) FUNDING.—Of the amounts made avail-
9 able to carry out this section, the Secretary shall
10 make available to carry out this subsection not more
11 than \$1,000,000 for each fiscal year.”.

12 (b) CONFORMING AMENDMENT.—The analysis for
13 chapter 5 of title 23, United States Code, is amended by
14 striking the item relating to section 503 and inserting the
15 following:

“503. Research and technology development and deployment.”.

16 **SEC. 52004. TRAINING AND EDUCATION.**

17 Section 504 of title 23, United States Code, is
18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (2)(A) by inserting “and
21 the employees of any other applicable Federal
22 agency” before the semicolon at the end;

23 (B) in paragraph (3)(A)(ii)(V) by striking
24 “expediting” and inserting “reducing the
25 amount of time required for”;

1 (C) by striking paragraph (4);

2 (D) by redesignating paragraphs (5)
3 through (8) as paragraphs (4) through (7), re-
4 spectively; and

5 (E) in paragraph (7) (as redesignated by
6 subparagraph (D)) by striking “paragraph (7)”
7 and inserting “paragraph (6)”;

8 (2) in subsection (b) by striking paragraph (3)
9 and inserting the following:

10 “(3) FEDERAL SHARE.—

11 “(A) LOCAL TECHNICAL ASSISTANCE CEN-
12 TERS.—

13 “(i) IN GENERAL.—Subject to sub-
14 paragraph (B), the Federal share of the
15 cost of an activity carried out by a local
16 technical assistance center under para-
17 graphs (1) and (2) shall be 50 percent.

18 “(ii) NON-FEDERAL SHARE.—The
19 non-Federal share of the cost of an activity
20 described in clause (i) may consist of
21 amounts provided to a recipient under sub-
22 section (e) or section 505, up to 100 per-
23 cent of the non-Federal share.

24 “(B) TRIBAL TECHNICAL ASSISTANCE
25 CENTERS.—The Federal share of the cost of an

1 activity carried out by a tribal technical assist-
2 ance center under paragraph (2)(D)(ii) shall be
3 100 percent.”;

4 (3) in subsection (c)(2)—

5 (A) by striking “The Secretary” and in-
6 serting the following:

7 “(A) IN GENERAL.—The Secretary”;

8 (B) in subparagraph (A) (as designated by
9 subparagraph (A)) by striking “. The program”
10 and inserting “, which program”; and

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

12 “(B) USE OF AMOUNTS.—Amounts pro-
13 vided to institutions of higher education to
14 carry out this paragraph shall be used to pro-
15 vide direct support of student expenses.”;

16 (4) in subsection (e)(1)—

17 (A) in the matter preceding subparagraph
18 (A) by striking “sections 104(b)(1), 104(b)(2),
19 104(b)(3), 104(b)(4), and 144(e)” and insert-
20 ing “paragraphs (1) through (4) of section
21 104(b)”;

22 (B) in subparagraph (D) by striking “and”
23 at the end;

24 (C) in subparagraph (E) by striking the
25 period and inserting a semicolon; and

1 (D) by adding at the end the following:

2 “(F) meetings of transportation profes-
3 sionals that include education and professional
4 development activities;

5 “(G) activities carried out by the National
6 Highway Institute under subsection (a); and

7 “(H) local technical assistance programs
8 under subsection (b).”;

9 (5) in subsection (f) in the heading, by striking
10 “PILOT”;

11 (6) in subsection (g)(4)(F) by striking “excel-
12 lence” and inserting “stewardship”; and

13 (7) by adding at the end the following:

14 “(h) CENTERS FOR SURFACE TRANSPORTATION EX-
15 CELLENCE.—

16 “(1) IN GENERAL.—The Secretary may make
17 grants under this section to establish and maintain
18 centers for surface transportation excellence.

19 “(2) GOALS.—The goals of a center referred to
20 in paragraph (1) shall be to promote and support
21 strategic national surface transportation programs
22 and activities relating to the work of State depart-
23 ments of transportation in the areas of environment,
24 surface transportation safety, rural safety, and
25 project finance.”.

1 **SEC. 52005. STATE PLANNING AND RESEARCH.**

2 Section 505 of title 23, United States Code, is
3 amended—

4 (1) in subsection (a)—

5 (A) in the matter preceding paragraph (1)
6 by striking “section 104 (other than sections
7 104(f) and 104(h)) and under section 144” and
8 inserting “paragraphs (1) through (5) of sec-
9 tion 104(b)”; and

10 (B) in paragraph (3) by striking “under
11 section 303” and inserting “, plans, and proc-
12 esses under sections 119, 148, 149, and 167”;

13 (2) in subsection (b)—

14 (A) in paragraph (1) by striking “25” and
15 inserting “24”; and

16 (B) in paragraph (2) by striking “75 per-
17 cent of the funds described in paragraph (1)”
18 and inserting “70 percent of the funds de-
19 scribed in subsection (a)”;

20 (3) by redesignating subsections (c) and (d) as
21 subsections (d) and (e), respectively;

22 (4) by inserting after subsection (b) the fol-
23 lowing:

24 “(c) IMPLEMENTATION OF FUTURE STRATEGIC
25 HIGHWAY RESEARCH PROGRAM FINDINGS AND RE-
26 SULTS.—

1 “(1) FUNDS.—Not less than 6 percent of the
2 funds subject to subsection (a) that are apportioned
3 to a State for a fiscal year shall be made available
4 to the Secretary to carry out section 503(c)(2)(C).

5 “(2) TREATMENT OF FUNDS.—Funds expended
6 under paragraph (1) shall not be considered to be
7 part of the extramural budget of the agency for the
8 purpose of section 9 of the Small Business Act (15
9 U.S.C. 638).”; and

10 (5) in paragraph (e) (as so redesignated) by
11 striking “section 118(b)(2)” and inserting “section
12 118(b)”.

13 **SEC. 52006. INTERNATIONAL HIGHWAY TRANSPORTATION**
14 **PROGRAM.**

15 Section 506 of title 23, United States Code, is re-
16 pealed.

17 **SEC. 52007. SURFACE TRANSPORTATION ENVIRONMENTAL**
18 **COOPERATIVE RESEARCH PROGRAM.**

19 Section 507 of title 23, United States Code, is re-
20 pealed.

21 **SEC. 52008. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

22 Section 509(d) of title 23, United States Code, is
23 amended by adding at the end the following:

24 “(6) COORDINATION OF COOPERATIVE RE-
25 SEARCH.—The National Academy of Sciences shall

1 coordinate research agendas, research project selec-
2 tions, and competitions across all transportation-re-
3 lated cooperative research programs carried out by
4 the National Academy of Sciences to ensure pro-
5 gram efficiency, effectiveness, and the dissemination
6 of research findings.”.

7 **SEC. 52009. PRIZE AUTHORITY.**

8 (a) IN GENERAL.—Chapter 3 of title 49, United
9 States Code, is amended by inserting before section 336
10 the following:

11 **“§ 335. Prize authority**

12 “(a) IN GENERAL.—The Secretary of Transportation
13 may carry out a program, in accordance with this section,
14 to competitively award cash prizes to stimulate innovation
15 in basic and applied research, technology development,
16 and prototype demonstration that have the potential for
17 application to the national transportation system.

18 “(b) TOPICS.—In selecting topics for prize competi-
19 tions under this section, the Secretary shall—

20 “(1) consult with a wide variety of Government
21 and nongovernment representatives; and

22 “(2) give consideration to prize goals that dem-
23 onstrate innovative approaches and strategies to im-
24 prove the safety, efficiency, and sustainability of the
25 national transportation system.

1 “(c) ADVERTISING.—The Secretary shall encourage
2 participation in the prize competitions through extensive
3 advertising.

4 “(d) REQUIREMENTS AND REGISTRATION.—For each
5 prize competition, the Secretary shall publish a notice on
6 a public website that describes—

7 “(1) the subject of the competition;

8 “(2) the eligibility rules for participation in the
9 competition;

10 “(3) the amount of the prize; and

11 “(4) the basis on which a winner will be se-
12 lected.

13 “(e) ELIGIBILITY.—An individual or entity may not
14 receive a prize under this section unless the individual or
15 entity—

16 “(1) has registered to participate in the com-
17 petition pursuant to any rules promulgated by the
18 Secretary under this section;

19 “(2) has complied with all the requirements
20 under this section;

21 “(3)(A) in the case of a private entity, is incor-
22 porated in, and maintains a primary place of busi-
23 ness in, the United States; or

24 “(B) in the case of an individual, whether
25 participating singly or in a group, is a citizen

1 or permanent resident of the United States;
2 and

3 “(4) is not a Federal entity or Federal em-
4 ployee acting within the scope of his or her employ-
5 ment.

6 “(f) LIABILITY.—

7 “(1) ASSUMPTION OF RISK.—

8 “(A) IN GENERAL.—A registered partici-
9 pant shall agree to assume any and all risks
10 and waive claims against the Federal Govern-
11 ment and its related entities, except in the case
12 of willful misconduct, for any injury, death,
13 damage, or loss of property, revenue, or profits,
14 whether direct, indirect, or consequential, aris-
15 ing from participation in a competition, whether
16 such injury, death, damage, or loss arises
17 through negligence or otherwise.

18 “(B) RELATED ENTITY.—In this para-
19 graph, the term ‘related entity’ means a con-
20 tractor, subcontractor (at any tier), supplier,
21 user, customer, cooperating party, grantee, in-
22 vestigator, or detailee.

23 “(2) FINANCIAL RESPONSIBILITY.—A partici-
24 pant shall obtain liability insurance or demonstrate

1 financial responsibility, in amounts determined by
2 the Secretary, for claims by—

3 “(A) a third party for death, bodily injury,
4 or property damage, or loss resulting from an
5 activity carried out in connection with participa-
6 tion in a competition, with the Federal Govern-
7 ment named as an additional insured under the
8 registered participant’s insurance policy and
9 registered participants agreeing to indemnify
10 the Federal Government against third party
11 claims for damages arising from or related to
12 competition activities; and

13 “(B) the Federal Government for damage
14 or loss to Government property resulting from
15 such an activity.

16 “(g) JUDGES.—

17 “(1) SELECTION.—For each prize competition,
18 the Secretary, either directly or through an agree-
19 ment under subsection (h), shall assemble a panel of
20 qualified judges to select the winner or winners of
21 the prize competition on the basis described in sub-
22 section (d). Judges for each competition shall in-
23 clude individuals from outside the Administration,
24 including the private sector.

1 “(2) LIMITATIONS.—A judge selected under
2 this subsection may not—

3 “(A) have personal or financial interests
4 in, or be an employee, officer, director, or agent
5 of, any entity that is a registered participant in
6 a prize competition under this section; or

7 “(B) have a familial or financial relation-
8 ship with an individual who is a registered par-
9 ticipant.

10 “(h) ADMINISTERING THE COMPETITION.—The Sec-
11 retary may enter into an agreement with a private, non-
12 profit entity to administer the prize competition, subject
13 to the provisions of this section.

14 “(i) FUNDING.—

15 “(1) PRIVATE SECTOR FUNDING.—A cash prize
16 under this section may consist of funds appropriated
17 by the Federal Government and funds provided by
18 the private sector. The Secretary may accept funds
19 from other Federal agencies, State and local govern-
20 ments, and metropolitan planning organizations for
21 the cash prizes. The Secretary may not give any spe-
22 cial consideration to any private sector entity in re-
23 turn for a donation under this paragraph.

1 “(2) AVAILABILITY OF FUNDS.—Notwith-
2 standing any other provision of law, amounts appro-
3 priated for prize awards under this section—

4 “(A) shall remain available until expended;

5 and

6 “(B) may not be transferred, repro-
7 grammed, or expended for other purposes until
8 after the expiration of the 10-year period begin-
9 ning on the last day of the fiscal year for which
10 the funds were originally appropriated.

11 “(3) SAVINGS PROVISION.—Nothing in this sub-
12 section may be construed to permit the obligation or
13 payment of funds in violation of the Anti-Deficiency
14 Act (31 U.S.C. 1341).

15 “(4) PRIZE ANNOUNCEMENT.—A prize may not
16 be announced under this section until all the funds
17 needed to pay out the announced amount of the
18 prize have been appropriated or committed in writ-
19 ing by a private source.

20 “(5) PRIZE INCREASES.—The Secretary may
21 increase the amount of a prize after the initial an-
22 nouncement of the prize under this section if—

23 “(A) notice of the increase is provided in
24 the same manner as the initial notice of the
25 prize; and

1 “(B) the funds needed to pay out the an-
2 nounced amount of the increase have been ap-
3 propriated or committed in writing by a private
4 source.

5 “(6) CONGRESSIONAL NOTIFICATION.—A prize
6 competition under this section may offer a prize in
7 an amount greater than \$1,000,000 only after 30
8 days have elapsed after written notice has been
9 transmitted to the Committee on Commerce,
10 Science, and Transportation of the Senate and the
11 Committee on Science, Space, and Technology of the
12 House of Representatives.

13 “(7) AWARD LIMIT.—A prize competition under
14 this section may not result in the award of more
15 than \$25,000 in cash prizes without the approval of
16 the Secretary.

17 “(j) USE OF DEPARTMENT NAME AND INSIGNIA.—
18 A registered participant in a prize competition under this
19 section may use the Department’s name, initials, or insig-
20 nia only after prior review and written approval by the
21 Secretary.

22 “(k) COMPLIANCE WITH EXISTING LAW.—The Fed-
23 eral Government shall not, by virtue of offering or pro-
24 viding a prize under this section, be responsible for compli-
25 ance by registered participants in a prize competition with

1 Federal law, including licensing, export control, and non-
2 proliferation laws, and related regulations.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 3 of title 49, United States Code, is amended by
5 inserting before the item relating to section 336 the fol-
6 lowing:

“335. Prize authority”.

7 **SEC. 52010. UNIVERSITY TRANSPORTATION CENTERS PRO-**
8 **GRAM.**

9 (a) IN GENERAL.—Section 5505 of title 49, United
10 States Code, is amended to read as follows:

11 **“§ 5505. University transportation centers program**

12 “(a) UNIVERSITY TRANSPORTATION CENTERS PRO-
13 GRAM.—

14 “(1) ESTABLISHMENT AND OPERATION.—The
15 Secretary shall make grants under this section to eli-
16 gible nonprofit institutions of higher education to es-
17 tablish and operate university transportation cen-
18 ters.

19 “(2) ROLE OF CENTERS.—The role of each uni-
20 versity transportation center referred to in para-
21 graph (1) shall be—

22 “(A) to advance transportation expertise
23 and technology in the varied disciplines that
24 comprise the field of transportation through

1 education, research, and technology transfer ac-
2 tivities;

3 “(B) to provide for a critical transpor-
4 tation knowledge base outside of the Depart-
5 ment of Transportation; and

6 “(C) to address critical workforce needs
7 and educate the next generation of transpor-
8 tation leaders.

9 “(b) COMPETITIVE SELECTION PROCESS.—

10 “(1) APPLICATIONS.—To receive a grant under
11 this section, a nonprofit institution of higher edu-
12 cation shall submit to the Secretary an application
13 that is in such form and contains such information
14 as the Secretary may require.

15 “(2) RESTRICTION.—Institutions may not apply
16 for both a national transportation center and a re-
17 gional transportation center.

18 “(3) GENERAL SELECTION CRITERIA.—

19 “(A) IN GENERAL.—Except as otherwise
20 provided by this section, the Secretary shall
21 award grants under this section in nonexclusive
22 candidate topic areas established by the Sec-
23 retary that address the research priorities iden-
24 tified in section 503 of title 23.

1 “(B) CRITERIA.—The Secretary, in con-
2 junction with the Administrators of the Federal
3 Highway Administration and the Federal Tran-
4 sit Administration, shall select each recipient of
5 a grant under this section through a competi-
6 tive process based on the assessment of the Sec-
7 retary relating to—

8 “(i) the demonstrated ability of the
9 recipient to address each specific topic area
10 described in the research and strategic
11 plans of the recipient;

12 “(ii) the demonstrated research, tech-
13 nology transfer, and education resources
14 available to the recipient to carry out this
15 section;

16 “(iii) the ability of the recipient to
17 provide leadership in solving immediate
18 and long-range national and regional
19 transportation problems;

20 “(iv) the ability of the recipient to
21 carry out research, education, and tech-
22 nology transfer activities that are
23 multimodal and multidisciplinary in scope;

24 “(v) the demonstrated commitment of
25 the recipient to carry out transportation

1 workforce development programs
2 through—
3 “(I) degree-granting programs;
4 “(II) training seminars for prac-
5 ticing professionals;
6 “(III) outreach activities to at-
7 tract new entrants into the transpor-
8 tation field, including women, minori-
9 ties, and persons from disadvantaged
10 communities; and
11 “(IV) primary and secondary
12 school transportation workforce out-
13 reach;
14 “(vi) the demonstrated ability of the
15 recipient to disseminate results and spur
16 the implementation of transportation re-
17 search and education programs through
18 national or statewide continuing education
19 programs;
20 “(vii) the demonstrated commitment
21 of the recipient to the use of peer review
22 principles and other research best practices
23 in the selection, management, and dissemi-
24 nation of research projects;

1 “(viii) the strategic plan submitted by
2 the recipient describing the proposed re-
3 search to be carried out by the recipient
4 and the performance metrics to be used in
5 assessing the performance of the recipient
6 in meeting the stated research, technology
7 transfer, education, and outreach goals;
8 and

9 “(ix) the ability of the recipient to im-
10 plement the proposed program in a cost-ef-
11 ficient manner, such as through cost shar-
12 ing and overall reduced overhead, facilities,
13 and administrative costs.

14 “(c) GRANTS.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of the Transportation Re-
17 search and Innovative Technology Act of 2012, the
18 Secretary, in conjunction with the Administrators of
19 the Federal Highway Administration and the Fed-
20 eral Transit Administration, shall select grant recipi-
21 ents under subsection (b) and make grant amounts
22 available to the selected recipients.

23 “(2) NATIONAL TRANSPORTATION CENTERS.—

24 “(A) IN GENERAL.—For each of fiscal
25 years 2012 and 2013, and subject to subpara-

1 graph (B), the Secretary shall provide grants to
2 5 recipients that the Secretary determines best
3 meet the criteria described in subsection (b)(3).

4 “(B) RESTRICTIONS.—

5 “(i) IN GENERAL.—For each fiscal
6 year, a grant made available under this
7 paragraph shall not exceed \$3,250,000 per
8 recipient.

9 “(ii) FOCUSED RESEARCH.—The
10 grant recipients under this paragraph shall
11 focus research on national transportation
12 issues, as determined by the Secretary.

13 “(C) MATCHING REQUIREMENT.—

14 “(i) IN GENERAL.—As a condition of
15 receiving a grant under this paragraph, a
16 grant recipient shall match 100 percent of
17 the amounts made available under the
18 grant.

19 “(ii) SOURCES.—The matching
20 amounts referred to in clause (i) may in-
21 clude amounts made available to the recipi-
22 ent under—

23 “(I) section 504(b) or 505 of title
24 23; and

1 “(II) a transportation-related
2 grant from the National Science
3 Foundation subject to prior approval
4 by the Secretary.

5 “(3) REGIONAL UNIVERSITY TRANSPORTATION
6 CENTERS.—

7 “(A) LOCATION OF REGIONAL CENTERS.—
8 One regional university transportation center
9 shall be located in each of the 10 Federal re-
10 gions that comprise the Standard Federal Re-
11 gions established by the Office of Management
12 and Budget in the document entitled ‘Standard
13 Federal Regions’ and dated April, 1974 (cir-
14 cular A-105).

15 “(B) SELECTION CRITERIA.—In con-
16 ducting a competition under subsection (b), the
17 Secretary shall provide grants to 10 recipients
18 on the basis of—

19 “(i) the criteria described in sub-
20 section (b)(3);

21 “(ii) the location of the center within
22 the Federal region to be served; and

23 “(iii) whether the institution (or, in
24 the case of consortium of institutions, the
25 lead institution) demonstrates that the in-

1 stitution has a well-established, nationally
2 recognized program in transportation re-
3 search and education, as evidenced by—

4 “(I) recent expenditures by the
5 institution in highway or public trans-
6 portation research;

7 “(II) a historical track record of
8 awarding graduate degrees in profes-
9 sional fields closely related to high-
10 ways and public transportation; and

11 “(III) an experienced faculty who
12 specialize in professional fields closely
13 related to highways and public trans-
14 portation.

15 “(C) RESTRICTIONS.—For each fiscal
16 year, a grant made available under this para-
17 graph shall not exceed \$2,750,000 for each re-
18 cipient.

19 “(D) MATCHING REQUIREMENTS.—

20 “(i) IN GENERAL.—As a condition of
21 receiving a grant under this paragraph, a
22 grant recipient shall match 100 percent of
23 the amounts made available under the
24 grant.

1 “(ii) SOURCES.—The matching
2 amounts referred to in the clause (i) may
3 include amounts made available to the re-
4 cipient under—

5 “(I) section 504(b) or 505 of title
6 23; and

7 “(II) a transportation-related
8 grant from the National Science
9 Foundation subject to prior approval
10 by the Secretary.

11 “(4) TIER 1 UNIVERSITY TRANSPORTATION
12 CENTERS.—

13 “(A) IN GENERAL.—For each of fiscal
14 years 2012 and 2013, the Secretary shall pro-
15 vide grants of not more than \$1,500,000 each
16 to not more than 20 recipients to carry out this
17 section.

18 “(B) RESTRICTION.—A grant recipient
19 under paragraph (2) or (3) shall not be eligible
20 to receive a grant under this paragraph.

21 “(C) MATCHING REQUIREMENT.—

22 “(i) IN GENERAL.—Subject to clause
23 (iii), as a condition of receiving a grant
24 under this paragraph, a grant recipient

1 shall match 50 percent of the amounts
2 made available under the grant.

3 “(ii) SOURCES.—The matching
4 amounts referred to in clause (i) may in-
5 clude amounts made available to the recipi-
6 ent under—

7 “(I) section 504(b) or 505 of title
8 23; and

9 “(II) a transportation-related
10 grant from the National Science
11 Foundation subject to prior approval
12 by the Secretary.

13 “(iii) EXEMPTION.—This subpara-
14 graph shall not apply on a demonstration
15 of financial hardship by the applicant insti-
16 tution.

17 “(D) FOCUSED RESEARCH.—

18 “(i) IN GENERAL.—In awarding
19 grants under this paragraph, consideration
20 shall be given to minority institutions, as
21 defined by section 365 of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1067k), or
23 consortia that include such institutions
24 that have demonstrated an ability in trans-
25 portation-related research.

1 “(ii) PUBLIC TRANSPORTATION
2 ISSUES.—At least 2 of the recipients
3 awarded a grant under this paragraph
4 shall have expertise in, and focus research
5 on, public transportation issues.

6 “(d) PROGRAM COORDINATION.—

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

8 “(A) coordinate the research, education,
9 and technology transfer activities carried out by
10 grant recipients under this section; and

11 “(B) disseminate the results of that re-
12 search through the establishment and operation
13 of an information clearinghouse.

14 “(2) ANNUAL REVIEW AND EVALUATION.—Not
15 less frequently than annually, and consistent with
16 the plan developed under section 508 of title 23, the
17 Secretary shall review and evaluate the programs
18 carried out under this section by grant recipients.

19 “(3) PROGRAM EVALUATION AND OVER-
20 SIGHT.—For each of fiscal years 2012 and 2013, the
21 Secretary shall expend not more than 1½ percent of
22 the amounts made available to the Secretary to
23 carry out this section for any coordination, evalua-
24 tion, and oversight activities of the Secretary under
25 this section and section 5506.

1 “(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—
 2 Amounts made available to the Secretary to carry out this
 3 section shall remain available for obligation by the Sec-
 4 retary for a period of 3 years after the last day of the
 5 fiscal year for which the amounts are appropriated.

6 “(f) INFORMATION COLLECTION.—Any survey, ques-
 7 tionnaire, or interview that the Secretary determines to
 8 be necessary to carry out reporting requirements relating
 9 to any program assessment or evaluation activity under
 10 this section, including customer satisfaction assessments,
 11 shall not be subject to chapter 35 of title 44.”.

12 (b) CONFORMING AMENDMENT.—The analysis for
 13 chapter 55 of title 49, United States Code, is amended
 14 by striking the item relating to section 5505 and inserting
 15 the following:

“Sec. 5505. University transportation centers program.”.

16 **SEC. 52011. BUREAU OF TRANSPORTATION STATISTICS.**

17 (a) IN GENERAL.—Subtitle III of title 49, United
 18 States Code, is amended by adding at the end the fol-
 19 lowing:

20 **“CHAPTER 63—BUREAU OF**
 21 **TRANSPORTATION STATISTICS**

“Sec.

“6301. Definitions.

“6302. Bureau of Transportation Statistics.

“6303. Intermodal transportation database.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

- “6308. Proceeds of data product sales.
- “6309. Information collection.
- “6310. National transportation atlas database.
- “6311. Limitations on statutory construction.
- “6312. Research and development grants.
- “6313. Transportation statistics annual report.
- “6314. Mandatory response authority for freight data collection.

1 **“§ 6301. Definitions**

2 “In this chapter, the following definitions apply:

3 “(1) BUREAU.—The term ‘Bureau’ means the
4 Bureau of Transportation Statistics established by
5 section 6302(a).

6 “(2) DEPARTMENT.—The term ‘Department’
7 means the Department of Transportation.

8 “(3) DIRECTOR.—The term ‘Director’ means
9 the Director of the Bureau.

10 “(4) LIBRARY.—The term ‘Library’ means the
11 National Transportation Library established by sec-
12 tion 6304(a).

13 “(5) SECRETARY.—The term ‘Secretary’ means
14 the Secretary of Transportation.

15 **“§ 6302. Bureau of Transportation Statistics**

16 “(a) ESTABLISHMENT.—There is established in the
17 Research and Innovative Technology Administration the
18 Bureau of Transportation Statistics.

19 “(b) DIRECTOR.—

20 “(1) APPOINTMENT.—The Bureau shall be
21 headed by a Director, who shall be appointed in the
22 competitive service by the Secretary.

1 “(2) QUALIFICATIONS.—The Director shall be
 2 appointed from among individuals who are qualified
 3 to serve as the Director by virtue of their training
 4 and experience in the collection, analysis, and use of
 5 transportation statistics.

6 “(3) DUTIES.—

7 “(A) IN GENERAL.—The Director shall—

8 “(i) serve as the senior advisor to the
 9 Secretary on data and statistics; and

10 “(ii) be responsible for carrying out
 11 the duties described in subparagraph (B).

12 “(B) DUTIES.—The Director shall—

13 “(i) ensure that the statistics com-
 14 piled under clause (vi) are designed to sup-
 15 port transportation decisionmaking by—

16 “(I) the Federal Government;

17 “(II) State and local govern-
 18 ments;

19 “(III) metropolitan planning or-
 20 ganizations;

21 “(IV) transportation-related asso-
 22 ciations;

23 “(V) the private sector, including
 24 the freight community; and

25 “(VI) the public;

1 “(ii) establish on behalf of the Sec-
2 retary a program—

3 “(I) to effectively integrate safety
4 data across modes; and

5 “(II) to address gaps in existing
6 safety data programs of the Depart-
7 ment;

8 “(iii) work with the operating admin-
9 istrations of the Department—

10 “(I) to establish and implement
11 the data programs of the Bureau; and

12 “(II) to improve the coordination
13 of information collection efforts with
14 other Federal agencies;

15 “(iv) continually improve surveys and
16 data collection methods of the Department
17 to improve the accuracy and utility of
18 transportation statistics;

19 “(v) encourage the standardization of
20 data, data collection methods, and data
21 management and storage technologies for
22 data collected by—

23 “(I) the Bureau;

24 “(II) the operating administra-
25 tions of the Department;

1 “(III) State and local govern-
2 ments;

3 “(IV) metropolitan planning or-
4 ganizations; and

5 “(V) private sector entities;

6 “(vi) collect, compile, analyze, and
7 publish a comprehensive set of transpor-
8 tation statistics on the performance and
9 impacts of the national transportation sys-
10 tem, including statistics on—

11 “(I) transportation safety across
12 all modes and intermodally;

13 “(II) the state of good repair of
14 United States transportation infra-
15 structure;

16 “(III) the extent, connectivity,
17 and condition of the transportation
18 system, building on the national
19 transportation atlas database devel-
20 oped under section 6310;

21 “(IV) economic efficiency across
22 the entire transportation sector;

23 “(V) the effects of the transpor-
24 tation system on global and domestic
25 economic competitiveness;

- 1 “(VI) demographic, economic,
2 and other variables influencing travel
3 behavior, including choice of transpor-
4 tation mode and goods movement;
- 5 “(VII) transportation-related
6 variables that influence the domestic
7 economy and global competitiveness;
- 8 “(VIII) economic costs and im-
9 pacts for passenger travel and freight
10 movement;
- 11 “(IX) intermodal and multimodal
12 passenger movement;
- 13 “(X) intermodal and multimodal
14 freight movement; and
- 15 “(XI) consequences of transpor-
16 tation for the human and natural en-
17 vironment;
- 18 “(vii) build and disseminate the trans-
19 portation layer of the National Spatial
20 Data Infrastructure developed under Exec-
21 utive Order 12906 (59 Fed. Reg. 17671)
22 (or a successor Executive Order), including
23 by coordinating the development of trans-
24 portation geospatial data standards, com-
25 piling intermodal geospatial data, and col-

1 lecting geospatial data that is not being
2 collected by other entities;

3 “(viii) issue guidelines for the collec-
4 tion of information by the Department
5 that the Director determines necessary to
6 develop transportation statistics and carry
7 out modeling, economic assessment, and
8 program assessment activities to ensure
9 that such information is accurate, reliable,
10 relevant, uniform, and in a form that per-
11 mits systematic analysis by the Depart-
12 ment;

13 “(ix) review and report to the Sec-
14 retary on the sources and reliability of—

15 “(I) the statistics proposed by
16 the heads of the operating administra-
17 tions of the Department to measure
18 outputs and outcomes as required by
19 the Government Performance and Re-
20 sults Act of 1993 (Public Law 103–
21 62;107 Stat. 285); and

22 “(II) at the request of the Sec-
23 retary, any other data collected or sta-
24 tistical information published by the

1 heads of the operating administrations
2 of the Department; and

3 “(x) ensure that the statistics pub-
4 lished under this section are readily acces-
5 sible to the public, consistent with applica-
6 ble security constraints and confidentiality
7 interests.

8 “(c) ACCESS TO FEDERAL DATA.—In carrying out
9 subsection (b)(3)(B)(ii), the Director shall be given access
10 to all safety data that the Director determines necessary
11 to carry out that subsection that is held by the Depart-
12 ment or any other Federal agency upon written request
13 and subject to any statutory or regulatory restrictions.

14 **“§ 6303. Intermodal transportation database**

15 “(a) IN GENERAL.—In consultation with the Under
16 Secretary Transportation for Policy, the Assistant Secre-
17 taries of the Department, and the heads of the operating
18 administrations of the Department, the Director shall es-
19 tablish and maintain a transportation database for all
20 modes of transportation.

21 “(b) USE.—The database established under this sec-
22 tion shall be suitable for analyses carried out by the Fed-
23 eral Government, the States, and metropolitan planning
24 organizations.

1 “(c) CONTENTS.—The database established under
2 this section shall include—

3 “(1) information on the volumes and patterns
4 of movement of goods, including local, interregional,
5 and international movement, by all modes of trans-
6 portation, intermodal combinations, and relevant
7 classification;

8 “(2) information on the volumes and patterns
9 of movement of people, including local, interregional,
10 and international movements, by all modes of trans-
11 portation (including bicycle and pedestrian modes),
12 intermodal combinations, and relevant classification;

13 “(3) information on the location and
14 connectivity of transportation facilities and services;
15 and

16 “(4) a national accounting of expenditures and
17 capital stocks on each mode of transportation and
18 intermodal combination.

19 **“§ 6304. National transportation library**

20 “(a) PURPOSE AND ESTABLISHMENT.—To support
21 the information management and decisionmaking needs of
22 transportation officials at the Federal, State, and local lev-
23 els, there is established in the Bureau a National Trans-
24 portation Library which shall—

1 “(1) be headed by an individual who is highly
2 qualified in library and information science;

3 “(2) acquire, preserve, and manage transpor-
4 tation information and information products and
5 services for use by the Department, other Federal
6 agencies, and the general public;

7 “(3) provide reference and research assistance;

8 “(4) serve as a central depository for research
9 results and technical publications of the Depart-
10 ment;

11 “(5) provide a central clearinghouse for trans-
12 portation data and information of the Federal Gov-
13 ernment;

14 “(6) serve as coordinator and policy lead for
15 transportation information access;

16 “(7) provide transportation information and in-
17 formation products and services to—

18 “(A) the Department;

19 “(B) other Federal agencies;

20 “(C) public and private organizations; and

21 “(D) individuals, within the United States
22 and internationally;

23 “(8) coordinate efforts among, and cooperate
24 with, transportation libraries, information providers,
25 and technical assistance centers, in conjunction with

1 private industry and other transportation library and
2 information centers, with the goal of developing a
3 comprehensive transportation information and
4 knowledge network that supports the activities de-
5 scribed in section 6302(b)(3)(B)(vi); and

6 “(9) engage in such other activities as the Di-
7 rector determines to be necessary and as the re-
8 sources of the Library permit.

9 “(b) ACCESS.—The Director shall publicize, facili-
10 tate, and promote access to the information products and
11 services described in subsection (a), to improve the ability
12 of the transportation community to share information and
13 the ability of the Director to make statistics and other
14 information readily accessible as required under section
15 6302(b)(3)(B)(x).

16 “(c) AGREEMENTS.—

17 “(1) IN GENERAL.—To carry out this section,
18 the Director may enter into agreements with, award
19 grants to, and receive amounts from, any—

20 “(A) State or local government;

21 “(B) organization;

22 “(C) business; or

23 “(D) individual.

24 “(2) CONTRACTS, GRANTS, AND AGREE-
25 MENTS.—The Library may initiate and support spe-

1 cific information and data management, access, and
2 exchange activities in connection with matters relat-
3 ing to the Department’s strategic goals, knowledge
4 networking, and national and international coopera-
5 tion, by entering into contracts or other agreements
6 or awarding grants for the conduct of such activi-
7 ties.

8 “(3) AMOUNTS.—Any amounts received by the
9 Library as payment for library products and services
10 or other activities shall be made available to the Di-
11 rector to carry out this section, deposited in the Re-
12 search and Innovative Technology Administration’s
13 general fund account, and remain available until ex-
14 pended.

15 **“§ 6305. Advisory council on transportation statistics**

16 “(a) IN GENERAL.—The Director shall establish and
17 consult with an advisory council on transportation statis-
18 tics.

19 “(b) FUNCTION.—The advisory council established
20 under this section shall advise the Director on—

21 “(1) the quality, reliability, consistency, objec-
22 tivity, and relevance of transportation statistics and
23 analyses collected, supported, or disseminated by the
24 Bureau and the Department; and

1 “(2) methods to encourage cooperation and
2 interoperability of transportation data collected by
3 the Bureau, the operating administrations of the De-
4 partment, States, local governments, metropolitan
5 planning organizations, and private sector entities.

6 “(c) MEMBERSHIP.—

7 “(1) IN GENERAL.—The advisory council shall
8 be composed of not fewer than 9 and not more than
9 11 members appointed by the Director.

10 “(2) SELECTION.—In selecting members for the
11 advisory council, the Director shall appoint individ-
12 uals who—

13 “(A) are not officers or employees of the
14 United States;

15 “(B) possess expertise in—

16 “(i) transportation data collection,
17 analysis, or application;

18 “(ii) economics; or

19 “(iii) transportation safety; and

20 “(C) represent a cross section of transpor-
21 tation stakeholders, to the greatest extent pos-
22 sible.

23 “(d) TERMS OF APPOINTMENT.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), members of the advisory council shall be
3 appointed to staggered terms not to exceed 3 years.

4 “(2) ADDITIONAL TERMS.—A member may be
5 renominated for 1 additional 3-year term.

6 “(3) CURRENT MEMBERS.—A member serving
7 on an advisory council on transportation statistics
8 on the day before the date of enactment of the
9 Transportation Research and Innovative Technology
10 Act of 2012 shall serve until the end of the ap-
11 pointed term of the member.

12 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
13 MITTEE ACT.—The Federal Advisory Committee Act (5
14 U.S.C. App.) shall apply to the advisory council estab-
15 lished under this section, except that section 14 of that
16 Act shall not apply.

17 **“§ 6306. Transportation statistical collection, anal-**
18 **ysis, and dissemination**

19 “To ensure that all transportation statistical collec-
20 tion, analysis, and dissemination is carried out in a coordi-
21 nated manner, the Director may—

22 “(1) use the services, equipment, records, per-
23 sonnel, information, and facilities of other Federal
24 agencies, or State, local, and private agencies and
25 instrumentalities, subject to the conditions that the

1 applicable agency or instrumentality consents to that
2 use and with or without reimbursement for such use;

3 “(2) enter into agreements with the agencies
4 and instrumentalities described in paragraph (1) for
5 purposes of data collection and analysis;

6 “(3) confer and cooperate with foreign govern-
7 ments, international organizations, and State, mu-
8 nicipal, and other local agencies;

9 “(4) request such information, data, and re-
10 ports from any Federal agency as the Director de-
11 termines necessary to carry out this chapter;

12 “(5) encourage replication, coordination, and
13 sharing of information among transportation agen-
14 cies regarding information systems, information pol-
15 icy, and data; and

16 “(6) confer and cooperate with Federal statis-
17 tical agencies as the Director determines necessary
18 to carry out this chapter, including by entering into
19 cooperative data sharing agreements in conformity
20 with all laws and regulations applicable to the disclo-
21 sure and use of data.

22 **“§ 6307. Furnishing of information, data, or reports**
23 **by Federal agencies**

24 “(a) IN GENERAL.—Except as provided in subsection
25 (b), a Federal agency requested to furnish information,

1 data, or reports by the Director under section
2 6302(b)(3)(B) shall provide the information to the Direc-
3 tor.

4 “(b) PROHIBITION ON CERTAIN DISCLOSURES.—

5 “(1) IN GENERAL.—An officer, employee, or
6 contractor of the Bureau may not—

7 “(A) make any disclosure in which the
8 data provided by an individual or organization
9 under section 6302(b)(3)(B) can be identified;

10 “(B) use the information provided under
11 section 6302(b)(3)(B) for a nonstatistical pur-
12 pose; or

13 “(C) permit anyone other than an indi-
14 vidual authorized by the Director to examine
15 any individual report provided under section
16 6302(b)(3)(B).

17 “(2) COPIES OF REPORTS.—

18 “(A) IN GENERAL.—No department, bu-
19 reau, agency, officer, or employee of the United
20 States (except the Director in carrying out this
21 chapter) may require, for any reason, a copy of
22 any report that has been filed under section
23 6302(b)(3)(B) with the Bureau or retained by
24 an individual respondent.

1 “(B) LIMITATION ON JUDICIAL PRO-
2 CEEDINGS.—A copy of a report described in
3 subparagraph (A) that has been retained by an
4 individual respondent or filed with the Bureau
5 or any of the employees, contractors, or agents
6 of the Bureau—

7 “(i) shall be immune from legal proc-
8 ess; and

9 “(ii) shall not, without the consent of
10 the individual concerned, be admitted as
11 evidence or used for any purpose in any
12 action, suit, or other judicial or adminis-
13 trative proceedings.

14 “(C) APPLICABILITY.—This paragraph
15 shall apply only to reports that permit informa-
16 tion concerning an individual or organization to
17 be reasonably determined by direct or indirect
18 means.

19 “(3) INFORMING RESPONDENT OF USE OF
20 DATA.—If the Bureau is authorized by statute to
21 collect data or information for a nonstatistical pur-
22 pose, the Director shall clearly distinguish the collec-
23 tion of the data or information, by rule and on the
24 collection instrument, in a manner that informs the
25 respondent who is requested or required to supply

1 the data or information of the nonstatistical pur-
2 pose.

3 “(c) TRANSPORTATION AND TRANSPORTATION-RE-
4 LATED DATA ACCESS.—The Director shall be provided ac-
5 cess to any transportation and transportation-related in-
6 formation in the possession of any Federal agency, ex-
7 cept—

8 “(1) information that is expressly prohibited by
9 law from being disclosed to another Federal agency;
10 or

11 “(2) information that the agency possessing the
12 information determines could not be disclosed with-
13 out significantly impairing the discharge of authori-
14 ties and responsibilities which have been delegated
15 to, or vested by law, in such agency.

16 **“§ 6308. Proceeds of data product sales**

17 “Notwithstanding section 3302 of title 31, amounts
18 received by the Bureau from the sale of data products for
19 necessary expenses incurred may be credited to the High-
20 way Trust Fund (other than the Mass Transit Account)
21 for the purpose of reimbursing the Bureau for those ex-
22 penses.

23 **“§ 6309. Information collection**

24 “As the head of an independent Federal statistical
25 agency, the Director may consult directly with the Office

1 of Management and Budget concerning any survey, ques-
2 tionnaire, or interview that the Director considers nec-
3 essary to carry out the statistical responsibilities of this
4 chapter.

5 **“§ 6310. National transportation atlas database**

6 “(a) IN GENERAL.—The Director shall develop and
7 maintain a national transportation atlas database that is
8 comprised of geospatial databases that depict—

9 “(1) transportation networks;

10 “(2) flows of people, goods, vehicles, and craft
11 over the transportation networks; and

12 “(3) social, economic, and environmental condi-
13 tions that affect or are affected by the transpor-
14 tation networks.

15 “(b) INTERMODAL NETWORK ANALYSIS.—The data-
16 bases referred to in subsection (a) shall be capable of sup-
17 porting intermodal network analysis.

18 **“§ 6311. Limitations on statutory construction**

19 “Nothing in this chapter—

20 “(1) authorizes the Bureau to require any other
21 Federal agency to collect data; or

22 “(2) alters or diminishes the authority of any
23 other officer of the Department to collect and dis-
24 seminate data independently.

1 **“§ 6312. Research and development grants**

2 “The Secretary may make grants to, or enter into
3 cooperative agreements or contracts with, public and non-
4 profit private entities (including State transportation de-
5 partments, metropolitan planning organizations, and insti-
6 tutions of higher education) for—

7 “(1) investigation of the subjects described in
8 section 6302(b)(3)(B)(vi);

9 “(2) research and development of new methods
10 of data collection, standardization, management, in-
11 tegration, dissemination, interpretation, and anal-
12 ysis;

13 “(3) demonstration programs by States, local
14 governments, and metropolitan planning organiza-
15 tions to coordinate data collection, reporting, man-
16 agement, storage, and archiving to simplify data
17 comparisons across jurisdictions;

18 “(4) development of electronic clearinghouses of
19 transportation data and related information, as part
20 of the Library; and

21 “(5) development and improvement of methods
22 for sharing geographic data, in support of the data-
23 base under section 6310 and the National Spatial
24 Data Infrastructure developed under Executive
25 Order 12906 (59 Fed. Reg. 17671) (or a successor
26 Executive Order).

1 **“§ 6313. Transportation statistics annual report**

2 “The Director shall submit to the President and Con-
3 gress a transportation statistics annual report, which shall
4 include—

5 “(1) information on the progress of the Direc-
6 tor in carrying out the duties described in section
7 6302(b)(3)(B);

8 “(2) documentation of the methods used to ob-
9 tain and ensure the quality of the statistics pre-
10 sented in the report; and

11 “(3) any recommendations of the Director for
12 improving transportation statistical information.

13 **“§ 6314. Mandatory response authority for freight**
14 **data collection**

15 “(a) FREIGHT DATA COLLECTION.—

16 “(1) IN GENERAL.—An owner, official, agent,
17 person in charge, or assistant to the person in
18 charge of a freight corporation, company, business,
19 institution, establishment, or organization described
20 in paragraph (2) shall be fined in accordance with
21 subsection (b) if that individual neglects or refuses,
22 when requested by the Director or other authorized
23 officer, employee, or contractor of the Bureau to
24 submit data under section 6302(b)(3)(B)—

25 “(A) to answer completely and correctly to
26 the best knowledge of that individual all ques-

1 tions relating to the corporation, company, busi-
2 ness, institution, establishment, or other organi-
3 zation; or

4 “(B) to make available records or statistics
5 in the official custody of the individual.

6 “(2) DESCRIPTION OF ENTITIES.—A freight
7 corporation, company, business, institution, estab-
8 lishment, or organization referred to in paragraph
9 (1) is a corporation, company, business, institution,
10 establishment, or organization that—

11 “(A) receives Federal funds relating to the
12 freight program; and

13 “(B) has consented to be subject to a fine
14 under this subsection on—

15 “(i) refusal to supply any data re-
16 quested; or

17 “(ii) failure to respond to a written
18 request.

19 “(b) FINES.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 an individual described in subsection (a) shall be
22 fined not more than \$500.

23 “(2) WILLFUL ACTIONS.—If an individual will-
24 fully gives a false answer to a question described in

1 subsection (a)(1), the individual shall be fined not
2 more than \$10,000.”.

3 (b) RULES OF CONSTRUCTION.—If the provisions of
4 section 111 of title 49, United States Code, are trans-
5 ferred to chapter 63 of that title, the following rules of
6 construction apply:

7 (1) For purposes of determining whether 1 pro-
8 vision of law supersedes another based on enactment
9 later in time, a chapter 63 provision is deemed to
10 have been enacted on the date of enactment of the
11 corresponding section 111 provision.

12 (2) A reference to a section 111 provision, in-
13 cluding a reference in a regulation, order, or other
14 law, is deemed to refer to the corresponding chapter
15 63 provision.

16 (3) A regulation, order, or other administrative
17 action in effect under a section 111 provision con-
18 tinues in effect under the corresponding chapter 63
19 provision.

20 (4) An action taken or an offense committed
21 under a section 111 provision is deemed to have
22 been taken or committed under the corresponding
23 chapter 63 provision.

24 (c) CONFORMING AMENDMENTS.—

1 (1) REPEAL.—Section 111 of title 49, United
2 States Code, is repealed, and the item relating to
3 section 111 in the analysis for chapter 1 of that title
4 is deleted.

5 (2) ANALYSIS FOR SUBTITLE III.—The analysis
6 for subtitle III of title 49, United States Code, is
7 amended by inserting after the items for chapter 61
8 the following:

“Chapter 63. Bureau of Transportation Statistics.”.

9 **SEC. 52012. ADMINISTRATIVE AUTHORITY.**

10 Section 112 of title 49, United States Code, is
11 amended by adding at the end the following:

12 “(f) PROMOTIONAL AUTHORITY.—Amounts author-
13 ized to be appropriated for the administration and oper-
14 ation of the Research and Innovative Technology Adminis-
15 tration may be used to purchase promotional items of
16 nominal value for use by the Administrator of the Re-
17 search and Innovative Technology Administration in the
18 recruitment of individuals and promotion of the programs
19 of the Administration.

20 “(g) PROGRAM EVALUATION AND OVERSIGHT.—For
21 each of fiscal years 2012 and 2013, the Administrator is
22 authorized to expend not more than 1 ½ percent of the
23 amounts authorized to be appropriated for necessary ex-
24 penses for administration and operations of the Research
25 and Innovative Technology Administration for the coordi-

1 nation, evaluation, and oversight of the programs adminis-
2 tered by the Administration.

3 “(h) COLLABORATIVE RESEARCH AND DEVELOP-
4 MENT.—

5 “(1) IN GENERAL.—To encourage innovative
6 solutions to multimodal transportation problems and
7 stimulate the deployment of new technology, the Ad-
8 ministrator may carry out, on a cost-shared basis,
9 collaborative research and development with—

10 “(A) non-Federal entities, including State
11 and local governments, foreign governments, in-
12 stitutions of higher education, corporations, in-
13 stitutions, partnerships, sole proprietorships,
14 and trade associations that are incorporated or
15 established under the laws of any State;

16 “(B) Federal laboratories; and

17 “(C) other Federal agencies.

18 “(2) COOPERATION, GRANTS, CONTRACTS, AND
19 AGREEMENTS.—Notwithstanding any other provision
20 of law, the Administrator may directly initiate con-
21 tracts, grants, cooperative research and development
22 agreements (as defined in section 12 of the Steven-
23 son-Wydler Technology Innovation Act of 1980 (15
24 U.S.C. 3710a)), and other agreements to fund, and
25 accept funds from, the Transportation Research

1 Board of the National Research Council of the Na-
2 tional Academy of Sciences, State departments of
3 transportation, cities, counties, institutions of higher
4 education, associations, and the agents of those enti-
5 ties to carry out joint transportation research and
6 technology efforts.

7 “(3) FEDERAL SHARE.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the Federal share of the cost of an
10 activity carried out under paragraph (2) shall
11 not exceed 50 percent.

12 “(B) EXCEPTION.—If the Secretary deter-
13 mines that the activity is of substantial public
14 interest or benefit, the Secretary may approve
15 a greater Federal share.

16 “(C) NON-FEDERAL SHARE.—All costs di-
17 rectly incurred by the non-Federal partners, in-
18 cluding personnel, travel, facility, and hardware
19 development costs, shall be credited toward the
20 non-Federal share of the cost of an activity de-
21 scribed in subparagraph (A).

22 “(4) USE OF TECHNOLOGY.—The research, de-
23 velopment, or use of a technology under a contract,
24 grant, cooperative research and development agree-
25 ment, or other agreement entered into under this

1 subsection, including the terms under which the
 2 technology may be licensed and the resulting royal-
 3 ties may be distributed, shall be subject to the Ste-
 4 venson-Wydler Technology Innovation Act of 1980
 5 (15 U.S.C. 3701 et seq.).

6 “(5) WAIVER OF ADVERTISING REQUIRE-
 7 MENTS.—Section 6101 of title 41, United States
 8 Code shall not apply to a contract, grant, or other
 9 agreement entered into under this section.”.

10 **SEC. 52013. TRANSPORTATION RESEARCH AND DEVELOP-**
 11 **MENT STRATEGIC PLANNING.**

12 Section 508(a) of title 23, United States Code, is
 13 amended—

14 (1) in paragraph (1), by striking “SAFETEA-
 15 LU” and inserting “Transportation Research and
 16 Innovative Technology Act of 2012”; and

17 (2) in paragraph (2), by striking subparagraph
 18 (A) and inserting the following:

19 “(A) describe the primary purposes of the
 20 transportation research and development pro-
 21 gram, which shall include, at a minimum—

22 “(i) promoting safety;

23 “(ii) reducing congestion and improv-
 24 ing mobility;

1 “(iii) protecting and enhancing the
2 environment;

3 “(iv) preserving the existing transpor-
4 tation system;

5 “(v) improving the durability and ex-
6 tending the life of transportation infra-
7 structure; and

8 “(vi) improving goods movement;”.

9 **TITLE III—INTELLIGENT TRANS-**
10 **PORTATION SYSTEMS RE-**
11 **SEARCH**

12 **SEC. 53001. USE OF FUNDS FOR ITS ACTIVITIES.**

13 Section 513 of title 23, United States Code, is
14 amended to read as follows:

15 **“§ 513. Use of funds for ITS activities**

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

18 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
19 tity’ means a State or local government, tribal gov-
20 ernment, transit agency, public toll authority, metro-
21 politan planning organization, other political subdivi-
22 sion of a State or local government, or a multistate
23 or multijurisdictional group applying through a sin-
24 gle lead applicant.

1 “(2) MULTIJURISDICTIONAL GROUP.—The term
2 ‘multijurisdictional group’ means a combination of
3 State governments, local governments, metropolitan
4 planning agencies, transit agencies, or other political
5 subdivisions of a State that—

6 “(A) have signed a written agreement to
7 implement an activity that meets the grant cri-
8 teria under this section; and

9 “(B) is comprised of at least 2 members,
10 each of whom is an eligible entity.

11 “(b) PURPOSE.—The purpose of this section is to de-
12 velop, administer, communicate, and promote the use of
13 products of research, technology, and technology transfer
14 programs.

15 “(c) ITS DEPLOYMENT INCENTIVES.—

16 “(1) IN GENERAL.—The Secretary may—

17 “(A) develop and implement incentives to
18 accelerate the deployment of ITS technologies
19 and services within all funding programs au-
20 thorized by the Transportation Research and
21 Innovative Technology Act of 2012; and

22 “(B) for each fiscal year, use amounts
23 made available to the Secretary to carry out in-
24 telligent transportation systems outreach, in-

1 including through the use of websites, public rela-
2 tions, displays, tours, and brochures.

3 “(2) COMPREHENSIVE PLAN.—To carry out
4 this section, the Secretary shall develop a detailed
5 and comprehensive plan that addresses the manner
6 in which incentives may be adopted, as appropriate,
7 through the existing deployment activities carried
8 out by surface transportation modal administrations.

9 “(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT
10 GRANT PROGRAM.—

11 “(1) ESTABLISHMENT.—The Secretary shall es-
12 tablish a competitive grant program to accelerate the
13 deployment, operation, systems management, inter-
14 modal integration, and interoperability of the ITS
15 program and ITS-enabled operational strategies—

16 “(A) to measure and improve the perform-
17 ance of the surface transportation system;

18 “(B) to reduce traffic congestion and the
19 economic and environmental impacts of traffic
20 congestion;

21 “(C) to minimize fatalities and injuries;

22 “(D) to enhance mobility of people and
23 goods;

24 “(E) to improve traveler information and
25 services; and

1 “(F) to optimize existing roadway capacity.

2 “(2) APPLICATION.—To be considered for a
3 grant under this subsection, an eligible entity shall
4 submit an application to the Secretary that in-
5 cludes—

6 “(A) a plan to deploy and provide for the
7 long-term operation and maintenance of intel-
8 ligent transportation systems to improve safety,
9 efficiency, system performance, and return on
10 investment, such as—

11 “(i) real-time integrated traffic, tran-
12 sit, and multimodal transportation infor-
13 mation;

14 “(ii) advanced traffic, freight, park-
15 ing, and incident management systems;

16 “(iii) advanced technologies to im-
17 prove transit and commercial vehicle oper-
18 ations;

19 “(iv) synchronized, adaptive, and
20 transit preferential traffic signals;

21 “(v) advanced infrastructure condition
22 assessment technologies; and

23 “(vi) other technologies to improve
24 system operations, including ITS applica-
25 tions necessary for multimodal systems in-

1 tegration and for achieving performance
2 goals;

3 “(B) quantifiable system performance im-
4 provements, including—

5 “(i) reductions in traffic-related
6 crashes, congestion, and costs;

7 “(ii) optimization of system efficiency;
8 and

9 “(iii) improvement of access to trans-
10 portation services;

11 “(C) quantifiable safety, mobility, and en-
12 vironmental benefit projections, including data
13 driven estimates of the manner in which the
14 project will improve the transportation system
15 efficiency and reduce traffic congestion in the
16 region;

17 “(D) a plan for partnering with the private
18 sector, including telecommunications industries
19 and public service utilities, public agencies (in-
20 cluding multimodal and multijurisdictional enti-
21 ties), research institutions, organizations rep-
22 resenting transportation and technology leaders,
23 and other transportation stakeholders;

24 “(E) a plan to leverage and optimize exist-
25 ing local and regional ITS investments; and

1 “(F) a plan to ensure interoperability of
2 deployed technologies with other tolling, traffic
3 management, and intelligent transportation sys-
4 tems.

5 “(3) SELECTION.—

6 “(A) IN GENERAL.—Not later than 1 year
7 after the date of enactment of the Transpor-
8 tation Research and Innovative Technology Act
9 of 2012, the Secretary may provide grants to
10 eligible entities under this section.

11 “(B) GEOGRAPHIC DIVERSITY.—In award-
12 ing a grant under this section, the Secretary
13 shall ensure, to the maximum extent prac-
14 ticable, that grant recipients represent diverse
15 geographical areas of the United States, includ-
16 ing urban, suburban, and rural areas.

17 “(C) NON-FEDERAL SHARE.—In awarding
18 a grant under the section, the Secretary shall
19 give priority to grant recipients that dem-
20 onstrate an ability to contribute a significant
21 non-Federal share to the cost of carrying out
22 the project for which the grant is received.

23 “(4) ELIGIBLE USES.—Projects for which
24 grants awarded under this section may be used in-
25 clude—

1 “(A) the establishment and implementation
2 of ITS and ITS-enabled operations strategies
3 that improve performance in the areas of—

4 “(i) traffic operations;

5 “(ii) emergency response to surface
6 transportation incidents;

7 “(iii) incident management;

8 “(iv) transit and commercial vehicle
9 operations improvements;

10 “(v) weather event response manage-
11 ment by State and local authorities;

12 “(vi) surface transportation network
13 and facility management;

14 “(vii) construction and work zone
15 management;

16 “(viii) traffic flow information;

17 “(ix) freight management; and

18 “(x) congestion management;

19 “(B) carrying out activities that support
20 the creation of networks that link metropolitan
21 and rural surface transportation systems into
22 an integrated data network, capable of col-
23 lecting, sharing, and archiving transportation
24 system traffic condition and performance infor-
25 mation;

1 “(C) the implementation of intelligent
2 transportation systems and technologies that
3 improve highway safety through information
4 and communications systems linking vehicles,
5 infrastructure, mobile devices, transportation
6 users, and emergency responders;

7 “(D) the provision of services necessary to
8 ensure the efficient operation and management
9 of ITS infrastructure, including costs associated
10 with communications, utilities, rent, hardware,
11 software, labor, administrative costs, training,
12 and technical services;

13 “(E) the provision of support for the es-
14 tablishment and maintenance of institutional
15 relationships between transportation agencies,
16 police, emergency medical services, private
17 emergency operators, freight operators, ship-
18 pers, public service utilities, and telecommuni-
19 cations providers;

20 “(F) carrying out multimodal and
21 crossjurisdictional planning and deployment of
22 regional transportation systems operations and
23 management approaches; and

24 “(G) performing project evaluations to de-
25 termine the costs, benefits, lessons learned, and

1 future deployment strategies associated with the
2 deployment of intelligent transportation sys-
3 tems.

4 “(5) REPORT TO SECRETARY.—For each fiscal
5 year that an eligible entity receives a grant under
6 this section, not later than 1 year after receiving
7 that grant, each recipient shall submit a report to
8 the Secretary that describes how the project has met
9 the expectations projected in the deployment plan
10 submitted with the application, including—

11 “(A) data on how the program has helped
12 reduce traffic crashes, congestion, costs, and
13 other benefits of the deployed systems;

14 “(B) data on the effect of measuring and
15 improving transportation system performance
16 through the deployment of advanced tech-
17 nologies;

18 “(C) the effectiveness of providing real-
19 time integrated traffic, transit, and multimodal
20 transportation information to the public that al-
21 lows the public to make informed travel deci-
22 sions; and

23 “(D) lessons learned and recommendations
24 for future deployment strategies to optimize

1 transportation efficiency and multimodal system
2 performance.

3 “(6) REPORT TO CONGRESS.—Not later than 2
4 years after date on which the first grant is awarded
5 under this section and annually thereafter for each
6 fiscal year for which grants are awarded under this
7 section, the Secretary shall submit to Congress a re-
8 port that describes the effectiveness of the grant re-
9 cipients in meeting the projected deployment plan
10 goals, including data on how the grant program
11 has—

12 “(A) reduced traffic-related fatalities and
13 injuries;

14 “(B) reduced traffic congestion and im-
15 proved travel time reliability;

16 “(C) reduced transportation-related emis-
17 sions;

18 “(D) optimized multimodal system per-
19 formance;

20 “(E) improved access to transportation al-
21 ternatives;

22 “(F) provided the public with access to
23 real-time integrated traffic, transit, and
24 multimodal transportation information to make
25 informed travel decisions;

1 “(G) provided cost savings to transpor-
2 tation agencies, businesses, and the traveling
3 public; and

4 “(H) provided other benefits to transpor-
5 tation users and the general public.

6 “(7) ADDITIONAL GRANTS.—If the Secretary
7 determines, based on a report submitted under para-
8 graph (5), that a grant recipient is not complying
9 with the established grant criteria, the Secretary
10 may—

11 “(A) cease payment to the recipient of any
12 remaining grant amounts; and

13 “(B) redistribute any remaining amounts
14 to other eligible entities under this section.

15 “(8) NON-FEDERAL SHARE.—The Federal
16 share of a grant under this section shall not exceed
17 50 percent of the cost of the project.

18 “(9) GRANT LIMITATION.—The Secretary may
19 not award more than 10 percent of the amounts pro-
20 vided under this section to a single grant recipient
21 in any fiscal year.

22 “(10) MULTIYEAR GRANTS.—Subject to avail-
23 ability of amounts, the Secretary may provide an eli-
24 gible entity with grant amounts for a period of mul-
25 tiple fiscal years.

1 “(11) FUNDING.—Of the funds authorized to
2 be appropriated to carry out the intelligent transpor-
3 tation system program under sections 512 through
4 518, not less than 50 percent of such funds shall be
5 used to carry out this subsection.”.

6 **SEC. 53002. GOALS AND PURPOSES.**

7 (a) IN GENERAL.—Chapter 5 of title 23, United
8 States Code, is amended by adding after section 513 the
9 following:

10 **“§ 514. Goals and purposes**

11 “(a) GOALS.—The goals of the intelligent transpor-
12 tation system program include—

13 “(1) enhancement of surface transportation ef-
14 ficiency and facilitation of intermodalism and inter-
15 national trade to enable existing facilities to meet a
16 significant portion of future transportation needs,
17 including public access to employment, goods, and
18 services and to reduce regulatory, financial, and
19 other transaction costs to public agencies and sys-
20 tem users;

21 “(2) achievement of national transportation
22 safety goals, including enhancement of safe oper-
23 ation of motor vehicles and nonmotorized vehicles
24 and improved emergency response to collisions, with

1 particular emphasis on decreasing the number and
2 severity of collisions;

3 “(3) protection and enhancement of the natural
4 environment and communities affected by surface
5 transportation, with particular emphasis on assisting
6 State and local governments to achieve national en-
7 vironmental goals;

8 “(4) accommodation of the needs of all users of
9 surface transportation systems, including operators
10 of commercial motor vehicles, passenger motor vehi-
11 cles, motorcycles, bicycles, and pedestrians (includ-
12 ing individuals with disabilities); and

13 “(5) enhancement of national defense mobility
14 and improvement of the ability of the United States
15 to respond to security-related or other manmade
16 emergencies and natural disasters.

17 “(b) PURPOSES.—The Secretary shall implement ac-
18 tivities under the intelligent transportation system pro-
19 gram, at a minimum—

20 “(1) to expedite, in both metropolitan and rural
21 areas, deployment and integration of intelligent
22 transportation systems for consumers of passenger
23 and freight transportation;

24 “(2) to ensure that Federal, State, and local
25 transportation officials have adequate knowledge of

1 intelligent transportation systems for consideration
2 in the transportation planning process;

3 “(3) to improve regional cooperation and oper-
4 ations planning for effective intelligent transpor-
5 tation system deployment;

6 “(4) to promote the innovative use of private
7 resources in support of intelligent transportation
8 system development;

9 “(5) to facilitate, in cooperation with the motor
10 vehicle industry, the introduction of vehicle-based
11 safety enhancing systems;

12 “(6) to support the application of intelligent
13 transportation systems that increase the safety and
14 efficiency of commercial motor vehicle operations;

15 “(7) to develop a workforce capable of devel-
16 oping, operating, and maintaining intelligent trans-
17 portation systems;

18 “(8) to provide continuing support for oper-
19 ations and maintenance of intelligent transportation
20 systems; and

21 “(9) to ensure a systems approach that includes
22 cooperation among vehicles, infrastructure, and
23 users.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 5 of title 23, United States Code, is amended by
3 adding after the item relating to section 513 the following:
“514. Goals and purposes.”.

4 **SEC. 53003. GENERAL AUTHORITIES AND REQUIREMENTS.**

5 (a) IN GENERAL.—Chapter 5 of title 23, United
6 States Code, is amended by adding after section 514 (as
7 added by section 53002) the following:

8 **“§ 515. General authorities and requirements**

9 “(a) SCOPE.—Subject to the provisions of this chap-
10 ter, the Secretary shall conduct an ongoing intelligent
11 transportation system program—

12 “(1) to research, develop, and operationally test
13 intelligent transportation systems; and

14 “(2) to provide technical assistance in the na-
15 tionwide application of those systems as a compo-
16 nent of the surface transportation systems of the
17 United States.

18 “(b) POLICY.—Intelligent transportation system re-
19 search projects and operational tests funded pursuant to
20 this chapter shall encourage and not displace public-pri-
21 vate partnerships or private sector investment in those
22 tests and projects.

23 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
24 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
25 shall carry out the intelligent transportation system pro-

1 gram in cooperation with State and local governments and
2 other public entities, the private sector firms of the United
3 States, the Federal laboratories, and institutions of higher
4 education, including historically Black colleges and univer-
5 sities and other minority institutions of higher education.

6 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
7 In carrying out the intelligent transportation system pro-
8 gram, the Secretary shall consult with the heads of other
9 Federal agencies, as appropriate.

10 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
11 FORMATION.—The Secretary may provide technical assist-
12 ance, training, and information to State and local govern-
13 ments seeking to implement, operate, maintain, or evalu-
14 ate intelligent transportation system technologies and
15 services.

16 “(f) TRANSPORTATION PLANNING.—The Secretary
17 may provide funding to support adequate consideration of
18 transportation systems management and operations, in-
19 cluding intelligent transportation systems, within metro-
20 politan and statewide transportation planning processes.

21 “(g) INFORMATION CLEARINGHOUSE.—

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

23 “(A) maintain a repository for technical
24 and safety data collected as a result of federally

1 sponsored projects carried out under this chap-
2 ter; and

3 “(B) make, on request, that information
4 (except for proprietary information and data)
5 readily available to all users of the repository at
6 an appropriate cost.

7 “(2) AGREEMENT.—

8 “(A) IN GENERAL.—The Secretary may
9 enter into an agreement with a third party for
10 the maintenance of the repository for technical
11 and safety data under paragraph (1)(A).

12 “(B) FEDERAL FINANCIAL ASSISTANCE.—
13 If the Secretary enters into an agreement with
14 an entity for the maintenance of the repository,
15 the entity shall be eligible for Federal financial
16 assistance under this section.

17 “(3) AVAILABILITY OF INFORMATION.—Infor-
18 mation in the repository shall not be subject to sec-
19 tions 552 and 555 of title 5, United States Code.

20 “(h) ADVISORY COMMITTEE.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish an Advisory Committee to advise the Secretary
23 on carrying out this chapter.

24 “(2) MEMBERSHIP.—The Advisory Committee
25 shall have no more than 20 members, be balanced

1 between metropolitan and rural interests, and in-
2 clude, at a minimum—

3 “(A) a representative from a State high-
4 way department;

5 “(B) a representative from a local highway
6 department who is not from a metropolitan
7 planning organization;

8 “(C) a representative from a State, local,
9 or regional transit agency;

10 “(D) a representative from a metropolitan
11 planning organization;

12 “(E) a private sector user of intelligent
13 transportation system technologies;

14 “(F) an academic researcher with expertise
15 in computer science or another information
16 science field related to intelligent transportation
17 systems, and who is not an expert on transpor-
18 tation issues;

19 “(G) an academic researcher who is a civil
20 engineer;

21 “(H) an academic researcher who is a so-
22 cial scientist with expertise in transportation
23 issues;

1 “(I) a representative from a nonprofit
2 group representing the intelligent transpor-
3 tation system industry;

4 “(J) a representative from a public interest
5 group concerned with safety;

6 “(K) a representative from a public inter-
7 est group concerned with the impact of the
8 transportation system on land use and residen-
9 tial patterns; and

10 “(L) members with expertise in planning,
11 safety, telecommunications, utilities, and oper-
12 ations.

13 “(3) DUTIES.—The Advisory Committee shall,
14 at a minimum, perform the following duties:

15 “(A) Provide input into the development of
16 the intelligent transportation system aspects of
17 the strategic plan under section 508.

18 “(B) Review, at least annually, areas of in-
19 telligent transportation systems research being
20 considered for funding by the Department, to
21 determine—

22 “(i) whether these activities are likely
23 to advance either the state-of-the-practice
24 or state-of-the-art in intelligent transpor-
25 tation systems;

1 “(ii) whether the intelligent transpor-
2 tation system technologies are likely to be
3 deployed by users, and if not, to determine
4 the barriers to deployment; and

5 “(iii) the appropriate roles for govern-
6 ment and the private sector in investing in
7 the research and technologies being consid-
8 ered.

9 “(4) REPORT.—Not later than February 1 of
10 each year after the date of enactment of the Trans-
11 portation Research and Innovative Technology Act
12 of 2012, the Secretary shall submit to Congress a
13 report that includes—

14 “(A) all recommendations made by the Ad-
15 visory Committee during the preceding calendar
16 year;

17 “(B) an explanation of the manner in
18 which the Secretary has implemented those rec-
19 ommendations; and

20 “(C) for recommendations not imple-
21 mented, the reasons for rejecting the rec-
22 ommendations.

23 “(5) APPLICABILITY OF FEDERAL ADVISORY
24 COMMITTEE ACT.—The Advisory Committee shall be

1 subject to the Federal Advisory Committee Act (5
2 U.S.C. App.).

3 “(i) REPORTING.—

4 “(1) GUIDELINES AND REQUIREMENTS.—

5 “(A) IN GENERAL.—The Secretary shall
6 issue guidelines and requirements for the re-
7 porting and evaluation of operational tests and
8 deployment projects carried out under this
9 chapter.

10 “(B) OBJECTIVITY AND INDEPENDENCE.—

11 The guidelines and requirements issued under
12 subparagraph (A) shall include provisions to en-
13 sure the objectivity and independence of the re-
14 porting entity so as to avoid any real or appar-
15 ent conflict of interest or potential influence on
16 the outcome by parties to any such test or de-
17 ployment project or by any other formal evalua-
18 tion carried out under this chapter.

19 “(C) FUNDING.—The guidelines and re-
20 quirements issued under subparagraph (A) shall
21 establish reporting funding levels based on the
22 size and scope of each test or project that en-
23 sure adequate reporting of the results of the
24 test or project.

1 “(2) SPECIAL RULE.—Any survey, question-
 2 naire, or interview that the Secretary considers nec-
 3 essary to carry out the reporting of any test, deploy-
 4 ment project, or program assessment activity under
 5 this chapter shall not be subject to chapter 35 of
 6 title 44, United States Code.”.

7 (b) CONFORMING AMENDMENT.—The analysis for
 8 chapter 5 of title 23, United States Code, is amended by
 9 adding after the item relating to section 514 (as added
 10 by section 53002) the following:

“515. General authorities and requirements.”.

11 **SEC. 53004. RESEARCH AND DEVELOPMENT.**

12 (a) IN GENERAL.—Chapter 5 of title 23, United
 13 States Code, is amended by adding after section 515 (as
 14 added by section 53003) the following:

15 **“§ 516. Research and development**

16 “(a) IN GENERAL.—The Secretary shall carry out a
 17 comprehensive program of intelligent transportation sys-
 18 tem research and development, and operational tests of
 19 intelligent vehicles, intelligent infrastructure systems, and
 20 other similar activities that are necessary to carry out this
 21 chapter.

22 “(b) PRIORITY AREAS.—Under the program, the Sec-
 23 retary shall give higher priority to funding projects that—

24 “(1) enhance mobility and productivity through
 25 improved traffic management, incident management,

1 transit management, freight management, road
2 weather management, toll collection, traveler infor-
3 mation, or highway operations systems and remote
4 sensing products;

5 “(2) use interdisciplinary approaches to develop
6 traffic management strategies and tools to address
7 multiple impacts of congestion concurrently;

8 “(3) address traffic management, incident man-
9 agement, transit management, toll collection traveler
10 information, or highway operations systems;

11 “(4) incorporate research on the impact of envi-
12 ronmental, weather, and natural conditions on intel-
13 ligent transportation systems, including the effects
14 of cold climates;

15 “(5) enhance intermodal use of intelligent
16 transportation systems for diverse groups, including
17 for emergency and health-related services;

18 “(6) enhance safety through improved crash
19 avoidance and protection, crash and other notifica-
20 tion, commercial motor vehicle operations, and infra-
21 structure-based or cooperative safety systems; or

22 “(7) facilitate the integration of intelligent in-
23 frastructure, vehicle, and control technologies.

1 “(c) FEDERAL SHARE.—The Federal share payable
2 on account of any project or activity carried out under
3 subsection (a) shall not exceed 80 percent.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 5 of title 23, United States Code, is amended by
6 adding after the item relating to section 515 (as added
7 by section 53004) the following:

“516. Research and development.”.

8 **SEC. 53005. NATIONAL ARCHITECTURE AND STANDARDS.**

9 (a) IN GENERAL.—Chapter 5 of title 23, United
10 States Code, is amended by adding after section 516 (as
11 added by section 53004) the following:

12 **“§ 517. National architecture and standards**

13 “(a) IN GENERAL.—

14 “(1) DEVELOPMENT, IMPLEMENTATION, AND
15 MAINTENANCE.—In accordance with section 12(d) of
16 the National Technology Transfer and Advancement
17 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783;
18 115 Stat. 1241), the Secretary shall develop and
19 maintain a national ITS architecture and supporting
20 ITS standards and protocols to promote the use of
21 systems engineering methods in the widespread de-
22 ployment and evaluation of intelligent transportation
23 systems as a component of the surface transpor-
24 tation systems of the United States.

1 “(2) INTEROPERABILITY AND EFFICIENCY.—To
2 the maximum extent practicable, the national ITS
3 architecture and supporting ITS standards and pro-
4 tocols shall promote interoperability among, and effi-
5 ciency of, intelligent transportation systems and
6 technologies implemented throughout the United
7 States.

8 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
9 NIZATIONS.—In carrying out this section, the Sec-
10 retary shall support the development and mainte-
11 nance of standards and protocols using the services
12 of such standards development organizations as the
13 Secretary determines to be necessary and whose
14 memberships are comprised of, and represent, the
15 surface transportation and intelligent transportation
16 systems industries.

17 “(b) STANDARDS FOR NATIONAL POLICY IMPLEMEN-
18 TATION.—If the Secretary finds that a standard is nec-
19 essary for implementation of a nationwide policy relating
20 to user fee collection or other capability requiring nation-
21 wide uniformity, the Secretary, after consultation with
22 stakeholders, may establish and require the use of that
23 standard.

24 “(c) PROVISIONAL STANDARDS.—

1 “(1) IN GENERAL.—If the Secretary finds that
2 the development or balloting of an intelligent trans-
3 portation system standard jeopardizes the timely
4 achievement of the objectives described in subsection
5 (a), the Secretary may establish a provisional stand-
6 ard, after consultation with affected parties, using,
7 to the maximum extent practicable, the work prod-
8 uct of appropriate standards development organiza-
9 tions.

10 “(2) PERIOD OF EFFECTIVENESS.—A provi-
11 sional standard established under paragraph (1)
12 shall be published in the Federal Register and re-
13 main in effect until the appropriate standards devel-
14 opment organization adopts and publishes a stand-
15 ard.

16 “(d) CONFORMITY WITH NATIONAL ARCHITEC-
17 TURE.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), the Secretary shall ensure that intelligent
20 transportation system projects carried out using
21 amounts made available from the Highway Trust
22 Fund, including amounts made available to deploy
23 intelligent transportation systems, conform to the
24 appropriate regional ITS architecture, applicable

1 standards, and protocols developed under subsection
2 (a) or (c).

3 “(2) DISCRETION OF THE SECRETARY.—The
4 Secretary, at the discretion of the Secretary, may
5 offer an exemption from paragraph (1) for projects
6 designed to achieve specific research objectives out-
7 lined in the national intelligent transportation sys-
8 tem program plan or the surface transportation re-
9 search and development strategic plan developed
10 under section 508.”.

11 (b) CONFORMING AMENDMENT.—The analysis for
12 chapter 5 of title 23, United States Code, is amended by
13 adding after the item relating to section 516 (as added
14 by section 53004) the following:

“517. National architecture and standards.”.

15 **SEC. 53006. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRA-**
16 **STRUCTURE COMMUNICATIONS SYSTEMS DE-**
17 **PLOYMENT.**

18 (a) IN GENERAL.—Chapter 5 of title 23, United
19 States Code, is amended by adding after section 517 (as
20 added by section 53005) the following:

21 **“§ 518. Vehicle-to-vehicle and vehicle-to-infrastruc-**
22 **ture communications systems deployment**

23 “(a) IN GENERAL.—Not later than 3 years after the
24 date of enactment of this section, the Secretary shall sub-
25 mit a report to the Committee on Commerce, Science, and

1 Transportation of the Senate, the Committee on Environ-
2 ment and Public Works of the Senate, the Committee on
3 Transportation and Infrastructure of the House of Rep-
4 resentatives, and the Committee on Energy and Commerce
5 of the House of Representatives that—

6 “(1) defines a recommended implementation
7 path for dedicated short-range communications tech-
8 nology and applications;

9 “(2) includes guidance on the relationship of
10 the proposed deployment of dedicated short-range
11 communications to the National ITS Architecture
12 and ITS Standards; and

13 “(3) ensures competition by not preferencing
14 the use of any particular frequency for vehicle to in-
15 frastructure operations.

16 “(b) REPORT REVIEW.—The Secretary shall enter
17 into agreements with the National Research Council and
18 an independent third party with subject matter expertise
19 for the review of the report described in subsection (a).”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 5 of title 23, United States Code, is amended by
22 adding after section 517 (as added by section 53005) the
23 following:

“518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems
deployment.”.

1 **DIVISION F—MISCELLANEOUS**
2 **TITLE I—REAUTHORIZATION OF**
3 **CERTAIN PROGRAMS**
4 **Subtitle A—Secure Rural Schools**
5 **and Community Self-determina-**
6 **tion Program**

7 **SEC. 100101. SECURE RURAL SCHOOLS AND COMMUNITY**
8 **SELF-DETERMINATION PROGRAM.**

9 (a) AMENDMENTS.—The Secure Rural Schools and
10 Community Self-Determination Act of 2000 (16 U.S.C.
11 7101 et seq.) is amended—

12 (1) in section 3(11)—

13 (A) in subparagraph (A), by striking
14 “and” after the semicolon at the end;

15 (B) in subparagraph (B)—

16 (i) by striking “fiscal year 2009 and
17 each fiscal year thereafter” and inserting
18 “each of fiscal years 2009 through 2011”;
19 and

20 (ii) by striking the period at the end
21 and inserting “; and”; and

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

23 “(C) for fiscal year 2012 and each fiscal
24 year thereafter, the amount that is equal to 95

1 percent of the full funding amount for the pre-
2 ceding fiscal year.”;

3 (2) in sections 101, 102, 203, 207, 208, 304,
4 and 402, by striking “2011” each place it appears
5 and inserting “2012”;

6 (3) in section 102—

7 (A) by striking “2008” each place it ap-
8 pears and inserting “2012”;

9 (B) in subsection (b)(2)(B), by inserting
10 “in 2012” before “, the election”; and

11 (C) in subsection (d)—

12 (i) in paragraph (1)(A), by striking
13 “paragraph (3)(B)” and inserting “sub-
14 paragraph (D)”;

15 (ii) in paragraph (3)—

16 (I) by striking subparagraph (A)
17 and inserting the following:

18 “(A) NOTIFICATION.—The Governor of
19 each eligible State shall notify the Secretary
20 concerned of an election by an eligible county
21 under this subsection not later than September
22 30, 2012, and each September 30 thereafter for
23 each succeeding fiscal year.”;

24 (II) by redesignating subpara-
25 graph (B) as subparagraph (D) and

1 moving the subparagraph so as to ap-
2 pear at the end of paragraph (1) of
3 subsection (d); and

4 (III) by inserting after subpara-
5 graph (A) the following:

6 “(B) FAILURE TO ELECT.—If the Gov-
7 ernor of an eligible State fails to notify the Sec-
8 retary concerned of the election for an eligible
9 county by the date specified in subparagraph
10 (A)—

11 “(i) the eligible county shall be consid-
12 ered to have elected to expend 80 percent
13 of the funds in accordance with paragraph
14 (1)(A); and

15 “(ii) the remainder shall be available
16 to the Secretary concerned to carry out
17 projects in the eligible county to further
18 the purpose described in section 202(b).”;

19 (4) in section 103(d)(2), by striking “fiscal year
20 2011” and inserting “each of fiscal years 2011 and
21 2012”;

22 (5) in section 202, by adding at the end the fol-
23 lowing:

24 “(c) ADMINISTRATIVE EXPENSES.—A resource advi-
25 sory committee may, in accordance with section 203, pro-

1 pose to use not more than 10 percent of the project funds
2 of an eligible county for any fiscal year for administrative
3 expenses associated with operating the resource advisory
4 committee under this title.”;

5 (6) in section 204(e)(3)(B)(iii), by striking
6 “and 2011” and inserting “through 2012”;

7 (7) in section 205(a)(4), by striking “2006”
8 each place it appears and inserting “2011”;

9 (8) in section 208(b), by striking “2012” and
10 inserting “2013”;

11 (9) in section 302(a)(2)(A), by inserting “and”
12 after the semicolon; and

13 (10) in section 304(b), by striking “2012” and
14 inserting “2013”.

15 (b) FAILURE TO MAKE ELECTION.—For each county
16 that failed to make an election for fiscal year 2011 in ac-
17 cordance with section 102(d)(3)(A) of the Secure Rural
18 Schools and Community Self-Determination Act of 2000
19 (16 U.S.C. 7112(d)(3)(A)), there shall be available to the
20 Secretary of Agriculture to carry out projects to further
21 the purpose described in section 202(b) of that Act (16
22 U.S.C. 7122(b)), from amounts in the Treasury not other-
23 wise appropriated, the amount that is equal to 15 percent
24 of the total share of the State payment that otherwise

1 would have been made to the county under that Act for
2 fiscal year 2011.

3 **Subtitle B—Payment in Lieu of**
4 **Taxes Program**

5 **SEC. 100111. PAYMENTS IN LIEU OF TAXES.**

6 Section 6906 of title 31, United States Code, is
7 amended by striking “2012” and inserting “2013”.

8 **Subtitle C—Offsets**

9 **SEC. 100112. TAX REPORTING FOR LIFE SETTLEMENT**
10 **TRANSACTIONS.**

11 (a) IN GENERAL.—Subpart B of part III of sub-
12 chapter A of chapter 61 of the Internal Revenue Code of
13 1986 is amended by adding at the end the following new
14 section:

15 ~~**“SEC. 6050X. RETURNS RELATING TO CERTAIN LIFE INSUR-**~~
16 ~~**ANCE CONTRACT TRANSACTIONS.**~~

17 ~~“(a) REQUIREMENT OF REPORTING OF CERTAIN~~
18 ~~PAYMENTS.—~~

19 ~~“(1) IN GENERAL.—Every person who acquires~~
20 ~~a life insurance contract or any interest in a life in-~~
21 ~~surance contract in a reportable policy sale during~~
22 ~~any taxable year shall make a return for such tax-~~
23 ~~able year (at such time and in such manner as the~~
24 ~~Secretary shall prescribe) setting forth—~~

1 “(A) the name, address, and TIN of such
2 person,

3 “(B) the name, address, and TIN of each
4 recipient of payment in the reportable policy
5 sale,

6 “(C) the date of such sale,

7 “(D) the name of the issuer of the life in-
8 surance contract sold and the policy number of
9 such contract, and

10 “(E) the amount of each payment.

11 “(2) STATEMENT TO BE FURNISHED TO PER-
12 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
13 QUIRED.—Every person required to make a return
14 under this subsection shall furnish to each person
15 whose name is required to be set forth in such re-
16 turn a written statement showing—

17 “(A) the name, address, and phone num-
18 ber of the information contact of the person re-
19 quired to make such return, and

20 “(B) the information required to be shown
21 on such return with respect to such person, ex-
22 cept that in the case of an issuer of a life insur-
23 ance contract, such statement is not required to
24 include the information specified in paragraph
25 (1)(E).

1 “(b) REQUIREMENT OF REPORTING OF SELLER’S
2 BASIS IN LIFE INSURANCE CONTRACTS.—

3 “(1) IN GENERAL.—Upon receipt of the state-
4 ment required under subsection (a)(2) or upon no-
5 tice of a transfer of a life insurance contract to a
6 foreign person, each issuer of a life insurance con-
7 tract shall make a return (at such time and in such
8 manner as the Secretary shall prescribe) setting
9 forth—

10 “(A) the name, address, and TIN of the
11 seller who transfers any interest in such con-
12 tract in such sale,

13 “(B) the investment in the contract (as de-
14 fined in section 72(e)(6)) with respect to such
15 seller, and

16 “(C) the policy number of such contract.

17 “(2) STATEMENT TO BE FURNISHED TO PER-
18 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
19 QUIRED.—Every person required to make a return
20 under this subsection shall furnish to each person
21 whose name is required to be set forth in such re-
22 turn a written statement showing—

23 “(A) the name, address, and phone num-
24 ber of the information contact of the person re-
25 quired to make such return, and

1 “(B) the information required to be shown
2 on such return with respect to each seller whose
3 name is required to be set forth in such return.

4 “(c) REQUIREMENT OF REPORTING WITH RESPECT
5 TO REPORTABLE DEATH BENEFITS.—

6 “(1) IN GENERAL.—Every person who makes a
7 payment of reportable death benefits during any tax-
8 able year shall make a return for such taxable year
9 (at such time and in such manner as the Secretary
10 shall prescribe) setting forth—

11 “(A) the name, address, and TIN of the
12 person making such payment,

13 “(B) the name, address, and TIN of each
14 recipient of such payment,

15 “(C) the date of each such payment, and

16 “(D) the amount of each such payment.

17 “(2) STATEMENT TO BE FURNISHED TO PER-
18 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
19 QUIRED.—Every person required to make a return
20 under this subsection shall furnish to each person
21 whose name is required to be set forth in such re-
22 turn a written statement showing—

23 “(A) the name, address, and phone num-
24 ber of the information contact of the person re-
25 quired to make such return, and

1 “(B) the information required to be shown
2 on such return with respect to each recipient of
3 payment whose name is required to be set forth
4 in such return.

5 “(d) DEFINITIONS.—For purposes of this section:

6 “(1) PAYMENT.—The term ‘payment’ means
7 the amount of cash and the fair market value of any
8 consideration transferred in a reportable policy sale.

9 “(2) REPORTABLE POLICY SALE.—The term
10 ‘reportable policy sale’ has the meaning given such
11 term in section 101(a)(3)(B).

12 “(3) ISSUER.—The term ‘issuer’ means any life
13 insurance company that bears the risk with respect
14 to a life insurance contract on the date any return
15 or statement is required to be made under this sec-
16 tion.

17 “(4) REPORTABLE DEATH BENEFITS.—The
18 term ‘reportable death benefits’ means amounts paid
19 by reason of the death of the insured under a life
20 insurance contract that has been transferred in a re-
21 portable policy sale.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for subpart B of part III of subchapter A of chapter 61
24 of the Internal Revenue Code of 1986 is amended by in-

1 serting after the item relating to section 6050W the fol-
2 lowing new item:

“Sec. 6050X. Returns relating to certain life insurance contract transactions.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Subsection (d) of section 6724 of the Inter-
5 nal Revenue Code of 1986 is amended—

6 (A) by striking “or” at the end of clause
7 (xxiv) of paragraph (1)(B), by striking “and”
8 at the end of clause (xxv) of such paragraph
9 and inserting “or”, and by inserting after such
10 clause (xxv) the following new clause:

11 “(xxvi) section 6050X (relating to re-
12 turns relating to certain life insurance con-
13 tract transactions), and”, and

14 (B) by striking “or” at the end of subpara-
15 graph (GG) of paragraph (2), by striking the
16 period at the end of subparagraph (HH) of
17 such paragraph and inserting “, or”, and by in-
18 serting after such subparagraph (HH) the fol-
19 lowing new subparagraph:

20 “(II) subsection (a)(2), (b)(2), or (c)(2) of
21 section 6050X (relating to returns relating to
22 certain life insurance contract transactions).”.

23 (2) Section 6047 of such Code is amended—

24 (A) by redesignating subsection (g) as sub-
25 section (h),

1 (B) by inserting after subsection (f) the
2 following new subsection:

3 “(g) INFORMATION RELATING TO LIFE INSURANCE
4 CONTRACT TRANSACTIONS.—This section shall not apply
5 to any information which is required to be reported under
6 section 6050X.”, and

7 (C) by adding at the end of subsection (h),
8 as so redesignated, the following new para-
9 graph:

10 “(4) For provisions requiring reporting of infor-
11 mation relating to certain life insurance contract
12 transactions, see section 6050X.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to—

15 (1) reportable policy sales after December 31,
16 2012, and

17 (2) reportable death benefits paid after Decem-
18 ber 31, 2012.

19 **SEC. 100113. CLARIFICATION OF TAX BASIS OF LIFE INSUR-**
20 **ANCE CONTRACTS.**

21 (a) CLARIFICATION WITH RESPECT TO ADJUST-
22 MENTS.—Paragraph (1) of section 1016(a) of the Internal
23 Revenue Code of 1986 is amended by striking subpara-
24 graph (A) and all that follows and inserting the following:

25 “(A) for—

1 “(i) taxes or other carrying charges
2 described in section 266; or

3 “(ii) expenditures described in section
4 173 (relating to circulation expenditures),
5 for which deductions have been taken by the
6 taxpayer in determining taxable income for the
7 taxable year or prior taxable years; or

8 “(B) for mortality, expense, or other rea-
9 sonable charges incurred under an annuity or
10 life insurance contract;”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to transactions entered into after
13 August 25, 2009.

14 **SEC. 100114. EXCEPTION TO TRANSFER FOR VALUABLE**
15 **CONSIDERATION RULES.**

16 (a) IN GENERAL.—Subsection (a) of section 101 of
17 the Internal Revenue Code of 1986 is amended by adding
18 at the end the following new paragraph:

19 “(3) EXCEPTION TO VALUABLE CONSIDERATION
20 RULES FOR COMMERCIAL TRANSFERS.—

21 “(A) IN GENERAL.—The second sentence
22 of paragraph (2) shall not apply in the case of
23 a transfer of a life insurance contract, or any
24 interest therein, which is a reportable policy
25 sale.

1 “(B) REPORTABLE POLICY SALE.—For
2 purposes of this paragraph, the term ‘reportable
3 policy sale’ means the acquisition of an interest
4 in a life insurance contract, directly or indi-
5 rectly, if the acquirer has no substantial family,
6 business, or financial relationship with the in-
7 sured apart from the acquirer’s interest in such
8 life insurance contract. For purposes of the pre-
9 ceding sentence, the term ‘indirectly’ applies to
10 the acquisition of an interest in a partnership,
11 trust, or other entity that holds an interest in
12 the life insurance contract.”.

13 (b) CONFORMING AMENDMENT.—Paragraph (1) of
14 section 101(a) of the Internal Revenue Code of 1986 is
15 amended by striking “paragraph (2)” and inserting “para-
16 graphs (2) and (3)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to transfers after December 31,
19 2012.

20 **SEC. 100115. PHASED RETIREMENT AUTHORITY.**

21 (a) CSRS.—Chapter 83 of title 5, United States
22 Code, is amended—

23 (1) in section 8331—

24 (A) in paragraph (30) by striking “and” at
25 the end;

1 (B) in paragraph (31) by striking the pe-
 2 riod at the end and inserting “; and”; and

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

4 “(32) ‘Director’ means the Director of the Of-
 5 fice of Personnel Management.”;

6 (2) by inserting after section 8336 the fol-
 7 lowing:

8 **“§ 8336a. Phased retirement**

9 “(a) For the purposes of this section—

10 “(1) the term ‘composite retirement annuity’
 11 means the annuity computed when a phased retiree
 12 attains full retirement status;

13 “(2) the term ‘full retirement status’ means
 14 that a phased retiree has ceased employment and is
 15 entitled, upon application, to a composite retirement
 16 annuity;

17 “(3) the term ‘phased employment’ means the
 18 less-than-full-time employment of a phased retiree;

19 “(4) the term ‘phased retiree’ means a retire-
 20 ment-eligible employee who—

21 “(A) makes an election under subsection
 22 (b); and

23 “(B) has not entered full retirement sta-
 24 tus;

1 “(5) the term ‘phased retirement annuity’
2 means the annuity payable under this section before
3 full retirement;

4 “(6) the term ‘phased retirement percentage’
5 means the percentage which, when added to the
6 working percentage for a phased retiree, produces a
7 sum of 100 percent;

8 “(7) the term ‘phased retirement period’ means
9 the period beginning on the date on which an indi-
10 vidual becomes entitled to receive a phased retire-
11 ment annuity and ending on the date on which the
12 individual dies or separates from phased employ-
13 ment;

14 “(8) the term ‘phased retirement status’ means
15 that a phased retiree is concurrently employed in
16 phased employment and eligible to receive a phased
17 retirement annuity;

18 “(9) the term ‘retirement-eligible employee’—

19 “(A) means an individual who, if the indi-
20 vidual separated from the service, would meet
21 the requirements for retirement under sub-
22 section (a) or (b) of section 8336; and

23 “(B) does not include—

24 “(i) an individual who, if the indi-
25 vidual separated from the service, would

1 meet the requirements for retirement
2 under subsection (c), (e), (m), or (n) of
3 section 8336; or

4 “(ii) a law enforcement officer, fire-
5 fighter, nuclear materials courier, air traf-
6 fic controller, customs and border protec-
7 tion officer, or member of the Capitol Po-
8 lice or Supreme Court Police; and

9 “(10) the term ‘working percentage’ means the
10 percentage of full-time employment equal the
11 quotient obtained by dividing—

12 “(A) the number of hours per pay period
13 to be worked by a phased retiree as scheduled
14 in accordance with subsection (b)(2); by

15 “(B) the number of hours per pay period
16 to be worked by an employee serving in a com-
17 parable position on a full-time basis.

18 “(b)(1) With the concurrence of the head of the em-
19 ploying agency, and under regulations promulgated by the
20 Director, a retirement-eligible employee who has been em-
21 ployed on a full time basis for not less than the 3-year
22 period ending on the date on which the retirement-eligible
23 employee makes an election under this subsection may
24 elect to enter phased retirement status.

1 “(2)(A) Subject to subparagraph (B), at the time of
2 entering phased retirement status, a phased retiree shall
3 be appointed to a position for which the working percent-
4 age is 50 percent.

5 “(B) The Director may, by regulation, provide for
6 working percentages different from the percentage speci-
7 fied under subparagraph (A), which shall be not less than
8 20 percent and not more than 80 percent.

9 “(C) The working percentage for a phased retiree
10 may not be changed during the phased retiree’s phased
11 retirement period.

12 “(D)(i) Not less than 20 percent of the hours to be
13 worked by a phased retiree shall consist of mentoring.

14 “(ii) The Director may, by regulation, provide for ex-
15 ceptions to the requirement under clause (i).

16 “(3) A phased retiree—

17 “(A) may not be employed in more than one po-
18 sition at any time; and

19 “(B) may transfer to another position in the
20 same or a different agency, if the transfer does not
21 result in a change in the working percentage.

22 “(4) A retirement-eligible employee may make only
23 one election under this subsection during the retirement-
24 eligible employee’s lifetime.

1 “(5) A retirement-eligible employee who makes an
2 election under this subsection may not make an election
3 under section 8343a.

4 “(c)(1) Except as otherwise provided under this sub-
5 section, the phased retirement annuity for a phased retiree
6 is the product obtained by multiplying—

7 “(A) the amount of an annuity computed under
8 section 8339 that would have been payable to the
9 phased retiree if, on the date on which the phased
10 retiree enters phased retirement status, the phased
11 retiree had separated from service and retired under
12 section 8336(a) or (b); by

13 “(B) the phased retirement percentage for the
14 phased retiree.

15 “(2) A phased retirement annuity shall be paid in ad-
16 dition to the basic pay for the position to which a phased
17 retiree is appointed during phased employment.

18 “(3) A phased retirement annuity shall be adjusted
19 in accordance with section 8340.

20 “(4)(A) A phased retirement annuity shall not be
21 subject to reduction for any form of survivor annuity, shall
22 not serve as the basis of the computation of any survivor
23 annuity, and shall not be subject to any court order requir-
24 ing a survivor annuity to be provided to any individual.

1 “(B) A phased retirement annuity shall be subject to
2 a court order providing for division, allotment, assign-
3 ment, execution, levy, attachment, garnishment, or other
4 legal process on the same basis as other annuities.

5 “(5) Any reduction of a phased retirement annuity
6 based on an election under section 8334(d)(2) shall be ap-
7 plied to the phased retirement annuity after computation
8 under paragraph (1).

9 “(6)(A) Any deposit, or election of an actuarial annu-
10 ity reduction in lieu of a deposit, for military service or
11 for creditable civilian service for which retirement deduc-
12 tions were not made or refunded shall be made by a retire-
13 ment-eligible employee at or before the time the retire-
14 ment-eligible employee enters phased retirement status.
15 No such deposit may be made, or actuarial adjustment
16 in lieu thereof elected, at the time a phased retiree enters
17 full retirement status.

18 “(B) Notwithstanding subparagraph (A), if a phased
19 retiree does not make such a deposit and dies in service
20 as a phased retiree, a survivor of the phased retiree shall
21 have the same right to make such deposit as would have
22 been available had the employee not entered phased retire-
23 ment status and died in service.

24 “(C) If a phased retiree makes an election for an ac-
25 tuarial annuity reduction under section 8334(d)(2) and

1 dies in service as a phased retiree, the amount of any de-
2 posit upon which such actuarial reduction shall have been
3 based shall be deemed to have been fully paid.

4 “(7) A phased retirement annuity shall commence on
5 the date on which a phased retiree enters phased employ-
6 ment.

7 “(8) No unused sick leave credit may be used in the
8 computation of the phased retirement annuity.

9 “(d) All basic pay not in excess of the full-time rate
10 of pay for the position to which a phased retiree is ap-
11 pointed shall be deemed to be basic pay for purposes of
12 section 8334.

13 “(e) Under such procedures as the Director may pre-
14 scribe, a phased retiree may elect to enter full retirement
15 status at any time. Upon making such an election, a
16 phased retiree shall be entitled to a composite retirement
17 annuity.

18 “(f)(1) Except as provided otherwise under this sub-
19 section, a composite retirement annuity is a single annuity
20 computed under regulations prescribed by the Director,
21 equal to the sum of—

22 “(A) the amount of the phased retirement an-
23 nuity as of the date of full retirement, before any re-
24 duction based on an election under section

1 8334(d)(2), and including any adjustments made
2 under section 8340; and

3 “(B) the product obtained by multiplying—

4 “(i) the amount of an annuity computed
5 under section 8339 that would have been pay-
6 able at the time of full retirement if the indi-
7 vidual had not elected a phased retirement and
8 as if the individual was employed on a full-time
9 basis in the position occupied during the phased
10 retirement period and before any reduction for
11 survivor annuity or reduction based on an elec-
12 tion under section 8334(d)(2); by

13 “(ii) the working percentage.

14 “(2) After computing a composite retirement annuity
15 under paragraph (1), the Director shall adjust the amount
16 of the annuity for any applicable reductions for a survivor
17 annuity and any previously elected actuarial reduction
18 under section 8334(d)(2).

19 “(3) A composite retirement annuity shall be ad-
20 justed in accordance with section 8340, except that sub-
21 section (c)(1) of that section shall not apply.

22 “(4) In computing a composite retirement annuity
23 under paragraph (1)(B)(i), the unused sick leave to the
24 credit of a phased retiree at the time of entry into full

1 retirement status shall be adjusted by dividing the number
2 of hours of unused sick leave by the working percentage.

3 “(g)(1) Under such procedures and conditions as the
4 Director may provide, and with the concurrence of the
5 head of the employing agency, a phased retiree may elect
6 to terminate phased retirement status and return to a full-
7 time work schedule.

8 “(2) Upon entering a full-time work schedule based
9 upon an election under paragraph (1), the phased retire-
10 ment annuity of a phased retiree shall terminate.

11 “(3) After the termination of a phased retirement an-
12 nuity under this subsection, the individual’s rights under
13 this subchapter shall be determined based on the law in
14 effect at the time of any subsequent separation from serv-
15 ice. For purposes of this subchapter or chapter 84, at time
16 of the subsequent separation from service, the phased re-
17 tirement period shall be treated as if it had been a period
18 of part-time employment with the work schedule described
19 in subsection (b)(2).

20 “(h) For purposes of section 8341—

21 “(1) the death of a phased retiree shall be
22 deemed to be the death in service of an employee;
23 and

24 “(2) the phased retirement period shall be
25 deemed to have been a period of part-time employ-

1 ment with the work schedule described in subsection
2 (b)(2).

3 “(i) Employment of a phased retiree shall not be
4 deemed to be part-time career employment, as defined in
5 section 3401(2).

6 “(j) A phased retiree is not eligible to apply for an
7 annuity under section 8337.

8 “(k) For purposes of section 8341(h)(4), retirement
9 shall be deemed to occur on the date on which a phased
10 retiree enters into full retirement status.

11 “(l) For purposes of sections 8343 and 8351, and
12 subchapter III of chapter 84, a phased retiree shall be
13 deemed to be an employee.

14 “(m) A phased retiree is not subject to section 8344.

15 “(n) For purposes of chapter 87, a phased retiree
16 shall be deemed to be receiving basic pay at the rate of
17 a full-time employee in the position to which the phased
18 retiree is appointed.”; and

19 (3) in the table of sections by inserting after
20 the item relating to section 8336 the following:

 “8336a. Phased retirement.”.

21 (b) **FERS.**—Chapter 84 of title 5, United States
22 Code, is amended—

23 (1) by inserting after section 8412 the following
24 new section:

1 **“§ 8412a. Phased retirement**

2 “(a) For the purposes of this section—

3 “(1) the term ‘composite retirement annuity’
4 means the annuity computed when a phased retiree
5 attains full retirement status;

6 “(2) the term ‘full retirement status’ means
7 that a phased retiree has ceased employment and is
8 entitled, upon application, to a composite retirement
9 annuity;

10 “(3) the term ‘phased employment’ means the
11 less-than-full-time employment of a phased retiree;

12 “(4) the term ‘phased retiree’ means a retire-
13 ment-eligible employee who—

14 “(A) makes an election under subsection
15 (b); and

16 “(B) has not entered full retirement sta-
17 tus;

18 “(5) the term ‘phased retirement annuity’
19 means the annuity payable under this section before
20 full retirement;

21 “(6) the term ‘phased retirement percentage’
22 means the percentage which, when added to the
23 working percentage for a phased retiree, produces a
24 sum of 100 percent;

25 “(7) the term ‘phased retirement period’ means
26 the period beginning on the date on which an indi-

1 vidual becomes entitled to receive a phased retire-
2 ment annuity and ending on the date on which the
3 individual dies or separates from phased employ-
4 ment;

5 “(8) the term ‘phased retirement status’ means
6 that a phased retiree is concurrently employed in
7 phased employment and eligible to receive a phased
8 retirement annuity;

9 “(9) the term ‘retirement-eligible employee’—

10 “(A) means an individual who, if the indi-
11 vidual separated from the service, would meet
12 the requirements for retirement under sub-
13 section (a) or (b) of section 8412; and

14 “(B) does not include—

15 “(i) an individual who, if the indi-
16 vidual separated from the service, would
17 meet the requirements for retirement
18 under subsection (d) or (e) of section
19 8412; or

20 “(ii) a law enforcement officer, fire-
21 fighter, nuclear materials courier, air traf-
22 fic controller, customs and border protec-
23 tion officer, or member of the Capitol Po-
24 lice or Supreme Court Police; and

1 “(10) the term ‘working percentage’ means the
2 percentage of full-time employment equal to the
3 quotient obtained by dividing—

4 “(A) the number of hours per pay period
5 to be worked by a phased retiree as scheduled
6 in accordance with subsection (b)(2); by

7 “(B) the number of hours per pay period
8 to be worked by an employee serving in a com-
9 parable position on a full-time basis.

10 “(b)(1) With the concurrence of the head of the em-
11 ploying agency, and under regulations promulgated by the
12 Director, a retirement-eligible employee who has been em-
13 ployed on a full time basis for not less than the 3-year
14 period ending on the date on which the retirement-eligible
15 employee makes an election under this subsection may
16 elect to enter phased retirement status.

17 “(2)(A) Subject to subparagraph (B), at the time of
18 entering phased retirement status, a phased retiree shall
19 be appointed to a position for which the working percent-
20 age is 50 percent.

21 “(B) The Director may, by regulation, provide for
22 working percentages different from the percentage speci-
23 fied under subparagraph (A), which shall be not less than
24 20 percent and not more than 80 percent.

1 “(C) The working percentage for a phased retiree
2 may not be changed during the phased retiree’s phased
3 retirement period.

4 “(D)(i) Not less than 20 percent of the hours to be
5 worked by a phased retiree shall consist of mentoring.

6 “(ii) The Director may, by regulation, provide for ex-
7 ceptions to the requirement under clause (i).

8 “(3) A phased retiree—

9 “(A) may not be employed in more than one po-
10 sition at any time; and

11 “(B) may transfer to another position in the
12 same or a different agency, if the transfer does not
13 result in a change in the working percentage.

14 “(4) A retirement-eligible employee may make only
15 one election under this subsection during the retirement-
16 eligible employee’s lifetime.

17 “(5) A retirement-eligible employee who makes an
18 election under this subsection may not make an election
19 under section 8420a.

20 “(c)(1) Except as otherwise provided under this sub-
21 section, the phased retirement annuity for a phased retiree
22 is the product obtained by multiplying—

23 “(A) the amount of an annuity computed under
24 section 8415 that would have been payable to the
25 phased retiree if, on the date on which the phased

1 retiree enters phased retirement status, the phased
2 retiree had separated from service and retired under
3 section 8412 (a) or (b); by

4 “(B) the phased retirement percentage for the
5 phased retiree.

6 “(2) A phased retirement annuity shall be paid in ad-
7 dition to the basic pay for the position to which a phased
8 retiree is appointed during the phased employment.

9 “(3) A phased retirement annuity shall be adjusted
10 in accordance with section 8462.

11 “(4)(A) A phased retirement annuity shall not be
12 subject to reduction for any form of survivor annuity, shall
13 not serve as the basis of the computation of any survivor
14 annuity, and shall not be subject to any court order requir-
15 ing a survivor annuity to be provided to any individual.

16 “(B) A phased retirement annuity shall be subject to
17 a court order providing for division, allotment, assign-
18 ment, execution, levy, attachment, garnishment, or other
19 legal process on the same basis as other annuities.

20 “(5)(A) Any deposit, or election of an actuarial annu-
21 ity reduction in lieu of a deposit, for military service or
22 for creditable civilian service for which retirement deduc-
23 tions were not made or refunded, shall be made by a re-
24 tirement-eligible employee at or before the time the retire-
25 ment-eligible employee enters phased retirement status.

1 No such deposit may be made, or actuarial adjustment
2 in lieu thereof elected, at the time a phased retiree enters
3 full retirement status.

4 “(B) Notwithstanding subparagraph (A), if a phased
5 retiree does not make such a deposit and dies in service
6 as a phased retiree, a survivor of the phased retiree shall
7 have the same right to make such deposit as would have
8 been available had the employee not entered phased retire-
9 ment status and died in service.

10 “(6) A phased retirement annuity shall commence on
11 the date on which a phased retiree enters phased employ-
12 ment.

13 “(7) No unused sick leave credit may be used in the
14 computation of the phased retirement annuity.

15 “(d) All basic pay not in excess of the full-time rate
16 of pay for the position to which a phased retiree is ap-
17 pointed shall be deemed to be basic pay for purposes of
18 section 8422 and 8423.

19 “(e) Under such procedures as the Director may pre-
20 scribe, a phased retiree may elect to enter full retirement
21 status at any time. Upon making such an election, a
22 phased retiree shall be entitled to a composite retirement
23 annuity.

24 “(f)(1) Except as provided otherwise under this sub-
25 section, a composite retirement annuity is a single annuity

1 computed under regulations prescribed by the Director,
2 equal to the sum of—

3 “(A) the amount of the phased retirement an-
4 nnuity as of the date of full retirement, including any
5 adjustments made under section 8462; and

6 “(B) the product obtained by multiplying—

7 “(i) the amount of an annuity computed
8 under section 8412 that would have been pay-
9 able at the time of full retirement if the indi-
10 vidual had not elected a phased retirement and
11 as if the individual was employed on a full-time
12 basis in the position occupied during the phased
13 retirement period and before any adjustment to
14 provide for a survivor annuity; by

15 “(ii) the working percentage;

16 “(2) After computing a composite retirement annuity
17 under paragraph (1), the Director shall adjust the amount
18 of the annuity for any applicable reductions for a survivor
19 annuity.

20 “(3) A composite retirement annuity shall be ad-
21 justed in accordance with section 8462, except that sub-
22 section (c)(1) of that section shall not apply.

23 “(4) In computing a composite retirement annuity
24 under paragraph (1)(B)(i), the unused sick leave to the
25 credit of a phased retiree at the time of entry into full

1 retirement status shall be adjusted by dividing the number
2 of hours of unused sick leave by the working percentage.

3 “(g)(1) Under such procedures and conditions as the
4 Director may provide, and with the concurrence of the
5 head of employing agency, a phased retiree may elect to
6 terminate phased retirement status and return to a full-
7 time work schedule.

8 “(2) Upon entering a full-time work schedule based
9 on an election under paragraph (1), the phased retirement
10 annuity of a phased retiree shall terminate.

11 “(3) After termination of the phased retirement an-
12 nuity under this subsection, the individual’s rights under
13 this chapter shall be determined based on the law in effect
14 at the time of any subsequent separation from service. For
15 purposes of this chapter, at the time of the subsequent
16 separation from service, the phased retirement period shall
17 be treated as if it had been a period of part-time employ-
18 ment with the work schedule described in subsection
19 (b)(2).

20 “(h) For purposes of subchapter IV—

21 “(1) the death of a phased retiree shall be
22 deemed to be the death in service of an employee;

23 “(2) except for purposes of section
24 8442(b)(1)(A)(i), the phased retirement period shall
25 be deemed to have been a period of part-time em-

1 employment with the work schedule described in sub-
2 section (b)(2) of this section; and

3 “(3) for purposes of section 8442(b)(1)(A)(i),
4 the phased retiree shall be deemed to have been at
5 the full-time rate of pay for the position occupied.

6 “(i) Employment of a phased retiree shall not be
7 deemed to be part-time career employment, as defined in
8 section 3401(2).

9 “(j) A phased retiree is not eligible to receive an an-
10 nuity supplement under section 8421.

11 “(k) For purposes of subchapter III, a phased retiree
12 shall be deemed to be an employee.

13 “(l) For purposes of section 8445(d), retirement shall
14 be deemed to occur on the date on which a phased retiree
15 enters into full retirement status.

16 “(m) A phased retiree is not eligible to apply for an
17 annuity under subchapter V.

18 “(n) A phased retiree is not subject to section 8468.

19 “(o) For purposes of chapter 87, a phased retiree
20 shall be deemed to be receiving basic pay at the rate of
21 a full-time employee in the position to which the phased
22 retiree is appointed.”; and

23 (2) in the table of sections by inserting after
24 the item relating to section 8412 the following:

“8412a. Phased retirement.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by
2 this section shall take effect on the effective date of the
3 implementing regulations issued by the Director of the Of-
4 fice of Personnel Management.

5 **SEC. 100116. ROLL-YOUR-OWN CIGARETTE MACHINES.**

6 (a) **IN GENERAL.**—Subsection (d) of section 5702 of
7 the Internal Revenue Code of 1986 is amended by adding
8 at the end the following new flush sentence:

9 “Such term shall include any person who for commercial
10 purposes makes available for consumer use (including
11 such consumer’s personal consumption or use under para-
12 graph (1)) a machine capable of making cigarettes, cigars,
13 or other tobacco products. A person making such a ma-
14 chine available for consumer use shall be deemed the per-
15 son making the removal as defined by subsection (j) with
16 respect to any tobacco products manufactured by such ma-
17 chine.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 this section shall apply to articles removed after the date
20 of the enactment of this Act.

1 **TITLE II—STOP TAX HAVEN**
2 **ABUSE**

3 **SEC. 100201. AUTHORIZING SPECIAL MEASURES AGAINST**
4 **FOREIGN JURISDICTIONS, FINANCIAL INSTI-**
5 **TUTIONS, AND OTHERS THAT SIGNIFICANTLY**
6 **IMPEDE UNITED STATES TAX ENFORCEMENT.**

7 Section 5318A of title 31, United States Code, is
8 amended—

9 (1) by striking the section heading and insert-
10 ing the following:

11 **“§ 5318A. Special measures for jurisdictions, financial**
12 **institutions, or international transactions**
13 **that are of primary money laundering**
14 **concern or significantly impede United**
15 **States tax enforcement”;**

16 (2) in subsection (a), by striking the subsection
17 heading and inserting the following:

18 “(a) SPECIAL MEASURES TO COUNTER MONEY
19 LAUNDERING AND EFFORTS TO SIGNIFICANTLY IMPEDE
20 UNITED STATES TAX ENFORCEMENT.—”;

21 (3) in subsection (c)—

22 (A) by striking the subsection heading and
23 inserting the following:

24 “(c) CONSULTATIONS AND INFORMATION TO BE
25 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,

1 TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-
2 MARY MONEY LAUNDERING CONCERN OR TO BE SIGNIFI-
3 CANTLY IMPEDING UNITED STATES TAX ENFORCE-
4 MENT.—”; and

5 (B) by inserting at the end of paragraph
6 (2) thereof the following new subparagraph:

7 “(C) OTHER CONSIDERATIONS.—The fact
8 that a jurisdiction or financial institution is co-
9 operating with the United States on imple-
10 menting the requirements specified in chapter 4
11 of the Internal Revenue Code of 1986 may be
12 favorably considered in evaluating whether such
13 jurisdiction or financial institution is signifi-
14 cantly impeding United States tax enforce-
15 ment.”;

16 (4) in subsection (a)(1), by inserting “or is sig-
17 nificantly impeding United States tax enforcement”
18 after “primary money laundering concern”;

19 (5) in subsection (a)(4)—

20 (A) in subparagraph (A)—

21 (i) by inserting “in matters involving
22 money laundering,” before “shall consult”;

23 and

24 (ii) by striking “and” at the end;

1 (B) by redesignating subparagraph (B) as
2 subparagraph (C); and

3 (C) by inserting after subparagraph (A)
4 the following:

5 “(B) in matters involving United States
6 tax enforcement, shall consult with the Commis-
7 sioner of the Internal Revenue, the Secretary of
8 State, the Attorney General of the United
9 States, and in the sole discretion of the Sec-
10 retary, such other agencies and interested par-
11 ties as the Secretary may find to be appro-
12 priate; and”;

13 (6) in each of paragraphs (1)(A), (2), (3), and
14 (4) of subsection (b), by inserting “or to be signifi-
15 cantly impeding United States tax enforcement”
16 after “primary money laundering concern” each
17 place that term appears;

18 (7) in subsection (b), by striking paragraph (5)
19 and inserting the following:

20 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
21 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
22 PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING
23 CERTAIN PAYMENT CARDS.—If the Secretary finds a
24 jurisdiction outside of the United States, 1 or more
25 financial institutions operating outside of the United

1 States, or 1 or more classes of transactions within
2 or involving a jurisdiction outside of the United
3 States to be of primary money laundering concern or
4 to be significantly impeding United States tax en-
5 forcement, the Secretary, in consultation with the
6 Secretary of State, the Attorney General of the
7 United States, and the Chairman of the Board of
8 Governors of the Federal Reserve System, may pro-
9 hibit, or impose conditions upon—

10 “(A) the opening or maintaining in the
11 United States of a correspondent account or
12 payable-through account; or

13 “(B) the authorization, approval, or use in
14 the United States of a credit card, charge card,
15 debit card, or similar credit or debit financial
16 instrument by any domestic financial institu-
17 tion, financial agency, or credit card company
18 or association, for or on behalf of a foreign
19 banking institution, if such correspondent ac-
20 count, payable-through account, credit card,
21 charge card, debit card, or similar credit or
22 debit financial instrument, involves any such ju-
23 risdiction or institution, or if any such trans-
24 action may be conducted through such cor-
25 respondent account, payable-through account,

1 credit card, charge card, debit card, or similar
2 credit or debit financial instrument.”; and

3 (8) in subsection (c)(1), by inserting “or is sig-
4 nificantly impeding United States tax enforcement”
5 after “primary money laundering concern”;

6 (9) in subsection (c)(2)(A)—

7 (A) in clause (ii), by striking “bank secrecy
8 or special regulatory advantages” and inserting
9 “bank, tax, corporate, trust, or financial secrecy
10 or regulatory advantages”;

11 (B) in clause (iii), by striking “supervisory
12 and counter-money” and inserting “supervisory,
13 international tax enforcement, and counter-
14 money”;

15 (C) in clause (v), by striking “banking or
16 secrecy” and inserting “banking, tax, or se-
17 crecy”; and

18 (D) in clause (vi), by inserting “, tax trea-
19 ty, or tax information exchange agreement”
20 after “treaty”;

21 (10) in subsection (c)(2)(B)—

22 (A) in clause (i), by inserting “or tax eva-
23 sion” after “money laundering”; and

24 (B) in clause (iii), by inserting “, tax eva-
25 sion,” after “money laundering”; and

1 (11) in subsection (d), by inserting “involving
2 money laundering, and shall notify, in writing, the
3 Committee on Finance of the Senate and the Com-
4 mittee on Ways and Means of the House of Rep-
5 resentatives of any such action involving United
6 States tax enforcement” after “such action”.

7 **DIVISION G—AIR**
8 **TRANSPORTATION**

9 **SEC. 100301. TECHNICAL CORRECTIONS RELATING TO**
10 **OVERFLIGHTS OF NATIONAL PARKS.**

11 (a) IN GENERAL.—Section 40128 of title 49, United
12 States Code, is amended to read as follows:

13 **“§ 40128. Overflights of national parks**

14 “(a) IN GENERAL.—

15 “(1) GENERAL DELINEATION OF RESPONSIBIL-
16 ITIES.—

17 “(A) AUTHORITY OF DIRECTOR.—The Di-
18 rector has the authority to establish air tour
19 management plans, issue air tour permits for
20 commercial air tour operations conducted in ac-
21 cordance with an air tour management plan,
22 enter into a voluntary agreement with a com-
23 mercial air tour operator, and issue interim op-
24 erating permits under subsection (c).

1 “(B) AUTHORITY OF ADMINISTRATOR.—
2 The Administrator has the authority to ensure
3 that any action taken under this section does
4 not adversely affect aviation safety or the man-
5 agement of the national airspace system.

6 “(2) GENERAL REQUIREMENTS.—A commercial
7 air tour operator may not conduct commercial air
8 tour operations over a national park or tribal lands,
9 as defined by this section, except—

10 “(A) in accordance with this section;

11 “(B) in accordance with conditions and
12 limitations prescribed for that operator; and

13 “(C) in accordance with any applicable air
14 tour management plan or voluntary agreement
15 developed under subsection (b) for the park or
16 tribal lands.

17 “(3) APPLICATION FOR OPERATING AUTHOR-
18 ITY.—

19 “(A) APPLICATION REQUIRED.—Before
20 commencing commercial air tour operations
21 over a national park or tribal lands, a commer-
22 cial air tour operator shall apply to the Director
23 for authority to conduct the operations over the
24 park or tribal lands.

1 “(B) NUMBER OF OPERATIONS AUTHOR-
2 IZED.—In determining the number of author-
3 izations to issue to provide commercial air tour
4 operations over a national park, the Director
5 shall take into consideration the provisions of
6 the air tour management plan, the number of
7 existing commercial air tour operators and cur-
8 rent level of service and equipment provided by
9 any such operators, and the financial viability
10 of each commercial air tour operation.

11 “(C) CONSULTATION WITH FAA.—Before
12 granting an application under this paragraph,
13 the Director, in consultation with the Adminis-
14 trator, shall develop an air tour management
15 plan in accordance with subsection (b) and im-
16 plement such plan.

17 “(D) TIME LIMIT ON RESPONSE TO ATMP
18 APPLICATIONS.—The Director shall make every
19 effort to act on any application under this para-
20 graph and issue a decision on the application
21 not later than 24 months after it is received or
22 amended.

23 “(E) PRIORITY.—In acting on applications
24 under this paragraph to provide commercial air
25 tour operations over a national park, the Direc-

1 tor shall give priority to an application under
2 this paragraph in any case in which a new en-
3 trant commercial air tour operator is seeking
4 operating authority with respect to that na-
5 tional park.

6 “(4) EXCEPTION.—Notwithstanding paragraph
7 (2), commercial air tour operators may conduct com-
8 mercial air tour operations over a national park
9 under part 91 of the title 14, Code of Federal Regu-
10 lations, if—

11 “(A) such activity is permitted under part
12 119 of such title;

13 “(B) the total number of operations under
14 this exception is limited to not more than five
15 flights in any 30-day period over a particular
16 park; and

17 “(C) the operator complies with the condi-
18 tions under which the operations will be con-
19 ducted as established by the Director, in con-
20 sultation with the Administrator.

21 “(5) SPECIAL RULE FOR SAFETY REQUIRE-
22 MENTS.—Before receiving a permit issued under this
23 section, a commercial air tour operator shall have
24 obtained the appropriate operating authority as re-
25 quired by the Administrator under part 119, 121, or

1 135 of title 14, Code of Federal Regulations, to con-
2 duct operations under this section.

3 “(6) EXEMPTION FOR NATIONAL PARKS WITH
4 50 OR FEWER FLIGHTS EACH YEAR.—

5 “(A) IN GENERAL.—A national park that
6 has 50 or fewer commercial air tour operations
7 over the park each year shall be exempt from
8 the requirements of this section, except as pro-
9 vided in subparagraph (B).

10 “(B) WITHDRAWAL OF EXEMPTION.—If
11 the Director determines that an air tour man-
12 agement plan or voluntary agreement is nec-
13 essary to protect park resources and values or
14 park visitor use and enjoyment, the Director
15 shall withdraw the exemption of a park under
16 subparagraph (A).

17 “(C) LIST OF PARKS.—The Director shall
18 maintain a list each year of national parks that
19 are covered by the exemption provided under
20 this paragraph.

21 “(b) AIR TOUR MANAGEMENT PLANS.—

22 “(1) ESTABLISHMENT.—

23 “(A) IN GENERAL.—The Director, in con-
24 sultation with the Administrator, shall establish
25 an air tour management plan for any national

1 park or tribal land for which such a plan is not
2 in effect whenever a person applies for author-
3 ity to conduct a commercial air tour operation
4 over the park. The air tour management plan
5 shall be developed by means of a public process
6 in accordance with paragraph (4).

7 “(B) OBJECTIVE.—The objective of any
8 air tour management plan shall be to develop
9 acceptable and effective measures to mitigate or
10 prevent the significant adverse impacts, if any,
11 of commercial air tour operations upon the nat-
12 ural and cultural resources, visitor experiences,
13 and tribal lands.

14 “(C) EXCEPTION.—An application to begin
15 commercial air tour operations at Crater Lake
16 National Park may be denied without the estab-
17 lishment of an air tour management plan by the
18 Director of the National Park Service if the Di-
19 rector determines that such operations would
20 adversely affect park resources or visitor experi-
21 ences.

22 “(2) ENVIRONMENTAL DETERMINATION.—In
23 establishing an air tour management plan and
24 issuing a permit for a commercial air tour operator
25 under this section, the Director shall comply with

1 the National Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.). Any environmental thresholds,
3 analyses, impact determinations, and conditions pre-
4 pared or used by the Director to establish an air
5 tour management plan or issue a permit under this
6 section shall have no broader application or be given
7 deference beyond this section.

8 “(3) CONTENTS.—An air tour management
9 plan for a national park—

10 “(A) may prohibit commercial air tour op-
11 erations over a national park in whole or in
12 part;

13 “(B) may establish conditions for the con-
14 duct of commercial air tour operations over a
15 national park, including commercial air tour
16 routes, maximum or minimum altitudes, time-
17 of-day restrictions, restrictions for particular
18 events, maximum number of flights per unit of
19 time, intrusions on privacy on tribal lands, and
20 mitigation of noise, visual, or other impacts;

21 “(C) shall apply to all commercial air tour
22 operations over a national park that are also
23 within ½ mile outside the boundary of a na-
24 tional park;

1 “(D) shall include incentives (such as pre-
2 ferred commercial air tour routes and altitudes,
3 relief from caps and curfews) for the adoption
4 of quiet aircraft technology by commercial air
5 tour operators conducting commercial air tour
6 operations over a national park when prac-
7 ticable;

8 “(E) shall provide for the initial allocation
9 of opportunities to conduct commercial air tour
10 operations over a national park if the plan in-
11 cludes a limitation on the number of commer-
12 cial air tour operations for any time period;

13 “(F) may not have been found to have ad-
14 verse effects on aviation safety or the manage-
15 ment of the national airspace system by the Ad-
16 ministrator; and

17 “(G) shall justify and document the need
18 for measures taken pursuant to subparagraphs
19 (A) through (F).

20 “(4) PROCEDURE.—In establishing an air tour
21 management plan for a national park or tribal lands,
22 the Director shall—

23 “(A) hold at least one public meeting with
24 interested parties to develop the air tour man-
25 agement plan;

1 “(B) publish a notice of availability of the
2 proposed plan in the Federal Register for notice
3 and comment and make copies of the proposed
4 plan available to the public;

5 “(C) comply with the regulations set forth
6 in parts 1500 through 1508 of title 40, Code of
7 Federal Regulations;

8 “(D) solicit the participation of any Indian
9 tribe whose tribal lands are, or may be,
10 overflowed by aircraft involved in a commercial
11 air tour operation over the park or tribal lands
12 to which the plan applies, as a cooperating
13 agency under the regulations referred to in sub-
14 paragraph (C); and

15 “(E) consult with the Administrator with
16 respect to effects on aviation safety and the
17 management of the national airspace system.

18 “(5) JUDICIAL REVIEW.—An air tour manage-
19 ment plan developed under this subsection shall be
20 subject to judicial review pursuant to chapter 7 of
21 title 5, United States Code.

22 “(6) AMENDMENTS AND REVOCATIONS.—The
23 Director may make amendments to an air tour man-
24 agement plan and any permits issued pursuant to an
25 air tour management plan, and may revoke permits.

1 The Director shall consult with the Administrator to
2 ensure that any such amendments or revocations will
3 not adversely affect aviation safety or the manage-
4 ment of the national airspace system. Any such
5 amendments and revocations shall be published in
6 the Federal Register for notice and comment. A re-
7 quest for amendment of an air tour management
8 plan or permit shall be made in such form and man-
9 ner as the Director may prescribe.

10 “(7) VOLUNTARY AGREEMENTS.—

11 “(A) IN GENERAL.—As an alternative to
12 an air tour management plan, the Director may
13 enter into a voluntary agreement with a com-
14 mercial air tour operator (including a new en-
15 trant commercial air tour operator and an oper-
16 ator that has an interim operating permit) that
17 has applied to conduct commercial air tour op-
18 erations over a national park to manage com-
19 mercial air tour operations over such national
20 park.

21 “(B) PARK PROTECTION.—A voluntary
22 agreement entered into under subparagraph (A)
23 shall protect the national park resources, val-
24 ues, and visitor experience without compro-

1 mising aviation safety or the management of
2 the national airspace system and may—

3 “(i) include provisions such as those
4 included in the content of an air tour man-
5 agement plan;

6 “(ii) include provisions to ensure the
7 stability of, and compliance with, the vol-
8 untary agreement; and

9 “(iii) provide for fees for such oper-
10 ations.

11 “(C) PUBLIC REVIEW.—The Director shall
12 provide an opportunity for public review of a
13 proposed voluntary agreement under this para-
14 graph and shall consult with any Indian tribe
15 whose tribal lands are, or may be, flown over by
16 a commercial air tour operator under a vol-
17 untary agreement under this paragraph. After
18 such opportunity for public review and consulta-
19 tion, the voluntary agreement may be imple-
20 mented without further administrative or envi-
21 ronmental process beyond that described in this
22 subsection.

23 “(D) TERMINATION.—

1 “(i) IN GENERAL.—A voluntary agree-
2 ment under this paragraph may be termi-
3 nated at any time at the discretion of—

4 “(I) the Director, if the Director
5 determines that the agreement is not
6 adequately protecting park resources
7 or visitor experiences; or

8 “(II) the Administrator, if the
9 Administrator determines that the
10 agreement is adversely affecting avia-
11 tion safety or the national airspace
12 system.

13 “(ii) EFFECT OF TERMINATION.—If a
14 voluntary agreement with respect to a na-
15 tional park is terminated under this sub-
16 paragraph, the operators shall conform to
17 the requirements for an interim operating
18 permit under subsection (c) until an air
19 tour management plan for the park is in
20 effect.

21 “(c) INTERIM OPERATING AUTHORITY.—

22 “(1) IN GENERAL.—Interim operating authority
23 granted by the Administrator under this subsection,
24 as in effect on the day before the date of the enact-
25 ment of the Moving Ahead for Progress in the 21st

1 Century Act, shall, on and after such date of enact-
2 ment, be known as an interim operating permit and
3 be administered by the Director in accordance with
4 the conditions of this subsection.

5 “(2) REQUIREMENTS AND LIMITATIONS.—An
6 interim operating permit—

7 “(A) shall maintain the same annual au-
8 thorizations as provided for interim operating
9 authority under this subsection, as in effect on
10 the day before the date of the enactment of the
11 Moving Ahead for Progress in the 21st Century
12 Act; and

13 “(B) may not provide for an increase in
14 the number of commercial air tour operations
15 over a national park conducted during any time
16 period by the commercial air tour operator
17 above the number that the air tour operator
18 was granted unless such an increase is ap-
19 proved by the Director in consultation with the
20 Administrator;

21 “(C) may be revoked by the Director for
22 cause;

23 “(D) shall terminate 180 days after the
24 date on which an air tour management plan is
25 established for the park or tribal lands;

1 “(E) shall promote protection of national
2 park resources, visitor experiences, and tribal
3 lands;

4 “(F) shall promote safe commercial air
5 tour operations;

6 “(G) shall promote the adoption of quiet
7 technology, as appropriate; and

8 “(H) may allow for modifications of the in-
9 terim operating permit without further environ-
10 mental review beyond that described in this
11 subsection, if—

12 “(i) adequate information regarding
13 the existing and proposed operations of the
14 operator under the interim operating per-
15 mit is provided to the Director;

16 “(ii) the Director agrees with the
17 modification, based on the professional ex-
18 pertise of the Director regarding the pro-
19 tection of the resources, values, and visitor
20 use and enjoyment of the park; and

21 “(iii) the Director receives advice in
22 writing from the Administrator that there
23 would be no adverse impact on aviation
24 safety or the national airspace system.

1 “(3) MODIFICATIONS AND REVOCATIONS.—Any
2 modification or revocation of an interim operating
3 permit shall be published in the Federal Register to
4 provide notice and opportunity for comment.

5 “(4) NEW ENTRANT AIR TOUR OPERATORS.—

6 “(A) IN GENERAL.—The Director, in con-
7 sultation with the Administrator, may grant an
8 interim operating permit under this paragraph
9 to an air tour operator for a national park or
10 tribal lands for which that operator is a new en-
11 trant air tour operator without further environ-
12 mental process beyond that described in this
13 paragraph, if—

14 “(i) adequate information on the pro-
15 posed operations of the operator is pro-
16 vided to the Director by the operator mak-
17 ing the request;

18 “(ii) the Director agrees, based on the
19 Director’s professional expertise regarding
20 the protection of park resources and values
21 and visitor use and enjoyment; and

22 “(iii) the Director receives advice in
23 writing from the Administrator that there
24 would be no adverse impact on aviation
25 safety or the national airspace system.

1 “(B) SAFETY LIMITATION.—The Director
2 may not grant an interim operating permit
3 under subparagraph (A) if the Administrator
4 determines that it would create a safety prob-
5 lem at the park or on the tribal lands, or the
6 Director determines that it would create a noise
7 problem at the park or on the tribal lands.

8 “(d) COMMERCIAL AIR TOUR OPERATOR RE-
9 PORTS.—

10 “(1) REPORT.—Each commercial air tour oper-
11 ator conducting a commercial air tour operation over
12 a national park under an interim operating permit
13 granted under subsection (c) or in accordance with
14 an air tour management plan or voluntary agree-
15 ment under subsection (b) shall submit to the Direc-
16 tor a report regarding the number of commercial air
17 tour operations over each national park that are con-
18 ducted by the operator and such other information
19 as the Director may request in order to facilitate ad-
20 ministering the provisions of this section.

21 “(2) REPORT SUBMISSION.—The Director shall
22 issue a request for reports under this subsection.
23 The reports shall be submitted to the Director with
24 a frequency and in a format prescribed by the Direc-
25 tor.

1 “(e) COLLECTION OF FEES FROM AIR TOUR OPER-
2 ATIONS.—

3 “(1) IN GENERAL.—The Director shall deter-
4 mine and assess a fee under paragraph (2) on a
5 commercial air tour operator conducting commercial
6 air tour operations over a national park, including
7 the Grand Canyon National Park.

8 “(2) AMOUNT OF FEE.—In determining the
9 amount of the fee assessed under paragraph (1), the
10 Director shall collect sufficient revenue, in the ag-
11 gregate, to pay for the expenses incurred by the
12 Federal Government to develop and enforce air tour
13 management plans for national parks.

14 “(3) EFFECT OF FAILURE TO PAY FEE.—The
15 Director may assess a civil penalty against or revoke
16 the interim operating permit or air tour permit,
17 whichever is applicable, of a commercial air tour op-
18 erator conducting commercial air tour operations
19 over any national park, including the Grand Canyon
20 National Park, that has not paid the fee assessed by
21 the Director under paragraph (1) by the date that
22 is 180 days after the date on which the Director de-
23 termines the fee shall be paid.

24 “(4) FUNDING FOR AIR TOUR MANAGEMENT
25 PLANS.—The Director shall use the amounts col-

1 lected to develop and enforce air tour management
2 plans for the national parks the Director determines
3 would most benefit from such a plan.

4 “(f) CIVIL PENALTIES.—

5 “(1) IN GENERAL.—Any person who violates
6 any provision of this section or any regulation or
7 permit issued under this section may be assessed a
8 civil penalty by the Director of not more than
9 \$25,000 for each such violation.

10 “(2) KNOWING VIOLATIONS.—Any person who
11 knowingly violates any provision of this section or
12 any regulation or permit issued under this section
13 may be assessed a civil penalty by the Director of
14 not more than \$50,000 for each violation.

15 “(3) PROCEDURES.—A penalty may not be as-
16 sessed under this subsection on a person unless the
17 person is given notice and opportunity for a hearing
18 with respect to the violation for which the penalty is
19 assessed. Each violation of this section or a regula-
20 tion or permit issued under this section shall be a
21 separate offense. Any civil penalty assessed under
22 this subsection may be remitted or mitigated by the
23 Director. Upon any failure by a person to pay a pen-
24 alty assessed under this subsection, the Director
25 may request the Attorney General to institute a civil

1 action in a district court of the United States for
2 any district in which the person is found, resides, or
3 transacts business to collect the penalty and such
4 court shall have jurisdiction to hear and decide any
5 such action. The court shall hear such action on the
6 record made before the Director and shall sustain
7 his action if it is supported by substantial evidence
8 on the record considered as a whole.

9 “(4) ADMINISTRATIVE PROCEEDINGS.—Hear-
10 ings held during proceedings for the assessment of
11 civil penalties under this subsection shall be con-
12 ducted in accordance with section 554 of title 5,
13 United States Code. The Director may issue sub-
14 poenas for the attendance and testimony of wit-
15 nesses and the production of relevant papers, books,
16 and documents, and administer oaths. Witnesses
17 summoned shall be paid the same fees and mileage
18 that are paid to witnesses in the courts of the
19 United States. In case of contumacy or refusal to
20 obey a subpoena served upon any person pursuant to
21 this paragraph, the district court of the United
22 States for any district in which such person is found
23 or resides or transacts business, upon application by
24 the United States and after notice to the person,
25 shall have jurisdiction to issue an order requiring

1 the person to appear and give testimony before the
2 Director or to appear and produce documents before
3 the Director, or both, and any failure to obey the
4 order of the court may be punished by such court as
5 a contempt thereof.

6 “(g) ENFORCEMENT.—The provisions of this section
7 and any regulations or permits issued under this section
8 may be enforced by the Director or the Administrator, as
9 appropriate. The Director may utilize by agreement, with
10 or without reimbursement, the personnel, services, and fa-
11 cilities of any other Federal agency or any State agency
12 for purposes of enforcing this section. The decisions of the
13 Director under this subsection shall not have broader ap-
14 plication or be given deference beyond this section. The
15 Administrator shall retain enforcement authority over
16 matters involving the safety and efficiency of the national
17 airspace system.

18 “(h) EXEMPTIONS.—This section shall not apply to—

19 “(1) the Grand Canyon National Park; or

20 “(2) tribal lands within or abutting the Grand
21 Canyon National Park.

22 “(i) LAKE MEAD.—This section shall not apply to
23 any air tour operator while flying over or near the Lake
24 Mead National Recreation Area, solely as a transportation
25 route, to conduct an air tour over the Grand Canyon Na-

1 tional Park. For purposes of this subsection, an air tour
2 operator flying over the Hoover Dam in the Lake Mead
3 National Recreation Area en route to the Grand Canyon
4 National Park shall be deemed to be flying solely as a
5 transportation route.

6 “(j) SEVERABLE SERVICES CONTRACTS FOR PERI-
7 ODS CROSSING FISCAL YEARS.—

8 “(1) IN GENERAL.—For purposes of this sec-
9 tion, the Director may enter into a contract for pro-
10 curement of severable services for a period that be-
11 gins during one fiscal year and ends in the next fis-
12 cal year if (without regard to any option to extend
13 the period of the contract) the period of the contract
14 does not exceed 1 year.

15 “(2) OBLIGATION OF FUNDS.—Funds made
16 available for a fiscal year may be obligated for the
17 total amount of a contract entered into under the
18 authority of paragraph (1).

19 “(k) RESPONSIBILITIES AND AUTHORITIES OF AD-
20 MINISTRATOR.—

21 “(1) IN GENERAL.—The Administrator shall
22 advise the Director in writing of any adverse effects
23 on aviation safety and or management of the na-
24 tional airspace system for any proposed action taken
25 under this section.

1 “(2) AMENDMENTS TO AUTHORIZATION FOR
2 COMMERCIAL AIR TOUR OPERATORS.—The Adminis-
3 trator, in consultation with the Director, may amend
4 any authorization for a commercial air tour operator
5 to include conditions set forth in any permit issued
6 under this section or to address any adverse effect
7 on aviation safety.

8 “(3) RULE OF CONSTRUCTION.—Nothing in
9 this section shall be construed to limit or abrogate
10 the Administrator’s authority to ensure the safety
11 and efficiency of the national airspace system.

12 “(1) DEFINITIONS.—In this section, the following
13 definitions apply:

14 “(1) COMMERCIAL AIR TOUR OPERATOR.—The
15 term ‘commercial air tour operator’ means any per-
16 son who conducts a commercial air tour operation
17 over a national park.

18 “(2) EXISTING COMMERCIAL AIR TOUR OPER-
19 ATOR.—The term ‘existing commercial air tour oper-
20 ator’ means a commercial air tour operator that was
21 actively engaged in the business of providing com-
22 mercial air tour operations over a national park at
23 any time during the 12-month period ending on the
24 date of the enactment of this section.

1 “(3) NEW ENTRANT COMMERCIAL AIR TOUR
2 OPERATOR.—The term ‘new entrant commercial air
3 tour operator’ means a commercial air tour operator
4 that—

5 “(A) applies for an interim operating per-
6 mit or air tour permit as a commercial air tour
7 operator for a national park or tribal lands; and

8 “(B) has not engaged in the business of
9 providing commercial air tour operations over
10 the national park or tribal lands in the 12-
11 month period preceding the application.

12 “(4) COMMERCIAL AIR TOUR OPERATION OVER
13 A NATIONAL PARK.—

14 “(A) IN GENERAL.—The term ‘commercial
15 air tour operation over a national park’ means
16 any flight, conducted for compensation or hire
17 in a powered aircraft where a purpose of the
18 flight is sightseeing over a national park, within
19 ½ mile outside the boundary of any national
20 park (except the Grand Canyon National Park),
21 or over tribal lands (except those within or
22 abutting the Grand Canyon National Park),
23 during which the aircraft flies—

24 “(i) below a minimum altitude, deter-
25 mined by the Administrator in cooperation

1 with the Director, above ground level (ex-
2 cept solely for purposes of takeoff or land-
3 ing, or necessary for safe operation of an
4 aircraft as determined under the rules and
5 regulations of the Federal Aviation Admin-
6 istration requiring the pilot-in-command to
7 take action to ensure the safe operation of
8 the aircraft); or

9 “(ii) less than 1 mile laterally from
10 any geographic feature within the park
11 (unless more than $\frac{1}{2}$ mile outside the
12 boundary).

13 “(B) FACTORS TO CONSIDER.—In making
14 a determination of whether a flight is a com-
15 mercial air tour operation over a national park
16 for purposes of this section, the Administrator
17 may consider—

18 “(i) whether there was a holding out
19 to the public of willingness to conduct a
20 sightseeing flight for compensation or hire;

21 “(ii) whether a narrative that referred
22 to areas or points of interest on the sur-
23 face below the route of the flight was pro-
24 vided by the person offering the flight;

25 “(iii) the area of operation;

1 “(iv) the frequency of flights con-
2 ducted by the person offering the flight;

3 “(v) the route of flight;

4 “(vi) the inclusion of sightseeing
5 flights as part of any travel arrangement
6 package offered by the person offering the
7 flight;

8 “(vii) whether the flight would have
9 been canceled based on poor visibility of
10 the surface below the route of the flight;
11 and

12 “(viii) any other factors that the Ad-
13 ministrators and the Director consider ap-
14 propriate.

15 “(5) NATIONAL PARK.—The term ‘national
16 park’ means any unit of the National Park System.

17 “(6) TRIBAL LANDS.—

18 “(A) IN GENERAL.—The term ‘tribal
19 lands’ means Indian country (as that term is
20 defined in section 1151 of title 18) that is with-
21 in or abutting a national park.

22 “(B) ABUTTING.—For purposes of sub-
23 paragraph (A), the term ‘abutting’ means lands
24 within 1/2 mile outside the boundary of a na-
25 tional park.

1 “(7) ADMINISTRATOR.—The term ‘Adminis-
2 trator’ means the Administrator of the Federal Avia-
3 tion Administration.

4 “(8) DIRECTOR.—The term ‘Director’ means
5 the Director of the National Park Service.

6 “(9) AIR TOUR PERMIT.—The term ‘air tour
7 permit’ means a permit issued by the Director, in
8 accordance with this section, to a commercial oper-
9 ator to conduct commercial air tour operations over
10 a national park or tribal lands.”.

11 (b) AMENDMENTS TO NATIONAL PARKS AIR TOUR
12 MANAGEMENT ACT OF 2000.—

13 (1) ADVISORY GROUP.—Section 805 of the Na-
14 tional Parks Air Tour Management Act of 2000 (49
15 U.S.C. 40128 note) is amended—

16 (A) by striking subsection (a) and insert-
17 ing the following:

18 “(a) IN GENERAL.—The Director of the National
19 Park Service may retain the advisory group established
20 pursuant to this section, as in effect on the day before
21 the date of the enactment of the Moving Ahead for
22 Progress in the 21st Century Act, to provide continuing
23 advice and counsel with respect to commercial air tour op-
24 erations over and near national parks.”;

25 (B) in subsection (b)—

1 (i) in paragraph (1)(A)(iv), by insert-
2 ing “or Native Hawaiians” after “Indian
3 tribes”; and

4 (ii) by striking paragraph (3) and in-
5 serting the following:

6 “(3) CHAIRPERSON.—The representative of the
7 National Park Service shall serve as chairperson of
8 the advisory group.”; and

9 (C) in subsection (d)(2), by striking “The
10 Federal Aviation Administration and the Na-
11 tional Park Service shall jointly” and inserting
12 “The National Park Service shall”.

13 (2) REPORTS.—Section 807 of the National
14 Parks Air Tour Management Act of 2000 (49
15 U.S.C. 40128 note) is repealed.

16 (3) METHODOLOGIES USED TO ASSESS AIR
17 TOUR NOISE.—Section 808 of the National Parks
18 Air Tour Management Act of 2000 (49 U.S.C.
19 40128 note) is amended by striking “a Federal
20 agency” and inserting “the Director of the National
21 Park Service”.

1 **DIVISION H—BUDGETARY**
2 **EFFECTS**

3 **SEC. 100401. BUDGETARY EFFECTS.**

4 (a) PAYGO SCORECARD.—The budgetary effects of
5 this Act shall not be entered on either PAYGO scorecard
6 maintained pursuant to section 4(d) of the Statutory Pay-
7 As-You-Go Act of 2010.

8 (b) SENATE PAYGO SCORECARD.—The budgetary
9 effects of this Act shall not be recorded on any PAYGO
10 scorecard maintained for purposes of section 201 of S.
11 Con. Res. 21 (110th Congress).

Passed the Senate March 14, 2012.

Attest:

Secretary.

112TH CONGRESS
2^D SESSION

S. 1813

AN ACT

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