S. 1813, Boxer, Inhofe, Baucus, Vitter #1:

A manager's amendment making technical changes to S. 1813, Moving Ahead for Progress in the 21st Century Act.
AMENDMENT NO._______        Calendar No._______

Purpose: To improve the bill.


S._______

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

Referred to the Committee on ________________ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by ________________

Viz:

1 On page 3, after the item relating to section 1518,
   insert the following:
   "Sec. 1519. Requirements for eligible bridge projects.

3 On page 18, line 6, insert "preservation," after
4 "maintenance,"

5 On page 23, line 5, strike "to".

6 On page 27, strike lines 6 through 12 and insert the
7 following:
“(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP–21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

On page 35, line 20, insert “preservation,” after “maintenance,”.

On page 36, line 8, strike “truck-tractor or” and insert “truck-tractor,“.

On page 36, line 11, strike “or”.

On page 38, strike line 3 and insert the following:

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

(1) IN GENERAL.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109 Stat. 597) is amended by striking “and subsections (c)(18) and (c)(20)” and inserting “, in subsections (c)(18) and (c)(20),
and in subparagraphs (A)(iii) and (B) of subsection (c)(26)

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

(c) **CONFORMING AMENDMENTS.**—

On page 50, strike line 12 and insert the following:

“that are transferred under this subsection.

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

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

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

“(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and
“(4) the rates of obligation of funds apportioned or set aside under this section, according to—

“(A) program;
“(B) funding category of subcategory;
“(C) type of improvement;
“(D) State; and
“(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.”.

On page 51, strike lines 3 through 6 and insert the following:

“(2) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets for infrastructure condition and performance.

On page 57, line 5, insert “and turning lanes” after “lanes”.

On page 57, lines 13 and 14, strike “based on a process defined by the Secretary to guide effective investment decisions”.
On page 57, line 23, strike "and, to the maximum extent practicable, reflect the" and insert "and supporting the progress toward the achievement of the".

On page 58, lines 5 and 6, strike "highway infrastructure" and insert "pavement and bridge".

On page 58, line 18, strike "by regulation and".

On page 60, line 3, insert "final" after "promulgates".

On page 62, between lines 16 and 17, insert the following:

"(9) PROCESS.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1) and establish the standards and measures described in paragraph (4).

On page 62, line 22, insert "`, excluding bridges on the Interstate System,” after “System”.

On page 63, line 11, strike "except that" and all that follows through line 15 and insert "except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and".

On page 64, line 8, insert "under subsection (f)(4)(D)" before the period.

Beginning on page 64, strike line 17 and all that follows through page 65, line 5, and insert the following:

"(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount for bridges on the National Highway System that is not less than 50 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over
the amount required to be obligated in the
previous fiscal year; and

On page 65, line 23, insert “under subsection
(f)(4)(D)” after “Secretary”.

On page 66, line 8, strike “15” and insert “18”.

On page 66, line 9, insert “final” after “promul-
gates”.

On page 78, line 5, strike “system” and insert “pro-
gram”.

Beginning on page 82, strike line 15 and all that fol-
lows through page 83, line 6, and insert the following:

“(A) PENALTY.—If the total deck area of
deficient off-system bridges in a State increases
for the 2 most recent consecutive years, the
State shall be required, during the following fis-
cal year, to obligate for the improvement of def-
cient off-system bridges from the amounts ap-
portioned to the State under section 104(b)(2)
an amount that is not less than 110 percent of
the amount of funds required to be obligated by
the State for off-system bridges for fiscal year 2009 under section 144(f)(2), as in effect on the day before the date of enactment of the MAP-21, except that for each year after fiscal year 2013, the amount required to be obligated under this subparagraph shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year.

On page 84, strike line 14 and insert the following:

"Secretary.

"(h) ADMINISTRATION.—

"(1) SUBMISSION OF PROJECT AGREEMENT.—

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

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

"(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary."
“(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay transportation mobility program funds made available under this title.”.

On page 85, lines 20 and 21, strike “each fiscal year” and insert “each of fiscal years 2012 and 2013”.

On page 111, line 13, strike “comprehensive”.

On page 124, line 5, insert “for projects” after “next fiscal year”.

On page 124, strike lines 11 through 20 and insert the following:

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

On page 130, line 23, strike “advanced”.

On page 135, line 7, strike “the apportioned amount”
and insert “the amount apportioned”.

Beginning on page 149, strike line 8 and all that fol-
lows through page 151, line 13, and insert the following:

“(D) Planning, designing, or constructing
boulevards and other roadways largely in the
right-of-way of former Interstate System routes
or other divided highways.

On page 154, line 6, insert “for” after “50 percent”.

On page 165, line 6, strike “or” at the end.

On page 165, line 9, insert “or” after the semicolon.
On page 165, between lines 9 and 10, insert the following:

“(iii) mitigation of the congestion impacts from freight movement;

On page 169, line 17, insert “for vehicles” after “systems”.

On page 174, lines 9 and 10, strike “and transport providers” and insert “, transport providers, and States”.

On page 178, line 14, strike “quantifiable”.

On page 182, line 22, strike “system” and insert “highway”.

On page 200, strike lines 8 through 13 and insert the following:

“(aa) 50 percent, equal to the ratio that the amount allocated to each tribe as a tribal share for fiscal year 2011 bears to the total tribal share amount allocated to all tribes for that fiscal year; and
On page 238, line 15, strike "60" and insert "30".

On page 238, line 23, insert "in which the project is located" after "State".

On page 241, line 17, strike "injuries," and insert "and serious injuries".

On page 242, line 21, insert "under this section" after "funds".

On page 243, lines 20 and 21, strike the brackets surrounding "section 10a-d of title 41, United States Code".

Beginning on page 244, strike line 15 and all that follows through page 245, line 6, and insert the following:

(g) **Federal Share of Project Cost.**—

(1) **In General.**—If a project funded under this section is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit of the project. For all other projects funded under this section—
(A) the Federal share of funds under this section shall be up to 50 percent of the project cost; and

(B) the project sponsor may use other eligible Federal transportation funds to cover up to an additional 30 percent of the project costs.

(2) PRE-APPROVAL COSTS.—The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable, and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed project.

On page 245, line 19, strike "system" and insert "highway".

On page 246, line 8, insert "serious" before "injuries".

Beginning on page 248, strike line 23 and all that follows through page 249, line 11, and insert the following:
“(9) Nonmetropolitan planning organization.—The term ‘nonmetropolitan planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

“(B) is not designated as a tier I or tier II metropolitan planning organization.

On page 249, between lines 22 and 23, insert the following:

“(11) Rural planning organization.—The term ‘rural planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

“(B) is not designated as a tier I or tier II metropolitan planning organization.

On page 273, line 8, insert “where applicable,” after “149(k),”.

On page 273, line 22, insert “where applicable,” after “149(k),”.
On page 274, lines 4 and 5, strike "described in this paragraph into other" and insert "described in other".

On page 274, line 13, strike "plan;" and insert "plan, where applicable;".

Beginning on page 282, strike line 19 and all that follows through page 284, line 8 and insert the following:

"(3) SCENARIO DEVELOPMENT.—

"(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of its community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

"(B) COMPONENTS OF SCENARIOS.—The scenarios—

"(i) shall include potential regional investment strategies for the planning horizon;

"(ii) shall include an assumed distribution of population and employment;
“(iii) may include a scenario that, to
the maximum extent practicable, maintains
baseline conditions for the performance
measures identified in subsection (h)(2);

“(iv) may include a scenario that im-
proves the baseline conditions for as many
of the performance measures under sub-
section (h)(2) as possible;

“(v) may include a revenue-con-
strained scenario based on total revenues
reasonably expected to be available over
the 20-year planning period and assumed
population and employment; and

“(vi) may include estimated costs and
potential revenues available to support
each scenario.

“(C) METRICS.—In addition to the per-
formance measures identified in subsection
(h)(2), scenarios developed under this para-
graph may be evaluated using locally-developed
metrics for the following categories:

“(i) Congestion and mobility, includ-
ing transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.
“(iv) Efficiency and costs to taxpayers.

On page 301, strike line 24 and insert the following:
January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates by 2 years after the date of issuance of guidance by the Secretary.”.

On page 304, strike lines 1 through 18 and insert the following:

“(b) COORDINATION AND CONSULTATION.—

“(1) IN GENERAL.—Each State shall—

“(A) coordinate planning carried out under this section with—
“(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

“(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

On page 309, line 16, strike “149(k),”.

On page 310, line 10, insert “and” after the semi-colon.

On page 310, strike lines 11 and 12.
On page 310, line 13, strike "(iv)" and insert "(iii)".

On page 337, strike line 2 and insert the following:
"seq.) as of January 1, 1997.

“(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates by 2 years after the date of issuance of guidance by the Secretary.”.

On page 417, line 7, insert “, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C” after “lead”.

On page 429, lines 22 and 23, strike “subclause (II)” and insert “subparagraph (B)”.

On page 430, line 14, strike “subclause (I)” and insert “subparagraph (A)”. 
On page 431, lines 22 and 23, strike “subclause (II)” and insert “subparagraph (B)”.

On page 440, lines 13 and 14, strike “$10,000,000 for each fiscal year” and insert “$15,000,000 for each of fiscal years 2012 and 2013”.

On page 441, between lines 19 and 20, insert the following:

(7) To provide grants to prohibit racial profiling in accordance with section 1906 of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1468).

On page 442, line 10, strike “and”.

On page 442, lines 23 and 24, strike “[the second place it appears]” and insert “the second place it appears”.

On page 445, between lines 4 and 5, insert the following:

(d) CERTAIN ALLOCATIONS.—Notwithstanding any other provision of law, any unobligated balances of amounts required to be allocated to a State by the fol-
lowing sections shall instead be made available to such State for any purpose eligible under section 133(c) of title 23, United States Code:


(2) The project described in item 1866 in the table contained in section 1702 of the SAFETEA–LU (119 Stat. 1329).

On page 446, after line 24, add the following:

SEC. 1519. REQUIREMENTS FOR ELIGIBLE BRIDGE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE BRIDGE PROJECT.—The term “eligible bridge project” means a project for construction, alteration, or repair work on a bridge or overpass funded directly by, or provided other assistance through, the Federal Government.

(2) QUALIFIED TRAINING PROGRAM.—The term “qualified training program” means a training program that—

(A)(i) is certified by the Secretary of Labor; and
(ii) with respect to an eligible bridge project located in an area in which the Secretary of Labor determines that a training program does not exist, is registered with—

(I) the Department of Labor; or

(II) a State agency recognized by the Department of Labor for purposes of a Federal training program; or

(B) is a corrosion control, mitigation and prevention personnel training program that is offered by an organization whose standards are recognized and adopted in other Federal or State Departments of Transportation.

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

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Each contractor and subcontractor that carries out any aspect of an eligible bridge project described in paragraph (2) shall—

(A) before entering into the applicable contract, be certified by the Secretary or a State, in accordance with paragraph (4), as meeting the eligibility requirements described in paragraph (3); and
(B) remain certified as described in sub-
paragraph (A) while carrying out the applicable
aspect of the eligible bridge project.

(2) DESCRIPTION OF ASPECTS OF ELIGIBLE
BRIDGE PROJECTS.—An aspect of an eligible bridge
project referred to in paragraph (1) is—

(A) surface preparation or coating applica-
tion on bridge steel of an eligible bridge project;

(B) removal of a lead-based or other haz-
ardous coating from bridge steel of an existing
eligible bridge project;

(C) shop painting of structural steel fab-
ricated for installation on bridge steel of an eli-
gible bridge project; and

(D) the design, application, installation,
and maintenance of a cathodic protection sys-
tem.

(3) REQUIREMENTS.—The eligibility require-
ments referred to in paragraph (1) are that a con-
tractor or subcontractor shall—

(A) as determined by the Secretary—

(i) use corrosion mitigation and pre-
vention methods to preserve relevant
bridges and overpasses, taking into ac-
count—
(I) material selection;

(II) coating considerations;

(III) cathodic protection considerations;

(IV) design considerations for corrosion; and

(V) trained applicators;

(ii) use best practices—

(I) to prevent environmental degradation; and

(II) to ensure careful handling of all hazardous materials; and

(iii) demonstrate a history of employing industry-respected inspectors to ensure funds are used in the interest of affected taxpayers; and

(B) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration, as determined by the Secretary of Labor.

(4) STATE CONSULTATION.—In determining whether to certify a contractor or subcontractor under paragraph (1)(A), a State shall consult with engineers and other experts trained in accordance
with subsection (a)(2) specializing in corrosion control, mitigation, and prevention methods.

(c) OPTIONAL TRAINING PROGRAM.—As a condition of entering into a contract for an eligible bridge project, each contractor and subcontractor that performs construction, alteration, or repair work on a bridge or overpass for the eligible bridge project may provide, or make available, training, through a qualified training program, for each applicable craft or trade classification of employees that the contractor or subcontractor intends to employ to carry out aspects of eligible bridge projects as described in subsection (b)(2).

On page 472, line 23, insert “and economic development” after “transportation”.

On page 474, line 14, insert “economic development,” after “water infrastructure,”.

On page 478, line 19, insert “the Secretary” after “and”.

On page 479, line 8, insert “a” before “motor”.
Beginning on page 493, strike line 8 and all that follows through page 494, line 19 and insert the following:

“(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—”.

On page 496, line 6, strike “Not less” and insert “Funds.—Not less”.

On page 496, line 10, strike “Funds” and insert “TREATMENT OF FUNDS.—Funds”.

On page 504, lines 15 and 16, strike “and for which the requirements of subparagraph” and insert “. The requirements of subsection”.

On page 538, line 14, strike “and public service utilities” and insert “public service utilities,”.

On page 568, line 21, strike “clauses (ii) and” and insert “clause”.

On page 571, line 24, insert “non-Federal funds or” after “use”.
On page 573, line 20, strike “or”.

On page 573, between lines 20 and 21, insert the following:

“(C) to refinance existing loan agreements for rural infrastructure projects; or

On page 573, line 21, strike “(C)” and insert “(D)”.

On page 577, line 6, strike “subparagraphs (B) and (C)” and insert “subparagraph (B)”.

On page 590, line 14, strike “for” and insert “in”.

Beginning on page 593, strike line 14 and all that follows through page 595, line 15 and insert the following:

“(a) Solvency Calculation for Fiscal Year 2012.—

“(1) Adjustment of Obligation Limitation.—Not later than 60 days after the date of enactment of the MAP-21, the Secretary, in consultation with the Secretary of Treasury, shall:

“(A) Estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of fiscal years 2012 and
2013. For purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs will be equal to the obligation limitations enacted for those fiscal years in the MAP–21.

"(B) Determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

"(i) $2,000,000,000 at the end of fiscal year 2012; or

"(ii) $1,000,000,000 at the end of fiscal year 2013.

"(C) If either of the conditions in subparagraph (B) would occur, calculate the amount by which the fiscal year 2012 obligation limitation must be reduced to prevent such occurrence. For purposes of this calculation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the fiscal year 2013 will be equal to the obligation limitation for fiscal year 2012, as reduced pursuant to this subparagraph.
“(D) Adjust the distribution of the fiscal year 2012 obligation limitation to reflect any reduction determined under subparagraph (C).

“(2) LAPSE AND RESCISSION.—

“(A) LAPSE OF OBLIGATION LIMITATION.—Any obligation limitation that is withdrawn by the Secretary pursuant to paragraph (1)(D) shall lapse immediately following the adjustment of obligation limitation under such paragraph.

“(B) RESCISSION OF CONTRACT AUTHORITY.—Upon the lapse of any obligation limitation under subparagraph (A), the Secretary shall reduce proportionately the amount authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 2012 to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief and funds under the national highway performance program that are exempt from the fiscal year 2012 obligation limitation) by an aggregate amount equal to the amount of adjustment determined pursuant to paragraph (1)(D).
The amounts withdrawn pursuant to this sub-
paragraph are permanently rescinded.

On page 596, line 6, strike "is" and insert "will be".

On page 598, line 5, strike "paragraph" and insert
"clause".

On page 598, line 16, strike "subparagraph" and in-
sert "clause".

On page 599, line 14, insert "subsection (a) and"
after "in".