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109TH CONGRESS
1ST SESSION

S. _____

[Report No. 109-____]

IN THE SENATE OF THE UNITED STATES

MARCH ____ (legislative day, _____), 2005

Mr. INHOFE, from the Committee on Environment and Public Works, reported the following original bill; which was read twice and placed on the calendar

A BILL

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Safe, Accountable, Flexible, and Efficient Transportation
6 Equity Act of 2005”.

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

2

- Sec. 1. Short title; table of contents.
- Sec. 2. General definitions.
- Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionments.
- Sec. 1104. Equity bonus programs.
- Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

- Sec. 1201. Infrastructure performance and maintenance program.
- Sec. 1202. Future of surface transportation system.
- Sec. 1203. Freight transportation gateways; freight intermodal connections.
- Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
- Sec. 1205. Designation of Interstate Highways.
- Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

- Sec. 1301. Federal share.
- Sec. 1302. Transfer of highway and transit funds.
- Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
- Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
- Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
- Sec. 1306. State infrastructure banks.
- Sec. 1307. Public-private partnerships pilot program.
- Sec. 1308. Wagering.

Subtitle D—Safety

- Sec. 1401. Highway safety improvement program.
- Sec. 1402. Operation lifesaver.
- Sec. 1403. License suspension.
- Sec. 1404. Bus axle weight exemption.
- Sec. 1405. Safe routes to schools program.
- Sec. 1406. Purchases of equipment.
- Sec. 1407. Workzone safety.
- Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
- Sec. 1409. Identity authentication standards.
- Sec. 1410. Open container requirements.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

- Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.

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- Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
- Sec. 1503. Integration of natural resource concerns into transportation project planning.
- Sec. 1504. Public involvement in transportation planning and projects.
- Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

- Sec. 1511. Transportation project development process.
- Sec. 1512. Assumption of responsibility for categorical exclusions.
- Sec. 1513. Surface transportation project delivery pilot program.
- Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
- Sec. 1515. Regulations.

CHAPTER 3—MISCELLANEOUS

- Sec. 1521. Critical real property acquisition.
- Sec. 1522. Planning capacity building initiative.
- Sec. 1523. Intermodal passenger facilities.

Subtitle F—Environment

- Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
- Sec. 1602. National scenic byways program.
- Sec. 1603. Recreational trails program.
- Sec. 1604. Exemption of Interstate System.
- Sec. 1605. Standards.
- Sec. 1606. Use of high occupancy vehicle lanes.
- Sec. 1607. Bicycle transportation and pedestrian walkways.
- Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
- Sec. 1609. Toll programs.
- Sec. 1610. Federal reference method.
- Sec. 1611. Addition of particulate matter areas to CMAQ.
- Sec. 1612. Addition to CMAQ-eligible projects.
- Sec. 1613. Improved interagency consultation.
- Sec. 1614. Evaluation and assessment of CMAQ projects.
- Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
- Sec. 1616. Transition to new air quality standards.
- Sec. 1617. Reduced barriers to air quality improvements.
- Sec. 1618. Air quality monitoring data influenced by exceptional events.
- Sec. 1619. Conforming amendments.
- Sec. 1620. Highway stormwater discharge mitigation program.
- Sec. 1621. Exemption from certain hazardous materials transportation requirements.
- Sec. 1622. Funds for rebuilding fish stocks.

Subtitle G—Operations

- Sec. 1701. Transportation systems management and operations.
- Sec. 1702. Real-time system management information program.
- Sec. 1703. Contracting for engineering and design services.
- Sec. 1704. Off-duty time for drivers of commercial vehicles.
- Sec. 1705. Designation of transportation management areas.

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Subtitle H—Federal-Aid Stewardship

- Sec. 1801. Future Interstate System routes.
- Sec. 1802. Stewardship and oversight.
- Sec. 1803. Design-build contracting.
- Sec. 1804. Program efficiencies—finance.
- Sec. 1805. Set-asides for interstate discretionary projects.
- Sec. 1806. Federal lands highways program.
- Sec. 1807. Highway bridge program.
- Sec. 1808. Appalachian development highway system.
- Sec. 1809. Multistate corridor program.
- Sec. 1810. Border planning, operations, technology, and capacity program.
- Sec. 1811. Puerto Rico highway program.
- Sec. 1812. National historic covered bridge preservation.
- Sec. 1813. Transportation and community and system preservation program.
- Sec. 1814. Parking pilot programs.
- Sec. 1815. Interstate oasis program.
- Sec. 1816. Tribal-State road maintenance agreements.
- Sec. 1817. National forest system roads.
- Sec. 1818. Territorial highway program.
- Sec. 1819. Magnetic levitation transportation technology deployment program.
- Sec. 1820. Donations and credits.
- Sec. 1821. Disadvantaged business enterprises.
- Sec. 1822. **【Reserved】**.
- Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
- Sec. 1824. The Delta Regional Authority.
- Sec. 1825. Multistate international corridor development program.
- Sec. 1826. Authorization of contract authority for States with Indian Reservations.

Subtitle I—Technical Corrections

- Sec. 1901. Repeal or update of obsolete text.
- Sec. 1902. Clarification of date.
- Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1904. Inclusion of Buy America requirements in title 23.
- Sec. 1905. Technical amendments to nondiscrimination section.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

- Sec. 2001. Authorization of appropriations.
- Sec. 2002. Obligation ceiling.
- Sec. 2003. Notice.

Subtitle B—Research and Technology

- Sec. 2101. Research and technology program.
- Sec. 2102. Study of data collection and statistical analysis efforts.
- Sec. 2103. Centers for surface transportation excellence.
- Sec. 2104. Motoreyele crash causation study grants.
- Sec. 2105. Transportation technology innovation and demonstration program

Subtitle C—Intelligent Transportation System Research

Sec. 2201. Intelligent transportation system research and technical assistance program.

TITLE III—RECREATIONAL BOATING SAFETY PROGRAMS

Sec. 3001. Short title.
Sec. 3002. Amendment of Federal aid in Fish Restoration Act.
Sec. 3003. Authorization of appropriations.
Sec. 3004. Division of annual appropriations.
Sec. 3005. Maintenance of projects.
Sec. 3006. Boating infrastructure.
Sec. 3007. Requirements and restrictions concerning use of amounts for expenses for administration.
Sec. 3008. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
Sec. 3009. Multistate conservation grant program.

TITLE IV—SOLID WASTE DISPOSAL

Sec. 4001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
Sec. 4002. Use of granular mine tailings.

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

2 In this Act:

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

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

7 **SEC. 3. DEFINITIONS FOR TITLE 23.**

8 Section 101 of title 23, United States Code, is
9 amended by striking subsection (a) and inserting the fol-
10 lowing:

11 “(a) DEFINITIONS.—In this title:

12 “(1) APPORTIONMENT.—The term ‘apportion-
13 ment’ includes an unexpended apportionment made
14 under a law enacted before the date of enactment of

1 the Safe, Accountable, Flexible, and Efficient Trans-
2 portation Equity Act of 2005.

3 “(2) CARPOOL PROJECT.—

4 “(A) IN GENERAL.—The term ‘carpool
5 project’ means any project to encourage the use
6 of carpools and vanpools.

7 “(B) INCLUSIONS.—The term ‘carpool
8 project’ includes a project—

9 “(i) to provide carpooling opportuni-
10 ties to the elderly and individuals with dis-
11 abilities;

12 “(ii) to develop and implement a sys-
13 tem for locating potential riders and in-
14 forming the riders of carpool opportunities;

15 “(iii) to acquire vehicles for carpool
16 use;

17 “(iv) to designate highway lanes as
18 preferential carpool highway lanes;

19 “(v) to provide carpool-related traffic
20 control devices; and

21 “(vi) to designate facilities for use for
22 preferential parking for carpools.

23 “(3) CONSTRUCTION.—

24 “(A) IN GENERAL.—The term ‘construc-
25 tion’ means the supervision, inspection, and ac-

1 tual building of, and incurring of all costs inci-
2 dental to the construction or reconstruction of
3 a highway, including bond costs and other costs
4 relating to the issuance in accordance with sec-
5 tion 122 of bonds or other debt financing in-
6 struments and costs incurred by the State in
7 performing Federal-aid project related audits
8 that directly benefit the Federal-aid highway
9 program.

10 “(B) INCLUSIONS.—The term ‘construc-
11 tion’ includes—

12 “(i) locating, surveying, and mapping
13 (including the establishment of temporary
14 and permanent geodetic markers in accord-
15 ance with specifications of the National
16 Oceanic and Atmospheric Administration);

17 “(ii) resurfacing, restoration, and re-
18 habilitation;

19 “(iii) acquisition of rights-of-way;

20 “(iv) relocation assistance, acquisition
21 of replacement housing sites, and acquisi-
22 tion and rehabilitation, relocation, and con-
23 struction of replacement housing;

24 “(v) elimination of hazards of railway
25 grade crossings;

1 “(vi) elimination of roadside obstacles;

2 “(vii) improvements that directly fa-
3 cilitate and control traffic flow, such as—

4 “(I) grade separation of intersec-
5 tions;

6 “(II) widening of lanes;

7 “(III) channelization of traffic;

8 “(IV) traffic control systems; and

9 “(V) passenger loading and un-
10 loading areas;

11 “(viii) capital improvements that di-
12 rectly facilitate an effective vehicle weight
13 enforcement program, such as—

14 “(I) scales (fixed and portable);

15 “(II) scale pits;

16 “(III) scale installation; and

17 “(IV) scale houses;

18 “(ix) improvements directly relating to
19 securing transportation infrastructures for
20 detection, preparedness, response, and re-
21 covery;

22 “(x) operating costs relating to traffic
23 monitoring, management, and control;

24 “(xi) operational improvements; and

1 “(xii) transportation system manage-
2 ment and operations.

3 “(4) COUNTY.—The term ‘county’ includes—

4 “(A) a corresponding unit of government
5 under any other name in a State that does not
6 have county organizations; and

7 “(B) in those States in which the county
8 government does not have jurisdiction over
9 highways, any local government unit vested
10 with jurisdiction over local highways.

11 “(5) FEDERAL-AID HIGHWAY.—

12 “(A) IN GENERAL.—The term ‘Federal-aid
13 highway’ means a highway eligible for assist-
14 ance under this chapter.

15 “(B) EXCLUSIONS.—The term ‘Federal-aid
16 highway’ does not include a highway classified
17 as a local road or rural minor collector.

18 “(6) FEDERAL-AID SYSTEM.—The term ‘Fed-
19 eral-aid system’ means any of the Federal-aid high-
20 way systems described in section 103.

21 “(7) FEDERAL LANDS HIGHWAY.—The term
22 ‘Federal lands highway’ means—

23 “(A) a forest highway;

24 “(B) a recreation road;

25 “(C) a public Forest Service road;

1 “(D) a park road;

2 “(E) a parkway;

3 “(F) a refuge road;

4 “(G) an Indian reservation road; and

5 “(H) a public lands highway.

6 “(8) FOREST HIGHWAY.—The term ‘forest
7 highway’ means a forest road that is—

8 “(A) under the jurisdiction of, and main-
9 tained by, a public authority; and

10 “(B) is open to public travel.

11 “(9) FOREST ROAD OR TRAIL.—

12 “(A) IN GENERAL.—The term ‘forest road
13 or trail’ means a road or trail wholly or partly
14 within, or adjacent to, and serving National
15 Forest System land that is necessary for the
16 protection, administration, use, and develop-
17 ment of the resources of that land.

18 “(B) INCLUSIONS.—The term ‘forest road
19 or trail’ includes—

20 “(i) a classified forest road;

21 “(ii) an unclassified forest road;

22 “(iii) a temporary forest road; and

23 “(iv) a public forest service road.

24 “(10) FREIGHT TRANSPORTATION GATEWAY.—

1 “(A) IN GENERAL.—The term ‘freight
2 transportation gateway’ means a nationally or
3 regionally significant transportation port of
4 entry or hub for domestic and global trade or
5 military mobilization.

6 “(B) INCLUSIONS.—The term ‘freight
7 transportation gateway’ includes freight inter-
8 modal and Strategic Highway Network connec-
9 tions that provide access to and from a port or
10 hub described in subparagraph (A).

11 “(11) HIGHWAY.—The term ‘highway’
12 includes—

13 “(A) a road, street, and parkway;

14 “(B) a right-of-way, bridge, railroad-high-
15 way crossing, tunnel, drainage structure, sign,
16 guardrail, and protective structure, in connec-
17 tion with a highway; and

18 “(C) a portion of any interstate or inter-
19 national bridge or tunnel (including the ap-
20 proaches to the interstate or international
21 bridge or tunnel, and such transportation facili-
22 ties as may be required by the United States
23 Customs Service and the Bureau of Citizenship
24 and Immigration Services in connection with
25 the operation of an international bridge or tun-

1 nel), the cost of which is assumed by a State
2 transportation department.

3 “(12) HIGHWAY SAFETY IMPROVEMENT
4 PROJECT.—The term ‘highway safety improvement
5 project’ means a project that meets the requirements
6 of section 148.

7 “(13) INDIAN RESERVATION ROAD.—

8 “(A) IN GENERAL.—The term ‘Indian res-
9 ervation road’ means a public road that is lo-
10 cated within or provides access to an area de-
11 scribed in subparagraph (B) on which or in
12 which reside Indians or Alaskan Natives that,
13 as determined by the Secretary of the Interior,
14 are eligible for services generally available to
15 Indians under Federal laws specifically applica-
16 ble to Indians.

17 “(B) AREAS.—The areas referred to in
18 subparagraph (A) are—

19 “(i) an Indian reservation;

20 “(ii) Indian trust land or restricted
21 Indian land that is not subject to fee title
22 alienation without the approval of the Fed-
23 eral Government; and

24 “(iii) an Indian or Alaska Native vil-
25 lage, group, or community.

1 “(14) INTERSTATE SYSTEM.—The term ‘Inter-
2 state System’ means the Dwight D. Eisenhower Na-
3 tional System of Interstate and Defense Highways
4 described in section 103(c).

5 “(15) MAINTENANCE.—

6 “(A) IN GENERAL.—The term ‘mainte-
7 nance’ means the preservation of a highway.

8 “(B) INCLUSIONS.—The term ‘mainte-
9 nance’ includes the preservation of—

10 “(i) the surface, shoulders, roadsides,
11 and structures of a highway; and

12 “(ii) such traffic-control devices as are
13 necessary for safe, secure, and efficient use
14 of a highway.

15 “(16) MAINTENANCE AREA.—The term ‘main-
16 tenance area’ means an area that was designated as
17 a nonattainment area, but was later redesignated by
18 the Administrator of the Environmental Protection
19 Agency as an attainment area, under section 107(d)
20 of the Clean Air Act (42 U.S.C. 7407(d)).

21 “(17) NATIONAL FOREST SYSTEM ROAD OR
22 TRAIL.—The term ‘National Forest System road or
23 trail’ means a forest road or trail that is under the
24 jurisdiction of the Forest Service.

1 “(18) NATIONAL HIGHWAY SYSTEM.—The term
2 ‘National Highway System’ means the Federal-aid
3 highway system described in section 103(b).

4 “(19) OPERATING COSTS FOR TRAFFIC MONI-
5 TORING, MANAGEMENT, AND CONTROL.—The term
6 ‘operating costs for traffic monitoring, management,
7 and control’ includes—

8 “(A) labor costs;

9 “(B) administrative costs;

10 “(C) costs of utilities and rent;

11 “(D) costs incurred by transportation
12 agencies for technology to monitor critical
13 transportation infrastructure for security pur-
14 poses; and

15 “(E) other costs associated with transpor-
16 tation systems management and operations and
17 the continuous operation of traffic control, such
18 as—

19 “(i) an integrated traffic control sys-
20 tem;

21 “(ii) an incident management pro-
22 gram; and

23 “(iii) a traffic control center.

24 “(20) OPERATIONAL IMPROVEMENT.—

1 “(A) IN GENERAL.—The term ‘operational
2 improvement’ means—

3 “(i) a capital improvement for instal-
4 lation or implementation of—

5 “(I) a transportation system
6 management and operations program;

7 “(II) traffic and transportation
8 security surveillance and control
9 equipment;

10 “(III) a computerized signal sys-
11 tem;

12 “(IV) a motorist information sys-
13 tem;

14 “(V) an integrated traffic control
15 system;

16 “(VI) an incident management
17 program;

18 “(VII) equipment and programs
19 for transportation response to man-
20 made and natural disasters; or

21 “(VIII) a transportation demand
22 management facility, strategy, or pro-
23 gram; and

1 “(ii) such other capital improvements
2 to a public road as the Secretary may des-
3 ignate by regulation.

4 “(B) EXCLUSIONS.—The term ‘operational
5 improvement’ does not include—

6 “(i) a resurfacing, restorative, or re-
7 habilitative improvement;

8 “(ii) construction of an additional
9 lane, interchange, or grade separation; or

10 “(iii) construction of a new facility on
11 a new location.

12 “(21) PARK ROAD.—The term ‘park road’
13 means a public road (including a bridge built pri-
14 marily for pedestrian use, but with capacity for use
15 by emergency vehicles) that is located within, or pro-
16 vides access to, an area in the National Park System
17 with title and maintenance responsibilities vested in
18 the United States.

19 “(22) PARKWAY.—The term ‘parkway’ means a
20 parkway authorized by an Act of Congress on land
21 to which title is vested in the United States.

22 “(23) PROJECT.—The term ‘project’ means—

23 “(A)(i) an undertaking to construct a par-
24 ticular portion of a highway; or

1 “(ii) if the context so implies, a particular
2 portion of a highway so constructed; and

3 “(B) any other undertaking eligible for as-
4 sistance under this title.

5 “(24) PROJECT AGREEMENT.—The term
6 ‘project agreement’ means the formal instrument to
7 be executed by the Secretary and recipient of funds
8 under this title.

9 “(25) PUBLIC AUTHORITY.—The term ‘public
10 authority’ means a Federal, State, county, town, or
11 township, Indian tribe, municipal or other local gov-
12 ernment or instrumentality with authority to fi-
13 nance, build, operate, or maintain toll or toll-free fa-
14 cilities.

15 “(26) PUBLIC FOREST SERVICE ROAD.—The
16 term ‘public Forest Service road’ means a classified
17 forest road—

18 “(A) that is open to public travel;

19 “(B) for which title and maintenance re-
20 sponsibility is vested in the Federal Govern-
21 ment; and

22 “(C) that has been designated a public
23 road by the Forest Service.

24 “(27) PUBLIC LANDS DEVELOPMENT ROADS
25 AND TRAILS.—The term ‘public lands development

1 roads and trails’ means roads and trails that the
2 Secretary of the Interior determines are of primary
3 importance for the development, protection, adminis-
4 tration, and use of public lands and resources under
5 the control of the Secretary of the Interior.

6 “(28) PUBLIC LANDS HIGHWAY.—The term
7 ‘public lands highway’ means—

8 “(A) a forest road that is—

9 “(i) under the jurisdiction of, and
10 maintained by, a public authority; and

11 “(ii) open to public travel; and

12 “(B) any highway through unappropriated
13 or unreserved public land, nontaxable Indian
14 land, or any other Federal reservation (includ-
15 ing a main highway through such land or res-
16 ervation that is on the Federal-aid system) that
17 is—

18 “(i) under the jurisdiction of, and
19 maintained by, a public authority; and

20 “(ii) open to public travel.

21 “(29) PUBLIC ROAD.—The term ‘public road’
22 means any road or street that is—

23 “(A) under the jurisdiction of, and main-
24 tained by, a public authority; and

25 “(B) open to public travel.

1 “(30) RECREATIONAL ROAD.—The term ‘rec-
2 reational road’ means a public road—

3 “(A) that provides access to a museum,
4 lake, reservoir, visitors center, gateway to a
5 major wilderness area, public use area, or rec-
6 reational or historic site; and

7 “(B) for which title is vested in the Fed-
8 eral Government.

9 “(31) REFUGE ROAD.—The term ‘refuge road’
10 means a public road—

11 “(A) that provides access to or within a
12 unit of the National Wildlife Refuge System or
13 a national fish hatchery; and

14 “(B) for which title and maintenance re-
15 sponsibility is vested in the United States Gov-
16 ernment.

17 “(32) RURAL AREA.—The term ‘rural area’
18 means an area of a State that is not included in an
19 urban area.

20 “(33) SECRETARY.—The term ‘Secretary’
21 means the Secretary of Transportation.

22 “(34) STATE.—The term ‘State’ means—

23 “(A) a State;

24 “(B) the District of Columbia; and

25 “(C) the Commonwealth of Puerto Rico.

1 “(35) STATE FUNDS.—The term ‘State funds’
2 includes funds that are—

3 “(A) raised under the authority of the
4 State (or any political or other subdivision of a
5 State); and

6 “(B) made available for expenditure under
7 the direct control of the State transportation
8 department.

9 “(36) STATE TRANSPORTATION DEPART-
10 MENT.—The term ‘State transportation department’
11 means the department, agency, commission, board,
12 or official of any State charged by the laws of the
13 State with the responsibility for highway construc-
14 tion.

15 “(37) TERRITORIAL HIGHWAY SYSTEM.—The
16 term ‘territorial highway system’ means the system
17 of arterial highways, collector roads, and necessary
18 interisland connectors in American Samoa, the Com-
19 monwealth of the Northern Mariana Islands, Guam,
20 and the United States Virgin Islands that have been
21 designated by the appropriate Governor or chief ex-
22 ecutive officer of a territory, and approved by the
23 Secretary, in accordance with section 215.

24 “(38) TRANSPORTATION ENHANCEMENT ACTIV-
25 ITY.—The term ‘transportation enhancement activ-

1 ity’ means, with respect to any project or the area
2 to be served by the project, any of the following ac-
3 tivities as the activities relate to surface transpor-
4 tation:

5 “(A) Provision of facilities for pedestrians
6 and bicycles.

7 “(B) Provision of safety and educational
8 activities for pedestrians and bicyclists.

9 “(C) Acquisition of scenic easements and
10 scenic or historic sites (including historic battle-
11 fields).

12 “(D) Scenic or historic highway programs
13 (including the provision of tourist and welcome
14 center facilities).

15 “(E) Landscaping and other scenic beau-
16 tification.

17 “(F) Historic preservation.

18 “(G) Rehabilitation and operation of his-
19 toric transportation buildings, structures, or fa-
20 cilities (including historic railroad facilities and
21 canals).

22 “(H) Preservation of abandoned railway
23 corridors (including the conversion and use of
24 the corridors for pedestrian or bicycle trails).

1 “(I) Control and removal of outdoor adver-
2 tising.

3 “(J) Archaeological planning and research.

4 “(K) Environmental mitigation—

5 “(i) to address water pollution due to
6 highway runoff; or

7 “(ii) reduce vehicle-caused wildlife
8 mortality while maintaining habitat
9 connectivity.

10 “(L) Establishment of transportation mu-
11 seums.

12 “(39) TRANSPORTATION SYSTEMS MANAGE-
13 MENT AND OPERATIONS.—

14 “(A) IN GENERAL.—The term ‘transportation systems management and operations’
15 means an integrated program to optimize the
16 performance of existing infrastructure through
17 the implementation of multimodal and inter-
18 modal, cross-jurisdictional systems, services,
19 and projects designed to preserve capacity and
20 improve security, safety, and reliability of the
21 transportation system.
22 transportation system.

23 “(B) INCLUSIONS.—The term ‘transportation systems management and operations’
24 includes—
25 includes—

1 “(i) regional operations collaboration
2 and coordination activities between trans-
3 portation and public safety agencies; and

4 “(ii) improvements to the transpor-
5 tation system such as traffic detection and
6 surveillance, arterial management, freeway
7 management, demand management, work
8 zone management, emergency manage-
9 ment, electronic toll collection, automated
10 enforcement, traffic incident management,
11 roadway weather management, traveler in-
12 formation services, commercial vehicle op-
13 erations, traffic control, freight manage-
14 ment, and coordination of highway, rail,
15 transit, bicycle, and pedestrian operations.

16 “(40) URBAN AREA.—The term ‘urban area’
17 means—

18 “(A) an urbanized area (or, in the case of
19 an urbanized area encompassing more than 1
20 State, the portion of the urbanized area in each
21 State); and

22 “(B) an urban place designated by the Bu-
23 reau of the Census that—

24 “(i) has a population of 5,000 or
25 more;

1 (D) \$7,720,825,041 for fiscal year 2008;

2 and

3 (E) \$7,833,068,496 for fiscal year 2009.

4 (3) BRIDGE PROGRAM.—For the bridge pro-
5 gram under section 144 of that title—

6 (A) \$4,970,732,691 for fiscal year 2005;

7 (B) \$5,157,180,500 for fiscal year 2006;

8 (C) \$5,141,987,920 for fiscal year 2007;

9 (D) \$5,429,922,039 for fiscal year 2008;

10 and

11 (E) \$5,509,052,458 for fiscal year 2009.

12 (4) SURFACE TRANSPORTATION PROGRAM.—
13 For the surface transportation program under sec-
14 tion 133 of that title—

15 (A) \$7,318,023,129 for fiscal year 2005;

16 (B) \$7,597,631,986 for fiscal year 2006;

17 (C) \$7,619,446,491 for fiscal year 2007;

18 (D) \$7,999,438,719 for fiscal year 2008;

19 and

20 (E) \$8,116,064,782 for fiscal year 2009.

21 (5) CONGESTION MITIGATION AND AIR QUALITY
22 IMPROVEMENT PROGRAM.—For the congestion miti-
23 gation and air quality improvement program under
24 section 149 of that title—

25 (A) \$1,979,088,016 for fiscal year 2005;

1 (B) \$2,049,058,323 for fiscal year 2006;
2 (C) \$2,054,941,629 for fiscal year 2007;
3 (D) \$2,157,424,382 for fiscal year 2008;
4 and
5 (E) \$2,188,954,810 for fiscal year 2009.

6 (6) HIGHWAY SAFETY IMPROVEMENT PRO-
7 GRAM.—For the highway safety improvement pro-
8 gram under section 148 of that title—

9 (A) \$1,196,657,870 for fiscal year 2005;
10 (C) \$1,234,248,870 for fiscal year 2006;
11 (D) \$1,246,818,516 for fiscal year 2007;
12 (E) \$1,308,999,063 for fiscal year 2008;
13 and
14 (F) \$1,328,233,842 for fiscal year 2009.

15 (7) APPALACHIAN DEVELOPMENT HIGHWAY
16 SYSTEM PROGRAM.—For the Appalachian develop-
17 ment highway system program under section 170 of
18 that title, \$532,518,499 for each of fiscal years
19 2005 through 2009.

20 (8) RECREATIONAL TRAILS PROGRAM.—For the
21 recreational trails program under section 206 of that
22 title, \$54,154,424 for each of fiscal years 2005
23 through 2009.

24 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

1 (A) INDIAN RESERVATION ROADS.—For
2 Indian reservation roads under section 204 of
3 that title—

4 (i) \$290,251,572 for fiscal year 2005;

5 (ii) \$312,578,616 for fiscal year 2006;

6 (iii) \$334,905,660 for fiscal year
7 2007;

8 (iv) \$357,232,704 for fiscal year
9 2008; and

10 (v) \$379,559,748 for fiscal year 2009.

11 (B) RECREATION ROADS.—For recreation
12 roads under section 204 of that title,
13 \$44,654,088 for each of fiscal years 2005
14 through 2009.

15 (C) PARK ROADS AND PARKWAYS.—For
16 park roads and parkways under section 204 of
17 that title—

18 (i) \$276,855,346 for fiscal year 2005;

19 and

20 (ii) \$285,786,164 for each of fiscal
21 years 2006 through 2009.

22 (D) REFUGE ROADS.—For refuge roads
23 under section 204 of that title, \$26,792,453 for
24 each of fiscal years 2005 through 2009.

1 (E) PUBLIC LANDS HIGHWAYS.—For Fed-
2 eral lands highways under section 204 of that
3 title, \$267,924,258 for each of fiscal years
4 2005 through 2009.

5 (F) SAFETY.—For safety under section
6 204 of that title, \$35,723,270 for each of fiscal
7 years 2005 through 2009.

8 (10) MULTISTATE CORRIDOR PROGRAM.—For
9 the multistate corridor program under section 171 of
10 that title—

11 (A) \$120,566,038 for fiscal year 2005;

12 (B) \$140,660,377 for fiscal year 2006;

13 (C) \$160,754,717 for fiscal year 2007;

14 (D) \$180,849,057 for fiscal year 2008;

15 and

16 (E) \$200,943,396 for fiscal year 2009.

17 (11) BORDER PLANNING, OPERATIONS, AND
18 TECHNOLOGY PROGRAM.—For the border planning,
19 operations, and technology program under section
20 172 of that title—

21 (A) \$120,566,038 for fiscal year 2005;

22 (B) \$140,660,377 for fiscal year 2006;

23 (C) \$160,754,717 for fiscal year 2007;

24 (D) \$180,849,057 for fiscal year 2008;

25 and

1 (E) \$200,943,396 for fiscal year 2009.

2 (12) NATIONAL SCENIC BYWAYS PROGRAM.—

3 For the national scenic byways program under sec-
4 tion 162 of that title—

5 (A) \$31,257,862 for fiscal year 2005;

6 (B) \$32,150,943 for fiscal year 2006;

7 (C) \$33,044,025 for fiscal year 2007; and

8 (D) \$34,830,189 for each of fiscal years
9 2008 and 2009.

10 (13) INFRASTRUCTURE PERFORMANCE AND

11 MAINTENANCE PROGRAM.—For carrying out the in-

12 frastructure performance and maintenance program

13 under section 139 of that title \$0 for fiscal year

14 2004.

15 (14) CONSTRUCTION OF FERRY BOATS AND

16 FERRY TERMINAL FACILITIES.—For construction of

17 ferry boats and ferry terminal facilities under sec-

18 tion 147 of that title, \$54,154,424 for each of fiscal

19 years 2005 through 2009.

20 (15) COMMONWEALTH OF PUERTO RICO HIGH-

21 WAY PROGRAM.—For the Commonwealth of Puerto

22 Rico highway program under section 173 of that

23 title—

24 (A) \$129,496,855 for fiscal year 2005;

25 (B) \$133,069,182 for fiscal year 2006;

1 (C) \$137,534,591 for fiscal year 2007;

2 (D) \$142,893,082 for fiscal year 2008;

3 and

4 (E) \$145,572,327 for fiscal year 2009.

5 (16) PUBLIC-PRIVATE PARTNERSHIPS PILOT
6 PROGRAM.—For the public-private partnerships pilot
7 program under section 109(c)(3) of that title,
8 \$8,930,818 for each of fiscal years 2005 through
9 2009.

10 (17) DENALI ACCESS SYSTEM.—For the Denali
11 Access System under section 309 of the Denali Com-
12 mission Act of 1998 (42 U.S.C. 3121 note; Public
13 Law 105–277), \$26,792,453 for each of fiscal years
14 2005 through 2009.

15 (18) DELTA REGION TRANSPORTATION DEVEL-
16 OPMENT PROGRAM.—For planning and construction
17 activities authorized under the Delta Regional Au-
18 thority, \$71,446,541 for each of fiscal years 2005
19 through 2009.

20 (19) INTERMODAL PASSENGER FACILITIES.—
21 For intermodal passenger facilities under subchapter
22 III of chapter 55 of title 49, United States Code,
23 \$8,930,818 for each of fiscal years 2005 through
24 2009.

1 **SEC. 1102. OBLIGATION CEILING.**

2 (a) GENERAL LIMITATION.—Subject to subsections
3 (g) and (h), and notwithstanding any other provision of
4 law, the obligations for Federal-aid highway and highway
5 safety construction programs shall not exceed—

- 6 (1) \$34,425,380,000 for fiscal year 2005;
- 7 (2) \$37,154,999,523 for fiscal year 2006;
- 8 (3) \$37,450,167,691 for fiscal year 2007;
- 9 (4) \$38,816,364,417 for fiscal year 2008; and
- 10 (5) \$40,321,257,845 for fiscal year 2009.

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

- 13 (1) section 125 of title 23, United States Code;
- 14 (2) section 147 of the Surface Transportation
15 Assistance Act of 1978 (23 U.S.C. 144 note; 92
16 Stat. 2714);
- 17 (3) section 9 of the Federal-Aid Highway Act
18 of 1981 (Public Law 97–134; 95 Stat. 1701);
- 19 (4) subsections (b) and (j) of section 131 of the
20 Surface Transportation Assistance Act of 1982
21 (Public Law 97–424; 96 Stat. 2119);
- 22 (5) subsections (b) and (c) of section 149 of the
23 Surface Transportation and Uniform Relocation As-
24 sistance Act of 1987 (Public Law 100–17; 101 Stat.
25 198);

1 (6) sections 1103 through 1108 of the Inter-
2 modal Surface Transportation Efficiency Act of
3 1991 (Public Law 102–240; 105 Stat. 2027);

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

6 (8) section 105 of title 23, United States Code
7 (as in effect for fiscal years 1998 through 2003, but
8 only in an amount equal to \$639,000,000 for each
9 of those fiscal years);

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

17 (10) section 105 of title 23, United States Code
18 (but, for each of fiscal years 2005 through 2009,
19 only in an amount equal to \$639,000,000 per fiscal
20 year).

21 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—
22 For each of fiscal years 2005 through 2009, the
23 Secretary—

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

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

4 (B) programs funded from the administra-
5 tive takedown authorized by section 104(a)(1)
6 of title 23, United States Code; and

7 (C) amounts authorized for the highway
8 use tax evasion program and the Bureau of
9 Transportation Statistics;

10 (2) shall not distribute an amount of obligation
11 authority provided by subsection (a) that is equal to
12 the unobligated balance of amounts made available
13 from the Highway Trust Fund (other than the Mass
14 Transit Account) for Federal-aid highway and high-
15 way safety programs for previous fiscal years the
16 funds for which are allocated by the Secretary;

17 (3) shall determine the ratio that—

18 (A) the obligation authority provided by
19 subsection (a) for the fiscal year, less the aggre-
20 gate of amounts not distributed under para-
21 graphs (1) and (2); bears to

22 (B) the total of the sums authorized to be
23 appropriated for the Federal-aid highway and
24 highway safety construction programs (other
25 than sums authorized to be appropriated for

1 provisions of law described in paragraphs (1)
2 through (9) of subsection (b) and sums author-
3 ized to be appropriated for section 105 of title
4 23, United States Code, equal to the amount
5 referred to in subsection (b)(10) for the fiscal
6 year), less the aggregate of the amounts not
7 distributed under paragraphs (1) and (2);

8 (4) shall distribute the obligation authority pro-
9 vided by subsection (a) less the aggregate amounts
10 not distributed under paragraphs (1) and (2), for
11 section 14501 of title 40, United States Code, so
12 that the amount of obligation authority available for
13 that section is equal to the amount determined by
14 multiplying—

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

17 (B) the sums authorized to be appro-
18 priated for that section for the fiscal year;

19 (5) shall distribute among the States the obliga-
20 tion authority provided by subsection (a), less the
21 aggregate amounts not distributed under paragraphs
22 (1) and (2), for each of the programs that are allo-
23 cated by the Secretary under this Act and title 23,
24 United States Code (other than to programs to
25 which paragraph (1) applies), by multiplying—

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

3 (B) the amounts authorized to be appro-
4 priated for each such program for the fiscal
5 year; and

6 (6) shall distribute the obligation authority pro-
7 vided by subsection (a), less the aggregate amounts
8 not distributed under paragraphs (1) and (2) and
9 the amounts distributed under paragraphs (4) and
10 (5), for Federal-aid highway and highway safety
11 construction programs (other than the amounts ap-
12 portioned for the equity bonus program, but only to
13 the extent that the amounts apportioned for the eq-
14 uity bonus program for the fiscal year are greater
15 than \$639,000,000, and the Appalachian develop-
16 ment highway system program) that are apportioned
17 by the Secretary under this Act and title 23, United
18 States Code, in the ratio that—

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

22 (B) the total of the amounts authorized to
23 be appropriated for the programs that are ap-
24 portioned to all States for the fiscal year.

1 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
2 THORITY.—Notwithstanding subsection (c), the Secretary
3 shall, after August 1 of each of fiscal years 2005 through
4 2009—

5 (1) revise a distribution of the obligation au-
6 thority made available under subsection (c) if an
7 amount distributed cannot be obligated during that
8 fiscal year; and

9 (2) redistribute sufficient amounts to those
10 States able to obligate amounts in addition to those
11 previously distributed during that fiscal year, giving
12 priority to those States having large unobligated bal-
13 ances of funds apportioned under sections 104 and
14 144 of title 23, United States Code.

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

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

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

24 (B) title II of this Act.

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

3 (A) remain available for a period of 3 fis-
4 cal years; and

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

9 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED
10 FUNDS.—

11 (1) IN GENERAL.—Not later than 30 days after
12 the date of distribution of obligation authority under
13 subsection (c) for each of fiscal years 2005 through
14 2009, the Secretary shall distribute to the States
15 any funds that—

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

19 (B) the Secretary determines will not be
20 allocated to the States, and will not be available
21 for obligation, in the fiscal year due to the im-
22 position of any obligation limitation for the fis-
23 cal year.

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

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

8 (g) SPECIAL RULE.—Obligation authority distributed
9 for a fiscal year under subsection (c)(4) for the provision
10 specified in subsection (c)(4) shall—

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

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

17 (h) ADJUSTMENT IN OBLIGATION LIMIT.—

18 (1) IN GENERAL.—A limitation on obligations
19 imposed by subsection (a) for a fiscal year shall be
20 adjusted by an amount equal to the amount deter-
21 mined in accordance with section 251(b)(1)(B) of
22 the Balanced Budget and Emergency Deficit Control
23 Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal
24 year.

1 (2) DISTRIBUTION.—An adjustment under
2 paragraph (1) shall be distributed in accordance
3 with this section.

4 (i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-
5 TIVE EXPENSES.—Notwithstanding any other provision of
6 law, the total amount of all obligations under section
7 104(a) of title 23, United States Code, shall not exceed—

8 (1) \$415,283,019 for fiscal year 2005;

9 (2) \$428,679,245 for fiscal year 2006;

10 (3) \$442,075,472 for fiscal year 2007;

11 (4) \$455,471,698 for fiscal year 2008; and

12 (5) \$468,867,925 for fiscal year 2009.

13 (j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Sec-
14 tion 104(b)(1) of title 23, United States Code, is amended
15 by striking “\$36,400,000” and insert “\$44,654,088”.

16 **SEC. 1103. APPORTIONMENTS.**

17 (a) ADMINISTRATIVE EXPENSES.—

18 (1) IN GENERAL.—Section 104 of title 23,
19 United States Code, is amended by striking sub-
20 section (a) and inserting the following:

21 “(a) ADMINISTRATIVE EXPENSES.—

22 “(1) IN GENERAL.—There are authorized to be
23 appropriated from the Highway Trust Fund (other
24 than the Mass Transit Account) to be made avail-
25 able to the Secretary of Transportation for adminis-

1 trative expenses of the Federal Highway
2 Administration—

3 “(1) \$415,283,019 for fiscal year 2005;

4 “(2) \$428,679,245 for fiscal year 2006;

5 “(3) \$442,075,472 for fiscal year 2007;

6 “(4) \$455,471,698 for fiscal year 2008; and

7 “(5) \$468,867,925 for fiscal year 2009.

8 “(2) PURPOSES.—The funds authorized by this
9 subsection shall be used—

10 “(A) to administer the provisions of law to
11 be financed from appropriations for the Fed-
12 eral-aid highway program and programs au-
13 thorized under chapter 2; and

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

19 “(3) AVAILABILITY.—The funds made available
20 under paragraph (1) shall remain available until ex-
21 pended.”.

22 (2) CONFORMING AMENDMENTS.—Section 104
23 of title 23, United States Code, is amended—

1 (A) in the matter preceding paragraph (1)
2 of subsection (b), by striking “the deduction au-
3 thorized by subsection (a) and”;

4 (B) in the first sentence of subsection
5 (e)(1), by striking “, and also” and all that fol-
6 lows through “this section”; and

7 (C) in subsection (i), by striking “de-
8 ducted” and inserting “made available”.

9 (b) METROPOLITAN PLANNING.—Section 104(f) of
10 title 23, United States Code, is amended—

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

13 “(1) SET-ASIDE.—On October 1 of each fiscal
14 year, the Secretary shall set aside 1.5 percent of the
15 funds authorized to be appropriated for the Inter-
16 state maintenance, national highway system, surface
17 transportation, congestion mitigation and air quality
18 improvement, highway safety improvement, and
19 highway bridge programs authorized under this title
20 to carry out the requirements of section 134.”;

21 (2) in paragraph (2), by striking “per centum”
22 and inserting “percent”;

23 (3) in paragraph (3)—

24 (A) by striking “The funds” and inserting
25 the following:

1 “(A) IN GENERAL.—The funds”; and

2 (B) by striking “These funds” and all that
3 follows and inserting the following:

4 “(B) UNUSED FUNDS.—Any funds that
5 are not used to carry out section 134 may be
6 made available by a metropolitan planning or-
7 ganization to the State to fund activities under
8 section 135.”; and

9 (4) by adding at the end the following:

10 “(6) FEDERAL SHARE.—Funds apportioned to
11 a State under this subsection shall be matched in ac-
12 cordance with section 120(b) unless the Secretary
13 determines that the interests of the Federal-aid
14 highway program would be best served without the
15 match.”.

16 (c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title
17 23, United States Code, is amended by striking “1998
18 through 2002” and inserting “2005 through 2009”.

19 **SEC. 1104. EQUITY BONUS PROGRAM.**

20 (a) IN GENERAL.—Section 105 of title 23, United
21 States Code, is amended to read as follows:

22 **“§ 105. Equity bonus program**

23 “(a) PROGRAM.—

24 “(1) IN GENERAL.—Subject to subsections (c)
25 and (d), for each of fiscal years 2005 through 2009,

1 the Secretary shall allocate among the States
2 amounts sufficient to ensure that no State receives
3 a percentage of the total apportionments for the fis-
4 cal year for the programs specified in paragraph (2)
5 that is less than the percentage calculated under
6 subsection (b).

7 “(2) SPECIFIC PROGRAMS.—The programs re-
8 ferred to in subsection (a) are—

9 “(A) the Interstate maintenance program
10 under section 119;

11 “(B) the national highway system program
12 under section 103;

13 “(C) the bridge program under section
14 144;

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

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

19 “(F) the congestion mitigation and air
20 quality improvement program under section
21 149;

22 “(G) metropolitan planning programs
23 under section 104(f) (other than planning pro-
24 grams funded by amounts provided under the
25 equity bonus program under this section);

1 “(H) the infrastructure performance and
2 maintenance program under section 139;

3 “(I) the equity bonus program under this
4 section;

5 “(J) the Appalachian development highway
6 system program under subtitle IV of title 40;

7 “(K) the recreational trails program under
8 section 206;

9 “(L) the safe routes to schools program
10 under section 150; and

11 “(M) the rail-highway grade crossing pro-
12 gram under section 130.

13 “(b) STATE PERCENTAGE.—

14 “(1) IN GENERAL.—The percentage referred to
15 in subsection (a) for each State shall be—

16 “(A) 92 percent of the quotient obtained
17 by dividing—

18 “(i) the estimated tax payments at-
19 tributable to highway users in the State
20 paid into the Highway Trust Fund (other
21 than the Mass Transit Account) in the
22 most recent fiscal year for which data are
23 available; by

24 “(ii) the estimated tax payments at-
25 tributable to highway users in all States

1 paid into the Highway Trust Fund (other
2 than the Mass Transit Account) for the
3 fiscal year; or

4 “(B) for a State with a total population
5 density of less than 20 persons per square mile,
6 as reported in the decennial census conducted
7 by the Federal Government in 2000, a total
8 population of less than 1,000,000, as reported
9 in that decennial census, a median household
10 income of less than \$35,000, as reported in
11 that decennial census, or a State with a fatality
12 rate during 2002 on Interstate highways that is
13 greater than 1 fatality for each 100,000,000 ve-
14 hicle miles traveled on Interstate highways, the
15 greater of—

16 “(i) the percentage under paragraph
17 (1); or

18 “(ii) the average percentage of the
19 State’s share of total apportionments for
20 the period of fiscal years 1998 through
21 2003 for the programs specified in para-
22 graph (2).

23 “(2) SPECIFIC PROGRAMS.—The programs re-
24 ferred to in paragraph (1)(B)(ii) are (as in effect on
25 the day before the date of enactment of the Safe,

1 Accountable, Flexible, and Efficient Transportation
2 Equity Act of 2005)—

3 “(A) the Interstate maintenance program
4 under section 119;

5 “(B) the national highway system program
6 under section 103;

7 “(C) the bridge program under section
8 144;

9 “(D) the surface transportation program
10 under section 133;

11 “(E) the recreational trails program under
12 section 206;

13 “(F) the high priority projects program
14 under section 117;

15 “(G) the minimum guarantee provided
16 under this section;

17 “(H) revenue aligned budget authority
18 amounts provided under section 110;

19 “(I) the congestion mitigation and air
20 quality improvement program under section
21 149;

22 “(J) the Appalachian development highway
23 system program under subtitle IV of title 40;
24 and

1 “(K) metropolitan planning programs
2 under section 104(f).

3 “(c) SPECIAL RULES.—

4 “(1) MINIMUM COMBINED ALLOCATION.—For
5 each fiscal year, before making the allocations under
6 subsection (a)(1), the Secretary shall allocate among
7 the States amounts sufficient to ensure that no
8 State receives a combined total of amounts allocated
9 under subsection (a)(1), apportionments for the pro-
10 grams specified in subsection (a)(2), and amounts
11 allocated under this subsection, that is less than 110
12 percent of the average for fiscal years 1998 through
13 2003 of the annual apportionments for the State for
14 all programs specified in subsection (b)(2).

15 “(2) NO NEGATIVE ADJUSTMENT.—Notwith-
16 standing subsection (d), no negative adjustment
17 shall be made under subsection (a)(1) to the appor-
18 tionment of any State.

19 “(3) MINIMUM SHARE OF TAX PAYMENTS.—
20 Notwithstanding subsection (d), for each fiscal year,
21 the Secretary shall allocate among the States
22 amounts sufficient to ensure that no State receives
23 a percentage of apportionments for the fiscal year
24 for the programs specified in subsection (a)(2) that
25 is less than 90.5 percent of the percentage share of

1 the State of estimated tax payments attributable to
2 highway users in the State paid into the Highway
3 Trust Fund (other than the Mass Transit Account)
4 in the most recent fiscal year for which data are
5 available.

6 “(d) LIMITATION ON ADJUSTMENTS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3) of subsection (c), no State shall
9 receive, for any fiscal year, additional amounts
10 under subsection (a)(1) if—

11 “(A) the total apportionments of the State
12 for the fiscal year for the programs specified in
13 subsection (a)(2); exceed

14 “(B) the percentage of the average, for the
15 period of fiscal years 1998 through 2003, of the
16 annual apportionments of the State for all pro-
17 grams specified in subsection (b)(2), as speci-
18 fied in paragraph (2).

19 “(2) PERCENTAGES.—The percentages referred
20 to in paragraph (1)(B) are—

21 “(A) for fiscal year 2005, 119 percent;

22 “(B) for fiscal year 2006, 122 percent;

23 “(C) for fiscal year 2007, 123 percent;

24 “(D) for fiscal year 2008, 128 percent;

25 and

1 “(E) for fiscal year 2009, 250 percent.

2 “(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—

3 The Secretary shall apportion the amounts made available

4 under this section so that the amount apportioned to each

5 State under this section for each program referred to in

6 subparagraphs (A) through (G) of subsection (a)(2) is

7 equal to the amount determined by multiplying the

8 amount to be apportioned under this section by the pro-

9 portion that—

10 “(1) the amount of funds apportioned to each

11 State for each program referred to in subparagraphs

12 (A) through (G) of subsection (a)(2) for a fiscal

13 year; bears to

14 “(2) the total amount of funds apportioned to

15 each State for all such programs for the fiscal year.

16 “(f) METRO PLANNING SET ASIDE.—Notwith-

17 standing section 104(f), no set aside provided for under

18 that section shall apply to funds allocated under this sec-

19 tion.

20 “(g) AUTHORIZATION OF APPROPRIATIONS.—There

21 are authorized to be appropriated from the Highway Trust

22 Fund (other than the Mass Transit Account) such sums

23 as are necessary to carry out this section for each of fiscal

24 years 2005 through 2009.”.

25 (b) CONFORMING AMENDMENTS.—

1 (iii) by striking “the succeeding” and
2 inserting “that”;

3 (iv) by striking “and the motor carrier
4 safety grant program”; and

5 (v) by adding at the end the following:

6 “(B) LIMITATION.—No reduction under
7 subparagraph (A) shall be made for a fiscal
8 year if, as of October 1 of the fiscal year, the
9 cash balance in the Highway Trust Fund (other
10 than the Mass Transit Account) exceeds
11 \$6,000,000,000.”;

12 (2) in subsection (b)(1), by striking subpara-
13 graph (A) and inserting the following:

14 “(A) the sums authorized to be appro-
15 priated from the Highway Trust Fund (other
16 than the Mass Transit Account) for each of the
17 Federal-aid highway and highway safety con-
18 struction programs (other than the equity
19 bonus program) and for which funds are allo-
20 cated from the Highway Trust Fund by the
21 Secretary under this title and the Safe, Ac-
22 countable, Flexible, and Efficient Transpor-
23 tation Equity Act of 2005; bears to”;

1 (3) in subsection (c), by inserting “the highway
2 safety improvement program,” after “the surface
3 transportation program,”; and

4 (4) by striking subsections (e), (f), and (g).

5 **Subtitle B—New Programs**

6 **SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.**

8 (a) IN GENERAL.—Subchapter I of chapter 1 of title
9 23, United States Code, is amended by inserting after sec-
10 tion 138 the following:

11 **“§ 139. Infrastructure performance and maintenance 12 program**

13 “(a) ESTABLISHMENT.—The Secretary shall estab-
14 lish and implement an infrastructure performance and
15 maintenance program in accordance with this section.

16 “(b) ELIGIBLE PROJECTS.—A State may obligate
17 funds allocated to the State under this section only for
18 projects eligible under the Interstate maintenance pro-
19 gram under section 119, the National Highway System
20 program under section 103, the surface transportation
21 program under section 133, the highway safety improve-
22 ment program under section 148, the highway bridge pro-
23 gram under section 144, and the congestion mitigation
24 and air quality improvement program under section 149
25 that will—

1 “(1) preserve, maintain, or otherwise extend, in
2 a cost-effective manner, the useful life of existing
3 highway infrastructure elements and hurricane evac-
4 uation routes on the Federal-aid system; or

5 “(2) provide operational improvements (includ-
6 ing traffic management and intelligent transpor-
7 tation system strategies and limited capacity en-
8 hancements) at points of recurring highway conges-
9 tion or through transportation systemic changes to
10 manage or ameliorate congestion.

11 “(c) PERIOD OF AVAILABILITY.—

12 “(1) OBLIGATION WITHIN 180 DAYS.—

13 “(A) IN GENERAL.—Funds allocated to a
14 State under this section shall be obligated by
15 the State not later than 180 days after the date
16 of apportionment.

17 “(B) UNOBLIGATED FUNDS.—Any
18 amounts that remain unobligated at the end of
19 that period shall be allocated in accordance with
20 subsection (d).

21 “(2) OBLIGATION BY END OF FISCAL YEAR.—

22 “(A) IN GENERAL.—All funds allocated or
23 reallocated under this section shall remain
24 available for obligation until the last day of the
25 fiscal year for which the funds are apportioned.

1 projects eligible under this section before
2 the end of the fiscal year.

3 “(2) EQUITY BONUS.—The calculation and dis-
4 tribution of funds under section 105 shall be ad-
5 justed as a result of the allocation of funds under
6 this subsection.

7 “(e) FEDERAL SHARE PAYABLE.—The Federal share
8 payable for a project funded under this section shall be
9 determined in accordance with section 120.”.

10 (b) CONFORMING AMENDMENT.—The analysis for
11 chapter 1 of title 23, United States Code, is amended by
12 adding after the item relating to section 138 the following:

“139. Infrastructure performance and maintenance program.”.

13 **SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYS-**
14 **TEM.**

15 (a) DECLARATION OF POLICY.—Section 101 of title
16 23, United States Code, is amended—

17 (1) by striking “(b) It is hereby declared to be”
18 and inserting the following:

19 “(b) DECLARATION OF POLICY.—

20 “(1) ACCELERATION OF CONSTRUCTION OF
21 FEDERAL-AID HIGHWAY SYSTEMS.—Congress de-
22 clares that it is”;

23 (2) in the second paragraph, by striking “It is
24 hereby declared” and inserting the following:

1 “(2) COMPLETION OF INTERSTATE SYSTEM.—
2 Congress declares”; and

3 (3) by striking the last paragraph and inserting
4 the following:

5 “(3) TRANSPORTATION NEEDS OF 21ST CEN-
6 TURY.—Congress declares that—

7 “(A) it is in the national interest to pre-
8 serve and enhance the surface transportation
9 system to meet the needs of the United States
10 for the 21st Century;

11 “(B) the current urban and long distance
12 personal travel and freight movement demands
13 have surpassed the original forecasts and travel
14 demand patterns are expected to change;

15 “(C) continued planning for and invest-
16 ment in surface transportation is critical to en-
17 sure the surface transportation system ade-
18 quately meets the changing travel demands of
19 the future;

20 “(D) among the foremost needs that the
21 surface transportation system must meet to
22 provide for a strong and vigorous national econ-
23 omy are safe, efficient, and reliable—

24 “(i) national and interregional per-
25 sonal mobility (including personal mobility

1 in rural and urban areas) and reduced con-
2 gestion;

3 “(ii) flow of interstate and inter-
4 national commerce and freight transpor-
5 tation; and

6 “(iii) travel movements essential for
7 national security;

8 “(E) special emphasis should be devoted to
9 providing safe and efficient access for the type
10 and size of commercial and military vehicles
11 that access designated National Highway Sys-
12 tem intermodal freight terminals;

13 “(F) it is in the national interest to seek
14 ways to eliminate barriers to transportation in-
15 vestment created by the current modal struc-
16 ture of transportation financing;

17 “(G) the connection between land use and
18 infrastructure is significant;

19 “(H) transportation should play a signifi-
20 cant role in promoting economic growth, im-
21 proving the environment, and sustaining the
22 quality of life; and

23 “(I) the Secretary should take appropriate
24 actions to preserve and enhance the Interstate

1 System to meet the needs of the 21st Cen-
2 tury.”.

3 (b) NATIONAL SURFACE TRANSPORTATION SYSTEM
4 STUDY.—

5 (1) IN GENERAL.—The Secretary shall—

6 (A) conduct a complete investigation and
7 study of the current condition and future needs
8 of the surface transportation system of the
9 United States, including—

- 10 (i) the National Highway System;
11 (ii) the Interstate System;
12 (iii) the strategic highway network;
13 (iv) congressional high priority cor-
14 ridors;
15 (v) intermodal connectors;
16 (vi) freight facilities;
17 (vii) navigable waterways;
18 (viii) mass transportation;
19 (ix) freight and intercity passenger
20 rail infrastructure and facilities; and
21 (x) surface access to airports; and

22 (B) develop a conceptual plan, with alter-
23 native approaches, for the future to ensure that
24 the surface transportation system will continue
25 to serve the needs of the United States, includ-

1 ing specific recommendations regarding design
2 and operational standards, Federal policies, and
3 legislative changes.

4 (2) SPECIFIC ISSUES.—In conducting the inves-
5 tigation and study, the Secretary shall specifically
6 address—

7 (A) the current condition and performance
8 of the Interstate System (including the physical
9 condition of bridges and pavements and oper-
10 ational characteristics and performance), rely-
11 ing primarily on existing data sources;

12 (B) the future of the Interstate System,
13 based on a range of legislative and policy ap-
14 proaches for 15-, 30-, and 50-year time periods;

15 (C) the expected demographics and busi-
16 ness uses that impact the surface transpor-
17 tation system;

18 (D) the expected use of the surface trans-
19 portation system, including the effects of chang-
20 ing vehicle types, modes of transportation, fleet
21 size and weights, and traffic volumes;

22 (E) desirable design policies and standards
23 for future improvements of the surface trans-
24 portation system, including additional access
25 points;

1 (F) the identification of urban, rural, na-
2 tional, and interregional needs for the surface
3 transportation system;

4 (G) the potential for expansion, upgrades,
5 or other changes to the surface transportation
6 system, including—

7 (i) deployment of advanced materials
8 and intelligent technologies;

9 (ii) critical multistate, urban, and
10 rural corridors needing capacity, safety,
11 and operational enhancements;

12 (iii) improvements to intermodal link-
13 ages;

14 (iv) security and military deployment
15 enhancements;

16 (v) strategies to enhance asset preser-
17 vation; and

18 (vi) implementation strategies;

19 (H) the improvement of emergency pre-
20 paredness and evacuation using the surface
21 transportation system, including—

22 (i) examination of the potential use of
23 all modes of the surface transportation sys-
24 tem in the safe and efficient evacuation of
25 citizens during times of emergency;

1 (ii) identification of the location of
2 critical bottlenecks; and

3 (iii) development of strategies to im-
4 prove system redundancy, especially in
5 areas with a high potential for terrorist at-
6 tacks;

7 (I) alternatives for addressing environ-
8 mental concerns associated with the future de-
9 velopment of the surface transportation system;

10 (J) the evaluation and assessment of the
11 current and future capabilities for conducting
12 system-wide real-time performance data collec-
13 tion and analysis, traffic monitoring, and trans-
14 portation systems operations and management;
15 and

16 (K) a range of policy and legislative alter-
17 natives for addressing future needs for the sur-
18 face transportation system, including funding
19 needs and potential approaches to provide
20 funds.

21 (3) TECHNICAL ADVISORY COMMITTEE.—The
22 Secretary shall establish a technical advisory com-
23 mittee, in a manner consistent with the Federal Ad-
24 visory Committee Act (5 U.S.C. App.), to collect and
25 evaluate technical input from—

- 1 (A) the Department of Defense;
- 2 (B) appropriate Federal, State, and local
3 officials with responsibility for transportation;
- 4 (C) appropriate State and local elected of-
5 ficials;
- 6 (D) transportation and trade associations;
- 7 (E) emergency management officials;
- 8 (F) freight providers;
- 9 (G) the general public; and
- 10 (H) other entities and persons determined
11 appropriate by the Secretary to ensure a diverse
12 range of views.

13 (4) REPORT.—Not later than 4 years after the
14 date of enactment of this Act, the Secretary shall
15 submit to the Committee on Environment and Pub-
16 lic Works of the Senate and the Committee on
17 Transportation and Infrastructure of the House of
18 Representatives, and make readily available to the
19 public, a report on the results of the investigation
20 and study conducted under this subsection.

21 **SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS;**
22 **FREIGHT INTERMODAL CONNECTIONS.**

23 (a) FREIGHT TRANSPORTATION GATEWAYS.—Chap-
24 ter 3 of title 23, United States Code, is amended by add-
25 ing at the end the following:

1 **“§ 325. Freight transportation gateways**

2 “(a) IN GENERAL.—

3 “(1) ESTABLISHMENT.—The Secretary shall es-
4 tablish a freight transportation gateways program to
5 improve productivity, security, and safety of freight
6 transportation gateways, while mitigating congestion
7 and community impacts in the area of the gateways.

8 “(2) PURPOSES.—The purposes of the freight
9 transportation gateways program shall be—

10 “(A) to facilitate and support multimodal
11 freight transportation initiatives at the State
12 and local levels in order to improve freight
13 transportation gateways and mitigate the im-
14 pact of congestion on the environment in the
15 area of the gateways;

16 “(B) to provide capital funding to address
17 infrastructure and freight operational needs at
18 freight transportation gateways;

19 “(C) to encourage adoption of new financ-
20 ing strategies to leverage State, local, and pri-
21 vate investment in freight transportation gate-
22 ways;

23 “(D) to facilitate access to intermodal
24 freight transfer facilities; and

25 “(E) to increase economic efficiency by fa-
26 cilitating the movement of goods.

1 “(b) STATE RESPONSIBILITIES.—

2 “(1) PROJECT DEVELOPMENT PROCESS.—Each
3 State, in coordination with metropolitan planning or-
4 ganizations, shall ensure that intermodal freight
5 transportation, trade facilitation, and economic de-
6 velopment needs are adequately considered and fully
7 integrated into the project development process, in-
8 cluding transportation planning through final design
9 and construction of freight-related transportation
10 projects.

11 “(2) FREIGHT TRANSPORTATION COORDI-
12 NATOR.—

13 “(A) IN GENERAL.—Each State shall des-
14 ignate a freight transportation coordinator.

15 “(B) DUTIES.—The coordinator shall—

16 “(i) foster public and private sector
17 collaboration needed to implement complex
18 solutions to freight transportation and
19 freight transportation gateway problems,
20 including—

21 “(I) coordination of metropolitan
22 and statewide transportation activities
23 with trade and economic interests;

24 “(II) coordination with other
25 States, agencies, and organizations to

1 find regional solutions to freight
2 transportation problems; and

3 “(III) coordination with local of-
4 ficials of the Department of Defense
5 and the Department of Homeland Se-
6 curity, and with other organizations,
7 to develop regional solutions to mili-
8 tary and homeland security transpor-
9 tation needs; and

10 “(ii) promote programs that build
11 professional capacity to better plan, coordi-
12 nate, integrate, and understand freight
13 transportation needs for the State.

14 “(c) INNOVATIVE FINANCE STRATEGIES.—

15 “(1) IN GENERAL.—States and localities are
16 encouraged to adopt innovative financing strategies
17 for freight transportation gateway improvements,
18 including—

19 “(A) new user fees;

20 “(B) modifications to existing user fees, in-
21 cluding trade facilitation charges;

22 “(C) revenue options that incorporate pri-
23 vate sector investment; and

24 “(D) a blending of Federal-aid and innova-
25 tive finance programs.

1 “(2) TECHNICAL ASSISTANCE.—The Secretary
2 shall provide technical assistance to States and local-
3 ities with respect to the strategies.

4 “(d) INTERMODAL FREIGHT TRANSPORTATION
5 PROJECTS.—

6 “(1) USE OF SURFACE TRANSPORTATION PRO-
7 GRAM FUNDS.—A State may obligate funds appor-
8 tioned to the State under section 104(b)(3) for pub-
9 licly-owned intermodal freight transportation
10 projects that provide community and highway bene-
11 fits by addressing economic, congestion, system reli-
12 ability, security, safety, or environmental issues as-
13 sociated with freight transportation gateways.

14 “(2) ELIGIBLE PROJECTS.—A project eligible
15 for funding under this section—

16 “(A) may include publicly-owned inter-
17 modal freight transfer facilities, access to the
18 facilities, and operational improvements for the
19 facilities (including capital investment for intel-
20 ligent transportation systems), except that
21 projects located within the boundaries of port
22 terminals shall only include the surface trans-
23 portation infrastructure modifications necessary
24 to facilitate direct intermodal interchange,

1 transfer, and access into and out of the port;
2 and

3 “(B) may involve the combining of private
4 and public funds.”.

5 (b) ELIGIBILITY FOR SURFACE TRANSPORTATION
6 PROGRAM FUNDS.—Section 133(b) of title 23, United
7 States Code, is amended by inserting after paragraph (11)
8 the following:

9 “(12) Intermodal freight transportation projects
10 in accordance with section 325(d)(2).”.

11 (c) FREIGHT INTERMODAL CONNECTIONS TO
12 NHS.—Section 103(b) of title 23, United States Code, is
13 amended by adding at the end the following:

14 “(7) FREIGHT INTERMODAL CONNECTIONS TO
15 THE NHS.—

16 “(A) FUNDING SET-ASIDE.—Of the funds
17 apportioned to a State for each fiscal year
18 under section 104(b)(1), an amount determined
19 in accordance with subparagraph (B) shall only
20 be available to the State to be obligated for
21 projects on—

22 “(i) National Highway System routes
23 connecting to intermodal freight terminals
24 identified according to criteria specified in
25 the report to Congress entitled ‘Pulling To-

1 National Highway System in the
2 State; or

3 “(ii) 2 percent of the annual appor-
4 tionment to the State of funds under
5 104(b)(1).

6 “(C) EXEMPTION FROM SET-ASIDE.—For
7 any fiscal year, a State may obligate the funds
8 otherwise set aside by this paragraph for any
9 project that is eligible under paragraph (6) and
10 is located in the State on a segment of the Na-
11 tional Highway System specified in paragraph
12 (2), if the State certifies and the Secretary con-
13 curs that—

14 “(i) the designated National Highway
15 System intermodal connectors described in
16 subparagraph (A) are in good condition
17 and provide an adequate level of service for
18 military vehicle and civilian commercial ve-
19 hicle use; and

20 “(ii) significant needs on the des-
21 ignated National Highway System inter-
22 modal connectors are being met or do not
23 exist.”.

1 (d) FEDERAL SHARE PAYABLE.—Section 120 of title
2 23, United States Code, is amended by adding at the end
3 the following:

4 “(m) INCREASED FEDERAL SHARE FOR CONNEC-
5 TORS.—In the case of a project to support a National
6 Highway System intermodal freight connection or stra-
7 tegic highway network connector to a strategic military
8 deployment port described in section 103(b)(7), except as
9 otherwise provided in section 120, the Federal share of
10 the total cost of the project shall be 90 percent.”.

11 (e) LENGTH LIMITATIONS.—Section 31111(e) of title
12 49, United States Code, is amended—

13 (1) by striking “The” and inserting the fol-
14 lowing:

15 “(1) IN GENERAL.—The”; and

16 (2) by adding at the end the following:

17 “(2) LENGTH LIMITATIONS.—In the interests of
18 economic competitiveness, security, and intermodal
19 connectivity, not later than 3 years after the date of
20 enactment of this paragraph, States shall update the
21 list of those qualifying highways to include—

22 “(A) strategic highway network connectors
23 to strategic military deployment ports; and

24 “(B) National Highway System intermodal
25 freight connections serving military and com-

1 merchial truck traffic going to major intermodal
2 terminals as described in section
3 103(b)(7)(A)(i).”.

4 (f) CONFORMING AMENDMENT.—The analysis of
5 chapter 3 of title 23, United States Code, is amended by
6 adding at the end the following:

“325. Freight transportation gateways.”.

7 **SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY**
8 **TERMINAL AND MAINTENANCE FACILITIES;**
9 **COORDINATION OF FERRY CONSTRUCTION**
10 **AND MAINTENANCE.**

11 (a) IN GENERAL.—Section 147 of title 23, United
12 States Code, is amended to read as follows:

13 **“§ 147. Construction of ferry boats and ferry terminal**
14 **and maintenance facilities; coordination**
15 **of ferry construction and maintenance**

16 “(a) CONSTRUCTION OF FERRY BOATS AND FERRY
17 TERMINAL FACILITIES.—

18 “(1) IN GENERAL.—The Secretary shall carry
19 out a program for construction of ferry boats and
20 ferry terminal facilities in accordance with section
21 129(c).

22 “(2) FEDERAL SHARE.—The Federal share of
23 the cost of construction of ferry boats and ferry ter-
24 minals and maintenance facilities under this sub-
25 section shall be 80 percent.

1 “(3) ALLOCATION OF FUNDS.—The Secretary
2 shall give priority in the allocation of funds under
3 this subsection to those ferry systems, and public en-
4 tities responsible for developing ferries, that—

5 “(A) carry the greatest number of pas-
6 sengers and vehicles;

7 “(B) carry the greatest number of pas-
8 sengers in passenger-only service; or

9 “(C) provide critical access to areas that
10 are not well-served by other modes of surface
11 transportation.

12 “(b) NON-CONTRACT AUTHORITY AUTHORIZATION
13 OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There are authorized to be
15 appropriated from the Highway Trust Fund (other
16 than the Mass Transit Account) \$54,154,424 for
17 each fiscal year to carry out this section.

18 “(2) AVAILABILITY.—Notwithstanding section
19 118(a), funds made available under paragraph (1)
20 shall be available in advance of an annual appropria-
21 tion.”.

22 “(b) CONFORMING AMENDMENTS.—

23 “(1) The analysis for subchapter I of chapter 1
24 of title 23, United States Code, is amended by strik-

1 ing the item relating to section 147 and inserting
2 the following:

 “147. Construction of ferry boats and ferry terminal and maintenance facilities.”.

3 (2) Section 1064 of the Intermodal Surface
4 Transportation Efficiency Act of 1991 (105 Stat.
5 2005) is repealed.

6 **SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.**

7 (a) DESIGNATION OF DANIEL PATRICK MOYNIHAN
8 INTERSTATE HIGHWAY.—

9 (1) DESIGNATION.—Interstate Route 86 in the
10 State of New York, extending from the Pennsylvania
11 border near Lake Erie through Orange County, New
12 York, shall be known and designated as the “Daniel
13 Patrick Moynihan Interstate Highway”.

14 (2) REFERENCES.—Any reference in a law,
15 map, regulation, document, paper, or other record of
16 the United States to the highway referred to in
17 paragraph (1) shall be deemed to be a reference to
18 the Daniel Patrick Moynihan Interstate Highway.

19 (b) DESIGNATION OF AMO HOUGHTON BYPASS.—

20 (1) DESIGNATION.—The 3-mile segment of
21 Interstate Route 86 between the interchange of
22 Interstate Route 86 with New York State Route 15
23 in the vicinity of Painted Post, New York, and the
24 interchange of Interstate Route 86 with New York

1 State Route 414 in the vicinity of Corning, New
2 York, shall be known and designated as the “Amo
3 Houghton Bypass”.

4 (2) REFERENCES.—Any reference in a law,
5 map, regulation, document, paper, or other record of
6 the United States to the highway referred to in
7 paragraph (1) shall be deemed to be a reference to
8 the Amo Houghton Bypass.

9 **SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY**
10 **CONSTRUCTION COSTS.**

11 (a) COLLECTION OF DATA.—

12 (1) IN GENERAL.—The Administrator of the
13 Federal Highway Administration (referred to in this
14 section as the “Administrator”) shall collect from
15 States any bid price data that is necessary to make
16 State-by-State comparisons of highway construction
17 costs.

18 (2) DATA REQUIRED.—In determining which
19 data to collect and the procedures for collecting
20 data, the Administrator shall take into account the
21 data collection deficiencies identified in the report
22 prepared by the General Accounting Office num-
23 bered GAO–04–113R.

24 (b) REPORT.—

1 (1) IN GENERAL.—The Administrator shall
2 submit to Congress an annual report on the bid
3 price data collected under subsection (a).

4 (2) INCLUSIONS.—The report shall include—

5 (A) State-by-State comparisons of highway
6 construction costs for the previous fiscal year
7 (including the cost to construct a 1-mile road
8 segment of a standard design, as determined by
9 the Administrator); and

10 (B) a description of the competitive bid-
11 ding procedures used in each State; and

12 (C) a determination by Administrator as to
13 whether the competitive bidding procedures de-
14 scribed under subparagraph (B) are effective.

15 (e) INNOVATIVE AND COST-EFFECTIVE MATE-
16 RIALS.—The Secretary shall encourage and provide incen-
17 tives to States to make maximum use of innovative and
18 cost-effective materials and products in highway construc-
19 tion.

20 **Subtitle C—Finance**

21 **SEC. 1301. FEDERAL SHARE.**

22 Section 120 of title 23, United States Code, is
23 amended—

24 (1) in subsection (a), by striking paragraph (1)
25 and inserting the following:

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this chapter, the Federal share payable on
3 account of any project on the Interstate System (in-
4 cluding a project to add high occupancy vehicle lanes
5 and a project to add auxiliary lanes but excluding a
6 project to add any other lanes) shall be 90 percent
7 of the total cost of the project.”;

8 (2) in subsection (b)—

9 (A) by striking “Except as otherwise” and
10 inserting the following:

11 “(1) IN GENERAL.—Except as otherwise”;

12 (B) by striking “shall be—” and all that
13 follows and inserting “shall be 80 percent of the
14 cost of the project.”; and

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

16 “(2) STATE-DETERMINED LOWER FEDERAL
17 SHARE.—In the case of any project subject to this
18 subsection, a State may determine a lower Federal
19 share than the Federal share determined under
20 paragraph (1).”;

21 (3) by striking subsection (d) and inserting the
22 following:

23 “(d) INCREASED FEDERAL SHARE.—

24 “(1) IN GENERAL.—The Federal share payable
25 under subsection (a) or (b) may be increased for

1 projects and activities in each State in which is
2 located—

3 “(A) nontaxable Indian land;

4 “(B) public land (reserved or unreserved);

5 “(C) a national forest; or

6 “(D) a national park or monument.

7 “(2) AMOUNT.—

8 “(A) IN GENERAL.—The Federal share for
9 States described in paragraph (1) shall be in-
10 creased by a percentage of the remaining cost
11 that—

12 “(i) is equal to the percentage that—

13 “(I) the area of all land described
14 in paragraph (1) in a State; bears to

15 “(II) the total area of the State;

16 but

17 “(ii) does not exceed 95 percent of the
18 total cost of the project or activity for
19 which the Federal share is provided.

20 “(B) ADJUSTMENT.—The Secretary shall
21 adjust the Federal share for States under sub-
22 paragraph (A) as the Secretary determines nec-
23 essary, on the basis of data provided by the
24 Federal agencies that are responsible for main-
25 taining the data.”.

1 **SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

2 Section 104 of title 23, United States Code, is
3 amended by striking subsection (k) and inserting the fol-
4 lowing:

5 “(k) TRANSFER OF HIGHWAY AND TRANSIT
6 FUNDS.—

7 “(1) TRANSFER OF HIGHWAY FUNDS FOR
8 TRANSIT PROJECTS.—

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

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

18 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
19 WAY PROJECTS.—Funds made available for highway
20 projects or transportation planning under chapter 53
21 of title 49 may be transferred to and administered
22 by the Secretary in accordance with this title.

23 “(3) TRANSFER OF HIGHWAY FUNDS TO OTHER
24 FEDERAL AGENCIES.—

25 “(A) IN GENERAL.—Except as provided in
26 clauses (i) and (ii) and subparagraph (B),

1 funds made available under this title or any
2 other Act that are derived from Highway Trust
3 Fund (other than the Mass Transit account)
4 may be transferred to another Federal agency
5 if—

6 “(i)(I) an expenditure is specifically
7 authorized in Federal-aid highway legisla-
8 tion or as a line item in an appropriation
9 act; or

10 “(II) a State transportation depart-
11 ment consents to the transfer of funds;

12 “(ii) the Secretary determines, after
13 consultation with the State transportation
14 department (as appropriate), that the Fed-
15 eral agency should carry out a project with
16 the funds; and

17 “(iii) the other Federal agency agrees
18 to accept the transfer of funds and to ad-
19 minister the project.

20 “(B) ADMINISTRATION.—

21 “(i) PROCEDURES.—A project carried
22 out with funds transferred to a Federal
23 agency under subparagraph (A) shall be
24 administered by the Federal agency under
25 the procedures of the Federal agency.

1 “(ii) APPROPRIATIONS.—Funds trans-
2 ferred to a Federal agency under subpara-
3 graph (A) shall not be considered an aug-
4 mentation of the appropriations of the
5 Federal agency.

6 “(iii) NON-FEDERAL SHARE.—The
7 provisions of this title, or an Act described
8 in subparagraph (A), relating to the non-
9 Federal share shall apply to a project car-
10 ried out with the transferred funds, unless
11 the Secretary determines that it is in the
12 best interest of the United States that the
13 non-Federal share be waived.

14 “(4) TRANSFER OF FUNDS AMONG STATES OR
15 TO FEDERAL HIGHWAY ADMINISTRATION.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (B) through (D), the Secretary may, at
18 the request of a State, transfer funds appor-
19 tioned or allocated to the State to another
20 State, or to the Federal Highway Administra-
21 tion, for the purpose of funding 1 or more spe-
22 cific projects.

23 “(B) ADMINISTRATION.—The transferred
24 funds shall be used for the same purpose and

1 in the same manner for which the transferred
2 funds were authorized.

3 “(C) APPORTIONMENT.—The transfer
4 shall have no effect on any apportionment for-
5 mula used to distribute funds to States under
6 this section or section 105 or 144.

7 “(D) SURFACE TRANSPORTATION PRO-
8 GRAM.—Funds that are apportioned or allo-
9 cated to a State under subsection (b)(3) and at-
10 tributed to an urbanized area of a State with
11 a population of over 200,000 individuals under
12 section 133(d)(2) may be transferred under this
13 paragraph only if the metropolitan planning or-
14 ganization designated for the area concurs, in
15 writing, with the transfer request.

16 “(5) TRANSFER OF OBLIGATION AUTHORITY.—
17 Obligation authority for funds transferred under this
18 subsection shall be transferred in the same manner
19 and amount as the funds for the projects are trans-
20 ferred under this subsection.”.

21 **SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE**
22 **AND INNOVATION ACT AMENDMENTS.**

23 (a) DEFINITIONS.—Section 181 of title 23, United
24 States Code, is amended—

1 for an intelligent transportation sys-
2 tem); or

3 “(II) comprises a series of projects
4 described in subclause (I) with the com-
5 mon objective of improving the flow of
6 goods;

7 “(ii) may involve the combining of pri-
8 vate and public sector funds, including in-
9 vestment of public funds in private sector
10 facility improvements; and

11 “(iii) if located within the boundaries
12 of a port terminal, includes only such sur-
13 face transportation infrastructure modi-
14 fications as are necessary to facilitate di-
15 rect intermodal interchange, transfer, and
16 access into and out of the port.”; and

17 (4) in paragraph (10) (as redesignated by para-
18 graph (2)) by striking “bond” and inserting “cred-
19 it”.

20 (b) DETERMINATION OF ELIGIBILITY AND PROJECT
21 SELECTION.—Section 182 of title 23, United States Code,
22 is amended—

23 (1) in subsection (a)—

24 (A) by striking paragraphs (1) and (2) and
25 inserting the following:

1 “(1) INCLUSION IN TRANSPORTATION PLANS
2 AND PROGRAMS.—The project shall satisfy the appli-
3 cable planning and programming requirements of
4 sections 134 and 135 at such time as an agreement
5 to make available a Federal credit instrument is en-
6 tered into under this subchapter.

7 “(2) APPLICATION.—A State, local government,
8 public authority, public-private partnership, or any
9 other legal entity undertaking the project and au-
10 thorized by the Secretary shall submit a project ap-
11 plication to the Secretary.”;

12 (B) in paragraph (3)(A)—

13 (i) in clause (i), by striking
14 “\$100,000,000” and inserting
15 “\$50,000,000”; and

16 (ii) in clause (ii), by striking “50”
17 and inserting “20”; and

18 (C) in paragraph (4)—

19 (i) by striking “Project financing”
20 and inserting “The Federal credit instru-
21 ment”; and

22 (ii) by inserting before the period at
23 the end the following: “that also secure the
24 project obligations”; and

25 (2) in subsection (b)—

1 (A) in paragraph (1), by striking “criteria”
2 the second place it appears and inserting “re-
3 quirements”; and

4 (B) in paragraph (2)(B), by inserting
5 “(which may be the Federal credit instrument)”
6 after “obligations”.

7 (c) SECURED LOANS.—Section 183 of title 23,
8 United States Code, is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) by striking “of any project selected
12 under section 182.” at the end;

13 (ii) in subparagraphs (A) and (B), by
14 inserting “of any project selected under
15 section 182” after “costs” ; and

16 (iii) in subparagraph (B), by striking
17 the semicolon at the end and inserting a
18 period; and

19 (B) in paragraph (4)—

20 (i) by striking “funding” and insert-
21 ing “execution”; and

22 (ii) by striking “rating,” and all that
23 follows and inserting a period;

24 (2) in subsection (b)—

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

3 “(2) MAXIMUM AMOUNT.—The amount of the
4 secured loan shall not exceed the lesser of—

5 “(A) 33 percent of the reasonably antici-
6 pated eligible project costs; or

7 “(B) the amount of the senior project obli-
8 gations.”;

9 (B) in paragraph (3)(A)(i), by inserting
10 “that also secure the senior project obligations”
11 after “sources”; and

12 (C) in paragraph (4), by striking “market-
13 able”; and

14 (3) in subsection (c)—

15 (A) by striking paragraph (3);

16 (B) by redesignating paragraphs (4) and
17 (5) as paragraphs (3) and (4), respectively; and

18 (C) in paragraph (3) (as redesignated by
19 subparagraph (B))—

20 (i) in subparagraph (A), by striking
21 “during the 10 years”; and

22 (ii) in subparagraph (B)(ii), by strik-
23 ing “loan” and all that follows and insert-
24 ing “loan.”.

1 (d) LINES OF CREDIT.—Section 184 of title 23,
2 United States Code, is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (3), by striking “interest,
5 any debt service reserve fund, and any other
6 available reserve” and inserting “interest (but
7 not including reasonably required financing re-
8 serves)”;

9 (B) in paragraph (4), by striking “market-
10 able United States Treasury securities as of the
11 date on which the line of credit is obligated”
12 and inserting “ United States Treasury securi-
13 ties as of the date of execution of the line of
14 credit agreement”; and

15 (C) in paragraph (5)(A)(i), by inserting
16 “that also secure the senior project obligations”
17 after “sources”; and

18 (2) in subsection (c)—

19 (A) in paragraph (2)—

20 (i) by striking “scheduled”;

21 (ii) by inserting “be scheduled to”
22 after “shall”; and

23 (iii) by striking “be fully repaid, with
24 interest,” and inserting “to conclude, with

1 full repayment of principal and interest,”;

2 and

3 (B) by striking paragraph (3).

4 (e) PROGRAM ADMINISTRATION.—Section 185 of title
5 23, United States Code, is amended to read as follows:

6 **“§ 185. Program administration**

7 “(a) REQUIREMENT.—The Secretary shall establish
8 a uniform system to service the Federal credit instruments
9 made available under this subchapter.

10 “(b) FEES.—The Secretary may establish fees at a
11 level to cover all or a portion of the costs to the Federal
12 government of servicing the Federal credit instruments.

13 “(c) SERVICER.—

14 “(1) IN GENERAL.—The Secretary may appoint
15 a financial entity to assist the Secretary in servicing
16 the Federal credit instruments.

17 “(2) DUTIES.—The servicer shall act as the
18 agent for the Secretary.

19 “(3) FEE.—The servicer shall receive a serv-
20 icing fee, subject to approval by the Secretary.

21 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
22 retary may retain the services of expert firms, including
23 counsel, in the field of municipal and project finance to
24 assist in the underwriting and servicing of Federal credit
25 instruments.”.

1 (f) FUNDING.—Section 188 of title 23, United States
2 Code, is amended to read as follows:

3 **“§ 188. Funding**

4 “(a) FUNDING.—

5 “(1) IN GENERAL.—There is authorized to be
6 appropriated from the Highway Trust Fund (other
7 than the Mass Transit Account) to carry out this
8 subchapter \$116,100,629 for each of fiscal years
9 2005 through 2009.

10 “(2) ADMINISTRATIVE COSTS.—Of amounts
11 made available under paragraph (1), the Secretary
12 may use for the administration of this subchapter
13 not more than \$1,786,164 for each of fiscal years
14 2005 through 2009.

15 “(3) COLLECTED FEES AND SERVICES.—In ad-
16 dition to funds provided under paragraph (2)—

17 “(A) all fees collected under this sub-
18 chapter shall be made available without further
19 appropriation to the Secretary until expended,
20 for use in administering this subchapter; and

21 “(B) the Secretary may accept and use
22 payment or services provided by transaction
23 participants, or third parties that are paid by
24 participants from transaction proceeds, for due
25 diligence, legal, financial, or technical services.

1 “(4) AVAILABILITY.—Amounts made available
2 under paragraph (1) shall remain available until ex-
3 pended.

4 “(b) CONTRACT AUTHORITY.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law, approval by the Secretary of a Fed-
7 eral credit instrument that uses funds made avail-
8 able under this subchapter shall be deemed to be ac-
9 ceptance by the United States of a contractual obli-
10 gation to fund the Federal credit investment.

11 “(2) AVAILABILITY.—Amounts authorized
12 under this section for a fiscal year shall be available
13 for obligation on October 1 of the fiscal year.”.

14 (g) REPEAL.—Section 189 of title 23, United States
15 code, is repealed.

16 (h) CONFORMING AMENDMENTS.—The analysis for
17 chapter 1 of title 23, United States Code, is amended—

18 (1) by striking the item relating to section 185
19 and inserting the following:

 “185. Program administration.”;

20 and

21 (2) by striking the item relating to section 189.

1 **SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRA-**
2 **TION PLANS AND INTERNATIONAL FUEL TAX**
3 **AGREEMENTS.**

4 (a) IN GENERAL.—Chapter 317 of title 49, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 31708. Facilitation of international registration**
8 **plans and international fuel tax agree-**
9 **ments**

10 “The Secretary may provide assistance to any State
11 that is participating in the International Registration Plan
12 and International Fuel Tax Agreement, as provided in sec-
13 tions 31704 and 31705, respectively, and that serves as
14 a base jurisdiction for motor carriers that are domiciled
15 in Mexico, to assist the State with administrative costs
16 resulting from serving as a base jurisdiction for motor car-
17 riers from Mexico.”.

18 (b) CONFORMING AMENDMENT.—The analysis for
19 chapter 317 of title 49, United States Code, is amended
20 by adding at the end the following:

“31708. Facilitation of international registration plans and international fuel
tax agreements.”.

1 **SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE**
2 **SOURCES TO SUPPORT THE HIGHWAY TRUST**
3 **FUND AND FINANCE THE NEEDS OF THE SUR-**
4 **FACE TRANSPORTATION SYSTEM.**

5 (a) ESTABLISHMENT.—There is established a com-
6 mission to be known as the “National Commission on Fu-
7 ture Revenue Sources to Support the Highway Trust
8 Fund and Finance the Needs of the Surface Transpor-
9 tation System” (referred to in this section as the “Com-
10 mission”).

11 (b) MEMBERSHIP.—

12 (1) COMPOSITION.—The Commission shall be
13 composed of 11 members, of whom—

14 (A) 3 members shall be appointed by the
15 President;

16 (B) 2 members shall be appointed by the
17 Speaker of the House of Representatives;

18 (C) 2 members shall be appointed by the
19 minority leader of the House of Representa-
20 tives;

21 (D) 2 members shall be appointed by the
22 majority leader of the Senate; and

23 (E) 2 members shall be appointed by the
24 minority leader of the Senate.

1 (2) QUALIFICATIONS.—Members appointed
2 under paragraph (1) shall have experience in or rep-
3 resent the interests of—

4 (A) public finance, including experience in
5 developing State and local revenue resources;

6 (B) surface transportation program admin-
7 istration;

8 (C) organizations that use surface trans-
9 portation facilities;

10 (D) academic research into related issues;

11 or

12 (E) other activities that provide unique
13 perspectives on current and future requirements
14 for revenue sources to support the Highway
15 Trust Fund.

16 (3) DATE OF APPOINTMENTS.—The appoint-
17 ment of a member of the Commission shall be made
18 not later than 120 days after the date of establish-
19 ment of the Commission.

20 (4) TERMS.—A member shall be appointed for
21 the life of the Commission.

22 (5) VACANCIES.—A vacancy on the
23 Commission—

24 (A) shall not affect the powers of the Com-
25 mission; and

1 (B) shall be filled in the same manner as
2 the original appointment was made.

3 (6) INITIAL MEETING.—Not later than 30 days
4 after the date on which all members of the Commis-
5 sion have been appointed, the Commission shall hold
6 the initial meeting of the Commission.

7 (7) MEETINGS.—The Commission shall meet at
8 the call of the Chairperson.

9 (8) QUORUM.—A majority of the members of
10 the Commission shall constitute a quorum, but a
11 lesser number of members may hold hearings.

12 (9) CHAIRPERSON AND VICE CHAIRPERSON.—
13 The Commission shall select a Chairperson and Vice
14 Chairperson from among the members of the Com-
15 mission.

16 (c) DUTIES.—

17 (1) IN GENERAL.—The Commission shall—

18 (A) conduct a comprehensive study of al-
19 ternatives to replace or to supplement the fuel
20 tax as the principal revenue source to support
21 the Highway Trust Fund and suggest new or
22 alternative sources of revenue to fund the needs
23 of the surface transportation system over at
24 least the next 30 years;

1 (B) conduct the study in a manner that
2 builds on—

3 (i) findings, conclusions, and rec-
4 ommendations of the recent study con-
5 ducted by the Transportation Research
6 Board on alternatives to the fuel tax to
7 support highway program financing; and

8 (ii) other relevant prior research;

9 (C) consult with the Secretary and the
10 Secretary of the Treasury in conducting the
11 study to ensure that the views of the Secre-
12 taries concerning essential attributes of High-
13 way Trust Fund revenue alternatives are con-
14 sidered;

15 (D) consult with representatives of State
16 Departments of Transportation and metropoli-
17 tan planning organizations and other key inter-
18 ested stakeholders in conducting the study to
19 ensure that—

20 (i) the views of the stakeholders on al-
21 ternative revenue sources to support State
22 transportation improvement programs are
23 considered; and

1 (ii) any recommended Federal financ-
2 ing strategy takes into account State fi-
3 nancial requirements; and

4 (E) based on the study, make specific rec-
5 ommendations regarding—

6 (i) actions that should be taken to de-
7 velop alternative revenue sources to sup-
8 port the Highway Trust Fund; and

9 (ii) the time frame for taking those
10 actions.

11 (2) SPECIFIC MATTERS.—The study shall ad-
12 dress specifically—

13 (A) the advantages and disadvantages of
14 alternative revenue sources to meet anticipated
15 Federal surface transportation financial re-
16 quirements;

17 (B) recommendations concerning the most
18 promising revenue sources to support long-term
19 Federal surface transportation financing re-
20 quirements;

21 (C) development of a broad transition
22 strategy to move from the current tax base to
23 new funding mechanisms, including the time
24 frame for various components of the transition
25 strategy;

1 (D) recommendations for additional re-
2 search that may be needed to implement rec-
3 ommended alternatives; and

4 (E) the extent to which revenues should re-
5 flect the relative use of the highway system.

6 (3) RELATED WORK.—To the maximum extent
7 practicable, the study shall build on related work
8 that has been done by—

9 (A) the Secretary of Transportation;

10 (B) the Secretary of Energy;

11 (C) the Transportation Research Board;

12 and

13 (D) other entities and persons.

14 (4) FACTORS.—In developing recommendations
15 under this subsection, the Commission shall
16 consider—

17 (A) the ability to generate sufficient reve-
18 nues from all modes to meet anticipated long-
19 term surface transportation financing needs;

20 (B) the roles of the various levels of gov-
21 ernment and the private sector in meeting fu-
22 ture surface transportation financing needs;

23 (C) administrative costs (including enforce-
24 ment costs) to implement each option;

1 (D) the expected increase in non-taxed
2 fuels and the impact of taxing those fuels;

3 (E) the likely technological advances that
4 could ease implementation of each option;

5 (F) the equity and economic efficiency of
6 each option;

7 (G) the flexibility of different options to
8 allow various pricing alternatives to be imple-
9 mented; and

10 (H) potential compatibility issues with
11 State and local tax mechanisms under each al-
12 ternative.

13 (5) REPORT AND RECOMMENDATIONS.—Not
14 later than September 30, 2007, the Commission
15 shall submit to Congress a final report that
16 contains—

17 (A) a detailed statement of the findings
18 and conclusions of the Commission; and

19 (B) the recommendations of the Commis-
20 sion for such legislation and administrative ac-
21 tions as the Commission considers appropriate.

22 (d) POWERS.—

23 (1) HEARINGS.—The Commission may hold
24 such hearings, meet and act at such times and
25 places, take such testimony, and receive such evi-

1 dence as the Commission considers advisable to
2 carry out this section.

3 (2) INFORMATION FROM FEDERAL AGENCIES.—

4 (A) IN GENERAL.—The Commission may
5 secure directly from a Federal agency such in-
6 formation as the Commission considers nec-
7 essary to carry out this section.

8 (B) PROVISION OF INFORMATION.—On re-
9 quest of the Chairperson of the Commission,
10 the head of the agency shall provide the infor-
11 mation to the Commission.

12 (3) POSTAL SERVICES.—The Commission may
13 use the United States mails in the same manner and
14 under the same conditions as other agencies of the
15 Federal Government.

16 (4) DONATIONS.—The Commission may accept,
17 use, and dispose of donations of services or property.

18 (e) COMMISSION PERSONNEL MATTERS.—

19 (1) MEMBERS.—A member of the Commission
20 shall serve without pay but shall be allowed travel
21 expenses, including per diem in lieu of subsistence,
22 at rates authorized for an employee of an agency
23 under subchapter I of chapter 57 of title 5, United
24 States Code, while away from the home or regular

1 place of business of the member in the performance
2 of the duties of the Commission.

3 (2) CONTRACTOR.—The Commission may con-
4 tract with an appropriate organization, agency, or
5 entity to conduct the study required under this sec-
6 tion, under the strategic guidance of the Commis-
7 sion.

8 (3) ADMINISTRATIVE SUPPORT.—On the re-
9 quest of the Commission, the Administrator of the
10 Federal Highway Administration shall provide to the
11 Commission, on a reimbursable basis, the adminis-
12 trative support and services necessary for the Com-
13 mission to carry out the duties of the Commission
14 under this section.

15 (4) DETAIL OF DEPARTMENT PERSONNEL.—

16 (A) IN GENERAL.—On the request of the
17 Commission, the Secretary may detail, on a re-
18 imburseable basis, any of the personnel of the
19 Department to the Commission to assist the
20 Commission in carrying out the duties of the
21 Commission under this section.

22 (B) CIVIL SERVICE STATUS.—The detail of
23 the employee shall be without interruption or
24 loss of civil service status or privilege.

1 (5) COOPERATION.—The staff of the Secretary
2 shall cooperate with the Commission in the study re-
3 quired under this section, including providing such
4 nonconfidential data and information as are nec-
5 essary to conduct the study.

6 (f) RELATIONSHIP TO OTHER LAWS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3), funds made available to carry
9 out this section shall be available for obligation in
10 the same manner as if the funds were apportioned
11 under chapter 1 of title 23, United States Code.

12 (2) FEDERAL SHARE.—The Federal share of
13 the cost of the study and the Commission under this
14 section shall be 100 percent.

15 (3) AVAILABILITY.—Funds made available to
16 carry out this section shall remain available until ex-
17 pended.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated from the Highway Trust
20 Fund (other than the Mass Transit Account) to carry out
21 this section \$2,679,245 for fiscal year 2005.

22 (h) TERMINATION.—

23 (1) IN GENERAL.—The Commission shall termi-
24 nate on the date that is 180 days after the date on

1 which the Commission submits the report of the
2 Commission under subsection (c)(5).

3 (2) RECORDS.—Not later than the termination
4 date for the Commission, all records and papers of
5 the Commission shall be delivered to the Archivist of
6 the United States for deposit in the National Ar-
7 chives.

8 **SEC. 1306. STATE INFRASTRUCTURE BANKS.**

9 Section 1511(b)(1)(A) of the Transportation Equity
10 Act for the 21st Century (23 U.S.C. 181 note; 112 Stat.
11 251) is amended by striking “Missouri,” and all that fol-
12 lows through “for the establishment” and inserting “Mis-
13 souri, Rhode Island, Texas, and any other State that seeks
14 such an agreement for the establishment”.

15 **SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-**
16 **GRAM.**

17 Section 109(c) of title 23, United States Code, is
18 amended by adding at the end the following:

19 “(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT
20 PROGRAM.—

21 “(A) IN GENERAL.—The Secretary may
22 undertake a pilot program to demonstrate the
23 advantages of public-private partnerships for
24 critical capital development projects, including

1 highway, bridge, and freight intermodal con-
2 nector projects authorized under this title.

3 “(B) PROJECTS.—In carrying out the pro-
4 gram, the Secretary shall—

5 “(i) select not less than 10 qualified
6 public-private partnership projects that are
7 authorized under applicable State and local
8 laws; and

9 “(ii) use funds made available to
10 carry out the program to provide to spon-
11 sors of the projects assistance for develop-
12 ment phase activities described in section
13 181(1)(A), to enhance project delivery and
14 reduce overall costs.”.

15 **SEC. 1308. WAGERING.**

16 (a) IN GENERAL.—Chapter 35 of the Internal Rev-
17 enue Code of 1986 is repealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 4901 of the Internal Revenue Code
20 is amended to read as follows:

21 **“SEC. 4901. PAYMENT OF TAX.**

22 “All special taxes shall be imposed as of on the first
23 day of July in each year, or on commencing any trade
24 or business on which such tax is imposed. In the former
25 case the tax shall be reckoned for 1 year, and in the latter

1 case it shall be reckoned proportionately, from the first
2 day of the month in which the liability to a special tax
3 commenced, to and including the 30th day of June fol-
4 lowing.”.

5 (2) Section 4903 of such Code is amended by
6 striking “, other than the tax imposed by section
7 4411,”.

8 (3) Section 4905 of such Code is amended to
9 read as follows:

10 **“SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF**
11 **LOCATION.**

12 “When any person who has paid the special tax for
13 any trade or business dies, his spouse or child, or execu-
14 tors or administrators or other legal representatives, may
15 occupy the house or premises, and in like manner carry
16 on, for the residue of the term for which the tax is paid,
17 the same trade or business as the deceased before carried
18 on, in the same house and upon the same premises, with-
19 out the payment of any additional tax. When any person
20 removes from the house or premises for which any trade
21 or business was taxed to any other place, he may carry
22 on the trade or business specified in the register kept in
23 the office of the official in charge of the internal revenue
24 district at the place to which he removes, without the pay-
25 ment of any additional tax: *Provided*, That all cases of

1 death, change, or removal, as aforesaid, with the name of
2 the successor to any person deceased, or of the person
3 making such change or removal, shall be registered with
4 the Secretary, under regulations to be prescribed by the
5 Secretary.”.

6 (4) Section 4907 of such Code is amended by
7 striking “, except the tax imposed by section 4411,”.

8 (5) Section 6103(i)(8)(A) of such Code is
9 amended—

10 (A) by striking “, except to the extent au-
11 thorized by subsection (f) or (p)(6), disclose to
12 any person, other than another officer or em-
13 ployee of such office whose official duties re-
14 quire such disclosure, any return or return in-
15 formation described in section 4424(a) in a
16 form which can be associated with, or otherwise
17 identify, directly or indirectly, a particular tax-
18 payer, nor shall such officer or employee dis-
19 close any other” and inserting “disclose any”,
20 and

21 (B) by striking “such other officer” and
22 inserting “such officer”.

23 (6) Section 6103(o) of such Code is amended to
24 read as follows:

1 “(o) DISCLOSURE OF RETURNS AND RETURN INFOR-
2 MATION WITH RESPECT TO TAXES IMPOSED BY SUB-
3 TITLE E.—Returns and return information with respect
4 to taxes imposed by subtitle E (relating to taxes on alco-
5 hol, tobacco, and firearms) shall be open to inspection by
6 or disclosure to officers and employees of a Federal agency
7 whose official duties require such inspection or disclo-
8 sure.”.

9 (7)(A) Subchapter B of chapter 65 of such
10 Code is amended by striking section 6419 (relating
11 to excise tax on wagering).

12 (B) The table of section of subchapter B of
13 chapter 65 of such Code is amended by striking the
14 item relating to section 6419.

15 (8) Section 6806 of such Code is amended by
16 striking “under subchapter B of chapter 35, under
17 subchapter B of chapter 36,” and inserting “under
18 subchapter B of chapter 36”.

19 (9) Section 7012 of such Code is amended by
20 striking paragraph (2) and by redesignating para-
21 graphs (3), (4), and (5) as paragraphs (2), (3), and
22 (4), respectively.

23 (10)(A) Subchapter B of chapter 75 of such
24 Code is amended by striking section 7262 (relating

1 to violation of occupational tax laws relating to wa-
2 gering-failure to pay special tax).

3 (B) The table of sections of subchapter B of
4 chapter 75 of such Code is amended by striking the
5 item relating to section 7262.

6 (11) Section 7272 of such Code, as amended by
7 section 5244 of this Act, is amended to read as fol-
8 lows:

9 **“SEC. 7272. PENALTY FOR FAILURE TO REGISTER.**

10 “Any person (other than persons required to register
11 under subtitle E, or persons engaging in a trade or busi-
12 ness on which a special tax is imposed by such subtitle)
13 who fails to register with the Secretary as required by this
14 title or by regulations issued thereunder shall be liable to
15 a penalty of \$50 (\$10,000 in the case of a failure to reg-
16 ister under section 4101).”.

17 (12) Section 7613(a) is amended by striking
18 “or other data in the case of” and all that follows
19 and inserting “or other data in the case of alcohol,
20 tobacco, and firearms taxes, see subtitle E.”.

21 (13) The table of chapters of subtitle D of such
22 Code is amended by striking the item relating to
23 chapter 35.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), the amendments made by this section
 3 shall apply to wagers placed after the date of the en-
 4 actment of this Act.

5 (2) SPECIAL TAXES.—In the case of amend-
 6 ments made by this section relating to special taxes
 7 imposed by subchapter B of chapter 35, the amend-
 8 ments made by this section shall take effect on July
 9 1, 2005.

10 **Subtitle D—Safety**

11 **SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

12 (a) SAFETY IMPROVEMENT.—

13 (1) IN GENERAL.—Section 148 of title 23,
 14 United States Code, is amended to read as follows:

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

16 “(a) DEFINITIONS.—In this section:

17 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-
 18 GRAM.—The term ‘highway safety improvement pro-
 19 gram’ means the program carried out under this sec-
 20 tion.

21 “(2) HIGHWAY SAFETY IMPROVEMENT
 22 PROJECT.—

23 “(A) IN GENERAL.—The term ‘highway
 24 safety improvement project’ means a project de-

1 scribed in the State strategic highway safety
2 plan that—

3 “(i) corrects or improves a hazardous
4 road location or feature; or

5 “(ii) addresses a highway safety prob-
6 lem.

7 “(B) INCLUSIONS.—The term ‘highway
8 safety improvement project’ includes a project
9 for—

10 “(i) an intersection safety improve-
11 ment;

12 “(ii) pavement and shoulder widening
13 (including addition of a passing lane to
14 remedy an unsafe condition);

15 “(iii) installation of rumble strips or
16 another warning device, if the rumble
17 strips or other warning devices do not ad-
18 versely affect the safety or mobility of
19 bicyclists and pedestrians;

20 “(iv) installation of a skid-resistant
21 surface at an intersection or other location
22 with a high frequency of accidents;

23 “(v) an improvement for pedestrian or
24 bicyclist safety;

- 1 “(vi)(I) construction of any project for
2 the elimination of hazards at a railway-
3 highway crossing that is eligible for fund-
4 ing under section 130, including the sepa-
5 ration or protection of grades at railway-
6 highway crossings;
- 7 “(II) construction of a railway-high-
8 way crossing safety feature; or
- 9 “(III) the conduct of a model traffic
10 enforcement activity at a railway-highway
11 crossing;
- 12 “(vii) construction of a traffic calming
13 feature;
- 14 “(viii) elimination of a roadside obsta-
15 cle;
- 16 “(ix) improvement of highway signage
17 and pavement markings;
- 18 “(x) installation of a priority control
19 system for emergency vehicles at signalized
20 intersections;
- 21 “(xi) installation of a traffic control or
22 other warning device at a location with
23 high accident potential;
- 24 “(xii) safety-conscious planning;

1 “(xiii) improvement in the collection
2 and analysis of crash data;

3 “(xiv) planning, integrated, interoper-
4 able emergency communications, equip-
5 ment, operational activities, or traffic en-
6 forcement activities (including police as-
7 sistance) relating to workzone safety;

8 “(xv) installation of guardrails, bar-
9 riers (including barriers between construc-
10 tion work zones and traffic lanes for the
11 safety of motorists and workers), and
12 crash attenuators;

13 “(xvi) the addition or retrofitting of
14 structures or other measures to eliminate
15 or reduce accidents involving vehicles and
16 wildlife; or

17 “(xvii) installation and maintenance
18 of signs (including fluorescent, yellow-
19 green signs) at pedestrian-bicycle crossings
20 and in school zones.

21 “(3) SAFETY PROJECT UNDER ANY OTHER SEC-
22 TION.—

23 “(A) IN GENERAL.—The term ‘safety
24 project under any other section’ means a

1 project carried out for the purpose of safety
2 under any other section of this title.

3 “(B) INCLUSION.—The term ‘safety
4 project under any other section’ includes a
5 project to—

6 “(i) promote the awareness of the
7 public and educate the public concerning
8 highway safety matters; or

9 “(ii) enforce highway safety laws.

10 “(4) STATE HIGHWAY SAFETY IMPROVEMENT
11 PROGRAM.—The term ‘State highway safety im-
12 provement program’ means projects or strategies in-
13 cluded in the State strategic highway safety plan
14 carried out as part of the State transportation im-
15 provement program under section 135(f).

16 “(5) STATE STRATEGIC HIGHWAY SAFETY
17 PLAN.—The term ‘State strategic highway safety
18 plan’ means a plan developed by the State transpor-
19 tation department 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) persons responsible for admin-
6 istering section 130 at the State level;

7 “(vi) representatives conducting Oper-
8 ation Lifesaver;

9 “(vii) representatives conducting a
10 motor carrier safety program under section
11 31104 or 31107 of title 49;

12 “(viii) motor vehicle administration
13 agencies; and

14 “(ix) other major State and local safe-
15 ty stakeholders;

16 “(B) analyzes and makes effective use of
17 State, regional, or local crash data;

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

24 “(D) considers safety needs of, and high-
25 fatality segments of, public roads;

1 “(E) considers the results of State, re-
2 gional, or local transportation and highway
3 safety planning processes;

4 “(F) describes a program of projects or
5 strategies to reduce or eliminate safety hazards;

6 “(G) is approved by the Governor of the
7 State or a responsible State agency; and

8 “(H) is consistent with the requirements of
9 section 135(f).

10 “(b) PROGRAM.—

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

13 “(2) PURPOSE.—The purpose of the highway
14 safety improvement program shall be to achieve a
15 significant reduction in traffic fatalities and serious
16 injuries on public roads.

17 “(c) ELIGIBILITY.—

18 “(1) IN GENERAL.—To obligate funds appor-
19 tioned under section 104(b)(5) to carry out this sec-
20 tion, a State shall have in effect a State highway
21 safety improvement program under which the
22 State—

23 “(A) develops and implements a State
24 strategic highway safety plan that identifies and

1 analyzes highway safety problems and opportu-
2 nities as provided in paragraph (2);

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

5 “(C) evaluates the plan on a regular basis
6 to ensure the accuracy of the data and priority
7 of proposed improvements; and

8 “(D) submits to the Secretary an annual
9 report that—

10 “(i) describes, in a clearly understand-
11 able fashion, not less than 5 percent of lo-
12 cations determined by the State, using cri-
13 teria established in accordance with para-
14 graph (2)(B)(ii), as exhibiting the most se-
15 vere safety needs; and

16 “(ii) contains an assessment of—

17 “(I) potential remedies to haz-
18 ardous locations identified;

19 “(II) estimated costs associated
20 with those remedies; and

21 “(III) impediments to implemen-
22 tation other than cost associated with
23 those remedies.

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

1 part of the State strategic highway safety plan, a
2 State shall—

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

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

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

15 “(ii) using such criteria as the State
16 determines to be appropriate, establish the
17 relative severity of those locations, in terms
18 of accidents, injuries, deaths, traffic vol-
19 ume levels, and other relevant data;

20 “(C) adopt strategic and performance-
21 based goals that—

22 “(i) address traffic safety, including
23 behavioral and infrastructure problems and
24 opportunities on all public roads;

1 “(ii) focus resources on areas of
2 greatest need; and

3 “(iii) are coordinated with other State
4 highway safety programs;

5 “(D) advance the capabilities of the State
6 for traffic records data collection, analysis, and
7 integration with other sources of safety data
8 (such as road inventories) in a manner that—

9 “(i) complements the State highway
10 safety program under chapter 4 and the
11 commercial vehicle safety plan under sec-
12 tion 31102 of title 49;

13 “(ii) includes all public roads;

14 “(iii) identifies hazardous locations,
15 sections, and elements on public roads that
16 constitute a danger to motorists, bicyclists,
17 pedestrians, and other highway users; and

18 “(iv) includes a means of identifying
19 the relative severity of hazardous locations
20 described in clause (iii) in terms of acci-
21 dents, injuries, deaths, and traffic volume
22 levels;

23 “(E)(i) determine priorities for the correc-
24 tion of hazardous road locations, sections, and
25 elements (including railway-highway crossing

1 improvements), as identified through crash data
2 analysis;

3 “(ii) identify opportunities for preventing
4 the development of such hazardous conditions;
5 and

6 “(iii) establish and implement a schedule
7 of highway safety improvement projects for haz-
8 ard correction and hazard prevention; and

9 “(F)(i) establish an evaluation process to
10 analyze and assess results achieved by highway
11 safety improvement projects carried out in ac-
12 cordance with procedures and criteria estab-
13 lished by this section; and

14 “(ii) use the information obtained under
15 clause (i) in setting priorities for highway safety
16 improvement projects.

17 “(d) ELIGIBLE PROJECTS.—

18 “(1) IN GENERAL.—A State may obligate funds
19 apportioned to the State under section 104(b)(5) to
20 carry out—

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

24 “(B) as provided in subsection (e), for
25 other safety projects.

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

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

6 “(B) USE OF OTHER FUNDS.—States are
7 encouraged to address the full scope of their
8 safety needs and opportunities by using funds
9 made available under other provisions of this
10 title (except a provision that specifically pro-
11 hibits that use).

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

14 “(1) IN GENERAL.—To further the implementa-
15 tion of a State strategic highway safety plan, a State
16 may use up to 25 percent of the amount of funds
17 made available under this section for a fiscal year to
18 carry out safety projects under any other section as
19 provided in the State strategic highway safety plan.

20 “(2) OTHER TRANSPORTATION AND HIGHWAY
21 SAFETY PLANS.—Nothing in this subsection requires
22 a State to revise any State process, plan, or program
23 in effect on the date of enactment of this section.

24 “(f) REPORTS.—

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

3 “(A) describes progress being made to im-
4 plement highway safety improvement projects
5 under this section;

6 “(B) assesses the effectiveness of those im-
7 provements; and

8 “(C) describes the extent to which the im-
9 provements funded under this section contribute
10 to the goals of—

11 “(i) reducing the number of fatalities
12 on roadways;

13 “(ii) reducing the number of roadway-
14 related injuries;

15 “(iii) reducing the occurrences of
16 roadway-related crashes;

17 “(iv) mitigating the consequences of
18 roadway-related crashes; and

19 “(v) reducing the occurrences of road-
20 way-railroad grade crossing crashes.

21 “(2) CONTENTS; SCHEDULE.—The Secretary
22 shall establish the content and schedule for a report
23 under paragraph (1).

1 “(3) TRANSPARENCY.—The Secretary shall
2 make reports under subsection (c)(1)(D) available to
3 the public through—

4 “(A) the Internet site of the Department;
5 and

6 “(B) such other means as the Secretary
7 determines to be appropriate.

8 “(4) DISCOVERY AND ADMISSION INTO EVI-
9 DENCE OF CERTAIN REPORTS, SURVEYS, AND INFOR-
10 MATION.—Notwithstanding any other provision of
11 law, reports, surveys, schedules, lists, or data com-
12 piled or collected for any purpose directly relating to
13 paragraph (1) or subsection (c)(1)(D), or published
14 by the Secretary in accordance with paragraph (3),
15 shall not be subject to discovery or admitted into
16 evidence in a Federal or State court proceeding or
17 considered for other purposes in any action for dam-
18 ages arising from any occurrence at a location iden-
19 tified or addressed in such reports, surveys, sched-
20 ules, lists, or other data.

21 “(g) FEDERAL SHARE OF HIGHWAY SAFETY IM-
22 PROVEMENT PROJECTS.—Except as provided in sections
23 120 and 130, the Federal share of the cost of a highway
24 safety improvement project carried out with funds made
25 available under this section shall be 90 percent.

1 “(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFE-
2 TY.—A State shall allocate for bicycle and pedestrian im-
3 provements in the State a percentage of the funds remain-
4 ing after implementation of sections 130(e) and 150, in
5 an amount that is equal to or greater than the percentage
6 of all fatal crashes in the States involving bicyclists and
7 pedestrians.

8 “(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER
9 DRIVERS AND PEDESTRIANS.—For each of fiscal years
10 2005 through 2009, \$22,327,044 is authorized to be ap-
11 propriated out of the Highway Trust Fund (other than
12 the Mass Transit Account) for projects in all States to
13 improve traffic signs and pavement markings in a manner
14 consistent with the recommendations included in the pub-
15 lication of the Federal Highway Administration entitled
16 ‘Guidelines and Recommendations to Accommodate Older
17 Drivers and Pedestrians (FHWA-RD-01-103)’ and dated
18 October 2001.”.

19 (2) ALLOCATIONS OF APPORTIONED FUNDS.—
20 Section 133(d) of title 23, United States Code, is
21 amended—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraphs (2)
24 through (5) as paragraphs (1) through (4), re-
25 spectively;

1 (C) in paragraph (2) (as redesignated by
2 subparagraph (B))—

3 (i) in the first sentence of subpara-
4 graph (A)—

5 (I) by striking “subparagraphs
6 (C) and (D)” and inserting “subpara-
7 graph (C)”; and

8 (II) by striking “80 percent” and
9 inserting “90 percent”;

10 (ii) in subparagraph (B), by striking
11 “tobe” and inserting “to be”;

12 (iii) by striking subparagraph (C);

13 (iv) by redesignating subparagraphs
14 (D) and (E) as subparagraphs (C) and
15 (D), respectively; and

16 (v) in subparagraph (C) (as redesign-
17 ated by clause (iv)), by adding a period at
18 the end; and

19 (D) in paragraph (4)(A) (as redesignated
20 by subparagraph (B)), by striking “paragraph
21 (2)” and inserting “paragraph (1)”.

22 (3) ADMINISTRATION.—Section 133(e) of title
23 23, United States Code, is amended in each of para-
24 graphs (3)(B)(i), (5)(A), and (5)(B) of subsection

1 (e), by striking “(d)(2)” each place it appears and
2 inserting “(d)(1)”.

3 (4) CONFORMING AMENDMENTS.—

4 (A) The analysis for chapter 1 of title 23,
5 United States Code, is amended by striking the
6 item relating to section 148 and inserting the
7 following:

“148. Highway safety improvement program.”.

8 (B) Section 104(g) of title 23, United
9 States Code, is amended in the first sentence by
10 striking “sections 130, 144, and 152 of this
11 title” and inserting “sections 130 and 144”.

12 (C) Section 126 of title 23, United States
13 Code, is amended—

14 (i) in subsection (a), by inserting
15 “under” after “State’s apportionment”;
16 and

17 (ii) in subsection (b)—

18 (I) in the first sentence, by strik-
19 ing “the last sentence of section
20 133(d)(1) or to section 104(f) or to
21 section 133(d)(3)” and inserting “sec-
22 tion 104(f) or 133(d)(2)”;

23 (II) in the second sentence, by
24 striking “or 133(d)(2)”.

1 (D) Sections 154, 164, and 409 of title 23,
2 United States Code, are amended by striking
3 “152” each place it appears and inserting
4 “148”.

5 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
6 PROVEDMENT PROGRAM FUNDS.—Section 104(b) of title
7 23, United States Code, is amended—

8 (1) in the matter preceding paragraph (1), by
9 inserting after “Improvement program,” the fol-
10 lowing: “the highway safety improvement program,”;
11 and

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

13 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
14 GRAM.—

15 “(A) IN GENERAL.—For the highway safe-
16 ty improvement program, in accordance with
17 the following formula:

18 “(i) 25 percent of the apportionments
19 in the ratio that—

20 “(I) the total lane miles of Fed-
21 eral-aid highways in each State; bears
22 to

23 “(II) the total lane miles of Fed-
24 eral-aid highways in all States.

1 “(ii) 40 percent of the apportionments
2 in the ratio that—

3 “(I) the total vehicle miles trav-
4 eled on lanes on Federal-aid highways
5 in each State; bears to

6 “(II) the total vehicle miles trav-
7 eled on lanes on Federal-aid highways
8 in all States.

9 “(iii) 35 percent of the appor-
10 tionments in the ratio that—

11 “(I) the estimated tax payments
12 attributable to highway users in each
13 State paid into the Highway Trust
14 Fund (other than the Mass Transit
15 Account) in the latest fiscal year for
16 which data are available; bears to

17 “(II) the estimated tax payments
18 attributable to highway users in all
19 States paid into the Highway Trust
20 Fund (other than the Mass Transit
21 Account) in the latest fiscal year for
22 which data are available.

23 “(B) MINIMUM APPORTIONMENT.—Not-
24 withstanding subparagraph (A), each State

1 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
2 the funds apportioned under this paragraph.”.

3 (c) ELIMINATION OF HAZARDS RELATING TO RAIL-
4 WAY-HIGHWAY CROSSINGS.—

5 (1) FUNDS FOR RAILWAY-HIGHWAY CROSS-
6 INGS.—Section 130(e) of title 23, United States
7 Code, is amended by inserting before “At least” the
8 following: “For each fiscal year, at least
9 \$178,616,352 of the funds authorized and expended
10 under section 148 shall be available for the elimi-
11 nation of hazards and the installation of protective
12 devices at railway-highway crossings.”.

13 (2) BIENNIAL REPORTS TO CONGRESS.—Sec-
14 tion 130(g) of title 23, United States Code, is
15 amended in the third sentence—

16 (A) by inserting “and the Committee on
17 Commerce, Science, and Transportation,” after
18 “Public Works”; and

19 (B) by striking “not later than April 1 of
20 each year” and inserting “every other year”.

21 (3) EXPENDITURE OF FUNDS.—Section 130 of
22 title 23, United States Code, is amended by adding
23 at the end the following:

24 “(k) EXPENDITURE OF FUNDS.—Funds made avail-
25 able to carry out this section shall be—

1 “(1) available for expenditure on compilation
2 and analysis of data in support of activities carried
3 out under subsection (g); and

4 “(2) apportioned in accordance with section
5 104(b)(5).”.

6 (d) TRANSITION.—

7 (1) IMPLEMENTATION.—Except as provided in
8 paragraph (2), the Secretary shall approve obliga-
9 tions of funds apportioned under section 104(b)(5)
10 of title 23, United States Code (as added by sub-
11 section (b)) to carry out section 148 of that title,
12 only if, not later than October 1 of the second fiscal
13 year after the date of enactment of this Act, a State
14 has developed and implemented a State strategic
15 highway safety plan as required under section
16 148(c) of that title.

17 (2) INTERIM PERIOD.—

18 (A) IN GENERAL.—Before October 1 of the
19 second fiscal year after the date of enactment
20 of this Act and until the date on which a State
21 develops and implements a State strategic high-
22 way safety plan, the Secretary shall apportion
23 funds to a State for the highway safety im-
24 provement program and the State may obligate
25 funds apportioned to the State for the highway

1 safety improvement program under section 148
2 for projects that were eligible for funding under
3 sections 130 and 152 of that title, as in effect
4 on the day before the date of enactment of this
5 Act.

6 (B) NO STRATEGIC HIGHWAY SAFETY
7 PLAN.—If a State has not developed a strategic
8 highway safety plan by October 1 of the second
9 fiscal year after the date of enactment of this
10 Act, but certifies to the Secretary that progress
11 is being made toward developing and imple-
12 menting such a plan, the Secretary shall con-
13 tinue to apportion funds for 1 additional fiscal
14 year for the highway safety improvement pro-
15 gram under section 148 of title 23, United
16 States Code, to the State, and the State may
17 continue to obligate funds apportioned to the
18 State under this section for projects that were
19 eligible for funding under sections 130 and 152
20 of that title, as in effect on the day before the
21 date of enactment of this Act.

22 (C) PENALTY.—If a State has not adopted
23 a strategic highway safety plan by the date that
24 is 2 years after the date of enactment of this
25 Act, funds made available to the State under

1 section 1101(6) shall be redistributed to other
2 States in accordance with section 104(b)(3) of
3 title 23, United States Code.

4 **SEC. 1402. OPERATION LIFESAVER.**

5 Section 104(d)(1) of title 23, United States Code, is
6 amended—

7 (1) by striking “subsection (b)(3)” and insert-
8 ing “subsection (b)(5)”; and

9 (2) by striking “\$500,000” and inserting
10 “\$535,849”.

11 **SEC. 1403. LICENSE SUSPENSION.**

12 Section 164(a) of title 23, United States Code, is
13 amended by striking paragraph (3) and inserting the fol-
14 lowing:

15 “(3) LICENSE SUSPENSION.—The term ‘license
16 suspension’ means—

17 “(A) the suspension of all driving privi-
18 leges of an individual for the duration of the
19 suspension period; or

20 “(B) a combination of suspension of all
21 driving privileges of an individual for the first
22 90 days of the suspension period, followed by
23 reinstatement of limited driving privileges re-
24 quiring the individual to operate only motor ve-
25 hicles equipped with an ignition interlock sys-

1 tem or other device approved by the Secretary
2 during the remainder of the suspension pe-
3 riod.”.

4 **SEC. 1404. BUS AXLE WEIGHT EXEMPTION.**

5 Section 1023 of the Intermodal Surface Transpor-
6 tation Efficiency Act of 1991 (23 U.S.C. 127 note; 105
7 Stat. 1951) is amended by striking subsection (h) and in-
8 serting the following:

9 “(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT
10 VEHICLE EXEMPTION.—

11 “(1) IN GENERAL.—The second sentence of sec-
12 tion 127 of title 23, United States Code (relating to
13 axle weight limitations for vehicles using the Dwight
14 D. Eisenhower System of Interstate and Defense
15 Highways), shall not apply to—

16 “(A) any over-the-road bus (as defined in
17 section 301 of the Americans With Disabilities
18 Act of 1990 (42 U.S.C. 12181)); or

19 “(B) any vehicle that is regularly and ex-
20 clusively used as an intrastate public agency
21 transit passenger bus.

22 “(2) STATE ACTION.—No State or political sub-
23 division of a State, or any political authority of 2 or
24 more States, shall impose any axle weight limitation
25 on any vehicle described in paragraph (1) in any

1 case in which such a vehicle is using the Dwight D.
2 Eisenhower System of Interstate and Defense High-
3 ways.”.

4 **SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.**

5 (a) IN GENERAL.—Subchapter I of chapter I of title
6 23, United States Code, is amended by inserting after sec-
7 tion 149 the following:

8 **“§ 150. Safe routes to schools program**

9 “(a) DEFINITIONS.—In this section:

10 “(1) PRIMARY AND SECONDARY SCHOOL.—The
11 term ‘primary and secondary school’ means a school
12 that provides education to children in any of grades
13 kindergarten through 12.

14 “(2) PROGRAM.—The term ‘program’ means
15 the safe routes to schools program established under
16 subsection (b).

17 “(3) VICINITY OF A SCHOOL.—The term ‘vicin-
18 ity of a school’ means the area within 2 miles of a
19 primary or secondary school.

20 “(b) ESTABLISHMENT.—The Secretary shall estab-
21 lish and carry out a safe routes to school program for the
22 benefit of children in primary and secondary schools in
23 accordance with this section.

24 “(c) PURPOSES.—The purposes of the program shall
25 be—

1 “(1) to enable and to encourage children to
2 walk and bicycle to school;

3 “(2) to encourage a healthy and active lifestyle
4 by making walking and bicycling to school safer and
5 more appealing transportation alternatives; and

6 “(3) to facilitate the planning, development,
7 and implementation of projects and activities that
8 will improve safety in the vicinity of schools.

9 “(d) ELIGIBLE RECIPIENTS.—A State shall use
10 amounts apportioned under this section to provide finan-
11 cial assistance to State, regional, and local agencies that
12 demonstrate an ability to meet the requirements of this
13 section.

14 “(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

15 “(1) INFRASTRUCTURE-RELATED PROJECTS.—

16 “(A) IN GENERAL.—Amounts apportioned
17 to a State under this section may be used for
18 the planning, design, and construction of infra-
19 structure-related projects to encourage walking
20 and bicycling to school, including—

21 “(i) sidewalk improvements;

22 “(ii) traffic calming and speed reduc-
23 tion improvements;

24 “(iii) pedestrian and bicycle crossing
25 improvements;

- 1 “(iv) on-street bicycle facilities;
- 2 “(v) off-street bicycle and pedestrian
- 3 facilities;
- 4 “(vi) secure bicycle parking facilities;
- 5 “(vii) traffic signal improvements; and
- 6 “(viii) pedestrian-railroad grade cross-
- 7 ing improvements.

8 “(B) LOCATION OF PROJECTS.—Infra-
9 structure-related projects under subparagraph
10 (A) may be carried out on—

- 11 “(i) any public road in the vicinity of
- 12 a school; or
- 13 “(ii) any bicycle or pedestrian path-
- 14 way or trail in the vicinity of a school.

15 “(2) BEHAVIORAL ACTIVITIES.—

16 “(A) IN GENERAL.—In addition to projects
17 described in paragraph (1), amounts appor-
18 tioned to a State under this section may be
19 used for behavioral activities to encourage walk-
20 ing and bicycling to school, including—

- 21 “(i) public awareness campaigns and
- 22 outreach to press and community leaders;
- 23 “(ii) traffic education and enforce-
- 24 ment in the vicinity of schools; and

1 “(iii) student sessions on bicycle and
2 pedestrian safety, health, and environment.

3 “(B) ALLOCATION.—Of the amounts ap-
4 portioned to a State under this section for a fis-
5 cal year, not less than 10 percent shall be used
6 for behavioral activities under this paragraph.

7 “(f) FUNDING.—

8 “(1) SET ASIDE.—Before apportioning amounts
9 to carry out section 148 for a fiscal year, the Sec-
10 retary shall set aside and use \$62,515,723 to carry
11 out this section.

12 “(2) APPORTIONMENT.—Amounts made avail-
13 able to carry out this section shall be apportioned to
14 States in accordance with section 104(b)(5).

15 “(3) ADMINISTRATION OF AMOUNTS.—Amounts
16 apportioned to a State under this section shall be
17 administered by the State transportation depart-
18 ment.

19 “(4) FEDERAL SHARE.—Except as provided in
20 sections 120 and 130, the Federal share of the cost
21 of a project or activity funded under this section
22 shall be 90 percent.

23 “(5) PERIOD OF AVAILABILITY.—Notwith-
24 standing section 118(b)(2), amounts apportioned

1 under this section shall remain available until ex-
2 pended.”.

3 (b) CONFORMING AMENDMENTS.—The analysis for
4 subchapter I of chapter 1 of title 23, United States Code
5 is amended by inserting after the item relating to section
6 149 the following:

“150. Safe routes to school program.”.

7 **SEC. 1406. PURCHASES OF EQUIPMENT.**

8 (a) IN GENERAL.—Section 152 of title 23, United
9 States Code is amended to read as follows:

10 **“§ 152. Purchases of equipment**

11 “(a) IN GENERAL.—Subject to subsection (b), a
12 State carrying out a project under this chapter shall pur-
13 chase device, tool or other equipment needed for the
14 project only after completing and providing a written anal-
15 ysis demonstrating the cost savings associated with pur-
16 chasing the equipment compared with renting the equip-
17 ment from a qualified equipment rental provider before
18 the project commences

19 “(b) APPLICABILITY.—This section shall apply to—

20 “(1) earth moving, road machinery, and mate-
21 rial handling equipment, or any other item, with a
22 purchase price in excess of \$75,000; and

23 “(2) aerial work platforms with a purchase
24 price in excess of \$25,000.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 subchapter I of chapter 1 of title 23, United States Code,
3 is amended by striking the item relating to section 152
4 and inserting the following:

“152. Purchases of equipment.”.

5 **SEC. 1407. WORKZONE SAFETY.**

6 Section 358(b) of the National Highway System Des-
7 igation Act of 1995 (109 Stat. 625) is amended by add-
8 ing at the end the following:

9 “(7) Recommending all federally-assisted
10 projects in excess of \$15,000,000 to enter into con-
11 tracts only with work zone safety services contrac-
12 tors, traffic control contractors, and trench safety
13 and shoring contractors that carry general liability
14 insurance in an amount not less than \$15,000,000.

15 “(8) Recommending federally-assisted projects
16 the costs of which exceed \$15,000,000 to include
17 work zone intelligent transportation systems that
18 are—

19 “(A) provided by a qualified vendor; and

20 “(B) monitored continuously.

21 “(9) Recommending federally-assisted projects
22 to fully fund not less than 5 percent of project costs
23 for work zone safety and temporary traffic control
24 measures, in addition to the cost of the project,

1 which measures shall be provided by a qualified
2 work zone safety or traffic control provider.

3 “(10) Ensuring that any recommendation made
4 under any of paragraphs (7) through (9) provides
5 for an exemption for applicability to a State, with
6 respect to a project or class of projects, to the extent
7 that a State notifies the Secretary in writing that
8 safety is not expected to be adversely affected by
9 nonapplication of the requirement to the project or
10 class of projects.”.

11 **SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW**
12 **OF VEHICULAR TRAFFIC.**

13 Not later than 1 year after the date of enactment
14 of this Act, the Secretary shall promulgate regulations—

15 (1) to decrease the probability of worker injury;

16 (2) to maintain the free flow of vehicular traffic
17 by requiring workers whose duties place the workers
18 on, or in close proximity to, a Federal-aid highway
19 (as defined in section 101 of title 23, United States
20 Code) to wear high-visibility clothing; and

21 (3) to require such other worker-safety meas-
22 ures for workers described in paragraph (2) as the
23 Secretary determines appropriate.

1 **SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.**

2 (a) IN GENERAL.—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by section 1815(a)),
4 is amended by adding at the end the following:

5 **“§ 178. Identity authentication standards**

6 “(a) DEFINITION OF INFORMATION-BASED IDENTITY
7 AUTHENTICATION.—In this section, the term ‘informa-
8 tion-based identity authentication’ means the determina-
9 tion of the identity of an individual, through the compari-
10 son of information provided by a person, with other infor-
11 mation pertaining to that individual with a system using
12 scoring models and algorithms.

13 “(b) STANDARDS.—Not later than 180 days after the
14 date of enactment of this section, the Secretary, in con-
15 sultation with the Secretary of Homeland Security and the
16 Federal Motor Carrier Safety Administration, shall pro-
17 mulgate regulations establishing minimum standards for
18 State departments of motor vehicles regarding the use of
19 information-based identity authentication to determine the
20 identity of an applicant for a commercial driver’s license,
21 or the renewal, transfer or upgrading, of a commercial
22 driver’s license.

23 “(c) MINIMUM STANDARDS.—The regulations shall,
24 at a minimum, require State departments of motor vehi-
25 cles to implement, and applicants for commercial driver’s
26 licenses, (or the renewal, transfer, or upgrading of com-

1 merical driver’s licenses), to comply with, reasonable pro-
2 cedures for operating an information-based identity au-
3 thentication program before issuing, renewing, transfer-
4 ring, or upgrading a commercial driver’s license.

5 “(d) KEY FACTORS.—In promulgating regulations
6 under this section, the Secretary shall require that an in-
7 formation-based identity authentication program carried
8 out under this section establish processes that—

9 “(1) use multiple sources of matching informa-
10 tion;

11 “(2) enable the measurement of the accuracy of
12 the determination of an applicant’s identity;

13 “(3) support continuous auditing of compliance
14 with applicable laws, policies, and practices gov-
15 erning the collection, use, and distribution of infor-
16 mation in the operation of the program; and

17 “(4) incorporate industry best practices to pro-
18 tect significant privacy interests in the information
19 used in the program and the appropriate safe-
20 guarding of the storage of the information.”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 subchapter I of chapter I of title 23, United States Code
23 (as amended by section 1815(b)), is amended by adding
24 at the end the following:

“178. Identity authentication standards.”.

1 **SEC. 1410. OPEN CONTAINER REQUIREMENTS.**

2 Section 154 of title 23, United States Code, is
3 amended by striking subsection (c) and inserting the fol-
4 lowing:

5 “(c) **TRANSFER OF FUNDS.—**

6 “(1) **IN GENERAL.—**The Secretary shall with-
7 hold the applicable percentage for the fiscal year of
8 the amount required to be apportioned for Federal-
9 aid highways to any State under each of paragraphs
10 (1), (3), and (4) of section 104(b), if a State has not
11 enacted or is not enforcing a provision described in
12 subsection (b), as follows:

“For:	The applicable percentage is:
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subse- quent fiscal year.	2 percent.

13 “(2) **RESTORATION.—**If (during the 4-year pe-
14 riod beginning on the date the apportionment for
15 any State is reduced in accordance with this sub-
16 section) the Secretary determines that the State has
17 enacted and is enforcing a provision described in
18 subsection (b), the apportionment of the State shall
19 be increased by an amount equal to the amount of
20 the reduction made during the 4-year period.”.

1 **Subtitle E—Environmental**
2 **Planning and Review**
3 **CHAPTER 1—TRANSPORTATION**
4 **PLANNING**

5 **SEC. 1501. INTEGRATION OF NATURAL RESOURCE CON-**
6 **CERNS INTO STATE AND METROPOLITAN**
7 **TRANSPORTATION PLANNING.**

8 (a) METROPOLITAN PLANNING.—Section 134(f) of
9 title 23, United States Code, is amended—

10 (1) in paragraph (1)—

11 (A) in subparagraph (D)—

12 (i) by inserting after “environment”
13 the following: “(including the protection of
14 habitat, water quality, and agricultural and
15 forest land, while minimizing invasive spe-
16 cies)”; and

17 (ii) by inserting before the semicolon
18 the following: “(including minimizing ad-
19 verse health effects from mobile source air
20 pollution and promoting the linkage of the
21 transportation and development goals of
22 the metropolitan area)”; and

23 (B) in subparagraph (G), by inserting
24 “and efficient use” after “preservation”;

1 (2) by redesignating paragraph (2) as para-
2 graph (3); and

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

5 “(2) SELECTION OF FACTORS.—After soliciting
6 and considering any relevant public comments, the
7 metropolitan planning organization shall determine
8 which of the factors described in paragraph (1) are
9 most appropriate for the metropolitan area to con-
10 sider.”.

11 (b) STATEWIDE PLANNING.—Section 135(c) of title
12 23, United States Code, is amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (D)—

15 (i) by inserting after “environment”
16 the following: “(including the protection of
17 habitat, water quality, and agricultural and
18 forest land, while minimizing invasive spe-
19 cies)”; and

20 (ii) by inserting before the semicolon
21 the following: “(including minimizing ad-
22 verse health effects from mobile source air
23 pollution and promoting the linkage of the
24 transportation and development goals of
25 the State)”; and

1 (B) in subparagraph (G), by inserting
2 “and efficient use” after “preservation”;

3 (2) by redesignating paragraph (2) as para-
4 graph (3); and

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

7 “(2) SELECTION OF PROJECTS AND STRATE-
8 GIES.—After soliciting and considering any relevant
9 public comments, the State shall determine which of
10 the projects and strategies described in paragraph
11 (1) are most appropriate for the State to consider.”.

12 **SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION**
13 **AGENCIES AND RESOURCE AGENCIES IN**
14 **TRANSPORTATION PLANNING.**

15 (a) IN GENERAL.—Section 134(g) of title 23, United
16 States Code, is amended—

17 (1) in paragraph (2)—

18 (A) by redesignating subparagraphs (B)
19 through (D) as subparagraphs (C) through (E),
20 respectively; and

21 (B) by inserting after subparagraph (A)
22 the following:

23 “(B) MITIGATION ACTIVITIES.—

1 “(i) IN GENERAL.—A long-range
2 transportation plan shall include a discus-
3 sion of—

4 “(I) types of potential habitat,
5 hydrological, and environmental miti-
6 gation activities that may assist in
7 compensating for loss of habitat, wet-
8 land, and other environmental func-
9 tions; and

10 “(II) potential areas to carry out
11 these activities, including a discussion
12 of areas that may have the greatest
13 potential to restore and maintain the
14 habitat types and hydrological or envi-
15 ronmental functions affected by the
16 plan.

17 “(ii) CONSULTATION.—The discussion
18 shall be developed in consultation with
19 Federal, State, and tribal wildlife, land
20 management, and regulatory agencies.”;

21 (2) by redesignating paragraphs (4), (5), and
22 (6) as paragraphs (5), (6), and (7), respectively; and

23 (3) by inserting after paragraph (3) the fol-
24 lowing:

25 “(4) CONSULTATION.—

1 “(A) IN GENERAL.—In each metropolitan
2 area, the metropolitan planning organization
3 shall consult, as appropriate, with State and
4 local agencies responsible for land use manage-
5 ment, natural resources, environmental protec-
6 tion, conservation, and historic preservation
7 concerning the development of a long-range
8 transportation plan.

9 “(B) ISSUES.—The consultation shall
10 involve—

11 “(i) comparison of transportation
12 plans with State conservation plans or with
13 maps, if available;

14 “(ii) comparison of transportation
15 plans to inventories of natural or historic
16 resources, if available; or

17 “(iii) consideration of areas where
18 wildlife crossing structures may be needed
19 to ensure connectivity between wildlife
20 habitat linkage areas.”.

21 (b) IMPROVED CONSULTATION DURING STATE
22 TRANSPORTATION PLANNING.—

23 (1) IN GENERAL.—Section 135(e)(2) of title 23,
24 United States Code, is amended by adding at the
25 end the following:

1 (2) ADDITIONAL REQUIREMENTS.—Section
2 135(e) of title 23, United States Code, is amended—

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

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

7 “(4) MITIGATION ACTIVITIES.—

8 “(A) IN GENERAL.—A long-range trans-
9 portation plan shall include a discussion of—

10 “(i) types of potential habitat,
11 hydrological, and environmental mitigation
12 activities that may assist in compensating
13 for loss of habitat, wetlands, and other en-
14 vironmental functions; and

15 “(ii) potential areas to carry out these
16 activities, including a discussion of areas
17 that may have the greatest potential to re-
18 store and maintain the habitat types and
19 hydrological or environmental functions af-
20 fected by the plan.

21 “(B) CONSULTATION.—The discussion
22 shall be developed in consultation with Federal,
23 State, and tribal wildlife, land management,
24 and regulatory agencies.

1 “(5) TRANSPORTATION STRATEGIES.—A long-
2 range transportation plan shall identify transpor-
3 tation strategies necessary to efficiently serve the
4 mobility needs of people.”.

5 **SEC. 1503. INTEGRATION OF NATURAL RESOURCE CON-**
6 **CERNS INTO TRANSPORTATION PROJECT**
7 **PLANNING.**

8 Section 109(c)(2) of title 23, United States Code, is
9 amended—

10 (1) by striking “consider the results” and in-
11 serting “consider—

12 “(A) the results”;

13 (2) by striking the period at the end and insert-
14 ing a semicolon; and

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

16 “(B) the publication entitled ‘Flexibility in
17 Highway Design’ of the Federal Highway Ad-
18 ministration;

19 “(C) ‘Eight Characteristics of Process to
20 Yield Excellence and the Seven Qualities of Ex-
21 cellence in Transportation Design’ developed by
22 the conference held during 1998 entitled
23 ‘Thinking Beyond the Pavement National
24 Workshop on Integrating Highway Develop-
25 ment with Communities and the Environment

1 while Maintaining Safety and Performance’;
2 and
3 “(D) any other material that the Secretary
4 determines to be appropriate.”.

5 **SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION**
6 **PLANNING AND PROJECTS.**

7 (a) METROPOLITAN PLANNING.—

8 (1) PARTICIPATION BY INTERESTED PAR-
9 TIES.—Section 134(g)(5) of title 23, United States
10 Code (as redesignated by section 1502(a)(1)), is
11 amended—

12 (A) by striking “Before approving” and in-
13 serting the following:

14 “(A) IN GENERAL.—Before approving”;
15 and

16 (B) by adding at the end the following:

17 “(B) METHODS.—In carrying out subpara-
18 graph (A), the metropolitan planning organiza-
19 tion shall, to the maximum extent practicable—

20 “(i) hold any public meetings at con-
21 venient and accessible locations and times;

22 “(ii) employ visualization techniques
23 to describe plans; and

1 (c) STATE HABITAT, STREAMS, AND WETLANDS
2 MITIGATION FUNDS.—Section 155 of title 23, United
3 States Code, is amended to read as follows:

4 **“§ 155. State habitat, streams, and wetlands mitiga-**
5 **tion funds**

6 “(a) ESTABLISHMENT.—A State should establish a
7 habitat, streams, and wetlands mitigation fund (referred
8 to in this section as a ‘State fund’).

9 “(b) PURPOSE.—The purpose of a State fund is to
10 encourage efforts for habitat, streams, and wetlands miti-
11 gation in advance of or in conjunction with highway or
12 transit projects to—

13 “(1) ensure that the best habitat, streams, and
14 wetland mitigation sites now available are used; and

15 “(2) accelerate transportation project delivery
16 by making high-quality habitat, streams, and wet-
17 land mitigation credits available when needed.

18 “(c) FUNDS.—A State may deposit into a State fund
19 part of the funds apportioned to the State under—

20 “(1) section 104(b)(1) for the National High-
21 way System; and

22 “(2) section 104(b)(3) for the surface transpor-
23 tation program.

24 “(d) USE.—

1 “(1) IN GENERAL.—Amounts deposited in a
2 State fund shall be used (in a manner consistent
3 with this section) for habitat, streams, or wetlands
4 mitigation related to 1 or more projects funded
5 under this title, including a project under the trans-
6 portation improvement program of the State devel-
7 oped under section 135(f).

8 “(2) ENDANGERED SPECIES.—In carrying out
9 this section, a State and cooperating agency shall
10 give consideration to mitigation projects, on-site or
11 off-site, that restore and preserve the best available
12 sites to conserve biodiversity and habitat for—

13 “(A) Federal or State listed threatened or
14 endangered species of plants and animals; and

15 “(B) plant or animal species warranting
16 listing as threatened or endangered, as deter-
17 mined by the Secretary of the Interior in ac-
18 cordance with section 4(b)(3)(B) of the Endan-
19 gered Species Act of 1973 (16 U.S.C.
20 1533(b)(3)(B)).

21 “(3) MITIGATION IN CLOSED BASINS.—

22 “(A) IN GENERAL.—A State may use
23 amounts deposited in the State fund for
24 projects to protect existing roadways from an-

1 anticipated flooding of a closed basin lake,
2 including—

3 “(i) construction—

4 “(I) necessary for the continu-
5 ation of roadway services and the im-
6 poundment of water, as the State de-
7 termines to be appropriate; or

8 “(II) for a grade raise to perma-
9 nently restore a roadway the use of
10 which is lost or reduced, or could be
11 lost or reduced, as a result of an ac-
12 tual or predicted water level that is
13 within 3 feet of causing inundation of
14 the roadway in a closed lake basin;

15 “(ii) monitoring, studies, evaluations,
16 design, or preliminary engineering relating
17 to construction; and

18 “(iii) monitoring and evaluations re-
19 lating to proposed construction.

20 “(B) REIMBURSEMENT.—The Secretary
21 may permit a State that expends funds under
22 subparagraph (A) to be reimbursed for the ex-
23 penditures through the use of amounts made
24 available under section 125(c)(1).

1 “(e) CONSISTENCY WITH APPLICABLE REQUIRE-
2 MENTS.—Contributions from the State fund to mitigation
3 efforts may occur in advance of project construction only
4 if the efforts are consistent with all applicable require-
5 ments of Federal law (including regulations).”.

6 (d) CONFORMING AMENDMENT.—The analysis for
7 subchapter I of chapter 1 of title 23, United States Code,
8 is amended by striking the item relating to section 155
9 and inserting the following:

“155. State habitat, streams, and wetlands mitigation funds.”.

10 **CHAPTER 2—TRANSPORTATION PROJECT**

11 **DEVELOPMENT PROCESS**

12 **SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT** 13 **PROCESS.**

14 (a) IN GENERAL.—Chapter 3 of title 23, United
15 States Code (as amended by section 1203(a)), is amended
16 by inserting after section 325 the following:

17 **“§ 326. Transportation project development process**

18 “(a) DEFINITIONS.—In this section:

19 “(1) AGENCY.—The term ‘agency’ means any
20 agency, department, or other unit of Federal, State,
21 local, or federally recognized tribal government.

22 “(2) ENVIRONMENTAL IMPACT STATEMENT.—
23 The term ‘environmental impact statement’ means a
24 detailed statement of the environmental impacts of
25 a project required to be prepared under the National

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

3 “(3) ENVIRONMENTAL REVIEW PROCESS.—

4 “(A) IN GENERAL.—The term ‘environ-
5 mental review process’ means the process for
6 preparing, for a project—

7 “(i) an environmental impact state-
8 ment; or

9 “(ii) any other document or analysis
10 required to be prepared under the National
11 Environmental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.)

13 “(B) INCLUSIONS.—The term ‘environ-
14 mental review process’ includes the process for
15 and completion of any environmental permit,
16 approval, review, or study required for a project
17 under any Federal law other than the National
18 Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).

20 “(4) PROJECT.—The term ‘project’ means any
21 highway or transit project that requires the approval
22 of the Secretary.

23 “(5) PROJECT SPONSOR.—The term ‘project
24 sponsor’ means an agency or other entity (including

1 any private or public-private entity), that seeks ap-
2 proval of the Secretary for a project.

3 “(6) STATE TRANSPORTATION DEPARTMENT.—

4 The term ‘State transportation department’ means
5 any statewide agency of a State with responsibility
6 for transportation.

7 “(b) PROCESS.—

8 “(1) LEAD AGENCY.—

9 “(A) IN GENERAL.—The Department of
10 Transportation shall be the lead Federal agency
11 in the environmental review process for a
12 project.

13 “(B) JOINT LEAD AGENCIES.—Nothing in
14 this section precludes another agency from
15 being a joint lead agency in accordance with
16 regulations under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

18 “(C) CONCURRENCE OF PROJECT SPON-
19 SOR.—The lead agency may carry out the envi-
20 ronmental review process in accordance with
21 this section only with the concurrence of the
22 project sponsor.

23 “(2) REQUEST FOR PROCESS.—

24 “(A) IN GENERAL.—A project sponsor may
25 request that the lead agency carry out the envi-

1 environmental review process for a project or group
2 of projects in accordance with this section.

3 “(B) GRANT OF REQUEST; PUBLIC NO-
4 TICE.—The lead agency shall—

5 “(i) grant a request under subpara-
6 graph (A); and

7 “(ii) provide public notice of the re-
8 quest.

9 “(3) EFFECTIVE DATE.—The environmental re-
10 view process described in this section may be applied
11 to a project only after the date on which public no-
12 tice is provided under subparagraph (B)(ii).

13 “(c) ROLES AND RESPONSIBILITY OF LEAD AGEN-
14 CY.—With respect to the environmental review process for
15 any project, the lead agency shall have authority and re-
16 sponsibility to—

17 “(A) identify and invite cooperating agen-
18 cies in accordance with subsection (d);

19 “(B) develop an agency coordination plan
20 with review, schedule, and timelines in accord-
21 ance with subsection (e);

22 “(C) determine the purpose and need for
23 the project in accordance with subsection (f);

24 “(D) determine the range of alternatives to
25 be considered in accordance with subsection (g);

1 “(E) convene dispute-avoidance and deci-
2 sion resolution meetings and related efforts in
3 accordance with subsection (h);

4 “(F) take such other actions as are nec-
5 essary and proper, within the authority of the
6 lead agency, to facilitate the expeditious resolu-
7 tion of the environmental review process for the
8 project; and

9 “(G) prepare or ensure that any required
10 environmental impact statement or other docu-
11 ment required to be completed under the Na-
12 tional Environmental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) is completed in accordance
14 with this section and applicable Federal law.

15 “(d) ROLES AND RESPONSIBILITIES OF COOPER-
16 ATING AGENCIES.—

17 “(1) IN GENERAL.—With respect to a project,
18 each Federal agency shall carry out any obligations
19 of the Federal agency in the environmental review
20 process in accordance with this section and applica-
21 ble Federal law.

22 “(2) INVITATION.—

23 “(A) IN GENERAL.—The lead agency
24 shall—

1 “(i) identify, as early as practicable in
2 the environmental review process for a
3 project, any other agencies that may have
4 an interest in the project, including—

5 “(I) agencies with jurisdiction
6 over environmentally-related matters
7 that may affect the project or may be
8 required by law to conduct an envi-
9 ronmental-related independent review
10 or analysis of the project or determine
11 whether to issue an environmental-re-
12 lated permit, license, or approval for
13 the project; and

14 “(II) agencies with special exper-
15 tise relevant to the project;

16 “(ii) invite the agencies identified in
17 clause (i) to become participating agencies
18 in the environmental review process for
19 that project; and

20 “(iii) grant requests to become co-
21 operating agencies from agencies not origi-
22 nally invited.

23 “(B) RESPONSES.—The deadline for re-
24 ceipt of a response from an agency that receives
25 an invitation under subparagraph (A)(ii)—

1 “(i) shall be 30 days after the date of
2 receipt by the agency of the invitation; but

3 “(ii) may be extended by the lead
4 agency for good cause.

5 “(3) DECLINING OF INVITATIONS.—A Federal
6 agency that is invited by the lead agency to partici-
7 pate in the environmental review process for a
8 project shall be designated as a cooperating agency
9 by the lead agency, unless the invited agency in-
10 forms the lead agency in writing, by the deadline
11 specified in the invitation, that the invited agency—

12 “(A) has no jurisdiction or authority with
13 respect to the project;

14 “(B) has no expertise or information rel-
15 evant to the project; and

16 “(C) does not intend to submit comments
17 on the project.

18 “(4) EFFECT OF DESIGNATION.—Designation
19 as a cooperating agency under this subsection shall
20 not imply that the cooperating agency—

21 “(A) supports a proposed project; or

22 “(B) has any jurisdiction over, or special
23 expertise with respect to evaluation of, the
24 project.

1 “(5) DESIGNATIONS FOR CATEGORIES OF
2 PROJECTS.—

3 “(A) IN GENERAL.—The Secretary may in-
4 vite other agencies to become cooperating agen-
5 cies for a category of projects.

6 “(B) DESIGNATION.—An agency may be
7 designated as a cooperating agency for a cat-
8 egory of projects only with the consent of the
9 agency.

10 “(6) CONCURRENT REVIEWS.—Each Federal
11 agency shall, to the maximum extent practicable—

12 “(A) carry out obligations of the Federal
13 agency under other applicable law concurrently,
14 and in conjunction, with the review required
15 under the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.), unless doing so
17 would impair the ability of the Federal agency
18 to carry out those obligations; and

19 “(B) formulate and implement administra-
20 tive, policy, and procedural mechanisms to en-
21 able the agency to ensure completion of the en-
22 vironmental review process in a timely, coordi-
23 nated, and environmentally responsible manner.

24 “(e) DEVELOPMENT OF FLEXIBLE PROCESS AND
25 TIMELINE.—

1 “(1) COORDINATION PLAN.—

2 “(A) IN GENERAL.—The lead agency shall
3 establish a coordination plan, which may be in-
4 corporated into a memorandum of under-
5 standing, to coordinate agency and public par-
6 ticipation in and comment on the environmental
7 review process for a project or category of
8 projects.

9 “(B) WORKPLAN.—

10 “(i) IN GENERAL.—The lead agency
11 shall develop, as part of the coordination
12 plan, a workplan for completing the collec-
13 tion, analysis, and evaluation of baseline
14 data and future impacts modeling nec-
15 essary to complete the environmental re-
16 view process, including any data, analyses,
17 and modeling necessary for related per-
18 mits, approvals, reviews, or studies re-
19 quired for the project under other laws.

20 “(ii) CONSULTATION.—In developing
21 the workplan under clause (i), the lead
22 agency shall consult with—

23 “(I) each cooperating agency for
24 the project;

1 “(II) the State in which the
2 project is located; and

3 “(III) if the State is not the
4 project sponsor, the project sponsor.

5 “(C) SCHEDULE.—

6 “(i) IN GENERAL.—The lead agency
7 shall establish as part of the coordination
8 plan, after consultation with each cooper-
9 ating agency for the project and with the
10 State in which the project is located (and,
11 if the State is not the project sponsor, with
12 the project sponsor), a schedule for com-
13 pletion of the environmental review process
14 for the project.

15 “(ii) FACTORS FOR CONSIDER-
16 ATION.—In establishing the schedule, the
17 lead agency shall consider factors such
18 as—

19 “(I) the responsibilities of co-
20 operating agencies under applicable
21 laws;

22 “(II) resources available to the
23 cooperating agencies;

24 “(III) overall size and complexity
25 of a project;

1 project sponsor, to the project sponsor);
2 and

3 “(ii) made available to the public.

4 “(2) COMMENTS AND TIMELINES.—

5 “(A) IN GENERAL.—A schedule established
6 under paragraph (1)(C) shall include—

7 “(i) opportunities for comment, dead-
8 line for receipt of any comments sub-
9 mitted, deadline for lead agency response
10 to comments; and

11 “(ii) except as otherwise provided
12 under paragraph (1)—

13 “(I) an opportunity to comment
14 by agencies and the public on a draft
15 or final environmental impact state-
16 ment for a period of not more than 60
17 days longer than the minimum period
18 required under the National Environ-
19 mental Policy Act of 1969 (42 U.S.C.
20 4321 et seq.); and

21 “(II) for all other comment peri-
22 ods established by the lead agency for
23 agency or public comments in the en-
24 vironmental review process, a period
25 of not more than the longer of—

1 “(aa) 30 days after the final
2 day of the minimum period re-
3 quired under Federal law (includ-
4 ing regulations), if available; or

5 “(bb) if a minimum period
6 is not required under Federal law
7 (including regulations), 30 days.

8 “(B) EXTENSION OF COMMENT PERI-
9 ODS.—The lead agency may extend a period of
10 comment established under this paragraph for
11 good cause.

12 “(C) LATE COMMENTS.—A comment con-
13 cerning a project submitted under this para-
14 graph after the date of termination of the appli-
15 cable comment period or extension of a com-
16 ment period shall not be eligible for consider-
17 ation by the lead agency unless the lead agency
18 or project sponsor determines there was good
19 cause for the delay or the lead agency is re-
20 quired to consider significant new cir-
21 cumstances or information in accordance with
22 sections 1501.7 and 1502.9 of title 40, Code of
23 Federal Regulations.

24 “(D) DEADLINES FOR DECISIONS UNDER
25 OTHER LAWS.—In any case in which a decision

1 under any Federal law relating to a project (in-
2 cluding the issuance or denial of a permit or li-
3 cense) is required to be made by the later of the
4 date that is 180 days after the date on which
5 the Secretary made all final decisions of the
6 lead agency with respect to the project, or 180
7 days after the date on which an application was
8 submitted for the permit or license, the Sec-
9 retary shall submit to the Committee on Envi-
10 ronment and Public Works of the Senate and
11 the Committee on Transportation and Infra-
12 structure of the House of Representatives—

13 “(i) as soon as practicable after the
14 180-day period, an initial notice of the fail-
15 ure of the Federal agency to make the de-
16 cision; and

17 “(ii) every 60 day thereafter until
18 such date as all decisions of the Federal
19 agency relating to the project have been
20 made by the Federal agency, an additional
21 notice that describes the number of deci-
22 sions of the Federal agency that remain
23 outstanding as of the date of the additional
24 notice.

1 “(3) INVOLVEMENT OF THE PUBLIC.—Nothing
2 in this subsection shall reduce any time period pro-
3 vided for public comment in the environmental re-
4 view process under existing Federal law (including a
5 regulation).

6 “(f) DEVELOPMENT OF PROJECT PURPOSE AND
7 NEED STATEMENT.—

8 “(1) IN GENERAL.—With respect to the envi-
9 ronmental review process for a project, the purpose
10 and need for the project shall be defined in accord-
11 ance with this subsection.

12 “(2) AUTHORITY.—The lead agency shall define
13 the purpose and need for a project, including the
14 transportation objectives and any other objectives in-
15 tended to be achieved by the project.

16 “(3) INVOLVEMENT OF COOPERATING AGEN-
17 CIES AND THE PUBLIC.—Before determining the
18 purpose and need for a project, the lead agency shall
19 solicit for 30 days, and consider, any relevant com-
20 ments on the draft statement of purpose and need
21 for a proposed project received from the public and
22 cooperating agencies.

23 “(4) EFFECT ON OTHER REVIEWS.—For the
24 purpose of compliance with the National Environ-
25 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

1 and any other law requiring an agency that is not
2 the lead agency to determine or consider a project
3 purpose or project need, such an agency acting, per-
4 mitting, or approving under, or otherwise applying,
5 Federal law with respect to a project shall adopt the
6 determination of purpose and need for the project
7 made by the lead agency.

8 “(5) SAVINGS.—Nothing in this subsection pre-
9 empts or interferes with any power, jurisdiction, re-
10 sponsibility, or authority of an agency under applica-
11 ble law (including regulations) with respect to a
12 project.

13 “(6) CONTENTS.—

14 “(A) IN GENERAL.—The statement of pur-
15 pose and need shall include a clear statement of
16 the objectives that the proposed project is in-
17 tended to achieve.

18 “(B) EFFECT ON EXISTING STANDARDS.—
19 Nothing in this subsection shall alter existing
20 standards for defining the purpose and need of
21 a project.

22 “(7) FACTORS TO CONSIDER.—The lead agency
23 may determine that any of the following factors and
24 documents are appropriate for consideration in de-
25 termining the purpose of and need for a project:

1 “(A) Transportation plans and related
2 planning documents developed through the
3 statewide and metropolitan transportation plan-
4 ning process under sections 134 and 135.

5 “(B) Land use plans adopted by units of
6 State, local, or tribal government (or, in the
7 case of Federal land, by the applicable Federal
8 land management agencies).

9 “(C) Economic development plans adopted
10 by—

11 “(i) units of State, local, or tribal gov-
12 ernment; or

13 “(ii) established economic develop-
14 ment planning organizations or authorities.

15 “(D) Environmental protection plans, in-
16 cluding plans for the protection or treatment
17 of—

18 “(i) air quality;

19 “(ii) water quality and runoff;

20 “(iii) habitat needs of plants and ani-
21 mals;

22 “(iv) threatened and endangered spe-
23 cies;

24 “(v) invasive species;

25 “(vi) historic properties; and

1 “(vii) other environmental resources.

2 “(E) Any publicly available plans or poli-
3 cies relating to the national defense, national
4 security, or foreign policy of the United States.

5 “(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

6 “(1) IN GENERAL.—With respect to the envi-
7 ronmental review process for a project, the alter-
8 natives shall be determined in accordance with this
9 subsection.

10 “(2) AUTHORITY.—The lead agency shall deter-
11 mine the alternatives to be considered for a project.

12 “(3) INVOLVEMENT OF COOPERATING AGEN-
13 CIES AND THE PUBLIC.—

14 “(A) IN GENERAL.—Before determining
15 the alternatives for a project, the lead agency
16 shall solicit for 30 days and consider any rel-
17 evant comments on the proposed alternatives
18 received from the public and cooperating agen-
19 cies.

20 “(B) ALTERNATIVES.—The lead agency
21 shall consider—

22 “(i) alternatives that meet the pur-
23 pose and need of the project; and

24 “(ii) the alternative of no action.

1 “(C) EFFECT ON EXISTING STANDARDS.—
2 Nothing in this subsection shall alter the exist-
3 ing standards for determining the range of al-
4 ternatives.

5 “(4) EFFECT ON OTHER REVIEWS.—Any other
6 agency acting under or applying Federal law with
7 respect to a project shall consider only the alter-
8 natives determined by the lead agency.

9 “(5) SAVINGS.—Nothing in this subsection pre-
10 empts or interferes with any power, jurisdiction, re-
11 sponsibility, or authority of an agency under applica-
12 ble law (including regulations) with respect to a
13 project.

14 “(6) FACTORS TO CONSIDER.—The lead agency
15 may determine that any of the following factors and
16 documents are appropriate for consideration in de-
17 termining the alternatives for a project:

18 “(A) The overall size and complexity of the
19 proposed action.

20 “(B) The sensitivity of the potentially af-
21 fected resources.

22 “(C) The overall schedule and cost of the
23 project.

24 “(D) Transportation plans and related
25 planning documents developed through the

1 statewide and metropolitan transportation plan-
2 ning process under sections 134 and 135 of
3 title 23 of the United States Code.

4 “(E) Land use plans adopted by units of
5 State, local, or tribal government (or, in the
6 case of Federal land, by the applicable Federal
7 land management agencies).

8 “(F) Economic development plans adopted
9 by—

10 “(i) units of State, local, or tribal gov-
11 ernment; or

12 “(ii) established economic develop-
13 ment planning organizations or authorities.

14 “(G) environmental protection plans, in-
15 cluding plans for the protection or treatment
16 of—

17 “(i) air quality;

18 “(ii) water quality and runoff;

19 “(iii) habitat needs of plants and ani-
20 mals;

21 “(iv) threatened and endangered spe-
22 cies;

23 “(v) invasive species;

24 “(vi) historic properties; and

25 “(vii) other environmental resources.

1 “(H) Any publicly available plans or poli-
2 cies relating to the national defense, national
3 security, or foreign policy of the United States.

4 “(h) PROMPT ISSUE IDENTIFICATION AND RESOLU-
5 TION PROCESS.—

6 “(1) IN GENERAL.—The lead agency, the
7 project sponsor, and the cooperating agencies shall
8 work cooperatively, in accordance with this section,
9 to identify and resolve issues that could—

10 “(A) delay completion of the environmental
11 review process; or

12 “(B) result in denial of any approvals re-
13 quired for the project under applicable laws.

14 “(2) LEAD AGENCY RESPONSIBILITIES.—

15 “(A) IN GENERAL.—The lead agency, with
16 the assistance of the project sponsor, shall
17 make information available to the cooperating
18 agencies, as early as practicable in the environ-
19 mental review process, regarding—

20 “(i) the environmental and socio-
21 economic resources located within the
22 project area; and

23 “(ii) the general locations of the alter-
24 natives under consideration.

1 “(B) BASIS FOR INFORMATION.—Informa-
2 tion about resources in the project area may be
3 based on existing data sources, including geo-
4 graphic information systems mapping.

5 “(3) COOPERATING AGENCY RESPONSIBIL-
6 ITIES.—

7 “(A) IN GENERAL.—Based on information
8 received from the lead agency, cooperating
9 agencies shall promptly identify to the lead
10 agency any major issues of concern regarding
11 the potential environmental or socioeconomic
12 impacts of a project.

13 “(B) MAJOR ISSUES OF CONCERN.—A
14 major issue of concern referred to in subpara-
15 graph (A) may include any issue that could
16 substantially delay or prevent an agency from
17 granting a permit or other approval that is
18 needed for a project, as determined by a cooper-
19 ating agency.

20 “(4) ISSUE RESOLUTION.—On identification of
21 a major issue of concern under paragraph (3), or at
22 any time upon the request of a project sponsor or
23 the Governor of a State, the lead agency shall
24 promptly convene a meeting with representatives of
25 each of the relevant cooperating agencies, the project

1 sponsor, and the Governor to address and resolve
2 the issue.

3 “(5) NOTIFICATION.—If a resolution of a major
4 issue of concern under paragraph (4) cannot be
5 achieved by the date that is 30 days after the date
6 on which a meeting under that paragraph is con-
7 vened, the lead agency shall provide notification of
8 the failure to resolve the major issue of concern to—

9 “(A) the heads of all cooperating agencies;

10 “(B) the project sponsor;

11 “(C) the Governor involved;

12 “(D) the Committee on Environment and
13 Public Works of the Senate; and

14 “(E) the Committee on Transportation
15 and Infrastructure of the House of Representa-
16 tives.

17 “(i) PERFORMANCE MEASUREMENT.—

18 “(1) PROGRESS REPORTS.—The Secretary shall
19 establish a program to measure and report on
20 progress toward improving and expediting the plan-
21 ning and environmental review process.

22 “(2) MINIMUM REQUIREMENTS.—The program
23 shall include, at a minimum—

24 “(A) the establishment of criteria for
25 measuring consideration of—

1 “(i) State and metropolitan planning,
2 project planning, and design criteria; and

3 “(ii) environmental processing times
4 and costs;

5 “(B) the collection of data to assess per-
6 formance based on the established criteria; and

7 “(C) the annual reporting of the results of
8 the performance measurement studies.

9 “(3) INVOLVEMENT OF THE PUBLIC AND CO-
10 OPERATING AGENCIES.—

11 “(A) IN GENERAL.—The Secretary shall
12 biennially conduct a survey of agencies partici-
13 pating in the environmental review process
14 under this section to assess the expectations
15 and experiences of each surveyed agency with
16 regard to the planning and environmental re-
17 view process for projects reviewed under this
18 section.

19 “(B) PUBLIC PARTICIPATION.—In con-
20 ducting the survey, the Secretary shall solicit
21 comments from the public.

22 “(j) ASSISTANCE TO AFFECTED FEDERAL AND
23 STATE AGENCIES.—

24 “(1) IN GENERAL.—The Secretary may approve
25 a request by a State or recipient to provide funds

1 made available under this title for a highway project,
2 or made available under chapter 53 of title 49 for
3 a mass transit project, to agencies participating in
4 the coordinated environmental review process estab-
5 lished under this section in order to provide the re-
6 sources necessary to meet any time limits estab-
7 lished under this section.

8 “(2) AMOUNTS.—Such requests under para-
9 graph (1) shall be approved only—

10 “(A) for such additional amounts as the
11 Secretary determines are necessary for the af-
12 fected Federal and State agencies to meet the
13 time limits for environmental review; and

14 “(B) if those time limits are less than the
15 customary time necessary for that review.

16 “(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

17 “(1) JUDICIAL REVIEW.—Nothing in this sec-
18 tion shall affect the reviewability of any final Fed-
19 eral agency action in any United States district
20 court or State court.

21 “(2) SAVINGS CLAUSE.—Nothing in this section
22 shall affect—

23 “(A) the applicability of the National Envi-
24 ronmental Policy Act of 1969 (42 U.S.C. 4321

1 et seq.) or any other Federal environmental
2 statute; or

3 “(B) the responsibility of any Federal offi-
4 cer to comply with or enforce such a statute.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) The analysis for chapter 3 of title 23,
7 United States Code, is amended by inserting after
8 the item relating to section 325 (as added by section
9 1203(f)) the following:

“326. Transportation project development process.”.

10 (2) Section 1309 of the Transportation Equity
11 Act for the 21st Century (112 Stat. 232) is re-
12 pealed.

13 **SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CAT-**
14 **EGORICAL EXCLUSIONS.**

15 (a) IN GENERAL.—Chapter 3 of title 23, United
16 States Code (as amended by section 1511(a)), is amended
17 by inserting after section 326 the following:

18 **“§ 327. Assumption of responsibility for categorical**
19 **exclusions**

20 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

21 “(1) IN GENERAL.—The Secretary may assign,
22 and a State may assume, responsibility for deter-
23 mining whether certain designated activities are in-
24 cluded within classes of action identified in regula-
25 tion by the Secretary that are categorically excluded

1 from requirements for environmental assessments or
2 environmental impact statements pursuant to regu-
3 lations promulgated by the Council on Environ-
4 mental Quality under part 1500 of title 40, Code of
5 Federal Regulations (as in effect on October 1,
6 2003).

7 “(2) SCOPE OF AUTHORITY.—A determination
8 described in paragraph (1) shall be made by a State
9 in accordance with criteria established by the Sec-
10 retary and only for types of activities specifically
11 designated by the Secretary.

12 “(3) CRITERIA.—The criteria under paragraph
13 (2) shall include provisions for public availability of
14 information consistent with section 552 of title 5
15 and the National Environmental Policy Act of 1969
16 (42 U.S.C. 4321 et seq.).

17 “(b) OTHER APPLICABLE FEDERAL LAWS.—

18 “(1) IN GENERAL.—If a State assumes respon-
19 sibility under subsection (a), the Secretary may also
20 assign and the State may assume all or part of the
21 responsibilities of the Secretary for environmental
22 review, consultation, or other related actions re-
23 quired under any Federal law applicable to activities
24 that are classified by the Secretary as categorical ex-
25 clusions, with the exception of government-to-govern-

1 ment consultation with Indian tribes, subject to the
2 same procedural and substantive requirements as
3 would be required if that responsibility were carried
4 out by the Secretary.

5 “(2) SOLE RESPONSIBILITY.—A State that as-
6 sumes responsibility under paragraph (1) with re-
7 spect to a Federal law shall be solely responsible and
8 solely liable for complying with and carrying out
9 that law, and the Secretary shall have no such re-
10 sponsibility or liability.

11 “(c) MEMORANDA OF UNDERSTANDING.—

12 “(1) IN GENERAL.—The Secretary and the
13 State, after providing public notice and opportunity
14 for comment, shall enter into a memorandum of un-
15 derstanding setting forth the responsibilities to be
16 assigned under this section and the terms and condi-
17 tions under which the assignments are made, includ-
18 ing establishment of the circumstances under which
19 the Secretary would reassume responsibility for cat-
20 egorical exclusion determinations.

21 “(2) TERM.—A memorandum of
22 understanding—

23 “(A) shall have term of not more than 3
24 years; and

25 “(B) shall be renewable.

1 “(3) ACCEPTANCE OF JURISDICTION.—In a
2 memorandum of understanding, the State shall con-
3 sent to accept the jurisdiction of the Federal courts
4 for the compliance, discharge, and enforcement of
5 any responsibility of the Secretary that the State as-
6 sumes.

7 “(4) MONITORING.—The Secretary shall—

8 “(A) monitor compliance by the State with
9 the memorandum of understanding and the
10 provision by the State of financial resources to
11 carry out the memorandum of understanding;
12 and

13 “(B) take into account the performance by
14 the State when considering renewal of the
15 memorandum of understanding.

16 “(d) TERMINATION.—The Secretary may terminate
17 any assumption of responsibility under a memorandum of
18 understanding on a determination that the State is not
19 adequately carrying out the responsibilities assigned to the
20 State.

21 “(e) STATE AGENCY DEEMED TO BE FEDERAL
22 AGENCY.—A State agency that is assigned a responsibility
23 under a memorandum of understanding shall be deemed
24 to be a Federal agency for the purposes of the Federal
25 law under which the responsibility is exercised.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 3 of title 23, United States Code (as amended by
3 section 1511(b)), is amended by inserting after the item
4 relating to section 326 the following:

“327. Assumption of responsibility for categorical exclusions.”.

5 **SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIV-**
6 **ERY PILOT PROGRAM.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United
8 States Code (as amended by section 1512(a)), is amended
9 by inserting after section 327 the following:

10 **“§ 328. Surface transportation project delivery pilot**
11 **program**

12 “(a) ESTABLISHMENT.—

13 “(1) IN GENERAL.—The Secretary shall carry
14 out a surface transportation project delivery pilot
15 program (referred to in this section as the ‘pro-
16 gram’).

17 “(2) ASSUMPTION OF RESPONSIBILITY.—

18 “(A) IN GENERAL.—Subject to the other
19 provisions of this section, with the written
20 agreement of the Secretary and a State, which
21 may be in the form of a memorandum of under-
22 standing, the Secretary may assign, and the
23 State may assume, the responsibilities of the
24 Secretary with respect to 1 or more highway
25 projects within the State under the National

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

3 “(B) ADDITIONAL RESPONSIBILITY.—If a
4 State assumes responsibility under subpara-
5 graph (A)—

6 “(i) the Secretary may assign to the
7 State, and the State may assume, all or
8 part of the responsibilities of the Secretary
9 for environmental review, consultation, or
10 other action required under any Federal
11 environmental law pertaining to the review
12 or approval of a specific project; but

13 “(ii) the Secretary may not assign—

14 “(I) responsibility for any con-
15 formity determination required under
16 section 176 of the Clean Air Act (42
17 U.S.C. 7506); or

18 “(II) any responsibility imposed
19 on the Secretary by section 134 or
20 135.

21 “(C) PROCEDURAL AND SUBSTANTIVE RE-
22 QUIREMENTS.—A State shall assume responsi-
23 bility under this section subject to the same
24 procedural and substantive requirements as

1 would apply if that responsibility were carried
2 out by the Secretary.

3 “(D) FEDERAL RESPONSIBILITY.—Any re-
4 sponsibility of the Secretary not explicitly as-
5 sumed by the State by written agreement under
6 this section shall remain the responsibility of
7 the Secretary.

8 “(E) NO EFFECT ON AUTHORITY.—Noth-
9 ing in this section preempts or interferes with
10 any power, jurisdiction, responsibility, or au-
11 thority of an agency, other than the Depart-
12 ment of Transportation, under applicable law
13 (including regulations) with respect to a
14 project.

15 “(b) STATE PARTICIPATION.—

16 “(1) NUMBER OF PARTICIPATING STATES.—
17 The Secretary may permit not more than 5 States
18 (including the State of Oklahoma) to participate in
19 the program.

20 “(2) APPLICATION.—Not later than 270 days
21 after the date of enactment of this section, the Sec-
22 retary shall promulgate regulations that establish re-
23 quirements relating to information required to be
24 contained in any application of a State to participate
25 in the program, including, at a minimum—

1 “(A) the projects or classes of projects for
2 which the State anticipates exercising the au-
3 thority that may be granted under the program;

4 “(B) verification of the financial resources
5 necessary to carry out the authority that may
6 be granted under the program; and

7 “(C) evidence of the notice and solicitation
8 of public comment by the State relating to par-
9 ticipation of the State in the program, including
10 copies of comments received from that sollicita-
11 tion.

12 “(3) PUBLIC NOTICE.—

13 “(A) IN GENERAL.—Each State that sub-
14 mits an application under this subsection shall
15 give notice of the intent of the State to partici-
16 pate in the program not later than 30 days be-
17 fore the date of submission of the application.

18 “(B) METHOD OF NOTICE AND SOLICITA-
19 TION.—The State shall provide notice and so-
20 licit public comment under this paragraph by
21 publishing the complete application of the State
22 in accordance with the appropriate public notice
23 law of the State.

1 “(4) SELECTION CRITERIA.—The Secretary
2 may approve the application of a State under this
3 section only if—

4 “(A) the regulatory requirements under
5 paragraph (2) have been met;

6 “(B) the Secretary determines that the
7 State has the capability, including financial and
8 personnel, to assume the responsibility; and

9 “(C) the head of the State agency having
10 primary jurisdiction over highway matters en-
11 ters into a written agreement with the Sec-
12 retary described in subsection (c).

13 “(5) OTHER FEDERAL AGENCY VIEWS.—If a
14 State applies to assume a responsibility of the Sec-
15 retary that would have required the Secretary to
16 consult with another Federal agency, the Secretary
17 shall solicit the views of the Federal agency before
18 approving the application.

19 “(c) WRITTEN AGREEMENT.—A written agreement
20 under this section shall—

21 “(1) be executed by the Governor or the top-
22 ranking transportation official in the State who is
23 charged with responsibility for highway construction;

24 “(2) be in such form as the Secretary may pre-
25 scribe;

1 “(3) provide that the State—

2 “(A) agrees to assume all or part of the re-
3 sponsibilities of the Secretary described in sub-
4 section (a);

5 “(B) expressly consents, on behalf of the
6 State, to accept the jurisdiction of the Federal
7 courts for the compliance, discharge, and en-
8 forcement of any responsibility of the Secretary
9 assumed by the State;

10 “(C) certifies that State laws (including
11 regulations) are in effect that—

12 “(i) authorize the State to take the
13 actions necessary to carry out the respon-
14 sibilities being assumed; and

15 “(ii) are comparable to section 552 of
16 title 5, including providing that any deci-
17 sion regarding the public availability of a
18 document under those State laws is review-
19 able by a court of competent jurisdiction;
20 and

21 “(D) agrees to maintain the financial re-
22 sources necessary to carry out the responsibil-
23 ities being assumed.

24 “(d) JURISDICTION.—

1 “(1) IN GENERAL.—The United States district
2 courts shall have exclusive jurisdiction over any civil
3 action against a State for failure to carry out any
4 responsibility of the State under this section.

5 “(2) LEGAL STANDARDS AND REQUIRE-
6 MENTS.—A civil action under paragraph (1) shall be
7 governed by the legal standards and requirements
8 that would apply in such a civil action against the
9 Secretary had the Secretary taken the actions in
10 question.

11 “(3) INTERVENTION.—The Secretary shall have
12 the right to intervene in any action described in
13 paragraph (1).

14 “(e) EFFECT OF ASSUMPTION OF RESPONSI-
15 BILITY.—A State that assumes responsibility under sub-
16 section (a)(2) shall be solely responsible and solely liable
17 for carrying out, in lieu of the Secretary, the responsibil-
18 ities assumed under subsection (a)(2), until the program
19 is terminated as provided in subsection (i).

20 “(f) LIMITATIONS ON AGREEMENTS.—Nothing in
21 this section permits a State to assume any rulemaking au-
22 thority of the Secretary under any Federal law.

23 “(g) AUDITS.—

24 “(1) IN GENERAL.—To ensure compliance by a
25 State with any agreement of the State under sub-

1 section (c)(1) (including compliance by the State
2 with all Federal laws for which responsibility is as-
3 sumed under subsection (a)(2)), for each State par-
4 ticipating in the program under this section, the
5 Secretary shall conduct—

6 “(A) semiannual audits during each of the
7 first 2 years of State participation; and

8 “(B) annual audits during each subsequent
9 year of State participation.

10 “(2) PUBLIC AVAILABILITY AND COMMENT.—

11 “(A) IN GENERAL.—An audit conducted
12 under paragraph (1) shall be provided to the
13 public for comment.

14 “(B) RESPONSE.—Not later than 60 days
15 after the date on which the period for public
16 comment ends, the Secretary shall respond to
17 public comments received under subparagraph
18 (A).

19 “(h) REPORT TO CONGRESS.—The Secretary shall
20 submit to Congress an annual report that describes the
21 administration of the program.

22 “(i) TERMINATION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the program shall terminate on the date

1 that is 6 years after the date of enactment of this
2 section.

3 “(2) TERMINATION BY SECRETARY.—The Sec-
4 retary may terminate the participation of any State
5 in the program if—

6 “(A) the Secretary determines that the
7 State is not adequately carrying out the respon-
8 sibilities assigned to the State;

9 “(B) the Secretary provides to the State—

10 “(i) notification of the determination
11 of noncompliance; and

12 “(ii) a period of at least 30 days dur-
13 ing which to take such corrective action as
14 the Secretary determines is necessary to
15 comply with the applicable agreement; and

16 “(C) the State, after the notification and
17 period provided under subparagraph (B), fails
18 to take satisfactory corrective action, as deter-
19 mined by Secretary.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 3 of title 23, United States Code (as amended by
22 section 1512(b)), is amended by inserting after the item
23 relating to section 327 the following:

“328. Surface transportation project delivery pilot program.”.

1 **SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WA-**
2 **TERFOWL REFUGES, AND HISTORIC SITES.**

3 (a) PROGRAMS AND PROJECTS WITH DE MINIMIS IM-
4 PACTS.—

5 (1) TITLE 23.—Section 138 of title 23, United
6 States Code, is amended—

7 (A) in the first sentence, by striking “It is
8 hereby” and inserting the following:

9 “(a) DECLARATION OF POLICY.—It is”; and

10 (B) by adding at the end the following:

11 “(b) DE MINIMIS IMPACTS.—

12 “(1) REQUIREMENTS.—

13 “(A) IN GENERAL.—The requirements of
14 this section shall be considered to be satisfied
15 with respect to an area described in paragraph
16 (2) or (3) if the Secretary determines, in ac-
17 cordance with this subsection, that a transpor-
18 tation program or project will have a de mini-
19 mis impact on the area.

20 “(B) CRITERIA.—In making any deter-
21 mination under this subsection, the Secretary
22 shall consider to be part of a transportation
23 program or project any avoidance, minimiza-
24 tion, mitigation, or enhancement measures that
25 are required to be implemented as a condition

1 of approval of the transportation program or
2 project.

3 “(2) HISTORIC SITES.—With respect to historic
4 sites, the Secretary may make a finding of de mini-
5 mis impact only if—

6 “(A) the Secretary has determined, in ac-
7 cordance with the consultation process required
8 under section 106 of the National Historic
9 Preservation Act (16 U.S.C. 470f), that—

10 “(i) the transportation program or
11 project will have no adverse effect on the
12 historic site; or

13 “(ii) there will be no historic prop-
14 erties affected by the transportation pro-
15 gram or project;

16 “(B) the finding of the Secretary has re-
17 ceived written concurrence from the applicable
18 State historic preservation officer or tribal his-
19 toric preservation officer (and from the Advi-
20 sory Council on Historic Preservation, if par-
21 ticipating in the consultation); and

22 “(C) the finding of the Secretary has been
23 developed in consultation with parties con-
24 sulting as part of the process referred to in sub-
25 paragraph (A).

1 “(3) PARKS, RECREATION AREAS, AND WILD-
2 LIFE AND WATERFOWL REFUGES.—With respect to
3 parks, recreation areas, and wildlife or waterfowl
4 refuges, the Secretary may make a finding of de
5 minimis impact only if—

6 “(A) the Secretary has determined, in ac-
7 cordance with the National Environmental Pol-
8 icy Act of 1969 (42 U.S.C. 4321 et seq.) (in-
9 cluding public notice and opportunity for public
10 review and comment), that the transportation
11 program or project will not adversely affect the
12 activities, features, and attributes of the park,
13 recreation area, or wildlife or waterfowl refuge
14 eligible for protection under this section; and

15 “(B) the finding of the Secretary has re-
16 ceived concurrence from the officials with juris-
17 diction over the park, recreation area, or wild-
18 life or waterfowl refuge.”.

19 (2) TITLE 49.—Section 303 of title 49, United
20 States Code, is amended—

21 (A) by striking “(c) The Secretary” and
22 inserting the following:

23 “(c) APPROVAL OF PROGRAMS AND PROJECTS.—
24 Subject to subsection (d), the Secretary”; and

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

1 “(d) DE MINIMIS IMPACTS.—

2 “(1) REQUIREMENTS.—

3 “(A) IN GENERAL.—The requirements of
4 this section shall be considered to be satisfied
5 with respect to an area described in paragraph
6 (2) or (3) if the Secretary determines, in ac-
7 cordance with this subsection, that a transpor-
8 tation program or project will have a de mini-
9 mis impact on the area.

10 “(B) CRITERIA.—In making any deter-
11 mination under this subsection, the Secretary
12 shall consider to be part of a transportation
13 program or project any avoidance, minimiza-
14 tion, mitigation, or enhancement measures that
15 are required to be implemented as a condition
16 of approval of the transportation program or
17 project.

18 “(2) HISTORIC SITES.—With respect to historic
19 sites, the Secretary may make a finding of de mini-
20 mis impact only if—

21 “(A) the Secretary has determined, in ac-
22 cordance with the consultation process required
23 under section 106 of the National Historic
24 Preservation Act (16 U.S.C. 470f), that—

1 “(i) the transportation program or
2 project will have no adverse effect on the
3 historic site; or

4 “(ii) there will be no historic prop-
5 erties affected by the transportation pro-
6 gram or project;

7 “(B) the finding of the Secretary has re-
8 ceived written concurrence from the applicable
9 State historic preservation officer or tribal his-
10 toric preservation officer (and from the Advi-
11 sory Council on Historic Preservation, if par-
12 ticipating in the consultation); and

13 “(C) the finding of the Secretary has been
14 developed in consultation with parties con-
15 sulting as part of the process referred to in sub-
16 paragraph (A).

17 “(3) PARKS, RECREATION AREAS, AND WILD-
18 LIFE AND WATERFOWL REFUGES.—With respect to
19 parks, recreation areas, and wildlife or waterfowl
20 refuges, the Secretary may make a finding of de-
21 minimis impact only if—

22 “(A) the Secretary has determined, in ac-
23 cordance with the National Environmental Pol-
24 icy Act of 1969 (42 U.S.C. 4321 et seq.) (in-
25 cluding public notice and opportunity for public

1 review and comment), that the transportation
2 program or project will not adversely affect the
3 activities, features, and attributes of the park,
4 recreation area, or wildlife or waterfowl refuge
5 eligible for protection under this section; and

6 “(B) the finding of the Secretary has re-
7 ceived concurrence from the officials with juris-
8 diction over the park, recreation area, or wild-
9 life or waterfowl refuge.”.

10 (b) CLARIFICATION OF EXISTING STANDARDS.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary
13 shall (in consultation with affected agencies and in-
14 terested parties) promulgate regulations that clarify
15 the factors to be considered and the standards to be
16 applied in determining the prudence and feasibility
17 of alternatives under section 138 of title 23 and sec-
18 tion 303 of title 49, United States Code.

19 (2) REQUIREMENTS.—The regulations—

20 (A) shall clarify the application of the legal
21 standards to a variety of different types of
22 transportation programs and projects depending
23 on the circumstances of each case; and

1 (B) may include, as appropriate, examples
2 to facilitate clear and consistent interpretation
3 by agency decisionmakers.

4 (c) IMPLEMENTATION STUDY.—

5 (1) IN GENERAL.—The Secretary and the
6 Transportation Research Board of the National
7 Academy of Sciences shall jointly conduct a study on
8 the implementation of this section and the amend-
9 ments made by this section.

10 (2) COMPONENTS.—In conducting the study,
11 the Secretary and the Transportation Research
12 Board shall evaluate—

13 (A) the processes developed under this sec-
14 tion and the amendments made by this section
15 and the efficiencies that may result;

16 (B) the post-construction effectiveness of
17 impact mitigation and avoidance commitments
18 adopted as part of projects conducted under
19 this section and the amendments made by this
20 section; and

21 (C) the quantity of projects with impacts
22 that are considered de minimis under this sec-
23 tion and the amendments made by this section,
24 including information on the location, size, and
25 cost of the projects.

1 (3) REPORT REQUIREMENT.—The Secretary
2 and the Transportation Research Board shall
3 prepare—

4 (A) not earlier than the date that is 4
5 years after the date of enactment of this Act,
6 a report on the results of the study conducted
7 under this subsection; and

8 (B) not later than September 30, 2009, an
9 update on the report required under subpara-
10 graph (A).

11 (4) REPORT RECIPIENTS.—The Secretary and
12 the Transportation Research Board shall—

13 (A) submit the report and update required
14 under paragraph (3) to—

15 (i) the appropriate committees of Con-
16 gress;

17 (ii) the Secretary of the Interior; and

18 (iii) the Advisory Council on Historic
19 Preservation; and

20 (B) make the report and update available
21 to the public.

22 **SEC. 1515. REGULATIONS.**

23 Except as provided in section 1513, not later than
24 1 year after the date of enactment of this Act, the Sec-
25 retary shall promulgate regulations necessary to imple-

1 ment the amendments made by chapter 1 and this chap-
2 ter.

3 **CHAPTER 3—MISCELLANEOUS**

4 **SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

5 Section 108 of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(d) CRITICAL REAL PROPERTY ACQUISITION.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 funds apportioned to a State under this title may be
10 used to pay the costs of acquiring any real property
11 that is determined to be critical under paragraph (2)
12 for a project proposed for funding under this title.

13 “(2) REIMBURSEMENT.—The Federal share of
14 the costs referred to in paragraph (1) shall be eligi-
15 ble for reimbursement out of funds apportioned to a
16 State under this title if, before the date of
17 acquisition—

18 “(A) the Secretary determines that the
19 property is offered for sale on the open market;

20 “(B) the Secretary determines that in ac-
21 quiring the property, the State will comply with
22 the Uniform Relocation Assistance and Real
23 Property Acquisition Policies Act of 1970 (42
24 U.S.C. 4601 et seq.); and

1 “(C) the State determines that immediate
2 acquisition of the property is critical because—

3 “(i) based on an appraisal of the
4 property, the value of the property is in-
5 creasing significantly;

6 “(ii) there is an imminent threat of
7 development or redevelopment of the prop-
8 erty; and

9 “(iii) the property is necessary for the
10 implementation of the goals stated in the
11 proposal for the project.

12 “(3) APPLICABLE LAW.—An acquisition of real
13 property under this section shall be considered to be
14 an exempt project under section 176 of the Clean
15 Air Act (42 U.S.C. 7506).

16 “(4) ENVIRONMENTAL REVIEW.—

17 “(A) IN GENERAL.—A project proposed to
18 be conducted under this title shall not be con-
19 ducted on property acquired under paragraph
20 (1) until all required environmental reviews for
21 the project have been completed.

22 “(B) EFFECT ON CONSIDERATION OF
23 PROJECT ALTERNATIVES.—The number of crit-
24 ical acquisitions of real property associated with
25 a project shall not affect the consideration of

1 project alternatives during the environmental
2 review process.

3 “(5) PROCEEDS FROM THE SALE OR LEASE OF
4 REAL PROPERTY.—Section 156(c) shall not apply to
5 the sale, use, or lease of any real property acquired
6 under paragraph (1).”.

7 **SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

8 Section 104 of title 23, United States Code, is
9 amended by adding at the end the following:

10 “(m) PLANNING CAPACITY BUILDING INITIATIVE.—

11 “(1) IN GENERAL.—The Secretary shall carry
12 out a planning capacity building initiative to support
13 enhancements in transportation planning to—

14 “(A) strengthen the processes and prod-
15 ucts of metropolitan and statewide transpor-
16 tation planning under this title;

17 “(B) enhance tribal capacity to conduct
18 joint transportation planning under chapter 2;

19 “(C) participate in the metropolitan and
20 statewide transportation planning programs
21 under this title; and

22 “(D) increase the knowledge and skill level
23 of participants in metropolitan and statewide
24 transportation.

1 “(III) involve the public in the
2 development of transportation plans,
3 projects, and alternative scenarios;
4 and

5 “(IV) develop strategies to avoid,
6 minimize, and mitigate the impacts of
7 transportation facilities and projects;
8 and

9 “(ii) improvement of the quality of
10 congestion management systems, including
11 the development of—

12 “(I) a measure of congestion;

13 “(II) a measure of transportation
14 system reliability; and

15 “(III) a measure of induced de-
16 mand;

17 “(C) safety planning, including—

18 “(i) development of State strategic
19 safety plans consistent with section 148;

20 “(ii) incorporation of work zone safety
21 into planning; and

22 “(iii) training in the development of
23 data systems relating to highway safety;

24 “(D) operations planning, including—

1 “(i) developing training of the integra-
2 tion of transportation system operations
3 and management into the transportation
4 planning process; and

5 “(ii) training and best practices relat-
6 ing to regional concepts of operations;

7 “(E) freight planning, including—

8 “(i) modeling of freight at a regional
9 and statewide level; and

10 “(ii) techniques for engaging the
11 freight community with the planning proc-
12 ess;

13 “(F) air quality planning, including—

14 “(i) assisting new and existing non-
15 attainment and maintenance areas in de-
16 veloping the technical capacity to perform
17 air quality conformity analysis;

18 “(ii) providing training on areas such
19 as modeling and data collection to support
20 air quality planning and analysis;

21 “(iii) developing concepts and tech-
22 niques to assist areas in meeting air qual-
23 ity performance timeframes; and

1 “(iv) developing materials to explain
2 air quality issues to decisionmakers and
3 the public; and

4 “(G) integration of environment and plan-
5 ning.

6 “(3) USE OF FUNDS.—The Secretary shall use
7 amounts made available under paragraph (4) to
8 make grants to, or enter into contracts, cooperative
9 agreements, and other transactions with, a Federal
10 agency, State agency, local agency, federally recog-
11 nized Indian tribal government or tribal consortium,
12 authority, association, nonprofit or for-profit cor-
13 poration, or institution of higher education for re-
14 search, program development, information collection
15 and dissemination, and technical assistance.

16 “(4) SET-ASIDE.—

17 “(A) IN GENERAL.—On October 1 of each
18 fiscal year, of the funds made available under
19 subsection (a), the Secretary shall set aside
20 \$3,572,327 to carry out this subsection.

21 “(B) FEDERAL SHARE.—The Federal
22 share of the cost of an activity carried out
23 using funds made available under subparagraph
24 (A) shall be 100 percent.

1 “(2) encouraging the development of an inte-
2 grated system of public transportation information;
3 and

4 “(3) providing intercity bus intermodal pas-
5 senger facility grants.

6 **§ 5572. Definitions**

7 “In this subchapter—

8 “(1) ‘capital project’ means a project for—

9 “(A) acquiring, constructing, improving, or
10 renovating an intermodal facility that is related
11 physically and functionally to intercity bus serv-
12 ice and establishes or enhances coordination be-
13 tween intercity bus service and transportation,
14 including aviation, commuter rail, intercity rail,
15 public transportation, seaports, and the Na-
16 tional Highway System, such as physical infra-
17 structure associated with private bus operations
18 at existing and new intermodal facilities, includ-
19 ing special lanes, curb cuts, ticket kiosks and
20 counters, baggage and package express storage,
21 employee parking, office space, security, and
22 signage; and

23 “(B) establishing or enhancing coordina-
24 tion between intercity bus service and transpor-
25 tation, including aviation, commuter rail, inter-

1 city rail, public transportation, and the Na-
2 tional Highway System through an integrated
3 system of public transportation information.

4 “(2) ‘commuter service’ means service designed
5 primarily to provide daily work trips within the local
6 commuting area.

7 “(3) ‘intercity bus service’ means regularly
8 scheduled bus service for the general public which
9 operates with limited stops over fixed routes con-
10 necting two or more urban areas not in close prox-
11 imity, which has the capacity for transporting bag-
12 gage carried by passengers, and which makes mean-
13 ingful connections with scheduled intercity bus serv-
14 ice to more distant points, if such service is available
15 and may include package express service, if inci-
16 dental to passenger transportation, but does not in-
17 clude air, commuter, water or rail service.

18 “(4) ‘intermodal passenger facility’ means pas-
19 senger terminal that does, or can be modified to, ac-
20 commodate several modes of transportation and re-
21 lated facilities, including some or all of the following:
22 intercity rail, intercity bus, commuter rail, intracity
23 rail transit and bus transportation, airport limousine
24 service and airline ticket offices, rent-a-car facilities,

1 taxi, private parking, and other transportation serv-
2 ices.

3 “(5) ‘local governmental authority’ includes—

4 “(A) a political subdivision of a State;

5 “(B) an authority of at least one State or
6 political subdivision of a State;

7 “(C) an Indian tribe; and

8 “(D) a public corporation, board, or com-
9 mission established under the laws of the State.

10 “(6) ‘owner or operator of a public transpor-
11 tation facility’ means an owner or operator of inter-
12 city-rail, intercity-bus, commuter-rail, commuter-bus,
13 rail-transit, bus-transit, or ferry services.

14 “(7) ‘recipient’ means a State or local govern-
15 mental authority or a nonprofit organization that re-
16 ceives a grant to carry out this section directly from
17 the Federal government.

18 “(8) ‘Secretary’ means the Secretary of Trans-
19 portation.

20 “(9) ‘State’ means a State of the United
21 States, the District of Columbia, Puerto Rico, the
22 Northern Mariana Islands, Guam, American Samoa,
23 and the Virgin Islands.

24 “(10) ‘urban area’ means an area that includes
25 a municipality or other built-up place that the Sec-

1 retary, after considering local patterns and trends of
2 urban growth, decides is appropriate for a local pub-
3 lic transportation system to serve individuals in the
4 locality.

5 **“§ 5573. Assurance of access to intermodal passenger**
6 **facilities**

7 “Intercity buses and other modes of transportation
8 shall, to the maximum extent practicable, have access to
9 publicly funded intermodal passenger facilities, including
10 those passenger facilities seeking funding under section
11 5574.

12 **“§ 5574. Intercity bus intermodal passenger facility**
13 **grants**

14 “(a) GENERAL AUTHORITY.—The Secretary of
15 Transportation may make grants under this section to re-
16 cipients in financing a capital project only if the Secretary
17 finds that the proposed project is justified and has ade-
18 quate financial commitment.

19 “(b) COMPETITIVE GRANT SELECTION.—The Sec-
20 retary shall conduct a national solicitation for applications
21 for grants under this section. Grantees shall be selected
22 on a competitive basis.

23 “(c) SHARE OF NET PROJECT COSTS.—A grant shall
24 not exceed 50 percent of the net project cost, as deter-
25 mined by the Secretary.

1 “(d) REGULATIONS.—The Secretary may promulgate
2 such regulations as are necessary to carry out this section.

3 **“§ 5575. Funding**

4 “(a) HIGHWAY ACCOUNT.—

5 “(1) There is authorized to be appropriated
6 from the Highway Trust Fund (other than the Mass
7 Transit Account) to carry out this subchapter
8 \$8,930,818 for each of fiscal years 2005 through
9 2009.

10 “(2) The funding made available under para-
11 graph (1) shall be available for obligation in the
12 same manner as if such funds were apportioned
13 under chapter 1 of title 23 and shall be subject to
14 any obligation limitation imposed on funds for Fed-
15 eral-aid highways and highway safety construction
16 programs.

17 “(b) PERIOD OF AVAILABILITY.—Amounts made
18 available under subsection (a) shall remain available until
19 expended.”.

20 (b) CONFORMING AMENDMENT.—The chapter anal-
21 ysis for chapter 55 of title 49, United States Code, is
22 amended by adding at the end the following:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

“5573. Assurance of access to intermodal facilities.

“5574. Intercity bus intermodal facility grants.
“5575. Funding.”.

1 **Subtitle F—Environment**

2 **SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLU-**
3 **TION ABATEMENT; CONTROL OF INVASIVE**
4 **PLANT SPECIES AND ESTABLISHMENT OF NA-**
5 **TIVE SPECIES.**

6 (a) MODIFICATION TO NHS/STP FOR ENVIRON-
7 MENTAL RESTORATION, POLLUTION ABATEMENT, AND
8 INVASIVE SPECIES.—

9 (1) MODIFICATIONS TO NATIONAL HIGHWAY
10 SYSTEM.—Section 103(b)(6) of title 23, United
11 States Code, is amended by adding at the end the
12 following:

13 “(Q) Environmental restoration and pollu-
14 tion abatement in accordance with section 165.

15 “(R) Control of invasive plant species and
16 establishment of native species in accordance
17 with section 166.”.

18 (2) MODIFICATIONS TO SURFACE TRANSPOR-
19 TATION PROGRAM.—Section 133(b) of title 23, is
20 amended by striking paragraph (14) and inserting
21 the following:

22 “(14) Environmental restoration and pollution
23 abatement in accordance with section 165.

1 “(15) Control of invasive plant species and es-
2 tablishment of native species in accordance with sec-
3 tion 166.”.

4 (b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter
5 1 of title 23, United States Code, is amended by adding
6 at the end the following:

7 **“§ 165. Eligibility for environmental restoration and**
8 **pollution abatement**

9 “(a) IN GENERAL.—Subject to subsection (b), envi-
10 ronmental restoration and pollution abatement to mini-
11 mize or mitigate the impacts of any transportation project
12 funded under this title (including retrofitting and con-
13 struction of storm water treatment systems to meet Fed-
14 eral and State requirements under sections 401 and 402
15 of the Federal Water Pollution Control Act (33 U.S.C.
16 1341, 1342)) may be carried out to address water pollu-
17 tion or environmental degradation caused wholly or par-
18 tially by a transportation facility.

19 “(b) MAXIMUM EXPENDITURE.—In a case in which
20 a transportation facility is undergoing reconstruction, re-
21 habilitation, resurfacing, or restoration, the expenditure of
22 funds under this section for environmental restoration or
23 pollution abatement described in subsection (a) shall not
24 exceed 20 percent of the total cost of the reconstruction,
25 rehabilitation, resurfacing, or restoration of the facility.

1 **“§ 166. Control of invasive plant species and estab-**
2 **lishment of native species**

3 “(a) DEFINITIONS.—In this section:

4 “(1) INVASIVE PLANT SPECIES—The term
5 ‘invasive plant species’ means a nonindigenous spe-
6 cies the introduction of which causes or is likely to
7 cause economic or environmental harm or harm to
8 human health.

9 “(2) NATIVE PLANT SPECIES.—The term ‘na-
10 tive plant species’ means, with respect to a par-
11 ticular ecosystem, a species that, other than as re-
12 sult of an introduction, historically occurred or cur-
13 rently occurs in that ecosystem.

14 “(b) CONTROL OF SPECIES.—

15 “(1) IN GENERAL.—In accordance with all ap-
16 plicable Federal law (including regulations), funds
17 made available to carry out this section may be used
18 for—

19 “(A) participation in the control of invasive
20 plant species; and

21 “(B) the establishment of native species;
22 if such efforts are related to transportation projects
23 funded under this title.

24 “(2) INCLUDED ACTIVITIES.—The participation
25 and establishment under paragraph (1) may
26 include—

1 “(A) participation in statewide inventories
2 of invasive plant species and desirable plant
3 species;

4 “(B) regional native plant habitat con-
5 servation and mitigation;

6 “(C) native revegetation;

7 “(D) elimination of invasive species to cre-
8 ate fuel breaks for the prevention and control of
9 wildfires; and

10 “(E) training.

11 “(3) CONTRIBUTIONS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), an activity described in paragraph
14 (1) may be carried out concurrently with, in ad-
15 vance of, or following the construction of a
16 project funded under this title.

17 “(B) CONDITION FOR ACTIVITIES CON-
18 DUCTED IN ADVANCE OF PROJECT CONSTRUC-
19 TION.—An activity described in paragraph (1)
20 may be carried out in advance of construction
21 of a project only if the activity is carried out in
22 accordance with all applicable requirements of
23 Federal law (including regulations) and State
24 transportation planning processes.”.

1 (c) CONFORMING AMENDMENT.—The analysis for
2 subchapter I of chapter 1 of title 23, United States Code
3 (as amended by section 1406(b)), is amended by adding
4 at the end the following:

“165. Eligibility for environmental restoration and pollution abatement.
“166. Control of invasive plant species and establishment of native species.”.

5 **SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.**

6 (a) IN GENERAL.—Section 162 of title 23, United
7 States Code, is amended—

8 (1) in subsection (a)(1), by striking “the roads
9 as” and all that follows and inserting “the roads
10 as—

11 “(A) National Scenic Byways;

12 “(B) All-American Roads; or

13 “(C) America’s Byways.”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)(A), by striking “des-
16 ignated as” and all that follows and inserting
17 “designated as—

18 “(i) National Scenic Byways;

19 “(ii) All-American Roads; or

20 “(iii) America’s Byways; and”;

21 (B) in paragraph (2)—

22 (i) in subparagraph (A), by striking
23 “Byway or All-American Road” and insert-

1 ing “Byway, All-American Road, or 1 of
2 America’s Byways”; and

3 (ii) in subparagraph (B), by striking
4 “designation as a” and all that follows and
5 inserting “designation as—

6 “(i) a National Scenic Byway;

7 “(ii) an All-American Road; or

8 “(iii) 1 of America’s Byways; and”;

9 and

10 (3) in subsection (c)(4), by striking “passing
11 lane,”.

12 (b) RESEARCH, TECHNICAL ASSISTANCE, MAR-
13 KETING, AND PROMOTION.—Section 162 of title 23,
14 United States Code, is amended—

15 (1) by redesignating subsections (d), (e), and
16 (f) as subsections (e), (f), and (g), respectively;

17 (2) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) RESEARCH, TECHNICAL ASSISTANCE, MAR-
20 KETING, AND PROMOTION.—

21 “(1) IN GENERAL.—The Secretary may carry
22 out technical assistance, marketing, market re-
23 search, and promotion with respect to State Scenic
24 Byways, National Scenic Byways, All-American
25 Roads, and America’s Byways.

1 “(2) COOPERATION, GRANTS, AND CON-
2 TRACTS.—The Secretary may make grants to, or
3 enter into contracts, cooperative agreements, and
4 other transactions with, any Federal agency, State
5 agency, authority, association, institution, for-profit
6 or nonprofit corporation, organization, or person, to
7 carry out projects and activities under this sub-
8 section.

9 “(3) FUNDS.—The Secretary may use not more
10 than \$1,786,164 for each fiscal year of funds made
11 available for the National Scenic Byways Program
12 to carry out projects and activities under this sub-
13 section.

14 “(4) PRIORITY.—The Secretary shall give pri-
15 ority under this subsection to partnerships that le-
16 verage Federal funds for research, technical assist-
17 ance, marketing and promotion.”; and

18 (3) in subsection (g) (as redesignated by para-
19 graph (1)), by striking “80 percent” and inserting
20 “the share applicable under section 120, as adjusted
21 under subsection (d) of that section”.

22 **SEC. 1603. RECREATIONAL TRAILS PROGRAM.**

23 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—
24 Section 104(h)(1) of title 23, United States Code, is
25 amended—

1 (1) by striking “Whenever” and inserting the
2 following:

3 “(A) IN GENERAL.—In any case in which”;

4 (2) by striking “research and technical assist-
5 ance under the recreational trails program and for
6 the administration of the National Recreational
7 Trails Advisory Committee” and inserting “research,
8 technical assistance, and training under the rec-
9 reational trails program”; and

10 (3) by striking “The Secretary” and inserting
11 the following:

12 “(B) CONTRACTS AND AGREEMENTS.—The
13 Secretary”.

14 (b) RECREATIONAL TRAILS PROGRAM ADMINISTRA-
15 TION.—Section 206 of title 23, United States Code, is
16 amended—

17 (1) in subsection (d)—

18 (A) by striking paragraph (2) and insert-
19 ing the following:

20 “(2) PERMISSIBLE USES.—Permissible uses of
21 funds apportioned to a State for a fiscal year to
22 carry out this section include—

23 “(A) maintenance and restoration of rec-
24 reational trails;

1 shall be contingent on compliance by the
2 Federal agency with all applicable laws,
3 including—

4 “(I) the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4321
6 et seq.);

7 “(II) the Forest and Rangeland
8 Renewable Resources Planning Act of
9 1974 (16 U.S.C. 1600 et seq.); and

10 “(III) the Federal Land Policy
11 and Management Act of 1976 (43
12 U.S.C. 1701 et seq.);

13 “(E) acquisition of easements and fee sim-
14 ple title to property for recreational trails or
15 recreational trail corridors;

16 “(F) assessment of trail conditions for ac-
17 cessibility and maintenance;

18 “(G) use of trail crews, youth conservation
19 or service corps, or other appropriate means to
20 carry out activities under this section;

21 “(H) development and dissemination of
22 publications and operation of educational pro-
23 grams to promote safety and environmental
24 protection, as those objectives relate to the use
25 of recreational trails, supporting non-law en-

1 forcement trail safety and trail use monitoring
2 patrol programs, and providing trail-related
3 training, but in an amount not to exceed 5 per-
4 cent of the apportionment made to the State for
5 the fiscal year; and

6 “(I) payment of costs to the State incurred
7 in administering the program, but in an amount
8 not to exceed 7 percent of the apportionment
9 made to the State for the fiscal year to carry
10 out this section.”; and

11 (B) in paragraph (3)—

12 (i) in subparagraph (D), by striking
13 “(2)(F)” and inserting “(2)(I)”;

14 (ii) by adding at the end the fol-
15 lowing:

16 “(E) USE OF YOUTH CONSERVATION OR
17 SERVICE CORPS.—A State shall make available
18 not less than 10 percent of the apportionments
19 of the State to provide grants to, or to enter
20 into cooperative agreements or contracts with,
21 qualified youth conservation or service corps to
22 perform recreational trails program activities.”;

23 (2) in subsection (f)—

24 (A) in paragraph (1)—

1 (i) by inserting “and the Federal
2 share of the administrative costs of a
3 State” after “project”; and

4 (ii) by striking “not exceed 80 per-
5 cent” and inserting “be determined in ac-
6 cordance with section 120”;

7 (B) in paragraph (2)—

8 (i) in subparagraph (A), by striking
9 “80 percent of” and inserting “the amount
10 determined in accordance with section 120
11 for”; and

12 (ii) in subparagraph (B), by inserting
13 “sponsoring the project” after “Federal
14 agency”;

15 (C) by striking paragraph (5);

16 (D) by redesignating paragraph (4) as
17 paragraph (5);

18 (E) by inserting after paragraph (3) the
19 following:

20 “(4) USE OF RECREATIONAL TRAILS PROGRAM
21 FUNDS TO MATCH OTHER FEDERAL PROGRAM
22 FUNDS.—Notwithstanding any other provision of
23 law, funds made available under this section may be
24 used to pay the non-Federal matching share for
25 other Federal program funds that are—

1 “(A) expended in accordance with the re-
2 quirements of the Federal program relating to
3 activities funded and populations served; and

4 “(B) expended on a project that is eligible
5 for assistance under this section.”; and

6 (F) in paragraph (5) (as redesignated by
7 subparagraph (D)), by striking “80 percent”
8 and inserting “the Federal share as determined
9 in accordance with section 120”; and
10 (3) in subsection (h)—

11 (A) in paragraph (1), by inserting after
12 subparagraph (B) the following:

13 “(C) PLANNING AND ENVIRONMENTAL AS-
14 SESSMENT COSTS INCURRED PRIOR TO PROJECT
15 APPROVAL.—A project funded under any of
16 subparagraphs (A) through (H) of subsection
17 (d)(2) may permit preapproval planning and en-
18 vironmental compliance costs incurred not more
19 than 18 months before project approval to be
20 credited toward the non-Federal share in ac-
21 cordance with subsection (f).”; and

22 (B) by striking paragraph (2) and insert-
23 ing the following:

24 “(2) WAIVER OF HIGHWAY PROGRAM REQUIRE-
25 MENTS.—A project funded under this section—

1 “(A) is intended to enhance recreational
2 opportunity;

3 “(B) is not considered to be a highway
4 project; and

5 “(C) is not subject to—

6 “(i) section 112, 114, 116, 134, 135,
7 138, 217, or 301 of this title; or

8 “(ii) section 303 of title 49.”.

9 **SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.**

10 Subsection 103(c) of title 23, United States Code, is
11 amended by adding at the end the following:

12 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), the Interstate System shall
15 not be considered to be a historic site under
16 section 303 of title 49 or section 138 of this
17 title, regardless of whether the Interstate Sys-
18 tem or portions of the Interstate System are
19 listed on, or eligible for listing on, the National
20 Register of Historic Places.

21 “(B) INDIVIDUAL ELEMENTS.—A portion
22 of the Interstate System that possesses an inde-
23 pendent feature of historic significance, such as
24 a historic bridge or a highly significant engi-
25 neering feature, that would qualify independ-

1 ently for listing on the National Register of
2 Historic Places, shall be considered to be a his-
3 toric site under section 303 of title 49 or sec-
4 tion 138 of this title, as applicable.”.

5 **SEC. 1605. STANDARDS.**

6 (a) IN GENERAL.—Section 109(a) of title 23, United
7 States Code, is amended—

8 (1) in paragraph (1), by striking “and” at the
9 end;

10 (2) in paragraph (2), by striking the period at
11 the end and inserting “; and”; and

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

13 “(3) consider the preservation, historic, scenic,
14 natural environmental, and community values.”.

15 (b) CONTEXT SENSITIVE DESIGN.—Section 109 of
16 title 23, United States Code, is amended by striking sub-
17 section (p) and inserting the following:

18 “(p) CONTEXT SENSITIVE DESIGN.—

19 “(1) IN GENERAL.—The Secretary shall encour-
20 age States to design projects funded under this title
21 that—

22 “(A) allow for the preservation of environ-
23 mental, scenic, or historic values;

24 “(B) ensure the safe use of the facility;

1 “(C) provide for consideration of the con-
2 text of the locality;

3 “(D) encourage access for other modes of
4 transportation; and

5 “(E) comply with subsection (a).

6 “(2) APPROVAL BY SECRETARY.—Notwith-
7 standing subsections (b) and (c), the Secretary may
8 approve a project described in paragraph (1) for the
9 National Highway System if the project is designed
10 to achieve the criteria specified in that paragraph.”.

11 **SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.**

12 Section 102 of title 23, United States Code, is
13 amended by striking subsection (a) and inserting the fol-
14 lowing:

15 “(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER
16 REQUIREMENTS.—

17 “(1) DEFINITIONS.—In this subsection:

18 “(A) RESPONSIBLE AGENCY.—The term
19 ‘responsible agency’ means—

20 “(i) a State transportation depart-
21 ment;

22 “(ii) a local agency in a State that is
23 responsible for transportation matters; and

24 “(iii) a public authority, or a public or
25 private entity designated by a State, to col-

1 lect a toll from motor vehicles at an eligible
2 toll facility.

3 “(B) SERIOUSLY DEGRADED.—The term
4 ‘seriously degraded’, with respect to a high oc-
5 cupancy vehicle lane, means, in the case of a
6 high occupancy vehicle lane, the minimum aver-
7 age operating speed, performance threshold,
8 and associated time period of the high occu-
9 pancy vehicle lane, calculated and determined
10 jointly by all applicable responsible agencies and
11 based on conditions unique to the roadway, are
12 unsatisfactory.

13 “(2) REQUIREMENTS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), for each State, 1 or more respon-
16 sible agencies shall establish the occupancy re-
17 quirements of vehicles operating on high occu-
18 pancy vehicle lanes.

19 “(B) MINIMUM NUMBER OF OCCUPANTS.—
20 Except as provided in paragraph (3), an occu-
21 pancy requirement established under subpara-
22 graph (A) shall—

23 “(i) require at least 2 occupants per
24 vehicle for a vehicle operating on a high
25 occupancy vehicle lane; and

1 “(ii) in the case of a high occupancy
2 vehicle lane that traverses an adjacent
3 State, be established in consultation with
4 the adjacent State.

5 “(3) EXCEPTIONS TO HOV OCCUPANCY RE-
6 QUIREMENTS.—

7 “(A) MOTORCYCLES.—For the purpose of
8 this subsection, a motorcycle—

9 “(i) shall not be considered to be a
10 single occupant vehicle; and

11 “(ii) shall be allowed to use a high oc-
12 cupancy vehicle lane unless a responsible
13 agency—

14 “(I) certifies to the Secretary the
15 use of a high occupancy vehicle lane
16 by a motorcycle would create a safety
17 hazard; and

18 “(II) restricts that the use of the
19 high occupancy vehicle lane by motor-
20 cycles.

21 “(B) LOW EMISSION AND ENERGY-EFFI-
22 CIENT VEHICLES.—

23 “(i) DEFINITION OF LOW EMISSION
24 AND ENERGY-EFFICIENT VEHICLE.—In
25 this subparagraph, the term ‘low emission

1 and energy-efficient vehicle' means a vehi-
2 cle that has been certified by the Adminis-
3 trator of the Environmental Protection
4 Agency—

5 “(I)(aa) to have a 45-mile per
6 gallon or greater fuel economy high-
7 way rating; or

8 “(bb) to qualify as an alternative
9 fueled vehicle under section 301 of the
10 Energy Policy Act of 1992 (42 U.S.C.
11 13211); and

12 “(II) as meeting Tier II emission
13 level established in regulations pro-
14 mulgated by the Administrator of the
15 Environmental Protection Agency
16 under section 202(i) of the Clean Air
17 Act (42 U.S.C. 7521(i)) for that make
18 and model year vehicle.

19 “(ii) EXEMPTION FOR LOW EMISSION
20 AND ENERGY-EFFICIENT VEHICLES.—A re-
21 sponsible agency may permit qualifying low
22 emission and energy-efficient vehicles that
23 do not meet applicable occupancy require-
24 ments (as determined by the responsible

1 agency) to use high occupancy vehicle
2 lanes if the responsible agency—

3 “(I) establishes a program that
4 addresses how those qualifying low
5 emission and energy-efficient vehicles
6 are selected and certified;

7 “(II) establishes requirements for
8 labeling qualifying low emission and
9 energy-efficient vehicles (including
10 procedures for enforcing those re-
11 quirements);

12 “(III) continuously monitors,
13 evaluates, and reports to the Sec-
14 retary on performance; and

15 “(IV) imposes such restrictions
16 on the use on high occupancy vehicle
17 lanes by vehicles that do not satisfy
18 established occupancy requirements as
19 are necessary to ensure that the per-
20 formance of individual high occupancy
21 vehicle lanes, and the entire high oc-
22 cupancy vehicle lane system, will not
23 become seriously degraded.

24 “(C) TOLLING OF VEHICLES.—

1 “(aa) to vary the toll
2 charged in order to manage the
3 demand for use of high occu-
4 pancy vehicle lanes; and

5 “(bb) to enforce violations;
6 and

7 “(VI) establish procedures to im-
8 pose such restrictions on the use of
9 high occupancy vehicle lanes by vehi-
10 cles that do not satisfy established oc-
11 cupancy requirements as are nec-
12 essary to ensure that the performance
13 of individual high occupancy vehicle
14 lanes, and the entire high occupancy
15 vehicle lane system, will not become
16 seriously degraded.

17 “(D) DESIGNATED PUBLIC TRANSPOR-
18 TATION VEHICLES.—

19 “(i) DEFINITION OF DESIGNATED
20 PUBLIC TRANSPORTATION VEHICLE.—In
21 this subparagraph, the term ‘designated
22 public transportation vehicle’ means a vehi-
23 cle that—

24 “(I) provides designated public
25 transportation (as defined in section

1 221 of the Americans with Disabilities
2 Act of 1990 (42 U.S.C. 12141)); and

3 “(II)(aa) is owned or operated by
4 a public entity; or

5 “(bb) is operated under a con-
6 tract with a public entity.

7 “(ii) USE OF HIGH OCCUPANCY VEHI-
8 CLE LANES.—A responsible agency may
9 permit designated public transportation ve-
10 hicles that do not satisfy established occu-
11 pancy requirements to use high occupancy
12 vehicle lanes if the responsible agency—

13 “(I) requires the clear and identi-
14 fiable labeling of each designated pub-
15 lic transportation vehicle operating
16 under a contract with a public entity
17 with the name of the public entity on
18 all sides of the vehicle;

19 “(II) continuously monitors, eval-
20 uates, and reports on performance of
21 those designated public transportation
22 vehicles; and

23 “(III) imposes such restrictions
24 on the use of high occupancy vehicle
25 lanes by designated public transpor-

1 tation vehicles as are necessary to en-
2 sure that the performance of indi-
3 vidual high occupancy vehicle lanes,
4 and the entire high occupancy vehicle
5 lane system, will not become seriously
6 degraded.

7 “(E) HOV LANE MANAGEMENT, OPER-
8 ATION, AND MONITORING.—

9 “(i) IN GENERAL.—A responsible
10 agency that permits any of the exceptions
11 specified in this paragraph shall comply
12 with clauses (ii) and (iii).

13 “(ii) PERFORMANCE MONITORING,
14 EVALUATION, AND REPORTING.—A respon-
15 sible agency described in clause (i) shall es-
16 tablish, manage, and support a perform-
17 ance monitoring, evaluation, and reporting
18 program under which the responsible agen-
19 cy continuously monitors, assesses, and re-
20 ports on the effects that any vehicle per-
21 mitted to use a high occupancy vehicle lane
22 under an exception under this paragraph
23 may have on the operation of—

24 “(I) individual high occupancy
25 vehicle lanes; and

1 “(II) the entire high occupancy
2 vehicle lane system.

3 “(iii) OPERATION OF HOV LANE OR
4 SYSTEM.—A responsible agency described
5 in clause (i) shall limit use of, or cease to
6 use, any of the exceptions specified in this
7 paragraph if the presence of any vehicle
8 permitted to use a high occupancy vehicle
9 lane under an exception under this para-
10 graph seriously degrades the operation
11 of—

12 “(I) individual high occupancy
13 vehicle lanes; and

14 “(II) the entire high occupancy
15 vehicle lane system.”.

16 **SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN**
17 **WALKWAYS.**

18 (a) IN GENERAL.—Section 217 of title 23, United
19 States Code, is amended—

20 (1) in subsection (a), by inserting “pedestrian
21 and” after “safe”;

22 (2) in subsection (e), by striking “bicycles”
23 each place it appears and inserting “pedestrians or
24 bicyclists”;

1 (3) by striking subsection (f) and inserting the
2 following:

3 “(f) FEDERAL SHARE.—The Federal share of the
4 construction of bicycle transportation facilities and pedes-
5 trian walkways, and for carrying out nonconstruction
6 projects relating to safe pedestrian and bicycle use, shall
7 be determined in accordance with section 120(b).”;

8 (4) by redesignating subsection (j) as sub-
9 section (k);

10 (5) by inserting after subsection (i) the fol-
11 lowing:

12 “(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

13 “(1) IN GENERAL.—The Secretary shall select
14 and make grants to a national, nonprofit organiza-
15 tion engaged in promoting bicycle and pedestrian
16 safety—

17 “(A) to operate a national bicycle and pe-
18 destrian clearinghouse;

19 “(B) to develop information and edu-
20 cational programs regarding walking and bicy-
21 cling; and

22 “(C) to disseminate techniques and strate-
23 gies for improving bicycle and pedestrian safety.

1 “(2) FUNDING.—The Secretary may use funds
2 set aside under section 104(n) to carry out this sub-
3 section.

4 “(3) APPLICABILITY OF TITLE 23.—Funds au-
5 thORIZED to be appropriated to carry out this sub-
6 section shall be available for obligation in the same
7 manner as if the funds were apportioned under sec-
8 tion 104, except that the funds shall remain avail-
9 able until expended.”; and

10 (6) in subsection (k) (as redesignated by para-
11 graph (4))—

12 (A) by redesignating paragraph (4) as
13 paragraph (5); and

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

16 “(4) SHARED USE PATH.—The term ‘shared
17 use path’ means a multiuse trail or other path that
18 is—

19 “(A) physically separated from motorized
20 vehicular traffic by an open space or barrier, ei-
21 ther within a highway right-of-way or within an
22 independent right-of-way; and

23 “(B) usable for transportation purposes
24 (including by pedestrians, bicyclists, skaters,
25 equestrians, and other nonmotorized users).”.

1 (b) RESERVATION OF FUNDS.—Section 104 of title
2 23, United States Code (as amended by section 1522), is
3 amended by adding at the end the following:

4 “(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—
5 On October 1 of each of fiscal years 2005 through 2009,
6 the Secretary, after making the deductions authorized by
7 subsections (a) and (f), shall set aside \$446,541 of the
8 remaining funds apportioned under subsection (b)(3) for
9 use in carrying out the bicycle and pedestrian safety grant
10 program under section 217.”.

11 **SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE**
12 **RIGHTS-OF-WAY.**

13 Section 111 of title 23, United States Code, is
14 amended by adding at the end the following:

15 “(d) IDLING REDUCTION FACILITIES IN INTERSTATE
16 RIGHTS-OF-WAY.—

17 “(1) IN GENERAL.—Notwithstanding subsection
18 (a), a State may—

19 “(A) permit electrification or other idling
20 reduction facilities and equipment, for use by
21 motor vehicles used for commercial purposes, to
22 be placed in rest and recreation areas, and in
23 safety rest areas, constructed or located on
24 rights-of-way of the Interstate System in the

1 State, so long as those idling reduction meas-
2 ures do not—

3 “(i) reduce the existing number of
4 designated truck parking spaces at any
5 given rest or recreation area; or

6 “(ii) preclude the use of those spaces
7 by trucks employing alternative idle reduc-
8 tion technologies; and

9 “(B) charge a fee, or permit the charging
10 of a fee, for the use of those parking spaces ac-
11 tively providing power to a truck to reduce
12 idling.

13 “(2) PURPOSE.—The exclusive purpose of the
14 facilities described in paragraph (1) (or similar tech-
15 nologies) shall be to enable operators of motor vehi-
16 cles used for commercial purposes—

17 “(A) to reduce idling of a truck while
18 parked in the rest or recreation area; and

19 “(B) to use installed or other equipment
20 specifically designed to reduce idling of a truck,
21 or provide alternative power for supporting
22 driver comfort, while parked.”.

23 **SEC. 1609. TOLL PROGRAMS.**

24 (a) INTERSTATE SYSTEM RECONSTRUCTION AND RE-
25 HABILITATION PILOT PROGRAM.—Section 1216(b) of the

1 Transportation Equity Act for the 21st Century (23
2 U.S.C. 129 note; 112 Stat. 212)—

3 (1) is amended—

4 (A) in paragraph (1)—

5 (i) by striking “The Secretary” and
6 inserting “Notwithstanding section 301,
7 the Secretary”; and

8 (ii) by striking “that could not other-
9 wise be adequately maintained or function-
10 ally improved without the collection of
11 tolls”;

12 (B) in paragraph (2), by inserting after
13 the first sentence the following: “One such fa-
14 cility shall be located in Virginia.”;

15 (C) in paragraph (3), by striking subpara-
16 graph (C) and inserting the following:

17 “(C) An analysis demonstrating that fi-
18 nancing the reconstruction or rehabilitation of
19 the facility with the collection of tolls under this
20 pilot program is the most efficient, economical,
21 or expeditious way to advance the project.”; and

22 (D) in paragraph (4)—

23 (i) by striking subparagraph (A) and
24 inserting the following:

1 “(A) the State’s analysis showing that fi-
2 nancing the reconstruction or rehabilitation of a
3 facility with the collection of tolls under the
4 pilot program is the most efficient, economical,
5 or expeditious way to advance the project;”;

6 (ii) by striking subparagraph (B) and
7 inserting the following:

8 “(B) the facility needs reconstruction or
9 rehabilitation, including major work that may
10 require replacing sections of the existing facility
11 on new alignment;”;

12 (iii) by striking subparagraph (C);

13 and

14 (iv) by redesignating subparagraphs
15 (D) and (E) as subparagraphs (C) and
16 (D), respectively;

17 (2) is redesignated as subsection (d) of section
18 129 of title 23, United States Code, and moved to
19 appear at the end of that section; and

20 (3) by striking “of title 23, United States
21 Code” each place it appears.

22 (b) FAST AND SENSIBLE TOLL (FAST) LANES PRO-
23 GRAM.—Section 129 of title 23, United States Code (as
24 amended by subsection (a)(2)), is amended by adding at
25 the end the following:

1 “(e) FAST AND SENSIBLE TOLL (FAST) LANES PRO-
2 GRAM.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) ELIGIBLE TOLL FACILITY.—The term
5 ‘eligible toll facility’ includes—

6 “(i) a facility in existence on the date
7 of enactment of this subsection that col-
8 lects tolls;

9 “(ii) a facility in existence on the date
10 of enactment of this subsection that serves
11 high occupancy vehicles;

12 “(iii) a facility modified or con-
13 structed after the date of enactment of this
14 subsection to create additional tolled ca-
15 pacity (including a facility constructed by a
16 private entity or using private funds); and

17 “(iv) in the case of a new lane added
18 to a previously non-tolled facility, only the
19 new lane.

20 “(B) NONATTAINMENT AREA.—The term
21 ‘nonattainment area’ has the meaning given the
22 term in section 171 of the Clean Air Act (42
23 U.S.C. 7501).

24 “(2) ESTABLISHMENT.—Notwithstanding sec-
25 tions 129 and 301, the Secretary shall permit a

1 State, public authority, or a public or private entity
2 designated by a State, to collect a toll from motor
3 vehicles at an eligible toll facility for any highway,
4 bridge, or tunnel, including facilities on the Inter-
5 state System—

6 “(A) to manage high levels of congestion;

7 “(B) to reduce emissions in a nonattain-
8 ment area or maintenance area; or

9 “(C) to finance the expansion of a high-
10 way, for the purpose of reducing traffic conges-
11 tion, by constructing 1 or more additional lanes
12 (including bridge, tunnel, support, and other
13 structures necessary for that construction) on
14 the Interstate System.

15 “(3) LIMITATION ON USE OF REVENUES.—

16 “(A) USE.—

17 “(i) IN GENERAL.—Toll revenues re-
18 ceived under paragraph (2) shall be used
19 by a State, public authority, or private en-
20 tity designated by a State, for—

21 “(I) debt service for debt in-
22 curred on 1 or more highway or tran-
23 sit projects carried out under this title
24 or title 49;

1 “(II) a reasonable return on in-
2 vestment of any private financing;

3 “(III) the costs necessary for
4 proper operation and maintenance of
5 any facilities under paragraph (2) (in-
6 cluding reconstruction, resurfacing,
7 restoration, and rehabilitation); or

8 “(IV) if the State, public author-
9 ity, or private entity annually certifies
10 that the tolled facility is being ade-
11 quately operated and maintained, any
12 other purpose relating to a highway or
13 transit project carried out under this
14 title or title 49.

15 “(B) REQUIREMENTS.—

16 “(i) VARIABLE PRICE REQUIRE-
17 MENT.—A facility that charges tolls under
18 this subsection may establish a toll that
19 varies in price according to time of day or
20 level of traffic, as appropriate to manage
21 congestion or improve air quality.

22 “(ii) HOV VARIABLE PRICING RE-
23 QUIREMENT.—The Secretary shall require,
24 for each high occupancy vehicle facility
25 that charges tolls under this subsection,

1 that the tolls vary in price according to
2 time of day or level of traffic, as appro-
3 priate to manage congestion or improve air
4 quality.

5 “(iii) HOV PASSENGER REQUIRE-
6 MENTS.—In addition to the exceptions to
7 the high occupancy vehicle passenger re-
8 quirements established under section
9 102(a)(2), a State may permit motor vehi-
10 cles with fewer than 2 occupants to oper-
11 ate in high occupancy vehicle lanes as part
12 of a variable toll pricing program estab-
13 lished under this subsection.

14 “(C) AGREEMENT.—

15 “(i) IN GENERAL.—Before the Sec-
16 retary may permit a facility to charge tolls
17 under this subsection, the Secretary and
18 the applicable State, public authority, or
19 private entity designated by a State shall
20 enter into an agreement for each facility
21 incorporating the conditions described in
22 subparagraphs (A) and (B).

23 “(ii) TERMINATION.—An agreement
24 under clause (i) shall terminate with re-
25 spect to a facility upon the decision of the

1 State, public authority, or private entity
2 designated by a State to discontinue the
3 variable tolling program under this sub-
4 section for the facility.

5 “(iii) DEBT.—

6 “(I) IN GENERAL.—If there is
7 any debt outstanding on a facility at
8 the time at which the decision is made
9 to discontinue the program under this
10 subsection with respect to the facility,
11 the facility may continue to charge
12 tolls in accordance with the terms of
13 the agreement until such time as the
14 debt is retired.

15 “(II) NOTICE.—On retirement of
16 the debt of a tolled facility, the appli-
17 cable State, public authority, or pri-
18 vate entity designated by a State shall
19 provide notice to the public of that re-
20 tirement.

21 “(D) LIMITATION ON FEDERAL SHARE.—
22 The Federal share of the cost of a project on
23 a facility tolled under this subsection, including
24 a project to install the toll collection facility

1 shall be a percentage, not to exceed 80 percent,
2 determined by the applicable State.

3 “(4) ELIGIBILITY.—To be eligible to participate
4 in the program under this subsection, a State, public
5 authority, or private entity designated by a State
6 shall provide to the Secretary—

7 “(A) a description of the congestion or air
8 quality problems sought to be addressed under
9 the program;

10 “(B) a description of—

11 “(i) the goals sought to be achieved
12 under the program; and

13 “(ii) the performance measures that
14 would be used to gauge the success made
15 toward reaching those goals; and

16 “(C) such other information as the Sec-
17 retary may require.

18 “(5) AUTOMATION.—Fees collected from motor-
19 ists using a FAST lane shall be collected only
20 through the use of noncash electronic technology
21 that optimizes the free flow of traffic on the tolled
22 facility.

23 “(6) INTEROPERABILITY.—

24 “(A) RULE.—

1 “(i) IN GENERAL.—Not later than
2 180 days after the date of enactment of
3 this paragraph, the Secretary shall promul-
4 gate a final rule specifying requirements,
5 standards, or performance specifications
6 for automated toll collection systems imple-
7 mented under this section.

8 “(ii) DEVELOPMENT.—In developing
9 that rule, which shall be designed to maxi-
10 mize the interoperability of electronic col-
11 lection systems, the Secretary shall, to the
12 maximum extent practicable—

13 “(I) seek to accelerate progress
14 toward the national goal of achieving
15 a nationwide interoperable electronic
16 toll collection system;

17 “(II) take into account the use of
18 noncash electronic technology cur-
19 rently deployed within an appropriate
20 geographical area of travel and the
21 noncash electronic technology likely to
22 be in use within the next 5 years; and

23 “(III) seek to minimize addi-
24 tional costs and maximize convenience

1 to users of toll facility and to the toll
2 facility owner or operator.

3 “(B) FUTURE MODIFICATIONS.—As the
4 state of technology progresses, the Secretary
5 shall modify the rule promulgated under sub-
6 paragraph (A), as appropriate.

7 “(7) REPORTING.—

8 “(A) IN GENERAL.—The Secretary, in co-
9 operation with State and local agencies and
10 other program participants and with oppor-
11 tunity for public comment, shall—

12 “(i) develop and publish performance
13 goals for each FAST lane project;

14 “(ii) establish a program for regular
15 monitoring and reporting on the achieve-
16 ment of performance goals, including—

17 “(I) effects on travel, traffic, and
18 air quality;

19 “(II) distribution of benefits and
20 burdens;

21 “(III) use of alternative transpor-
22 tation modes; and

23 “(IV) use of revenues to meet
24 transportation or impact mitigation
25 needs.

1 “(B) REPORTS TO CONGRESS.—The Sec-
2 retary shall submit to the Committee on Envi-
3 ronment and Public Works of the Senate and
4 the Committee on Transportation and Infra-
5 structure of the House of Representatives—

6 “(i) not later than 1 year after the
7 date of enactment of this subsection, and
8 annually thereafter, a report that describes
9 in detail the uses of funds under this sub-
10 section in accordance with paragraph
11 (8)(D); and

12 “(ii) not later than 3 years after the
13 date of enactment of this subsection, and
14 every 3 years thereafter, a report that de-
15 scribes any success of the program under
16 this subsection in meeting congestion re-
17 duction and other performance goals estab-
18 lished for FAST lane programs.

19 “(8) FUNDING.—

20 “(A) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There is authorized to be appropriated
22 from the Highway Trust Fund (other than the
23 Mass Transit Account) to carry out pre-imple-
24 mentation studies and post-implementation
25 evaluations of projects planned or implemented

1 under this subsection \$9,823,899 for each of
2 fiscal years 2005 through 2009.

3 “(B) AVAILABILITY.—Funds allocated by
4 the Secretary to a State under this subsection
5 shall remain available for obligation by the
6 State for a period of 3 years after the last day
7 of the fiscal year for which the funds were au-
8 thorized.

9 “(C) CONTRACT AUTHORITY.—Funds au-
10 thorized to be appropriated under this para-
11 graph shall be available for obligation in the
12 same manner as if the funds were apportioned
13 under this chapter, except that the Federal
14 share of the cost of any project carried out
15 under this subsection and the availability of
16 funds authorized by this paragraph shall be de-
17 termined in accordance with this subsection.

18 “(D) PROGRAM PROMOTION.—Notwith-
19 standing any other provision of this section, the
20 Secretary shall use an amount not to exceed 2
21 percent of the funds made available under sub-
22 paragraph (A)—

23 “(i) to make grants to promote the
24 purposes of the program under this sub-
25 section;

1 “(ii) to provide technical support to
2 State and local governments or other pub-
3 lic or private entities involved in imple-
4 menting or considering FAST lane pro-
5 grams; and

6 “(iii) to conduct research on variable
7 pricing that will support State or local ef-
8 forts to initiate those pricing requirements.

9 “(E) EFFECT ON OTHER APPORTION-
10 MENTS AND ALLOCATIONS.—Revenues collected
11 from tolls established under this subsection
12 shall not be taken into account in determining
13 the apportionments and allocations that any
14 State or transportation district within a State
15 shall be entitled to receive under or in accord-
16 ance with this chapter.

17 “(9) COMPLIANCE.—The Secretary shall ensure
18 that any project or activity carried out under this
19 section complies with requirements under section
20 106 of this title and section 307 of title 49.

21 “(10) VOLUNTARY USE.—Nothing in this sub-
22 section requires any highway user to use a FAST
23 lane.

24 “(11) ENVIRONMENTAL REQUIREMENTS.—
25 Nothing in this subsection affects any environmental

1 requirement applicable to the construction or oper-
2 ation of an eligible toll facility under this title or any
3 other provision of law.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) IN GENERAL.—Section 1012 of the Inter-
6 modal Surface Transportation Efficiency Act (23
7 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is
8 amended by striking subsection (b).

9 (2) CONTINUATION OF PROGRAM.—Notwith-
10 standing the amendment made by paragraph (1),
11 the Secretary shall monitor and allow any value pric-
12 ing program established under a cooperative agree-
13 ment in effect on the day before the date of enact-
14 ment of this Act to continue.

15 **SEC. 1610. FEDERAL REFERENCE METHOD.**

16 (a) IN GENERAL.—Section 6102 of the Transpor-
17 tation Equity Act for the 21st Century (42 U.S.C. 7407
18 note; 112 Stat. 464) is amended by striking subsection
19 (e) and inserting the following:

20 “(e) FIELD STUDY.—Not later than 2 years after the
21 date of enactment of the Safe, Accountable, Flexible, and
22 Efficient Transportation Equity Act of 2005, the Adminis-
23 trator shall—

24 “(1) conduct a field study of the ability of the
25 PM_{2.5} Federal Reference Method to differentiate

1 those particles that are larger than 2.5 micrometers
2 in diameter;

3 “(2) develop a Federal reference method to
4 measure directly particles that are larger than 2.5
5 micrometers in diameter without reliance on sub-
6 tracting from coarse particle measurements those
7 particles that are equal to or smaller than 2.5 mi-
8 crometers in diameter;

9 “(3) develop a method of measuring the com-
10 position of coarse particles; and

11 “(4) submit a report on the study and respon-
12 sibilities of the Administrator under paragraphs (1)
13 through (3) to—

14 “(A) the Committee on Commerce of the
15 House of Representatives; and

16 “(B) the Committee on Environment and
17 Public Works of the Senate.”.

18 **SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO**
19 **CMAQ.**

20 Section 104(b)(2) of title 23, United States Code, is
21 amended—

22 (1) in subparagraph (B)—

23 (A) in the matter preceding clause (i), by
24 striking “ozone or carbon monoxide” and in-

1 serting “ozone, carbon monoxide, or fine particulate matter (PM_{2.5})”;

2
3 (B) by striking clause (i) and inserting the following:

4
5 “ (i) 1.0, if at the time of apportionment, the area is a maintenance area;”;

6
7 (C) in clause (vi), by striking “or” after the semicolon; and

8
9 (D) in clause (vii)—

10 (i) by striking “area as described in section 149(b) for ozone,” and inserting “area for ozone (as described in section 149(b) or for PM-2.5”; and

11
12
13
14 (ii) by striking the period at the end and inserting a semicolon;

15
16 (2) by adding at the end the following:

17 “(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

18
19
20
21
22
23 “(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section

24
25

1 149(b) for ozone or carbon monoxide, but
2 is an area designated nonattainment under
3 the PM-2.5 standard.”;

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

6 “(C) ADDITIONAL ADJUSTMENT FOR CAR-
7 BON MONOXIDE AREAS.—If, in addition to
8 being designated as a nonattainment or mainte-
9 nance area for ozone as described in section
10 149(b), any county within the area was also
11 classified under subpart 3 of part D of title I
12 of the Clean Air Act (42 U.S.C. 7512 et seq.)
13 as a nonattainment or maintenance area de-
14 scribed in section 149(b) for carbon monoxide,
15 the weighted nonattainment or maintenance
16 area population of the county, as determined
17 under clauses (i) through (vi) or clause (viii) of
18 subparagraph (B), shall be further multiplied
19 by a factor of 1.2.”;

20 (4) by redesignating subparagraph (D) and (E)
21 as subparagraphs (E) and (F) respectively; and

22 (5) by inserting after subparagraph (C) the fol-
23 lowing:

24 “(D) ADDITIONAL ADJUSTMENT FOR PM
25 2.5 AREAS.—If, in addition to being designated

1 as a nonattainment or maintenance area for
2 ozone or carbon monoxide, or both as described
3 in section 149(b), any county within the area
4 was also designated under the PM-2.5 standard
5 as a nonattainment or maintenance area, the
6 weighted nonattainment or maintenance area
7 population of those counties shall be further
8 multiplied by a factor of 1.2.”.

9 **SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.**

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

12 (1) in paragraph (4), by striking “or” at the
13 end;

14 (2) in paragraph (5), by striking the period at
15 the end and inserting a semicolon; and

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

17 “(6) if the project or program is for the pur-
18 chase of alternative fuel (as defined in section 301
19 of the Energy Policy Act of 1992 (42 U.S.C.
20 13211)) or biodiesel; or

21 “(7) if the project or program involves the pur-
22 chase of integrated, interoperable emergency com-
23 munications equipment.”.

1 (b) STATES RECEIVING MINIMUM APPORTION-
2 MENT.—Section 149(c) of title 23, United States Code,
3 is amended—

4 (1) in paragraph (1), by striking “for any
5 project eligible under the surface transportation pro-
6 gram under section 133.” and inserting the fol-
7 lowing: “for any project in the State that—

8 “(A) would otherwise be eligible under this
9 section as if the project were carried out in a
10 nonattainment or maintenance area; or

11 “(B) is eligible under the surface transpor-
12 tation program under section 133.”; and

13 (2) in paragraph (2), by striking “for any
14 project in the State eligible under section 133.” and
15 inserting the following: “for any project in the State
16 that—

17 “(A) would otherwise be eligible under this
18 section as if the project were carried out in a
19 nonattainment or maintenance area; or

20 “(B) is eligible under the surface transpor-
21 tation program under section 133.”.

22 (c) RESPONSIBILITY OF STATES.—

23 (1) IN GENERAL.—Each State shall be respon-
24 sible for ensuring that subrecipients of Federal
25 funds within the State under section 149 of title 23,

1 United States Code, have emission reduction strate-
2 gies for fleets that are—

3 (A) used in construction projects located in
4 nonattainment and maintenance areas; and

5 (B) funded under title 23, United States
6 Code.

7 (2) EMISSION REDUCTION STRATEGIES.—The
8 Administrator of the Environmental Protection
9 Agency, in consultation with the Secretary, shall de-
10 velop a nonbinding list of emission reduction strate-
11 gies and supporting technical information for each
12 strategy, including—

13 (A) contract preferences;

14 (B) requirements for the use of anti-idling
15 equipment;

16 (C) diesel retrofits; and

17 (D) such other matters as the Adminis-
18 trator of the Environmental Protection Agency,
19 in consultation with the Secretary, determine to
20 be appropriate.

21 (3) USE OF CMAQ FUNDS.—A State may use
22 funds made available under this title and title 23,
23 United States Code, for the congestion mitigation
24 and air quality program under section 149 of title
25 23, United States Code, to ensure the deployment of

1 the emission reduction strategies described in para-
2 graph (1).

3 **SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.**

4 Section 149 of title 23, United States Code, is
5 amended by adding at the end the following:

6 “(g) INTERAGENCY CONSULTATION.—The Secretary
7 shall encourage States and metropolitan planning organi-
8 zations to consult with State and local air quality agencies
9 in nonattainment and maintenance areas on the estimated
10 emission reductions from proposed congestion mitigation
11 and air quality improvement programs and projects.”.

12 **SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ**
13 **PROJECTS.**

14 Section 149 of title 23, United States Code, is
15 amended by adding at the end the following:

16 “(h) EVALUATION AND ASSESSMENT OF
17 PROJECTS.—

18 “(1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Administrator of the Environmental
20 Protection Agency, shall evaluate and assess a rep-
21 resentative sample of projects funded under the con-
22 gestion mitigation and air quality program to—

23 “(A) determine the direct and indirect im-
24 pact of the projects on air quality and conges-
25 tion levels; and

1 “(B) ensure the effective implementation
2 of the program.

3 “(2) DATABASE.—Using appropriate assess-
4 ments of projects funded under the congestion miti-
5 gation and air quality program and results from
6 other research, the Secretary shall maintain and dis-
7 seminate a cumulative database describing the im-
8 pacts of the projects.

9 “(3) CONSIDERATION.—The Secretary, in con-
10 sultation with the Administrator of the Environ-
11 mental Protection Agency, shall consider the rec-
12 ommendations and findings of the report submitted
13 to Congress under section 1110(e) of the Transpor-
14 tation Equity Act for the 21st Century (112 Stat.
15 144), including recommendations and findings that
16 would improve the operation and evaluation of the
17 congestion mitigation and air quality improvement
18 program under section 149.”.

19 **SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY**
20 **TIMELINES, REQUIREMENTS, AND HORIZON.**

21 (a) METROPOLITAN PLANNING.—

22 (1) DEVELOPMENT OF LONG-RANGE TRANSPOR-
23 TATION PLAN.—Section 134(g)(1) of title 23, United
24 States Code, is amended by striking “periodically,
25 according to a schedule that the Secretary deter-

1 mines to be appropriate,” and inserting “every 4
2 years (or more frequently, in a case in which the
3 metropolitan planning organization elects to update
4 a transportation plan more frequently) in areas des-
5 ignated as nonattainment, as defined in section
6 107(d) of the Clean Air Act (42 U.S.C. 7407(d)),
7 and in areas that were nonattainment that have
8 been redesignated to attainment in accordance with
9 section 107(d)(3) of that Act (42 U.S.C.
10 7407(d)(3)), with a maintenance plan under section
11 175A of that Act (42 U.S.C. 7505a), or every 5
12 years (or more frequently, in a case in which the
13 metropolitan planning organization elects to update
14 a transportation plan more frequently) in areas des-
15 ignated as attainment (as defined in section 107(d)
16 of that Act (42 U.S.C. 7407(d))),”.

17 (2) METROPOLITAN TRANSPORTATION IM-
18 PROVEDMENT PROGRAM.—Section 134(h) of title 23,
19 United States Code, is amended—

20 (A) in paragraph (1)(D), by striking “2
21 years” and inserting “4 years”; and

22 (B) in paragraph (2)(A), by striking “3-
23 year” and inserting “4-year”.

24 (3) STATEWIDE TRANSPORTATION IMPROVE-
25 MENT PROGRAM.—Section 135(f)(1)(A) of title 23,

1 United States Code, is amended by inserting after
2 “program” the following: “(which program shall
3 cover a period of 4 years and be updated every 4
4 years)”.

5 (4) FINAL REGULATIONS.—Not later than 18
6 months after the date of enactment of the Safe, Ac-
7 countable, Flexible, and Efficient Transportation
8 Equity Act of 2005, the Secretary shall promulgate
9 regulations that are consistent with the amendments
10 made by this subsection.

11 (b) SYNCHRONIZED CONFORMITY DETERMINA-
12 TION.—Section 176(c) of the Clean Air Act (42 U.S.C.
13 7506(c)) is amended—

14 (1) in paragraph (2)—

15 (A) by striking “(2) Any transportation
16 plan” and inserting the following:

17 “(2) TRANSPORTATION PLANS AND PRO-
18 GRAMS.—Any transportation plan”;

19 (B) in subparagraph (C)(iii), by striking
20 the period at the end and inserting a semicolon;

21 (C) in subparagraph (D)—

22 (i) by striking “Any project” and in-
23 serting “any transportation project”; and

24 (ii) by striking the period at the end
25 and inserting “; and”; and

1 (D) by adding at the end the following:

2 “(E) the appropriate metropolitan plan-
3 ning organization shall redetermine conformity
4 of existing transportation plans and programs
5 not later than 2 years after the date on which
6 the Administrator—

7 “(i) finds a motor vehicle emissions
8 budget to be adequate in accordance with
9 section 93.118(e)(4) of title 40, Code of
10 Federal Regulations (as in effect on Octo-
11 ber 1, 2003);

12 “(ii) approves an implementation plan
13 that establishes a motor vehicle emissions
14 budget, if that budget has not yet been
15 used in a conformity determination prior
16 to approval; or

17 “(iii) promulgates an implementation
18 plan that establishes or revises a motor ve-
19 hicle emissions budget.”;

20 (2) in paragraph (4)(B)(ii), by striking “but in
21 no case shall such determinations for transportation
22 plans and programs be less frequent than every 3
23 years; and” and inserting “but the frequency for
24 making conformity determinations on updated trans-

1 portation plans and programs shall be every 4 years,
2 except in a case in which—

3 “(I) the metropolitan planning
4 organization elects to update a trans-
5 portation plan or program more fre-
6 quently; or

7 “(II) the metropolitan planning
8 organization is required to determine
9 conformity in accordance with para-
10 graph (2)(E); and”;

11 (3) in paragraph (4)(B)—

12 (A) in clause (ii), by striking “and” at the
13 end;

14 (B) in clause (iii), by striking the period at
15 the end and inserting “; and”; and

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

17 “(iv) address the effects of the most
18 recent population, economic, employment,
19 travel, transit ridership, congestion, and
20 induced travel demand information in the
21 development and application of the latest
22 travel and emissions models.”;

23 (4) by adding at the end the following:

24 “(7) CONFORMITY HORIZON FOR TRANSPOR-
25 TATION PLANS.—

1 “(A) IN GENERAL.—For the purposes of
2 this section, a transportation plan in a non-
3 attainment or maintenance area shall be consid-
4 ered to be a transportation plan or a portion of
5 a transportation plan that extends for the long-
6 est of the following periods:

7 “(i) The first 10-year period of any
8 such transportation plan.

9 “(ii) The latest year in the implemen-
10 tation plan applicable to the area that con-
11 tains a motor vehicle emission budget.

12 “(iii) The year after the completion
13 date of a regionally significant project, if
14 the project requires approval before the
15 subsequent conformity determination.

16 “(B) EXCEPTION.—In a case in which an
17 area has a revision to an implementation plan
18 under section 175A(b) and the Administrator
19 has found the motor vehicle emissions budgets
20 from that revision to be adequate in accordance
21 with section 93.118(e)(4) of title 40, Code of
22 Federal Regulations (as in effect on October 1,
23 2003), or has approved the revision, the trans-
24 portation plan shall be considered to be a trans-
25 portation plan or portion of a transportation

1 plan that extends through the last year of the
2 implementation plan required under section
3 175A(b).

4 “(8) DEFINITIONS.—In this subsection:

5 “(A) REGIONALLY SIGNIFICANT
6 PROJECT.—

7 “(i) IN GENERAL.—The term ‘region-
8 ally significant project’ means a transpor-
9 tation project that is on a facility that
10 serves a regional transportation need,
11 including—

12 “(I) access to and from the area
13 outside of the region;

14 “(II) access to and from major
15 planned developments, including new
16 retail malls, sports complexes, or
17 transportation terminals; and

18 “(III) most transportation termi-
19 nals.

20 “(ii) PRINCIPAL ARTERIALS AND
21 FIXED GUIDEWAYS.—The term ‘regionally
22 significant project’ includes, at a
23 minimum—

24 “(I) all principal arterial high-
25 ways; and

1 “(II) all fixed guideway transit
2 facilities that offer an alternative to
3 regional highway travel.

4 “(iii) ADDITIONAL PROJECTS.—The
5 interagency consultation process and pro-
6 cedures described in section 93.105(c) of
7 title 40, Code of Federal Regulations (as
8 in effect on October 1, 2003), shall be used
9 to make determinations as to whether
10 minor arterial highways and other trans-
11 portation projects should be considered ‘re-
12 gionally significant projects’.

13 “(iv) EXCLUSIONS.—The term ‘re-
14 gionally significant project’ does not in-
15 clude any project of a type listed in sec-
16 tions 93.126 or 127 of title 40, Code of
17 Federal Regulations (as in effect on Octo-
18 ber 1, 2003).

19 “(B) SIGNIFICANT REVISION.—The term
20 ‘significant revision’ means—

21 “(i) with respect to a regionally sig-
22 nificant project, a significant change in de-
23 sign concept or scope to the project; and

24 “(ii) with respect to any other kind of
25 project, a change that converts a project

1 that is not a regionally significant project
2 into a regionally significant project.

3 “(C) TRANSPORTATION PROJECT.—The
4 term ‘transportation project’ includes only a
5 project that is—

6 “(i) a regionally significant project; or

7 “(ii) a project that makes a signifi-
8 cant revision to an existing project.”; and

9 (5) in the matter following paragraph (3)(B),
10 by inserting “transportation” before “project” each
11 place it appears.

12 **SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.**

13 Section 176(c) of the Clean Air Act (42 U.S.C.
14 7506(c)) is amended by striking paragraph (3) and insert-
15 ing the following:

16 “(3) METHODS OF CONFORMITY DETERMINA-
17 TION BEFORE BUDGET IS AVAILABLE.—

18 “(A) IN GENERAL.—Until such time as a
19 motor vehicle emission budget from an imple-
20 mentation plan submitted for a national ambi-
21 ent air quality standard is determined to be
22 adequate in accordance with section
23 93.118(e)(4) of title 40, Code of Federal Regu-
24 lations (as in effect on October 1, 2003), or the
25 submitted implementation plan is approved,

1 conformity of such a plan, program, or project
2 shall be demonstrated, in accordance with
3 clauses (i) and (ii) and as selected through the
4 consultation process required under paragraph
5 (4)(D)(i), with—

6 “(i) a motor vehicle emission budget
7 that has been found adequate in accord-
8 ance with section 93.118(e)(4) of title 40,
9 Code of Federal Regulations (as in effect
10 on October 1, 2003), or that has been ap-
11 proved, from an implementation plan for
12 the most recent prior applicable national
13 ambient air quality standard addressing
14 the same pollutant; or

15 “(ii) other such tests as the Adminis-
16 trator shall determine to ensure that—

17 “(I) the transportation plan or
18 program—

19 “(aa) is consistent with the
20 most recent estimates of mobile
21 source emissions;

22 “(bb) provides for the exped-
23 itious implementation of trans-
24 portation control measures in the

1 applicable implementation plan;
2 and

3 “(cc) with respect to an
4 ozone or carbon monoxide non-
5 attainment area, contributes to
6 annual emissions reductions con-
7 sistent with sections 182(b)(1)
8 and 187(a)(7); and

9 “(II) the transportation project—
10 “(aa) comes from a con-
11 forming transportation plan and
12 program described in this sub-
13 paragraph; and

14 “(bb) in a carbon monoxide
15 nonattainment area, eliminates
16 or reduces the severity and num-
17 ber of violations of the carbon
18 monoxide standards in the area
19 substantially affected by the
20 project.

21 “(B) DETERMINATION FOR A TRANSPOR-
22 TATION PROJECT IN A CARBON MONOXIDE NON-
23 ATTAINMENT AREA.—A determination under
24 subparagraph (A)(ii)(II)(bb) may be made as
25 part of either the conformity determination for

1 the transportation program or for the individual
2 project taken as a whole during the environ-
3 mental review phase of project development.”.

4 **SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVE-**
5 **MENTS.**

6 Section 176(c) of the Clean Air Act (42 U.S.C.
7 7506(c)) (as amended by section 1615(b)(4)) is
8 amended—

9 (1) by redesignating paragraph (8) as para-
10 graph (9); and

11 (2) by inserting after paragraph (7) the fol-
12 lowing:

13 “(8) SUBSTITUTION FOR TRANSPORTATION
14 CONTROL MEASURES.—

15 “(A) IN GENERAL.—Transportation con-
16 trol measures that are specified in an imple-
17 mentation plan may be replaced or added to the
18 implementation plan with alternate or addi-
19 tional transportation control measures if—

20 “(i) the substitute measures achieve
21 equivalent or greater emissions reductions
22 than the control measure to be replaced, as
23 demonstrated with an analysis that is con-
24 sistent with the current methodology used

1 for evaluating the replaced control measure
2 in the implementation plan;

3 “(ii) the substitute control measures
4 are implemented—

5 “(I) in accordance with a sched-
6 ule that is consistent with the sched-
7 ule provided for control measures in
8 the implementation plan; or

9 “(II) if the implementation plan
10 date for implementation of the control
11 measure to be replaced has passed, as
12 soon as practicable after the imple-
13 mentation plan date but not later
14 than the date on which emission re-
15 ductions are necessary to achieve the
16 purpose of the implementation plan;

17 “(iii) the substitute and additional
18 control measures are accompanied with evi-
19 dence of adequate personnel, funding, and
20 authority under State or local law to im-
21 plement, monitor, and enforce the control
22 measures;

23 “(iv) the substitute and additional
24 control measures were developed through a
25 collaborative process that included—

1 “(I) participation by representa-
2 tives of all affected jurisdictions (in-
3 cluding local air pollution control
4 agencies, the State air pollution con-
5 trol agency, and State and local trans-
6 portation agencies);

7 “(II) consultation with the Ad-
8 ministrator; and

9 “(III) reasonable public notice
10 and opportunity for comment; and

11 “(v) the metropolitan planning organi-
12 zation, State air pollution control agency,
13 and the Administrator concur with the
14 equivalency of the substitute or additional
15 control measures.

16 “(B) ADOPTION.—After carrying out sub-
17 paragraph (A), a State shall adopt the sub-
18 stitute or additional transportation control
19 measure in the applicable implementation plan.

20 “(C) NO REQUIREMENT FOR EXPRESS
21 PERMISSION.—The substitution or addition of a
22 transportation control measure in accordance
23 with this paragraph shall not be contingent on
24 there being any provision in the implementation

1 plan that expressly permits such a substitution
2 or addition.

3 “(D) NO REQUIREMENT FOR NEW CON-
4 FORMITY DETERMINATION.—The substitution
5 or addition of a transportation control measure
6 in accordance with this paragraph shall not
7 require—

8 “(i) a new conformity determination
9 for the transportation plan; or

10 “(ii) a revision of the implementation
11 plan.

12 “(E) CONTINUATION OF CONTROL MEAS-
13 URE BEING REPLACED.—A control measure
14 that is being replaced by a substitute control
15 measure under this paragraph shall remain in
16 effect until the substitute control measure is
17 adopted by the State pursuant to subparagraph
18 (B).

19 “(F) EFFECT OF ADOPTION.—Adoption of
20 a substitute control measure shall constitute re-
21 scission of the previously applicable control
22 measure.”.

1 **SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED**
2 **BY EXCEPTIONAL EVENTS.**

3 (a) IN GENERAL.—Section 319 of the Clean Air Act
4 (42 U.S.C. 7619) is amended—

5 (1) by striking the section heading and all that
6 follows through “after notice and opportunity for
7 public hearing” and inserting the following:

8 **“SEC. 319. AIR QUALITY MONITORING.**

9 “(a) IN GENERAL.—After notice and opportunity for
10 public hearing”; and

11 (2) by adding at the end the following:

12 “(b) AIR QUALITY MONITORING DATA INFLUENCED
13 BY EXCEPTIONAL EVENTS.—

14 “(1) DEFINITION OF EXCEPTIONAL EVENT.—In
15 this section:

16 “(A) IN GENERAL.—The term ‘exceptional
17 event’ means an event that—

18 “(i) affects air quality;

19 “(ii) is not reasonably controllable or
20 preventable;

21 “(iii) is—

22 “(I) a natural event; or

23 “(II) an event caused by human
24 activity that is unlikely to recur at a
25 particular location; and

1 “(iv) is determined by the Adminis-
2 trator through the process established in
3 the regulations promulgated under para-
4 graph (2) to be an exceptional event.

5 “(B) EXCLUSIONS.—The term ‘exceptional
6 event’ does not include—

7 “(i) stagnation of air masses or mete-
8 orological inversions;

9 “(ii) a meteorological event involving
10 high temperatures or lack of precipitation;
11 or

12 “(iii) air pollution relating to source
13 noncompliance.

14 “(2) REGULATIONS.—

15 “(A) PROPOSED REGULATIONS.—Not later
16 than March 1, 2005, after consultation with
17 Federal land managers and State air pollution
18 control agencies, the Administrator shall pub-
19 lish in the Federal Register proposed regula-
20 tions governing the review and handling of air
21 quality monitoring data influenced by excep-
22 tional events.

23 “(B) FINAL REGULATIONS.—Not later
24 than 1 year after the date on which the Admin-
25 istrator publishes proposed regulations under

1 subparagraph (A), and after providing an op-
2 portunity for interested persons to make oral
3 presentations of views, data, and arguments re-
4 garding the proposed regulations, the Adminis-
5 trator shall promulgate final regulations gov-
6 erning the review and handling of air quality
7 monitoring data influenced by an exceptional
8 event that are consistent with paragraph (3).

9 “(3) PRINCIPLES AND REQUIREMENTS.—

10 “(A) PRINCIPLES.—In promulgating regu-
11 lations under this section, the Administrator
12 shall follow—

13 “(i) the principle that protection of
14 public health is the highest priority;

15 “(ii) the principle that timely informa-
16 tion should be provided to the public in
17 any case in which the air quality is
18 unhealthy;

19 “(iii) the principle that all ambient air
20 quality data should be included in a timely
21 manner, an appropriate Federal air quality
22 database that is accessible to the public;

23 “(iv) the principle that each State
24 must take necessary measures to safeguard

1 public health regardless of the source of
2 the air pollution; and

3 “(v) the principle that air quality data
4 should be carefully screened to ensure that
5 events not likely to recur are represented
6 accurately in all monitoring data and anal-
7 yses.

8 “(B) REQUIREMENTS.—Regulations pro-
9 mulgated under this section shall, at a min-
10 imum, provide that—

11 “(i) the occurrence of an exceptional
12 event must be demonstrated by reliable,
13 accurate data that is promptly produced
14 and provided by Federal, State, or local
15 government agencies;

16 “(ii) a clear causal relationship must
17 exist between the measured exceedances of
18 a national ambient air quality standard
19 and the exceptional event to demonstrate
20 that the exceptional event caused a specific
21 air pollution concentration at a particular
22 air quality monitoring location;

23 “(iii) there is a public process for de-
24 termining whether an event is exceptional;
25 and

1 “(iv) there are criteria and procedures
2 for the Governor of a State to petition the
3 Administrator to exclude air quality moni-
4 toring data that is directly due to excep-
5 tional events from use in determinations by
6 the Environmental Protection Agency with
7 respect to exceedances or violations of the
8 national ambient air quality standards.

9 “(4) INTERIM PROVISION.—Until the effective
10 date of a regulation promulgated under paragraph
11 (2), the following guidance issued by the Adminis-
12 trator shall continue to apply:

13 “(A) Guidance on the identification and
14 use of air quality data affected by exceptional
15 events (July 1986).

16 “(B) Areas affected by PM-10 natural
17 events, May 30, 1996.

18 “(C) Appendices I, K, and N to part 50 of
19 title 40, Code of Federal Regulations.”.

20 **SEC. 1619. CONFORMING AMENDMENTS.**

21 Section 176(c)(4) of the Clean Air Act (42 U.S.C.
22 7506(c)(4) is amended—

23 (1) by redesignating subparagraphs (B)
24 through (D) as subparagraphs (D) through (F), re-
25 spectively;

1 (2) by striking “(4)(A) No later than one year
2 after the date of enactment of the Clean Air Act
3 Amendments of 1990, the Administrator shall pro-
4 mulgate” and inserting the following:

5 “(4) CRITERIA AND PROCEDURES FOR DETER-
6 MINING CONFORMITY.—

7 “(A) IN GENERAL.—The Administrator
8 shall promulgate, and periodically update,”;

9 (3) in subparagraph (A)—

10 (A) in the second sentence, by striking
11 “No later than one year after such date of en-
12 actment, the Administrator, with the concur-
13 rence of the Secretary of Transportation, shall
14 promulgate” and inserting the following:

15 “(B) TRANSPORTATION PLANS, PROGRAMS,
16 AND PROJECTS.—The Administrator, with the
17 concurrence of the Secretary of Transportation,
18 shall promulgate, and periodically update,”; and

19 (B) in the third sentence, by striking “A
20 suit” and inserting the following:

21 “(C) CIVIL ACTION TO COMPEL PROMUL-
22 GATION.—A civil action”; and

23 (4) by striking subparagraph (E) (as redesign-
24 nated by paragraph (1)) and inserting the following:

1 “(E) INCLUSION OF CRITERIA AND PROCE-
2 DURES IN SIP.—Not later than 2 years after
3 the date of enactment of the Safe, Accountable,
4 Flexible, and Efficient Transportation Equity
5 Act of 2005, the procedures under subpara-
6 graph (A) shall include a requirement that each
7 State include in the State implementation plan
8 criteria and procedures for consultation in ac-
9 cordance with the Administrator’s criteria and
10 procedures for consultation required by sub-
11 paragraph (D)(i).”.

12 **SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGA-**
13 **TION PROGRAM.**

14 (a) HIGHWAY STORMWATER MITIGATION
15 PROJECTS.—Section 133(d) of title 23, United States
16 Code (as amended by section 1401(a)(2)(B)), is amended
17 by adding at the end the following:

18 “(5) HIGHWAY STORMWATER DISCHARGE MITI-
19 GATION PROJECTS.—Of the amount apportioned to a
20 State under section 104(b)(3) for a fiscal year, 2
21 percent shall be available only for projects and ac-
22 tivities carried out under section 167.”.

23 (b) HIGHWAY STORMWATER DISCHARGE MITIGA-
24 TION PROGRAM.—Subchapter I of chapter 1 of title 23,

1 United States Code (as amended by section 1601(a)), is
2 amended by adding at the end the following:

3 **“§ 167. Highway stormwater discharge mitigation**
4 **program**

5 “(a) DEFINITIONS.—In this section:

6 “(1) ADMINISTRATOR.—The term ‘Adminis-
7 trator’ means the Administrator of the Environ-
8 mental Protection Agency.

9 “(2) ELIGIBLE MITIGATION PROJECT.—The
10 term ‘eligible mitigation project’ means a practice or
11 technique that—

12 “(A) improves stormwater discharge water
13 quality;

14 “(B) attains preconstruction hydrology;

15 “(C) promotes infiltration of stormwater
16 into groundwater;

17 “(D) recharges groundwater;

18 “(E) minimizes stream bank erosion;

19 “(F) promotes natural filters;

20 “(G) otherwise mitigates water quality im-
21 pacts of highway stormwater discharges, im-
22 proves surface water quality, or enhances
23 groundwater recharge; or

24 “(H) reduces flooding caused by highway
25 stormwater discharge.

1 “(3) FEDERAL-AID HIGHWAY AND ASSOCIATED
2 FACILITY.—The term ‘Federal-aid highway and as-
3 sociated facility’ means—

4 “(A) a Federal-aid highway; or

5 “(B) a facility or land owned by a State
6 (or political subdivision of a State) that is di-
7 rectly associated with the Federal-aid highway.

8 “(4) HIGHWAY STORMWATER DISCHARGE.—The
9 term ‘highway stormwater discharge’ means
10 stormwater discharge from a Federal-aid highway,
11 or a Federal-aid highway and associated facility,
12 that was constructed before the date of enactment of
13 this section.

14 “(5) HIGHWAY STORMWATER DISCHARGE MITI-
15 GATION.—The term ‘highway stormwater discharge
16 mitigation’ means—

17 “(A) the reduction of water quality im-
18 pacts of stormwater discharges from Federal-
19 aid highways or Federal-aid highways and asso-
20 ciated facilities; or

21 “(B) the enhancement of groundwater re-
22 charge from stormwater discharges from Fed-
23 eral-aid highways or Federal-aid highways and
24 associated facilities.

1 “(6) PROGRAM.—The term ‘program’ means
2 the highway stormwater discharge mitigation pro-
3 gram established under subsection (b).

4 “(b) ESTABLISHMENT.—The Secretary shall estab-
5 lish a highway stormwater discharge mitigation
6 program—

7 “(1) to improve the quality of stormwater dis-
8 charge from Federal-aid highways or Federal-aid
9 highways and associated facilities; and

10 “(2) to enhance groundwater recharge.

11 “(c) PRIORITY OF PROJECTS.—For projects funded
12 from the allocation under section 133(d)(6), a State shall
13 give priority to projects sponsored by a State or local gov-
14 ernment that assist the State or local government in com-
15 plying with the Federal Water Pollution Control Act (33
16 U.S.C. 1251 et seq.).

17 “(d) GUIDANCE.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this section, the Sec-
20 retary, in consultation with the Administrator, shall
21 issue guidance to assist States in carrying out this
22 section.

23 “(2) REQUIREMENTS FOR GUIDANCE.—The
24 guidance issued under paragraph (1) shall include
25 information concerning innovative technologies and

1 nonstructural best management practices to mitigate
2 highway stormwater discharges.”.

3 (c) CONFORMING AMENDMENT.—The analysis for
4 subchapter I of chapter 1 of title 23, United States Code
5 (as amended by section 1601(b), is amended by inserting
6 after the item relating to section 166 the following:

“167. Highway stormwater discharge mitigation program.”.

7 **SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATE-**
8 **RIALS TRANSPORTATION REQUIREMENTS.**

9 (a) DEFINITION OF ELIGIBLE PERSON.—In this sec-
10 tion, the term “eligible person” means an agricultural pro-
11 ducer that has gross agricultural commodity sales that do
12 not exceed \$446,541.

13 (b) EXEMPTION.—Subject to subsection (c), part 172
14 of title 49, Code of Federal Regulations, shall not apply
15 to an eligible person that transports a fertilizer, pesticide,
16 propane, gasoline, or diesel fuel for agricultural purposes,
17 to the extent determined by the Secretary.

18 (c) APPLICABILITY.—Subsection (b) applies to secu-
19 rity plan requirements under subpart I of part 172 of title
20 49, Code of Federal Regulations (or a successor regula-
21 tion).

22 **SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.**

23 Section 105 of the Miscellaneous Appropriations and
24 Offsets Act, 2004 (Division H of the Consolidated Appro-
25 priations Act, 2004 (Public Law 108–199)) is repealed.

1 **Subtitle G—Operations**

2 **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND**
3 **OPERATIONS.**

4 (a) SURFACE TRANSPORTATION PROGRAM ELIGI-
5 BILITY.—Section 133(b) of title 23, United States Code
6 (as amended by section 1601(a)(2)), is amended by adding
7 at the end the following:

8 “(16) Regional transportation operations col-
9 laboration and coordination activities that are asso-
10 ciated with regional improvements, such as traffic
11 incident management, technology deployment, emer-
12 gency management and response, traveler informa-
13 tion, and regional congestion relief.

14 “(17) RUSH HOUR CONGESTION RELIEF.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), a State may spend the funds appor-
17 tioned under this section to reduce traffic
18 delays caused by motor vehicle accidents and
19 breakdowns on highways during peak driving
20 times.

21 “(B) USE OF FUNDS.—A State, metropoli-
22 tan planning organization, or local government
23 may use the funds under subparagraph (A)—

24 “(i) to develop a region-wide coordi-
25 nated plan to mitigate traffic delays caused

1 by motor vehicle accidents and break-
2 downs;

3 “(ii) to purchase or lease tele-
4 communications equipment for first re-
5 sponders;

6 “(iii) to purchase or lease towing and
7 recovery services;

8 “(iv) to pay contractors for towing
9 and recovery;

10 “(v) to rent vehicle storage areas ad-
11 jacent to roadways;

12 “(vi) to fund service patrols, equip-
13 ment, and operations;

14 “(vii) to purchase incident detection
15 equipment;

16 “(viii) to carry out training.”.

17 (b) CONGESTION MITIGATION AND AIR QUALITY IM-
18 PROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5)
19 of title 23, United States Code, is amended by inserting
20 “improve transportation systems management and oper-
21 ations,” after “intersections,”.

22 (c) TRANSPORTATION SYSTEMS MANAGEMENT AND
23 OPERATIONS.—

24 (1) IN GENERAL.—Subchapter I of chapter 1 of
25 title 23, United States Code (as amended by section

1 1620(b)), is amended by adding at the end the fol-
2 lowing:

3 **“§ 168. Transportation systems management and op-
4 erations**

5 “(a) IN GENERAL.—The Secretary shall carry out a
6 transportation systems management and operations pro-
7 gram to—

8 “(1) ensure efficient and effective management
9 and operation of transportation systems through col-
10 laboration, coordination, and real-time information
11 sharing at a regional and Statewide level among—

12 “(A) managers and operators of major
13 modes of transportation;

14 “(B) public safety officials; and

15 “(C) the general public; and

16 “(2) manage and operate transportation sys-
17 tems in a coordinated manner to preserve the capac-
18 ity and maximize the performance of transportation
19 facilities for travelers and carriers.

20 “(b) AUTHORIZED ACTIVITIES.—

21 “(1) IN GENERAL.—In carrying out the pro-
22 gram under subsection (a), the Secretary may carry
23 out activities to—

24 “(A) encourage managers and operators of
25 major modes of transportation, public safety of-

1 officials, and transportation planners in urban-
2 ized areas that are responsible for conducting
3 the day-to-day management, operations, public
4 safety, and planning of transportation facilities
5 and services to collaborate on and coordinate,
6 on a regional level and in a continuous and sus-
7 tained manner, improved transportation sys-
8 tems management and operations; and

9 “(B) encourage States to—

10 “(i) establish a system of basic real-
11 time monitoring for the surface transpor-
12 tation system; and

13 “(ii) provide the means to share the
14 data gathered under clause (i) among—

15 “(I) highway, transit, and public
16 safety agencies;

17 “(II) jurisdictions (including
18 States, cities, counties, and metropoli-
19 tan planning organizations);

20 “(III) private-sector entities; and

21 “(IV) the general public.

22 “(2) ACTIVITIES.—Activities to be carried out
23 under paragraph (1) include—

24 “(A) developing a regional concept of oper-
25 ations that defines a regional strategy shared

1 by all transportation and public safety partici-
2 pants with respect to the manner in which the
3 transportation systems of the region should be
4 managed, operated, and measured;

5 “(B) the sharing of information among op-
6 erators, service providers, public safety officials,
7 and the general public; and

8 “(C) guiding, in a regionally-coordinated
9 manner and in a manner consistent with and
10 integrated into the metropolitan and statewide
11 transportation planning processes and regional
12 intelligent transportation system architecture,
13 the implementation of regional transportation
14 system management and operations initiatives,
15 including—

16 “(i) emergency evacuation and re-
17 sponse;

18 “(ii) traffic incident management;

19 “(iii) technology deployment; and

20 “(iv) traveler information systems de-
21 livery.

22 “(c) COOPERATION.—In carrying out the program
23 under subsection (a), the Secretary may assist and cooper-
24 ate with other Federal agencies, State and local govern-
25 ments, metropolitan planning organizations, private indus-

1 try, and other interested parties to improve regional col-
2 laboration and real-time information sharing between
3 managers and operators of major modes of transportation,
4 public safety officials, emergency managers, and the gen-
5 eral public to increase the security, safety, and reliability
6 of Federal-aid highways.

7 “(d) GUIDANCE; REGULATIONS.—

8 “(1) IN GENERAL.—In carrying out the pro-
9 gram under subsection (a), the Secretary may issue
10 guidance or promulgate regulations for the procure-
11 ment of transportation system management and op-
12 erations facilities, equipment, and services,
13 including—

14 “(A) equipment procured in preparation
15 for natural disasters, disasters caused by
16 human activity, and emergencies;

17 “(B) system hardware;

18 “(C) software; and

19 “(D) software integration services.

20 “(2) CONSIDERATIONS.—In developing the
21 guidance or regulations under paragraph (1), the
22 Secretary may consider innovative procurement
23 methods that support the timely and streamlined
24 execution of transportation system management and
25 operations programs and projects.

1 “(3) FINANCIAL ASSISTANCE.—The Secretary
2 may authorize the use of funds made available under
3 section 104(b)(3) to provide assistance for regional
4 operations collaboration and coordination activities
5 that are associated with regional improvements, such
6 as—

7 “(A) traffic incident management;

8 “(B) technology deployment;

9 “(C) emergency management and re-
10 sponse;

11 “(D) traveler information; and

12 “(E) congestion relief.”.

13 (2) CONFORMING AMENDMENT.—The analysis
14 for subchapter I of chapter 1 of title 23, United
15 States Code (as amended by section 1620(c)), is
16 amended by adding at the end:

“168. Transportation systems management and operations.”.

17 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
18 **TION PROGRAM.**

19 (a) IN GENERAL.—Subchapter I of chapter 1 of title
20 23, United States Code (as amended by section
21 1701(c)(1)), is amended by adding at the end the fol-
22 lowing:

1 **“§ 169. Real-time system management information**
2 **program**

3 “(a) IN GENERAL.—The Secretary shall carry out a
4 real-time system management information program to—

5 “(1) provide a nationwide system of basic real-
6 time information for managing and operating the
7 surface transportation system;

8 “(2)(A) identify long-range real-time highway
9 and transit monitoring needs; and

10 “(B) develop plans and strategies for meeting
11 those needs;

12 “(3) provide the capability and means to share
13 the basic real-time information with State and local
14 governments and the traveling public; and

15 “(4) provide the nationwide capability to mon-
16 itor, in real-time, the traffic and travel conditions of
17 major highways in the United States, and to share
18 that information with State and local governments
19 and the traveling public, to—

20 “(A) improve the security of the surface
21 transportation system;

22 “(B) address congestion problems;

23 “(C) support improved response to weather
24 events; and

25 “(D) facilitate the distribution of national
26 and regional traveler information.

1 “(b) DATA EXCHANGE FORMATS.—Not later than 1
2 year after the date of enactment of this section, the Sec-
3 retary shall establish data exchange formats to ensure that
4 the data provided by highway and transit monitoring sys-
5 tems (including statewide incident reporting systems) can
6 readily be exchanged between jurisdictions to facilitate the
7 nationwide availability of information on traffic and travel
8 conditions.

9 “(c) STATEWIDE INCIDENT REPORTING SYSTEM.—
10 Not later than 2 years after the date of enactment of this
11 section, or not later than 5 years after the date of enact-
12 ment of this section if the Secretary determines that ade-
13 quate real-time communications capability will not be
14 available within 2 years after the date of enactment of
15 this section, each State shall establish a statewide incident
16 reporting system to facilitate the real-time electronic re-
17 porting of highway and transit incidents to a central loca-
18 tion for use in—

19 “(1) monitoring an incident;

20 “(2) providing accurate traveler information on
21 the incident; and

22 “(3) responding to the incident as appropriate.

23 “(d) REGIONAL ITS ARCHITECTURE.—

24 “(1) IN GENERAL.—In developing or updating
25 regional intelligent transportation system architec-

1 tures under section 940.9 of title 23, Code of Fed-
2 eral Regulations (or any successor regulation),
3 States and local governments shall address—

4 “(A) the real-time highway and transit in-
5 formation needs of the State or local govern-
6 ment, including coverage, monitoring systems,
7 data fusion and archiving, and methods of ex-
8 changing or sharing information; and

9 “(B) the systems needed to meet those
10 needs.

11 “(2) DATA EXCHANGE FORMATS.—In devel-
12 oping or updating regional intelligent transportation
13 system architectures, States and local governments
14 are encouraged to incorporate the data exchange for-
15 mats developed by the Secretary under subsection
16 (b) to ensure that the data provided by highway and
17 transit monitoring systems can readily be—

18 “(A) exchanged between jurisdictions; and

19 “(B) shared with the traveling public.

20 “(e) ELIGIBLE FUNDING.—Subject to project ap-
21 proval by the Secretary, a State may—

22 “(1) use funds available to the State under sec-
23 tion 505(a) to carry out activities relating to the
24 planning of real-time monitoring elements; and

1 “(2) use funds apportioned to the State under
2 paragraphs (1) and (3) of section 104(b) to carry
3 out activities relating to the planning and deploy-
4 ment of real-time monitoring elements.”.

5 (b) CONFORMING AMENDMENT.—The analysis for
6 subchapter I of chapter 1 of title 23, United States Code
7 (as amended by section 1701(c)(2)), is amended adding
8 at the end the following:

“169. Real-time system management information program.”.

9 **SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN**
10 **SERVICES.**

11 Section 112(b)(2) of title 23, United States Code, is
12 amended—

13 (1) in subparagraph (A), by striking “title 40”
14 and all that follows through the period and inserting
15 “title 40.”;

16 (2) by striking subparagraph (B);

17 (3) by redesignating subparagraphs (C) through
18 (F) as subparagraphs (B) through (E), respectively;
19 and

20 (4) by striking subparagraph (G).

21 **SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL**
22 **VEHICLES.**

23 Section 345(a)(2) of the National Highway System
24 Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat.
25 613) is amended by adding at the end the following: “No

1 additional off-duty time for a driver of such a vehicle shall
2 be required in order for the driver to operate the vehicle.”.

3 **SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGE-**
4 **MENT AREAS.**

5 (a) FUNDING.—Section 134(d)(3)(C)(ii) of title 23,
6 United States Code, is amended by striking subclause (II)
7 and inserting the following:

8 “(II) FUNDING.—In addition to
9 funds made available to the metropoli-
10 tan planning organization for the
11 Lake Tahoe Region under this title
12 and chapter 53 of title 49, 1 percent
13 of all funds distributed under section
14 202 shall be used to carry out the
15 transportation planning process for
16 the Lake Tahoe region under this
17 subparagraph.”.

18 (b) SPECIAL DESIGNATION.—Section 134(i)(1) of
19 title 23, United States Code, is amended by adding at the
20 end the following:

21 “(C) SPECIAL DESIGNATION.—

22 “(i) IN GENERAL.—The urbanized
23 areas of Oklahoma City, Oklahoma, and
24 Norman, Oklahoma, shall be designated as
25 a single transportation management area.

1 regardless of any earlier construction
2 completion date in the agreement.”.

3 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

4 (a) IN GENERAL.—Section 106 of title 23, United
5 States Code, is amended—

6 (1) by striking subsection (e) and inserting the
7 following:

8 “(e) VALUE ENGINEERING ANALYSIS.—

9 “(1) DEFINITION OF VALUE ENGINEERING
10 ANALYSIS.—

11 “(A) IN GENERAL.—In this subsection, the
12 term ‘value engineering analysis’ means a sys-
13 tematic process of review and analysis of a
14 project, during the concept and design phases,
15 by a multidisciplined team of persons not in-
16 volved in the project, that is conducted to pro-
17 vide recommendations such as those described
18 in subparagraph (B) for—

19 “(i) providing the needed functions
20 safely, reliably, and at the lowest overall
21 cost;

22 “(ii) improving the value and quality
23 of the project; and

24 “(iii) reducing the time to complete
25 the project.

1 “(B) INCLUSIONS.—The recommendations
2 referred to in subparagraph (A) include, with
3 respect to a project—

4 “(i) combining or eliminating other-
5 wise inefficient use of costly parts of the
6 original proposed design for the project;
7 and

8 “(ii) completely redesigning the
9 project using different technologies, mate-
10 rials, or methods so as to accomplish the
11 original purpose of the project.

12 “(2) ANALYSIS.—The State shall provide a
13 value engineering analysis or other cost-reduction
14 analysis for—

15 “(A) each project on the Federal-Aid Sys-
16 tem with an estimated total cost of
17 \$25,000,000 or more;

18 “(B) a bridge project with an estimated
19 total cost of \$20,000,000 or more; and

20 “(C) any other project the Secretary deter-
21 mines to be appropriate.

22 “(3) MAJOR PROJECTS.—The Secretary may
23 require more than 1 analysis described in paragraph
24 (2) for a major project described in subsection (h).

1 “(4) REQUIREMENTS.—Analyses described in
2 paragraph (1) for a bridge project shall—

3 “(A) include bridge substructure require-
4 ments based on construction material; and

5 “(B) be evaluated—

6 “(i) on engineering and economic
7 bases, taking into consideration acceptable
8 designs for bridges; and

9 “(ii) using an analysis of life-cycle
10 costs and duration of project construc-
11 tion.”; and

12 (2) by striking subsections (g) and (h) and in-
13 serting the following:

14 “(g) OVERSIGHT PROGRAM.—

15 “(1) PROGRAM.—

16 “(A) IN GENERAL.—The Secretary shall
17 establish an oversight program to monitor the
18 effective and efficient use of funds made avail-
19 able under this title.

20 “(B) MINIMUM REQUIREMENTS.—At a
21 minimum, the program shall monitor and re-
22 spond to all areas relating to financial integrity
23 and project delivery.

24 “(2) FINANCIAL INTEGRITY.—

1 “(A) FINANCIAL MANAGEMENT SYS-
2 TEMS.—

3 “(i) IN GENERAL.—The Secretary
4 shall perform annual reviews of the finan-
5 cial management systems of State trans-
6 portation departments that affect projects
7 approved under subsection (a).

8 “(ii) REVIEW AREAS.—In carrying out
9 clause (i), the Secretary shall use risk as-
10 sessment procedures to identify areas to be
11 reviewed.

12 “(B) PROJECT COSTS.—The Secretary
13 shall—

14 “(i) develop minimum standards for
15 estimating project costs; and

16 “(ii) periodically evaluate practices of
17 the States for—

18 “(I) estimating project costs;

19 “(II) awarding contracts; and

20 “(III) reducing project costs.

21 “(C) RESPONSIBILITY OF THE STATES.—

22 “(i) IN GENERAL.—Each State shall
23 be responsible for ensuring that subrecipi-
24 ents of Federal funds within the State
25 under this section have—

1 “(I) sufficient accounting con-
2 trols to properly manage the Federal
3 funds; and

4 “(II) adequate project delivery
5 systems for projects approved under
6 this section.

7 “(ii) REVIEW BY SECRETARY.—The
8 Secretary shall periodically review moni-
9 toring by the States of those subrecipients.

10 “(3) PROJECT DELIVERY.—The Secretary
11 shall—

12 “(A) perform annual reviews of the project
13 delivery system of each State, including analysis
14 of 1 or more activities that are involved in the
15 life cycle of a project; and

16 “(B) employ risk assessment procedures to
17 identify areas to be reviewed.

18 “(4) SPECIFIC OVERSIGHT RESPONSIBIL-
19 ITIES.—Nothing in this section discharges or other-
20 wise affects any oversight responsibility of the
21 Secretary—

22 “(A) specifically provided for under this
23 title or other Federal law; or

24 “(B) for the design and construction of all
25 Appalachian development highways under sec-

1 tion 14501 of title 40 or section 170 of this
2 title.

3 “(h) MAJOR PROJECTS.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of this section, a recipient of Federal fi-
6 nancial assistance for a project under this title with
7 an estimated total cost of \$1,000,000,000 or more,
8 and recipients for such other projects as may be
9 identified by the Secretary, shall submit to the Sec-
10 retary for each project—

11 “(A) a project management plan; and

12 “(B) an annual financial plan.

13 “(2) PROJECT MANAGEMENT PLAN.—A project
14 management plan shall document—

15 “(A) the procedures and processes that are
16 in effect to provide timely information to the
17 project decisionmakers to effectively manage the
18 scope, costs, schedules, and quality of, and the
19 Federal requirements applicable to, the project;
20 and

21 “(B) the role of the agency leadership and
22 management team in the delivery of the project.

23 “(3) FINANCIAL PLAN.—A financial plan
24 shall—

1 “(A) be based on detailed estimates of the
2 cost to complete the project; and

3 “(B) provide for the annual submission of
4 updates to the Secretary that are based on rea-
5 sonable assumptions, as determined by the Sec-
6 retary, of future increases in the cost to com-
7 plete the project.

8 “(i) OTHER PROJECTS.—A recipient of Federal fi-
9 nancial assistance for a project under this title that re-
10 ceives \$100,000,000 or more in Federal assistance for the
11 project, and that is not covered by subsection (h), shall
12 prepare, and make available to the Secretary at the re-
13 quest of the Secretary, an annual financial plan for the
14 project.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 114(a) of title 23, United States
17 Code, is amended—

18 (A) in the first sentence by striking “high-
19 ways or portions of highways located on a Fed-
20 eral-aid system” and inserting “Federal-aid
21 highway or a portion of a Federal-aid high-
22 way”; and

23 (B) by striking the second sentence and in-
24 serting “The Secretary shall have the right to
25 conduct such inspections and take such correc-

1 tive action as the Secretary determines to be
2 appropriate.”.

3 (2) Section 117 of title 23, United States Code,
4 is amended—

5 (A) by striking subsection (d); and

6 (B) by redesignating subsections (e)
7 through (h) as subsections (d) through (g), re-
8 spectively.

9 (c) CONTRACTOR SUSPENSION AND DEBARMENT
10 POLICY; SHARING FRAUD MONETARY RECOVERIES.—

11 (1) IN GENERAL.—Section 307 of title 49,
12 United States Code, is amended to read as follows:

13 **“§ 307. Contractor suspension and debarment policy;
14 sharing fraud monetary recoveries**

15 “(a) MANDATORY ENFORCEMENT POLICY.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Secretary—

18 “(A) shall debar any contractor or subcon-
19 tractor convicted of a criminal or civil offense
20 involving fraud relating to a project receiving
21 Federal highway or transit funds for such pe-
22 riod as the Secretary determines to be appro-
23 priate; and

24 “(B) subject to approval by the Attorney
25 General—

1 “(i) except as provided in paragraph
2 (2), shall suspend any contractor or sub-
3 contractor upon indictment for criminal or
4 civil offenses involving fraud; and

5 “(ii) may exclude nonaffiliated sub-
6 sidiaries of a debarred business entity.

7 “(2) NATIONAL SECURITY EXCEPTION.—If the
8 Secretary finds that mandatory debarment or sus-
9 pension of a contractor or subcontractor under para-
10 graph (1) would be contrary to the national security
11 of the United States, the Secretary—

12 “(A) may waive the debarment or suspen-
13 sion; and

14 “(B) in the instance of each waiver, shall
15 provide notification to Congress of the waiver
16 with appropriate details.

17 “(b) SHARING OF MONETARY RECOVERIES.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law—

20 “(A) monetary judgments accruing to the
21 Federal Government from judgments in Federal
22 criminal prosecutions and civil judgments per-
23 taining to fraud in highway and transit pro-
24 grams shall be shared with the State or local
25 transit agency involved; and

1 “(B) the State or local transit agency shall
2 use the funds for transportation infrastructure
3 and oversight activities relating to programs au-
4 thorized under title 23 and this title.

5 “(2) AMOUNT.—The amount of recovered funds
6 to be shared with an affected State or local transit
7 agency shall be—

8 “(A) determined by the Attorney General,
9 in consultation with the Secretary; and

10 “(B) considered to be Federal funds to be
11 used in compliance with other relevant Federal
12 transportation laws (including regulations).

13 “(3) FRAUDULENT ACTIVITY.—Paragraph (1)
14 shall not apply in any case in which a State or local
15 transit agency is found by the Attorney General, in
16 consultation with the Secretary, to have been in-
17 volved or negligent with respect to the fraudulent ac-
18 tivities.”.

19 (2) CONFORMING AMENDMENT.—The analysis
20 for chapter 3 of title 49, United States Code, is
21 amended by striking the item relating to section 307
22 and inserting the following:

“307. Contractor suspension and debarment policy; sharing fraud monetary re-
coveries.”.

1 **SEC. 1803. DESIGN-BUILD CONTRACTING.**

2 Section 112(b)(3) of title 23, United States Code, is
3 amended by striking subparagraph (C) and inserting the
4 following:

5 “(C) QUALIFIED PROJECTS.—A qualified
6 project referred to in subparagraph (A) is a
7 project under this chapter (including intermodal
8 projects) for which the Secretary has approved
9 the use of design-build contracting under cri-
10 teria specified in regulations promulgated by
11 the Secretary.”.

12 **SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

13 (a) ADVANCE CONSTRUCTION.—Section 115 of title
14 23, United States Code, is amended—

15 (1) by redesignating subsection (c) as sub-
16 section (d);

17 (2) by redesignating subsections (a)(2),
18 (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),
19 and (c)(2), respectively, and indenting appropriately;

20 (3) by striking “(a) CONGESTION” and all that
21 follows through subsection (a)(1)(B);

22 (4) by striking subsection (b); and

23 (5) by inserting after the section heading the
24 following:

1 “(a) IN GENERAL.—The Secretary may authorize a
2 State to proceed with a project authorized under this
3 title—

4 “(1) without the use of Federal funds; and

5 “(2) in accordance with all procedures and re-
6 quirements applicable to the project other than those
7 procedures and requirements that limit the State to
8 implementation of a project—

9 “(A) with the aid of Federal funds pre-
10 viously apportioned or allocated to the State; or

11 “(B) with obligation authority previously
12 allocated to the State.

13 “(b) OBLIGATION OF FEDERAL SHARE.—The Sec-
14 retary, on the request of a State and execution of a project
15 agreement, may obligate all or a portion of the Federal
16 share of the project authorized under this section from
17 any category of funds for which the project is eligible.”.

18 (b) OBLIGATION AND RELEASE OF FUNDS.—Section
19 118 of title 23, United States Code, is amended by strik-
20 ing subsection (d) and inserting the following:

21 “(d) OBLIGATION AND RELEASE OF FUNDS.—

22 “(1) IN GENERAL.—Funds apportioned or allo-
23 cated to a State for a particular purpose for any fis-
24 cal year shall be considered to be obligated if a sum
25 equal to the total of the funds apportioned or allo-

1 cated to the State for that purpose for that fiscal
2 year and previous fiscal years is obligated.

3 “(2) RELEASED FUNDS.—Any funds released
4 by the final payment for a project, or by modifying
5 the project agreement for a project, shall be—

6 “(A) credited to the same class of funds
7 previously apportioned or allocated to the State;
8 and

9 “(B) immediately available for obligation.

10 “(3) NET OBLIGATIONS.—Notwithstanding any
11 other provision of law (including a regulation), obli-
12 gations recorded against funds made available under
13 this section shall be recorded and reported as net ob-
14 ligations.”.

15 **SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY**
16 **PROJECTS.**

17 Section 118(c)(1) of title 23, United States Code, is
18 amended—

19 (1) by striking “\$50,000,000” and all that
20 follows through “2003” and inserting
21 “\$89,308,176 for each of fiscal years 2005
22 through 2009”; and

23 (2) by striking “Transportation Equity Act
24 for the 21st Century” and inserting “Safe, Ac-

1 countable, Flexible, and Efficient Transpor-
2 tation Equity Act of 2005”.

3 **SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

4 (a) FEDERAL SHARE PAYABLE.—

5 (1) IN GENERAL.—Section 120(k) of title 23,
6 United States Code, is amended—

7 (A) by striking “Federal-aid highway”;
8 and

9 (B) by striking “section 104” and insert-
10 ing “this title or chapter 53 of title 49”.

11 (2) TECHNICAL REFERENCES.—Section 120(l)
12 of title 23, United States Code, is amended by strik-
13 ing “section 104” and inserting “this title or chap-
14 ter 53 of title 49”.

15 (b) PAYMENTS TO FEDERAL AGENCIES FOR FED-
16 ERAL-AID PROJECTS.—Section 132 of title 23, United
17 States Code, is amended—

18 (1) by striking the first 2 sentences and insert-
19 ing the following:

20 “(a) IN GENERAL.—In a case in which a proposed
21 Federal-aid project is to be undertaken by a Federal agen-
22 cy in accordance with an agreement between a State and
23 the Federal agency, the State may—

1 “(1) direct the Secretary to transfer the funds
2 for the Federal share of the project directly to the
3 Federal agency; or

4 “(2) make such deposit with, or payment to,
5 the Federal agency as is required to meet the obliga-
6 tion of the State under the agreement for the work
7 undertaken or to be undertaken by the Federal
8 agency.

9 “(b) REIMBURSEMENT.—On execution of a project
10 agreement with a State described in subsection (a), the
11 Secretary may reimburse the State, using any available
12 funds, for the estimated Federal share under this title of
13 the obligation of the State deposited or paid under sub-
14 section (a)(2).”; and

15 (2) in the last sentence, by striking “Any
16 sums” and inserting the following:

17 “(c) RECOVERY AND CREDITING OF FUNDS.—Any
18 sums”.

19 (c) ALLOCATIONS.—Section 202 of title 23, United
20 States Code, is amended—

21 (1) in subsection (a), by striking “(a) On Octo-
22 ber 1” and all that follows through “Such alloca-
23 tion” and inserting the following:

24 “(a) ALLOCATION BASED ON NEED.—

1 “(1) IN GENERAL.—On October 1 of each fiscal
2 year, the Secretary shall allocate sums authorized to
3 be appropriated for the fiscal year for forest develop-
4 ment roads and trails according to the relative needs
5 of the various national forests and grasslands.

6 “(2) PLANNING.—The allocation under para-
7 graph (1)”;

8 (2) by striking subsection (b) and inserting the
9 following:

10 “(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

11 “(1) PUBLIC LANDS HIGHWAYS.—

12 “(A) IN GENERAL.—On October 1 of each
13 fiscal year, the Secretary shall allocate $33\frac{1}{3}$
14 percent of the sums authorized to be appro-
15 priated for that fiscal year for public lands
16 highways among those States having unappro-
17 priated or unreserved public lands, or non-
18 taxable Indian lands or other Federal reserva-
19 tions, on the basis of need in the States, respec-
20 tively, as determined by the Secretary, on appli-
21 cation of the State transportation departments
22 of the respective States.

23 “(B) PREFERENCE.—In making the allo-
24 cation under subparagraph (A), the Secretary
25 shall give preference to those projects that are

1 significantly impacted by Federal land and re-
2 source management activities that are proposed
3 by a State that contains at least 3 percent of
4 the total public land in the United States.

5 “(2) FOREST HIGHWAYS.—

6 “(A) IN GENERAL.—On October 1 of each
7 fiscal year, the Secretary shall allocate $66\frac{2}{3}$
8 percent of the funds authorized to be appro-
9 priated for public lands highways for forest
10 highways in accordance with section 134 of the
11 Federal-Aid Highway Act of 1987 (23 U.S.C.
12 202 note; 101 Stat. 173).

13 “(B) PUBLIC ACCESS TO AND WITHIN NA-
14 TIONAL FOREST SYSTEM.—In making the allo-
15 cation under subparagraph (A), the Secretary
16 shall give equal consideration to projects that
17 provide access to and within the National For-
18 est System, as identified by the Secretary of
19 Agriculture through—

20 “(i) renewable resource and land use
21 planning; and

22 “(ii) assessments of the impact of that
23 planning on transportation facilities.”;

24 (3) in subsection (c)—

1 (A) by striking “(c) On” and inserting the
2 following:

3 “(c) PARK ROADS AND PARKWAYS.—

4 “(1) IN GENERAL.—On”; and

5 (B) by adding at the end the following:

6 “(2) PRIORITY.—

7 “(A) DEFINITION OF QUALIFYING NA-
8 TIONAL PARK.—In this paragraph, the term
9 “qualifying national park” means a National
10 Park that is used more than 1,000,000 rec-
11 reational visitor days per year, based on an av-
12 erage of the 3 most recent years of available
13 data from the National Park Service.

14 “(B) PRIORITY.—Notwithstanding any
15 other provision of law, with respect to funds au-
16 thorized for park roads and parkways, the Sec-
17 retary shall give priority in the allocation of
18 funds to projects for highways that—

19 “(i) are located in, or provide access
20 to, a qualifying National Park; and

21 “(ii) were initially constructed before
22 1940.

23 “(C) PRIORITY CONFLICTS.—If there is a
24 conflict between projects described in subpara-

1 graph (B), the Secretary shall give highest pri-
2 ority to projects that—

3 “(i) are in, or that provide access to,
4 parks that are adjacent to a National Park
5 of a foreign country; or

6 “(ii) are located in more than 1
7 State;”;

8 (4) in subsection (d)—

9 (A) in paragraph (1)—

10 (i) in the paragraph heading, by strik-
11 ing “1999” and inserting “2005”; and

12 (ii) by striking “1999” and inserting
13 “2005”;

14 (B) in paragraph (2)—

15 (i) in the paragraph heading, by strik-
16 ing “2000” and inserting “2005”;

17 (ii) in subparagraphs (A), (B), and
18 (D), by striking “2000” each place it ap-
19 pears and inserting “2005”;

20 (iii) in subparagraph (B), by striking
21 “1999” each place it appears and inserting
22 “2005”; and

23 (iv) by adding at the end the fol-
24 lowing:

25 “(E) TRANSFERRED FUNDS.—

1 “(i) IN GENERAL.—Not later than 30
2 days after the date on which funds are
3 made available to the Secretary of the In-
4 terior under this paragraph, the funds
5 shall be distributed to, and available for
6 immediate use by, the eligible Indian
7 tribes, in accordance with the formula ap-
8 plicable for each fiscal year.

9 “(ii) FORMULA.—If the Secretary of
10 the Interior has not promulgated final reg-
11 ulations for the distribution of funds under
12 clause (i) for a fiscal year by the date on
13 which the funds for the fiscal year are re-
14 quired to be distributed under that clause,
15 the Secretary of the Interior shall dis-
16 tribute the funds under clause (i) in ac-
17 cordance with the applicable funding for-
18 mula for the preceding year.

19 “(iii) USE OF FUNDS.—Notwith-
20 standing any other provision of this sec-
21 tion, funds available to Indian tribes for
22 Indian reservation roads shall be expended
23 on projects identified in a transportation
24 improvement program approved by the
25 Secretary.”;

1 (C) in paragraph (3)—

2 (i) in subparagraph (A), by striking
3 “under this title” and inserting “under
4 this chapter and section 125(e)”; and

5 (ii) by adding at the end the fol-
6 lowing:

7 “(C) FEDERAL LANDS HIGHWAY PROGRAM
8 DEMONSTRATION PROJECT.—

9 “(i) IN GENERAL.—The Secretary
10 shall establish a demonstration project
11 under which all funds made available
12 under this chapter for Indian reservation
13 roads and for highway bridges located on
14 Indian reservation roads as provided for in
15 subparagraph (A) shall be made available,
16 on the request of an affected Indian tribal
17 government, to the Indian tribal govern-
18 ment for use in carrying out, in accordance
19 with the Indian Self-Determination and
20 Education Assistance Act (25 U.S.C. 450b
21 et seq.), contracts and agreements for the
22 planning, research, engineering, and con-
23 struction described in that subparagraph.

24 “(ii) EXCLUSION OF AGENCY PARTICI-
25 PATION.—In accordance with subpara-

1 graph (B), all funds for Indian reservation
2 roads and for highway bridges located on
3 Indian reservation roads to which clause
4 (i) applies shall be paid without regard to
5 the organizational level at which the Fed-
6 eral lands highway program has previously
7 carried out the programs, functions, serv-
8 ices, or activities involved.

9 “(iii) SELECTION OF PARTICIPATING
10 TRIBES.—

11 “(I) PARTICIPANTS.—

12 “(aa) IN GENERAL.—In ad-
13 dition to Indian tribes or tribal
14 organizations that, as of the date
15 of enactment of this subpara-
16 graph, are contracting or com-
17 pacting for any Indian reserva-
18 tion road function or program,
19 for each fiscal year, the Secretary
20 may select up to 15 Indian tribes
21 from the applicant pool described
22 in subclause (II) to participate in
23 the demonstration project carried
24 out under clause (i).

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“(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

“(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of

1 the Bureau of Indian Affairs
2 under subsection (f)(1).

3 “(II) APPLICANT POOL.—The ap-
4 plicant pool described in this sub-
5 clause shall consist of each Indian
6 tribe (or consortium) that—

7 “(aa) has successfully com-
8 pleted the planning phase de-
9 scribed in subclause (IV);

10 “(bb) has requested partici-
11 pation in the demonstration
12 project under this subparagraph
13 through the adoption of a resolu-
14 tion or other official action by
15 the tribal governing body; and

16 “(cc) has demonstrated fi-
17 nancial stability and financial
18 management capability in accord-
19 ance with subclause (III) during
20 the 3-fiscal-year period imme-
21 diately preceding the fiscal year
22 for which participation under this
23 subparagraph is being requested.

24 “(III) CRITERIA FOR DETER-
25 MINING FINANCIAL STABILITY AND FI-

1 ble to receive a grant under this
2 subclause to plan and negotiate
3 participation in a project de-
4 scribed in that item.

5 “(V) REPORT TO CONGRESS.—
6 Not later than September 30, 2006,
7 the Secretary shall submit to Con-
8 gress a report describing the imple-
9 mentation of the demonstration
10 project and any recommendations for
11 improving the project.”; and

12 (D) in paragraph (4)—

13 (i) in subparagraph (B)—

14 (I) by striking “(B) RESERVA-
15 TION.—Of the amounts” and all that
16 follows through “to replace,” and in-
17 sserting the following:

18 “(B) FUNDING.—

19 “(i) AUTHORIZATION OF APPROPRIA-
20 TIONS.—In addition to any other funds
21 made available for Indian reservation roads
22 for each fiscal year, there is authorized to
23 be appropriated from the Highway Trust
24 Fund (other than the Mass Transit Ac-
25 count) \$13,396,226 for each of fiscal years

1 2005 through 2009 to carry out planning,
2 design, engineering, preconstruction, con-
3 struction, and inspection of projects to re-
4 place,”; and

5 (II) by adding at the end the fol-
6 lowing:

7 “(ii) AVAILABILITY.—Funds made
8 available to carry out this subparagraph
9 shall be available for obligation in the same
10 manner as if the funds were apportioned
11 under chapter 1.”; and

12 (ii) by striking subparagraph (D) and
13 inserting the following:

14 “(D) APPROVAL REQUIREMENT.—

15 “(i) IN GENERAL.—Subject to clause
16 (ii), on request by an Indian tribe or the
17 Secretary of the Interior, the Secretary
18 may make funds available under this sub-
19 section for preliminary engineering for In-
20 dian reservation road bridge projects.

21 “(ii) CONSTRUCTION AND CONSTRUC-
22 TION ENGINEERING.—The Secretary may
23 make funds available under clause (i) for
24 construction and construction engineering
25 only after approval by the Secretary of ap-

1 plicable plans, specifications, and esti-
2 mates.”; and

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

4 “(f) ADMINISTRATION OF INDIAN RESERVATION
5 ROADS.—

6 “(1) CONTRACT AUTHORITY.—Notwithstanding
7 any other provision of law, for any fiscal year, not
8 more than 6 percent of the contract authority
9 amounts made available from the Highway Trust
10 Fund to the Bureau of Indian Affairs under this
11 title shall be used to pay the expenses incurred by
12 the Bureau in administering the Indian reservation
13 roads program (including the administrative ex-
14 penses relating to individual projects associated with
15 the Indian reservation roads program).

16 “(2) HEALTH AND SAFETY ASSURANCES.—Not-
17 withstanding any other provision of law, an Indian
18 tribe or tribal organization may commence road and
19 bridge construction under the Transportation Equity
20 Act for the 21st Century (Public Law 105-178) or
21 the Safe, Accountable, Flexible, and Efficient Trans-
22 portation Equity Act of 2005 that is funded through
23 a contract or agreement under the Indian Self-De-
24 termination and Education Assistance Act (25

1 U.S.C. 450b et seq.) if the Indian tribe or tribal
2 organization—

3 “(A) provides assurances in the contract or
4 agreement that the construction will meet or ex-
5 ceed applicable health and safety standards;

6 “(B) obtains the advance review of the
7 plans and specifications from a licensed profes-
8 sional that has certified that the plans and
9 specifications meet or exceed the applicable
10 health and safety standards; and

11 “(C) provides a copy of the certification
12 under subparagraph (B) to the Assistant Sec-
13 retary for Indian Affairs.”.

14 (d) PLANNING AND AGENCY COORDINATION.—Sec-
15 tion 204 of title 23, United States Code, is amended—

16 (1) in subsection (a)(1), by inserting “refuge
17 roads, recreation roads,” after “parkways,”;

18 (2) by striking subsection (b) and inserting the
19 following:

20 “(b) USE OF FUNDS.—

21 “(1) IN GENERAL.—Funds available for public
22 lands highways, recreation roads, park roads and
23 parkways, forest highways, and Indian reservation
24 roads shall be used by the Secretary and the Sec-
25 retary of the appropriate Federal land management

1 agency to pay the cost of transportation planning,
2 research, engineering, operation and maintenance of
3 transit facilities, and construction of the highways,
4 roads, parkways, forest highways, and transit facili-
5 ties located on public land, national parks, and In-
6 dian reservations.

7 “(2) CONTRACT.—In connection with an activ-
8 ity described in paragraph (1), the Secretary and the
9 Secretary of the appropriate Federal land manage-
10 ment agency may enter into a construction contract
11 or other appropriate agreement with—

12 “(A) a State (including a political subdivi-
13 sion of a State); or

14 “(B) an Indian tribe.

15 “(3) INDIAN RESERVATION ROADS.—In the case
16 of an Indian reservation road—

17 “(A) Indian labor may be used, in accord-
18 ance with such rules and regulations as may be
19 promulgated by the Secretary of the Interior, to
20 carry out any construction or other activity de-
21 scribed in paragraph (1); and

22 “(B) funds made available to carry out
23 this section may be used to pay bridge
24 preconstruction costs (including planning, de-
25 sign, and engineering).

1 “(4) FEDERAL EMPLOYMENT.—No maximum
2 on Federal employment shall be applicable to con-
3 struction or improvement of Indian reservation
4 roads.

5 “(5) AVAILABILITY OF FUNDS.—Funds avail-
6 able under this section for each class of Federal
7 lands highway shall be available for any kind of
8 transportation project eligible for assistance under
9 this title that is within or adjacent to, or that pro-
10 vides access to, the areas served by the particular
11 class of Federal lands highway.

12 “(6) RESERVATION OF FUNDS.—The Secretary
13 of the Interior may reserve funds from administra-
14 tive funds of the Bureau of Indian Affairs that are
15 associated with the Indian reservation road program
16 to finance the Indian technical centers authorized
17 under section 504(b).”; and

18 (3) in subsection (k)(1)—

19 (A) in subparagraph (B)—

20 (i) by striking “(2), (5),” and insert-
21 ing “(2), (3), (5),”; and

22 (ii) by striking “and” after the semi-
23 colon;

1 (B) in subparagraph (C), by striking the
2 period at the end and inserting a semicolon;
3 and

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

5 “(D) maintenance of public roads in na-
6 tional fish hatcheries under the jurisdiction of
7 the United States Fish and Wildlife Service;

8 “(E) the non-Federal share of the cost of
9 any project funded under this title or chapter
10 53 of title 49 that provides access to or within
11 a wildlife refuge; and

12 “(F) maintenance and improvement of rec-
13 reational trails (except that expenditures on
14 trails under this subparagraph shall not exceed
15 5 percent of available funds for each fiscal
16 year).”.

17 (e) MAINTENANCE OF INDIAN RESERVATION
18 ROADS.—Section 204(c) of title 23, United States Code,
19 is amended by striking the second and third sentences and
20 inserting the following: “Notwithstanding any other provi-
21 sion of this title, of the amount of funds apportioned for
22 Indian reservation roads from the Highway Trust Fund,
23 an Indian tribe may expend for the purpose of mainte-
24 nance not more than the greater of \$250,000 or 25 per-
25 cent of the apportioned amount. The Bureau of Indian

1 Affairs shall continue to retain primary responsibility, in-
2 cluding annual funding request responsibility, for road
3 maintenance programs on Indian reservations. The Sec-
4 retary shall ensure that funding made available under this
5 subsection for maintenance of Indian reservation roads for
6 each fiscal year is supplementary to and not in lieu of any
7 obligation of funds by the Bureau of Indian Affairs for
8 road maintenance programs on Indian reservations.”.

9 (f) SAFETY.—

10 (1) ALLOCATIONS.—Section 202 of title 23,
11 United States Code (as amended by subsection
12 (c)(5)), is amended by adding at the end the fol-
13 lowing:

14 “(g) SAFETY.—Subject to paragraph (2), on October
15 1 of each fiscal year, the Secretary shall allocate the sums
16 authorized to be appropriated for the fiscal year for safety
17 as follows:

18 “(1) 12 percent to the Bureau of Reclamation.

19 “(2) 18 percent to the Bureau of Indian Af-
20 fairs.

21 “(3) 17 percent to the Bureau of Land Man-
22 agement.

23 “(4) 17 percent to the Forest Service.

24 “(5) 7 percent to the United States Fish and
25 Wildlife Service.

1 “(6) 17 percent to the National Park Service.

2 “(7) 12 percent to the Corps of Engineers.”.

3 (2) AVAILABILITY OF FUNDS.—Section 203 of
4 title 23, United States Code, is amended by insert-
5 ing “safety projects or activities,” after “refuge
6 roads,” each place it appears.

7 (3) USE OF FUNDING.—Section 204 of title 23,
8 United States Code, is amended by adding at the
9 end the following:

10 “(1) SAFETY ACTIVITIES.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of this title, funds made available for safe-
13 ty under this title shall be used by the Secretary and
14 the head of the appropriate Federal land manage-
15 ment agency only to pay the costs of carrying out—

16 “(A) transportation safety improvement
17 activities;

18 “(B) activities to eliminate high-accident
19 locations;

20 “(C) projects to implement protective
21 measures at, or eliminate, at-grade railway-
22 highway crossings;

23 “(D) collection of safety information;

24 “(E) transportation planning projects or
25 activities;

1 “(F) bridge inspection;

2 “(G) development and operation of safety
3 management systems;

4 “(H) highway safety education programs;
5 and

6 “(I) other eligible safety projects and ac-
7 tivities authorized under chapter 4.

8 “(2) CONTRACTS.—In carrying out paragraph
9 (1), the Secretary and the Secretary of the appro-
10 priate Federal land management agency may enter
11 into contracts or agreements with—

12 “(A) a State;

13 “(B) a political subdivision of a State; or

14 “(C) an Indian tribe.

15 “(3) EXCEPTION.—The cost sharing require-
16 ments under the Federal Water Project Recreation
17 Act (16 U.S.C. 460l–12 et seq.) shall not apply to
18 funds made available to the Bureau of Reclamation
19 under this subsection.”.

20 (g) RECREATION ROADS.—

21 (1) AUTHORIZATIONS.—Section 201 of title 23,
22 United States Code, is amended in the first sentence
23 by inserting “recreation roads,” after “public lands
24 highways,”.

1 (2) ALLOCATIONS.—Section 202 of title 23,
2 United States Code (as amended by subsection
3 (f)(1)), is amended by adding at the end the fol-
4 lowing:

5 “(h) RECREATION ROADS.—

6 “(1) IN GENERAL.—Subject to paragraphs (2)
7 and (3), on October 1 of each fiscal year, the Sec-
8 retary, after completing the transfer under sub-
9 section 204(i), shall allocate the sums authorized to
10 be appropriated for the fiscal year for recreation
11 roads as follows:

12 “(A) 8 percent to the Bureau of Reclama-
13 tion.

14 “(B) 9 percent to the Corps of Engineers.

15 “(C) 13 percent to the Bureau of Land
16 Management.

17 “(D) 70 percent to the Forest Service.

18 “(2) ALLOCATION WITHIN AGENCIES.—Recre-
19 ation road funds allocated to a Federal agency under
20 paragraph (1) shall be allocated for projects and ac-
21 tivities of the Federal agency according to the rel-
22 ative needs of each area served by recreation roads
23 under the jurisdiction of the Federal agency, as indi-
24 cated in the approved transportation improvement
25 program for each Federal agency.”.

1 (3) AVAILABILITY OF FUNDS.—Section 203 of
2 title 23, United States Code, is amended—

3 (A) in the first sentence, by inserting
4 “recreation roads,” after “Indian reservation
5 roads,”; and

6 (B) in the fourth sentence, by inserting “,
7 recreation roads,” after “Indian roads”.

8 (4) USE OF FUNDING.—Section 204 of title 23,
9 United States Code (as amended by subsection
10 (e)(3)), is amended by adding at the end the fol-
11 lowing:

12 “(m) RECREATION ROADS.—

13 “(1) IN GENERAL.—Notwithstanding any other
14 provision of this title, funds made available for
15 recreation roads under this title shall be used by the
16 Secretary and the Secretary of the appropriate Fed-
17 eral land management agency only to pay the cost
18 of—

19 “(A) maintenance or improvements of ex-
20 isting recreation roads;

21 “(B) maintenance and improvements of eli-
22 gible projects described in paragraph (1), (2),
23 (3), (5), or (6) of subsection (h) that are lo-
24 cated in or adjacent to Federal land under the
25 jurisdiction of—

1 “(i) the Department of Agriculture; or

2 “(ii) the Department of the Interior;

3 “(C) transportation planning and adminis-
4 trative activities associated with those mainte-
5 nance and improvements; and

6 “(D) the non-Federal share of the cost of
7 any project funded under this title or chapter
8 53 of title 49 that provides access to or within
9 Federal land described in subparagraph (B).

10 “(2) CONTRACTS.—In carrying out paragraph
11 (1), the Secretary and the Secretary of the appro-
12 priate Federal land management agency may enter
13 into contracts or agreements with—

14 “(A) a State;

15 “(B) a political subdivision of a State; or

16 “(C) an Indian tribe.

17 “(3) NEW ROADS.—No funds made available
18 under this section shall be used to pay the cost of
19 the design or construction of new recreation roads.

20 “(4) COMPLIANCE WITH OTHER ENVIRON-
21 MENTAL LAWS.—A maintenance or improvement
22 project that is funded under this subsection, and
23 that is consistent with or has been identified in a
24 land use plan for an area under the jurisdiction of
25 a Federal agency, shall not require any additional

1 environmental reviews or assessments under the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.) if—

4 “(A) the Federal agency that promulgated
5 the land use plan analyzed the specific proposal
6 for the maintenance or improvement project
7 under that Act; and

8 “(B) as of the date on which the funds are
9 to be expended, there are—

10 “(i) no significant changes to the pro-
11 posal bearing on environmental concerns;
12 and

13 “(ii) no significant new information.

14 “(5) EXCEPTION.—The cost sharing require-
15 ments under the Federal Water Project Recreation
16 Act (16 U.S.C. 4601–12 et seq.) shall not apply to
17 funds made available to the Bureau of Reclamation
18 under this subsection.”.

19 (h) CONFORMING AMENDMENTS.—

20 (1) Sections 120(e) and 125(e) of title 23,
21 United States Code, are amended by striking “public
22 lands highways,” each place it appears and inserting
23 “public lands highways, recreation roads,”.

24 (2) Sections 120(e), 125(e), 201, 202(a), and
25 203 of title 23, United States Code, are amended by

1 striking “forest development roads” each place it ap-
2 pears and inserting “National Forest System
3 roads”.

4 (3) Section 202(e) of title 23, United States
5 Code, is amended by striking “Refuge System,” and
6 inserting “Refuge System and the various national
7 fish hatcheries,”.

8 (4) Section 204 of title 23, United States Code,
9 is amended—

10 (A) in subsection (a)(1), by striking “pub-
11 lic lands highways,” and inserting “public lands
12 highways, recreation roads, forest highways,”;
13 and

14 (B) in subsection (i), by striking “public
15 lands highways” each place it appears and in-
16 serting “public lands highways, recreation
17 roads, and forest highways”.

18 (5) Section 205 of title 23, United States Code,
19 is amended—

20 (A) by striking the section heading and in-
21 serting the following:

22 **“§ 205. National Forest System roads and trails”;**

23 and

24 (B) in subsections (a) and (d), by striking
25 “forest development roads” each place it ap-

1 pears and inserting “National Forest System
2 roads”.

3 (6) The analysis for chapter 2 of title 23,
4 United States Code, is amended by striking the item
5 relating to section 205 and inserting the following:
 “205. National Forest System roads and trails.”.

6 (7) Section 217(e) of title 23, United States
7 Code, is amended by inserting “refuge roads,” after
8 “Indian reservation roads,”.

9 **SEC. 1807. HIGHWAY BRIDGE PROGRAM.**

10 (a) IN GENERAL.—Section 144 of title 23, United
11 States Code, is amended—

12 (1) by striking the section heading and all that
13 follows through subsection (a) and inserting the fol-
14 lowing:

15 **“§ 144. Highway bridge program**

16 “(a) CONGRESSIONAL STATEMENT.—Congress finds
17 and declares that it is in the vital interest of the United
18 States that a highway bridge program be established to
19 enable States to improve the condition of their bridges
20 through replacement, rehabilitation, and systematic pre-
21 ventative maintenance on highway bridges over waterways,
22 other topographical barriers, other highways, or railroads
23 at any time at which the States and the Secretary deter-
24 mine that a bridge is unsafe because of structural defi-

1 ciencies, physical deterioration, or functional obsoles-
2 cence.”;

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

5 “(d) PARTICIPATION IN PROGRAM.—

6 “(1) IN GENERAL.—On application by a State
7 to the Secretary for assistance in replacing or reha-
8 bilitating a highway bridge that has been determined
9 to be eligible for replacement or rehabilitation under
10 subsection (b) or (c), the Secretary may approve
11 Federal participation in—

12 “(A) replacing the bridge with a com-
13 parable bridge; or

14 “(B) rehabilitating the bridge.

15 “(2) SPECIFIC KINDS OF REHABILITATION.—

16 On application by a State to the Secretary for as-
17 sistance in painting, seismic retrofit, or preventative
18 maintenance of, or installation of scour counter-
19 measures or applying calcium magnesium acetate,
20 sodium acetate/formate, or other environmentally ac-
21 ceptable, minimally corrosive anti-icing and de-icing
22 compositions to, the structure of a highway bridge,
23 the Secretary may approve Federal participation in
24 the painting, seismic retrofit, or preventative mainte-
25 nance of, or installation of scour countermeasures or

1 application of acetate or sodium acetate/formate or
2 such anti-icing or de-icing composition to, the struc-
3 ture.

4 “(3) ELIGIBILITY.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the Secretary shall deter-
7 mine the eligibility of highway bridges for re-
8 placement or rehabilitation for each State based
9 on the number of unsafe highway bridges in the
10 State.

11 “(B) PREVENTATIVE MAINTENANCE.—A
12 State may carry out a project for preventative
13 maintenance on a bridge, seismic retrofit of a
14 bridge, or installation of scour countermeasures
15 to a bridge under this section without regard to
16 whether the bridge is eligible for replacement or
17 rehabilitation under this section.”;

18 (3) in subsection (e)—

19 (A) in the third sentence, by striking
20 “square footage” and inserting “area”;

21 (B) in the fourth sentence—

22 (i) by striking “by the total cost of
23 any highway bridges constructed under
24 subsection (m) in such State, relating to

1 replacement of destroyed bridges and fer-
2 ryboat services, and,”; and

3 (ii) by striking “1997” and inserting
4 “2003”; and

5 (C) in the seventh sentence, by striking
6 “the Federal-aid primary system” and inserting
7 “Federal-aid highways”;

8 (4) by striking subsections (f) and (g) and in-
9 serting the following:

10 “(f) SET ASIDES.—

11 “(1) DISCRETIONARY BRIDGE PROGRAM.—

12 “(A) IN GENERAL.—Of the amounts au-
13 thorized to be appropriated to carry out the
14 bridge program under this section for each of
15 fiscal years 2005 through 2009, all but
16 \$133,962,264 shall be apportioned as provided
17 in subsection (e).

18 “(B) AVAILABILITY.—The \$133,962,264
19 referred to in subparagraph (A) shall be avail-
20 able at the discretion of the Secretary, except
21 that not to exceed \$22,327,044 of that amount
22 shall be available only for projects for the seis-
23 mic retrofit of bridges.

24 “(C) SET ASIDES.—For fiscal year 2005,
25 the Secretary shall provide—

1 “(i) \$44,654,088 to the State of Ne-
2 vada for construction of a replacement of
3 the federally-owned bridge over the Hoover
4 Dam in the Lake Mead National Recre-
5 ation Area; and

6 “(ii) \$44,654,088 to the State of Mis-
7 souri for construction of a structure over
8 the Mississippi River to connect the city of
9 St. Louis, Missouri, to the State of Illinois.

10 “(2) OFF-SYSTEM BRIDGES.—

11 “(A) IN GENERAL.—Not less than 15 per-
12 cent of the amount apportioned to each State in
13 each of fiscal years 2005 through 2009 shall be
14 expended for projects to replace, rehabilitate,
15 perform systematic preventative maintenance or
16 seismic retrofit, or apply calcium magnesium
17 acetate, sodium acetate/formate, or other envi-
18 ronmentally acceptable, minimally corrosive
19 anti-icing and de-icing compositions or install
20 scour countermeasures to highway bridges lo-
21 cated on public roads, other than those on a
22 Federal-aid highway, or to complete the War-
23 wick Intermodal Station (including the con-
24 struction of a people mover between the Station
25 and the T.F. Green Airport).

1 “(B) REDUCTION OF EXPENDITURES.—

2 The Secretary, after consultation with State
3 and local officials, may, with respect to the
4 State, reduce the requirement for expenditure
5 for bridges not on a Federal-aid highway if the
6 Secretary determines that the State has inad-
7 equate needs to justify the expenditure.”;

8 (5) in subsection (i)—

9 (A) in paragraph (3), by striking “and”;

10 (B) in paragraph (4), by striking the pe-
11 riod at the end and inserting “; and”;

12 (C) by striking “Such reports” and all that
13 follows through “to Congress.”; and

14 (D) by adding at the end the following:

15 “(5) biennially submit such reports as are re-
16 quired under this subsection to the appropriate com-
17 mittees of Congress simultaneously with the report
18 required by section 502(g).”;

19 (6) in the first sentence of subsection (n), by
20 striking “all standards” and inserting “all general
21 engineering standards”;

22 (7) in subsection (o)—

23 (A) in paragraph (3)—

24 (i) by striking “title (including this
25 section)” and inserting “section”; and

1 (ii) by inserting “200 percent of”
2 after “shall not exceed”; and

3 (B) in paragraph (4)(B)—

4 (i) in the second sentence, by insert-
5 ing “200 percent of” after “not to exceed”;
6 and

7 (ii) in the last sentence, by striking
8 “title” and inserting “section”;

9 (8) by redesignating subsections (h) through (q)
10 as subsections (g) through (p), respectively; and

11 (9) by adding at the end the following:

12 “(q) CONTINUATION OF ANNUAL MATERIALS RE-
13 PORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE RE-
14 HABILITATION.—Not later than 1 year after the date of
15 enactment of this subsection, and annually thereafter, the
16 Secretary shall publish in the Federal Register a report
17 describing construction materials used in new Federal-aid
18 bridge construction and bridge rehabilitation projects.

19 “(r) FEDERAL SHARE.—The Federal share of the
20 cost of a project payable from funds made available to
21 carry out this section shall be the share applicable under
22 section 120(b), as adjusted under subsection (d) of that
23 section.”.

24 (b) CONFORMING AMENDMENT.—The analysis for
25 subchapter I of chapter 1 of title 23, United States Code,

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

“144. Highway bridge program.”.

3 **SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
4 **TEM.**

5 (a) IN GENERAL.—Subchapter I of chapter 1 of title
6 23, United States Code (as amended by section 1702(a)),
7 is amended by adding at the end the following:

8 **“§ 170. Appalachian development highway system**

9 “(a) APPORTIONMENT.—

10 “(1) IN GENERAL.—The Secretary shall appor-
11 tion funds made available under section 1101(7) of
12 the Safe, Accountable, Flexible, and Efficient Trans-
13 portation Equity Act of 2005 for fiscal years 2005
14 through 2009 among States based on the latest
15 available estimate of the cost to construct highways
16 and access roads for the Appalachian development
17 highway system program prepared by the Appa-
18 lachian Regional Commission under section 14501 of
19 title 40.

20 “(2) AVAILABILITY.—Funds described in para-
21 graph (1) shall be available to construct highways
22 and access roads under chapter 145 of title 40.

23 “(b) APPLICABILITY OF TITLE.—Funds made avail-
24 able under section 1101(7) of the Safe, Accountable,
25 Flexible, and Efficient Transportation Equity Act of 2005

1 for the Appalachian development highway system shall be
2 available for obligation in the same manner as if the funds
3 were apportioned under this chapter, except that—

4 “(1) the Federal share of the cost of any
5 project under this section shall be determined in ac-
6 cordance with subtitle IV of title 40; and

7 “(2) the funds shall remain available until ex-
8 pended.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) USE OF TOLL CREDITS.—Section 120(j)(1)
11 of title 23, United States Code is amended by insert-
12 ing “and the Appalachian development highway sys-
13 tem program under subtitle IV of title 40” after
14 “(other than the emergency relief program author-
15 ized by section 125”.

16 (2) ANALYSIS.—The analysis of chapter 1 of
17 title 23, United States Code (as amended by section
18 1702(b)), is amended by adding at the end the fol-
19 lowing:

“170. Appalachian development highway system.”.

20 **SEC. 1809. MULTISTATE CORRIDOR PROGRAM.**

21 (a) IN GENERAL.—Subchapter I of chapter 1 of title
22 23, United States Code (as amended by 1808(a)), is
23 amended by adding at the end the following:

1 **“§ 171. Multistate corridor program**

2 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
3 retary shall carry out a program to—

4 “(1) support and encourage multistate trans-
5 portation planning and development; and

6 “(2) facilitate transportation decisionmaking
7 and coordinate project delivery involving multistate
8 corridors.

9 “(b) ELIGIBLE RECIPIENTS.—A State transportation
10 department and a metropolitan planning organization may
11 receive and administer funds provided under this section.

12 “(c) ELIGIBLE ACTIVITIES.—The Secretary shall
13 make allocations under this program for multistate high-
14 way and multimodal planning studies and construction.

15 “(d) OTHER PROVISIONS REGARDING ELIGI-
16 BILITY.—

17 “(1) STUDIES.—All studies funded under this
18 program shall be consistent with the continuing, co-
19 operative, and comprehensive planning processes re-
20 quired by sections 134 and 135.

21 “(2) CONSTRUCTION.—All construction funded
22 under this program shall be consistent with section
23 133(b)(1).

24 “(e) SELECTION CRITERIA.—The Secretary shall se-
25 lect studies and projects to be carried out under the pro-
26 gram based on—

1 “(1) the existence and significance of signed
2 and binding multijurisdictional agreements;

3 “(2) endorsement of the study or project by ap-
4 plicable elected State and local representatives;

5 “(3) prospects for early completion of the study
6 or project; or

7 “(4) whether the projects to be studied or con-
8 structed are located on corridors identified by sec-
9 tion 1105(c) of the Intermodal Surface Transpor-
10 tation Efficiency Act of 1991 (Public Law 102-240;
11 105 Stat. 2032).

12 “(f) PROGRAM PRIORITIES.—In administering the
13 program, the Secretary shall—

14 “(1) encourage and enable States and other ju-
15 risdictions to work together to develop plans for
16 multimodal and multijurisdictional transportation
17 decisionmaking; and

18 “(2) give priority to studies or projects that em-
19 phasize multimodal planning, including planning for
20 operational improvements that—

21 “(A) increase—

22 “(i) mobility;

23 “(ii) freight productivity;

24 “(iii) access to marine or inland ports;

25 “(iv) safety and security; and

1 “(v) reliability; and

2 “(B) enhance the environment.

3 “(g) FEDERAL SHARE.—Except as provided in sec-
4 tion 120, the Federal share of the cost of a study or
5 project carried out under the program, using funds from
6 all Federal sources, shall be 80 percent.

7 “(h) APPLICABILITY.—Funds authorized to be appro-
8 priated under section 1101(10) of the Safe, Accountable,
9 Flexible, and Efficient Transportation Equity Act of 2005
10 to carry out this section shall be available for obligation
11 in the same manner as if the funds were apportioned
12 under this chapter.”.

13 (b) CONFORMING AMENDMENT.—The analysis for
14 subchapter I of chapter 1 of title 23, United States Code
15 (as amended by section 1809(b)) is amended by adding
16 at the end the following:

“171. Multistate corridor program.”.

17 **SEC. 1810. BORDER PLANNING, OPERATIONS, TECH-**
18 **NOLOGY, AND CAPACITY PROGRAM.**

19 (a) IN GENERAL.—Subchapter I of chapter 1 of title
20 23, United States Code (as amended by section 1809(a)),
21 is amended by adding at the end the following:

22 **“§ 172. Border planning, operations, technology, and**
23 **capacity program**

24 “(a) DEFINITIONS.—In this section:

1 “(1) BORDER STATE.—The term ‘border State’
2 means any of the States of Alaska, Arizona, Cali-
3 fornia, Idaho, Maine, Michigan, Minnesota, Mon-
4 tana, New Hampshire, New Mexico, New York,
5 North Dakota, Texas, Vermont, and Washington.

6 “(2) PROGRAM.—The term ‘program’ means
7 the border planning, operations, technology, and ca-
8 pacity program established under subsection (b).

9 “(b) ESTABLISHMENT AND PURPOSE.—The Sec-
10 retary shall establish and carry out a border planning, op-
11 erations, technology, and capacity improvement program
12 to support coordination and improvement in bi-national
13 transportation planning, operations, efficiency, informa-
14 tion exchange, safety, and security at the international
15 borders of the United States with Canada and Mexico.

16 “(c) ELIGIBLE ACTIVITIES.—

17 “(1) IN GENERAL.—The Secretary shall make
18 allocations under the program for projects to carry
19 out eligible activities described in paragraph (2) at
20 or near international land borders in border States.

21 “(2) ELIGIBLE ACTIVITIES.—A border State
22 may obligate funds apportioned to the border State
23 under this section for—

24 “(A) highway and multimodal planning or
25 environmental studies;

1 “(B) cross-border port of entry and safety
2 inspection improvements, including operational
3 enhancements and technology applications;

4 “(C) technology and information exchange
5 activities; and

6 “(D) right-of-way acquisition, design, and
7 construction, as needed—

8 “(i) to implement the enhancements
9 or applications described in subparagraphs
10 (B) and (C);

11 “(ii) to decrease air pollution emis-
12 sions from vehicles or inspection facilities
13 at border crossings; or

14 “(iii) to increase highway capacity at
15 or near international borders.

16 “(d) OTHER PROVISIONS REGARDING ELIGI-
17 BILITY.—

18 “(1) IN GENERAL.—Each project funded under
19 the program shall be carried out in accordance with
20 the continuing, cooperative, and comprehensive plan-
21 ning processes required by sections 134 and 135.

22 “(2) REGIONALLY SIGNIFICANT PROJECTS.—To
23 be funded under the program, a regionally signifi-
24 cant project shall be included on the applicable

1 transportation plan and program required by sec-
2 tions 134 and 135.

3 “(e) PROGRAM PRIORITIES.—Border States shall
4 give priority to projects that emphasize—

5 “(1) multimodal planning;

6 “(2) improvements in infrastructure; and

7 “(3) operational improvements that—

8 “(A) increase safety, security, freight ca-
9 pacity, or highway access to rail, marine, and
10 air services; and

11 “(B) enhance the environment.

12 “(f) MANDATORY PROGRAM.—

13 “(1) IN GENERAL.—For each fiscal year, the
14 Secretary shall allocate among border States, in ac-
15 cordance with the formula described in paragraph
16 (2), funds to be used in accordance with subsection
17 (d).

18 “(2) FORMULA.—Subject to paragraph (3), the
19 amount allocated to a border State under this para-
20 graph shall be determined by the Secretary, as fol-
21 lows:

22 “(A) 25 percent in the ratio that—

23 “(i) the average annual weight of all
24 cargo entering the border State by com-
25 mercial vehicle across the international

1 border with Canada or Mexico, as the case
2 may be; bears to

3 “(ii) the average annual weight of all
4 cargo entering all border States by com-
5 mercial vehicle across the international
6 borders with Canada and Mexico.

7 “(B) 25 percent in the ratio that—

8 “(i) the average trade value of all
9 cargo imported into the border State and
10 all cargo exported from the border State
11 by commercial vehicle across the inter-
12 national border with Canada or Mexico, as
13 the case may be; bears to

14 “(ii) the average trade value of all
15 cargo imported into all border States and
16 all cargo exported from all border States
17 by commercial vehicle across the inter-
18 national borders with Canada and Mexico.

19 “(C) 25 percent in the ratio that—

20 “(i) the number of commercial vehi-
21 cles annually entering the border State
22 across the international border with Can-
23 ada or Mexico, as the case may be; bears
24 to

1 “(ii) the number of all commercial ve-
2 hicles annually entering all border States
3 across the international borders with Can-
4 ada and Mexico.

5 “(D) 25 percent in the ratio that—

6 “(i) the number of passenger vehicles
7 annually entering the border State across
8 the international border with Canada or
9 Mexico, as the case may be; bears to

10 “(ii) the number of all passenger vehi-
11 cles annually entering all border States
12 across the international borders with Can-
13 ada and Mexico.

14 “(3) DATA SOURCE.—

15 “(A) IN GENERAL.—The data used by the
16 Secretary in making allocations under this sub-
17 section shall be based on the Bureau of Trans-
18 portation Statistics Transborder Surface
19 Freight Dataset (or other similar database).

20 “(B) BASIS OF CALCULATION.—All for-
21 mula calculations shall be made using the aver-
22 age values for the most recent 5-year period for
23 which data are available.

24 “(4) MINIMUM ALLOCATION.—Notwithstanding
25 paragraph (2), for each fiscal year, each border

1 State shall receive at least $\frac{1}{2}$ of 1 percent of the
2 funds made available for allocation under this para-
3 graph for the fiscal year.

4 “(g) FEDERAL SHARE.—Except as provided in sec-
5 tion 120, the Federal share of the cost of a project carried
6 out under the program shall be 80 percent.

7 “(h) OBLIGATION.—Funds made available under sec-
8 tion 1101(11) of the Safe, Accountable, Flexible, and Effi-
9 cient Transportation Equity Act of 2005 to carry out the
10 program shall be available for obligation in the same man-
11 ner as if the funds were apportioned under this chapter.

12 “(i) INFORMATION EXCHANGE.—No individual
13 project the scope of work of which is limited to informa-
14 tion exchange shall receive an allocation under the pro-
15 gram in an amount that exceeds \$500,000 for any fiscal
16 year.

17 “(j) PROJECTS IN CANADA OR MEXICO.—A project
18 in Canada or Mexico, proposed by a border State to di-
19 rectly and predominantly facilitate cross-border vehicle
20 and commercial cargo movements at an international gate-
21 way or port of entry into the border region of the State,
22 may be constructed using funds made available under the
23 program if, before obligation of those funds, Canada or
24 Mexico, or the political subdivision of Canada or Mexico
25 that is responsible for the operation of the facility to be

1 constructed, provides assurances satisfactory to the Sec-
2 retary that any facility constructed under this subsection
3 will be—

4 “(1) constructed in accordance with standards
5 equivalent to applicable standards in the United
6 States; and

7 “(2) properly maintained and used over the
8 useful life of the facility for the purpose for which
9 the Secretary allocated funds to the project.

10 “(k) TRANSFER OF FUNDS TO THE GENERAL SERV-
11 ICES ADMINISTRATION.—

12 “(1) STATE FUNDS.—At the request of a bor-
13 der State, funds made available under the program
14 may be transferred to the General Services Adminis-
15 tration for the purpose of funding 1 or more specific
16 projects if—

17 “(A) the Secretary determines, after con-
18 sultation with the State transportation depart-
19 ment of the border State, that the General
20 Services Administration should carry out the
21 project; and

22 “(B) the General Services Administration
23 agrees to accept the transfer of, and to admin-
24 ister, those funds.

25 “(2) NON-FEDERAL SHARE.—

1 “(A) IN GENERAL.—A border State that
2 makes a request under paragraph (1) shall pro-
3 vide directly to the General Services Adminis-
4 tration, for each project covered by the request,
5 the non-Federal share of the cost of each
6 project described in subsection (f).

7 “(B) NO AUGMENTATION OF APPROPRIA-
8 TIONS.—Funds provided by a border State
9 under subparagraph (A)—

10 “(i) shall not be considered to be an
11 augmentation of the appropriations made
12 available to the General Services Adminis-
13 tration; and

14 “(ii) shall be—

15 “(I) administered in accordance
16 with the procedures of the General
17 Services Administration; but

18 “(II) available for obligation in
19 the same manner as if the funds were
20 apportioned under this chapter.

21 “(C) OBLIGATION AUTHORITY.—Obligation
22 authority shall be transferred to the General
23 Services Administration in the same manner
24 and amount as the funds provided for projects
25 under subparagraph (A).

1 “(3) DIRECT TRANSFER OF AUTHORIZED
2 FUNDS.—

3 “(A) IN GENERAL.—In addition to alloca-
4 tions to States and metropolitan planning orga-
5 nizations under subsection (c), the Secretary
6 may transfer funds made available to carry out
7 this section to the General Services Administra-
8 tion for construction of transportation infra-
9 structure projects at or near the border in bor-
10 der States, if—

11 “(i) the Secretary determines that the
12 transfer is necessary to effectively carry
13 out the purposes of this program; and

14 “(ii) the General Services Administra-
15 tion agrees to accept the transfer of, and
16 to administer, those funds.

17 “(B) NO AUGMENTATION OF APPROPRIA-
18 TIONS.—Funds transferred by the Secretary
19 under subparagraph (A)—

20 “(i) shall not be considered to be an
21 augmentation of the appropriations made
22 available to the General Services Adminis-
23 tration; and

24 “(ii) shall be—

1 “(I) administered in accordance
2 with the procedures of the General
3 Services Administration; but

4 “(II) available for obligation in
5 the same manner as if the funds were
6 apportioned under this chapter.

7 “(C) OBLIGATION AUTHORITY.—Obligation
8 authority shall be transferred to the General
9 Services Administration in the same manner
10 and amount as the funds transferred under
11 subparagraph (A).”.

12 (b) CONFORMING AMENDMENT.—The analysis for
13 subchapter I of chapter 1 of title 23, United States Code
14 (as amended by section 1809(b)), is amended by adding
15 at the end the following:

 “172. Border planning, operations, and technology program.”.

16 **SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.**

17 (a) IN GENERAL.—Subchapter I of chapter 1 of title
18 23, United States Code (as amended by section 1810(a)),
19 is amended by adding at the end the following:

20 **“§ 173. Puerto Rico highway program**

21 “(a) IN GENERAL.—The Secretary shall allocate
22 funds authorized by section 1101(15) of the Safe, Ac-
23 countable, Flexible, and Efficient Transportation Equity
24 Act of 2005 for each of fiscal years 2005 through 2009

1 to the Commonwealth of Puerto Rico to carry out a high-
2 way program in the Commonwealth.

3 “(b) APPLICABILITY OF TITLE.—

4 “(1) IN GENERAL.—Amounts made available by
5 section 1101(15) of the Safe, Accountable, Flexible,
6 and Efficient Transportation Equity Act of 2005
7 shall be available for obligation in the same manner
8 as if such funds were apportioned under this chap-
9 ter.

10 “(2) LIMITATION ON OBLIGATIONS.—The
11 amounts shall be subject to any limitation on obliga-
12 tions for Federal-aid highway and highway safety
13 construction programs.

14 “(c) TREATMENT OF FUNDS.—Amounts made avail-
15 able to carry out this section for a fiscal year shall be ad-
16 ministered as follows:

17 “(1) APPORTIONMENT.—For the purpose of im-
18 posing any penalty under this title or title 49, the
19 amounts shall be treated as being apportioned to
20 Puerto Rico under sections 104(b) and 144, for each
21 program funded under those sections in an amount
22 determined by multiplying—

23 “(A) the aggregate of the amounts for the
24 fiscal year; by

25 “(B) the ratio that—

1 “(i) the amount of funds apportioned
2 to Puerto Rico for each such program for
3 fiscal year 1997; bears to

4 “(ii) the total amount of funds appor-
5 tioned to Puerto Rico for all such pro-
6 grams for fiscal year 1997.

7 “(2) PENALTY.—The amounts treated as being
8 apportioned to Puerto Rico under each section re-
9 ferred to in paragraph (1) shall be deemed to be re-
10 quired to be apportioned to Puerto Rico under that
11 section for purposes of the imposition of any penalty
12 under this title and title 49.

13 “(3) EFFECT ON ALLOCATIONS AND APPOR-
14 TIONMENTS.—Subject to paragraph (2), nothing in
15 this section affects any allocation under section 105
16 and any apportionment under sections 104 and
17 144.”.

18 (b) CONFORMING AMENDMENT.—The analysis for
19 subchapter I of chapter 1 of title 23, United States Code
20 (as amended by section 1810(b)), is amended by adding
21 at the end the following:

 “173. Puerto Rico highway program.”.

1 **SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESER-**
2 **VATION.**

3 (a) IN GENERAL.—Subchapter I of chapter 1 of title
4 23, United States Code (as amended by section 1811(a)),
5 is amended by adding at the end the following:

6 **“§ 174. National historic covered bridge preservation**

7 “(a) DEFINITION OF HISTORIC COVERED BRIDGE.—
8 In this section, the term ‘historic covered bridge’ means
9 a covered bridge that is listed or eligible for listing on the
10 National Register of Historic Places.

11 “(b) HISTORIC COVERED BRIDGE PRESERVATION.—

12 Subject to the availability of appropriations, the Secretary
13 shall—

14 “(1) collect and disseminate information on his-
15 toric covered bridges;

16 “(2) conduct educational programs relating to
17 the history and construction techniques of historic
18 covered bridges;

19 “(3) conduct research on the history of historic
20 covered bridges; and

21 “(4) conduct research on, and study techniques
22 for, protecting historic covered bridges from rot, fire,
23 natural disasters, or weight-related damage.

24 “(c) GRANTS.—

25 “(1) IN GENERAL.—Subject to the availability
26 of appropriations, the Secretary shall make a grant

1 to a State that submits an application to the Sec-
2 retary that demonstrates a need for assistance in
3 carrying out 1 or more historic covered bridge
4 projects described in paragraph (2).

5 “(2) ELIGIBLE PROJECTS.—A grant under
6 paragraph (1) may be made for a project—

7 “(A) to rehabilitate or repair a historic
8 covered bridge; or

9 “(B) to preserve a historic covered bridge,
10 including through—

11 “(i) installation of a fire protection
12 system, including a fireproofing or fire de-
13 tection system and sprinklers;

14 “(ii) installation of a system to pre-
15 vent vandalism and arson; or

16 “(iii) relocation of a bridge to a pres-
17 ervation site.

18 “(3) AUTHENTICITY REQUIREMENTS.—A grant
19 under paragraph (1) may be made for a project only
20 if—

21 “(A) to the maximum extent practicable,
22 the project—

23 “(i) is carried out in the most histori-
24 cally appropriate manner; and

1 “(ii) preserves the existing structure
2 of the historic covered bridge; and

3 “(B) the project provides for the replace-
4 ment of wooden components with wooden com-
5 ponents, unless the use of wood is impracticable
6 for safety reasons.

7 “(4) FEDERAL SHARE.—Except as provided in
8 section 120, the Federal share of the cost of a
9 project carried out with a grant under this sub-
10 section shall be 80 percent.

11 “(d) FUNDING.—There is authorized to be appro-
12 priated to carry out this section \$12,503,145 for each of
13 fiscal years 2005 through 2009, to remain available until
14 expended.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
16 subchapter I of chapter 1 of title 23, United States Code
17 (as amended by section 1811(b)), is amended by adding
18 at the end the following:

 “174. National historic covered bridge preservation.”.

19 **SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYS-**
20 **TEM PRESERVATION PROGRAM.**

21 (a) IN GENERAL.—Subchapter I of chapter 1 of title
22 23, United States Code (as amended by section 1812(a)),
23 is amended by adding at the end the following:

1 **“§ 175. Transportation and community and system**
2 **preservation program**

3 “(a) ESTABLISHMENT.—The Secretary shall estab-
4 lish a comprehensive program to facilitate the planning,
5 development, and implementation of strategies by States,
6 metropolitan planning organizations, federally-recognized
7 Indian tribes, and local governments to integrate transpor-
8 tation, community, and system preservation plans and
9 practices that address the goals described in subsection
10 (b).

11 “(b) GOALS.—The goals of the program are to—

12 “(1) improve the efficiency of the transpor-
13 tation system in the United States;

14 “(2) reduce the impacts of transportation on
15 the environment;

16 “(3) reduce the need for costly future invest-
17 ments in public infrastructure;

18 “(4) provide efficient access to jobs, services,
19 and centers of trade; and

20 “(5) examine development patterns, and to
21 identify strategies, to encourage private sector devel-
22 opment patterns that achieve the goals identified in
23 paragraphs (1) through (4).

24 “(c) ALLOCATION OF FUNDS FOR IMPLEMENTA-
25 TION.—

1 “(B) have instituted other policies to inte-
2 grate transportation and community and sys-
3 tem preservation practices, such as—

4 “(i) spending policies that direct
5 funds to high-growth areas;

6 “(ii) urban growth boundaries to
7 guide metropolitan expansion;

8 “(iii) ‘green corridors’ programs that
9 provide access to major highway corridors
10 for areas targeted for efficient and com-
11 pact development; or

12 “(iv) other similar programs or poli-
13 cies as determined by the Secretary;

14 “(C) have preservation or development
15 policies that include a mechanism for reducing
16 potential impacts of transportation activities on
17 the environment;

18 “(D) examine ways to encourage private
19 sector investments that address the purposes of
20 this section; and

21 “(E) propose projects for funding that ad-
22 dress the purposes described in subsection
23 (b)(2).

24 “(3) **EQUITABLE DISTRIBUTION.**—In allocating
25 funds to carry out this subsection, the Secretary

1 shall ensure the equitable distribution of funds to a
2 diversity of populations and geographic regions.

3 “(4) USE OF ALLOCATED FUNDS.—

4 “(A) IN GENERAL.—An allocation of funds
5 made available to carry out this subsection shall
6 be used by the recipient to implement the
7 projects proposed in the application to the Sec-
8 retary.

9 “(B) TYPES OF PROJECTS.—The allocation
10 of funds shall be available for obligation for—

11 “(i) any project eligible for funding
12 under this title or chapter 53 of title 49,
13 United States Code; or

14 “(ii) any other activity relating to
15 transportation and community and system
16 preservation that the Secretary determines
17 to be appropriate, including corridor pres-
18 ervation activities that are necessary to
19 implement—

20 “(I) transit-oriented development
21 plans;

22 “(II) traffic calming measures; or

23 “(III) other coordinated trans-
24 portation and community and system
25 preservation practices.

1 “(d) FUNDING.—

2 “(1) IN GENERAL.—There is authorized to be
3 appropriated from the Highway Trust Fund (other
4 than the Mass Transit Account) to carry out this
5 section \$44,654,088 for each of fiscal years 2005
6 through 2009.

7 “(2) CONTRACT AUTHORITY.—Funds author-
8 ized under this subsection shall be available for obli-
9 gation in the same manner as if the funds were ap-
10 portioned under this chapter.”.

11 (b) ELIGIBLE PROJECTS.—Section 133(b) of title 23,
12 United States Code (as amended by section 1701(a)), is
13 amended by adding at the end the following:

14 “(18) Transportation and community system
15 preservation to facilitate the planning, development,
16 and implementation of strategies of metropolitan
17 planning organizations and local governments to in-
18 tegrate transportation, community, and system pres-
19 ervation plans and practices that address the fol-
20 lowing:

21 “(A) Improvement of the efficiency of the
22 transportation system in the United States.

23 “(B) Reduction of the impacts of transpor-
24 tation on the environment.

1 “(C) Reduction of the need for costly fu-
2 ture investments in public infrastructure.

3 “(D) Provision of efficient access to jobs,
4 services, and centers of trade.

5 “(E) Examination of development pat-
6 terns, and identification of strategies to encour-
7 age private sector development patterns, that
8 achieve the goals identified in subparagraphs
9 (A) through (D).

10 “(19) Projects relating to intersections, includ-
11 ing intersections—

12 “(A) that—

13 “(i) have disproportionately high acci-
14 dent rates;

15 “(ii) have high levels of congestion, as
16 evidenced by—

17 “(I) interrupted traffic flow at
18 the intersection; and

19 “(II) a level of service rating,
20 issued by the Transportation Re-
21 search Board of the National Acad-
22 emy of Sciences in accordance with
23 the Highway Capacity Manual, that is
24 not better than ‘F’ during peak travel
25 hours; and

1 “(iii) are directly connected to or lo-
2 cated on a Federal-aid highway; and

3 “(B) improvements that are approved in
4 the regional plan of the appropriate local metro-
5 politan planning organization.”.

6 (c) CONFORMING AMENDMENT.—The analysis for
7 subchapter I of chapter 1 of title 23, United States Code
8 (as amended by section 1812(b)), is amended by adding
9 at the end the following:

 “175. Transportation and community and system preservation pilot program.”.

10 **SEC. 1814. PARKING PILOT PROGRAMS.**

11 (a) IN GENERAL.—Subchapter I of chapter 1 of title
12 23, United States Code (as amended by section 1813(a)),
13 is amended by adding at the end the following:

14 **“§ 176. Parking pilot programs**

15 “(a) COMMERCIAL TRUCK PARKING PILOT PRO-
16 GRAM.—

17 “(1) ESTABLISHMENT.—In cooperation with
18 appropriate State, regional, and local governments,
19 the Secretary shall establish a pilot program to ad-
20 dress the shortage of long-term parking for drivers
21 of commercial motor vehicles on the National High-
22 way System.

23 “(2) ALLOCATION OF FUNDS.—

24 “(A) IN GENERAL.—The Secretary shall
25 allocate funds made available under this sub-

1 section to States, metropolitan planning organi-
2 zations, and local governments.

3 “(B) CRITERIA.—In allocating funds under
4 this subsection, the Secretary shall give priority
5 to an applicant that—

6 “(i) demonstrates a severe shortage of
7 commercial vehicle parking capacity on the
8 corridor to be addressed;

9 “(ii) consults with affected State and
10 local governments, community groups, pri-
11 vate providers of commercial vehicle park-
12 ing, and motorist and trucking organiza-
13 tions; and

14 “(iii) demonstrates that the project
15 proposed by the applicant is likely to have
16 a positive effect on highway safety, traffic
17 congestion, or air quality.

18 “(3) USE OF ALLOCATED FUNDS.—

19 “(A) IN GENERAL.—A recipient of funds
20 allocated under this subsection shall use the
21 funds to carry out the project proposed in the
22 application submitted by the recipient to the
23 Secretary.

24 “(B) TYPES OF PROJECTS.—Funds under
25 this subsection shall be available for obligation

1 for projects that serve the National Highway
2 System, including—

3 “(i) construction of safety rest areas
4 that include parking for commercial motor
5 vehicles;

6 “(ii) construction of commercial motor
7 vehicle parking facilities that are adjacent
8 to commercial truck stops and travel pla-
9 zas;

10 “(iii) costs associated with the open-
11 ing of facilities (including inspection and
12 weigh stations and park-and-ride facilities)
13 to provide commercial motor vehicle park-
14 ing;

15 “(iv) projects that promote awareness
16 of the availability of public or private com-
17 mercial motor vehicle parking on the Na-
18 tional Highway System, including parking
19 in connection with intelligent transpor-
20 tation systems and other systems;

21 “(v) construction of turnouts along
22 the National Highway System for commer-
23 cial motor vehicles;

24 “(vi) capital improvements to public
25 commercial motor vehicle truck parking fa-

1 cilities closed on a seasonal basis in order
2 to allow the facilities to remain open year-
3 around; and

4 “(vii) improvements to the geometric
5 design at interchanges on the National
6 Highway System to improve access to com-
7 mercial motor vehicle parking facilities.

8 “(4) REPORT.—Not later than 5 years after the
9 date of enactment of this section, the Secretary shall
10 submit to Congress a report on the results of the
11 pilot program carried out under this subsection.

12 “(5) FEDERAL SHARE.—The Federal share of
13 the cost of a project carried out under this sub-
14 section shall be consistent with section 120.

15 “(6) FUNDING.—

16 “(A) IN GENERAL.—There is authorized to
17 be appropriated from the Highway Trust Fund
18 (other than the Mass Transit Account) to carry
19 out this subsection \$8,930,818 for each of fiscal
20 years 2005 through 2009.

21 “(B) CONTRACT AUTHORITY.—Funds au-
22 thorized under this paragraph shall be available
23 for obligation in the same manner as if the
24 funds were apportioned under this chapter.

1 “(b) CORRIDOR AND FRINGE PARKING PILOT PRO-
2 GRAM.—

3 “(1) ESTABLISHMENT.—

4 “(A) IN GENERAL.—In cooperation with
5 appropriate State, regional, and local govern-
6 ments, the Secretary shall carry out a pilot pro-
7 gram to provide corridor and fringe parking fa-
8 cilities.

9 “(B) PRIMARY FUNCTION.—The primary
10 function of a corridor and fringe parking facil-
11 ity funded under this subsection shall be to pro-
12 vide parking capacity to support car pooling,
13 van pooling, ride sharing, commuting, and high
14 occupancy vehicle travel.

15 “(C) OVERNIGHT PARKING.—A State may
16 permit a facility described in subparagraph (B)
17 to be used for the overnight parking of commer-
18 cial vehicles if the use does not foreclose or un-
19 duly limit the primary function of the facility
20 described in subparagraph (B).

21 “(2) ALLOCATION OF FUNDS.—

22 “(A) IN GENERAL.—The Secretary shall
23 allocate funds made available to carry out this
24 subsection to States.

1 “(B) CRITERIA.—In allocating funds under
2 this subsection, the Secretary shall give priority
3 to a State that—

4 “(i) demonstrates demand for corridor
5 and fringe parking on the corridor to be
6 addressed;

7 “(ii) consults with affected metropoli-
8 tan planning organizations, local govern-
9 ments, community groups, and providers of
10 corridor and fringe parking; and

11 “(iii) demonstrates that the project
12 proposed by the State is likely to have a
13 positive effect on ride sharing, traffic con-
14 gestion, or air quality.

15 “(3) USE OF ALLOCATED FUNDS.—

16 “(A) IN GENERAL.—A recipient of funds
17 allocated under this subsection shall use the
18 funds to carry out the project proposed in the
19 application submitted by the recipient to the
20 Secretary.

21 “(B) TYPES OF PROJECTS.—Funds under
22 this subsection shall be available for obligation
23 for projects that serve the Federal-aid system,
24 including—

1 “(i) construction of corridor and
2 fringe parking facilities;

3 “(ii) costs associated with the opening
4 of facilities;

5 “(iii) projects that promote awareness
6 of the availability of corridor and fringe
7 parking through the use of signage and
8 other means;

9 “(iv) capital improvements to corridor
10 and fringe parking facilities closed on a
11 seasonal basis in order to allow the facili-
12 ties to remain open year-around; and

13 “(v) improvements to the geometric
14 design on adjoining roadways to facilitate
15 access to, and egress from, corridor and
16 fringe parking facilities.

17 “(4) REPORT.—Not later than 5 years after the
18 date of enactment of this section, the Secretary shall
19 submit to Congress a report on the results of the
20 pilot program carried out under this subsection.

21 “(5) FEDERAL SHARE.—The Federal share of
22 the cost of a project carried out under this sub-
23 section shall be consistent with section 120.

24 “(6) FUNDING.—

1 “(A) IN GENERAL.—There is authorized to
2 be appropriated from the Highway Trust Fund
3 (other than the Mass Transit Account) to carry
4 out this subsection \$8,930,818 for each of fiscal
5 years 2005 through 2009.

6 “(B) CONTRACT AUTHORITY.—Funds au-
7 thorized under this paragraph shall be available
8 for obligation in the same manner as if the
9 funds were apportioned under this chapter.”.

10 (b) CONFORMING AMENDMENT.—The analysis for
11 subchapter I of chapter I of title 23, United States Code
12 (as amended by section 1813(c)), is amended by adding
13 at the end the following:

 “176. Parking pilot programs.”.

14 **SEC. 1815. INTERSTATE OASIS PROGRAM.**

15 (a) IN GENERAL.—Subchapter I of chapter 1 of title
16 23, United States Code (as amended by section 1814(a)),
17 is amended by adding at the end the following:

18 **“§ 177. Interstate oasis program**

19 “(a) IN GENERAL.—Not later than 180 days after
20 the date of enactment of this section, in consultation with
21 the States and other interested parties, the Secretary
22 shall—

23 “(1) establish an Interstate oasis program; and

24 “(2) develop standards for designating, as an
25 Interstate oasis, a facility that—

1 “(A) offers—

2 “(i) products and services to the pub-
3 lic;

4 “(ii) 24-hour access to restrooms; and

5 “(iii) parking for automobiles and
6 heavy trucks; and

7 “(B) meets other standards established by
8 the Secretary.

9 “(b) STANDARDS FOR DESIGNATION.—The stand-
10 ards for designation under subsection (a) shall include
11 standards relating to—

12 “(1) the appearance of a facility; and

13 “(2) the proximity of the facility to the Inter-
14 state System.

15 “(c) ELIGIBILITY FOR DESIGNATION.—If a State
16 elects to participate in the interstate oasis program, any
17 facility meeting the standards established by the Secretary
18 shall be eligible for designation under this section.

19 “(d) LOGO.—The Secretary shall design a logo to be
20 displayed by a facility designated under this section.”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 subchapter I of chapter I of title 23, United States Code
23 (as amended by section 1814(b)), is amended by adding
24 at the end the following:

“177. Interstate oasis program.”.

1 **SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREE-**
2 **MENTS.**

3 Section 204 of title 23, United States Code (as
4 amended by section 1806(f)(4)), is amended by adding at
5 the end the following:

6 “(n) TRIBAL-STATE ROAD MAINTENANCE AGREE-
7 MENTS.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, regulation, policy, or guideline, an
10 Indian tribe and a State may enter into a road
11 maintenance agreement under which an Indian tribe
12 assumes the responsibilities of the State for—

13 “(A) Indian reservation roads; and

14 “(B) roads providing access to Indian res-
15 ervation roads.

16 “(2) TRIBAL-STATE AGREEMENTS.—Agree-
17 ments entered into under paragraph (1)—

18 “(A) shall be negotiated between the State
19 and the Indian tribe; and

20 “(B) shall not require the approval of the
21 Secretary.

22 “(3) ANNUAL REPORT.—Effective beginning
23 with fiscal year 2005, the Secretary shall prepare
24 and submit to Congress an annual report that
25 identifies—

1 “(A) the Indian tribes and States that
2 have entered into agreements under paragraph
3 (1);

4 “(B) the number of miles of roads for
5 which Indian tribes have assumed maintenance
6 responsibilities; and

7 “(C) the amount of funding transferred to
8 Indian tribes for the fiscal year under agree-
9 ments entered into under paragraph (1).”.

10 **SEC. 1817. NATIONAL FOREST SYSTEM ROADS.**

11 Section 205 of title 23, United States Code, is
12 amended by adding at the end the following:

13 “(e) PASSAGES FOR AQUATIC SPECIES.—Of the
14 amounts made available for National Forest System
15 roads, \$13,396,226 for each fiscal year shall be used by
16 the Secretary of Agriculture to pay the costs of facilitating
17 the passage of aquatic species beneath roads in the Na-
18 tional Forest System, including the costs of constructing,
19 maintaining, replacing, or removing culverts and bridges,
20 as appropriate.”.

21 **SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.**

22 (a) IN GENERAL.—Chapter 2 of title 23, United
23 States Code, is amended by striking section 215 and in-
24 serting the following:

1 **“§ 215. Territorial highway program**

2 “(a) DEFINITIONS.—In this section:

3 “(1) PROGRAM.—The term ‘program’ means
4 the territorial highway program established under
5 subsection (b).

6 “(2) TERRITORY.—The term ‘territory’ means
7 the any of the following territories of the United
8 States:

9 “(A) American Samoa.

10 “(B) The Commonwealth of the Northern
11 Mariana Islands.

12 “(C) Guam.

13 “(D) The United States Virgin Islands.

14 “(b) PROGRAM.—

15 “(1) IN GENERAL.—Recognizing the mutual
16 benefits that will accrue to the territories and the
17 United States from the improvement of highways in
18 the territories, the Secretary may carry out a pro-
19 gram to assist each territorial government in the
20 construction and improvement of a system of arte-
21 rial and collector highways, and necessary inter-is-
22 land connectors, that is—

23 “(A) designated by the Governor or chief
24 executive officer of each territory; and

25 “(B) approved by the Secretary.

1 “(2) FEDERAL SHARE.—The Secretary shall
2 provide Federal financial assistance to territories
3 under this section in accordance with section 120(h).

4 “(c) TECHNICAL ASSISTANCE.—

5 “(1) IN GENERAL.—To continue a long-range
6 highway development program, the Secretary may
7 provide technical assistance to the governments of
8 the territories to enable the territories to, on a con-
9 tinuing basis—

10 “(A) engage in highway planning;

11 “(B) conduct environmental evaluations;

12 “(C) administer right-of-way acquisition
13 and relocation assistance programs; and

14 “(D) design, construct, operate, and main-
15 tain a system of arterial and collector highways,
16 including necessary inter-island connectors.

17 “(2) FORM AND TERMS OF ASSISTANCE.—Tech-
18 nical assistance provided under paragraph (1), and
19 the terms for the sharing of information among ter-
20 ritories receiving the technical assistance, shall be
21 included in the agreement required by subsection
22 (e).

23 “(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

24 “(1) IN GENERAL.—Except to the extent that
25 provisions of chapter 1 are determined by the Sec-

1 retary to be inconsistent with the needs of the terri-
2 tories and the intent of the program, chapter 1
3 (other than provisions of chapter 1 relating to the
4 apportionment and allocation of funds) shall apply
5 to funds authorized to be appropriated for the pro-
6 gram.

7 “(2) APPLICABLE PROVISIONS.—The specific
8 sections of chapter 1 that are applicable to each ter-
9 ritory, and the extent of the applicability of those
10 section, shall be identified in the agreement required
11 by subsection (e).

12 “(e) AGREEMENT.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (3), none of the funds made available for the
15 program shall be available for obligation or expendi-
16 ture with respect to any territory until the Governor
17 or chief executive officer of the territory enters into
18 a new agreement with the Secretary (which new
19 agreement shall be entered into not later than 1 year
20 after the date of enactment of the Safe, Account-
21 able, Flexible, and Efficient Transportation Equity
22 Act of 2005), providing that the government of the
23 territory shall—

1 “(A) implement the program in accordance
2 with applicable provisions of chapter 1 and sub-
3 section (d);

4 “(B) design and construct a system of ar-
5 terial and collector highways, including nec-
6 essary inter-island connectors, in accordance
7 with standards that are—

8 “(i) appropriate for each territory;
9 and

10 “(ii) approved by the Secretary;

11 “(C) provide for the maintenance of facili-
12 ties constructed or operated under this section
13 in a condition to adequately serve the needs of
14 present and future traffic; and

15 “(D) implement standards for traffic oper-
16 ations and uniform traffic control devices that
17 are approved by the Secretary.

18 “(2) TECHNICAL ASSISTANCE.—The new agree-
19 ment required by paragraph (1) shall—

20 “(A) specify the kind of technical assist-
21 ance to be provided under the program;

22 “(B) include appropriate provisions regard-
23 ing information sharing among the territories;
24 and

1 “(C) delineate the oversight role and re-
2 sponsibilities of the territories and the Sec-
3 retary.

4 “(3) REVIEW AND REVISION OF AGREEMENT.—
5 The new agreement entered into under paragraph
6 (1) shall be reevaluated and, as necessary, revised,
7 at least every 2 years.

8 “(4) EXISTING AGREEMENTS.—With respect to
9 an agreement between the Secretary and the Gov-
10 ernor or chief executive officer of a territory that is
11 in effect as of the date of enactment of the Safe, Ac-
12 countable, Flexible, and Efficient Transportation
13 Equity Act of 2005—

14 “(A) the agreement shall continue in force
15 until replaced by a new agreement in accord-
16 ance with paragraph (1); and

17 “(B) amounts made available for the pro-
18 gram under the agreement shall be available for
19 obligation or expenditure so long as the agree-
20 ment, or a new agreement under paragraph (1),
21 is in effect.

22 “(f) PERMISSIBLE USES OF FUNDS.—

23 “(1) IN GENERAL.—Funds made available for
24 the program may be used only for the following
25 projects and activities carried out in a territory:

1 “(A) Eligible surface transportation pro-
2 gram projects described in section 133(b).

3 “(B) Cost-effective, preventive mainte-
4 nance consistent with section 116.

5 “(C) Ferry boats, terminal facilities, and
6 approaches, in accordance with subsections (b)
7 and (c) of section 129.

8 “(D) Engineering and economic surveys
9 and investigations for the planning, and the fi-
10 nancing, of future highway programs.

11 “(E) Studies of the economy, safety, and
12 convenience of highway use.

13 “(F) The regulation and equitable taxation
14 of highway use.

15 “(G) Such research and development as
16 are necessary in connection with the planning,
17 design, and maintenance of the highway system.

18 “(2) PROHIBITION ON USE OF FUNDS FOR ROU-
19 TINE MAINTENANCE.—None of the funds made
20 available for the program shall be obligated or ex-
21 pended for routine maintenance.

22 “(g) LOCATION OF PROJECTS.—Territorial highway
23 projects (other than those described in paragraphs (1),
24 (3), and (4) of section 133(b)) may not be undertaken on
25 roads functionally classified as local.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) ELIGIBLE PROJECTS.—Section 103(b)(6) of
3 title 23, United States Code, is amended by striking
4 subparagraph (P) and inserting the following:

5 “(P) Projects eligible for assistance under the
6 territorial highway program under section 215.”.

7 (2) FUNDING.—Section 104(b)(1)(A) of title
8 23, United States Code, is amended by striking “to
9 the Virgin Islands, Guam, American Samoa, and the
10 Commonwealth of Northern Mariana Islands” and
11 inserting “for the territorial highway program au-
12 thorized under section 215”.

13 (3) ANALYSIS.—The analysis for chapter 2 of
14 title 23, United States Code, is amended by striking
15 the item relating to section 215 and inserting the
16 following:

“215. Territorial highway program.”.

17 **SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION**
18 **TECHNOLOGY DEPLOYMENT PROGRAM.**

19 Section 322 of title 23, United States Code, is
20 amended—

21 (1) in subsection (c)—

22 (A) by striking “Not later than” and in-
23 serting the following:

24 “(1) INITIAL SOLICITATION.—Not later than”;
25 and

1 (B) by adding at the end the following:

2 “(2) ADDITIONAL SOLICITATION.—Not later
3 than 1 year after the date of enactment of this para-
4 graph, the Secretary may solicit additional applica-
5 tions from States, or authorities designated by 1 or
6 more States, for financial assistance authorized by
7 subsection (b) for planning, design, and construction
8 of eligible MAGLEV projects.”;

9 (2) in subsection (e), by striking “Prior to solici-
10 ting applications, the Secretary” and inserting “The
11 Secretary”;

12 (3) in subsection (h)(1)—

13 (A) in subparagraph (A), by striking
14 clause (i) and inserting the following:

15 “(i) IN GENERAL.—There is author-
16 ized to be appropriated from the Highway
17 Trust Fund (other than the Mass Transit
18 Account) to carry out this section
19 \$13,396,226 for each of fiscal years 2005
20 through 2009.”; and

21 (B) in subparagraph (B), by striking
22 clause (i) and inserting the following:

23 “(i) IN GENERAL.—There are author-
24 ized to be appropriated from the Highway

1 Trust Fund (other than the Mass Transit
2 Account) to carry out this section—

3 “(I) \$357,232,704 for fiscal year
4 2005;

5 “(II) \$370,628,931 for fiscal
6 year 2006;

7 “(III) \$379,559,748 for fiscal
8 year 2007;

9 “(IV) \$388,490,566 for fiscal
10 year 2008; and

11 “(V) \$401,886,792 for fiscal year
12 2009.”; and

13 (4) by striking subsection (i).

14 **SEC. 1820. DONATIONS AND CREDITS.**

15 Section 323 of title 23, United States Code, is
16 amended—

17 (1) in the first sentence of subsection (c), by in-
18 serting “, or a local government from offering to do-
19 nate funds, materials, or services performed by local
20 government employees,” after “services”; and

21 (2) striking subsection (e).

22 **SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.**

23 (a) GENERAL RULE.—Except to the extent that the
24 Secretary determines otherwise, not less than 10 percent
25 of the amounts made available for any program under ti-

1 tles I, II, and VI of this Act shall be expended with small
2 business concerns owned and controlled by socially and
3 economically disadvantaged individuals.

4 (b) DEFINITIONS.—In this section:

5 (1) SMALL BUSINESS CONCERN.—

6 (A) IN GENERAL.—The term “small busi-
7 ness concern” has the meaning given the term
8 under section 3 of the Small Business Act (15
9 U.S.C. 632).

10 (B) EXCLUSION.—The term “small busi-
11 ness concern” does not include any concern or
12 group of concerns controlled by the same so-
13 cially and economically disadvantaged individual
14 or individuals that has average annual gross re-
15 ceipts over the preceding 3 fiscal years in excess
16 of \$17,420,000, as adjusted by the Secretary
17 for inflation.

18 (2) SOCIALLY AND ECONOMICALLY DISADVAN-
19 TAGED INDIVIDUALS.—The term “socially and eco-
20 nomicallly disadvantaged individuals” has the mean-
21 ing given the term under section 8(d) of the Small
22 Business Act (15 U.S.C. 637(d)) and relevant sub-
23 contracting regulations promulgated under that sec-
24 tion, except that women shall be presumed to be so-

1 cially and economically disadvantaged individuals for
2 the purposes of this section.

3 (c) ANNUAL LISTING OF DISADVANTAGED BUSINESS
4 ENTERPRISES.—Each State shall annually survey and
5 compile a list of the small business concerns referred to
6 in subsection (a) and the location of such concerns in the
7 State and notify the Secretary, in writing, of the percent-
8 age of such concerns which are controlled by women, by
9 socially and economically disadvantaged individuals (other
10 than women), and by individuals who are women and are
11 otherwise socially and economically disadvantaged individ-
12 uals.

13 (d) UNIFORM CERTIFICATION.—The Secretary shall
14 establish minimum uniform criteria for State governments
15 to use in certifying whether a concern qualifies for pur-
16 poses of this section. Such minimum uniform criteria shall
17 include on-site visits, personal interviews, licenses, analysis
18 of stock ownership, listing of equipment, analysis of bond-
19 ing capacity, listing of work completed, resume of prin-
20 cipal owners, financial capacity, and type of work pre-
21 ferred.

22 (e) COMPLIANCE WITH COURT ORDERS.—Nothing in
23 this section limits the eligibility of an entity or person to
24 receive funds made available under titles I, III, and V of
25 this Act, if the entity or person is prevented, in whole or

1 in part, from complying with subsection (a) because a
2 Federal court issues a final order in which the court finds
3 that the requirement of subsection (a), or the program es-
4 tablished under subsection (a), is unconstitutional.

5 **SEC. 1822. [RESERVED.]**

6 **SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FA-**
7 **CILITY ENHANCEMENT PROJECTS.**

8 Section 133(e)(5) of title 23, United States Code, is
9 amended by adding at the end the following:

10 “(D) PRIORITY FOR PEDESTRIAN AND BI-
11 CYCLE FACILITY ENHANCEMENT PROJECTS.—
12 The Secretary shall encourage States to give
13 priority to pedestrian and bicycle facility en-
14 hancement projects that include a coordinated
15 physical activity or healthy lifestyles program.”.

16 **SEC. 1824. THE DELTA REGIONAL AUTHORITY.**

17 (a) IN GENERAL.—Subchapter I of chapter 1 of title
18 23, United States Code (as amended by section 1814(a)),
19 is amended by adding at the end the following:

20 **“§ 178. Delta Region transportation development**
21 **program**

22 “(a) IN GENERAL.—The Secretary shall carry out a
23 program to—

24 “(1) support and encourage multistate trans-
25 portation planning and corridor development;

1 “(2) provide for transportation project develop-
2 ment;

3 “(3) facilitate transportation decisionmaking;
4 and

5 “(4) support transportation construction.

6 “(b) ELIGIBLE RECIPIENTS.—A State transportation
7 department or metropolitan planning organization may re-
8 ceive and administer funds provided under the program.

9 “(c) ELIGIBLE ACTIVITIES.—The Secretary shall
10 make allocations under the program for multistate high-
11 way and transit planning, development, and construction
12 projects.

13 “(d) OTHER PROVISIONS REGARDING ELIGI-
14 BILITY.—All activities funded under this program shall be
15 consistent with the continuing, cooperative, and com-
16 prehensive planning processes required by section 134 and
17 135.

18 “(e) SELECTION CRITERIA.—The Secretary shall se-
19 lect projects to be carried out under the program based
20 on—

21 “(1) whether the project is located—

22 “(A) in an area that is part of the Delta
23 Regional Authority; and

24 “(B) on the Federal-aid system;

1 “(2) endorsement of the project by the State
2 department of transportation; and

3 “(3) evidence of the ability to complete the
4 project.

5 “(f) PROGRAM PRIORITIES.—In administering the
6 program, the Secretary shall—

7 “(1) encourage State and local officials to work
8 together to develop plans for multimodal and multi-
9 jurisdictional transportation decisionmaking; and

10 “(2) give priority to projects that emphasize
11 multimodal planning, including planning for oper-
12 ational improvements that—

13 “(A) increase the mobility of people and
14 goods;

15 “(B) improve the safety of the transpor-
16 tation system with respect to catastrophic—

17 “(i) natural disasters; or

18 “(ii) disasters caused by human activ-
19 ity; and

20 “(C) contribute to the economic vitality of
21 the area in which the project is being carried
22 out.

23 “(g) FEDERAL SHARE.—Amounts provided by the
24 Delta Regional Authority to carry out a project under this

1 section shall be applied to the non-Federal share required
2 by section 120.

3 “(h) AVAILABILITY OF FUNDS.—Amounts made
4 available to carry out this section shall remain available
5 until expended.”.

6 (b) CONFORMING AMENDMENT.—The analysis for
7 chapter 1 of title 23, United States Code (as amended by
8 section 1814(b)), is amended by adding at the end the
9 following:

“178. Delta Region transportation development program.”.

10 **SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DE-**
11 **VELOPMENT PROGRAM.**

12 (a) ESTABLISHMENT.—The Secretary shall establish
13 a program to develop international trade corridors to fa-
14 cilitate the movement of freight from international ports
15 of entry and inland ports through and to the interior of
16 the United States.

17 (b) ELIGIBLE RECIPIENTS.—State transportation de-
18 partments and metropolitan planning organizations shall
19 be eligible to receive and administer funds provided under
20 the program.

21 (c) ELIGIBLE ACTIVITIES.—The Secretary shall
22 make allocations under this program for any activity eligi-
23 ble for funding under title 23, United States Code, includ-
24 ing multistate highway and multistate multimodal plan-
25 ning and project construction.

1 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

2 All activities funded under this program shall be con-
3 sistent with the continuing, cooperative, and comprehen-
4 sive planning processes required by sections 134 and 135
5 of title 23, United States Code.

6 (e) SELECTION CRITERIA.—The Secretary shall only
7 select projects for corridors—

8 (1) that have significant levels or increases in
9 truck and traffic volume relating to international
10 freight movement;

11 (2) connect to at least 1 international terminus
12 or inland port;

13 (3) traverse at least 3 States; and

14 (4) are identified by section 115(c) of the Inter-
15 modal Transportation Efficiency Act of 1991 (Public
16 Law 102–240; 105 Stat. 2032).

17 (f) PROGRAM PRIORITIES.—In administering the pro-
18 gram, the Secretary shall—

19 (1) encourage and enable States and other ju-
20 risdictions to work together to develop plans for
21 multimodal and multijurisdictional transportation
22 decisionmaking; and

23 (2) give priority to studies that emphasize
24 multimodal planning, including planning for oper-
25 ational improvements that increase mobility, freight

1 productivity, access to marine ports, safety, and se-
2 curity while enhancing the environment.

3 (g) FEDERAL SHARE.—The Federal share required
4 for any study carried out under this section shall be avail-
5 able for obligation in the same manner as if the funds
6 were apportioned under chapter I of title 23, United
7 States Code.

8 **SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR**
9 **STATES WITH INDIAN RESERVATIONS.**

10 Section 1214(d)(5)(A) of the Transportation Equity
11 Act for the 21st Century (23 U.S.C. 202 note; 112 Stat.
12 206) is amended by striking “\$1,500,000 for each of fiscal
13 years 1998 through 2003” and inserting “\$1,607,547 for
14 each of fiscal years 2005 through 2009”.

15 **Subtitle I—Technical Corrections**

16 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

17 (a) LETTING OF CONTRACTS.—Section 112 of title
18 23, United States Code, is amended—

19 (1) by striking subsection (f); and

20 (2) by redesignating subsection (g) as sub-
21 section (f).

22 (b) FRINGE AND CORRIDOR PARKING FACILITIES.—
23 Section 137(a) of title 23, United States Code, is amended
24 in the first sentence by striking “on the Federal-aid urban
25 system” and inserting “on a Federal-aid highway”.

1 **SEC. 1902. CLARIFICATION OF DATE.**

2 Section 109(g) of title 23, United States Code, is
3 amended in the first sentence by striking “The Secretary”
4 and all that follows through “of 1970” and inserting “Not
5 later than January 30, 1971, the Secretary shall issue”.

6 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

7
8 (a) IN GENERAL.—Section 154 of the Federal-Aid
9 Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)
10 is—

11 (1) transferred to title 23, United States Code;

12 (2) redesignated as section 321;

13 (3) moved to appear after section 320 of that
14 title; and

15 (4) amended by striking the section heading
16 and inserting the following:

17 **“§ 321. Signs identifying funding sources”.**

18 (b) CONFORMING AMENDMENT.—The analysis for
19 chapter 3 of title 23, United States Code, is amended by
20 inserting after the item relating to section 320 the fol-
21 lowing:

“321. Signs identifying funding sources.”.

1 **SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN**
2 **TITLE 23.**

3 (a) IN GENERAL.—Section 165 of the Highway Im-
4 provement Act of 1982 (23 U.S.C. 101 note; 96 Stat.
5 2136) is—

6 (1) transferred to title 23, United States Code;

7 (2) redesignated as section 313;

8 (3) moved to appear after section 312 of that
9 title; and

10 (4) amended by striking the section heading
11 and inserting the following:

12 **“§ 313. Buy America”.**

13 (b) CONFORMING AMENDMENTS.—

14 (1) The analysis for chapter 3 of title 23,
15 United States Code, is amended by inserting after
16 the item relating to section 312 the following:

“313. Buy America.”.

17 (2) Section 313 of title 23, United States Code
18 (as added by subsection (a)), is amended—

19 (A) in subsection (a), by striking “by this
20 Act” the first place it appears and all that fol-
21 lows through “of 1978” and inserting “to carry
22 out the Surface Transportation Assistance Act
23 of 1982 (96 Stat. 2097) or this title”;

24 (B) in subsection (b), by redesignating
25 paragraph (4) as paragraph (3);

1 (C) in subsection (d), by striking “this
2 Act,” and all that follows through “Code,
3 which” and inserting “the Surface Transpor-
4 tation Assistance Act of 1982 (96 Stat. 2097)
5 or this title that”;

6 (D) by striking subsection (e); and

7 (E) by redesignating subsections (f) and
8 (g) as subsections (e) and (f), respectively.

9 **SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINA-**
10 **TION SECTION.**

11 Section 140 of title 23, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) in the first sentence, by striking “sub-
15 section (a) of section 105 of this title” and in-
16 serting “section 135”;

17 (B) in the second sentence, by striking
18 “He” and inserting “The Secretary”;

19 (C) in the third sentence, by striking
20 “where he considers it necessary to assure” and
21 inserting “if necessary to ensure”; and

22 (D) in the last sentence—

23 (i) by striking “him” and inserting
24 “the Secretary” and

1 (ii) by striking “he” and inserting
2 “the Secretary”;

3 (2) in subsection (b)—

4 (A) in the first sentence, by striking “high-
5 way construction” and inserting “surface trans-
6 portation”; and

7 (B) in the second sentence—

8 (i) by striking “as he may deem nec-
9 essary” and inserting “as necessary”; and

10 (ii) by striking “not to exceed
11 \$2,500,000 for the transition quarter end-
12 ing September 30, 1976, and”;

13 (3) in the second sentence of subsection (c)—

14 (A) by striking “subsection 104(b)(3) of
15 this title” and inserting “section 104(b)(3)”;

16 and

17 (B) by striking “he may deem”; and

18 (4) in the heading of subsection (d), by striking

19 “AND CONTRACTING”.

1 **TITLE II—TRANSPORTATION**
2 **RESEARCH**
3 **Subtitle A—Funding**

4 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

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

8 (1) SURFACE TRANSPORTATION RESEARCH.—

9 (A) IN GENERAL.—For carrying out sec-
10 tions 502, 503, 506, 507, 508, and 511 of title
11 23, United States Code—

12 (i) \$188,440,252 for fiscal year 2005;

13 (ii) \$192,012,579 for fiscal year 2006;

14 (iii) \$194,691,824 for fiscal year
15 2007;

16 (iv) \$196,477,987 for fiscal year
17 2008; and

18 (v) \$199,157,233 for fiscal year 2009.

19 (B) SURFACE TRANSPORTATION-ENVIRON-
20 MENTAL COOPERATIVE RESEARCH PROGRAM.—

21 For each of fiscal years 2005 through 2009, the
22 Secretary shall set aside \$17,861,635 of the
23 funds authorized under subparagraph (A) to
24 carry out the surface transportation-envir-

1 mental cooperative research program under sec-
2 tion 507 of title 23, United States Code.

3 (2) TRAINING AND EDUCATION.—For carrying
4 out section 504 of title 23, United States Code—

5 (A) \$25,006,289 for fiscal year 2005;

6 (B) \$25,899,371 for fiscal year 2006;

7 (C) \$26,792,453 for fiscal year 2007;

8 (D) \$27,685,535 for fiscal year 2008; and

9 (E) \$28,578,616 for fiscal year 2009.

10 (3) BUREAU OF TRANSPORTATION STATIS-
11 TICS.—For the Bureau of Transportation Statistics
12 to carry out section 111 of title 49, United States
13 Code, \$25,006,289 for each of fiscal years 2005
14 through 2009.

15 (4) ITS STANDARDS, RESEARCH, OPERATIONAL
16 TESTS, AND DEVELOPMENT.—For carrying out sec-
17 tions 524, 525, 526, 527, 528, and 529 of title 23,
18 United States Code—

19 (A) \$109,849,057 for fiscal year 2005;

20 (B) \$112,528,302 for fiscal year 2006;

21 (C) \$115,207,547 for fiscal year 2007;

22 (D) \$117,886,792 for fiscal year 2008;

23 and

24 (E) \$120,566,038 for fiscal year 2009.

1 (5) UNIVERSITY TRANSPORTATION CENTERS.—

2 For carrying out section 510 of title 23, United
3 States Code \$40,188,679 for each of fiscal years
4 2005 through 2009.

5 (b) APPLICABILITY OF TITLE 23, UNITED STATES
6 CODE.—Funds authorized to be appropriated by sub-
7 section (a)—

8 (1) shall be available for obligation in the same
9 manner as if the funds were apportioned under
10 chapter 1 of title 23, United States Code, except
11 that the Federal share of the cost of a project or ac-
12 tivity carried out using the funds shall be the share
13 applicable under section 120(b) of title 23, United
14 States Code, as adjusted under subsection (d) of
15 that section (unless otherwise specified or otherwise
16 determined by the Secretary); and

17 (2) shall remain available until expended.

18 (c) ALLOCATIONS.—

19 (1) SURFACE TRANSPORTATION RESEARCH.—

20 Of the amounts made available under subsection

21 (a)(1)—

22 (A) \$24,113,208 for each of fiscal years
23 2005 through 2009 shall be available to carry
24 out advanced, high-risk, long-term research

1 under section 502(d) of title 23, United States
2 Code;

3 (B) \$16,075,472 for fiscal year 2005,
4 \$15,182,390 for fiscal year 2006, \$13,396,226
5 for fiscal year 2007, \$10,716,981 for fiscal year
6 2008, and \$8,930,818 for fiscal year 2009 shall
7 be available to carry out the long-term pave-
8 ment performance program under section
9 502(e) of that title;

10 (C) \$5,358,491 for each of fiscal years
11 2005 through 2009 shall be available to carry
12 out the high-performance concrete bridge re-
13 search and technology transfer program under
14 section 502(i) of that title, of which \$893,082
15 for each fiscal year shall be used by the Sec-
16 retary to carry out demonstration projects in-
17 volving the use of ultra-high-performance con-
18 crete with ductility;

19 (D) \$5,358,491 for each of fiscal years
20 2005 through 2009 shall be made available to
21 carry out research on asphalt used in highway
22 pavements;

23 (E) \$5,358,491 for each of fiscal years
24 2005 through 2009 shall be made available to
25 carry out research on concrete pavements;

1 (F) \$2,679,245 for each of fiscal years
2 2005 through 2009 shall be made available to
3 carry out research on aggregates used in high-
4 way pavements;

5 (G) \$4,242,138 for each of fiscal years
6 2005 through 2009 shall be made available for
7 further development and deployment of tech-
8 niques to prevent and mitigate alkali silica reac-
9 tivity;

10 (H) \$1,786,164 for fiscal year 2005 shall
11 be remain available until expended for asphalt
12 and asphalt-related reclamation research at the
13 South Dakota School of Mines; and

14 (I) \$2,679,245 for each of fiscal years
15 2005 through 2009 shall be made available to
16 carry out section 502(f)(3) of title 23, United
17 States Code.

18 (2) TECHNOLOGY APPLICATION PROGRAM.—Of
19 the amounts made available under subsection (a)(1),
20 \$53,584,906 for each of fiscal years 2005 through
21 2009 shall be available to carry out section 503 of
22 title 23, United States Code.

23 (3) TRAINING AND EDUCATION.—Of the
24 amounts made available under subsection (a)(2)—

1 (A) \$11,163,522 for fiscal year 2005,
2 \$11,610,063 for fiscal year 2006, \$12,056,604
3 for fiscal year 2007, \$12,503,145 for fiscal year
4 2008, and \$12,949,686 for fiscal year 2009
5 shall be available to carry out section 504(a) of
6 title 23, United States Code (relating to the
7 National Highway Institute);

8 (B) \$13,396,226 for each of fiscal years
9 2005 through 2009 shall be available to carry
10 out section 504(b) of that title (relating to local
11 technical assistance); and

12 (C) \$2,679,245 for each of fiscal years
13 2005 through 2009 shall be available to carry
14 out section 504(c)(2) of that title (relating to
15 the Eisenhower Transportation Fellowship Pro-
16 gram).

17 (4) INTERNATIONAL HIGHWAY TRANSPOR-
18 TATION OUTREACH PROGRAM.—Of the amounts
19 made available under subsection (a)(1), \$446,541
20 for each of fiscal years 2005 through 2009 shall be
21 available to carry out section 506 of title 23, United
22 States Code.

23 (5) NEW STRATEGIC HIGHWAY RESEARCH PRO-
24 GRAM.—For each of fiscal years 2005 through 2009,

1 to carry out section 509 of title 23, United States
2 Code, the Secretary shall set aside—

3 (A) \$13,396,226 of the amounts made
4 available to carry out the interstate mainte-
5 nance program under section 119 of title 23,
6 United States Code, for the fiscal year;

7 (B) \$16,968,553 of the amounts made
8 available for the National Highway System
9 under section 101 of title 23, United States
10 Code, for the fiscal year;

11 (C) \$11,610,063 of the amounts made
12 available to carry out the bridge program under
13 section 144 of title 23, United States Code, for
14 the fiscal year;

15 (D) \$17,861,635 of the amounts made
16 available to carry out the surface transportation
17 program under section 133 of title 23, United
18 States Code, for the fiscal year;

19 (E) \$4,465,409 of the amounts made
20 available to carry out the congestion mitigation
21 and air quality improvement program under
22 section 149 of title 23, United States Code, for
23 the fiscal year; and

24 (F) \$2,679,245 of the amounts made avail-
25 able to carry out the highway safety improve-

1 ment program under section 148 of title 23,
2 United States Code, for the fiscal year.

3 (6) COMMERCIAL VEHICLE INTELLIGENT
4 TRANSPORTATION SYSTEM INFRASTRUCTURE PRO-
5 GRAM.—Of the amounts made available under sub-
6 section (a)(4), not less than \$26,792,453 for each of
7 fiscal years 2005 through 2009 shall be available to
8 carry out section 527 of title 23, United States
9 Code.

10 (d) TRANSFERS OF FUNDS.—The Secretary may
11 transfer—

12 (1) to an amount made available under para-
13 graphs (1), (2), or (4) of subsection (c), not to ex-
14 ceed 10 percent of the amount allocated for a fiscal
15 year under any other of those paragraphs; and

16 (2) to an amount made available under sub-
17 paragraphs (A), (B), or (C) of subsection (c)(3), not
18 to exceed 10 percent of the amount allocated for a
19 fiscal year under any other of those subparagraphs.

20 **SEC. 2002. OBLIGATION CEILING.**

21 Notwithstanding any other provision of law, the total
22 of all obligations from amounts made available from the
23 Highway Trust Fund (other than the Mass Transit Ac-
24 count) by section 2001(a) shall not exceed—

25 (1) \$388,669,286 for fiscal year 2005;

- 1 (2) \$395,813,942 for fiscal year 2006;
- 2 (3) \$402,065,516 for fiscal year 2007;
- 3 (4) \$407,424,008 for fiscal year 2008; and
- 4 (5) \$413,675,582 for fiscal year 2009.

5 **SEC. 2003. NOTICE.**

6 (a) NOTICE OF REPROGRAMMING.—If any funds au-
7 thorized for carrying out this title or the amendments
8 made by this title are subject to a reprogramming action
9 that requires notice to be provided to the Committee on
10 Appropriations of the House of Representatives and the
11 Committee on Appropriations of the Senate, notice of that
12 action shall be concurrently provided to the Committee on
13 Transportation and Infrastructure and the Committee on
14 Science of the House of Representatives and the Com-
15 mittee on Environment and Public Works of the Senate.

16 (b) NOTICE OF REORGANIZATION.—On or before the
17 15th day preceding the date of any major reorganization
18 of a program, project, or activity of the Department of
19 Transportation for which funds are authorized by this title
20 or the amendments made by this title, the Secretary shall
21 provide notice of the reorganization to the Committee on
22 Transportation and Infrastructure and the Committee on
23 Science of the House of Representatives and the Com-
24 mittee on Environment and Public Works of the Senate.

1 **Subtitle B—Research and**
 2 **Technology**

3 **SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.**

4 (a) IN GENERAL.—Chapter 5 of title 23, United
 5 States Code, is amended to read as follows:

6 **“CHAPTER 5—RESEARCH AND**
 7 **TECHNOLOGY**

 “SUBCHAPTER I—SURFACE TRANSPORTATION

- “Sec.
- “501. Definitions.
- “502. Surface transportation research.
- “503. Technology application program.
- “504. Training and education.
- “505. State planning and research.
- “506. International highway transportation outreach program.
- “507. Surface transportation-environmental cooperative research program.
- “508. Surface transportation research technology deployment and strategic planning.
- “509. New strategic highway research program.
- “510. University transportation centers.
- “511. Multistate corridor operations and management.
- “512. Transportation analysis simulation system.

 “SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM
 RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

- “521. Finding.
- “522. Goals and purposes.
- “523. Definitions.
- “524. General authorities and requirements.
- “525. National ITS Program Plan.
- “526. National ITS architecture and standards.
- “527. Commercial vehicle intelligent transportation system infrastructure program.
- “528. Research and development.
- “529. Use of funds.

8 “SUBCHAPTER I—SURFACE TRANSPORTATION

9 **“§ 501. Definitions**

10 “In this subchapter:

1 “(1) FEDERAL LABORATORY.—The term ‘Fed-
2 eral laboratory’ includes—

3 “(A) a Government-owned, Government-
4 operated laboratory; and

5 “(B) a Government-owned, contractor-op-
6 erated laboratory.

7 “(2) SAFETY.—The term ‘safety’ includes high-
8 way and traffic safety systems, research, and devel-
9 opment relating to—

10 “(A) vehicle, highway, driver, passenger,
11 bicyclist, and pedestrian characteristics;

12 “(B) accident investigations;

13 “(C) integrated, interoperable emergency
14 communications;

15 “(D) emergency medical care; and

16 “(E) transportation of the injured.

17 **“§ 502. Surface transportation research**

18 “(a) IN GENERAL.—

19 “(1) RESEARCH, DEVELOPMENT, AND TECH-
20 NOLOGY TRANSFER ACTIVITIES.—The Secretary may
21 carry out research, development, and technology
22 transfer activities with respect to—

23 “(A) all phases of transportation planning
24 and development (including new technologies,
25 construction, transportation systems manage-

1 ment and operations development, design, main-
2 tenance, safety, security, financing, data collec-
3 tion and analysis, demand forecasting,
4 multimodal assessment, and traffic conditions);
5 and

6 “(B) the effect of State laws on the activi-
7 ties described in subparagraph (A).

8 “(2) TESTS AND DEVELOPMENT.—The Sec-
9 retary may test, develop, or assist in testing and de-
10 veloping, any material, invention, patented article, or
11 process.

12 “(3) COOPERATION, GRANTS, AND CON-
13 TRACTS.—

14 “(A) IN GENERAL.—The Secretary may
15 carry out this section—

16 “(i) independently;

17 “(ii) in cooperation with—

18 “(I) any other Federal agency or
19 instrumentality; and

20 “(II) any Federal laboratory; or

21 “(iii) by making grants to, or entering
22 into contracts, cooperative agreements, and
23 other transactions with—

24 “(I) the National Academy of
25 Sciences;

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1 “(II) the American Association of
2 State Highway and Transportation
3 Officials;

4 “(III) planning organizations;

5 “(IV) a Federal laboratory;

6 “(V) a State agency;

7 “(VI) an authority, association,
8 institution, or organization;

9 “(VII) a for-profit or nonprofit
10 corporation;

11 “(VIII) a foreign country; or

12 “(IX) any other person.

13 “(B) COMPETITION; REVIEW.—All parties
14 entering into contracts, cooperative agreements
15 or other transactions with the Secretary, or re-
16 ceiving grants, to perform research or provide
17 technical assistance under this section shall be
18 selected, to the maximum extent practicable and
19 appropriate—

20 “(i) on a competitive basis; and

21 “(ii) on the basis of the results of peer
22 review of proposals submitted to the Sec-
23 retary.

24 “(4) TECHNOLOGICAL INNOVATION.—The pro-
25 grams and activities carried out under this section

1 shall be consistent with the surface transportation
2 research and technology development strategic plan
3 developed under section 508(c).

4 “(5) FUNDS.—

5 “(A) SPECIAL ACCOUNT.—In addition to
6 other funds made available to carry out this
7 section, the Secretary shall use such funds as
8 may be deposited by any cooperating organiza-
9 tion or person in a special account of the Treas-
10 ury established for this purpose.

11 “(B) USE OF FUNDS.—The Secretary shall
12 use funds made available to carry out this sec-
13 tion to develop, administer, communicate, and
14 promote the use of products of research, devel-
15 opment, and technology transfer programs
16 under this section.

17 “(b) COLLABORATIVE RESEARCH AND DEVELOP-
18 MENT.—

19 “(1) IN GENERAL.—To encourage innovative
20 solutions to surface transportation problems and
21 stimulate the deployment of new technology, the
22 Secretary may carry out, on a cost-shared basis, col-
23 laborative research and development with—

24 “(A) non-Federal entities (including State
25 and local governments, foreign governments,

1 colleges and universities, corporations, institu-
2 tions, partnerships, sole proprietorships, and
3 trade associations that are incorporated or es-
4 tablished under the laws of any State); and

5 “(B) Federal laboratories.

6 “(2) AGREEMENTS.—In carrying out this sub-
7 section, the Secretary may enter into cooperative re-
8 search and development agreements (as defined in
9 section 12 of the Stevenson-Wydler Technology In-
10 novation Act of 1980 (15 U.S.C. 3710a)).

11 “(3) FEDERAL SHARE.—

12 “(A) IN GENERAL.—The Federal share of
13 the cost of activities carried out under a cooper-
14 ative research and development agreement en-
15 tered into under this subsection shall not exceed
16 50 percent, except that if there is substantial
17 public interest or benefit, the Secretary may ap-
18 prove a greater Federal share.

19 “(B) NON-FEDERAL SHARE.—All costs di-
20 rectly incurred by the non-Federal partners, in-
21 cluding personnel, travel, and hardware develop-
22 ment costs, shall be credited toward the non-
23 Federal share of the cost of the activities de-
24 scribed in subparagraph (A).

1 “(4) USE OF TECHNOLOGY.—The research, de-
2 velopment, or use of a technology under a coopera-
3 tive research and development agreement entered
4 into under this subsection, including the terms
5 under which the technology may be licensed and the
6 resulting royalties may be distributed, shall be sub-
7 ject to the Stevenson-Wydler Technology Innovation
8 Act of 1980 (15 U.S.C. 3701 et seq.).

9 “(5) WAIVER OF ADVERTISING REQUIRE-
10 MENTS.—Section 3709 of the Revised Statutes (41
11 U.S.C. 5) shall not apply to a contract or agreement
12 entered into under this chapter.

13 “(c) CONTENTS OF RESEARCH PROGRAM.—The Sec-
14 retary shall include as priority areas of effort within the
15 surface transportation research program—

16 “(1) the development of new technologies and
17 methods in materials, pavements, structures, design,
18 and construction, with the objectives of—

19 “(A)(i) increasing to 50 years the expected
20 life of pavements;

21 “(ii) increasing to 100 years the expected
22 life of bridges; and

23 “(iii) significantly increasing the durability
24 of other infrastructure;

1 “(B) lowering the life-cycle costs,
2 including—

3 “(i) construction costs;

4 “(ii) maintenance costs;

5 “(iii) operations costs; and

6 “(vi) user costs.

7 “(2) the development, and testing for effective-
8 ness, of nondestructive evaluation technologies for
9 civil infrastructure using existing and new tech-
10 nologies;

11 “(3) the investigation of—

12 “(A) the application of current natural
13 hazard mitigation techniques to manmade haz-
14 ards; and

15 “(B) the continuation of hazard mitigation
16 research combining manmade and natural haz-
17 ards;

18 “(4) the improvement of safety—

19 “(A) at intersections;

20 “(B) with respect to accidents involving ve-
21 hicles run off the road; and

22 “(C) on rural roads;

23 “(5) the reduction of work zone incursions and
24 improvement of work zone safety;

1 “(6) the improvement of geometric design of
2 roads for the purpose of safety;

3 “(7) the examination of data collected through
4 the national bridge inventory conducted under sec-
5 tion 144 using the national bridge inspection stand-
6 ards established under section 151, with the objec-
7 tives of determining whether—

8 “(A) the most useful types of data are
9 being collected; and

10 “(B) any improvement could be made in
11 the types of data collected and the manner in
12 which the data is collected, with respect to
13 bridges in the United States;

14 “(8) the improvement of the infrastructure in-
15 vestment needs report described in subsection (g)
16 through—

17 “(A) the study and implementation of new
18 methods of collecting better quality data, par-
19 ticularly with respect to performance, conges-
20 tion, and infrastructure conditions;

21 “(B) monitoring of the surface transpor-
22 tation system in a system-wide manner, through
23 the use of—

1 “(i) intelligent transportation system
2 technologies of traffic operations centers;
3 and

4 “(ii) other new data collection tech-
5 nologies as sources of better quality per-
6 formance data;

7 “(C) the determination of the critical
8 metrics that should be used to determine the
9 condition and performance of the surface trans-
10 portation system; and

11 “(D) the study and implementation of new
12 methods of statistical analysis and computer
13 models to improve the prediction of future in-
14 frastructure investment requirements;

15 “(9) the development of methods to improve the
16 determination of benefits from infrastructure im-
17 provements, including—

18 “(A) more accurate calculations of benefit-
19 to-cost ratios, considering benefits and impacts
20 throughout local and regional transportation
21 systems;

22 “(B) improvements in calculating life-cycle
23 costs; and

24 “(C) valuation of assets;

1 “(10) the improvement of planning processes to
2 better predict outcomes of transportation projects,
3 including the application of computer simulations in
4 the planning process to predict outcomes of planning
5 decisions;

6 “(11) the multimodal applications of Geo-
7 graphic Information Systems and remote sensing,
8 including such areas of application as—

9 “(A) planning;

10 “(B) environmental decisionmaking and
11 project delivery; and

12 “(C) freight movement;

13 “(12) the development and application of meth-
14 ods of providing revenues to the Highway Trust
15 Fund with the objective of offsetting potential reduc-
16 tions in fuel tax receipts;

17 “(13) the development of tests and methods to
18 determine the benefits and costs to communities of
19 major transportation investments and projects;

20 “(14) the conduct of extreme weather research,
21 including research to—

22 “(A) reduce contraction and expansion
23 damage;

24 “(B) reduce or repair road damage caused
25 by freezing and thawing;

1 “(C) improve deicing or snow removal
2 techniques;

3 “(D) develop better methods to reduce the
4 risk of thermal collapse, including collapse from
5 changes in underlying permafrost;

6 “(E) improve concrete and asphalt installa-
7 tion in extreme weather conditions; and

8 “(F) make other improvements to protect
9 highway infrastructure or enhance highway
10 safety or performance;

11 “(15) the improvement of surface transpor-
12 tation planning;

13 “(16) environmental research;

14 “(17) transportation system management and
15 operations; and

16 “(18) any other surface transportation research
17 topics that the Secretary determines, in accordance
18 with the strategic planning process under section
19 508, to be critical.

20 “(d) **ADVANCED, HIGH-RISK RESEARCH.**—

21 “(1) **IN GENERAL.**—The Secretary shall estab-
22 lish and carry out, in accordance with the surface
23 transportation research and technology development
24 strategic plan developed under section 508(c) and
25 research priority areas described in subsection (c),

1 an advanced research program that addresses
2 longer-term, higher-risk research with potentially
3 dramatic breakthroughs for improving the durability,
4 efficiency, environmental impact, productivity, and
5 safety (including bicycle and pedestrian safety) as-
6 pects of highway and intermodal transportation sys-
7 tems.

8 “(2) PARTNERSHIPS.—In carrying out the pro-
9 gram, the Secretary shall seek to develop partner-
10 ships with the public and private sectors.

11 “(3) REPORT.—The Secretary shall include in
12 the strategic plan required under section 508(c) a
13 description of each of the projects, and the amount
14 of funds expended for each project, carried out
15 under this subsection during the fiscal year.

16 “(e) LONG-TERM PAVEMENT PERFORMANCE PRO-
17 GRAM.—

18 “(1) AUTHORITY.—The Secretary shall con-
19 tinue, through September 30, 2009, the long-term
20 pavement performance program tests, monitoring,
21 and data analysis.

22 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
23 CONTRACTS.—Under the program, the Secretary
24 shall make grants and enter into cooperative agree-
25 ments and contracts to—

1 “(A) monitor, material-test, and evaluate
2 highway test sections in existence as of the date
3 of the grant, agreement, or contract;

4 “(B) analyze the data obtained in carrying
5 out subparagraph (A); and

6 “(C) prepare products to fulfill program
7 objectives and meet future pavement technology
8 needs.

9 “(3) CONCLUSION OF PROGRAM.—

10 “(A) SUMMARY REPORT.—The Secretary
11 shall include in the strategic plan required
12 under section 508(c) a report on the initial con-
13 clusions of the long-term pavement performance
14 program that includes—

15 “(i) an analysis of any research objec-
16 tives that remain to be achieved under the
17 program;

18 “(ii) an analysis of other associated
19 longer-term expenditures under the pro-
20 gram that are in the public interest;

21 “(iii) a detailed plan regarding the
22 storage, maintenance, and user support of
23 the database, information management
24 system, and materials reference library of
25 the program;

1 “(iv) a schedule for continued imple-
2 mentation of the necessary data collection
3 and analysis and project plan under the
4 program; and

5 “(v) an estimate of the costs of car-
6 rying out each of the activities described in
7 clauses (i) through (iv) for each fiscal year
8 during which the program is carried out.

9 “(B) DEADLINE; USEFULNESS OF AD-
10 VANCES.—The Secretary shall, to the maximum
11 extent practicable—

12 “(i) ensure that the long-term pave-
13 ment performance program is concluded
14 not later than September 30, 2009; and

15 “(ii) make such allowances as are nec-
16 essary to ensure the usefulness of the tech-
17 nological advances resulting from the pro-
18 gram.

19 “(f) SEISMIC RESEARCH.—The Secretary shall—

20 “(1) in consultation and cooperation with Fed-
21 eral agencies participating in the National Earth-
22 quake Hazards Reduction Program established by
23 section 5 of the Earthquake Hazards Reduction Act
24 of 1977 (42 U.S.C. 7704), coordinate the conduct of
25 seismic research;

1 “(2) take such actions as are necessary to en-
2 sure that the coordination of the research is con-
3 sistent with—

4 “(A) planning and coordination activities
5 of the Director of the Federal Emergency Man-
6 agement Agency under section 5(b)(1) of that
7 Act (42 U.S.C. 7704(b)(1)); and

8 “(B) the plan developed by the Director of
9 the Federal Emergency Management Agency
10 under section 8(b) of that Act (42 U.S.C.
11 7705b(b)); and

12 “(3) in cooperation with the Center for Civil
13 Engineering Research at the University of Nevada,
14 Reno, carry out a seismic research program—

15 “(A) to study the vulnerability of the Fed-
16 eral-aid highway system and other surface
17 transportation systems to seismic activity;

18 “(B) to develop and implement cost-effec-
19 tive methods to reduce the vulnerability; and

20 “(C) to conduct seismic research and up-
21 grade earthquake simulation facilities as nec-
22 essary to carry out the program.

23 “(g) INFRASTRUCTURE INVESTMENT NEEDS RE-
24 PORT.—

1 “(1) IN GENERAL.—Not later than July 31,
2 2005, and July 31 of every second year thereafter,
3 the Secretary shall submit to the Committee on En-
4 vironment and Public Works of the Senate and the
5 Committee on Transportation and Infrastructure of
6 the House of Representatives a report that
7 describes—

8 “(A) estimates of the future highway and
9 bridge needs of the United States; and

10 “(B) the backlog of current highway and
11 bridge needs.

12 “(2) COMPARISON WITH PRIOR REPORTS.—
13 Each report under paragraph (1) shall provide the
14 means, including all necessary information, to relate
15 and compare the conditions and service measures
16 used in the previous biennial reports.

17 “(h) SECURITY RELATED RESEARCH AND TECH-
18 NOLOGY TRANSFER ACTIVITIES.—

19 “(1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of the Safe, Account-
21 able, Flexible, and Efficient Transportation Equity
22 Act of 2005, the Secretary, in consultation with the
23 Secretary of Homeland Security, with key stake-
24 holder input (including State transportation depart-
25 ments) shall develop a 5-year strategic plan for re-

1 search and technology transfer and deployment ac-
2 tivities pertaining to the security aspects of highway
3 infrastructure and operations.

4 “(2) COMPONENTS OF PLAN.—The plan shall
5 include—

6 “(A) an identification of which agencies
7 are responsible for the conduct of various re-
8 search and technology transfer activities;

9 “(B) a description of the manner in which
10 those activities will be coordinated; and

11 “(C) a description of the process to be
12 used to ensure that the advances derived from
13 relevant activities supported by the Federal
14 Highway Administration are consistent with the
15 operational guidelines, policies, recommenda-
16 tions, and regulations of the Department of
17 Homeland Security; and

18 “(D) a systematic evaluation of the re-
19 search that should be conducted to address, at
20 a minimum—

21 “(i) vulnerabilities of, and measures
22 that may be taken to improve, emergency
23 response capabilities and evacuations;

24 “(ii) recommended upgrades of traffic
25 management during crises;

1 “(iii) integrated, interoperable emer-
2 gency communications among the public,
3 the military, law enforcement, fire and
4 emergency medical services, and transpor-
5 tation agencies;

6 “(iv) protection of critical, security-re-
7 lated infrastructure; and

8 “(v) structural reinforcement of key
9 facilities.

10 “(3) SUBMISSION.—On completion of the plan
11 under this subsection, the Secretary shall submit to
12 the Committee on Environment and Public Works of
13 the Senate and the Committee on Transportation
14 and Infrastructure of the House of
15 Representatives—

16 “(A) a copy of the plan developed under
17 paragraph (1); and

18 “(B) a copy of a memorandum of under-
19 standing specifying coordination strategies and
20 assignment of responsibilities covered by the
21 plan that is signed by the Secretary and the
22 Secretary of Homeland Security.

23 “(i) HIGH-PERFORMANCE CONCRETE BRIDGE RE-
24 SEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In ac-
25 cordance with the objectives described in subsection (c)(1)

1 and the requirements under sections 503(b)(4) and
2 504(b), the Secretary shall carry out a program to dem-
3 onstrate the application of high-performance concrete in
4 the construction and rehabilitation of bridges.

5 “(j) BIOBASED TRANSPORTATION RESEARCH.—
6 There shall be available from the Highway Trust Fund
7 (other than the Mass Transit Account) \$16,075,472 for
8 each of fiscal years 2005 through 2009 equally divided
9 and available to carry out biobased research of national
10 importance at the National Biodiesel Board and at re-
11 search centers identified in section 9011 of Public Law
12 107–171.

13 **“§ 503. Technology application program**

14 “(a) TECHNOLOGY APPLICATION INITIATIVES AND
15 PARTNERSHIPS PROGRAM.—

16 “(1) ESTABLISHMENT.—The Secretary, in con-
17 sultation with interested stakeholders, shall develop
18 and administer a national technology and innovation
19 application initiatives and partnerships program.

20 “(2) PURPOSE.—The purpose of the program
21 shall be to significantly accelerate the adoption of
22 technology and innovation by the surface transpor-
23 tation community.

24 “(3) APPLICATION GOALS.—

1 “(A) ESTABLISHMENT.—Not later than
2 180 days after the date of enactment of the
3 Safe, Accountable, Flexible, and Efficient
4 Transportation Equity Act of 2005, the Sec-
5 retary, in consultation with the Surface Trans-
6 portation Research Technology Advisory Com-
7 mittee, State transportation departments, and
8 other interested stakeholders, shall establish, as
9 part of the surface transportation research and
10 technology development strategic plan under
11 section 508(c), goals to carry out paragraph
12 (1).

13 “(B) DESIGN.—Each of the goals and the
14 program developed to achieve the goals shall be
15 designed to provide tangible benefits, with re-
16 spect to transportation systems, in the areas of
17 efficiency, safety, reliability, service life, envi-
18 ronmental protection, and sustainability.

19 “(C) STRATEGIES FOR ACHIEVEMENT.—
20 For each goal, the Secretary, in cooperation
21 with representatives of the transportation com-
22 munity, such as States, local governments, the
23 private sector, and academia, shall use domestic
24 and international technology to develop strate-
25 gies and initiatives to achieve the goal, includ-

1 ing technical assistance in deploying technology
2 and mechanisms for sharing information among
3 program participants.

4 “(4) INTEGRATION WITH OTHER PROGRAMS.—
5 The Secretary shall integrate activities carried out
6 under this subsection with the efforts of the Sec-
7 retary to—

8 “(A) disseminate the results of research
9 sponsored by the Secretary; and

10 “(B) facilitate technology transfer.

11 “(5) LEVERAGING OF FEDERAL RESOURCES.—
12 In selecting projects to be carried out under this
13 subsection, the Secretary shall give preference to
14 projects that leverage Federal funds with other sig-
15 nificant public or private resources.

16 “(6) GRANTS, COOPERATIVE AGREEMENTS, AND
17 CONTRACTS.—Under the program, the Secretary
18 may make grants and enter into cooperative agree-
19 ments and contracts to foster alliances and support
20 efforts to stimulate advances in transportation tech-
21 nology.

22 “(7) REPORTS.—The results and progress of
23 activities carried out under this section shall be pub-
24 lished as part of the annual transportation research

1 report prepared by the Secretary under section
2 508(c)(5).

3 “(8) ALLOCATION.—To the extent appropriate
4 to achieve the goals established under paragraph (3),
5 the Secretary may further allocate funds made avail-
6 able to carry out this section to States for use by
7 those States.

8 “(b) INNOVATIVE SURFACE TRANSPORTATION IN-
9 FRASTRUCTURE RESEARCH AND CONSTRUCTION PRO-
10 GRAM.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish and carry out a program for the application of
13 innovative material, design, and construction tech-
14 nologies in the construction, preservation, and reha-
15 bilitation of elements of surface transportation infra-
16 structure.

17 “(2) GOALS.—The goals of the program shall
18 include—

19 “(A) the development of new, cost-effec-
20 tive, and innovative materials;

21 “(B) the reduction of maintenance costs
22 and life-cycle costs of elements of infrastruc-
23 ture, including the costs of new construction,
24 replacement, and rehabilitation;

1 “(C) the development of construction tech-
2 niques to increase safety and reduce construc-
3 tion time and traffic congestion;

4 “(D) the development of engineering de-
5 sign criteria for innovative products and mate-
6 rials for use in surface transportation infra-
7 structure;

8 “(E) the development of highway bridges
9 and structures that will withstand natural dis-
10 asters and disasters caused by human activity;
11 and

12 “(F) the development of new, non-
13 destructive technologies and techniques for the
14 evaluation of elements of transportation infra-
15 structure.

16 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
17 CONTRACTS.—

18 “(A) IN GENERAL.—Under the program,
19 the Secretary shall make grants to, and enter
20 into cooperative agreements and contracts
21 with—

22 “(i) States, other Federal agencies,
23 universities and colleges, private sector en-
24 tities, and nonprofit organizations, to pay
25 the Federal share of the cost of research,

1 development, and technology transfer con-
2 cerning innovative materials and methods;
3 and

4 “(ii) States, to pay the Federal share
5 of the cost of repair, rehabilitation, re-
6 placement, and new construction of ele-
7 ments of surface transportation infrastruc-
8 ture that demonstrate the application of
9 innovative materials and methods.

10 “(B) APPLICATIONS.—

11 “(i) IN GENERAL.—To receive a grant
12 under this subsection, an entity described
13 in subparagraph (A) shall submit to the
14 Secretary an application in such form and
15 containing such information as the Sec-
16 retary may require.

17 “(ii) APPROVAL.—The Secretary shall
18 select and approve an application based on
19 whether the proposed project that is the
20 subject of the application would meet the
21 goals described in paragraph (2).

22 “(4) TECHNOLOGY AND INFORMATION TRANS-
23 FER.—The Secretary shall take such action as is
24 necessary to—

1 “(A) ensure that the information and tech-
2 nology resulting from research conducted under
3 paragraph (3) is made available to State and
4 local transportation departments and other in-
5 terested parties, as specified by the Secretary;
6 and

7 “(B) encourage the use of the information
8 and technology.

9 “(5) FEDERAL SHARE.—The Federal share of
10 the cost of a project under this section shall be de-
11 termined by the Secretary.

12 **“§ 504. Training and education**

13 “(a) NATIONAL HIGHWAY INSTITUTE.—

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

15 “(A) operate, in the Federal Highway Ad-
16 ministration, a National Highway Institute (re-
17 ferred to in this subsection as the ‘Institute’);
18 and

19 “(B) administer, through the Institute, the
20 authority vested in the Secretary by this title or
21 by any other law for the development and con-
22 duct of education and training programs relat-
23 ing to highways.

24 “(2) DUTIES OF THE INSTITUTE.—In coopera-
25 tion with State transportation departments, indus-

1 tries in the United States, and national or inter-
2 national entities, the Institute shall develop and ad-
3 minister education and training programs of instruc-
4 tion for—

5 “(A) Federal Highway Administration,
6 State, and local transportation agency employ-
7 ees;

8 “(B) regional, State, and metropolitan
9 planning organizations;

10 “(C) State and local police, public safety,
11 and motor vehicle employees; and

12 “(D) United States citizens and foreign
13 nationals engaged or to be engaged in surface
14 transportation work of interest to the United
15 States.

16 “(3) COURSES.—

17 “(A) IN GENERAL.—The Institute shall—

18 “(i) develop or update existing courses
19 in asset management, including courses
20 that include such components as—

21 “(I) the determination of life-
22 cycle costs;

23 “(II) the valuation of assets;

24 “(III) benefit-to-cost ratio cal-
25 culations; and

1 “(IV) objective decisionmaking
2 processes for project selection; and

3 “(ii) continually develop courses relat-
4 ing to the application of emerging tech-
5 nologies for—

6 “(I) transportation infrastructure
7 applications and asset management;

8 “(II) intelligent transportation
9 systems;

10 “(III) operations (including secu-
11 rity operations);

12 “(IV) the collection and archiving
13 of data;

14 “(V) expediting the planning and
15 development of transportation
16 projects; and

17 “(VI) the intermodal movement
18 of individuals and freight.

19 “(B) ADDITIONAL COURSES.—In addition
20 to the courses developed under subparagraph
21 (A), the Institute, in consultation with State
22 transportation departments, metropolitan plan-
23 ning organizations, and the American Associa-
24 tion of State Highway and Transportation Offi-
25 cials, may develop courses relating to tech-

1 nology, methods, techniques, engineering, con-
2 struction, safety, maintenance, environmental
3 mitigation and compliance, regulations, man-
4 agement, inspection, and finance.

5 “(C) REVISION OF COURSES OFFERED.—

6 The Institute shall periodically—

7 “(i) review the course inventory of the
8 Institute; and

9 “(ii) revise or cease to offer courses
10 based on course content, applicability, and
11 need.

12 “(4) ELIGIBILITY; FEDERAL SHARE.—The
13 funds apportioned to a State under section
14 104(b)(3) for the surface transportation program
15 shall be available for expenditure by the State trans-
16 portation department for the payment of not to ex-
17 ceed 80 percent of the cost of tuition and direct edu-
18 cational expenses (excluding salaries) in connection
19 with the education and training of employees of
20 State and local transportation agencies in accord-
21 ance with this subsection.

22 “(5) FEDERAL RESPONSIBILITY.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), education and training of
25 employees of Federal, State, and local transpor-

1 tation (including highway) agencies authorized
2 under this subsection may be provided—

3 “(i) by the Secretary, at no cost to
4 the States and local governments, if the
5 Secretary determines that provision at no
6 cost is in the public interest; or

7 “(ii) by the State, through grants, co-
8 operative agreements, and contracts with
9 public and private agencies, institutions,
10 individuals, and the Institute.

11 “(B) PAYMENT OF FULL COST BY PRIVATE
12 PERSONS.—Private agencies, international or
13 foreign entities, and individuals shall pay the
14 full cost of any education and training (includ-
15 ing the cost of course development) received by
16 the agencies, entities, and individuals, unless
17 the Secretary determines that payment of a
18 lesser amount of the cost is of critical impor-
19 tance to the public interest.

20 “(6) TRAINING FELLOWSHIPS; COOPERATION.—

21 The Institute may—

22 “(A) engage in training activities author-
23 ized under this subsection, including the grant-
24 ing of training fellowships; and

1 “(B) exercise the authority of the Institute
2 independently or in cooperation with any—

3 “(i) other Federal or State agency;

4 “(ii) association, authority, institu-
5 tion, or organization;

6 “(iii) for-profit or nonprofit corpora-
7 tion;

8 “(iv) national or international entity;

9 “(v) foreign country; or

10 “(vi) person.

11 “(7) COLLECTION OF FEES.—

12 “(A) IN GENERAL.—In accordance with
13 this subsection, the Institute may assess and
14 collect fees to defray the costs of the Institute
15 in developing or administering education and
16 training programs under this subsection.

17 “(B) PERSONS SUBJECT TO FEES.—Fees
18 may be assessed and collected under this sub-
19 section only with respect to—

20 “(i) persons and entities for whom
21 education or training programs are devel-
22 oped or administered under this sub-
23 section; and

1 “(ii) persons and entities to whom
2 education or training is provided under
3 this subsection.

4 “(C) AMOUNT OF FEES.—The fees as-
5 sessed and collected under this subsection shall
6 be established in a manner that ensures that
7 the liability of any person or entity for a fee is
8 reasonably based on the proportion of the costs
9 referred to in subparagraph (A) that relate to
10 the person or entity.

11 “(D) USE.—All fees collected under this
12 subsection shall be used, without further appro-
13 priation, to defray costs associated with the de-
14 velopment or administration of education and
15 training programs authorized under this sub-
16 section.

17 “(8) RELATION TO FEES.—The funds made
18 available to carry out this subsection may be com-
19 bined with or held separate from the fees collected
20 under—

21 “(A) paragraph (7);

22 “(B) memoranda of understanding;

23 “(C) regional compacts; and

24 “(D) other similar agreements.

25 “(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

1 “(1) AUTHORITY.—The Secretary shall carry
2 out a local technical assistance program that will
3 provide access to surface transportation technology
4 to—

5 “(A) highway and transportation agencies
6 in urbanized areas;

7 “(B) highway and transportation agencies
8 in rural areas;

9 “(C) contractors that perform work for the
10 agencies; and

11 “(D) infrastructure security.

12 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
13 CONTRACTS.—The Secretary may make grants and
14 enter into cooperative agreements and contracts to
15 provide education and training, technical assistance,
16 and related support services to—

17 “(A) assist rural, local transportation
18 agencies and tribal governments, and the con-
19 sultants and construction personnel working for
20 the agencies and governments, to—

21 “(i) develop and expand expertise in
22 road and transportation areas (including
23 pavement, bridge, concrete structures,
24 intermodal connections, safety manage-
25 ment systems, intelligent transportation

1 systems, incident response, operations, and
2 traffic safety countermeasures);
3 “(ii) improve roads and bridges;
4 “(iii) enhance—
5 “(I) programs for the movement
6 of passengers and freight; and
7 “(II) intergovernmental transpor-
8 tation planning and project selection;
9 and
10 “(iv) deal effectively with special
11 transportation-related problems by pre-
12 paring and providing training packages,
13 manuals, guidelines, and technical resource
14 materials;
15 “(B) develop technical assistance for tour-
16 ism and recreational travel;
17 “(C) identify, package, and deliver trans-
18 portation technology and traffic safety informa-
19 tion to local jurisdictions to assist urban trans-
20 portation agencies in developing and expanding
21 their ability to deal effectively with transpor-
22 tation-related problems (particularly the pro-
23 motion of regional cooperation);
24 “(D) operate, in cooperation with State
25 transportation departments and universities—

1 “(i) local technical assistance program
2 centers designated to provide transpor-
3 tation technology transfer services to rural
4 areas and to urbanized areas; and

5 “(ii) local technical assistance pro-
6 gram centers designated to provide trans-
7 portation technical assistance to tribal gov-
8 ernments; and

9 “(E) allow local transportation agencies
10 and tribal governments, in cooperation with the
11 private sector, to enhance new technology im-
12 plementation.

13 “(c) RESEARCH FELLOWSHIPS.—

14 “(1) GENERAL AUTHORITY.—The Secretary,
15 acting independently or in cooperation with other
16 Federal agencies and instrumentalities, may make
17 grants for research fellowships for any purpose for
18 which research is authorized by this chapter.

19 “(2) DWIGHT DAVID EISENHOWER TRANSPOR-
20 TATION FELLOWSHIP PROGRAM.—The Secretary
21 shall establish and implement a transportation re-
22 search fellowship program, to be known as the
23 ‘Dwight David Eisenhower Transportation Fellow-
24 ship Program’, for the purpose of attracting quali-
25 fied students to the field of transportation.

1 **“§ 505. State planning and research**

2 “(a) IN GENERAL.—Two percent of the sums appor-
3 tioned to a State for fiscal year 2005 and each fiscal year
4 thereafter under sections 104 (other than subsections (f)
5 and (h)) and 144 shall be available for expenditure by the
6 State, in consultation with the Secretary, only for—

7 “(1) the conduct of engineering and economic
8 surveys and investigations;

9 “(2) the planning of—

10 “(A) future highway programs and local
11 public transportation systems; and

12 “(B) the financing of those programs and
13 systems, including metropolitan and statewide
14 planning under sections 134 and 135;

15 “(3) the development and implementation of
16 management systems under section 303;

17 “(4) the conduct of studies on—

18 “(A) the economy, safety, and convenience
19 of surface transportation systems; and

20 “(B) the desirable regulation and equitable
21 taxation of those systems;

22 “(5) research, development, and technology
23 transfer activities necessary in connection with the
24 planning, design, construction, management, and
25 maintenance of highway, public transportation, and
26 intermodal transportation systems;

1 “(6) the conduct of studies, research, and train-
2 ing relating to the engineering standards and con-
3 struction materials for surface transportation sys-
4 tems described in paragraph (5) (including the eval-
5 uation and accreditation of inspection and testing
6 and the regulation of and charging for the use of the
7 standards and materials); and

8 “(7) the conduct of activities relating to the
9 planning of real-time monitoring elements.

10 “(b) MINIMUM EXPENDITURES ON RESEARCH, DE-
11 VELOPMENT, AND TECHNOLOGY TRANSFER ACTIVI-
12 TIES.—

13 “(1) IN GENERAL.—Subject to paragraph (2),
14 not less than 25 percent of the funds subject to sub-
15 section (a) that are apportioned to a State for a fis-
16 cal year shall be expended by the State for research,
17 development, and technology transfer activities
18 that—

19 “(A) are described in subsection (a); and

20 “(B) relate to highway, public transpor-
21 tation, and intermodal transportation systems.

22 “(2) WAIVERS.—The Secretary may waive the
23 application of paragraph (1) with respect to a State
24 for a fiscal year if—

1 “(A) the State certifies to the Secretary
2 for the fiscal year that total expenditures by the
3 State for transportation planning under sec-
4 tions 134 and 135 will exceed 75 percent of the
5 funds described in paragraph (1); and

6 “(B) the Secretary accepts the certification
7 of the State.

8 “(3) NONAPPLICABILITY OF ASSESSMENT.—
9 Funds expended under paragraph (1) shall not be
10 considered to be part of the extramural budget of
11 the agency for the purpose of section 9 of the Small
12 Business Act (15 U.S.C. 638).

13 “(c) FEDERAL SHARE.—The Federal share of the
14 cost of a project carried out using funds subject to sub-
15 section (a) shall be the share applicable under section
16 120(b), as adjusted under subsection (d) of that section.

17 “(d) ADMINISTRATION OF SUMS.—Funds subject to
18 subsection (a) shall be—

19 “(1) combined and administered by the Sec-
20 retary as a single fund; and

21 “(2) available for obligation for the period de-
22 scribed in section 118(b)(2).

23 “(e) ELIGIBLE USE OF STATE PLANNING AND RE-
24 SEARCH FUNDS.—A State, in coordination with the Sec-

1 retary, may obligate funds made available to carry out this
2 section for any purpose authorized under section 506(a).

3 **“§ 506. International highway transportation out-**
4 **reach program**

5 “(a) ESTABLISHMENT.—The Secretary may establish
6 an international highway transportation outreach
7 program—

8 “(1) to inform the United States highway com-
9 munity of technological innovations in foreign coun-
10 tries that could significantly improve highway trans-
11 portation in the United States;

12 “(2) to promote United States highway trans-
13 portation expertise, goods, and services in foreign
14 countries; and

15 “(3) to increase transfers of United States
16 highway transportation technology to foreign coun-
17 tries.

18 “(b) ACTIVITIES.—Activities carried out under the
19 program may include—

20 “(1) the development, monitoring, assessment,
21 and dissemination in the United States of informa-
22 tion about highway transportation innovations in
23 foreign countries that could significantly improve
24 highway transportation in the United States;

1 “(2) research, development, demonstration,
2 training, and other forms of technology transfer and
3 exchange;

4 “(3) the provision to foreign countries, through
5 participation in trade shows, seminars, expositions,
6 and other similar activities, of information relating
7 to the technical quality of United States highway
8 transportation goods and services;

9 “(4) the offering of technical services of the
10 Federal Highway Administration that cannot be
11 readily obtained from private sector firms in the
12 United States for incorporation into the proposals of
13 those firms undertaking highway transportation
14 projects outside the United States, if the costs of the
15 technical services will be recovered under the terms
16 of the project;

17 “(5) the conduct of studies to assess the need
18 for, or feasibility of, highway transportation im-
19 provements in foreign countries; and

20 “(6) the gathering and dissemination of infor-
21 mation on foreign transportation markets and indus-
22 tries.

23 “(c) COOPERATION.—The Secretary may carry out
24 this section in cooperation with any appropriate—

25 “(1) Federal, State, or local agency;

1 “(2) authority, association, institution, or orga-
2 nization;

3 “(3) for-profit or nonprofit corporation;

4 “(4) national or international entity;

5 “(5) foreign country; or

6 “(6) person.

7 “(d) FUNDS.—

8 “(1) CONTRIBUTIONS.—Funds available to
9 carry out this section shall include funds deposited
10 by any cooperating organization or person into a
11 special account of the Treasury established for this
12 purpose.

13 “(2) ELIGIBLE USES OF FUNDS.—The funds
14 deposited into the account, and other funds available
15 to carry out this section, shall be available to cover
16 the cost of any activity eligible under this section,
17 including the cost of—

18 “(A) promotional materials;

19 “(B) travel;

20 “(C) reception and representation ex-
21 penses; and

22 “(D) salaries and benefits.

23 “(3) REIMBURSEMENTS FOR SALARIES AND
24 BENEFITS.—Reimbursements for salaries and bene-
25 fits of Department of Transportation employees pro-

1 viding services under this section shall be credited to
2 the account.

3 “(e) REPORT—For each fiscal year, the Secretary
4 shall submit to the Committee on Environment and Public
5 Works of the Senate and the Committee on Transpor-
6 tation and Infrastructure of the House of Representatives
7 a report that describes the destinations and individual trip
8 costs of international travel conducted in carrying out ac-
9 tivities described in this section.

10 **“§ 507. Surface transportation-environmental cooper-**
11 **ative research program**

12 “(a) IN GENERAL.—The Secretary shall establish
13 and carry out a surface transportation-environmental co-
14 operative research program.

15 “(b) CONTENTS.—The program carried out under
16 this section may include research—

17 “(1) to develop more accurate models for evalu-
18 ating transportation control measures and transpor-
19 tation system designs that are appropriate for use
20 by State and local governments (including metropoli-
21 tan planning organizations) in designing implemen-
22 tation plans to meet Federal, State, and local envi-
23 ronmental requirements;

24 “(2) to improve understanding of the factors
25 that contribute to the demand for transportation;

1 “(3) to develop indicators of economic, social,
2 and environmental performance of transportation
3 systems to facilitate analysis of potential alter-
4 natives;

5 “(4) to meet additional priorities as determined
6 by the Secretary in the strategic planning process
7 under section 508; and

8 “(5) to refine, through the conduct of work-
9 shops, symposia, and panels, and in consultation
10 with stakeholders (including the Department of En-
11 ergy, the Environmental Protection Agency, and
12 other appropriate Federal and State agencies and
13 associations) the scope and research emphases of the
14 program.

15 “(c) PROGRAM ADMINISTRATION.—The Secretary
16 shall—

17 “(1) administer the program established under
18 this section; and

19 “(2) ensure, to the maximum extent prac-
20 ticable, that—

21 “(A) the best projects and researchers are
22 selected to conduct research in the priority
23 areas described in subsection (b)—

24 “(i) on the basis of merit of each sub-
25 mitted proposal; and

1 “(D) ensure, to the maximum extent prac-
2 ticable, that planning and reporting activities
3 carried out under this section are coordinated
4 with all other surface transportation planning
5 and reporting requirements.

6 “(2) SURFACE TRANSPORTATION RESEARCH
7 TECHNOLOGY ADVISORY COMMITTEE.—

8 “(A) ESTABLISHMENT.—Not later than 90
9 days after the date of enactment of the Safe,
10 Accountable, Flexible, and Efficient Transpor-
11 tation Equity Act of 2005, the Secretary shall
12 establish a committee to be known as the ‘Sur-
13 face Transportation Research Technology Advi-
14 sory Committee’ (referred to in this section as
15 the ‘Committee’).

16 “(B) MEMBERSHIP.—The Committee shall
17 be composed of 12 members appointed by the
18 Secretary—

19 “(i) each of which shall have expertise
20 in a particular area relating to Federal
21 surface transportation programs,
22 including—

23 “(I) safety;

24 “(II) operations;

1 “(III) infrastructure (including
2 pavements and structures);
3 “(IV) planning and environment;
4 “(V) policy; and
5 “(VI) asset management; and
6 “(ii) of which—
7 “(I) 3 members shall be individ-
8 uals representing the Federal Govern-
9 ment;
10 “(II) 3 members—
11 “(aa) shall be exceptionally
12 qualified to serve on the Com-
13 mittee, as determined by the Sec-
14 retary, based on education, train-
15 ing, and experience; and
16 “(bb) shall not be officers or
17 employees of the United States;
18 “(III) 3 members—
19 “(aa) shall represent the
20 transportation industry (includ-
21 ing the pavement industry); and
22 “(bb) shall not be officers or
23 employees of the United States;
24 and

1 “(IV) 3 members shall represent
2 State transportation departments
3 from 3 different geographical regions
4 of the United States.

5 “(C) MEETINGS.—The advisory sub-
6 committees shall meet on a regular basis, but
7 not less than twice each year.

8 “(D) DUTIES.—The Committee shall pro-
9 vide to the Secretary, on a continuous basis, ad-
10 vice and guidance relating to—

11 “(i) the determination of surface
12 transportation research priorities;

13 “(ii) the improvement of the research
14 planning and implementation process;

15 “(iii) the design and selection of re-
16 search projects;

17 “(iv) the review of research results;

18 “(v) the planning and implementation
19 of technology transfer activities and

20 “(vi) the formulation of the surface
21 transportation research and technology de-
22 ployment and deployment strategic plan re-
23 quired under subsection (c).

24 “(E) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There is authorized to be appropriated

1 from the Highway Trust Fund (other than the
2 Mass Transit Account) to carry out this para-
3 graph \$178,616 for each fiscal year.

4 “(b) IMPLEMENTATION.—The Secretary shall—

5 “(1) provide for the integrated planning, coordi-
6 nation, and consultation among the operating ad-
7 ministrations of the Department of Transportation,
8 all other Federal agencies with responsibility for sur-
9 face transportation research and technology develop-
10 ment, State and local governments, institutions of
11 higher education, industry, and other private and
12 public sector organizations engaged in surface trans-
13 portation-related research and development activi-
14 ties; and

15 “(2) ensure that the surface transportation re-
16 search and technology development programs of the
17 Department do not duplicate other Federal, State,
18 or private sector research and development pro-
19 grams.

20 “(c) SURFACE TRANSPORTATION RESEARCH AND
21 TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

22 “(1) IN GENERAL.—After receiving, and based
23 on, extensive consultation and input from stake-
24 holders representing the transportation community
25 and the Surface Transportation Research Advisory

1 Committee, the Secretary shall, not later than 1
2 year after the date of enactment of the Safe, Ac-
3 countable, Flexible, and Efficient Transportation
4 Equity Act of 2005, complete, and shall periodically
5 update thereafter, a strategic plan for each of the
6 core surface transportation research areas,
7 including—

8 “(A) safety;

9 “(B) operations;

10 “(C) infrastructure (including pavements
11 and structures);

12 “(D) planning and environment;

13 “(E) policy; and

14 “(F) asset management.

15 “(2) COMPONENTS.—The strategic plan shall
16 specify—

17 “(A) surface transportation research objec-
18 tives and priorities;

19 “(B) specific surface transportation re-
20 search projects to be conducted;

21 “(C) recommended technology transfer ac-
22 tivities to promote the deployment of advances
23 resulting from the surface transportation re-
24 search conducted; and

1 “(D) short- and long-term technology de-
2 velopment and deployment activities.

3 “(3) REVIEW AND SUBMISSION OF FINDINGS.—

4 The Secretary shall enter into a contract with the
5 Transportation Research Board of the National
6 Academy of Sciences, on behalf of the Research and
7 Technology Coordinating Committee of the National
8 Research Council, under which—

9 “(A) the Transportation Research Board
10 shall—

11 “(i) review the research and tech-
12 nology planning and implementation proc-
13 ess used by Federal Highway Administra-
14 tion; and

15 “(ii) evaluate each of the strategic
16 plans prepared under this subsection—

17 “(I) to ensure that sufficient
18 stakeholder input is being solicited
19 and considered throughout the prepa-
20 ration process; and

21 “(II) to offer recommendations
22 relevant to research priorities, project
23 selection, and deployment strategies;
24 and

1 “(B) the Secretary shall ensure that the
2 Research and Technology Coordinating Com-
3 mittee, in a timely manner, informs the Com-
4 mittee on Environment and Public Works of the
5 Senate and the Committee on Transportation
6 and Infrastructure of the House of Representa-
7 tives of the findings of the review and evalua-
8 tion under subparagraph (A).

9 “(4) RESPONSES OF SECRETARY.—Not later
10 than 60 days after the date of completion of the
11 strategic plan under this subsection, the Secretary
12 shall submit to the Committee on Environment and
13 Public Works of the Senate and the Committee on
14 Transportation and Infrastructure of the House of
15 Representatives written responses to each of the rec-
16 ommendations of the Research and Technology Co-
17 ordinating Committee under paragraph
18 (3)(A)(ii)(II).

19 “(d) CONSISTENCY WITH GOVERNMENT PERFORM-
20 ANCE AND RESULTS ACT OF 1993.—The plans and re-
21 ports developed under this section shall be consistent with
22 and incorporated as part of the plans developed under sec-
23 tion 306 of title 5 and sections 1115 and 1116 of title
24 31.

1 **“§ 509. New strategic highway research program**

2 “(a) IN GENERAL.—The National Research Council
3 shall establish and carry out, through fiscal year 2009,
4 a new strategic highway research program.

5 “(b) BASIS; PRIORITIES.—With respect to the pro-
6 gram established under subsection (a)—

7 “(1) the program shall be based on—

8 “(A) National Research Council Special
9 Report No. 260, entitled ‘Strategic Highway
10 Research’; and

11 “(B) the results of the detailed planning
12 work subsequently carried out to scope the re-
13 search areas through National Cooperative Re-
14 search Program Project 20–58.

15 “(2) the scope and research priorities of the
16 program shall—

17 “(A) be refined through stakeholder input
18 in the form of workshops, symposia, and panels;
19 and

20 “(B) include an examination of—

21 “(i) the roles of highway infrastruc-
22 ture, drivers, and vehicles in fatalities on
23 public roads;

24 “(ii) high-risk areas and activities as-
25 sociated with the greatest numbers of high-
26 way fatalities;

1 “(iii) the roles of various levels of gov-
2 ernment agencies and non-governmental
3 organizations in reducing highway fatali-
4 ties (including recommendations for meth-
5 ods of strengthening highway safety part-
6 nerships);

7 “(iv) measures that may save the
8 greatest number of lives in the short- and
9 long-term;

10 “(v) renewal of aging infrastructure
11 with minimum impact on users of facilities;

12 “(vi) driving behavior and likely crash
13 causal factors to support improved coun-
14 termeasures;

15 “(vii) reduction in congestion due to
16 nonrecurring congestion;

17 “(viii) planning and designing of new
18 road capacity to meet mobility, economic,
19 environmental, and community needs;

20 “(3) the program shall consider, at a minimum,
21 the results of studies relating to the implementation
22 of the Strategic Highway Safety Plan prepared by
23 the American Association of State Highway and
24 Transportation Officials; and

1 “(4) the research results of the program, ex-
2 pressed in terms of technologies, methodologies, and
3 other appropriate categorizations, shall be dissemi-
4 nated to practicing engineers as soon as practicable
5 for their use.

6 “(c) PROGRAM ADMINISTRATION.—In carrying out
7 the program under this section, the National Research
8 Council shall ensure, to the maximum extent practicable,
9 that—

10 “(1) the best projects and researchers are se-
11 lected to conduct research for the program and pri-
12 orities described in subsection (b)—

13 “(A) on the basis of the merit of each sub-
14 mitted proposal; and

15 “(B) through the use of open solicitations
16 and selection by a panel of appropriate experts;

17 “(2) the National Research Council acquires a
18 qualified, permanent core staff with the ability and
19 expertise to manage a large research program and
20 multiyear budget;

21 “(3) the stakeholders are involved in the gov-
22 ernance of the program, at the executive, overall
23 program, and technical levels, through the use of ex-
24 pert panels and committees; and

1 “(4) there is no duplication of research effort
2 between the program established under this section
3 and the surface transportation-environment coopera-
4 tive research program established under section 507
5 or any other research effort of the Department.

6 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
7 retary may make grants to, and enter into cooperative
8 agreements with, the National Academy of Sciences to
9 carry out such activities relating to research, technology,
10 and technology transfer described in subsections (b) and
11 (c) as the Secretary determines to be appropriate.

12 “(e) REPORT ON IMPLEMENTATION OF RESULTS.—

13 “(1) IN GENERAL.—Not later than October 1,
14 2007, the Secretary shall enter into a contract with
15 the Transportation Research Board of the National
16 Academy of Sciences under which the Transpor-
17 tation Research Board shall complete a report on
18 the strategies and administrative structure to be
19 used for implementation of the results of new stra-
20 tegic highway research program.

21 “(2) COMPONENTS.—The report under para-
22 graph (1) shall include, with respect to the new stra-
23 tegic highway research program—

24 “(A) an identification of the most prom-
25 ising results of research under the program (in-

1 including the persons most likely to use the re-
2 sults);

3 “(B) a discussion of potential incentives
4 for, impediments to, and methods of, imple-
5 menting those results;

6 “(C) an estimate of costs that would be in-
7 curred in expediting implementation of those re-
8 sults; and

9 “(D) recommendations for the way in
10 which implementation of the results of the pro-
11 gram under this section should be conducted,
12 coordinated, and supported in future years, in-
13 cluding a discussion of the administrative struc-
14 ture and organization best suited to carry out
15 those responsibilities.

16 “(3) CONSULTATION.—In developing the report,
17 the Transportation Research Board shall consult
18 with a wide variety of stakeholders, including—

19 “(A) the American Association of State
20 highway Officials;

21 “(B) the Federal Highway Administration;
22 and

23 “(C) the Surface Transportation Research
24 Technology Advisory Committee.

1 “(4) SUBMISSION.—Not later than February 1,
2 2009, the Secretary shall submit to the Committee
3 on Environment and Public Works of the Senate
4 and the Committee on Transportation and Infra-
5 structure of the House of Representatives the report
6 under this subsection.

7 **“§ 510. University transportation centers**

8 “(a) CENTERS.—

9 “(1) IN GENERAL.—During fiscal year 2005,
10 the Secretary shall provide grants to 40 nonprofit
11 institutions of higher learning (or consortia of insti-
12 tutions of higher learning) to establish centers to ad-
13 dress transportation design, management, research,
14 development, and technology matters, especially the
15 education and training of greater numbers of indi-
16 viduals to enter into the professional field of trans-
17 portation.

18 “(2) DISTRIBUTION OF CENTERS.—Not more
19 than 1 university transportation center (or lead uni-
20 versity in a consortia of institutions of higher learn-
21 ing), other than a center or university selected
22 through a competitive process, may be located in any
23 State.

1 “(3) IDENTIFICATION OF CENTERS.—The uni-
 2 versity transportation centers established under this
 3 section shall—

4 “(A) comply with applicable requirements
 5 under subsection (c); and

6 “(B) be located at the institutions of high-
 7 er learning specified in paragraph (4).

8 “(4) IDENTIFICATION OF GROUPS.—For the
 9 purpose of making grants under this subsection, the
 10 following grants are identified:

11 “(A) GROUP A.—Group A shall consist of
 12 the 10 regional centers selected under sub-
 13 section (b).

14 “(B) GROUP B.—Group B shall consist of
 15 the following:

16 “(i) [_____].

17 “(ii) [_____].

18 “(iii) [_____].

19 “(iv) [_____].

20 “(v) [_____].

21 “(vi) [_____].

22 “(vii) [_____].

23 “(viii) [_____].

24 “(ix) [_____].

25 “(x) [_____].

1 “(xi) [_____].

2 “(C) GROUP C.—Group C shall consist of
3 the following:

4 “(i) [_____].

5 “(ii) [_____].

6 “(iii) [_____].

7 “(iv) [_____].

8 “(v) [_____].

9 “(vi) [_____].

10 “(vii) [_____].

11 “(viii) [_____].

12 “(ix) [_____].

13 “(x) [_____].

14 “(xi) [_____].

15 “(D) GROUP D.—Group D shall consist of
16 the following:

17 “(i) [_____].

18 “(ii) [_____].

19 “(iii) [_____].

20 “(iv) [_____].

21 “(v) [_____].

22 “(vi) [_____].

23 “(vii) [_____].

24 “(viii) [_____].

25 “(b) REGIONAL CENTERS.—

1 “(1) IN GENERAL.—Not later than September
2 30, 2005, the Secretary shall provide to nonprofit
3 institutions of higher learning (or consortia of insti-
4 tutions of higher learning) grants to be used during
5 the period of fiscal years 2005 through 2009 to es-
6 tablish and operate 1 university transportation cen-
7 ter in each of the 10 Federal regions that comprise
8 the Standard Federal Regional Boundary System.

9 “(2) SELECTION OF REGIONAL CENTERS.—

10 “(A) PROPOSALS.—In order to be eligible
11 to receive a grant under this subsection, an in-
12 stitution described in paragraph (1) shall sub-
13 mit to the Secretary a proposal, in response to
14 any request for proposals that shall be made by
15 the Secretary, that is in such form and contains
16 such information as the Secretary shall pre-
17 scribe.

18 “(B) REQUEST SCHEDULE.—The Sec-
19 retary shall request proposals once for the pe-
20 riod of fiscal years 2005 and 2006 and once for
21 the period of fiscal years 2007 through 2009.

22 “(C) ELIGIBILITY.—Any institution of
23 higher learning (or consortium of institutions of
24 higher learning) that meets the criteria de-
25 scribed in subsection (c) (including any institu-

1 tion identified in subsection (a)(4)) may apply
2 for a grant under this subsection.

3 “(D) SELECTION CRITERIA.—The Sec-
4 retary shall select each recipient of a grant
5 under this subsection through a competitive
6 process on the basis of—

7 “(i) the location of the center within
8 the Federal region to be served;

9 “(ii) the demonstrated research capa-
10 bilities and extension resources available to
11 the recipient to carry out this section;

12 “(iii) the capability of the recipient to
13 provide leadership in making national and
14 regional contributions to the solution of
15 immediate and long-range transportation
16 problems;

17 “(iv) the demonstrated ability of the
18 recipient to disseminate results of trans-
19 portation research and education programs
20 through a statewide or regionwide con-
21 tinuing education program; and

22 “(v) the strategic plan that the recipi-
23 ent proposes to carry out using funds from
24 the grant.

1 “(E) SELECTION PROCESS.—In selecting
2 the recipients of grants under this subsection,
3 the Secretary shall consult with, and consider
4 the advice of—

5 “(i) the Research and Special Pro-
6 grams Administration;

7 “(ii) the Federal Highway Adminis-
8 tration; and

9 “(iii) the Federal Transit Administra-
10 tion.

11 “(c) CENTER REQUIREMENTS.—

12 “(1) IN GENERAL.—With respect to a univer-
13 sity transportation center established under sub-
14 section (a) or (b), the institution or consortium that
15 receives a grant to establish the center—

16 “(A) shall annually contribute at least
17 \$250,000 to the operation and maintenance of
18 the center, except that payment by the institu-
19 tion or consortium of the salary required for
20 transportation-related faculty and staff for a
21 period greater than 90 days may not be counted
22 against that contribution;

23 “(B) shall have established, as of the date
24 of receipt of the grant, undergraduate or grad-
25 uate programs in—

1 “(i) civil engineering;

2 “(ii) transportation engineering;

3 “(iii) transportation systems manage-
4 ment and operations; or

5 “(iv) any other field significantly re-
6 lated to surface transportation systems, as
7 determined by the Secretary; and

8 “(C) not later than 120 days after the date
9 on which the institution or consortium receives
10 notice of selection as a site for the establish-
11 ment of a university transportation center
12 under this section, shall submit to the Secretary
13 a 6-year program plan for the university trans-
14 portation center that includes, with respect to
15 the center—

16 “(i) a description of the purposes of
17 programs to be conducted by the center;

18 “(ii) a description of the under-
19 graduate and graduate transportation edu-
20 cation efforts to be carried out by the cen-
21 ter;

22 “(iii) a description of the nature and
23 scope of research to be conducted by the
24 center;

1 “(iv) a list of personnel, including the
2 roles and responsibilities of those personnel
3 within the center; and

4 “(v) a detailed budget, including the
5 amount of contributions by the institution
6 or consortium to the center; and

7 “(D) shall establish an advisory committee
8 that—

9 “(i) is composed of a representative
10 from each of the State transportation de-
11 partment of the State in which the institu-
12 tion or consortium is located, the Depart-
13 ment of Transportation, and the institu-
14 tion or consortia, as appointed by those re-
15 spective entities;

16 “(ii) in accordance with paragraph
17 (2), shall review and approve or disapprove
18 the plan of the institution or consortium
19 under subparagraph (C); and

20 “(iii) shall, to the maximum extent
21 practicable, ensure that the proposed re-
22 search to be carried out by the university
23 transportation center will contribute to the
24 national highway research and technology
25 agenda, as periodically updated by the Sec-

1 retary, in consultation with stakeholders
2 representing the highway community.

3 “(2) PEER REVIEW.—

4 “(A) IN GENERAL.—The Secretary shall
5 require peer review for each report on research
6 carried out using funds made available for this
7 section.

8 “(B) PURPOSES OF PEER REVIEW.—Peer
9 review of a report under this section shall be
10 carried out to evaluate—

11 “(i) the relevance of the research de-
12 scribed in the report with respect to the
13 strategic plan under, and the goals of, this
14 section;

15 “(ii) the research covered by the re-
16 port, and to recommend modifications to
17 individual project plans;

18 “(iii) the results of the research be-
19 fore publication of those results; and

20 “(iv) the overall outcomes of the re-
21 search.

22 “(C) INTERNET AVAILABILITY.—Each re-
23 port under this section that is received by the
24 Secretary shall be published—

1 “(i) by the Secretary, on the Internet
2 website of the Department of Transpor-
3 tation; and

4 “(ii) by the University Transportation
5 Center.

6 “(3) APPROVAL OF PLANS—A plan of an insti-
7 tution or consortium described in paragraph (1)(C)
8 shall not be submitted to the Secretary until such
9 time as the advisory committee established under
10 paragraph (1)(D) reviews and approves the plan.

11 “(4) FAILURE TO COMPLY.—If a recipient of a
12 grant under this subsection fails to submit a pro-
13 gram plan acceptable to the Secretary and in accord-
14 ance with paragraph (1)(C)—

15 “(A) the recipient shall forfeit the grant
16 and the selection of the recipient as a site for
17 the establishment of a university transportation
18 center; and

19 “(B) the Secretary shall select a replace-
20 ment recipient for the forfeited grant.

21 “(5) APPLICABILITY.—This subsection does not
22 apply to any research funds received in accordance
23 with a competitive contract offered and entered into
24 by the Federal Highway Administration.

1 “(d) OBJECTIVES.—Each university transportation
2 center established under subsection (a) or (b) shall carry
3 out—

4 “(1) undergraduate or graduate education pro-
5 grams that include—

6 “(A) multidisciplinary coursework; and

7 “(B) opportunities for students to partici-
8 pate in research;

9 “(2) basic and applied research, the results and
10 products of which shall be judged by peers or other
11 experts in the field so as to advance the body of
12 knowledge in transportation; and

13 “(3) an ongoing program of technology transfer
14 that makes research results available to potential
15 users in such form as will enable the results to be
16 implemented, used, or otherwise applied.

17 “(e) MAINTENANCE OF EFFORT.—To be eligible to
18 receive a grant under this section, an applicant shall—

19 “(1) enter into an agreement with the Secretary
20 to ensure that the applicant will maintain total ex-
21 penditures from all other sources to establish and
22 operate a university transportation center and re-
23 lated educational and research activities at a level
24 that is at least equal to the average level of those

1 expenditures during the 2 fiscal years before the
2 date on which the grant is provided;

3 “(2) provide the annual institutional contribu-
4 tion required under subsection (c)(1); and

5 “(3) submit to the Secretary, in a timely man-
6 ner, for use by the Secretary in the preparation of
7 the annual research report under section 508(e)(5)
8 of title 23, an annual report on the projects and ac-
9 tivities of the university transportation center for
10 which funds are made available under section 2001
11 of the Safe, Accountable, Flexible, and Efficient
12 Transportation Equity Act of 2005 that contains, at
13 a minimum, for the fiscal year covered by the report,
14 a description of—

15 “(A) the goals of the center;

16 “(B) the educational activities carried out
17 by the center (including a detailed summary of
18 the budget for those educational activities);

19 “(C) teaching activities of faculty at the
20 center;

21 “(D) each research project carried out by
22 the center, including—

23 “(i) the identity and location of each
24 investigator working on a research project;

1 “(ii) the overall funding amount for
2 each research project (including the
3 amounts expended for the project as of the
4 date of the report);

5 “(iii) the current schedule for each re-
6 search project; and

7 “(iv) the results of each research
8 project through the date of submission of
9 the report, with particular emphasis on re-
10 sults for the fiscal year covered by the re-
11 port; and

12 “(E) overall technology transfer and imple-
13 mentation efforts of the center.

14 “(f) PROGRAM COORDINATION.—The Secretary
15 shall—

16 “(1) coordinate the research, education, train-
17 ing, and technology transfer activities carried out by
18 recipients of grants under this section; and

19 “(2) establish and operate a clearinghouse for,
20 and disseminate, the results of those activities.

21 “(g) FUNDING.—

22 “(1) NUMBER AND AMOUNT OF GRANTS.—The
23 Secretary shall make the following grants under this
24 subsection:

1 “(A) GROUP A.—For each of fiscal years
2 2005 through 2009, the Secretary shall make a
3 grant in the amount of \$893,082 to each of the
4 institutions in group A (as described in sub-
5 section (a)(4)(A)).

6 “(B) GROUP B.—The Secretary shall make
7 a grant to each of the institutions in group B
8 (as described in subsection (a)(4)(B)) in the
9 amount of—

10 “(i) \$357,240 for fiscal year 2005;

11 and

12 “(ii) \$535,860 for each of fiscal years
13 2006 and 2007.

14 “(C) GROUP C.—For each of fiscal years
15 2005 through 2007, the Secretary shall make a
16 grant in the amount of \$893,082 to each of the
17 institutions in group C (as described in sub-
18 section (a)(4)(C)).

19 “(D) GROUP D.—For each of fiscal years
20 2005 through 2009, the Secretary shall make a
21 grant in the amount of \$1,786,164 to each of
22 the institutions in group D (as described in
23 subsection (a)(4)(D)).

24 “(E) LIMITED GRANTS FOR GROUPS B AND
25 C.—For each of fiscal years 2008 and 2009, of

1 the institutions classified in groups B and C (as
2 described in subsection (a)(4)(B)), the Sec-
3 retary shall select and make grants in an
4 amount totaling \$35,724,000 to not more than
5 15 institutions.

6 “(2) USE OF FUNDS—

7 “(A) IN GENERAL.—Of the funds made
8 available for a fiscal year to a university trans-
9 portation center established under subsection
10 (a) or (b)—

11 “(i) not less than \$250,000 shall be
12 used to establish and maintain new faculty
13 positions for the teaching of under-
14 graduate, transportation-related courses;

15 “(ii) not more than \$500,000 for the
16 fiscal year, or \$1,000,000 in the aggregate,
17 may be used to construct or improve trans-
18 portation-related laboratory facilities; and

19 “(iii) not more than \$300,000 for the
20 fiscal year may be used for student intern-
21 ships of not more than 180 days in dura-
22 tion to enable students to gain experience
23 by working on transportation projects as
24 interns with design or construction firms.

1 “(B) FACILITIES AND ADMINISTRATION
2 FEE.—Not more than 10 percent of any grant
3 made available to a university transportation
4 center (or any institution or consortium that es-
5 tablishes such a center) for a fiscal year may be
6 used to pay to the appropriate nonprofit institu-
7 tion of higher learning any administration and
8 facilities fee (or any similar overhead fee) for
9 the fiscal year.

10 “(3) LIMITATION ON AVAILABILITY OF
11 FUNDS.—Funds made available under this sub-
12 section shall remain available for obligation for a pe-
13 riod of 2 years after September 30 of the fiscal year
14 for which the funds are authorized.

15 **“§ 511. Multistate corridor operations and manage-**
16 **ment**

17 “(a) IN GENERAL.—The Secretary shall encourage
18 multistate cooperative agreements, coalitions, or other ar-
19 rangements to promote regional cooperation, planning,
20 and shared project implementation for programs and
21 projects to improve transportation system management
22 and operations.

23 “(b) INTERSTATE ROUTE I-95 CORRIDOR COALI-
24 TION TRANSPORTATION SYSTEMS MANAGEMENT AND OP-
25 ERATIONS.—

1 “(1) IN GENERAL.—The Secretary shall make
2 grants under this subsection to States to continue
3 intelligent transportation system management and
4 operations in the Interstate Route I–95 corridor coa-
5 lition region initiated under the Intermodal Surface
6 Transportation Efficiency Act of 1991 (Public Law
7 102–240).

8 “(2) FUNDING.—Of the amounts made avail-
9 able under section 2001(a)(4) of the Safe, Account-
10 able, Flexible, and Efficient Transportation Equity
11 Act of 2005, the Secretary shall use to carry out
12 this subsection—

13 “(A) \$8,930,818 for fiscal year 2005;

14 “(B) \$10,716,981 for fiscal year 2006;

15 “(C) \$10,716,981 for fiscal year 2007;

16 “(D) \$10,716,981 for fiscal year 2008;

17 and

18 “(E) \$10,716,981 for fiscal year 2009.

19 **“§ 512. Transportation analysis simulation system**

20 “(a) CONTINUATION OF TRANSIMS DEVELOP-
21 MENT.—

22 “(1) IN GENERAL.—The Secretary shall con-
23 tinue the deployment of the advanced transportation
24 model known as the ‘Transportation Analysis Sim-
25 ulation System’ (referred to in this section as

1 ‘TRANSIMS’) developed by the Los Alamos Na-
2 tional Laboratory.

3 “(2) REQUIREMENTS AND CONSIDERATIONS.—
4 In carrying out paragraph (1), the Secretary shall—

5 “(A) further improve TRANSIMS to re-
6 duce the cost and complexity of using the
7 TRANSIMS;

8 “(B) continue development of TRANSIMS
9 for applications to facilitate transportation
10 planning, regulatory compliance, and response
11 to natural disasters and other transportation
12 disruptions; and

13 “(C) assist State transportation depart-
14 ments and metropolitan planning organizations,
15 especially smaller metropolitan planning organi-
16 zations, in the implementation of TRANSIMS
17 by providing training and technical assistance.

18 “(b) ELIGIBLE ACTIVITIES.—The Secretary shall use
19 funds made available to carry out this section—

20 “(1) to further develop TRANSIMS for addi-
21 tional applications, including—

22 “(A) congestion analyses;

23 “(B) major investment studies;

24 “(C) economic impact analyses;

25 “(D) alternative analyses;

1 “(E) freight movement studies;

2 “(F) emergency evacuation studies;

3 “(G) port studies; and

4 “(H) airport access studies;

5 “(2) provide training and technical assistance
6 with respect to the implementation and application
7 of TRANSIMS to States, local governments, and
8 metropolitan planning organizations with responsi-
9 bility for travel modeling;

10 “(3) develop methods to simulate the national
11 transportation infrastructure as a single, integrated
12 system for the movement of individuals and goods;

13 “(4) provide funding to State transportation de-
14 partments and metropolitan planning organizations
15 for implementation of TRANSIMS.

16 “(c) ALLOCATION OF FUNDS.—Of the funds made
17 available to carry out this section for each fiscal year, not
18 less than 15 percent shall be allocated for activities de-
19 scribed in subsection (b)(3).

20 “(d) FUNDING.—Of the amounts made available
21 under section 2001(a) of the Safe, Accountable, Flexible,
22 and Efficient Transportation Equity Act of 2005 for each
23 of fiscal years 2005 through 2009, the Secretary shall use
24 \$893,082 to carry out this section.

1 “(e) AVAILABILITY OF FUNDS.—Funds made avail-
2 able under this section shall be available to the Secretary
3 through the Transportation Planning, Research, and De-
4 velopment Account of the Office of the Secretary.”.

5 (b) OTHER UNIVERSITY FUNDING.—No university
6 (other than university transportation centers specified in
7 section 510 of title 23, United States Code (as added by
8 subsection (a)) shall receive funds made available under
9 section 2001 to carry out research unless the university
10 is selected to receive the funds—

11 (1) through a competitive process that incor-
12 porates merit-based peer review; and

13 (2) based on a proposal submitted to the Sec-
14 retary by the university in response to a request for
15 proposals issued by the Secretary.

16 (c) CONFORMING AMENDMENT.—Section 5505 of
17 title 49, United States Code, is repealed.

18 **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL**

19 **ANALYSIS EFFORTS.**

20 (a) DEFINITIONS.—In this section:

21 (1) ADMINISTRATION.—The term “Administra-
22 tion” means the Federal Highway Administration.

23 (2) BOARD.—The term “Board” means the
24 Transportation Research Board of the National
25 Academy of Sciences.

1 (3) BUREAU.—The term “Bureau” means the
2 Bureau of Transportation Statistics.

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

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

7 (b) PRIORITY AREAS OF EFFORT.—

8 (1) STATISTICAL STANDARDS.—The Secretary
9 shall direct the Bureau to assume the role of the
10 lead agency in working with other agencies of the
11 Department to establish, by not later the date that
12 is 1 year after the date of enactment of this Act,
13 statistical standards for the Department.

14 (2) STATISTICAL ANALYSIS EFFORT.—

15 (A) IN GENERAL.—The Bureau shall pro-
16 vide to the Secretary, on an annual basis, an
17 overview of the level of effort expended on sta-
18 tistical analyses by each agency within the De-
19 partment.

20 (B) DUTY OF AGENCIES.—Each agency of
21 the Department shall provide to the Bureau
22 such information as the Bureau may require in
23 carrying out subparagraph (A).

24 (3) NATIONAL SECURITY.—The Bureau shall—

1 (A) conduct a study of the ways in which
2 transportation statistics are and may be used
3 for the purpose of national security; and

4 (B) submit to the Transportation Security
5 Administration recommendations for means by
6 which the use of transportation statistics for
7 the purpose of national security may be im-
8 proved.

9 (4) MODERNIZATION.—The Bureau shall de-
10 velop new protocols for adapting data collection and
11 delivery efforts in existence as of the date of enact-
12 ment of this Act to deliver information in a more
13 timely and frequent fashion.

14 (c) STUDY.—

15 (1) IN GENERAL.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary
17 shall provide a grant to, or enter into a cooperative
18 agreement or contract with, the Board for the con-
19 duct of a study of the data collection and statistical
20 analysis efforts of the Department with respect to
21 the modes of surface transportation for which funds
22 are made available under this Act.

23 (2) PURPOSE.—The purpose of the study shall
24 be to provide to the Department information for use
25 by agencies of the Department in providing to sur-

1 face transportation agencies and individuals engaged
2 in the surface transportation field higher quality,
3 and more relevant and timely, data, statistical anal-
4 yses, and products.

5 (3) CONTENT.—The study shall include—

6 (A) an examination and analysis of the ef-
7 forts, analyses, and products (with respect to
8 usefulness and policy relevance) of the Bureau
9 as of the date of the study, as compared with
10 the duties of the Bureau specified in sub-
11 sections (c) through (f) of section 111 of title
12 49, United States Code;

13 (B) an examination and analysis of data
14 collected by, methods of data collection of, and
15 analyses performed by, agencies within the De-
16 partment; and

17 (C) recommendations relating to—

18 (i) the future efforts of the Depart-
19 ment in the area of surface transportation
20 with respect to—

21 (I) types of data collected;

22 (II) methods of data collection;

23 (III) types of analyses performed;

24 and

1 (IV) products made available by
2 the Secretary to the transportation
3 community and Congress;

4 (ii) the means by which the Depart-
5 ment may cooperate with State transpor-
6 tation departments to provide technical as-
7 sistance in the use of data collected by
8 traffic operations centers; and

9 (iii) duplication of efforts within the
10 Department, including ways in which—

11 (I) the duplication may be re-
12 duced or eliminated; and

13 (II) each agency of the Depart-
14 ment may cooperate with, and com-
15 plement the efforts of, the others.

16 (4) CONSULTATION.—In conducting the study,
17 the Board shall consult with such stakeholders,
18 agencies, and other entities as the Board considers
19 to be appropriate.

20 (5) REPORT.—Not later than 1 year after the
21 date on which a grant is provided, or a cooperative
22 agreement or contract is entered into, for a study
23 under paragraph (1)—

24 (A) the Board shall submit to the Sec-
25 retary, the Committee on Environment and

1 Public Works of the Senate, and the Committee
2 on Transportation and Infrastructure of the
3 House of Representatives a final report on the
4 results of the study; and

5 (B) the results of the study shall be
6 published—

7 (i) by the Secretary, on the Internet
8 website of the Department; and

9 (ii) by the Board, on the Internet
10 website of the Board.

11 (6) IMPLEMENTATION OF RESULTS.—The Bu-
12 reau shall, to the maximum extent practicable, im-
13 plement any recommendations made with respect to
14 the results of the study under this subsection.

15 (7) COMPLIANCE.—

16 (A) IN GENERAL.—The Comptroller Gen-
17 eral of the United States shall conduct a review
18 of the study under this subsection.

19 (B) NONCOMPLIANCE.—If the Comptroller
20 General of the United States determines that
21 the Bureau failed to conduct the study under
22 this subsection, the Bureau shall be ineligible to
23 receive funds from the Highway Trust Fund
24 until such time as the Bureau conducts the
25 study under this subsection.

1 (d) CONFORMING AMENDMENTS.—

2 (1) Section 111 of title 49, United States Code,
3 is amended—

4 (A) by redesignating subsection (k) as sub-
5 section (m);

6 (B) by inserting after subsection (j) the
7 following:

8 “(k) ANNUAL REPORT.—

9 “(1) IN GENERAL.—For fiscal year 2005 and
10 each fiscal year thereafter, the Bureau shall prepare
11 and submit to the Secretary an annual report that—

12 “(A) describes progress made in respond-
13 ing to study recommendations for the fiscal
14 year; and

15 “(B) summarizes the activities and expend-
16 iture of funds by the Bureau for the fiscal year.

17 “(2) AVAILABILITY.—The Bureau shall—

18 “(A) make the report described in para-
19 graph (1) available to the public; and

20 “(B) publish the report on the Internet
21 website of the Bureau.

22 “(3) COMBINATION OF REPORTS.—The report
23 required under paragraph (1) may be included in or
24 combined with the Transportation Statistics Annual
25 Report required by subsection (j).

1 “(1) EXPENDITURE OF FUNDS.—Funds from the
2 Highway Trust Fund (other than the Mass Transit Ac-
3 count) that are authorized to be appropriated, and made
4 available, in accordance with section 2001(a)(3) of the
5 Safe, Accountable, Flexible, and Efficient Transportation
6 Equity Act of 2005 shall be used only for the collection
7 and statistical analysis of information relating to surface
8 transportation systems.”; and

9 (C) in subsection (m) (as redesignated by
10 subparagraph (A)), by inserting “surface trans-
11 portation” after “sale of”.

12 (2) The analysis for chapter 55 of title 49,
13 United States Code, is amended by striking the item
14 relating to section 5505 and inserting the following:
 “5505. University transportation centers.”.

15 **SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EX-**
16 **CELLENCE.**

17 (a) ESTABLISHMENT.—The Secretary shall establish
18 the centers for surface transportation excellence described
19 in subsection (b) to promote high-quality outcomes in sup-
20 port of strategic national programs and activities,
21 including—

- 22 (1) the environment;
- 23 (2) operations;
- 24 (3) surface transportation safety;
- 25 (4) project finance; and

1 (5) asset management.

2 (b) CENTERS.—The centers for surface transpor-
3 tation excellence referred to in subsection (a) are—

4 (1) a Center for Environmental Excellence to
5 provide technical assistance, information sharing of
6 best practices, and training in the use of tools and
7 decision-making processes to assist States in plan-
8 ning and delivering environmentally-sound surface
9 transportation projects;

10 (2) a Center for Operations Excellence to pro-
11 vide support for an integrated and coordinated na-
12 tional program for implementing operations in plan-
13 ning and management (including standards develop-
14 ment) for the transportation system in the United
15 States;

16 (3) a Center for Excellence in Surface Trans-
17 portation Safety to implement a program of support
18 for State transportation departments, including—

19 (A) the maintenance of an Internet site to
20 provide critical information on safety programs;

21 (B) the provision of technical assistance to
22 support a lead State transportation department
23 for each of the safety emphasis areas (as identi-
24 fied by the Secretary); and

1 (C) the provision of training and education
2 to enhance knowledge of personnel of State
3 transportation departments in support of safety
4 highway goals;

5 (4) a Center for Excellence in Project
6 Finance—

7 (A) to provide support to State transpor-
8 tation departments in the development of fi-
9 nance plans and project oversight tools; and

10 (B) to develop and offer training in state-
11 of-the-art financing methods to advance
12 projects and leverage funds; and

13 (5) a Center for Excellence in Asset Manage-
14 ment to develop and conduct research, provide train-
15 ing and education, and disseminate information on
16 the benefits and tools for asset management.

17 (c) PROGRAM ADMINISTRATION.—

18 (1) IN GENERAL.—Before funds authorized
19 under this section for fiscal years 2005 through
20 2009 are obligated, the Secretary shall review and
21 approve a multiyear strategic plan to be submitted
22 by each of the centers.

23 (2) TIMING.—The plan shall be submitted be-
24 fore the beginning of fiscal year 2005 and, subse-
25 quently, shall be annually updated.

1 (3) CONTENT.—The plan shall include—

2 (A) a list of research and technical assist-
3 ance projects and objectives; and

4 (B) a description of any other technology
5 transfer activities, including a summary of
6 training efforts.

7 (4) COOPERATION AND COMPETITION.—

8 (A) IN GENERAL.—The Secretary shall
9 carry out this section by making grants to, or
10 entering into contracts, cooperative agreements,
11 and other transactions with—

12 (i) the National Academy of Sciences;

13 (ii) the American Association of State
14 Highway and Transportation Officials;

15 (iii) planning organizations;

16 (iv) a Federal laboratory;

17 (v) a State agency;

18 (vi) an authority, association, institu-
19 tion, or organization; or

20 (vii) a for-profit or nonprofit corpora-
21 tion.

22 (B) COMPETITION; REVIEW.—All parties
23 entering into contracts, cooperative agreements,
24 or other transactions with the Secretary, or re-
25 ceiving grants, to perform research or provide

1 technical assistance under this section shall be
2 selected, to the maximum extent practicable—

3 (i) on a competitive basis; and

4 (ii) on the basis of the results of peer
5 review of proposals submitted to the Sec-
6 retary.

7 (5) NONDUPLICATION.—The Secretary shall en-
8 sure that activities conducted by each of the centers
9 do not duplicate, and to the maximum extent prac-
10 ticable, are integrated and coordinated with similar
11 activities conducted by the Federal Highway Admin-
12 istration, the local technical assistance program, uni-
13 versity transportation centers, and other research ef-
14 forts supported with funds authorized by this title.

15 (d) ALLOCATIONS.—

16 (1) IN GENERAL.—For each of fiscal years
17 2005 through 2009, of the funds made available
18 under section 2001(a)(1)(A), the Secretary shall set
19 aside \$8,930,818 to carry out this section.

20 (2) ALLOCATION OF FUNDS.—Of the funds
21 made available under paragraph (1)—

22 (A) 20 percent shall be allocated to the
23 Center for Environmental Excellence estab-
24 lished under subsection (b)(1);

1 (B) 30 percent shall be allocated to the
2 Center for Operations Excellence established
3 under subsection (b)(2);

4 (C) 20 percent shall be allocated to the
5 Center for Excellence in Surface Transportation
6 Safety established under subsection (b)(3);

7 (D) 10 percent shall be allocated to the
8 Center for Excellence in Project Finance estab-
9 lished under subsection (b)(4); and

10 (E) 20 percent shall be allocated to the
11 Center for Excellence in Asset Management es-
12 tablished under subsection (b)(5).

13 (3) APPLICABILITY OF TITLE 23.—Funds made
14 available under this section shall be available for ob-
15 ligation in the same manner as if the funds were ap-
16 portioned under chapter 1 of title 23, United States
17 Code, except that the Federal share shall be 100
18 percent.

19 **SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY**
20 **GRANTS.**

21 (a) GRANTS.—The Secretary shall provide grants for
22 the purpose of conducting a comprehensive, in-depth mo-
23 torcycle crash causation study that employs the common
24 international methodology for in-depth motorcycle acci-

1 dent investigation of the Organization for Economic Co-
2 operation and Development.

3 (b) FUNDING.—Of the amounts made available under
4 section 2001(a)(3), \$1,339,623 for fiscal year 2005 shall
5 be available to carry out this section.

6 **SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION**
7 **AND DEMONSTRATION PROGRAM.**

8 (a) IN GENERAL.—Section 5117(b)(3) of the Trans-
9 portation Equity Act for the 21st Century (112 Stat. 449;
10 112 Stat. 864; 115 Stat. 2330) is amended—

11 (1) in subparagraph (B)—

12 (A) in clause (i)—

13 (i) in the first sentence—

14 (I) by striking “Build an” and
15 inserting “Build or integrate an”; and

16 (II) by striking “\$2,000,000”
17 and inserting “\$2,500,000”; and

18 (ii) in the second sentence—

19 (I) by striking “300,000 and
20 that” and inserting “300,000,”; and

21 (II) by inserting before the pe-
22 riod at the end the following: “, and
23 includes major transportation cor-
24 ridors serving that metropolitan
25 area”;

1 (B) in clause (ii), by striking all that fol-
2 lows “will be” and inserting “reinvested in the
3 intelligent transportation infrastructure sys-
4 tem.”;

5 (C) by striking clause (iii); and

6 (D) by redesignating clauses (iv) and (v)
7 as clauses (iii) and (iv), respectively;

8 (2) in subparagraph (C)(ii), by striking “July
9 1, 2002” and inserting “the date that is 180 days
10 after the date of enactment of the Safe, Account-
11 able, Flexible, and Efficient Transportation Equity
12 Act of 2005”;

13 (3) in subparagraph (E), by striking clause (ii)
14 and inserting the following:

15 “(ii) The term “follow-on deployment
16 areas” means the metropolitan areas of Al-
17 bany, Atlanta, Austin, Baltimore, Bir-
18 mingham, Boston, Burlington Vermont,
19 Charlotte, Chicago, Cleveland, Columbus,
20 Dallas/Ft. Worth, Denver, Detroit, Greens-
21 boro, Hartford, Houston, Indianapolis,
22 Jacksonville, Kansas City, Las Vegas, Los
23 Angeles, Louisville, Miami, Milwaukee,
24 Minneapolis-St. Paul, Nashville, New Orle-
25 ans, New York/Northern New Jersey, Nor-

1 folk, Northern Kentucky/Cincinnati, Okla-
2 homa City, Orlando, Philadelphia, Phoenix,
3 Pittsburgh, Portland, Providence, Raleigh,
4 Richmond, Sacramento, Salt Lake, San
5 Diego, San Francisco, San Jose, St. Louis,
6 Seattle, Tampa, Tucson, Tulsa, and Wash-
7 ington, District of Columbia.”;

8 (4) in subparagraph (F)—

9 (A) by striking “Of the amounts” and in-
10 sserting the following:

11 “(i) THIS ACT.—Of the amounts”;

12 and

13 (B) by adding at the end the following:

14 “(ii) SAFETEA.—There are author-
15 ized to be appropriated out of the Highway
16 Trust Fund (other than the Mass Transit
17 Account) \$4,465,409 for each fiscal year
18 to carry out this paragraph.

19 “(iii) AVAILABILITY; NO REDUCTION
20 OR SETASIDE.—Amounts made available
21 by this subparagraph—

22 “(I) shall remain available until
23 expended; and

24 “(II) shall not be subject to any
25 reduction or setaside.”; and

1 (5) by adding at the end the following:

2 “(H) USE OF RIGHTS-OF-WAY.—

3 “(i) IN GENERAL.—An intelligent
4 transportation system project described in
5 paragraph (3) or (6) that involves privately
6 owned intelligent transportation system
7 components and is carried out using funds
8 made available from the Highway Trust
9 Fund shall not be subject to any law (in-
10 cluding a regulation) of a State or political
11 subdivision of a State prohibiting or regu-
12 lating commercial activities in the rights-
13 of-way of a highway for which Federal-aid
14 highway funds have been used for plan-
15 ning, design, construction, or maintenance,
16 if the Secretary determines that such use
17 is in the public interest.

18 “(ii) EFFECT OF SUBPARAGRAPH.—
19 Nothing in this subparagraph affects the
20 authority of a State or political subdivision
21 of a State to regulate highway safety.”.

22 (b) CONFORMING AMENDMENT.—Section 5204 of the
23 Transportation Equity Act for the 21st Century (112
24 Stat. 453) is amended by striking subsection (k) (112
25 Stat. 2681–478).

1 **Subtitle C—Intelligent**
2 **Transportation System Research**

3 **SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RE-**
4 **SEARCH AND TECHNICAL ASSISTANCE PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Chapter 5 of title 23, United
7 States Code (as amended by section 2101), is amended
8 by adding at the end the following:

9 “SUBCHAPTER II—INTELLIGENT TRANSPOR-
10 TATION SYSTEM RESEARCH AND TECH-
11 NICAL ASSISTANCE PROGRAM

12 **“§ 521. Finding**

13 “Congress finds that continued investment in archi-
14 tecture and standards development, research, technical as-
15 sistance for State and local governments, and systems in-
16 tegration is needed to accelerate the rate at which intel-
17 ligent transportation systems—

18 “(1) are incorporated into the national surface
19 transportation network; and

20 “(2) as a result of that incorporation, improve
21 transportation safety and efficiency and reduce costs
22 and negative impacts on communities and the envi-
23 ronment.

1 **“§ 522. Goals and purposes**

2 “(a) GOALS.—The goals of the intelligent transpor-
3 tation system research and technical assistance program
4 include—

5 “(1) enhancement of surface transportation ef-
6 ficiency and facilitation of intermodalism and inter-
7 national trade—

8 “(A) to meet a significant portion of future
9 transportation needs, including public access to
10 employment, goods, and services; and

11 “(B) to reduce regulatory, financial, and
12 other transaction costs to public agencies and
13 system users;

14 “(2) the acceleration of the use of intelligent
15 transportation systems to assist in the achievement
16 of national transportation safety goals, including the
17 enhancement of safe operation of motor vehicles and
18 nonmotorized vehicles, with particular emphasis on
19 decreasing the number and severity of collisions;

20 “(3) protection and enhancement of the natural
21 environment and communities affected by surface
22 transportation, with particular emphasis on assisting
23 State and local governments in achieving national
24 environmental goals;

25 “(4) accommodation of the needs of all users of
26 surface transportation systems, including—

1 “(A) operators of commercial vehicles, pas-
2 senger vehicles, and motorcycles;

3 “(B) users of public transportation users
4 (with respect to intelligent transportation sys-
5 tem user services); and

6 “(C) individuals with disabilities; and

7 “(5)(A) improvement of the ability of the
8 United States to respond to emergencies and natural
9 disasters; and

10 “(B) enhancement of national security and de-
11 fense mobility.

12 “(b) PURPOSES.—The Secretary shall carry out ac-
13 tivities under the intelligent transportation system re-
14 search and technical assistance program to, at a
15 minimum—

16 “(1) assist in the development of intelligent
17 transportation system technologies;

18 “(2) ensure that Federal, State, and local
19 transportation officials have adequate knowledge of
20 intelligent transportation systems for full consider-
21 ation in the transportation planning process;

22 “(3) improve regional cooperation, interoper-
23 ability, and operations for effective intelligent trans-
24 portation system performance;

1 “(4) promote the innovative use of private re-
2 sources;

3 “(5) assist State transportation departments in
4 developing a workforce capable of developing, oper-
5 ating, and maintaining intelligent transportation
6 systems;

7 “(6) maintain an updated national ITS archi-
8 tecture and consensus-based standards while ensur-
9 ing an effective Federal presence in the formulation
10 of domestic and international ITS standards;

11 “(7) advance commercial vehicle operations
12 components of intelligent transportation systems—

13 “(A) to improve the safety and produc-
14 tivity of commercial vehicles and drivers; and

15 “(B) to reduce costs associated with com-
16 mercial vehicle operations and Federal and
17 State commercial vehicle regulatory require-
18 ments;

19 “(8) evaluate costs and benefits of intelligent
20 transportation systems projects;

21 “(9) improve, as part of the Archived Data
22 User Service and in cooperation with the Bureau of
23 Transportation Statistics, the collection of surface
24 transportation system condition and performance

1 data through the use of intelligent transportation
2 system technologies; and

3 “(10) ensure access to transportation informa-
4 tion and services by travelers of all ages.

5 **“§ 523. Definitions**

6 “In this subchapter:

7 “(1) COMMERCIAL VEHICLE INFORMATION SYS-
8 TEMS AND NETWORKS.—The term ‘commercial vehi-
9 cle information systems and networks’ means the in-
10 formation systems and communications networks
11 that support commercial vehicle operations.

12 “(2) COMMERCIAL VEHICLE OPERATIONS.—

13 “(A) IN GENERAL.—The term ‘commercial
14 vehicle operations’ means motor carrier oper-
15 ations and motor vehicle regulatory activities
16 associated with the commercial movement of
17 goods (including hazardous materials) and pas-
18 sengers.

19 “(B) INCLUSIONS.—The term ‘commercial
20 vehicle operations’, with respect to the public
21 sector, includes—

22 “(i) the issuance of operating creden-
23 tials;

24 “(ii) the administration of motor vehi-
25 cle and fuel taxes; and

1 “(D) the communications requirements as-
2 sociated with the information flows.

3 “(6) STANDARD.—The term ‘standard’ means a
4 document that—

5 “(A) contains technical specifications or
6 other precise criteria for intelligent transpor-
7 tation systems that are to be used consistently
8 as rules, guidelines, or definitions of character-
9 istics so as to ensure that materials, products,
10 processes, and services are fit for their pur-
11 poses; and

12 “(B) may—

13 “(i) support the national ITS archi-
14 tecture; and

15 “(ii) promote—

16 “(I) the widespread use and
17 adoption of intelligent transportation
18 system technology as a component of
19 the surface transportation systems of
20 the United States; and

21 “(II) interoperability among in-
22 telligent transportation system tech-
23 nologies implemented throughout the
24 States.

1 **“§ 524. General authorities and requirements**

2 “(a) SCOPE.—Subject to this subchapter, the Sec-
3 retary shall carry out an ongoing intelligent transportation
4 system research program—

5 “(1) to research, develop, and operationally test
6 intelligent transportation systems; and

7 “(2) to provide technical assistance in the na-
8 tionwide application of those systems as a compo-
9 nent of the surface transportation systems of the
10 United States.

11 “(b) POLICY.—Intelligent transportation system
12 operational tests and projects funded under this sub-
13 chapter shall encourage, but not displace, public-private
14 partnerships or private sector investment in those tests
15 and projects.

16 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
17 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
18 shall carry out the intelligent transportation system re-
19 search and technical assistance program in cooperation
20 with—

21 “(1) State and local governments and other
22 public entities;

23 “(2) the private sector;

24 “(3) Federal laboratories (as defined in section
25 501); and

1 “(4) colleges and universities, including histori-
2 cally black colleges and universities and other minor-
3 ity institutions of higher education.

4 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
5 In carrying out the intelligent transportation system re-
6 search program, the Secretary, as appropriate, shall con-
7 sult with—

8 “(1) the Secretary of Commerce;

9 “(2) the Secretary of the Treasury;

10 “(3) the Administrator of the Environmental
11 Protection Agency;

12 “(4) the Director of the National Science Foun-
13 dation; and

14 “(5) the Secretary of Homeland Security.

15 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
16 FORMATION.—The Secretary may provide technical assist-
17 ance, training, and information to State and local govern-
18 ments seeking to implement, operate, maintain, or evalu-
19 ate intelligent transportation system technologies and
20 services.

21 “(f) TRANSPORTATION PLANNING.—The Secretary
22 may provide funding to support adequate consideration of
23 transportation system management and operations (in-
24 cluding intelligent transportation systems) within metro-
25 politan and statewide transportation planning processes.

1 “(g) INFORMATION CLEARINGHOUSE.—The Sec-
2 retary shall—

3 “(1) maintain a repository for technical and
4 safety data collected as a result of federally spon-
5 sored projects carried out under this subchapter;
6 and

7 “(2) on request, make that information (except
8 for proprietary information and data) readily avail-
9 able to all users of the repository at an appropriate
10 cost.

11 “(h) ADVISORY COMMITTEES.—

12 “(1) IN GENERAL.—In carrying out this sub-
13 chapter, the Secretary—

14 “(A) may use 1 or more advisory commit-
15 tees; and

16 “(B) shall designate a public-private orga-
17 nization, the members of which participate in
18 on-going research, planning, standards develop-
19 ment, deployment, and marketing of ITS pro-
20 grams, products, and services, and coordinate
21 the development and deployment of intelligent
22 transportation systems in the United States, as
23 the Federal advisory committee authorized by
24 section 5204(h) of the Transportation Equity
25 Act for the 21st Century (112 Stat. 454).

1 “(2) FUNDING.—Of the amount made available
2 to carry out this subchapter, the Secretary may use
3 \$1,339,623 for each fiscal year for advisory commit-
4 tees described in paragraph (1).

5 “(3) APPLICABILITY OF FEDERAL ADVISORY
6 COMMITTEE ACT.—Any advisory committee de-
7 scribed in paragraph (1) shall be subject to the Fed-
8 eral Advisory Committee Act (5 U.S.C. App.).

9 “(i) PROCUREMENT METHODS.—The Secretary shall
10 develop and provide appropriate technical assistance and
11 guidance to assist State and local agencies in evaluating
12 and selecting appropriate methods of deployment and pro-
13 curement for intelligent transportation system projects
14 carried out using funds made available from the Highway
15 Trust Fund, including innovative and nontraditional
16 methods such as Information Technology Omnibus Pro-
17 curement (as developed by the Secretary).

18 “(j) EVALUATIONS.—

19 “(1) GUIDELINES AND REQUIREMENTS.—

20 “(A) IN GENERAL.—The Secretary shall
21 issue revised guidelines and requirements for
22 the evaluation of operational tests and other in-
23 telligent transportation system projects carried
24 out under this subchapter.

1 “(B) OBJECTIVITY AND INDEPENDENCE.—

2 The guidelines and requirements issued under
3 subparagraph (A) shall include provisions to en-
4 sure the objectivity and independence of the
5 evaluator so as to avoid any real or apparent
6 conflict of interest or potential influence on the
7 outcome by—

8 “(i) parties to any such test; or

9 “(ii) any other formal evaluation car-
10 ried out under this subchapter.

11 “(C) FUNDING.—The guidelines and re-
12 quirements issued under subparagraph (A) shall
13 establish evaluation funding levels based on the
14 size and scope of each test that ensure adequate
15 evaluation of the results of the test or project.

16 “(2) SPECIAL RULE.—Any survey, question-
17 naire, or interview that the Secretary considers nec-
18 essary to carry out the evaluation of any test or pro-
19 gram assessment activity under this subchapter shall
20 not be subject to chapter 35 of title 44.

21 **“§ 525. National ITS Program Plan**

22 “(a) IN GENERAL.—

23 “(1) UPDATES.—Not later than 1 year after
24 the date of enactment of the Safe, Accountable,
25 Flexible, and Efficient Transportation Equity Act of

1 2005, the Secretary, in consultation with interested
2 stakeholders (including State transportation depart-
3 ments) shall develop a 5-year National ITS Program
4 Plan.

5 “(2) SCOPE.—The National ITS Program Plan
6 shall—

7 “(A) specify the goals, objectives, and mile-
8 stones for the research and deployment of intel-
9 ligent transportation systems in the contexts
10 of—

11 “(i) major metropolitan areas;

12 “(ii) smaller metropolitan and rural
13 areas; and

14 “(iii) commercial vehicle operations;

15 “(B) specify the manner in which specific
16 programs and projects will achieve the goals,
17 objectives, and milestones referred to in sub-
18 paragraph (A), including consideration of a 5-
19 year timeframe for the goals and objectives;

20 “(C) identify activities that provide for the
21 dynamic development, testing, and necessary re-
22 vision of standards and protocols to promote
23 and ensure interoperability in the implementa-
24 tion of intelligent transportation system tech-

1 nologies, including actions taken to establish
2 standards; and

3 “(D) establish a cooperative process with
4 State and local governments for—

5 “(i) determining desired surface
6 transportation system performance levels;
7 and

8 “(ii) developing plans for accelerating
9 the incorporation of specific intelligent
10 transportation system capabilities into sur-
11 face transportation systems.

12 “(b) REPORTING.—The National ITS Program Plan
13 shall be transmitted and biennially updated as part of the
14 surface transportation research and technology develop-
15 ment strategic plan developed under section 508(c).

16 **“§ 526. National ITS architecture and standards**

17 “(a) IN GENERAL.—

18 “(1) DEVELOPMENT, IMPLEMENTATION, AND
19 MAINTENANCE.—In accordance with section 12(d) of
20 the National Technology Transfer and Advancement
21 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
22 the Secretary shall develop, implement, and maintain
23 a national ITS architecture and supporting stand-
24 ards and protocols to promote the widespread use
25 and evaluation of intelligent transportation system

1 technology as a component of the surface transpor-
2 tation systems of the United States.

3 “(2) INTEROPERABILITY AND EFFICIENCY.—To
4 the maximum extent practicable, the national ITS
5 architecture shall promote interoperability among,
6 and efficiency of, intelligent transportation system
7 technologies implemented throughout the United
8 States.

9 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
10 NIZATIONS.—In carrying out this section, the Sec-
11 retary shall use the services of such standards devel-
12 opment organizations as the Secretary determines to
13 be appropriate.

14 “(b) PROVISIONAL STANDARDS.—

15 “(1) IN GENERAL.—If the Secretary finds that
16 the development or selection of an intelligent trans-
17 portation system standard jeopardizes the timely
18 achievement of the objectives identified in subsection
19 (a), the Secretary may establish a provisional
20 standard—

21 “(A) after consultation with affected par-
22 ties; and

23 “(B) by using, to the maximum extent
24 practicable, the work product of appropriate
25 standards development organizations.

1 “(2) CRITICAL STANDARDS.—If a standard
2 identified by the Secretary as critical has not been
3 adopted and published by the appropriate standards
4 development organization by the date of enactment
5 of this subchapter, the Secretary shall establish a
6 provisional standard—

7 “(A) after consultation with affected par-
8 ties; and

9 “(B) by using, to the maximum extent
10 practicable, the work product of appropriate
11 standards development organizations.

12 “(3) PERIOD OF EFFECTIVENESS.—A provi-
13 sional standard established under paragraph (1) or
14 (2) shall—

15 “(A) be published in the Federal Register;
16 and

17 “(B) remain in effect until such time as
18 the appropriate standards development organi-
19 zation adopts and publishes a standard.

20 “(c) WAIVER OF REQUIREMENT TO ESTABLISH PRO-
21 VISIONAL CRITICAL STANDARD.—

22 “(1) IN GENERAL.—The Secretary may waive
23 the requirement under subsection (b)(2) to establish
24 a provisional standard if the Secretary determines
25 that additional time would be productive in, or that

1 establishment of a provisional standard would be
2 counterproductive to, the timely achievement of the
3 objectives identified in subsection (a).

4 “(2) NOTICE.—The Secretary shall publish in
5 the Federal Register a notice that describes—

6 “(A) each standard for which a waiver of
7 the provisional standard requirement is granted
8 under paragraph (1);

9 “(B) the reasons for and effects of grant-
10 ing the waiver; and

11 “(C) an estimate as to the date on which
12 the standard is expected to be adopted through
13 a process consistent with section 12(d) of the
14 National Technology Transfer and Advance-
15 ment Act of 1995 (15 U.S.C. 272 note; 110
16 Stat. 783).

17 “(3) WITHDRAWAL OF WAIVER.—

18 “(A) IN GENERAL.—The Secretary may
19 withdraw a waiver granted under paragraph (1)
20 at any time.

21 “(B) NOTICE.—On withdrawal of a waiver,
22 the Secretary shall publish in the Federal Reg-
23 ister a notice that describes—

24 “(i) each standard for which the waiv-
25 er has been withdrawn; and

1 “(ii) the reasons for withdrawing the
2 waiver.

3 “(d) CONFORMITY WITH NATIONAL ITS ARCHITEC-
4 TURE.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graphs (2) and (3), the Secretary shall ensure that
7 intelligent transportation system projects carried out
8 using funds made available from the Highway Trust
9 Fund conform to the national ITS architecture, ap-
10 plicable standards or provisional standards, and pro-
11 tocols developed under subsection (a).

12 “(2) DISCRETION OF SECRETARY.—The Sec-
13 retary may authorize exceptions to paragraph (1) for
14 projects designed to achieve specific research objec-
15 tives outlined in—

16 “(A) the National ITS Program Plan
17 under section 525; or

18 “(B) the surface transportation research
19 and technology development strategic plan de-
20 veloped under section 508(c).

21 “(3) EXCEPTIONS.—Paragraph (1) shall not
22 apply to funds used for operation or maintenance of
23 an intelligent transportation system in existence on
24 the date of enactment of this subchapter.

1 **“§ 527. Commercial vehicle information systems and**
2 **networks deployment**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COMMERCIAL VEHICLE INFORMATION SYS-
5 TEMS AND NETWORKS.—The term ‘commercial vehi-
6 cle information systems and networks’ means the in-
7 formation systems and communications networks
8 that provide the capability to—

9 “(A) improve the safety of commercial ve-
10 hicle operations;

11 “(B) increase the efficiency of regulatory
12 inspection processes to reduce administrative
13 burdens by advancing technology to facilitate
14 inspections and increase the effectiveness of en-
15 forcement efforts;

16 “(C) advance electronic processing of reg-
17 istration information, driver licensing informa-
18 tion, fuel tax information, inspection and crash
19 data, and other safety information;

20 “(D) enhance the safe passage of commer-
21 cial vehicles across the United States and
22 across international borders; and

23 “(E) promote the communication of infor-
24 mation among the States and encourage
25 multistate cooperation and corridor develop-
26 ment.

1 “(2) COMMERCIAL VEHICLE OPERATIONS.—

2 “(A) IN GENERAL.—The term ‘commercial
3 vehicle operations’ means motor carrier oper-
4 ations and motor vehicle regulatory activities
5 associated with the commercial movement of
6 goods (including hazardous materials) and pas-
7 sengers.

8 “(B) INCLUSIONS.—The term ‘commercial
9 vehicle operations’, with respect to the public
10 sector, includes—

11 “(i) the issuance of operating creden-
12 tials;

13 “(ii) the administration of motor vehi-
14 cle and fuel taxes; and

15 “(iii) the administration of roadside
16 safety and border crossing inspection and
17 regulatory compliance operations.

18 “(3) CORE DEPLOYMENT.—The term ‘core de-
19 ployment’ means the deployment of systems in a
20 State necessary to provide the State with—

21 “(A) safety information exchange to—

22 “(i) electronically collect and transmit
23 commercial vehicle and driver inspection
24 data at a majority of inspection sites;

1 “(ii) connect to the Safety and Fit-
2 ness Electronic Records system for access
3 to—

4 “(I) interstate carrier and com-
5 mercial vehicle data;

6 “(II) summaries of past safety
7 performance; and

8 “(III) commercial vehicle creden-
9 tials information; and

10 “(iii) exchange carrier data and com-
11 mercial vehicle safety and credentials infor-
12 mation within the State and connect to
13 Safety and Fitness Electronic Records sys-
14 tem for access to interstate carrier and
15 commercial vehicle data;

16 “(B) interstate credentials administration
17 to—

18 “(i)(I) perform end-to-end (including
19 carrier application) jurisdiction application
20 processing, and credential issuance, of at
21 least the International Registration Plan
22 and International Fuel Tax Agreement cre-
23 dentials; and

24 “(II) extend the processing to other
25 credentials, including intrastate, titling,

1 oversize or overweight requirements, car-
2 rier registration, and hazardous materials;

3 “(ii) connect to the International Reg-
4 istration Plan and International Fuel Tax
5 Agreement clearinghouses; and

6 “(iii)(I) have at least 10 percent of
7 the transaction volume handled electroni-
8 cally; and

9 “(II) have the capability to add more
10 carriers and to extend to branch offices
11 where applicable; and

12 “(C) roadside electronic screening to elec-
13 tronically screen transponder-equipped commer-
14 cial vehicles at a minimum of 1 fixed or mobile
15 inspection site and to replicate the screening at
16 other sites.

17 “(4) EXPANDED DEPLOYMENT.—The term ‘ex-
18 panded deployment’ means the deployment of sys-
19 tems in a State that—

20 “(A) exceed the requirements of a core de-
21 ployment of commercial vehicle information sys-
22 tems and networks;

23 “(B) improve safety and the productivity
24 of commercial vehicle operations; and

25 “(C) enhance transportation security.

1 “(b) PROGRAM.—The Secretary shall carry out a
2 commercial vehicle information systems and networks pro-
3 gram to—

4 “(1) improve the safety and productivity of
5 commercial vehicles and drivers; and

6 “(2) reduce costs associated with commercial
7 vehicle operations and Federal and State commercial
8 vehicle regulatory requirements.

9 “(c) PURPOSE.—It is the purpose of the program to
10 advance the technological capability and promote the de-
11 ployment of intelligent transportation system applications
12 for commercial vehicle operations, including commercial
13 vehicle, commercial driver, and carrier-specific information
14 systems and networks.

15 “(d) CORE DEPLOYMENT GRANTS.—

16 “(1) IN GENERAL.—The Secretary shall make
17 grants to eligible States for the core deployment of
18 commercial vehicle information systems and net-
19 works.

20 “(2) ELIGIBILITY.—To be eligible for a core de-
21 ployment grant under this subsection, a State
22 shall—

23 “(A) have a commercial vehicle information
24 systems and networks program plan and a top
25 level system design approved by the Secretary;

1 “(B) certify to the Secretary that the com-
2 mercial vehicle information systems and net-
3 works deployment activities of the State (in-
4 cluding hardware procurement, software and
5 system development, and infrastructure modi-
6 fications)—

7 “(i) are consistent with the national
8 intelligent transportation systems and com-
9 mercial vehicle information systems and
10 networks architectures and available stand-
11 ards; and

12 “(ii) promote interoperability and effi-
13 ciency, to the maximum extent practicable;
14 and

15 “(C) agree to execute interoperability tests
16 developed by the Federal Motor Carrier Safety
17 Administration to verify that the systems of the
18 State conform with the national intelligent
19 transportation systems architecture, applicable
20 standards, and protocols for commercial vehicle
21 information systems and networks.

22 “(3) AMOUNT OF GRANTS.—The maximum ag-
23 gregate amount a State may receive under this sub-
24 section for the core deployment of commercial vehi-
25 cle information systems and networks may not ex-

1 ceed \$2,500,000, including funds received under sec-
2 tion 2001(a) of the Safe, Accountable, Flexible, and
3 Efficient Transportation Equity Act of 2005 for the
4 core deployment of commercial vehicle information
5 systems and networks.

6 “(4) USE OF FUNDS.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), funds from a grant under this sub-
9 section may only be used for the core deploy-
10 ment of commercial vehicle information systems
11 and networks.

12 “(B) REMAINING FUNDS.—An eligible
13 State that has completed the core deployment
14 of commercial vehicle information systems and
15 networks, or completed the deployment before
16 core deployment grant funds are expended, may
17 use the remaining core deployment grant funds
18 for the expanded deployment of commercial ve-
19 hicle information systems and networks in the
20 State.

21 “(e) EXPANDED DEPLOYMENT GRANTS.—

22 “(1) IN GENERAL.—For each fiscal year, from
23 the funds remaining after the Secretary has made
24 core deployment grants under subsection (d), the
25 Secretary may make grants to each eligible State, on

1 request, for the expanded deployment of commercial
2 vehicle information systems and networks.

3 “(2) ELIGIBILITY.—Each State that has com-
4 pleted the core deployment of commercial vehicle in-
5 formation systems and networks shall be eligible for
6 an expanded deployment grant.

7 “(3) AMOUNT OF GRANTS.—Each fiscal year,
8 the Secretary may distribute funds available for ex-
9 panded deployment grants equally among the eligible
10 States in an amount that does not exceed
11 \$1,000,000 for each State.

12 “(4) USE OF FUNDS.—A State may use funds
13 from a grant under this subsection only for the ex-
14 panded deployment of commercial vehicle informa-
15 tion systems and networks.

16 “(f) FEDERAL SHARE.—The Federal share of the
17 cost of a project payable from funds made available to
18 carry out this section shall be the share applicable under
19 section 120(b), as adjusted under subsection (d) of that
20 section.

21 “(g) FUNDING.—Funds authorized to be appro-
22 priated to carry out this section shall be available for obli-
23 gation in the same manner and to the same extent as if
24 the funds were apportioned under chapter 1, except that
25 the funds shall remain available until expended.

1 **“§ 528. Research and development**

2 “(a) IN GENERAL.—The Secretary shall carry out a
3 comprehensive program of intelligent transportation sys-
4 tem research, development, and operational tests of intel-
5 ligent vehicles and intelligent infrastructure systems, and
6 other similar activities that are necessary to carry out this
7 subchapter.

8 “(b) PRIORITY AREAS.—Under the program, the Sec-
9 retary shall give priority to funding projects that—

10 “(1) assist in the development of an inter-
11 connected national intelligent transportation system
12 network that—

13 “(A) improves the reliability of the surface
14 transportation system;

15 “(B) supports national security;

16 “(C) reduces, by at least 20 percent, the
17 cost of manufacturing, deploying, and operating
18 intelligent transportation systems network com-
19 ponents;

20 “(D) could assist in deployment of the
21 Armed Forces in response to a crisis; and

22 “(E) improves response to, and evacuation
23 of the public during, an emergency situation;

24 “(2) address traffic management, incident man-
25 agement, transit management, toll collection traveler

1 information, or highway operations systems with
2 goals of—

3 “(A) reducing metropolitan congestion by
4 5 percent by 2010;

5 “(B) ensuring that a national, interoper-
6 able 511 system, along with a national traffic
7 information system that includes a user-friend-
8 ly, comprehensive website, is fully implemented
9 for use by travelers throughout the United
10 States by September 30, 2010; and

11 “(C)(i) improving incident management re-
12 sponse, particularly in rural areas, so that rural
13 emergency response times are reduced by an av-
14 erage of 10 minutes; and

15 “(ii) subject to subsection (d), improving
16 communication between emergency care pro-
17 viders and trauma centers;

18 “(3) address traffic management, incident man-
19 agement, transit management, toll collection, trav-
20 eler information, or highway operations systems;

21 “(4) conduct operational tests of the integration
22 of at least 3 crash-avoidance technologies in pas-
23 senger vehicles;

24 “(5) incorporate human factors research, in-
25 cluding the science of the driving process;

1 “(6) facilitate the integration of intelligent in-
2 frastructure, vehicle, and control technologies;

3 “(7) incorporate research on the impact of envi-
4 ronmental, weather, and natural conditions on intel-
5 ligent transportation systems, including the effects
6 of cold climates;

7 “(8) as determined by the Secretary, will im-
8 prove the overall safety performance of vehicles and
9 roadways, including the use of real-time setting of
10 speed limits through the use of speed management
11 technology;

12 “(9) examine—

13 “(A) the application to intelligent trans-
14 portation systems of appropriately modified ex-
15 isting technologies from other industries; and

16 “(B) the development of new, more robust
17 intelligent transportation systems technologies
18 and instrumentation;

19 “(10) develop and test communication tech-
20 nologies that—

21 “(A) are based on an assessment of the
22 needs of officers participating in a motor car-
23 rier safety program funded under section 31104
24 of title 49;

1 “(B) take into account the effectiveness
2 and adequacy of available technology;

3 “(C) address systems integration,
4 connectivity, and interoperability challenges;
5 and

6 “(D) provide the means for officers partici-
7 pating in a motor carrier safety program fund-
8 ed under section 31104 of title 49 to directly
9 assess, without an intermediary, current and
10 accurate safety and regulatory information on
11 motor carriers, commercial motor vehicles and
12 drivers at roadside or mobile inspection facili-
13 ties;

14 “(11) enhance intermodal use of intelligent
15 transportation systems for diverse groups, including
16 for emergency and health-related services;

17 “(12) improve sensing and wireless communica-
18 tions that provide real-time information regarding
19 congestion and incidents;

20 “(13) develop and test high-accuracy, lane-level,
21 real-time accessible digital map architectures that
22 can be used by intelligent vehicles and intelligent in-
23 frastructure elements to facilitate safety and crash
24 avoidance (including establishment of national
25 standards for an open-architecture digital map of all

1 public roads that is compatible with electronic 9-1-
2 1 services);

3 “(14) encourage the dual-use of intelligent
4 transportation system technologies (such as wireless
5 communications) for—

6 “(A) emergency services;

7 “(B) road pricing; and

8 “(C) local economic development; and

9 “(15) advance the use of intelligent transpor-
10 tation systems to facilitate high-performance trans-
11 portation systems, such as through—

12 “(A) congestion-pricing;

13 “(B) real-time facility management;

14 “(C) rapid-emergency response; and

15 “(D) just-in-time transit.

16 “(c) OPERATIONAL TESTS.—Operational tests con-
17 ducted under this section shall be designed for—

18 “(1) the collection of data to permit objective
19 evaluation of the results of the tests;

20 “(2) the derivation of cost-benefit information
21 that is useful to others contemplating deployment of
22 similar systems; and

23 “(3) the development and implementation of
24 standards.

1 “(d) FEDERAL SHARE.—The Federal share of the
2 costs of operational tests under subsection (a) shall not
3 exceed 80 percent.

4 **“§ 529. Use of funds**

5 “(a) IN GENERAL.—For each fiscal year, not more
6 than \$5,000,000 of the funds made available to carry out
7 this subchapter shall be used for intelligent transportation
8 system outreach, public relations, displays, tours, and bro-
9 chures.

10 “(b) APPLICABILITY.—Subsection (a) shall not apply
11 to intelligent transportation system training, scholarships,
12 or the publication or distribution of research findings,
13 technical guidance, or similar documents.”.

14 (b) CONFORMING AMENDMENT.—Title V of the
15 Transportation Equity Act for the 21st Century is amend-
16 ed by striking subtitle C (23 U.S.C. 502 note; 112 Stat.
17 452).

18 **TITLE III—RECREATIONAL**
19 **BOATING SAFETY PROGRAMS**

20 **SEC. 3001. SHORT TITLE.**

21 This title may be cited as the “Sport Fishing and
22 Recreational Boating Safety Act”.

1 **SEC. 3002. AMENDMENT OF FEDERAL AID IN FISH RES-**
2 **TORATION ACT.**

3 Except as otherwise expressly provided, whenever in
4 this subtitle an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Act entitled “An Act to
8 provide that the United States shall aid the States in fish
9 restoration and management projects, and for other pur-
10 poses,” approved August 9, 1950 (64 Stat. 430; 16 U.S.C.
11 777 et seq.).

12 **SEC. 3003. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is
14 amended—

15 (1) by striking “the succeeding fiscal year.” in
16 the third sentence and inserting “succeeding fiscal
17 years.”; and

18 (2) by striking “in carrying on the research
19 program of the Fish and Wildlife Service in respect
20 to fish of material value for sport and recreation.”
21 and inserting “to supplement the 57 percent of the
22 balance of each annual appropriation to be appor-
23 tioned among the States, as provided for in section
24 4(c).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) IN GENERAL.—Section 3 of the Dingell-
2 Johnson Sport Fish Restoration Act (16 U.S.C.
3 777b) is amended in the first sentence—

4 (A) by striking “Sport Fish Restoration
5 Account” and inserting “Sport Fish Restora-
6 tion Trust Fund”; and

7 (B) by striking “that Account” and insert-
8 ing “that Trust Fund, except as provided in
9 section 9504(c) of the Internal Revenue Code of
10 1986”.

11 (2) EFFECTIVE DATE.—The amendments made
12 by paragraph (1) take effect on October 1, 2004.

13 **SEC. 3004. DIVISION OF ANNUAL APPROPRIATIONS.**

14 Section 4 (16 U.S.C. 777c) is amended—

15 (1) by striking subsections (a) through (c) and
16 redesignating subsections (d) through (g) as sub-
17 sections (b) through (e), respectively;

18 (2) by inserting before subsection (b) (as reded-
19 icated by paragraph (1)), the following:

20 “(a) IN GENERAL.—For fiscal years 2004 through
21 2009, the balance of each annual appropriation made in
22 accordance with the provisions of section 3 of this title
23 remaining after the distributions are made for administra-
24 tive expenses and other purposes under section 4(b) and

1 for multistate conservation grants under section 14 shall
2 be distributed as follows:

3 “(1) COASTAL WETLANDS.—18.5 percent to the
4 Secretary of the Interior for distribution as provided
5 in the Coastal Wetlands Planning, Protection, and
6 Restoration Act (16 U.S.C. 3951 et seq.).

7 “(2) BOATING SAFETY.—18.5 percent to the
8 Secretary of Homeland Security for State rec-
9 reational boating safety programs under section
10 13106 of title 46, United States Code.

11 “(3) CLEAN VESSEL ACT.—2 percent to the
12 Secretary of the Interior for qualified projects under
13 section 5604(c) of the Clean Vessel Act of 1992 (33
14 U.S.C. 1322 note).

15 “(4) BOATING INFRASTRUCTURE.—2 percent to
16 the Secretary of the Interior for obligation for quali-
17 fied projects under section 7404(d) of the
18 Sportfishing and Boating Safety Act of 1998 (16
19 U.S.C. 777g–1(d)).

20 “(5) NATIONAL OUTREACH AND COMMUNICA-
21 TIONS.—2 percent to the Secretary of the Interior
22 for the National Outreach and Communications Pro-
23 gram under section 8(d) of this title. Such amounts
24 shall remain available for 3 fiscal years, after which
25 any portion thereof that is unobligated by the Sec-

1 retary for that program may be expended by the
2 Secretary under subsection (c).”;

3 (3) in subsection (b)(1) (as redesignated by
4 paragraph (1)), by striking subparagraph (A) and
5 inserting the following:

6 “(A) SET-ASIDE.—For fiscal year 2006
7 and each subsequent fiscal year, before making
8 a distribution under subsection (a), the Sec-
9 retary of the Interior may use not more than
10 the available amount specified in subparagraph
11 (B) for the fiscal year for expenses of adminis-
12 tration incurred in the implementation of this
13 chapter, in accordance with this section and
14 section 9.”;

15 (4) in subsection (c) (as redesignated by para-
16 graph (1)), by striking the subsection heading and
17 all that follows through the colon in the first sen-
18 tence and inserting the following:

19 “(c) APPORTIONMENT AMONG STATES.—For fiscal
20 year 2006 and each subsequent fiscal year, after the dis-
21 tribution, transfer, use, and deduction under subsection
22 (b), and after deducting amounts for grants under section
23 14, the Secretary of the Interior shall apportion 57 per-
24 cent of the balance of each annual appropriation among
25 the several States in the following manner:”;

1 (5) by striking “per centum” each place it ap-
2 pears in subsection (c) (as redesignated by para-
3 graph (1)) and inserting “percent”;

4 (6) in paragraph (1) of subsection (e) (as redesi-
5 gnated by paragraph (1)), by striking “subsections
6 (a), (b)(3)(A), (b)(3)(B), and (c)” and inserting
7 “paragraphs (1), (3), (4), and (5) of subsection
8 (a)”; and

9 (7) by adding at the end the following:

10 “(f) TRANSFER OF CERTAIN FUNDS.—Amounts
11 available under paragraphs (3) and (4) of subsection (a)
12 that are unobligated by the Secretary after 3 fiscal years
13 shall be transferred to the Secretary of Homeland Security
14 and shall be expended for State recreational boating safety
15 programs under section 13106(a) of title 46, United
16 States Code.”.

17 **SEC. 3005. MAINTENANCE OF PROJECTS.**

18 Section 8 (16 U.S.C. 777g) is amended—

19 (1) by striking “in carrying out the research
20 program of the Fish and Wildlife Service in respect
21 to fish of material value for sport or recreation.” in
22 subsection (b)(2) and inserting “to supplement the
23 57 percent of the balance of each annual appropria-
24 tion to be apportioned among the States under sec-
25 tion 4(c).”; and

1 (2) in subsection (d)(3), by striking “subsection
2 (c) or (d) of section 4” and inserting “section
3 4(a)(5) or section 4(b)”.

4 **SEC. 3006. BOATING INFRASTRUCTURE.**

5 Section 7404(d)(1) of the Sportfishing and Boating
6 Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended
7 by striking “section 4(b)(3)(B)” and inserting “section
8 4(a)(4)”.

9 **SEC. 3007. REQUIREMENTS AND RESTRICTIONS CON-**
10 **CERNING USE OF AMOUNTS FOR EXPENSES**
11 **FOR ADMINISTRATION.**

12 Section 9 (16 U.S.C. 777h) is amended—

13 (1) by striking “section 4(d)(1)” in subsection
14 (a) and inserting “section 4(b)”; and

15 (2) by striking “section 4(d)(1)” in subsection
16 (b)(1) and inserting “section 4(b)”.

17 **SEC. 3008. PAYMENTS OF FUNDS TO AND COOPERATION**
18 **WITH PUERTO RICO, THE DISTRICT OF CO-**
19 **LUMBIA, GUAM, AMERICAN SAMOA, THE COM-**
20 **MONWEALTH OF THE NORTHERN MARIANA**
21 **ISLANDS, AND THE VIRGIN ISLANDS.**

22 Section 12 (16 U.S.C. 777k) is amended by striking
23 “in carrying on the research program of the Fish and
24 Wildlife Service in respect to fish of material value for
25 sport or recreation.” and inserting “to supplement the 57

1 percent of the balance of each annual appropriation to be
2 apportioned among the States under section 4(b) of this
3 title.”.

4 **SEC. 3009. MULTISTATE CONSERVATION GRANT PROGRAM.**

5 Section 14 (16 U.S.C. 777m) is amended—

6 (1) by striking so much of subsection (a) as
7 precedes paragraph (2) and inserting the following:

8 “(a) IN GENERAL.—

9 “(1) AMOUNT FOR GRANTS.—For fiscal year
10 2004 and each subsequent fiscal year, not more than
11 \$3,000,000 of each annual appropriation made in
12 accordance with the provisions of section 3 of this
13 title shall be distributed to the Secretary of the Inte-
14 rior for making multistate conservation project
15 grants in accordance with this section.”;

16 (2) by striking “section 4(e)” each place it ap-
17 pears in subsection (a)(2)(B) and inserting “section
18 4(c)”;

19 (3) by striking “Of the balance of each annual
20 appropriation made under section 3 remaining after
21 the distribution and use under subsections (a), (b),
22 and (c) of section 4 for each fiscal year and after
23 deducting amounts used for grants under subsection
24 (a)—” in subsection (e) and inserting “Of amounts

1 made available under section 4(b) for each fiscal
2 year—”.

3 **TITLE IV—SOLID WASTE**
4 **DISPOSAL**

5 **SEC. 4001. INCREASED USE OF RECOVERED MINERAL COM-**
6 **PONENT IN FEDERALLY FUNDED PROJECTS**
7 **INVOLVING PROCUREMENT OF CEMENT OR**
8 **CONCRETE.**

9 (a) IN GENERAL.—Subtitle F of the Solid Waste Dis-
10 posal Act (42 U.S.C. 6961 et seq.) is amended by adding
11 at the end the following:

12 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL**
13 **COMPONENT IN FEDERALLY FUNDED**
14 **PROJECTS INVOLVING PROCUREMENT OF**
15 **CEMENT OR CONCRETE.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) AGENCY HEAD.—The term ‘agency head’
18 means—

19 “(A) the Secretary of Transportation; and

20 “(B) the head of each other Federal agen-
21 cy that on a regular basis procures, or provides
22 Federal funds to pay or assist in paying the
23 cost of procuring, material for cement or con-
24 crete projects.

1 “(2) CEMENT OR CONCRETE PROJECT.—The
2 term ‘cement or concrete project’ means a project
3 for the construction or maintenance of a highway or
4 other transportation facility or a Federal, State, or
5 local government building or other public facility
6 that—

7 “(A) involves the procurement of cement
8 or concrete; and

9 “(B) is carried out in whole or in part
10 using Federal funds.

11 “(3) RECOVERED MINERAL COMPONENT.—The
12 term ‘recovered mineral component’ means—

13 “(A) ground granulated blast furnace slag;

14 “(B) coal combustion fly ash; and

15 “(C) any other waste material or byprod-
16 uct recovered or diverted from solid waste that
17 the Administrator, in consultation with an
18 agency head, determines should be treated as
19 recovered mineral component under this section
20 for use in cement or concrete projects paid for,
21 in whole or in part, by the agency head.

22 “(b) IMPLEMENTATION OF REQUIREMENTS.—

23 “(1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this section, the Adminis-
25 trator and each agency head shall take such actions

1 as are necessary to implement fully all procurement
2 requirements and incentives in effect as of the date
3 of enactment of this section (including guidelines
4 under section 6002) that provide for the use of ce-
5 ment and concrete incorporating recovered mineral
6 component in cement or concrete projects.

7 “(2) PRIORITY.—In carrying out paragraph (1)
8 an agency head shall give priority to achieving great-
9 er use of recovered mineral component in cement or
10 concrete projects for which recovered mineral compo-
11 nents historically have not been used or have been
12 used only minimally.

13 “(3) CONFORMANCE.—The Administrator and
14 each agency head shall carry out this subsection in
15 accordance with section 6002.

16 “(c) FULL IMPLEMENTATION STUDY.—

17 “(1) IN GENERAL.—The Administrator, in co-
18 operation with the Secretary of Transportation and
19 the Secretary of Energy, shall conduct a study to de-
20 termine the extent to which current procurement re-
21 quirements, when fully implemented in accordance
22 with subsection (b), may realize energy savings and
23 environmental benefits attainable with substitution
24 of recovered mineral component in cement used in
25 cement or concrete projects.

1 “(2) MATTERS TO BE ADDRESSED.—The study
2 shall—

3 “(A) quantify the extent to which recov-
4 ered mineral components are being substituted
5 for Portland cement, particularly as a result of
6 current procurement requirements, and the en-
7 ergy savings and environmental benefits associ-
8 ated with that substitution;

9 “(B) identify all barriers in procurement
10 requirements to greater realization of energy
11 savings and environmental benefits, including
12 barriers resulting from exceptions from current
13 law; and

14 “(C)(i) identify potential mechanisms to
15 achieve greater substitution of recovered min-
16 eral component in types of cement or concrete
17 projects for which recovered mineral compo-
18 nents historically have not been used or have
19 been used only minimally;

20 “(ii) evaluate the feasibility of establishing
21 guidelines or standards for optimized substi-
22 tution rates of recovered mineral component in
23 those cement or concrete projects; and

24 “(iii) identify any potential environmental
25 or economic effects that may result from great-

1 er substitution of recovered mineral component
2 in those cement or concrete projects.

3 “(3) REPORT.—Not later than 30 months after
4 the date of enactment of this section, the Adminis-
5 trator shall submit to Congress a report on the
6 study.

7 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—
8 Unless the study conducted under subsection (c) identifies
9 any effects or other problems described in subsection
10 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
11 ministrators and each agency head shall, not later than 1
12 year after the release of the report in accordance with sub-
13 section (c)(3), take additional actions authorized under
14 this Act to establish procurement requirements and incen-
15 tives that provide for the use of cement and concrete with
16 increased substitution of recovered mineral component in
17 the construction and maintenance of cement or concrete
18 projects, so as to—

19 “(1) realize more fully the energy savings and
20 environmental benefits associated with increased
21 substitution; and

22 “(2) eliminate barriers identified under sub-
23 section (c).

24 “(e) EFFECT OF SECTION.—Nothing in this section
25 affects the requirements of section 6002 (including the

1 guidelines and specifications for implementing those re-
2 quirements).”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents in section 1001 of the Solid Waste Disposal
5 Act (42 U.S.C. prec. 6901) is amended by adding after
6 the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded
projects involving procurement of cement or concrete.”.

7 **SEC. 4002. USE OF GRANULAR MINE TAILINGS.**

8 (a) IN GENERAL.—Subtitle F of the Solid Waste Dis-
9 posal Act (42 U.S.C. 6961 et seq.) (as amended by section
10 4001(a)) is amended by adding at the end the following:

11 **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

12 “(a) MINE TAILINGS.—

13 “(1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this section, the Ad-
15 ministrator, in consultation with the Secretary of
16 Transportation and heads of other Federal agencies,
17 shall establish criteria (including an evaluation of
18 whether to establish a numerical standard for con-
19 centration of lead and other hazardous substances)
20 for the safe and environmentally protective use of
21 granular mine tailings from the Tar Creek, Okla-
22 homa Mining District, known as ‘chat’, for—

23 “(A) cement or concrete projects; and

1 “(B) transportation construction projects
2 (including transportation construction projects
3 involving the use of asphalt) that are carried
4 out, in whole or in part, using Federal funds.

5 “(2) REQUIREMENTS.—In establishing criteria
6 under paragraph (1), the Administrator shall
7 consider—

8 “(A) the current and previous uses of
9 granular mine tailings as an aggregate for as-
10 phalt; and

11 “(B) any environmental and public health
12 risks and benefits derived from the removal,
13 transportation, and use in transportation
14 projects of granular mine tailings.

15 “(3) PUBLIC PARTICIPATION.—In establishing
16 the criteria under paragraph (1), the Administrator
17 shall solicit and consider comments from the public.

18 “(4) APPLICABILITY OF CRITERIA.—On the es-
19 tablishment of the criteria under paragraph (1), any
20 use of the granular mine tailings described in para-
21 graph (1) in a transportation project that is carried
22 out, in whole or in part, using Federal funds, shall
23 meet the criteria established under paragraph (1).

24 “(b) EFFECT OF SECTIONS.—Nothing in this section
25 or section 6005 affects any requirement of any law (in-

1 cluding a regulation) in effect on the date of enactment
2 of this section.”.

3 (b) CONFORMING AMENDMENT.—The table of con-
4 tents in section 1001 of the Solid Waste Disposal Act (42
5 U.S.C. prec. 6901) (as amended by section 4001(b)) is
6 amended by adding after the item relating to section 6005
7 the following:

“Sec. 6006. Use of granular mine tailings.”.