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112TH CONGRESS
2^D SESSION

S. _____

[Report No. 112-_____]]

To reauthorize Federal public transportation programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

A BILL

To reauthorize Federal public transportation 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.**

4 This Act may be cited as the “Federal Public Trans-
5 portation Act of 2012”.

1 **SEC. 2. REPEALS.**

2 (a) CHAPTER 53.—Chapter 53 of title 49, United
3 States Code, is amended by striking sections 5316, 5317,
4 5321, 5324, 5328, and 5339.

5 (b) TRANSPORTATION EQUITY ACT FOR THE 21ST
6 CENTURY.—Section 3038 of the Transportation Equity
7 Act for the 21st Century (49 U.S.C. 5310 note) is re-
8 pealed.

9 (c) SAFETEA-LU.—The following provisions are
10 repealed:

11 (1) Section 3009(i) of SAFETEA-LU (Public
12 Law 109–59; 119 Stat. 1572).

13 (2) Section 3011(c) of SAFETEA-LU (49
14 U.S.C. 5309 note).

15 (3) Section 3012(b) of SAFETEA-LU (49
16 U.S.C. 5310 note).

17 (4) Section 3045 of SAFETEA-LU (49 U.S.C.
18 5308 note).

19 (5) Section 3046 of SAFETEA-LU (49 U.S.C.
20 5338 note).

21 **SEC. 3. POLICIES, PURPOSES, AND GOALS.**

22 Section 5301 of title 49, United States Code, is
23 amended to read as follows:

24 **“§ 5301. Policies, purposes, and goals**

25 “(a) DECLARATION OF POLICY.—It is in the interest
26 of the United States, including the economic interest of

1 the United States, to foster the development and revital-
2 ization of public transportation systems.

3 “(b) GENERAL PURPOSES.—The purposes of this
4 chapter are to—

5 “(1) provide funding to support public trans-
6 portation;

7 “(2) improve the development and delivery of
8 capital projects;

9 “(3) initiate a new framework for improving the
10 safety of public transportation systems;

11 “(4) establish standards for the state of good
12 repair of public transportation infrastructure and ve-
13 hicles;

14 “(5) promote continuing, cooperative, and com-
15 prehensive planning that improves the performance
16 of the transportation network;

17 “(6) establish a technical assistance program to
18 assist recipients under this chapter to more effec-
19 tively and efficiently provide public transportation
20 service;

21 “(7) continue Federal support for public trans-
22 portation providers to deliver high quality service to
23 all users, including individuals with disabilities, sen-
24 iors, and individuals who depend on public transpor-
25 tation;

1 “(8) support research, development, demonstra-
2 tion, and deployment projects dedicated to assisting
3 in the delivery of efficient and effective public trans-
4 portation service; and

5 “(9) promote the development of the public
6 transportation workforce.

7 “(c) NATIONAL GOALS.—The goals of this chapter
8 are to—

9 “(1) increase the availability and accessibility of
10 public transportation across a balanced, multimodal
11 transportation network;

12 “(2) promote the environmental benefits of pub-
13 lic transportation, including reduced reliance on fos-
14 sil fuels, fewer harmful emissions, and lower public
15 health expenditures;

16 “(3) improve the safety of public transportation
17 systems;

18 “(4) achieve and maintain a state of good re-
19 pair of public transportation infrastructure and vehi-
20 cles;

21 “(5) provide an efficient and reliable alternative
22 to congested roadways;

23 “(6) increase the affordability of transportation
24 for all users; and

1 “(7) maximize economic development opportuni-
2 ties by—

3 “(A) connecting workers to jobs;

4 “(B) encouraging mixed-use, transit-ori-
5 ented development; and

6 “(C) leveraging private investment and
7 joint development.”.

8 **SEC. 4. DEFINITIONS.**

9 Section 5302 of title 49, United States Code, is
10 amended to read as follows:

11 **“§ 5302. Definitions**

12 “Except as otherwise specifically provided, in this
13 chapter the following definitions apply:

14 “(1) ASSOCIATED TRANSIT IMPROVEMENT.—

15 The term ‘associated transit improvement’ means,
16 with respect to any project or an area to be served
17 by a project, projects that are designed to enhance
18 public transportation service or use and that are
19 physically or functionally related to transit facilities.

20 Eligible projects are—

21 “(A) historic preservation, rehabilitation,
22 and operation of historic public transportation
23 buildings, structures, and facilities (including
24 historic bus and railroad facilities) intended for
25 use in public transportation service;

1 “(B) bus shelters;

2 “(C) landscaping and streetscaping, includ-
3 ing benches, trash receptacles, and street lights;

4 “(D) pedestrian access and walkways;

5 “(E) bicycle access, including bicycle stor-
6 age facilities and installing equipment for trans-
7 porting bicycles on public transportation vehi-
8 cles;

9 “(F) signage; or

10 “(G) enhanced access for persons with dis-
11 abilities to public transportation.

12 “(2) BUS RAPID TRANSIT SYSTEM.—The term
13 ‘bus rapid transit system’ means a bus transit sys-
14 tem—

15 “(A) in which the majority of each line op-
16 erates in a separated right-of-way dedicated for
17 public transportation use during peak periods;
18 and

19 “(B) that includes features that emulate
20 the services provided by rail fixed guideway
21 public transportation systems, including—

22 “(i) defined stations;

23 “(ii) traffic signal priority for public
24 transportation vehicles;

1 “(iii) short headway bidirectional serv-
2 ices for a substantial part of weekdays and
3 weekend days; and

4 “(iv) any other features the Secretary
5 may determine are necessary to produce
6 high-quality public transportation services
7 that emulate the services provided by rail
8 fixed guideway public transportation sys-
9 tems.

10 “(3) CAPITAL PROJECT.—The term ‘capital
11 project’ means a project for—

12 “(A) acquiring, constructing, supervising,
13 or inspecting equipment or a facility for use in
14 public transportation, expenses incidental to the
15 acquisition or construction (including designing,
16 engineering, location surveying, mapping, and
17 acquiring rights-of-way), payments for the cap-
18 ital portions of rail trackage rights agreements,
19 transit-related intelligent transportation sys-
20 tems, relocation assistance, acquiring replace-
21 ment housing sites, and acquiring, constructing,
22 relocating, and rehabilitating replacement hous-
23 ing;

24 “(B) rehabilitating a bus;

25 “(C) remanufacturing a bus;

1 “(D) overhauling rail rolling stock;

2 “(E) preventive maintenance;

3 “(F) leasing equipment or a facility for use
4 in public transportation, subject to regulations
5 that the Secretary prescribes limiting the leas-
6 ing arrangements to those that are more cost-
7 effective than purchase or construction;

8 “(G) a joint development improvement
9 that—

10 “(i) enhances economic development
11 or incorporates private investment, such as
12 commercial and residential development;

13 “(ii)(I) enhances the effectiveness of
14 public transportation and is related phys-
15 ically or functionally to public transpor-
16 tation; or

17 “(II) establishes new or enhanced co-
18 ordination between public transportation
19 and other transportation;

20 “(iii) provides a fair share of revenue
21 that will be used for public transportation;

22 “(iv) provides that a person making
23 an agreement to occupy space in a facility
24 constructed under this paragraph shall pay

1 a fair share of the costs of the facility
2 through rental payments and other means;
3 “(v) may include—
4 “(I) property acquisition;
5 “(II) demolition of existing struc-
6 tures;
7 “(III) site preparation;
8 “(IV) utilities;
9 “(V) building foundations;
10 “(VI) walkways;
11 “(VII) pedestrian and bicycle ac-
12 cess to a public transportation facility;
13 “(VIII) construction, renovation,
14 and improvement of intercity bus and
15 intercity rail stations and terminals;
16 “(IX) renovation and improve-
17 ment of historic transportation facili-
18 ties;
19 “(X) open space;
20 “(XI) safety and security equip-
21 ment and facilities (including lighting,
22 surveillance, and related intelligent
23 transportation system applications);

1 “(XII) facilities that incorporate
2 community services such as daycare
3 or health care;

4 “(XIII) a capital project for, and
5 improving, equipment or a facility for
6 an intermodal transfer facility or
7 transportation mall; and

8 “(XIV) construction of space for
9 commercial uses; and

10 “(vi) does not include outfitting of
11 commercial space (other than an intercity
12 bus or rail station or terminal) or a part
13 of a public facility not related to public
14 transportation;

15 “(H) the introduction of new technology,
16 through innovative and improved products, into
17 public transportation;

18 “(I) the provision of nonfixed route para-
19 transit transportation services in accordance
20 with section 223 of the Americans with Disabil-
21 ities Act of 1990 (42 U.S.C. 12143), but only
22 for grant recipients that are in compliance with
23 applicable requirements of that Act, including
24 both fixed route and demand responsive service,
25 and only for amounts not to exceed 10 percent

1 of such recipient's annual formula apportion-
2 ment under sections 5307 and 5311;

3 “(J) establishing a debt service reserve,
4 made up of deposits with a bondholder's trust-
5 ee, to ensure the timely payment of principal
6 and interest on bonds issued by a grant recipi-
7 ent to finance an eligible project under this
8 chapter;

9 “(K) mobility management—

10 “(i) consisting of short-range planning
11 and management activities and projects for
12 improving coordination among public
13 transportation and other transportation
14 service providers carried out by a recipient
15 or subrecipient through an agreement en-
16 tered into with a person, including a gov-
17 ernmental entity, under this chapter (other
18 than section 5309); but

19 “(ii) excluding operating public trans-
20 portation services; or

21 “(L) associated capital maintenance, in-
22 cluding—

23 “(i) equipment, tires, tubes, and ma-
24 terial, each costing at least .5 percent of
25 the current fair market value of rolling

1 stock comparable to the rolling stock for
2 which the equipment, tires, tubes, and ma-
3 terial are to be used; and

4 “(ii) reconstruction of equipment and
5 material, each of which after reconstruc-
6 tion will have a fair market value of at
7 least .5 percent of the current fair market
8 value of rolling stock comparable to the
9 rolling stock for which the equipment and
10 material will be used.

11 “(4) DISABILITY.—The term ‘disability’ has the
12 same meaning as in section 3(1) of the Americans
13 with Disabilities Act of 1990 (42 U.S.C. 12102).

14 “(5) DESIGNATED RECIPIENT.—The term ‘des-
15 ignated recipient’ means—

16 “(A) an entity designated, in accordance
17 with the planning process under sections 5303
18 and 5304, by the Governor of a State, respon-
19 sible local officials, and publicly owned opera-
20 tors of public transportation, to receive and ap-
21 portion amounts under section 5336 to urban-
22 ized areas of 200,000 or more in population; or

23 “(B) a State or regional authority, if the
24 authority is responsible under the laws of a

1 State for a capital project and for financing
2 and directly providing public transportation.

3 “(6) EMERGENCY REGULATION.—The term
4 ‘emergency regulation’ means a regulation—

5 “(A) that is effective temporarily before
6 the expiration of the otherwise specified periods
7 of time for public notice and comment under
8 section 5334(e); and

9 “(B) prescribed by the Secretary as the re-
10 sult of a finding that a delay in the effective
11 date of the regulation—

12 “(i) would injure seriously an impor-
13 tant public interest;

14 “(ii) would frustrate substantially leg-
15 islative policy and intent; or

16 “(iii) would damage seriously a person
17 or class without serving an important pub-
18 lic interest.

19 “(7) FIXED GUIDEWAY.—The term ‘fixed
20 guideway’ means a public transportation facility—

21 “(A) using and occupying a separate right-
22 of-way for the exclusive use of public transpor-
23 tation;

24 “(B) using rail;

25 “(C) using a fixed catenary system;

1 “(D) for a passenger ferry system; or

2 “(E) for a bus rapid transit system.

3 “(8) GOVERNOR.—The term ‘Governor’—

4 “(A) means the Governor of a State, the
5 mayor of the District of Columbia, and the
6 chief executive officer of a territory of the
7 United States; and

8 “(B) includes the designee of the Gov-
9 ernor.

10 “(9) LOCAL GOVERNMENTAL AUTHORITY.—The
11 term ‘local governmental authority’ includes—

12 “(A) a political subdivision of a State;

13 “(B) an authority of at least 1 State or po-
14 litical subdivision of a State;

15 “(C) an Indian tribe; and

16 “(D) a public corporation, board, or com-
17 mission established under the laws of a State.

18 “(10) LOW-INCOME INDIVIDUAL.—The term
19 ‘low-income individual’ means an individual whose
20 family income is at or below 150 percent of the pov-
21 erty line, as that term is defined in section 673(2)
22 of the Community Services Block Grant Act (42
23 U.S.C. 9902(2)), including any revision required by
24 that section, for a family of the size involved.

1 “(11) NET PROJECT COST.—The term ‘net
2 project cost’ means the part of a project that reason-
3 ably cannot be financed from revenues.

4 “(12) NEW BUS MODEL.—The term ‘new bus
5 model’ means a bus model (including a model using
6 alternative fuel)—

7 “(A) that has not been used in public
8 transportation in the United States before the
9 date of production of the model; or

10 “(B) used in public transportation in the
11 United States, but being produced with a major
12 change in configuration or components.

13 “(13) PUBLIC TRANSPORTATION.—The term
14 ‘public transportation’—

15 “(A) means regular, continuing shared-ride
16 surface transportation services that are open to
17 the general public or open to a segment of the
18 general public defined by age, disability, or low
19 income; and

20 “(B) does not include—

21 “(i) intercity passenger rail transpor-
22 tation provided by the entity described in
23 chapter 243 (or a successor to such enti-
24 ty);

25 “(ii) intercity bus service;

1 “(iii) charter bus service;

2 “(iv) school bus service;

3 “(v) sightseeing service;

4 “(vi) courtesy shuttle service for pa-
5 trons of one or more specific establish-
6 ments; or

7 “(vii) intra-terminal or intra-facility
8 shuttle services.

9 “(14) REGULATION.—The term ‘regulation’
10 means any part of a statement of general or par-
11 ticular applicability of the Secretary designed to
12 carry out, interpret, or prescribe law or policy in
13 carrying out this chapter.

14 “(15) SECRETARY.—The term ‘Secretary’
15 means the Secretary of Transportation.

16 “(16) SENIOR.—The term ‘senior’ means an in-
17 dividual who is 65 years of age or older.

18 “(17) STATE.—The term ‘State’ means a State
19 of the United States, the District of Columbia, Puer-
20 to Rico, the Northern Mariana Islands, Guam,
21 American Samoa, and the Virgin Islands.

22 “(18) STATE OF GOOD REPAIR.—The term
23 ‘state of good repair’ has the meaning given that
24 term by the Secretary, by rule, under section
25 5326(b).

1 “(19) TRANSIT.—The term ‘transit’ means
2 public transportation.

3 “(20) URBAN AREA.—The term ‘urban area’
4 means an area that includes a municipality or other
5 built-up place that the Secretary, after considering
6 local patterns and trends of urban growth, decides
7 is appropriate for a local public transportation sys-
8 tem to serve individuals in the locality.

9 “(21) URBANIZED AREA.—The term ‘urbanized
10 area’ means an area encompassing a population of
11 not less than 50,000 people that has been defined
12 and designated in the most recent decennial census
13 as an ‘urbanized area’ by the Secretary of Com-
14 merce.”.

15 **SEC. 5. METROPOLITAN TRANSPORTATION PLANNING.**

16 (a) IN GENERAL.—Section 5303 of title 49, United
17 States Code, is amended to read as follows:

18 **“§ 5303. Metropolitan transportation planning**

19 “(a) POLICY.—It is in the national interest—

20 “(1) to encourage and promote the safe, cost-
21 effective, and efficient management, operation, and
22 development of surface transportation systems that
23 will serve efficiently the mobility needs of individuals
24 and freight, reduce transportation-related fatalities
25 and serious injuries, and foster economic growth and

1 development within and between States and urban-
2 ized areas, while fitting the needs and complexity of
3 individual communities, maximizing value for tax-
4 payers, leveraging cooperative investments, and
5 minimizing transportation-related fuel consumption
6 and air pollution through the metropolitan and
7 statewide transportation planning processes identi-
8 fied in this chapter;

9 “(2) to encourage the continued improvement,
10 evolution, and coordination of the metropolitan and
11 statewide transportation planning processes by and
12 among metropolitan planning organizations, State
13 departments of transportation, regional planning or-
14 ganizations, interstate partnerships, and public
15 transportation and intercity service operators as
16 guided by the planning factors identified in sub-
17 section (h) of this section and section 5304(d);

18 “(3) to encourage and promote transportation
19 needs and decisions that are integrated with other
20 planning needs and priorities; and

21 “(4) to maximize the effectiveness of transpor-
22 tation investments.

23 “(b) DEFINITIONS.—In this section and section
24 5304, the following definitions shall apply:

1 “(1) EXISTING MPO.—The term ‘existing MPO’
2 means a metropolitan planning organization that
3 was designated as a metropolitan planning organiza-
4 tion as of the day before the date of enactment of
5 the Federal Public Transportation Act of 2012.

6 “(2) LOCAL OFFICIAL.—The term ‘local official’
7 means any elected or appointed official of general
8 purpose local government with responsibility for
9 transportation in a designated area.

10 “(3) MAINTENANCE AREA.—The term ‘mainte-
11 nance area’ means an area that was designated as
12 an air quality nonattainment area, but was later re-
13 designated by the Administrator of the Environ-
14 mental Protection Agency as an air quality attain-
15 ment area, under section 107(d) of the Clean Air
16 Act (42 U.S.C. 7407(d)).

17 “(4) METROPOLITAN PLANNING AREA.—The
18 term ‘metropolitan planning area’ means a geo-
19 graphical area determined by agreement between the
20 metropolitan planning organization for the area and
21 the applicable Governor under subsection (c).

22 “(5) METROPOLITAN PLANNING ORGANIZA-
23 TION.—The term ‘metropolitan planning organiza-
24 tion’ means the policy board of an organization es-
25 tablished pursuant to subsection (c).

1 “(6) METROPOLITAN TRANSPORTATION
2 PLAN.—The term ‘metropolitan transportation plan’
3 means a plan developed by a metropolitan planning
4 organization under subsection (i).

5 “(7) NONATTAINMENT AREA.—The term ‘non-
6 attainment area’ has the meaning given the term in
7 section 171 of the Clean Air Act (42 U.S.C. 7501).

8 “(8) NONMETROPOLITAN AREA.—

9 “(A) IN GENERAL.—The term ‘nonmetro-
10 politan area’ means a geographical area outside
11 the boundaries of a designated metropolitan
12 planning area.

13 “(B) INCLUSIONS.—The term ‘nonmetro-
14 politan area’ includes a small urbanized area
15 with a population of more than 50,000, but
16 fewer than 200,000 individuals, as calculated
17 according to the most recent decennial census,
18 and a nonurbanized area.

19 “(9) NONMETROPOLITAN PLANNING ORGANIZA-
20 TION.—The term ‘nonmetropolitan planning organi-
21 zation’ means an organization that—

22 “(A) was designated as a metropolitan
23 planning organization as of the day before the
24 date of enactment of the Federal Public Trans-
25 portation Act of 2012; and

1 “(B) is not designated as a tier I MPO or
2 tier II MPO.

3 “(10) REGIONALLY SIGNIFICANT.—The term
4 ‘regionally significant’, with respect to a transpor-
5 tation project, program, service, or strategy, means
6 a project, program, service, or strategy that—

7 “(A) serves regional transportation needs
8 (such as access to and from the area outside of
9 the region, major activity centers in the region,
10 and major planned developments); and

11 “(B) would normally be included in the
12 modeling of a transportation network of a met-
13 ropolitan area.

14 “(11) RURAL PLANNING ORGANIZATION.—The
15 term ‘rural planning organization’ means a vol-
16 untary organization of local elected officials and rep-
17 resentatives of local transportation systems that—

18 “(A) works in cooperation with the depart-
19 ment of transportation (or equivalent entity) of
20 a State to plan transportation networks and ad-
21 vise officials of the State on transportation
22 planning; and

23 “(B) is located in a rural area—

24 “(i) with a population of not fewer
25 than 5,000 individuals, as calculated ac-

1 cording to the most recent decennial cen-
2 sus; and

3 “(ii) that is not located in an area
4 represented by a metropolitan planning or-
5 ganization.

6 “(12) STATEWIDE TRANSPORTATION IMPROVE-
7 MENT PROGRAM.—The term ‘statewide transpor-
8 tation improvement program’ means a statewide
9 transportation improvement program developed by a
10 State under section 5304(g).

11 “(13) STATEWIDE TRANSPORTATION PLAN.—
12 The term ‘statewide transportation plan’ means a
13 plan developed by a State under section 5304(f).

14 “(14) TIER I MPO.—The term ‘tier I MPO’
15 means a metropolitan planning organization des-
16 ignated as a tier I MPO under subsection (e)(4)(A).

17 “(15) TIER II MPO.—The term ‘tier II MPO’
18 means a metropolitan planning organization des-
19 ignated as a tier II MPO under subsection
20 (e)(4)(B).

21 “(16) TRANSPORTATION IMPROVEMENT PRO-
22 GRAM.—The term ‘transportation improvement pro-
23 gram’ means a program developed by a metropolitan
24 planning organization under subsection (j).

1 “(17) URBANIZED AREA.—The term ‘urbanized
2 area’ means a geographical area with a population
3 of 50,000 or more individuals, as calculated accord-
4 ing to the most recent decennial census.

5 “(c) DESIGNATION OF METROPOLITAN PLANNING
6 ORGANIZATIONS.—

7 “(1) IN GENERAL.—To carry out the metropoli-
8 tan transportation planning process under this sec-
9 tion, a metropolitan planning organization shall be
10 designated for each urbanized area with a population
11 of 200,000 or more individuals, as calculated accord-
12 ing to the most recent decennial census—

13 “(A) by agreement between the applicable
14 Governor and local officials that, in the aggre-
15 gate, represent at least 75 percent of the af-
16 fected population (including the largest incor-
17 porated city (based on population), as cal-
18 culated according to the most recent decennial
19 census); or

20 “(B) in accordance with procedures estab-
21 lished by applicable State or local law.

22 “(2) SMALL URBANIZED AREAS.—To carry out
23 the metropolitan transportation planning process
24 under this section, a metropolitan planning organiza-
25 tion may be designated for any urbanized area with

1 a population of 50,000 or more individuals, but
2 fewer than 200,000 individuals, as calculated accord-
3 ing to the most recent decennial census—

4 “(A) by agreement between the applicable
5 Governor and local officials that, in the aggre-
6 gate, represent at least 75 percent of the af-
7 fected population (including the largest incor-
8 porated city (based on population), as cal-
9 culated according to the most recent decennial
10 census); and

11 “(B) with the consent of the Secretary,
12 based on a finding that the resulting metropoli-
13 tan planning organization has met the min-
14 imum requirements under subsection (e)(4)(B).

15 “(3) STRUCTURE.—Not later than 1 year after
16 the date of enactment of the Federal Public Trans-
17 portation Act of 2012, a metropolitan planning orga-
18 nization shall consist of—

19 “(A) elected local officials in the relevant
20 metropolitan area;

21 “(B) officials of public agencies that ad-
22 minister or operate major modes of transpor-
23 tation in the relevant metropolitan area, includ-
24 ing providers of public transportation; and

25 “(C) appropriate State officials.

1 “(4) EFFECT OF SUBSECTION.—Nothing in this
2 subsection interferes with any authority under any
3 State law in effect on December 18, 1991, of a pub-
4 lic agency with multimodal transportation respon-
5 sibilities—

6 “(A) to develop the metropolitan transpor-
7 tation plans and transportation improvement
8 programs for adoption by a metropolitan plan-
9 ning organization; or

10 “(B) to develop capital plans, coordinate
11 public transportation services and projects, or
12 carry out other activities pursuant to State law.

13 “(5) CONTINUING DESIGNATION.—A designa-
14 tion of an existing MPO—

15 “(A) for an urbanized area with a popu-
16 lation of 200,000 or more individuals, as cal-
17 culated according to the most recent decennial
18 census, shall remain in effect—

19 “(i) for the period during which the
20 structure of the existing MPO complies
21 with the requirements of paragraph (1); or

22 “(ii) until the date on which the exist-
23 ing MPO is redesignated under paragraph
24 (6); and

1 “(B) for an urbanized area with a popu-
2 lation of fewer than 200,000 individuals, as cal-
3 culated according to the most recent decennial
4 census, shall remain in effect until the date on
5 which the existing MPO is redesignated under
6 paragraph (6) unless—

7 “(i) the existing MPO requests that
8 its planning responsibilities be transferred
9 to the State or to another planning organi-
10 zation designated by the State; or

11 “(ii)(I) the applicable Governor deter-
12 mines not later than 3 years after the date
13 on which the Secretary issues a rule pursu-
14 ant to subsection (e)(4)(B)(i), that the ex-
15 isting MPO is not meeting the minimum
16 requirements established by the rule; and

17 “(II) the Secretary approves the Gov-
18 ernor’s determination.

19 “(C) DESIGNATION AS TIER II MPO.—If
20 the Secretary determines the existing MPO has
21 met the minimum requirements under the rule
22 issued under subsection (e)(4)(B)(i), the Sec-
23 retary shall designate the existing MPO as a
24 tier II MPO.

25 “(6) REDESIGNATION.—

1 “(A) IN GENERAL.—The designation of a
2 metropolitan planning organization under this
3 subsection shall remain in effect until the date
4 on which the metropolitan planning organiza-
5 tion is redesignated, as appropriate, in accord-
6 ance with the requirements of this subsection
7 pursuant to an agreement between—

8 “(i) the applicable Governor; and

9 “(ii) affected local officials who, in the
10 aggregate, represent at least 75 percent of
11 the existing metropolitan planning area
12 population (including the largest incor-
13 porated city (based on population), as cal-
14 culated according to the most recent de-
15 cennial census).

16 “(B) RESTRUCTURING.—A metropolitan
17 planning organization may be restructured to
18 meet the requirements of paragraph (3) without
19 undertaking a redesignation.

20 “(7) DESIGNATION OF MULTIPLE MPOS.—

21 “(A) IN GENERAL.—More than 1 metro-
22 politan planning organization may be des-
23 ignated within an existing metropolitan plan-
24 ning area only if the applicable Governor and
25 an existing MPO determine that the size and

1 complexity of the existing metropolitan planning
2 area make the designation of more than 1 met-
3 ropolitan planning organization for the metro-
4 politan planning area appropriate.

5 “(B) SERVICE JURISDICTIONS.—If more
6 than 1 metropolitan planning organization is
7 designated for an existing metropolitan plan-
8 ning area under subparagraph (A), the existing
9 metropolitan planning area shall be split into
10 multiple metropolitan planning areas, each of
11 which shall be served by the existing MPO or
12 a new metropolitan planning organization.

13 “(C) TIER DESIGNATION.—The tier des-
14 igation of each metropolitan planning organi-
15 zation subject to a designation under this para-
16 graph shall be determined based on the size of
17 each respective metropolitan planning area, in
18 accordance with subsection (e)(4).

19 “(d) METROPOLITAN PLANNING AREA BOUND-
20 ARIES.—

21 “(1) IN GENERAL.—For purposes of this sec-
22 tion, the boundaries of a metropolitan planning area
23 shall be determined by agreement between the appli-
24 cable metropolitan planning organization and the

1 Governor of the State in which the metropolitan
2 planning area is located.

3 “(2) INCLUDED AREA.—Each metropolitan
4 planning area—

5 “(A) shall encompass at least the relevant
6 existing urbanized area and any contiguous
7 area expected to become urbanized within a 20-
8 year forecast period under the applicable metro-
9 politan transportation plan; and

10 “(B) may encompass the entire relevant
11 metropolitan statistical area, as defined by the
12 Office of Management and Budget.

13 “(3) IDENTIFICATION OF NEW URBANIZED
14 AREAS.—The designation by the Bureau of the Cen-
15 sus of a new urbanized area within the boundaries
16 of an existing metropolitan planning area shall not
17 require the redesignation of the relevant existing
18 MPO.

19 “(4) NONATTAINMENT AND MAINTENANCE
20 AREAS.—

21 “(A) EXISTING METROPOLITAN PLANNING
22 AREAS.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), notwithstanding para-
25 graph (2), in the case of an urbanized area

1 designated as a nonattainment area or
2 maintenance area as of the date of enact-
3 ment of the Federal Public Transportation
4 Act of 2012, the boundaries of the existing
5 metropolitan planning area as of that date
6 of enactment shall remain in force and ef-
7 fect.

8 “(ii) EXCEPTION.—Notwithstanding
9 clause (i), the boundaries of an existing
10 metropolitan planning area described in
11 that clause may be adjusted by agreement
12 of the applicable Governor and the affected
13 metropolitan planning organizations in ac-
14 cordance with subsection (c)(7).

15 “(B) NEW METROPOLITAN PLANNING
16 AREAS.—In the case of an urbanized area des-
17 ignated as a nonattainment area or mainte-
18 nance area after the date of enactment of the
19 Federal Public Transportation Act of 2012, the
20 boundaries of the applicable metropolitan plan-
21 ning area—

22 “(i) shall be established in accordance
23 with subsection (c)(1);

24 “(ii) shall encompass the areas de-
25 scribed in paragraph (2)(A);

1 “(iii) may encompass the areas de-
2 scribed in paragraph (2)(B); and

3 “(iv) may address any appropriate
4 nonattainment area or maintenance area.

5 “(e) REQUIREMENTS.—

6 “(1) DEVELOPMENT OF PLANS AND TIPS.—To
7 accomplish the policy objectives described in sub-
8 section (a), each metropolitan planning organization,
9 in cooperation with the applicable State and public
10 transportation operators, shall develop metropolitan
11 transportation plans and transportation improve-
12 ment programs for metropolitan planning areas of
13 the State through a performance-driven, outcome-
14 based approach to metropolitan transportation plan-
15 ning consistent with subsection (h).

16 “(2) CONTENTS.—The metropolitan transpor-
17 tation plans and transportation improvement pro-
18 grams for each metropolitan area shall provide for
19 the development and integrated management and
20 operation of transportation systems and facilities
21 (including accessible pedestrian walkways, bicycle
22 transportation facilities, and intermodal facilities
23 that support intercity transportation) that will func-
24 tion as—

1 “(A) an intermodal transportation system
2 for the metropolitan planning area; and

3 “(B) an integral part of an intermodal
4 transportation system for the applicable State
5 and the United States.

6 “(3) PROCESS OF DEVELOPMENT.—The process
7 for developing metropolitan transportation plans and
8 transportation improvement programs shall—

9 “(A) provide for consideration of all modes
10 of transportation; and

11 “(B) be continuing, cooperative, and com-
12 prehensive to the degree appropriate, based on
13 the complexity of the transportation needs to be
14 addressed.

15 “(4) TIERING.—

16 “(A) TIER I MPOS.—

17 “(i) IN GENERAL.—A metropolitan
18 planning organization shall be designated
19 as a tier I MPO if—

20 “(I) as certified by the Governor
21 of each applicable State, the metro-
22 politan planning organization operates
23 within, and primarily serves, a metro-
24 politan planning area with a popu-
25 lation of 1,000,000 or more individ-

1 uals, as calculated according to the
2 most recent decennial census; and

3 “(II) the Secretary determines
4 the metropolitan planning organiza-
5 tion—

6 “(aa) meets the minimum
7 technical requirements under
8 clause (iv); and

9 “(bb) not later than 2 years
10 after the date of enactment of
11 the Federal Public Transpor-
12 tation Act of 2012, will fully im-
13 plement the processes described
14 in subsections (h) through (j).

15 “(ii) ABSENCE OF DESIGNATION.—In
16 the absence of designation as a tier I MPO
17 under clause (i), a metropolitan planning
18 organization shall operate as a tier II
19 MPO until the date on which the Secretary
20 determines the metropolitan planning orga-
21 nization can meet the minimum technical
22 requirements under clause (iv).

23 “(iii) REDESIGNATION AS TIER I.—A
24 metropolitan planning organization oper-
25 ating within a metropolitan planning area

1 with a population of 200,000 or more and
2 fewer than 1,000,000 individuals and pri-
3 marily within urbanized areas with popu-
4 lations of 200,000 or more individuals, as
5 calculated according to the most recent de-
6 cennial census, that is designated as a tier
7 II MPO under subparagraph (B) may re-
8 quest, with the support of the applicable
9 Governor, a redesignation as a tier I MPO
10 on a determination by the Secretary that
11 the metropolitan planning organization has
12 met the minimum technical requirements
13 under clause (iv).

14 “(iv) MINIMUM TECHNICAL REQUIRE-
15 MENTS.—Not later than 1 year after the
16 date of enactment of the Federal Public
17 Transportation Act of 2012, the Secretary
18 shall issue a rule that establishes the min-
19 imum technical requirements necessary for
20 a metropolitan planning organization to be
21 designated as a tier I MPO, including, at
22 a minimum, modeling, data, staffing, and
23 other technical requirements.

24 “(B) TIER II MPOS.—

1 “(i) IN GENERAL.—Not later than 1
2 year after the date of enactment of the
3 Federal Public Transportation Act of
4 2012, the Secretary shall issue a rule that
5 establishes minimum requirements nec-
6 essary for a metropolitan planning organi-
7 zation to be designated as a tier II MPO.

8 “(ii) REQUIREMENTS.—The minimum
9 requirements established under clause (i)
10 shall—

11 “(I) ensure that each metropoli-
12 tan planning organization has the ca-
13 pabilities necessary to develop the
14 metropolitan transportation plan and
15 transportation improvement program
16 under this section; and

17 “(II) include—

18 “(aa) only the staff re-
19 sources necessary to operate the
20 metropolitan planning organiza-
21 tion; and

22 “(bb) a requirement that the
23 metropolitan planning organiza-
24 tion has the technical capacity to
25 conduct the modeling necessary,

1 as appropriate to the size and re-
2 sources of the metropolitan plan-
3 ning organization, to fulfill the
4 requirements of this section, ex-
5 cept that in cases in which a
6 metropolitan planning organiza-
7 tion has a formal agreement with
8 a State to conduct the modeling
9 on behalf of the metropolitan
10 planning organization, the metro-
11 politan planning organization
12 shall be exempt from the tech-
13 nical capacity requirement.

14 “(iii) INCLUSION.—A metropolitan
15 planning organization operating primarily
16 within an urbanized area with a population
17 of 200,000 or more individuals, as cal-
18 culated according to the most recent de-
19 cennial census, and that does not qualify
20 as a tier I MPO under subparagraph
21 (A)(i), shall—

22 “(I) be designated as a tier II
23 MPO; and

24 “(II) follow the processes under
25 subsection (k).

1 “(C) CONSOLIDATION.—

2 “(i) IN GENERAL.—Metropolitan plan-
3 ning organizations operating within contig-
4 uous or adjacent urbanized areas may elect
5 to consolidate in order to meet the popu-
6 lation thresholds required to achieve des-
7 ignation as a tier I or tier II MPO under
8 this paragraph.

9 “(ii) EFFECT OF SUBSECTION.—
10 Nothing in this subsection requires or pre-
11 vents consolidation among multiple metro-
12 politan planning organizations located
13 within a single urbanized area.

14 “(f) COORDINATION IN MULTISTATE AREAS.—

15 “(1) IN GENERAL.—The Secretary shall encour-
16 age each Governor with responsibility for a portion
17 of a multistate metropolitan area and the appro-
18 priate metropolitan planning organizations to pro-
19 vide coordinated transportation planning for the en-
20 tire metropolitan area.

21 “(2) COORDINATION ALONG DESIGNATED
22 TRANSPORTATION CORRIDORS.—The Secretary shall
23 encourage each Governor with responsibility for a
24 portion of a multistate metropolitan area and the
25 appropriate metropolitan planning organizations to

1 provide coordinated transportation planning for the
2 entire designated transportation corridor.

3 “(3) COORDINATION WITH INTERSTATE COM-
4 PACTS.—The Secretary shall encourage metropolitan
5 planning organizations to take into consideration,
6 during the development of metropolitan transpor-
7 tation plans and transportation improvement pro-
8 grams, any relevant transportation studies con-
9 cerning planning for regional transportation (includ-
10 ing high-speed and intercity rail corridor studies,
11 commuter rail corridor studies, intermodal termi-
12 nals, and interstate highways) in support of freight,
13 intercity, or multistate area projects and services
14 that have been developed pursuant to interstate com-
15 pacts or agreements, or by organizations established
16 under section 5304.

17 “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-
18 TATION PLAN AND TIP DEVELOPMENT.—

19 “(1) NONATTAINMENT AND MAINTENANCE
20 AREAS.—If more than 1 metropolitan planning orga-
21 nization has authority within a metropolitan area,
22 nonattainment area, or maintenance area, each met-
23 ropolitan planning organization shall consult with all
24 other metropolitan planning organizations des-
25 igned for the metropolitan area, nonattainment

1 area, or maintenance area and the State in the de-
2 velopment of metropolitan transportation plans and
3 transportation improvement programs under this
4 section.

5 “(2) TRANSPORTATION IMPROVEMENTS LO-
6 CATED IN MULTIPLE METROPOLITAN PLANNING
7 AREAS.—If a transportation improvement project
8 funded under this chapter or title 23 is located with-
9 in the boundaries of more than 1 metropolitan plan-
10 ning area, the affected metropolitan planning orga-
11 nizations shall coordinate metropolitan transpor-
12 tation plans and transportation improvement pro-
13 grams regarding the project.

14 “(3) COORDINATION OF ADJACENT PLANNING
15 ORGANIZATIONS.—

16 “(A) IN GENERAL.—A metropolitan plan-
17 ning organization that is adjacent or located in
18 reasonably close proximity to another metropoli-
19 tan planning organization shall coordinate with
20 that metropolitan planning organization with
21 respect to planning processes, including prepa-
22 ration of metropolitan transportation plans and
23 transportation improvement programs, to the
24 maximum extent practicable.

1 “(B) NONMETROPOLITAN PLANNING ORGA-
2 NIZATIONS.—A metropolitan planning organiza-
3 tion that is adjacent or located in reasonably
4 close proximity to a nonmetropolitan planning
5 organization shall consult with that nonmetro-
6 politan planning organization with respect to
7 planning processes, to the maximum extent
8 practicable.

9 “(4) RELATIONSHIP WITH OTHER PLANNING
10 OFFICIALS.—

11 “(A) IN GENERAL.—The Secretary shall
12 encourage each metropolitan planning organiza-
13 tion to cooperate with Federal, State, tribal,
14 and local officers and entities responsible for
15 other types of planning activities that are af-
16 fected by transportation in the relevant area
17 (including planned growth, economic develop-
18 ment, infrastructure services, housing, other
19 public services, environmental protection, air-
20 port operations, high-speed and intercity pas-
21 senger rail, freight rail, port access, and freight
22 movements), to the maximum extent prac-
23 ticable, to ensure that the metropolitan trans-
24 portation planning process, metropolitan trans-
25 portation plans, and transportation improve-

1 ment programs are developed in cooperation
2 with other related planning activities in the
3 area.

4 “(B) INCLUSION.—Cooperation under sub-
5 paragraph (A) shall include the design and de-
6 livery of transportation services within the met-
7 ropolitan area that are provided by—

8 “(i) recipients of assistance under sec-
9 tions 202, 203, and 204 of title 23;

10 “(ii) recipients of assistance under
11 this title;

12 “(iii) government agencies and non-
13 profit organizations (including representa-
14 tives of the agencies and organizations)
15 that receive Federal assistance from a
16 source other than the Department of
17 Transportation to provide nonemergency
18 transportation services; and

19 “(iv) sponsors of regionally significant
20 programs, projects, and services that are
21 related to transportation and receive as-
22 sistance from any public or private source.

23 “(5) COORDINATION OF OTHER FEDERALLY RE-
24 QUIRED PLANNING PROGRAMS.—The Secretary shall
25 encourage each metropolitan planning organization

1 to coordinate, to the maximum extent practicable,
2 the development of metropolitan transportation
3 plans and transportation improvement programs
4 with other relevant federally required planning pro-
5 grams.

6 “(h) SCOPE OF PLANNING PROCESS.—

7 “(1) IN GENERAL.—The metropolitan transpor-
8 tation planning process for a metropolitan planning
9 area under this section shall provide for consider-
10 ation of projects and strategies that will—

11 “(A) support the economic vitality of the
12 metropolitan area, especially by enabling global
13 competitiveness, productivity, and efficiency;

14 “(B) increase the safety of the transpor-
15 tation system for motorized and nonmotorized
16 users;

17 “(C) increase the security of the transpor-
18 tation system for motorized and nonmotorized
19 users;

20 “(D) increase the accessibility and mobility
21 of individuals and freight;

22 “(E) protect and enhance the environment,
23 promote energy conservation, improve the qual-
24 ity of life, and promote consistency between
25 transportation improvements and State and

1 local planned growth and economic development
2 patterns;

3 “(F) enhance the integration and
4 connectivity of the transportation system,
5 across and between modes, for individuals and
6 freight;

7 “(G) increase efficient system management
8 and operation; and

9 “(H) emphasize the preservation of the ex-
10 isting transportation system.

11 “(2) PERFORMANCE-BASED APPROACH.—

12 “(A) IN GENERAL.—The metropolitan
13 transportation planning process shall provide
14 for the establishment and use of a performance-
15 based approach to transportation decision-
16 making to support the national goals described
17 in section 5301(c) of this title and in section
18 150(b) of title 23.

19 “(B) PERFORMANCE TARGETS.—

20 “(i) SURFACE TRANSPORTATION PER-
21 FORMANCE TARGETS.—

22 “(I) IN GENERAL.—Each metro-
23 politan planning organization shall es-
24 tablish performance targets that ad-
25 dress the performance measures de-

1 scribed in sections 119(f), 148(h),
2 149(k) (where applicable), and 167(i)
3 of title 23, to use in tracking attain-
4 ment of critical outcomes for the re-
5 gion of the metropolitan planning or-
6 ganization.

7 “(II) COORDINATION.—Selection
8 of performance targets by a metropoli-
9 tan planning organization shall be co-
10 ordinated with the relevant State to
11 ensure consistency, to the maximum
12 extent practicable.

13 “(ii) PUBLIC TRANSPORTATION PER-
14 FORMANCE TARGETS.—Each metropolitan
15 planning organization shall adopt the per-
16 formance targets identified by providers of
17 public transportation pursuant to sections
18 5326(e) and 5329(d), for use in tracking
19 attainment of critical outcomes for the re-
20 gion of the metropolitan planning organi-
21 zation.

22 “(C) TIMING.—Each metropolitan plan-
23 ning organization shall establish or adopt the
24 performance targets under subparagraph (B)
25 not later than 90 days after the date on which

1 the relevant State or provider of public trans-
2 portation establishes the performance targets.

3 “(D) INTEGRATION OF OTHER PERFORM-
4 ANCE-BASED PLANS.—A metropolitan planning
5 organization shall integrate in the metropolitan
6 transportation planning process, directly or by
7 reference, the goals, objectives, performance
8 measures, and targets described in other State
9 plans and processes, as well as asset manage-
10 ment and safety plans developed by providers of
11 public transportation, required as part of a per-
12 formance-based program, including plans such
13 as—

14 “(i) the State National Highway Sys-
15 tem asset management plan;

16 “(ii) asset management plans devel-
17 oped by providers of public transportation;

18 “(iii) the State strategic highway safe-
19 ty plan;

20 “(iv) safety plans developed by pro-
21 viders of public transportation;

22 “(v) the congestion mitigation and air
23 quality performance plan, where applicable;

24 “(vi) the national freight strategic
25 plan; and

1 “(vii) the statewide transportation
2 plan.

3 “(E) USE OF PERFORMANCE MEASURES
4 AND TARGETS.—The performance measures
5 and targets established under this paragraph
6 shall be used, at a minimum, by the relevant
7 metropolitan planning organization as the basis
8 for development of policies, programs, and in-
9 vestment priorities reflected in the metropolitan
10 transportation plan and transportation improve-
11 ment program.

12 “(3) FAILURE TO CONSIDER FACTORS.—The
13 failure to take into consideration 1 or more of the
14 factors specified in paragraphs (1) and (2) shall not
15 be subject to review by any court under this chapter,
16 title 23, subchapter II of chapter 5 of title 5, or
17 chapter 7 of title 5 in any matter affecting a metro-
18 politan transportation plan, a transportation im-
19 provement program, a project or strategy, or the
20 certification of a planning process.

21 “(4) PARTICIPATION BY INTERESTED PAR-
22 TIES.—

23 “(A) IN GENERAL.—Each metropolitan
24 planning organization shall provide to affected
25 individuals, public agencies, and other inter-

1 ested parties notice and a reasonable oppor-
2 tunity to comment on the metropolitan trans-
3 portation plan and transportation improvement
4 program and any relevant scenarios.

5 “(B) CONTENTS OF PARTICIPATION
6 PLAN.—Each metropolitan planning organiza-
7 tion shall establish a participation plan that—

8 “(i) is developed in consultation with
9 all interested parties; and

10 “(ii) provides that all interested par-
11 ties have reasonable opportunities to com-
12 ment on the contents of the metropolitan
13 transportation plan of the metropolitan
14 planning organization.

15 “(C) METHODS.—In carrying out subpara-
16 graph (A), the metropolitan planning organiza-
17 tion shall, to the maximum extent practicable—

18 “(i) develop the metropolitan trans-
19 portation plan and transportation improve-
20 ment program in consultation with inter-
21 ested parties, as appropriate, including by
22 the formation of advisory groups represent-
23 ative of the community and interested par-
24 ties that participate in the development of

1 the metropolitan transportation plan and
2 transportation improvement program;

3 “(ii) hold any public meetings at
4 times and locations that are, as applica-
5 ble—

6 “(I) convenient; and

7 “(II) in compliance with the
8 Americans with Disabilities Act of
9 1990 (42 U.S.C. 12101 et seq.);

10 “(iii) employ visualization techniques
11 to describe metropolitan transportation
12 plans and transportation improvement pro-
13 grams; and

14 “(iv) make public information avail-
15 able in appropriate electronically accessible
16 formats and means, such as the Internet,
17 to afford reasonable opportunity for con-
18 sideration of public information under sub-
19 paragraph (A).

20 “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-
21 TATION PLAN.—

22 “(1) DEVELOPMENT.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), not later than 5 years after
25 the date of enactment of the Federal Public

1 Transportation Act of 2012, and not less fre-
2 quently than once every 5 years thereafter, each
3 metropolitan planning organization shall pre-
4 pare and update, respectively, a metropolitan
5 transportation plan for the relevant metropoli-
6 tan planning area in accordance with this sec-
7 tion.

8 “(B) EXCEPTIONS.—A metropolitan plan-
9 ning organization shall prepare or update, as
10 appropriate, the metropolitan transportation
11 plan not less frequently than once every 4 years
12 if the metropolitan planning organization is op-
13 erating within—

14 “(i) a nonattainment area; or

15 “(ii) a maintenance area.

16 “(2) OTHER REQUIREMENTS.—A metropolitan
17 transportation plan under this section shall—

18 “(A) be in a form that the Secretary deter-
19 mines to be appropriate;

20 “(B) have a term of not less than 20
21 years; and

22 “(C) contain, at a minimum—

23 “(i) an identification of the existing
24 transportation infrastructure, including
25 highways, local streets and roads, bicycle

1 and pedestrian facilities, public transpor-
2 tation facilities and services, commuter rail
3 facilities and services, high-speed and
4 intercity passenger rail facilities and serv-
5 ices, freight facilities (including freight
6 railroad and port facilities), multimodal
7 and intermodal facilities, and intermodal
8 connectors that, evaluated in the aggre-
9 gate, function as an integrated metropoli-
10 tan transportation system;

11 “(ii) a description of the performance
12 measures and performance targets used in
13 assessing the existing and future perform-
14 ance of the transportation system in ac-
15 cordance with subsection (h)(2);

16 “(iii) a description of the current and
17 projected future usage of the transpor-
18 tation system, including a projection based
19 on a preferred scenario, and further in-
20 cluding, to the extent practicable, an iden-
21 tification of existing or planned transpor-
22 tation rights-of-way, corridors, facilities,
23 and related real properties;

24 “(iv) a system performance report
25 evaluating the existing and future condi-

1 tion and performance of the transportation
2 system with respect to the performance
3 targets described in subsection (h)(2) and
4 updates in subsequent system performance
5 reports, including—

6 “(I) progress achieved by the
7 metropolitan planning organization in
8 meeting the performance targets in
9 comparison with system performance
10 recorded in previous reports;

11 “(II) an accounting of the per-
12 formance of the metropolitan planning
13 organization on outlay of obligated
14 project funds and delivery of projects
15 that have reached substantial comple-
16 tion in relation to—

17 “(aa) the projects included
18 in the transportation improve-
19 ment program; and

20 “(bb) the projects that have
21 been removed from the previous
22 transportation improvement pro-
23 gram; and

24 “(III) when appropriate, an anal-
25 ysis of how the preferred scenario has

1 improved the conditions and perform-
2 ance of the transportation system and
3 how changes in local policies, invest-
4 ments, and growth have impacted the
5 costs necessary to achieve the identi-
6 fied performance targets;

7 “(v) recommended strategies and in-
8 vestments for improving system perform-
9 ance over the planning horizon, including
10 transportation systems management and
11 operations strategies, maintenance strate-
12 gies, demand management strategies, asset
13 management strategies, capacity and en-
14 hancement investments, State and local
15 economic development and land use im-
16 provements, intelligent transportation sys-
17 tems deployment, and technology adoption
18 strategies, as determined by the projected
19 support of the performance targets de-
20 scribed in subsection (h)(2);

21 “(vi) recommended strategies and in-
22 vestments to improve and integrate dis-
23 ability-related access to transportation in-
24 frastructure, including strategies and in-

1 vestments based on a preferred scenario,
2 when appropriate;

3 “(vii) investment priorities for using
4 projected available and proposed revenues
5 over the short- and long-term stages of the
6 planning horizon, in accordance with the
7 financial plan required under paragraph
8 (4);

9 “(viii) a description of interstate com-
10 pacts entered into in order to promote co-
11 ordinated transportation planning in
12 multistate areas, if applicable;

13 “(ix) an optional illustrative list of
14 projects containing investments that—

15 “(I) are not included in the met-
16 ropolitan transportation plan; but

17 “(II) would be so included if re-
18 sources in addition to the resources
19 identified in the financial plan under
20 paragraph (4) were available;

21 “(x) a discussion (developed in con-
22 sultation with Federal, State, and tribal
23 wildlife, land management, and regulatory
24 agencies) of types of potential environ-
25 mental and stormwater mitigation activi-

1 ties and potential areas to carry out those
2 activities, including activities that may
3 have the greatest potential to restore and
4 maintain the environmental functions af-
5 fected by the metropolitan transportation
6 plan; and

7 “(xi) recommended strategies and in-
8 vestments, including those developed by
9 the State as part of interstate compacts,
10 agreements, or organizations, that support
11 intercity transportation.

12 “(3) SCENARIO DEVELOPMENT.—

13 “(A) IN GENERAL.—When preparing the
14 metropolitan transportation plan, the metropoli-
15 tan planning organization may, while fitting the
16 needs and complexity of their community, de-
17 velop multiple scenarios for consideration as a
18 part of the development of the metropolitan
19 transportation plan, in accordance with sub-
20 paragraph (B).

21 “(B) COMPONENTS OF SCENARIOS.—The
22 scenarios—

23 “(i) shall include potential regional in-
24 vestment strategies for the planning hori-
25 zon;

1 “(ii) shall include assumed distribu-
2 tion of population and employment;

3 “(iii) may include a scenario that, to
4 the maximum extent practicable, maintains
5 baseline conditions for the performance
6 targets identified in subsection (h)(2);

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

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

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

19 “(C) METRICS.—In addition to the per-
20 formance targets identified in subsection (h)(2),
21 scenarios developed under this paragraph may
22 be evaluated using locally developed metrics for
23 the following categories:

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

1 “(ii) Freight movement.

2 “(iii) Safety.

3 “(iv) Efficiency and costs to tax-
4 payers.

5 “(4) FINANCIAL PLAN.—A financial plan re-
6 ferred to in paragraph (2)(C)(vii) shall—

7 “(A) be prepared by each metropolitan
8 planning organization to support the metropoli-
9 tan transportation plan; and

10 “(B) contain a description of—

11 “(i) the projected resource require-
12 ments for implementing projects, strate-
13 gies, and services recommended in the met-
14 ropolitan transportation plan, including ex-
15 isting and projected system operating and
16 maintenance needs, proposed enhancement
17 and expansions to the system, projected
18 available revenue from Federal, State,
19 local, and private sources, and innovative
20 financing techniques to finance projects
21 and programs;

22 “(ii) the projected difference between
23 costs and revenues, and strategies for se-
24 curing additional new revenue (such as by

1 capture of some of the economic value cre-
2 ated by any new investment);

3 “(iii) estimates of future funds, to be
4 developed cooperatively by the metropolitan
5 planning organization, any public transpor-
6 tation agency, and the State, that are rea-
7 sonably expected to be available to support
8 the investment priorities recommended in
9 the metropolitan transportation plan; and

10 “(iv) each applicable project only if
11 full funding can reasonably be anticipated
12 to be available for the project within the
13 time period contemplated for completion of
14 the project.

15 “(5) COORDINATION WITH CLEAN AIR ACT
16 AGENCIES.—The metropolitan planning organization
17 for any metropolitan area that is a nonattainment
18 area or maintenance area shall coordinate the devel-
19 opment of a transportation plan with the process for
20 development of the transportation control measures
21 of the State implementation plan required by the
22 Clean Air Act (42 U.S.C. 7401 et seq.).

23 “(6) PUBLICATION.—On approval by the rel-
24 evant metropolitan planning organization, a metro-
25 politan transportation plan involving Federal partici-

1 pation shall be, at such times and in such manner
2 as the Secretary shall require—

3 “(A) published or otherwise made readily
4 available by the metropolitan planning organi-
5 zation for public review, including (to the max-
6 imum extent practicable) in electronically acces-
7 sible formats and means, such as the Internet;
8 and

9 “(B) submitted for informational purposes
10 to the applicable Governor.

11 “(7) CONSULTATION.—

12 “(A) IN GENERAL.—In each metropolitan
13 area, the metropolitan planning organization
14 shall consult, as appropriate, with Federal,
15 State, tribal, and local agencies responsible for
16 land use management, natural resources, envi-
17 ronmental protection, conservation, and historic
18 preservation concerning the development of a
19 metropolitan transportation plan.

20 “(B) ISSUES.—The consultation under
21 subparagraph (A) shall involve, as available,
22 consideration of—

23 “(i) metropolitan transportation plans
24 with Federal, State, tribal, and local con-
25 servation plans or maps; and

1 “(ii) inventories of natural or historic
2 resources.

3 “(8) SELECTION OF PROJECTS FROM ILLUS-
4 TRATIVE LIST.—Notwithstanding paragraph (4), a
5 State or metropolitan planning organization shall
6 not be required to select any project from the illus-
7 trative list of additional projects included in the met-
8 ropolitan transportation plan under paragraph
9 (2)(C)(ix).

10 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

11 “(1) DEVELOPMENT.—

12 “(A) IN GENERAL.—In cooperation with
13 the applicable State and any affected public
14 transportation operator, the metropolitan plan-
15 ning organization designated for a metropolitan
16 area shall develop a transportation improvement
17 program for the metropolitan planning area
18 that—

19 “(i) contains projects consistent with
20 the current metropolitan transportation
21 plan;

22 “(ii) reflects the investment priorities
23 established in the current metropolitan
24 transportation plan; and

1 “(iii) once implemented, will make sig-
2 nificant progress toward achieving the per-
3 formance targets established under sub-
4 section (h)(2).

5 “(B) OPPORTUNITY FOR PARTICIPA-
6 TION.—In developing the transportation im-
7 provement program, the metropolitan planning
8 organization, in cooperation with the State and
9 any affected public transportation operator,
10 shall provide an opportunity for participation by
11 interested parties, in accordance with sub-
12 section (h)(4).

13 “(C) UPDATING AND APPROVAL.—The
14 transportation improvement program shall be—

15 “(i) updated not less frequently than
16 once every 4 years, on a cycle compatible
17 with the development of the relevant state-
18 wide transportation improvement program
19 under section 5304; and

20 “(ii) approved by the applicable Gov-
21 ernor.

22 “(2) CONTENTS.—

23 “(A) PRIORITY LIST.—The transportation
24 improvement program shall include a priority
25 list of proposed federally supported projects and

1 strategies to be carried out during the 4-year
2 period beginning on the date of adoption of the
3 transportation improvement program, and each
4 4-year period thereafter, using existing and rea-
5 sonably available revenues in accordance with
6 the financial plan under paragraph (3).

7 “(B) DESCRIPTIONS.—Each project de-
8 scribed in the transportation improvement pro-
9 gram shall include sufficient descriptive mate-
10 rial (such as type of work, termini, length, and
11 other similar factors) to identify the project or
12 phase of the project and the effect that the
13 project or project phase will have in addressing
14 the performance targets described in subsection
15 (h)(2).

16 “(C) PERFORMANCE TARGET ACHIEVE-
17 MENT.—The transportation improvement pro-
18 gram shall include, to the maximum extent
19 practicable, a description of the anticipated ef-
20 fect of the transportation improvement program
21 on attainment of the performance targets estab-
22 lished in the metropolitan transportation plan,
23 linking investment priorities to those perform-
24 ance targets.

1 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

2 In developing a transportation improvement
3 program, an optional illustrative list of projects
4 may be prepared containing additional invest-
5 ment priorities that—

6 “(i) are not included in the transpor-
7 tation improvement program; but

8 “(ii) would be so included if resources
9 in addition to the resources identified in
10 the financial plan under paragraph (3)
11 were available.

12 “(3) FINANCIAL PLAN.—A financial plan re-
13 ferred to in paragraph (2)(D)(ii) shall—

14 “(A) be prepared by each metropolitan
15 planning organization to support the transpor-
16 tation improvement program; and

17 “(B) contain a description of—

18 “(i) the projected resource require-
19 ments for implementing projects, strate-
20 gies, and services recommended in the
21 transportation improvement program, in-
22 cluding existing and projected system oper-
23 ating and maintenance needs, proposed en-
24 hancement and expansions to the system,
25 projected available revenue from Federal,

1 State, local, and private sources, and inno-
2 vative financing techniques to finance
3 projects and programs;

4 “(ii) the projected difference between
5 costs and revenues, and strategies for se-
6 curing additional new revenue (such as by
7 capture of some of the economic value cre-
8 ated by any new investment);

9 “(iii) estimates of future funds, to be
10 developed cooperatively by the metropolitan
11 planning organization, any public transpor-
12 tation agency, and the State, that are rea-
13 sonably expected to be available to support
14 the investment priorities recommended in
15 the transportation improvement program;
16 and

17 “(iv) each applicable project, only if
18 full funding can reasonably be anticipated
19 to be available for the project within the
20 time period contemplated for completion of
21 the project.

22 “(4) INCLUDED PROJECTS.—

23 “(A) PROJECTS UNDER THIS CHAPTER
24 AND TITLE 23.—A transportation improvement
25 program developed under this subsection for a

1 metropolitan area shall include a description of
2 the projects within the area that are proposed
3 for funding under this chapter and chapter 1 of
4 title 23.

5 “(B) PROJECTS UNDER CHAPTER 2.—

6 “(i) REGIONALLY SIGNIFICANT.—

7 Each regionally significant project pro-
8 posed for funding under chapter 2 of title
9 23 shall be identified individually in the
10 transportation improvement program.

11 “(ii) NONREGIONALLY SIGNIFI-

12 CANT.—A description of each project pro-
13 posed for funding under chapter 2 of title
14 23 that is not determined to be regionally
15 significant shall be contained in 1 line item
16 or identified individually in the transpor-
17 tation improvement program.

18 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-

19 fore approving a transportation improvement pro-
20 gram, a metropolitan planning organization, in co-
21 operation with the State and any affected public
22 transportation operator, shall provide an opportunity
23 for participation by interested parties in the develop-
24 ment of the transportation improvement program, in
25 accordance with subsection (h)(4).

1 “(6) SELECTION OF PROJECTS.—

2 “(A) IN GENERAL.—Each tier I MPO and
3 tier II MPO shall select projects carried out
4 within the boundaries of the applicable metro-
5 politan planning area from the transportation
6 improvement program, in consultation with the
7 relevant State and on concurrence of the af-
8 fected facility owner, for funds apportioned to
9 the State under section 104(b)(2) of title 23
10 and suballocated to the metropolitan planning
11 area under section 133(d) of title 23.

12 “(B) PROJECTS UNDER CHAPTER 53.—In
13 the case of projects under this chapter, the se-
14 lection of federally funded projects in metropoli-
15 tan areas shall be carried out, from the ap-
16 proved transportation improvement program, by
17 the designated recipients of public transpor-
18 tation funding in cooperation with the metro-
19 politan planning organization.

20 “(C) CONGESTION MITIGATION AND AIR
21 QUALITY PROJECTS.—Each tier I MPO shall
22 select projects carried out within the boundaries
23 of the applicable metropolitan planning area
24 from the transportation improvement program,
25 in consultation with the relevant State and on

1 concurrence of the affected facility owner, for
2 funds apportioned to the State under section
3 104(b)(4) of title 23 and suballocated to the
4 metropolitan planning area under section 149(j)
5 of title 23.

6 “(D) MODIFICATIONS TO PROJECT PRI-
7 ORITY.—Notwithstanding any other provision of
8 law, approval by the Secretary shall not be re-
9 quired to carry out a project included in a
10 transportation improvement program in place of
11 another project in the transportation improve-
12 ment program.

13 “(7) PUBLICATION.—

14 “(A) IN GENERAL.—A transportation im-
15 provement program shall be published or other-
16 wise made readily available by the applicable
17 metropolitan planning organization for public
18 review in electronically accessible formats and
19 means, such as the Internet.

20 “(B) ANNUAL LIST OF PROJECTS.—An an-
21 nual list of projects, including investments in
22 pedestrian walkways, bicycle transportation fa-
23 cilities, and intermodal facilities that support
24 intercity transportation, for which Federal
25 funds have been obligated during the preceding

1 fiscal year shall be published or otherwise made
2 available by the cooperative effort of the State,
3 public transportation operator, and metropoli-
4 tan planning organization in electronically ac-
5 cessible formats and means, such as the Inter-
6 net, in a manner that is consistent with the cat-
7 egories identified in the relevant transportation
8 improvement program.

9 “(k) PLANNING REQUIREMENTS FOR TIER II
10 MPOs.—

11 “(1) IN GENERAL.—The Secretary may provide
12 for the performance-based development of a metro-
13 politan transportation plan and transportation im-
14 provement program for the metropolitan planning
15 area of a tier II MPO, as the Secretary determines
16 to be appropriate, taking into account—

17 “(A) the complexity of transportation
18 needs in the area; and

19 “(B) the technical capacity of the metro-
20 politan planning organization.

21 “(2) EVALUATION OF PERFORMANCE-BASED
22 PLANNING.—In reviewing a tier II MPO under sub-
23 section (m), the Secretary shall take into consider-
24 ation the effectiveness of the tier II MPO in imple-

1 menting and maintaining a performance-based plan-
2 ning process that—

3 “(A) addresses the performance targets de-
4 scribed in subsection (h)(2); and

5 “(B) demonstrates progress on the
6 achievement of those performance targets.

7 “(1) CERTIFICATION.—

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

9 “(A) ensure that the metropolitan trans-
10 portation planning process of a metropolitan
11 planning organization is being carried out in ac-
12 cordance with applicable Federal law; and

13 “(B) subject to paragraph (2), certify, not
14 less frequently than once every 4 years, that the
15 requirements of subparagraph (A) are met with
16 respect to the metropolitan transportation plan-
17 ning process.

18 “(2) REQUIREMENTS FOR CERTIFICATION.—

19 The Secretary may make a certification under para-
20 graph (1)(B) if—

21 “(A) the metropolitan transportation plan-
22 ning process complies with the requirements of
23 this section and other applicable Federal law;

24 “(B) representation on the metropolitan
25 planning organization board includes officials of

1 public agencies that administer or operate
2 major modes of transportation in the relevant
3 metropolitan area, including providers of public
4 transportation; and

5 “(C) a transportation improvement pro-
6 gram for the metropolitan planning area has
7 been approved by the relevant metropolitan
8 planning organization and applicable Governor.

9 “(3) DELEGATION OF AUTHORITY.—The Sec-
10 retary may—

11 “(A) delegate to the appropriate State
12 fact-finding authority regarding the certification
13 of a tier II MPO under this subsection; and

14 “(B) make the certification under para-
15 graph (1) in consultation with the State.

16 “(4) EFFECT OF FAILURE TO CERTIFY.—

17 “(A) WITHHOLDING OF PROJECT
18 FUNDS.—If a metropolitan transportation plan-
19 ning process of a metropolitan planning organi-
20 zation is not certified under paragraph (1), the
21 Secretary may withhold up to 20 percent of the
22 funds attributable to the metropolitan planning
23 area of the metropolitan planning organization
24 for projects funded under this chapter and title
25 23.

1 “(B) RESTORATION OF WITHHELD
2 FUNDS.—Any funds withheld under subpara-
3 graph (A) shall be restored to the metropolitan
4 planning area on the date of certification of the
5 metropolitan transportation planning process by
6 the Secretary.

7 “(5) PUBLIC INVOLVEMENT.—In making a de-
8 termination regarding certification under this sub-
9 section, the Secretary shall provide for public in-
10 volvement appropriate to the metropolitan planning
11 area under review.

12 “(m) PERFORMANCE-BASED PLANNING PROCESSES
13 EVALUATION.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish criteria to evaluate the effectiveness of the per-
16 formance-based planning processes of metropolitan
17 planning organizations under this section, taking
18 into consideration the following:

19 “(A) The extent to which the metropolitan
20 planning organization has achieved, or is cur-
21 rently making substantial progress toward
22 achieving, the performance targets specified in
23 subsection (h)(2), taking into account whether
24 the metropolitan planning organization devel-
25 oped meaningful performance targets.

1 “(B) The extent to which the metropolitan
2 planning organization has used proven best
3 practices that help ensure transportation invest-
4 ment that is efficient and cost-effective.

5 “(C) The extent to which the metropolitan
6 planning organization—

7 “(i) has developed an investment proc-
8 ess that relies on public input and aware-
9 ness to ensure that investments are trans-
10 parent and accountable; and

11 “(ii) provides regular reports allowing
12 the public to access the information being
13 collected in a format that allows the public
14 to meaningfully assess the performance of
15 the metropolitan planning organization.

16 “(2) REPORT.—

17 “(A) IN GENERAL.—Not later than 5 years
18 after the date of enactment of the Federal Pub-
19 lic Transportation Act of 2012, the Secretary
20 shall submit to Congress a report evaluating—

21 “(i) the overall effectiveness of per-
22 formance-based planning as a tool for
23 guiding transportation investments; and

24 “(ii) the effectiveness of the perform-
25 ance-based planning process of each metro-

1 politan planning organization under this
2 section.

3 “(B) PUBLICATION.—The report under
4 subparagraph (A) shall be published or other-
5 wise made available in electronically accessible
6 formats and means, including on the Internet.

7 “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN
8 NONATTAINMENT AREAS.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this chapter or title 23, Federal funds
11 may not be advanced in any metropolitan planning
12 area classified as a nonattainment area or mainte-
13 nance area for any highway project that will result
14 in a significant increase in the carrying capacity for
15 single-occupant vehicles, unless the owner or oper-
16 ator of the project demonstrates that the project will
17 achieve or make substantial progress toward achiev-
18 ing the performance targets described in subsection
19 (h)(2).

20 “(2) APPLICABILITY.—This subsection applies
21 to any nonattainment area or maintenance area
22 within the boundaries of a metropolitan planning
23 area, as determined under subsection (d).

24 “(o) EFFECT OF SECTION.—Nothing in this section
25 provides to any metropolitan planning organization the

1 authority to impose any legal requirement on any trans-
2 portation facility, provider, or project not subject to the
3 requirements of this chapter or title 23.

4 “(p) FUNDING.—Funds apportioned under section
5 104(b)(6) of title 23 and set aside under section 5305(g)
6 of this title shall be available to carry out this section.

7 “(q) CONTINUATION OF CURRENT REVIEW PRAC-
8 TICE.—

9 “(1) IN GENERAL.—In consideration of the fac-
10 tors described in paragraph (2), any decision by the
11 Secretary concerning a metropolitan transportation
12 plan or transportation improvement program shall
13 not be considered to be a Federal action subject to
14 review under the National Environmental Policy Act
15 of 1969 (42 U.S.C. 4321 et seq.).

16 “(2) DESCRIPTION OF FACTORS.—The factors
17 referred to in paragraph (1) are that—

18 “(A) metropolitan transportation plans and
19 transportation improvement programs are sub-
20 ject to a reasonable opportunity for public com-
21 ment;

22 “(B) the projects included in metropolitan
23 transportation plans and transportation im-
24 provement programs are subject to review

1 under the National Environmental Policy Act of
2 1969 (42 U.S.C. 4321 et seq.); and

3 “(C) decisions by the Secretary concerning
4 metropolitan transportation plans and transpor-
5 tation improvement programs have not been re-
6 viewed under the National Environmental Pol-
7 icy Act of 1969 (42 U.S.C. 4321 et seq.) as of
8 January 1, 1997.

9 “(r) SCHEDULE FOR IMPLEMENTATION.—The Sec-
10 retary shall issue guidance on a schedule for implementa-
11 tion of the changes made by this section, taking into con-
12 sideration the established planning update cycle for metro-
13 politan planning organizations. The Secretary shall not re-
14 quire a metropolitan planning organization to deviate from
15 its established planning update cycle to implement
16 changes made by this section. Metropolitan planning orga-
17 nizations shall reflect changes made to their transpor-
18 tation plan or transportation improvement program up-
19 dates not later than 2 years after the date of issuance
20 of guidance by the Secretary.”.

21 (b) PILOT PROGRAM FOR TRANSIT-ORIENTED DE-
22 VELOPMENT PLANNING.—

23 (1) DEFINITIONS.—In this subsection the fol-
24 lowing definitions shall apply:

1 (A) ELIGIBLE PROJECT.—The term “eligi-
2 ble project” means a new fixed guideway capital
3 project or a core capacity improvement project,
4 as those terms are defined in section 5309 of
5 title 49, United States Code, as amended by
6 this Act.

7 (B) SECRETARY.—The term “Secretary”
8 means the Secretary of Transportation.

9 (2) GENERAL AUTHORITY.—The Secretary may
10 make grants under this subsection to a State or
11 local governmental authority to assist in financing
12 comprehensive planning associated with an eligible
13 project that seeks to—

14 (A) enhance economic development, rider-
15 ship, and other goals established during the
16 project development and engineering processes;

17 (B) facilitate multimodal connectivity and
18 accessibility;

19 (C) increase access to transit hubs for pe-
20 destrian and bicycle traffic;

21 (D) enable mixed-use development;

22 (E) identify infrastructure needs associated
23 with the eligible project; and

24 (F) include private sector participation.

1 (3) ELIGIBILITY.—A State or local govern-
2 mental authority that desires to participate in the
3 program under this subsection shall submit to the
4 Secretary an application that contains, at a min-
5 imum—

6 (A) identification of an eligible project;

7 (B) a schedule and process for the develop-
8 ment of a comprehensive plan;

9 (C) a description of how the eligible project
10 and the proposed comprehensive plan advance
11 the metropolitan transportation plan of the
12 metropolitan planning organization;

13 (D) proposed performance criteria for the
14 development and implementation of the com-
15 prehensive plan; and

16 (E) identification of—

17 (i) partners;

18 (ii) availability of and authority for
19 funding; and

20 (iii) potential State, local or other im-
21 pediments to the implementation of the
22 comprehensive plan.

1 **SEC. 6. STATEWIDE AND NONMETROPOLITAN TRANSPOR-**
2 **TATION PLANNING.**

3 Section 5304 of title 23, United States Code, is
4 amended to read as follows:

5 **“§ 5304. Statewide and nonmetropolitan transpor-**
6 **tation planning**

7 “(a) STATEWIDE TRANSPORTATION PLANS AND
8 STIPS.—

9 “(1) DEVELOPMENT.—

10 “(A) IN GENERAL.—To accomplish the
11 policy objectives described in section 5303(a),
12 each State shall develop a statewide transpor-
13 tation plan and a statewide transportation im-
14 provement program for all areas of the State in
15 accordance with this section.

16 “(B) INCORPORATION OF METROPOLITAN
17 TRANSPORTATION PLANS AND TIPS.—Each
18 State shall incorporate in the statewide trans-
19 portation plan and statewide transportation im-
20 provement program, without change or by ref-
21 erence, the metropolitan transportation plans
22 and transportation improvement programs, re-
23 spectively, for each metropolitan planning area
24 in the State.

25 “(C) NONMETROPOLITAN AREAS.—Each
26 State shall coordinate with local officials in

1 small urbanized areas with a population of
2 50,000 or more individuals, but fewer than
3 200,000 individuals, as calculated according to
4 the most recent decennial census, and non-
5 urbanized areas of the State in preparing the
6 nonmetropolitan portions of statewide transpor-
7 tation plans and statewide transportation im-
8 provement programs.

9 “(2) CONTENTS.—The statewide transportation
10 plan and statewide transportation improvement pro-
11 gram developed for each State shall provide for the
12 development and integrated management and oper-
13 ation of transportation systems and facilities (includ-
14 ing accessible pedestrian walkways, bicycle transpor-
15 tation facilities, and intermodal facilities that sup-
16 port intercity transportation) that will function as—

17 “(A) an intermodal transportation system
18 for the State; and

19 “(B) an integral part of an intermodal
20 transportation system for the United States.

21 “(3) PROCESS.—The process for developing the
22 statewide transportation plan and statewide trans-
23 portation improvement program shall—

24 “(A) provide for consideration of all modes
25 of transportation; and

1 “(B) be continuing, cooperative, and com-
2 prehensive to the degree appropriate, based on
3 the complexity of the transportation needs to be
4 addressed.

5 “(b) COORDINATION AND CONSULTATION.—

6 “(1) IN GENERAL.—Each State shall—

7 “(A) coordinate planning carried out under
8 this section with—

9 “(i) the transportation planning ac-
10 tivities carried out under section 5303 for
11 metropolitan areas of the State; and

12 “(ii) statewide trade and economic de-
13 velopment planning activities and related
14 multistate planning efforts;

15 “(B) coordinate planning carried out under
16 this section with the transportation planning
17 activities carried out by each nonmetropolitan
18 planning organization in the State, as applica-
19 ble;

20 “(C) coordinate planning carried out under
21 this section with the transportation planning
22 activities carried out by each rural planning or-
23 ganization in the State, as applicable; and

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

4 “(2) MULTISTATE AREAS.—

5 “(A) IN GENERAL.—The Secretary shall
6 encourage each Governor with responsibility for
7 a portion of a multistate metropolitan planning
8 area and the appropriate metropolitan planning
9 organizations to provide coordinated transpor-
10 tation planning for the entire metropolitan
11 area.

12 “(B) COORDINATION ALONG DESIGNATED
13 TRANSPORTATION CORRIDORS.—The Secretary
14 shall encourage each Governor with responsi-
15 bility for a portion of a multistate transpor-
16 tation corridor to provide coordinated transpor-
17 tation planning for the entire designated cor-
18 ridor.

19 “(C) INTERSTATE COMPACTS.—For pur-
20 poses of this section, any 2 or more States—

21 “(i) may enter into compacts, agree-
22 ments, or organizations not in conflict with
23 any Federal law for cooperative efforts and
24 mutual assistance in support of activities
25 authorized under this section, as the activi-

1 ties relate to interstate areas and localities
2 within the States;

3 “(ii) may establish such agencies
4 (joint or otherwise) as the States deter-
5 mine to be appropriate for ensuring the ef-
6 fectiveness of the agreements and com-
7 pacts; and

8 “(iii) are encouraged to enter into
9 such compacts, agreements, or organiza-
10 tions as are appropriate to develop plan-
11 ning documents in support of intercity or
12 multistate area projects, facilities, and
13 services, the relevant components of which
14 shall be reflected in statewide transpor-
15 tation improvement programs and state-
16 wide transportation plans.

17 “(D) RESERVATION OF RIGHTS.—The
18 right to alter, amend, or repeal any interstate
19 compact or agreement entered into under this
20 subsection is expressly reserved.

21 “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-
22 CIALS.—

23 “(1) IN GENERAL.—The Secretary shall encour-
24 age each State to cooperate with Federal, State,
25 tribal, and local officers and entities responsible for

1 other types of planning activities that are affected
2 by transportation in the relevant area (including
3 planned growth, economic development, infrastruc-
4 ture services, housing, other public services, environ-
5 mental protection, airport operations, high-speed and
6 intercity passenger rail, freight rail, port access, and
7 freight movements), to the maximum extent prac-
8 ticable, to ensure that the statewide and nonmetro-
9 politan planning process, statewide transportation
10 plans, and statewide transportation improvement
11 programs are developed with due consideration for
12 other related planning activities in the State.

13 “(2) INCLUSION.—Cooperation under para-
14 graph (1) shall include the design and delivery of
15 transportation services within the State that are pro-
16 vided by—

17 “(A) recipients of assistance under sections
18 202, 203, and 204 of title 23;

19 “(B) recipients of assistance under this
20 chapter;

21 “(C) government agencies and nonprofit
22 organizations (including representatives of the
23 agencies and organizations) that receive Federal
24 assistance from a source other than the Depart-

1 ment of Transportation to provide non-
2 emergency transportation services; and

3 “(D) sponsors of regionally significant pro-
4 grams, projects, and services that are related to
5 transportation and receive assistance from any
6 public or private source.

7 “(d) SCOPE OF PLANNING PROCESS.—

8 “(1) IN GENERAL.—The statewide transpor-
9 tation planning process for a State under this sec-
10 tion shall provide for consideration of projects, strat-
11 egies, and services that will—

12 “(A) support the economic vitality of the
13 United States, the State, nonmetropolitan
14 areas, and metropolitan areas, especially by en-
15 abling global competitiveness, productivity, and
16 efficiency;

17 “(B) increase the safety of the transpor-
18 tation system for motorized and nonmotorized
19 users;

20 “(C) increase the security of the transpor-
21 tation system for motorized and nonmotorized
22 users;

23 “(D) increase the accessibility and mobility
24 of individuals and freight;

1 “(E) protect and enhance the environment,
2 promote energy conservation, improve the qual-
3 ity of life, and promote consistency between
4 transportation improvements and State and
5 local planned growth and economic development
6 patterns;

7 “(F) enhance the integration and
8 connectivity of the transportation system,
9 across and between modes, for individuals and
10 freight;

11 “(G) increase efficient system management
12 and operation; and

13 “(H) emphasize the preservation of the ex-
14 isting transportation system.

15 “(2) PERFORMANCE-BASED APPROACH.—

16 “(A) IN GENERAL.—The statewide trans-
17 portation planning process shall provide for the
18 establishment and use of a performance-based
19 approach to transportation decisionmaking to
20 support the national goals described in section
21 5301(c) of this title and in section 150(b) of
22 title 23.

23 “(B) SURFACE TRANSPORTATION PER-
24 FORMANCE TARGETS.—

1 “(i) IN GENERAL.—Each State shall
2 establish performance targets that address
3 the performance measures described in sec-
4 tions 119(f), 148(h), and 167(i) of title 23
5 to use in tracking attainment of critical
6 outcomes for the region of the State.

7 “(ii) COORDINATION.—Selection of
8 performance targets by a State shall be co-
9 ordinated with relevant metropolitan plan-
10 ning organizations to ensure consistency,
11 to the maximum extent practicable.

12 “(C) PUBLIC TRANSPORTATION PERFORM-
13 ANCE TARGETS.—For providers of public trans-
14 portation operating in urbanized areas with a
15 population of fewer than 200,000 individuals,
16 as calculated according to the most recent de-
17 cennial census, and not represented by a metro-
18 politan planning organization, each State shall
19 adopt the performance targets identified by
20 such providers of public transportation pursu-
21 ant to sections 5326(c) and 5329(d), for use in
22 tracking attainment of critical outcomes for the
23 region of the metropolitan planning organiza-
24 tion.

1 “(D) INTEGRATION OF OTHER PERFORM-
2 ANCE-BASED PLANS.—A State shall integrate
3 into the statewide transportation planning proc-
4 ess, directly or by reference, the goals, objec-
5 tives, performance measures, and performance
6 targets described in this paragraph in other
7 State plans and processes, and asset manage-
8 ment and safety plans developed by providers of
9 public transportation in urbanized areas with a
10 population of fewer than 200,000 individuals,
11 as calculated according to the most recent de-
12 cennial census, and not represented by a metro-
13 politan planning organization, required as part
14 of a performance-based program, including
15 plans such as—

16 “(i) the State National Highway Sys-
17 tem asset management plan;

18 “(ii) asset management plans devel-
19 oped by providers of public transportation;

20 “(iii) the State strategic highway safe-
21 ty plan;

22 “(iv) safety plans developed by pro-
23 viders of public transportation; and

24 “(v) the national freight strategic
25 plan.

1 “(E) USE OF PERFORMANCE MEASURES
2 AND TARGETS.—The performance measures
3 and targets established under this paragraph
4 shall be used, at a minimum, by a State as the
5 basis for development of policies, programs, and
6 investment priorities reflected in the statewide
7 transportation plan and statewide transpor-
8 tation improvement program.

9 “(3) FAILURE TO CONSIDER FACTORS.—The
10 failure to take into consideration 1 or more of the
11 factors specified in paragraphs (1) and (2) shall not
12 be subject to review by any court under this chapter,
13 title 23, subchapter II of chapter 5 of title 5, or
14 chapter 7 of title 5 in any matter affecting a state-
15 wide transportation plan, a statewide transportation
16 improvement program, a project or strategy, or the
17 certification of a planning process.

18 “(4) PARTICIPATION BY INTERESTED PAR-
19 TIES.—

20 “(A) IN GENERAL.—Each State shall pro-
21 vide to affected individuals, public agencies, and
22 other interested parties notice and a reasonable
23 opportunity to comment on the statewide trans-
24 portation plan and statewide transportation im-
25 provement program.

1 “(B) METHODS.—In carrying out subpara-
2 graph (A), the State shall, to the maximum ex-
3 tent practicable—

4 “(i) develop the statewide transpor-
5 tation plan and statewide transportation
6 improvement program in consultation with
7 interested parties, as appropriate, includ-
8 ing by the formation of advisory groups
9 representative of the State and interested
10 parties that participate in the development
11 of the statewide transportation plan and
12 statewide transportation improvement pro-
13 gram;

14 “(ii) hold any public meetings at
15 times and locations that are, as applica-
16 ble—

17 “(I) convenient; and

18 “(II) in compliance with the
19 Americans with Disabilities Act of
20 1990 (42 U.S.C. 12101 et seq.);

21 “(iii) employ visualization techniques
22 to describe statewide transportation plans
23 and statewide transportation improvement
24 programs; and

1 “(iv) make public information avail-
2 able in appropriate electronically accessible
3 formats and means, such as the Internet,
4 to afford reasonable opportunity for con-
5 sideration of public information under sub-
6 paragraph (A).

7 “(e) COORDINATION AND CONSULTATION.—

8 “(1) METROPOLITAN AREAS.—

9 “(A) IN GENERAL.—Each State shall de-
10 velop a statewide transportation plan and state-
11 wide transportation improvement program for
12 each metropolitan area in the State by incor-
13 porating, without change or by reference, at a
14 minimum, as prepared by each metropolitan
15 planning organization designated for the metro-
16 politan area under section 5303—

17 “(i) all regionally significant projects
18 to be carried out during the 10-year period
19 beginning on the effective date of the rel-
20 evant existing metropolitan transportation
21 plan; and

22 “(ii) all projects to be carried out dur-
23 ing the 4-year period beginning on the ef-
24 fective date of the relevant transportation
25 improvement program.

1 “(B) PROJECTED COSTS.—Each metropoli-
2 tan planning organization shall provide to each
3 applicable State a description of the projected
4 costs of implementing the projects included in
5 the metropolitan transportation plan of the
6 metropolitan planning organization for purposes
7 of metropolitan financial planning and fiscal
8 constraint.

9 “(2) NONMETROPOLITAN AREAS.—With respect
10 to nonmetropolitan areas in a State, the statewide
11 transportation plan and statewide transportation im-
12 provement program of the State shall be developed
13 in coordination with affected nonmetropolitan local
14 officials with responsibility for transportation, in-
15 cluding providers of public transportation.

16 “(3) INDIAN TRIBAL AREAS.—With respect to
17 each area of a State under the jurisdiction of an In-
18 dian tribe, the statewide transportation plan and
19 statewide transportation improvement program of
20 the State shall be developed in consultation with—

21 “(A) the tribal government; and

22 “(B) the Secretary of the Interior.

23 “(4) FEDERAL LAND MANAGEMENT AGEN-
24 CIES.—With respect to each area of a State under
25 the jurisdiction of a Federal land management agen-

1 cy, the statewide transportation plan and statewide
2 transportation improvement program of the State
3 shall be developed in consultation with the relevant
4 Federal land management agency.

5 “(5) CONSULTATION, COMPARISON, AND CON-
6 sideration.—

7 “(A) IN GENERAL.—A statewide transpor-
8 tation plan shall be developed, as appropriate,
9 in consultation with Federal, State, tribal, and
10 local agencies responsible for land use manage-
11 ment, natural resources, infrastructure permit-
12 ting, environmental protection, conservation,
13 and historic preservation.

14 “(B) COMPARISON AND CONSIDERATION.—
15 Consultation under subparagraph (A) shall in-
16 volve the comparison of statewide transpor-
17 tation plans to, as available—

18 “(i) Federal, State, tribal, and local
19 conservation plans or maps; and

20 “(ii) inventories of natural or historic
21 resources.

22 “(f) STATEWIDE TRANSPORTATION PLAN.—

23 “(1) DEVELOPMENT.—

24 “(A) IN GENERAL.—Each State shall de-
25 velop a statewide transportation plan, the fore-

1 cast period of which shall be not less than 20
2 years for all areas of the State, that provides
3 for the development and implementation of the
4 intermodal transportation system of the State.

5 “(B) INITIAL PERIOD.—A statewide trans-
6 portation plan shall include, at a minimum, for
7 the first 10-year period of the statewide trans-
8 portation plan, the identification of existing and
9 future transportation facilities that will function
10 as an integrated statewide transportation sys-
11 tem, giving emphasis to those facilities that
12 serve important national, statewide, and re-
13 gional transportation functions.

14 “(C) SUBSEQUENT PERIOD.—For the sec-
15 ond 10-year period of the statewide transpor-
16 tation plan (referred to in this subsection as the
17 ‘outer years period’), a statewide transportation
18 plan—

19 “(i) may include identification of fu-
20 ture transportation facilities; and

21 “(ii) shall describe the policies and
22 strategies that provide for the development
23 and implementation of the intermodal
24 transportation system of the State.

1 “(D) OTHER REQUIREMENTS.—A state-
2 wide transportation plan shall—

3 “(i) include, for the 20-year period
4 covered by the statewide transportation
5 plan, a description of—

6 “(I) the projected aggregate cost
7 of projects anticipated by a State to
8 be implemented; and

9 “(II) the revenues necessary to
10 support the projects;

11 “(ii) include, in such form as the Sec-
12 retary determines to be appropriate, a de-
13 scription of—

14 “(I) the existing transportation
15 infrastructure, including an identifica-
16 tion of highways, local streets and
17 roads, bicycle and pedestrian facilities,
18 public transportation facilities and
19 services, commuter rail facilities and
20 services, high-speed and intercity pas-
21 senger rail facilities and services,
22 freight facilities (including freight
23 railroad and port facilities),
24 multimodal and intermodal facilities,
25 and intermodal connectors that, evalu-

1 ated in the aggregate, function as an
2 integrated transportation system;

3 “**(II)** the performance measures
4 and performance targets used in as-
5 sessing the existing and future per-
6 formance of the transportation system
7 described in subsection (d)(2);

8 “**(III)** the current and projected
9 future usage of the transportation
10 system, including, to the maximum
11 extent practicable, an identification of
12 existing or planned transportation
13 rights-of-way, corridors, facilities, and
14 related real properties;

15 “**(IV)** a system performance re-
16 port evaluating the existing and fu-
17 ture condition and performance of the
18 transportation system with respect to
19 the performance targets described in
20 subsection (d)(2) and updates to sub-
21 sequent system performance reports,
22 including—

23 “**(aa)** progress achieved by
24 the State in meeting performance
25 targets, as compared to system

1 performance recorded in previous
2 reports; and

3 “(bb) an accounting of the
4 performance by the State on out-
5 lay of obligated project funds and
6 delivery of projects that have
7 reached substantial completion,
8 in relation to the projects cur-
9 rently on the statewide transpor-
10 tation improvement program and
11 those projects that have been re-
12 moved from the previous state-
13 wide transportation improvement
14 program;

15 “(V) recommended strategies and
16 investments for improving system per-
17 formance over the planning horizon,
18 including transportation systems man-
19 agement and operations strategies,
20 maintenance strategies, demand man-
21 agement strategies, asset management
22 strategies, capacity and enhancement
23 investments, land use improvements,
24 intelligent transportation systems de-
25 ployment and technology adoption

1 strategies as determined by the pro-
2 jected support of performance targets
3 described in subsection (d)(2);

4 “(VI) recommended strategies
5 and investments to improve and inte-
6 grate disability-related access to
7 transportation infrastructure;

8 “(VII) investment priorities for
9 using projected available and proposed
10 revenues over the short- and long-
11 term stages of the planning horizon,
12 in accordance with the financial plan
13 required under paragraph (2);

14 “(VIII) a description of inter-
15 state compacts entered into in order
16 to promote coordinated transportation
17 planning in multistate areas, if appli-
18 cable;

19 “(IX) an optional illustrative list
20 of projects containing investments
21 that—

22 “(aa) are not included in the
23 statewide transportation plan;
24 but

1 “(bb) would be so included if
2 resources in addition to the re-
3 sources identified in the financial
4 plan under paragraph (2) were
5 available;

6 “(X) a discussion (developed in
7 consultation with Federal, State, and
8 tribal wildlife, land management, and
9 regulatory agencies) of types of poten-
10 tial environmental and stormwater
11 mitigation activities and potential
12 areas to carry out those activities, in-
13 cluding activities that may have the
14 greatest potential to restore and
15 maintain the environmental functions
16 affected by the statewide transpor-
17 tation plan; and

18 “(XI) recommended strategies
19 and investments, including those de-
20 veloped by the State as part of inter-
21 state compacts, agreements, or orga-
22 nizations, that support intercity trans-
23 portation; and

24 “(iii) be updated by the State not less
25 frequently than once every 5 years.

1 “(2) FINANCIAL PLAN.—A financial plan re-
2 ferred to in paragraph (1)(D)(ii)(VII) shall—

3 “(A) be prepared by each State to support
4 the statewide transportation plan; and

5 “(B) contain a description of—

6 “(i) the projected resource require-
7 ments during the 20-year planning horizon
8 for implementing projects, strategies, and
9 services recommended in the statewide
10 transportation plan, including existing and
11 projected system operating and mainte-
12 nance needs, proposed enhancement and
13 expansions to the system, projected avail-
14 able revenue from Federal, State, local,
15 and private sources, and innovative financ-
16 ing techniques to finance projects and pro-
17 grams;

18 “(ii) the projected difference between
19 costs and revenues, and strategies for se-
20 curing additional new revenue (such as by
21 capture of some of the economic value cre-
22 ated by any new investment);

23 “(iii) estimates of future funds, to be
24 developed cooperatively by the State, any
25 public transportation agency, and relevant

1 metropolitan planning organizations, that
2 are reasonably expected to be available to
3 support the investment priorities rec-
4 ommended in the statewide transportation
5 plan;

6 “(iv) each applicable project, only if
7 full funding can reasonably be anticipated
8 to be available for the project within the
9 time period contemplated for completion of
10 the project; and

11 “(v) aggregate cost ranges or bands,
12 subject to the condition that any future
13 funding source shall be reasonably ex-
14 pected to be available to support the pro-
15 jected cost ranges or bands, for the outer
16 years period of the statewide transpor-
17 tation plan.

18 “(3) COORDINATION WITH CLEAN AIR ACT
19 AGENCIES.—For any nonmetropolitan area that is a
20 nonattainment area or maintenance area, the State
21 shall coordinate the development of the statewide
22 transportation plan with the process for development
23 of the transportation control measures of the State
24 implementation plan required by the Clean Air Act
25 (42 U.S.C. 7401 et seq.).

1 “(ii) reflects the investment priorities
2 established in the statewide transportation
3 plan; and

4 “(iii) once implemented, makes sig-
5 nificant progress toward achieving the per-
6 formance targets described in subsection
7 (d)(2).

8 “(B) OPPORTUNITY FOR PARTICIPA-
9 TION.—In developing a statewide transportation
10 improvement program, the State, in cooperation
11 with affected public transportation operators,
12 shall provide an opportunity for participation by
13 interested parties in the development of the
14 statewide transportation improvement program,
15 in accordance with subsection (e).

16 “(C) OTHER REQUIREMENTS.—

17 “(i) IN GENERAL.—A statewide trans-
18 portation improvement program shall—

19 “(I) cover a period of not less
20 than 4 years; and

21 “(II) be updated not less fre-
22 quently than once every 4 years, or
23 more frequently, as the Governor de-
24 termines to be appropriate.

1 “(ii) INCORPORATION OF TIPS.—A
2 statewide transportation improvement pro-
3 gram shall incorporate any relevant trans-
4 portation improvement program developed
5 by a metropolitan planning organization
6 under section 5303, without change.

7 “(iii) PROJECTS.—Each project in-
8 cluded in a statewide transportation im-
9 provement program shall be—

10 “(I) consistent with the statewide
11 transportation plan developed under
12 this section for the State;

13 “(II) identical to a project or
14 phase of a project described in a rel-
15 evant transportation improvement
16 program; and

17 “(III) for any project located in a
18 nonattainment area or maintenance
19 area, carried out in accordance with
20 the applicable State air quality imple-
21 mentation plan developed under the
22 Clean Air Act (42 U.S.C. 7401 et
23 seq.).

24 “(2) CONTENTS.—

1 “(A) PRIORITY LIST.—A statewide trans-
2 portation improvement program shall include a
3 priority list of proposed federally supported
4 projects and strategies, to be carried out during
5 the 4-year period beginning on the date of
6 adoption of the statewide transportation im-
7 provement program, and during each 4-year pe-
8 riod thereafter, using existing and reasonably
9 available revenues in accordance with the finan-
10 cial plan under paragraph (3).

11 “(B) DESCRIPTIONS.—Each project or
12 phase of a project included in a statewide trans-
13 portation improvement program shall include
14 sufficient descriptive material (such as type of
15 work, termini, length, estimated completion
16 date, and other similar factors) to identify—

17 “(i) the project or project phase; and

18 “(ii) the effect that the project or
19 project phase will have in addressing the
20 performance targets described in sub-
21 section (d)(2).

22 “(C) PERFORMANCE TARGET ACHIEVE-
23 MENT.—A statewide transportation improve-
24 ment program shall include, to the maximum
25 extent practicable, a discussion of the antici-

1 pated effect of the statewide transportation im-
2 provement program toward achieving the per-
3 formance targets established in the statewide
4 transportation plan, linking investment prior-
5 ities to those performance targets.

6 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

7 An optional illustrative list of projects may be
8 prepared containing additional investment pri-
9 orities that—

10 “(i) are not included in the statewide
11 transportation improvement program; but

12 “(ii) would be so included if resources
13 in addition to the resources identified in
14 the financial plan under paragraph (3)
15 were available.

16 “(3) FINANCIAL PLAN.—A financial plan re-
17 ferred to in paragraph (2)(D)(ii) shall—

18 “(A) be prepared by each State to support
19 the statewide transportation improvement pro-
20 gram; and

21 “(B) contain a description of—

22 “(i) the projected resource require-
23 ments for implementing projects, strate-
24 gies, and services recommended in the
25 statewide transportation improvement pro-

1 gram, including existing and projected sys-
2 tem operating and maintenance needs, pro-
3 posed enhancement and expansions to the
4 system, projected available revenue from
5 Federal, State, local, and private sources,
6 and innovative financing techniques to fi-
7 nance projects and programs;

8 “(ii) the projected difference between
9 costs and revenues, and strategies for se-
10 curing additional new revenue (such as by
11 capture of some of the economic value cre-
12 ated by any new investment);

13 “(iii) estimates of future funds, to be
14 developed cooperatively by the State and
15 relevant metropolitan planning organiza-
16 tions and public transportation agencies,
17 that are reasonably expected to be avail-
18 able to support the investment priorities
19 recommended in the statewide transpor-
20 tation improvement program; and

21 “(iv) each applicable project, only if
22 full funding can reasonably be anticipated
23 to be available for the project within the
24 time period contemplated for completion of
25 the project.

1 “(4) INCLUDED PROJECTS.—

2 “(A) PROJECTS UNDER THIS CHAPTER
3 AND TITLE 23.—A statewide transportation im-
4 provement program developed under this sub-
5 section for a State shall include the projects
6 within the State that are proposed for funding
7 under this chapter and chapter 1 of title 23.

8 “(B) PROJECTS UNDER THIS CHAPTER
9 AND CHAPTER 2.—

10 “(i) REGIONALLY SIGNIFICANT.—
11 Each regionally significant project pro-
12 posed for funding under this chapter and
13 chapter 2 of title 23 shall be identified in-
14 dividually in the statewide transportation
15 improvement program.

16 “(ii) NONREGIONALLY SIGNIFI-
17 CANT.—A description of each project pro-
18 posed for funding under this chapter and
19 chapter 2 of title 23 that is not determined
20 to be regionally significant shall be con-
21 tained in 1 line item or identified individ-
22 ually in the statewide transportation im-
23 provement program.

24 “(5) PUBLICATION.—

1 “(A) IN GENERAL.—A statewide transpor-
2 tation improvement program shall be published
3 or otherwise made readily available by the State
4 for public review in electronically accessible for-
5 mats and means, such as the Internet.

6 “(B) ANNUAL LIST OF PROJECTS.—An an-
7 nual list of projects, including investments in
8 pedestrian walkways, bicycle transportation fa-
9 cilities, and intermodal facilities that support
10 intercity transportation, for which Federal
11 funds have been obligated during the preceding
12 fiscal year shall be published or otherwise made
13 available by the cooperative effort of the State,
14 public transportation operator, and relevant
15 metropolitan planning organizations in elec-
16 tronically accessible formats and means, such
17 as the Internet, in a manner that is consistent
18 with the categories identified in the relevant
19 statewide transportation improvement program.

20 “(6) PROJECT SELECTION FOR URBANIZED
21 AREAS WITH POPULATIONS OF FEWER THAN 200,000
22 NOT REPRESENTED BY DESIGNATED MPOS.—
23 Projects carried out in urbanized areas with popu-
24 lations of fewer than 200,000 individuals, as cal-
25 culated according to the most recent decennial cen-

1 sus, and that are not represented by designated met-
2 ropolitan planning organizations, shall be selected
3 from the approved statewide transportation improve-
4 ment program (including projects carried out under
5 this chapter and projects carried out by the State),
6 in cooperation with the affected nonmetropolitan
7 planning organization, if any exists, and in consulta-
8 tion with the affected nonmetropolitan area local of-
9 ficials with responsibility for transportation.

10 “(7) APPROVAL BY SECRETARY.—

11 “(A) IN GENERAL.—Not less frequently
12 than once every 4 years, a statewide transpor-
13 tation improvement program developed under
14 this subsection shall be reviewed and approved
15 by the Secretary, based on the current planning
16 finding of the Secretary under subparagraph
17 (B).

18 “(B) PLANNING FINDING.—The Secretary
19 shall make a planning finding referred to in
20 subparagraph (A) not less frequently than once
21 every 5 years regarding whether the transpor-
22 tation planning process through which statewide
23 transportation plans and statewide transpor-
24 tation improvement programs are developed is
25 consistent with this section and section 5303.

1 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
2 Approval by the Secretary shall not be required to
3 carry out a project included in an approved state-
4 wide transportation improvement program in place
5 of another project in the statewide transportation
6 improvement program.

7 “(h) CERTIFICATION.—

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

9 “(A) ensure that the statewide transpor-
10 tation planning process of a State is being car-
11 ried out in accordance with applicable Federal
12 law; and

13 “(B) subject to paragraph (2), certify, not
14 less frequently than once every 5 years, that the
15 requirements of subparagraph (A) are met with
16 respect to the statewide transportation planning
17 process.

18 “(2) REQUIREMENTS FOR CERTIFICATION.—

19 The Secretary may make a certification under para-
20 graph (1)(B) if—

21 “(A) the statewide transportation planning
22 process complies with the requirements of this
23 section and other applicable Federal law; and

1 “(B) a statewide transportation improve-
2 ment program for the State has been approved
3 by the Governor of the State.

4 “(3) EFFECT OF FAILURE TO CERTIFY.—

5 “(A) WITHHOLDING OF PROJECT
6 FUNDS.—If a statewide transportation planning
7 process of a State is not certified under para-
8 graph (1), the Secretary may withhold up to 20
9 percent of the funds attributable to the State
10 for projects funded under this chapter and title
11 23.

12 “(B) RESTORATION OF WITHHELD
13 FUNDS.—Any funds withheld under subpara-
14 graph (A) shall be restored to the State on the
15 date of certification of the statewide transpor-
16 tation planning process by the Secretary.

17 “(4) PUBLIC INVOLVEMENT.—In making a de-
18 termination regarding certification under this sub-
19 section, the Secretary shall provide for public in-
20 volvement appropriate to the State under review.

21 “(i) PERFORMANCE-BASED PLANNING PROCESSES
22 EVALUATION.—

23 “(1) IN GENERAL.—The Secretary shall estab-
24 lish criteria to evaluate the effectiveness of the per-

1 performance-based planning processes of States, taking
2 into consideration the following:

3 “(A) The extent to which the State has
4 achieved, or is currently making substantial
5 progress toward achieving, the performance tar-
6 gets described in subsection (d)(2), taking into
7 account whether the State developed meaningful
8 performance targets.

9 “(B) The extent to which the State has
10 used proven best practices that help ensure
11 transportation investment that is efficient and
12 cost-effective.

13 “(C) The extent to which the State—

14 “(i) has developed an investment proc-
15 ess that relies on public input and aware-
16 ness to ensure that investments are trans-
17 parent and accountable; and

18 “(ii) provides regular reports allowing
19 the public to access the information being
20 collected in a format that allows the public
21 to meaningfully assess the performance of
22 the State.

23 “(2) REPORT.—

24 “(A) IN GENERAL.—Not later than 5 years
25 after the date of enactment of the Federal Pub-

1 lic Transportation Act of 2012, the Secretary
2 shall submit to Congress a report evaluating—

3 “(i) the overall effectiveness of per-
4 formance-based planning as a tool for
5 guiding transportation investments; and

6 “(ii) the effectiveness of the perform-
7 ance-based planning process of each State.

8 “(B) PUBLICATION.—The report under
9 subparagraph (A) shall be published or other-
10 wise made available in electronically accessible
11 formats and means, including on the Internet.

12 “(j) FUNDING.—Funds apportioned under section
13 104(b)(6) of title 23 and set aside under section 5305(g)
14 shall be available to carry out this section.

15 “(k) CONTINUATION OF CURRENT REVIEW PRAC-
16 TICE.—

17 “(1) IN GENERAL.—In consideration of the fac-
18 tors described in paragraph (2), any decision by the
19 Secretary concerning a statewide transportation plan
20 or statewide transportation improvement program
21 shall not be considered to be a Federal action sub-
22 ject to review under the National Environmental
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

24 “(2) DESCRIPTION OF FACTORS.—The factors
25 referred to in paragraph (1) are that—

1 “(A) statewide transportation plans and
2 statewide transportation improvement programs
3 are subject to a reasonable opportunity for pub-
4 lic comment;

5 “(B) the projects included in statewide
6 transportation plans and statewide transpor-
7 tation improvement programs are subject to re-
8 view under the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.); and

10 “(C) decisions by the Secretary concerning
11 statewide transportation plans and statewide
12 transportation improvement programs have not
13 been reviewed under the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.) as of January 1, 1997.

16 “(1) SCHEDULE FOR IMPLEMENTATION.—The Sec-
17 retary shall issue guidance on a schedule for implementa-
18 tion of the changes made by this section, taking into con-
19 sideration the established planning update cycle for
20 States. The Secretary shall not require a State to deviate
21 from its established planning update cycle to implement
22 changes made by this section. States shall reflect changes
23 made to their transportation plan or transportation im-
24 provement program updates not later than 2 years after

1 the date of issuance of guidance by the Secretary under
2 this subsection.”.

3 **SEC. 7. PUBLIC TRANSPORTATION EMERGENCY RELIEF**
4 **PROGRAM.**

5 Section 5306 of title 49, United States Code, is
6 amended to read as follows:

7 **“§ 5306. Public transportation emergency relief pro-**
8 **gram**

9 “(a) DEFINITION.—In this section the following defi-
10 nitions shall apply:

11 “(1) ELIGIBLE OPERATING COSTS.—The term
12 ‘eligible operating costs’ means costs relating to—

13 “(A) evacuation services;

14 “(B) rescue operations;

15 “(C) temporary public transportation serv-
16 ice; or

17 “(D) reestablishing, expanding, or relo-
18 cating public transportation route service be-
19 fore, during, or after an emergency.

20 “(2) EMERGENCY.—The term ‘emergency’
21 means a natural disaster affecting a wide area (such
22 as a flood, hurricane, tidal wave, earthquake, severe
23 storm, or landslide) or a catastrophic failure from
24 any external cause, as a result of which—

1 “(A) the Governor of a State has declared
2 an emergency and the Secretary has concurred;
3 or

4 “(B) the President has declared a major
5 disaster under section 401 of the Robert T.
6 Stafford Disaster Relief and Emergency Assist-
7 ance Act (42 U.S.C. 5170).

8 “(b) GENERAL AUTHORITY.—

9 “(1) CAPITAL ASSISTANCE.—The Secretary
10 may make grants and enter into contracts and other
11 agreements (including agreements with departments,
12 agencies, and instrumentalities of the Government)
13 for capital projects to protect, repair, reconstruct, or
14 replace equipment and facilities of a public transpor-
15 tation system operating in the United States or on
16 an Indian reservation that the Secretary determines
17 is in danger of suffering serious damage, or has suf-
18 fered serious damage, as a result of an emergency.

19 “(2) OPERATING ASSISTANCE.—Of the funds
20 appropriated to carry out this section, the Secretary
21 may make grants and enter into contracts or other
22 agreements for the eligible operating costs of public
23 transportation equipment and facilities in an area
24 directly affected by an emergency during—

1 “(A) the 1-year period beginning on the
2 date of a declaration described in subsection
3 (a)(2); or

4 “(B) if the Secretary determines there is a
5 compelling need, the 2-year period beginning on
6 the date of a declaration described in subsection
7 (a)(2).

8 “(c) COORDINATION OF EMERGENCY FUNDS.—

9 “(1) USE OF FUNDS.—Funds appropriated to
10 carry out this section shall be in addition to any
11 other funds available—

12 “(A) under this chapter; or

13 “(B) for the same purposes as authorized
14 under this section by any other branch of the
15 Government, including the Federal Emergency
16 Management Agency, or a State agency, local
17 governmental entity, organization, or person.

18 “(2) NOTIFICATION.—The Secretary shall no-
19 tify the Secretary of Homeland Security of the pur-
20 pose and amount of any grant made or contract or
21 other agreement entered into under this section.

22 “(d) INTERAGENCY TRANSFERS.—Amounts that are
23 made available for emergency purposes to any other agen-
24 cy of the Government, including the Federal Emergency
25 Management Agency, and that are eligible to be expended

1 for purposes authorized under this section may be trans-
2 ferred to and administered by the Secretary under this
3 section.

4 “(e) INTERAGENCY AGREEMENT.—

5 “(1) IN GENERAL.—The Secretary shall enter
6 into an interagency agreement with the Secretary of
7 Homeland Security which shall provide for the
8 means by which the Department of Transportation,
9 including the Federal Transit Administration, and
10 the Department of Homeland Security, including the
11 Federal Emergency Management Agency, shall co-
12 operate in administering emergency relief for public
13 transportation.

14 “(2) CONTENTS.—The interagency agreement
15 under paragraph (1) shall provide that funds made
16 available to the Federal Emergency Management
17 Agency for emergency relief for public transpor-
18 tation shall be transferred to the Secretary to carry
19 out this section, to the maximum extent possible.

20 “(f) GRANT REQUIREMENTS.—A grant awarded
21 under this section shall be subject to the terms and condi-
22 tions the Secretary determines are necessary.

23 “(g) GOVERNMENT SHARE OF COSTS.—

24 “(1) CAPITAL PROJECTS AND OPERATING AS-
25 SISTANCE.—A grant, contract, or other agreement

1 for a capital project or eligible operating costs under
2 this section shall be, at the option of the recipient,
3 for not more than 80 percent of the net project cost,
4 as determined by the Secretary.

5 “(2) NON-FEDERAL SHARE.—The remainder of
6 the net project cost may be provided from an undis-
7 tributed cash surplus, a replacement or depreciation
8 cash fund or reserve, or new capital.

9 “(3) WAIVER.—The Secretary may waive, in
10 whole or part, the non-Federal share required under
11 paragraph (2).”.

12 **SEC. 8. URBANIZED AREA FORMULA GRANTS.**

13 Section 5307 of title 49, United States Code, is
14 amended to read as follows:

15 **“§ 5307. Urbanized area formula grants.**

16 “(a) GENERAL AUTHORITY.—

17 “(1) GRANTS.—The Secretary may make
18 grants under this section for—

19 “(A) capital projects;

20 “(B) planning; and

21 “(C) operating costs of equipment and fa-
22 cilities for use in public transportation in an ur-
23 banized area with a population of fewer than
24 200,000 individuals, as determined by the Bu-
25 reau of the Census.

1 “(2) SPECIAL RULE.—The Secretary may make
2 grants under this section to finance the operating
3 cost of equipment and facilities for use in public
4 transportation, excluding rail fixed guideway, in an
5 urbanized area with a population of not fewer than
6 200,000 individuals, as determined by the Bureau of
7 the Census—

8 “(A) for public transportation systems that
9 operate 75 or fewer buses during peak service
10 hours, in an amount not to exceed 50 percent
11 of the share of the apportionment which is at-
12 tributable to such systems within the urbanized
13 area, as measured by revenue vehicle-hours; and

14 “(B) for public transportation systems that
15 operate a minimum of 76 buses and a max-
16 imum of 100 buses during peak service hours,
17 in an amount not to exceed 25 percent of the
18 share of the apportionment which is attrib-
19 utable to such systems within the urbanized
20 area, as measured by revenue vehicle-hours.

21 “(3) TEMPORARY AND TARGETED ASSIST-
22 ANCE.—

23 “(A) ELIGIBILITY.—The Secretary may
24 make a grant under this section to finance the
25 operating cost of equipment and facilities to a

1 recipient for use in public transportation in an
2 area that the Secretary determines has—

3 “(i) a population of not fewer than
4 200,000 individuals, as determined by the
5 Bureau of the Census; and

6 “(ii) a 3-month unemployment rate,
7 as reported by the Bureau of Labor Statis-
8 tics, that is—

9 “(I) greater than 7 percent; and

10 “(II) at least 2 percentage points
11 greater than the lowest 3-month un-
12 employment rate for the area during
13 the 5-year period preceding the date
14 of the determination.

15 “(B) AWARD OF GRANT.—

16 “(i) IN GENERAL.—Except as other-
17 wise provided in this subparagraph, the
18 Secretary may make a grant under this
19 section for not more than 2 consecutive fis-
20 cal years.

21 “(ii) ADDITIONAL YEAR.—If, at the
22 end of the second fiscal year following the
23 date on which the Secretary makes a de-
24 termination under subparagraph (A) with
25 respect to an area, the Secretary deter-

1 mines that the 3-month unemployment
2 rate for the area is at least 2 percentage
3 points greater than the unemployment rate
4 for the area at the time the Secretary
5 made the determination under subpara-
6 graph (A), the Secretary may make a
7 grant to a recipient in the area for 1 addi-
8 tional consecutive fiscal year.

9 “(iii) EXCLUSION PERIOD.—Begin-
10 ning on the last day of the last consecutive
11 fiscal year for which a recipient receives a
12 grant under this paragraph, the Secretary
13 may not make a subsequent grant under
14 this paragraph to the recipient for a num-
15 ber of fiscal years equal to the number of
16 consecutive fiscal years in which the recipi-
17 ent received a grant under this paragraph.

18 “(C) LIMITATION.—

19 “(i) FIRST FISCAL YEAR.—For the
20 first fiscal year following the date on which
21 the Secretary makes a determination under
22 subparagraph (A) with respect to an area,
23 not more than 25 percent of the amount
24 apportioned to a designated recipient
25 under section 5336 for the fiscal year shall

1 be available for operating assistance for
2 the area.

3 “(ii) SECOND AND THIRD FISCAL
4 YEARS.—For the second and third fiscal
5 years following the date on which the Sec-
6 retary makes a determination under sub-
7 paragraph (A) with respect to an area, not
8 more than 20 percent of the amount ap-
9 portioned to a designated recipient under
10 section 5336 for the fiscal year shall be
11 available for operating assistance for the
12 area.

13 “(D) PERIOD OF AVAILABILITY FOR OPER-
14 ATING ASSISTANCE.—Operating assistance
15 awarded under this paragraph shall be available
16 for expenditure to a recipient in an area until
17 the end of the second fiscal year following the
18 date on which the Secretary makes a deter-
19 mination under subparagraph (A) with respect
20 to the area, after which time any unexpended
21 funds shall be available to the recipient for
22 other eligible activities under this section.

23 “(E) CERTIFICATION.—The Secretary may
24 make a grant for operating assistance under

1 this paragraph for a fiscal year only if the re-
2 cipient certifies that—

3 “(i) the recipient will maintain public
4 transportation service levels at or above
5 the current service level, which shall be
6 demonstrated by providing an equal or
7 greater number of vehicle-hours of service
8 in the fiscal year than the number of vehi-
9 cle-hours of service provided in the pre-
10 ceding fiscal year;

11 “(ii) any non-Federal entity that pro-
12 vides funding to the recipient, including a
13 State or local governmental entity, will
14 maintain the tax rate or rate of allocations
15 dedicated to public transportation at or
16 above the rate for the preceding fiscal
17 year;

18 “(iii) the recipient has allocated the
19 maximum amount of funding under this
20 section for preventive maintenance costs el-
21 igible as a capital expense necessary to
22 maintain the level and quality of service
23 provided in the preceding fiscal year; and

24 “(iv) the recipient will not use funding
25 under this section for new capital assets

1 except as necessary for the existing system
2 to maintain or achieve a state of good re-
3 pair, assure safety, or replace obsolete
4 technology.

5 “(b) ACCESS TO JOBS PROJECTS.—

6 “(1) IN GENERAL.—A designated recipient shall
7 expend not less than 3 percent of the amount appor-
8 tioned to the designated recipient to carry out this
9 section to carry out a program to develop and main-
10 tain job access projects. Eligible projects may in-
11 clude—

12 “(A) a project relating to the development
13 and maintenance of public transportation serv-
14 ices designed to transport eligible low-income
15 individuals to and from jobs and activities re-
16 lated to their employment, including—

17 “(i) a public transportation project to
18 finance planning, capital, and operating
19 costs of providing access to jobs under this
20 chapter;

21 “(ii) promoting public transportation
22 by low-income workers, including the use
23 of public transportation by workers with
24 nontraditional work schedules;

1 “(iii) promoting the use of public
2 transportation vouchers for welfare recipi-
3 ents and eligible low-income individuals;
4 and

5 “(iv) promoting the use of employer-
6 provided transportation, including the
7 transit pass benefit program under section
8 132 of the Internal Revenue Code of 1986;
9 and

10 “(B) a transportation project designed to
11 support the use of public transportation includ-
12 ing—

13 “(i) enhancements to existing public
14 transportation service for workers with
15 non-traditional hours or reverse commutes;

16 “(ii) guaranteed ride home programs;

17 “(iii) bicycle storage facilities; and

18 “(iv) projects that otherwise facilitate
19 the provision of public transportation serv-
20 ices to employment opportunities.

21 “(2) PROJECT SELECTION AND PLAN DEVELOP-
22 MENT.—Each grant recipient under this subsection
23 shall certify that—

1 “(A) the projects selected were included in
2 a locally developed, coordinated public transit-
3 human services transportation plan;

4 “(B) the plan was developed and approved
5 through a process that included individuals with
6 low incomes, representatives of public, private,
7 and nonprofit transportation and human serv-
8 ices providers, and participation by the public;

9 “(C) services funded under this subsection
10 are coordinated with transportation services
11 funded by other Federal departments and agen-
12 cies to the maximum extent feasible; and

13 “(D) allocations of the grant to subrecipi-
14 ents, if any, are distributed on a fair and equi-
15 table basis.

16 “(3) COMPETITIVE PROCESS FOR GRANTS TO
17 SUBRECIPIENTS.—

18 “(A) AREAWIDE SOLICITATIONS.—A re-
19 cipient of funds apportioned under this sub-
20 section may conduct, in cooperation with the
21 appropriate metropolitan planning organization,
22 an areawide solicitation for applications for
23 grants to the recipient and subrecipients under
24 this subsection.

1 “(B) APPLICATION.—If the recipient elects
2 to engage in a competitive process, recipients
3 and subrecipients seeking to receive a grant
4 from apportioned funds shall submit to the re-
5 cipient an application in the form and in ac-
6 cordance with such requirements as the recipi-
7 ent shall establish.

8 “(c) PROGRAM OF PROJECTS.—Each recipient of a
9 grant shall—

10 “(1) make available to the public information
11 on amounts available to the recipient under this sec-
12 tion;

13 “(2) develop, in consultation with interested
14 parties, including private transportation providers, a
15 proposed program of projects for activities to be fi-
16 nanced;

17 “(3) publish a proposed program of projects in
18 a way that affected individuals, private transpor-
19 tation providers, and local elected officials have the
20 opportunity to examine the proposed program and
21 submit comments on the proposed program and the
22 performance of the recipient;

23 “(4) provide an opportunity for a public hearing
24 in which to obtain the views of individuals on the
25 proposed program of projects;

1 “(5) ensure that the proposed program of
2 projects provides for the coordination of public
3 transportation services assisted under section 5336
4 of this title with transportation services assisted
5 from other United States Government sources;

6 “(6) consider comments and views received, es-
7 pecially those of private transportation providers, in
8 preparing the final program of projects; and

9 “(7) make the final program of projects avail-
10 able to the public.

11 “(d) GRANT RECIPIENT REQUIREMENTS.—A recipi-
12 ent may receive a grant in a fiscal year only if—

13 “(1) the recipient, within the time the Secretary
14 prescribes, submits a final program of projects pre-
15 pared under subsection (c) of this section and a cer-
16 tification for that fiscal year that the recipient (in-
17 cluding a person receiving amounts from a Governor
18 under this section)—

19 “(A) has or will have the legal, financial,
20 and technical capacity to carry out the pro-
21 gram, including safety and security aspects of
22 the program;

23 “(B) has or will have satisfactory con-
24 tinuing control over the use of equipment and
25 facilities;

1 “(C) will maintain equipment and facili-
2 ties;

3 “(D) will ensure that, during non-peak
4 hours for transportation using or involving a fa-
5 cility or equipment of a project financed under
6 this section, a fare that is not more than 50
7 percent of the peak hour fare will be charged
8 for any—

9 “(i) senior;

10 “(ii) individual who, because of illness,
11 injury, age, congenital malfunction, or
12 other incapacity or temporary or perma-
13 nent disability (including an individual who
14 is a wheelchair user or has semiambulatory
15 capability), cannot use a public transpor-
16 tation service or a public transportation fa-
17 cility effectively without special facilities,
18 planning, or design; and

19 “(iii) individual presenting a Medicare
20 card issued to that individual under title II
21 or XVIII of the Social Security Act (42
22 U.S.C. 401 et seq. and 1395 et seq.);

23 “(E) in carrying out a procurement under
24 this section, will comply with sections 5323 and
25 5325;

1 “(F) has complied with subsection (c) of
2 this section;

3 “(G) has available and will provide the re-
4 quired amounts as provided by subsection (e) of
5 this section;

6 “(H) will comply with sections 5303 and
7 5304;

8 “(I) has a locally developed process to so-
9 licit and consider public comment before raising
10 a fare or carrying out a major reduction of
11 transportation;

12 “(J)(i) will expend for each fiscal year for
13 public transportation security projects, includ-
14 ing increased lighting in or adjacent to a public
15 transportation system (including bus stops, sub-
16 way stations, parking lots, and garages), in-
17 creased camera surveillance of an area in or ad-
18 jacent to that system, providing an emergency
19 telephone line to contact law enforcement or se-
20 curity personnel in an area in or adjacent to
21 that system, and any other project intended to
22 increase the security and safety of an existing
23 or planned public transportation system, at
24 least 1 percent of the amount the recipient re-

1 ceives for each fiscal year under section 5336 of
2 this title; or

3 “(ii) has decided that the expenditure for
4 security projects is not necessary;

5 “(K) in the case of a recipient for an ur-
6 banized area with a population of not fewer
7 than 200,000 individuals, as determined by the
8 Bureau of the Census—

9 “(i) will expend not less than 1 per-
10 cent of the amount the recipient receives
11 each fiscal year under this section for asso-
12 ciated transit improvements, as defined in
13 section 5302; and

14 “(ii) will submit an annual report list-
15 ing projects carried out in the preceding
16 fiscal year with those funds; and

17 “(L) will comply with section 5329(d); and

18 “(2) the Secretary accepts the certification.

19 “(e) GOVERNMENT SHARE OF COSTS.—

20 “(1) CAPITAL PROJECTS.—A grant for a capital
21 project under this section shall be for 80 percent of
22 the net project cost of the project. The recipient may
23 provide additional local matching amounts.

1 “(2) OPERATING EXPENSES.—A grant for oper-
2 ating expenses under this section may not exceed 50
3 percent of the net project cost of the project.

4 “(3) REMAINING COSTS.—Subject to paragraph
5 (4), the remainder of the net project costs shall be
6 provided—

7 “(A) in cash from non-Government sources
8 other than revenues from providing public
9 transportation services;

10 “(B) from revenues from the sale of adver-
11 tising and concessions;

12 “(C) from an undistributed cash surplus, a
13 replacement or depreciation cash fund or re-
14 serve, or new capital;

15 “(D) from amounts appropriated or other-
16 wise made available to a department or agency
17 of the Government (other than the Department
18 of Transportation) that are eligible to be ex-
19 pended for transportation; and

20 “(E) from amounts received under a serv-
21 ice agreement with a State or local social serv-
22 ice agency or private social service organization.

23 “(4) USE OF CERTAIN FUNDS.—For purposes
24 of subparagraphs (D) and (E) of paragraph (3), the
25 prohibitions on the use of funds for matching re-

1 requirements under section 403(a)(5)(C)(vii) of the
2 Social Security Act (42 U.S.C. 603(a)(5)(C)(vii))
3 shall not apply to Federal or State funds to be used
4 for transportation purposes.

5 “(f) UNDERTAKING PROJECTS IN ADVANCE.—

6 “(1) PAYMENT.—The Secretary may pay the
7 Government share of the net project cost to a State
8 or local governmental authority that carries out any
9 part of a project eligible under subparagraph (A) or
10 (B) of subsection (a)(1) without the aid of amounts
11 of the Government and according to all applicable
12 procedures and requirements if—

13 “(A) the recipient applies for the payment;

14 “(B) the Secretary approves the payment;

15 and

16 “(C) before carrying out any part of the
17 project, the Secretary approves the plans and
18 specifications for the part in the same way as
19 for other projects under this section.

20 “(2) APPROVAL OF APPLICATION.—The Sec-
21 retary may approve an application under paragraph
22 (1) of this subsection only if an authorization for
23 this section is in effect for the fiscal year to which
24 the application applies. The Secretary may not ap-

1 prove an application if the payment will be more
2 than—

3 “(A) the recipient’s expected apportion-
4 ment under section 5336 of this title if the total
5 amount authorized to be appropriated for the
6 fiscal year to carry out this section is appro-
7 priated; less

8 “(B) the maximum amount of the appor-
9 tionment that may be made available for
10 projects for operating expenses under this sec-
11 tion.

12 “(3) FINANCING COSTS.—

13 “(A) IN GENERAL.—The cost of carrying
14 out part of a project includes the amount of in-
15 terest earned and payable on bonds issued by
16 the recipient to the extent proceeds of the
17 bonds are expended in carrying out the part.

18 “(B) LIMITATION ON THE AMOUNT OF IN-
19 TEREST.—The amount of interest allowed
20 under this paragraph may not be more than the
21 most favorable financing terms reasonably
22 available for the project at the time of bor-
23 rowing.

24 “(C) CERTIFICATION.—The applicant shall
25 certify, in a manner satisfactory to the Sec-

1 retary, that the applicant has shown reasonable
2 diligence in seeking the most favorable financ-
3 ing terms.

4 “(g) REVIEWS, AUDITS, AND EVALUATIONS.—

5 “(1) ANNUAL REVIEW.—

6 “(A) IN GENERAL.—At least annually, the
7 Secretary shall carry out, or require a recipient
8 to have carried out independently, reviews and
9 audits the Secretary considers appropriate to
10 establish whether the recipient has carried
11 out—

12 “(i) the activities proposed under sub-
13 section (d) of this section in a timely and
14 effective way and can continue to do so;
15 and

16 “(ii) those activities and its certifi-
17 cations and has used amounts of the Gov-
18 ernment in the way required by law.

19 “(B) AUDITING PROCEDURES.—An audit
20 of the use of amounts of the Government shall
21 comply with the auditing procedures of the
22 Comptroller General.

23 “(2) TRIENNIAL REVIEW.—At least once every
24 3 years, the Secretary shall review and evaluate
25 completely the performance of a recipient in carrying

1 out the recipient’s program, specifically referring to
2 compliance with statutory and administrative re-
3 quirements and the extent to which actual program
4 activities are consistent with the activities proposed
5 under subsection (d) of this section and the planning
6 process required under sections 5303, 5304, and
7 5305 of this title. To the extent practicable, the Sec-
8 retary shall coordinate such reviews with any related
9 State or local reviews.

10 “(3) ACTIONS RESULTING FROM REVIEW,
11 AUDIT, OR EVALUATION.—The Secretary may take
12 appropriate action consistent with a review, audit,
13 and evaluation under this subsection, including mak-
14 ing an appropriate adjustment in the amount of a
15 grant or withdrawing the grant.

16 “(h) TREATMENT.—For purposes of this section, the
17 United States Virgin Islands shall be treated as an urban-
18 ized area, as defined in section 5302.

19 “(i) PASSENGER FERRY GRANT PROGRAM.—

20 “(1) IN GENERAL.—The Secretary may make
21 grants under this subsection to recipients for pas-
22 senger ferry projects that are eligible for a grant
23 under subsection (a).

24 “(2) GRANT REQUIREMENTS.—Except as other-
25 wise provided in this subsection, a grant under this

1 subsection shall be subject to the same terms and
2 conditions as a grant under subsection (a).

3 “(3) COMPETITIVE PROCESS.—The Secretary
4 shall solicit grant applications and make grants for
5 eligible projects on a competitive basis.

6 “(4) GEOGRAPHICALLY CONSTRAINED AREAS.—
7 Of the amounts made available to carry out this sub-
8 section, \$10,000,000 shall be for capital grants re-
9 lating to passenger ferries in areas with limited or
10 no access to public transportation as a result of geo-
11 graphical constraints.”.

12 **SEC. 9. CLEAN FUEL GRANT PROGRAM.**

13 Section 5308 of title 49, United States Code, is
14 amended to read as follows:

15 **“§ 5308. Clean fuel grant program**

16 “(a) DEFINITIONS.—In this section, the following
17 definitions shall apply:

18 “(1) CLEAN FUEL BUS.—The term ‘clean fuel
19 bus’ means a bus that is a clean fuel vehicle.

20 “(2) CLEAN FUEL VEHICLE.—The term ‘clean
21 fuel vehicle’ means a passenger vehicle used to pro-
22 vide public transportation that the Administrator of
23 the Environmental Protection Agency has certified
24 sufficiently reduces energy consumption or reduces
25 harmful emissions, including lifecycle carbon emis-

1 sions, when compared to a comparable standard ve-
2 hicle.

3 “(3) ELIGIBLE AREA.—The term ‘eligible area’
4 means an area that is—

5 “(A) designated as a nonattainment area
6 for ozone or carbon monoxide under section
7 107(d) of the Clean Air Act (42 U.S.C.
8 7407(d)); or

9 “(B) a maintenance area, as defined in
10 section 5303, for ozone or carbon monoxide.

11 “(4) ELIGIBLE PROJECT.—The term ‘eligible
12 project’ means a project or program of projects in
13 an eligible area for—

14 “(A) acquiring or leasing clean fuel vehi-
15 cles;

16 “(B) constructing or leasing facilities and
17 related equipment for clean fuel vehicles;

18 “(C) constructing new public transpor-
19 tation facilities to accommodate clean fuel vehi-
20 cles; or

21 “(D) rehabilitating or improving existing
22 public transportation facilities to accommodate
23 clean fuel vehicles.

24 “(5) LIFECYCLE CARBON EMISSIONS.—The
25 term ‘lifecycle carbon emissions’ means the aggre-

1 gate quantity of greenhouse gas emissions related to
2 a full fuel lifecycle, as determined by the Adminis-
3 trator of the Environmental Protection Agency.

4 “(6) RECIPIENT.—The term ‘recipient’
5 means—

6 “(A) for an eligible area that is an urban-
7 ized area with a population of fewer than
8 200,000 individuals, as determined by the Bu-
9 reau of the Census, the State in which the eligi-
10 ble area is located; and

11 “(B) for an eligible area not described in
12 subparagraph (A), the designated recipient for
13 the eligible area.

14 “(b) AUTHORITY.—The Secretary may make grants
15 to recipients to finance eligible projects under this section.

16 “(c) GRANT REQUIREMENTS.—

17 “(1) IN GENERAL.—A grant under this section
18 shall be subject to the requirements of section 5307.

19 “(2) GOVERNMENT SHARE OF COSTS FOR CER-
20 TAIN PROJECTS.—Section 5323(j)(2) applies to
21 projects carried out under this section, unless the
22 grant recipient requests a lower grant percentage.

23 “(d) MINIMUM AMOUNTS.—Of amounts made avail-
24 able by or appropriated under section 5338(a)(2)(D) in
25 each fiscal year to carry out this section—

1 “(1) not less than 65 percent shall be made
2 available to fund eligible projects relating to clean
3 fuel buses; and

4 “(2) not less than 10 percent shall be made
5 available for eligible projects relating to facilities and
6 related equipment for clean fuel buses.

7 “(e) COMPETITIVE PROCESS.—The Secretary shall
8 solicit grant applications and make grants for eligible
9 projects on a competitive basis.

10 “(f) AVAILABILITY OF FUNDS.—Any amounts made
11 available or appropriated to carry out this section—

12 “(1) shall remain available to an eligible project
13 for 2 years after the fiscal year for which the
14 amount is made available or appropriated; and

15 “(2) that remain unobligated at the end of the
16 period described in paragraph (1) shall be added to
17 the amount made available to an eligible project in
18 the following fiscal year.”.

19 **SEC. 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.**

20 “(a) IN GENERAL.—Section 5309 of title 49, United
21 States Code, is amended to read as follows:

22 **“§ 5309. Fixed guideway capital investment grants**

23 “(a) DEFINITIONS.—In this section, the following
24 definitions shall apply:

1 “(1) APPLICANT.—The term ‘applicant’ means
2 a State or local governmental authority that applies
3 for a grant under this section.

4 “(2) BUS RAPID TRANSIT PROJECT.—The term
5 ‘bus rapid transit project’ means a single route bus
6 capital project—

7 “(A) a majority of which operates in a sep-
8 arated right-of-way dedicated for public trans-
9 portation use during peak periods;

10 “(B) that represents a substantial invest-
11 ment in a single route in a defined corridor or
12 subarea; and

13 “(C) that includes features that emulate
14 the services provided by rail fixed guideway
15 public transportation systems, including—

16 “(i) defined stations;

17 “(ii) traffic signal priority for public
18 transportation vehicles;

19 “(iii) short headway bidirectional serv-
20 ices for a substantial part of weekdays and
21 weekend days; and

22 “(iv) any other features the Secretary
23 may determine are necessary to produce
24 high-quality public transportation services
25 that emulate the services provided by rail

1 fixed guideway public transportation sys-
2 tems.

3 “(3) CORE CAPACITY IMPROVEMENT
4 PROJECT.—The term ‘core capacity improvement
5 project’ means a substantial corridor-based capital
6 investment in an existing fixed guideway system that
7 adds capacity and functionality.

8 “(4) NEW FIXED GUIDEWAY CAPITAL
9 PROJECT.—The term ‘new fixed guideway capital
10 project’ means—

11 “(A) a new fixed guideway project that is
12 a minimum operable segment or extension to an
13 existing fixed guideway system; or

14 “(B) a bus rapid transit project that is a
15 minimum operable segment or an extension to
16 an existing bus rapid transit system.

17 “(5) PROGRAM OF INTERRELATED PROJECTS.—
18 The term ‘program of interrelated projects’ means
19 the simultaneous development of—

20 “(A) 2 or more new fixed guideway capital
21 projects or core capacity improvement projects;
22 or

23 “(B) 1 or more new fixed guideway capital
24 projects and 1 or more core capacity improve-
25 ment projects.

1 “(b) GENERAL AUTHORITY.—The Secretary may
2 make grants under this section to State and local govern-
3 mental authorities to assist in financing—

4 “(1) new fixed guideway capital projects, in-
5 cluding the acquisition of real property, the initial
6 acquisition of rolling stock for the system, the acqui-
7 sition of rights-of-way, and relocation, for fixed
8 guideway corridor development for projects in the
9 advanced stages of project development or engineer-
10 ing; and

11 “(2) core capacity improvement projects, includ-
12 ing the acquisition of real property, the acquisition
13 of rights-of-way, double tracking, signalization im-
14 provements, electrification, expanding system plat-
15 forms, acquisition of rolling stock, construction of
16 infill stations, and such other capacity improvement
17 projects as the Secretary determines are appro-
18 priate.

19 “(c) GRANT REQUIREMENTS.—

20 “(1) IN GENERAL.—The Secretary may make a
21 grant under this section for new fixed guideway cap-
22 ital projects or core capacity improvement projects,
23 if the Secretary determines that—

1 “(A) the project is part of an approved
2 transportation plan required under sections
3 5303 and 5304; and

4 “(B) the applicant has, or will have—

5 “(i) the legal, financial, and technical
6 capacity to carry out the project, including
7 safety and security aspects of the project;

8 “(ii) satisfactory continuing control
9 over the use of the equipment or facilities;
10 and

11 “(iii) the technical and financial ca-
12 pacity to maintain new and existing equip-
13 ment and facilities.

14 “(2) CERTIFICATION.—An applicant that has
15 submitted the certifications required under subpara-
16 graphs (A), (B), (C), and (H) of section 5307(d)(1)
17 shall be deemed to have provided sufficient informa-
18 tion upon which the Secretary may make the deter-
19 minations required under this subsection.

20 “(3) TECHNICAL CAPACITY.—The Secretary
21 shall use an expedited technical capacity review
22 process for applicants that have recently and suc-
23 cessfully completed at least 1 new bus rapid transit
24 project, new fixed guideway capital project, or core
25 capacity improvement project, if—

1 Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.) with respect to
3 the project; and

4 “(ii) the Secretary responds in writing
5 to the applicant within 45 days whether
6 the information provided is sufficient to
7 enter into the project development phase,
8 including, when necessary, a detailed de-
9 scription of any information deemed insuf-
10 ficient.

11 “(B) ACTIVITIES DURING PROJECT DEVEL-
12 OPMENT PHASE.—Concurrent with the analysis
13 required to be made under the National Envi-
14 ronmental Policy Act of 1969 (42 U.S.C. 4321
15 et seq.), each applicant shall develop sufficient
16 information to enable the Secretary to make
17 findings of project justification, policies and
18 land use patterns that promote public transpor-
19 tation, and local financial commitment under
20 this subsection.

21 “(C) COMPLETION OF PROJECT DEVELOP-
22 MENT ACTIVITIES REQUIRED.—

23 “(i) IN GENERAL.—Not later than 2
24 years after the date on which a project en-
25 ters into the project development phase,

1 the applicant shall complete the activities
2 required to obtain a project rating under
3 subsection (g)(2) and submit completed
4 documentation to the Secretary.

5 “(ii) EXTENSION OF TIME.—Upon the
6 request of an applicant, the Secretary may
7 extend the time period under clause (i), if
8 the applicant submits to the Secretary—

9 “(I) a reasonable plan for com-
10 pleting the activities required under
11 this paragraph; and

12 “(II) an estimated time period
13 within which the applicant will com-
14 plete such activities.

15 “(2) ENGINEERING PHASE.—

16 “(A) IN GENERAL.—A new fixed guideway
17 capital project may advance to the engineering
18 phase upon completion of activities required
19 under the National Environmental Policy Act of
20 1969 (42 U.S.C. 4321 et seq.), as demonstrated
21 by a record of decision with respect to the
22 project, a finding that the project has no sig-
23 nificant impact, or a determination that the
24 project is categorically excluded, only if the Sec-
25 retary determines that the project—

1 “(i) is selected as the locally preferred
2 alternative at the completion of the process
3 required under the National Environ-
4 mental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.);

6 “(ii) is adopted into the metropolitan
7 transportation plan required under section
8 5303;

9 “(iii) is justified based on a com-
10 prehensive review of the project’s mobility
11 improvements, environmental benefits, and
12 cost-effectiveness, as measured by cost per
13 rider;

14 “(iv) is supported by policies and land
15 use patterns that promote public transpor-
16 tation, including plans for future land use
17 and rezoning, and economic development
18 around public transportation stations; and

19 “(v) is supported by an acceptable de-
20 gree of local financial commitment (includ-
21 ing evidence of stable and dependable fi-
22 nancing sources), as required under sub-
23 section (f).

24 “(B) DETERMINATION THAT PROJECT IS
25 JUSTIFIED.—In making a determination under

1 subparagraph (A)(iii), the Secretary shall evalu-
2 ate, analyze, and consider—

3 “(i) the reliability of the forecasting
4 methods used to estimate costs and utiliza-
5 tion made by the recipient and the contrac-
6 tors to the recipient; and

7 “(ii) population density and current
8 public transportation ridership in the
9 transportation corridor.

10 “(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

11 “(1) PROJECT DEVELOPMENT PHASE.—

12 “(A) ENTRANCE INTO PROJECT DEVELOP-
13 MENT PHASE.—A core capacity improvement
14 project shall be deemed to have entered into the
15 project development phase if—

16 “(i) the applicant—

17 “(I) submits a letter to the Sec-
18 retary describing the project and re-
19 questing entry into the project devel-
20 opment phase; and

21 “(II) initiates activities required
22 to be carried out under the National
23 Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.) with respect to
25 the project; and

1 “(ii) the Secretary responds in writing
2 to the applicant within 45 days whether
3 the information provided is sufficient to
4 enter into the project development phase,
5 including when necessary a detailed de-
6 scription of any information deemed insuf-
7 ficient.

8 “(B) ACTIVITIES DURING PROJECT DEVEL-
9 OPMENT PHASE.—Concurrent with the analysis
10 required to be made under the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C. 4321
12 et seq.), each applicant shall develop sufficient
13 information to enable the Secretary to make
14 findings of project justification and local finan-
15 cial commitment under this subsection.

16 “(C) COMPLETION OF PROJECT DEVELOP-
17 MENT ACTIVITIES REQUIRED.—

18 “(i) IN GENERAL.—Not later than 2
19 years after the date on which a project en-
20 ters into the project development phase,
21 the applicant shall complete the activities
22 required to obtain a project rating under
23 subsection (g)(2) and submit completed
24 documentation to the Secretary.

1 “(ii) EXTENSION OF TIME.—Upon the
2 request of an applicant, the Secretary may
3 extend the time period under clause (i), if
4 the applicant submits to the Secretary—

5 “(I) a reasonable plan for com-
6 pleting the activities required under
7 this paragraph; and

8 “(II) an estimated time period
9 within which the applicant will com-
10 plete such activities.

11 “(2) ENGINEERING PHASE.—

12 “(A) IN GENERAL.—A core capacity im-
13 provement project may advance into the engi-
14 neering phase upon completion of activities re-
15 quired under the National Environmental Pol-
16 icy Act of 1969 (42 U.S.C. 4321 et seq.), as
17 demonstrated by a record of decision with re-
18 spect to the project, a finding that the project
19 has no significant impact, or a determination
20 that the project is categorically excluded, only if
21 the Secretary determines that the project—

22 “(i) is selected as the locally preferred
23 alternative at the completion of the process
24 required under the National Environ-
25 mental Policy Act of 1969;

1 “(ii) is adopted into the metropolitan
2 transportation plan required under section
3 5303;

4 “(iii) is in a corridor that is—
5 “(I) at or over capacity; or
6 “(II) projected to be at or over
7 capacity within the next 5 years;

8 “(iv) is justified based on a com-
9 prehensive review of the project’s mobility
10 improvements, environmental benefits, and
11 cost-effectiveness, as measured by cost per
12 rider; and

13 “(v) is supported by an acceptable de-
14 gree of local financial commitment (includ-
15 ing evidence of stable and dependable fi-
16 nancing sources), as required under sub-
17 section (f).

18 “(B) DETERMINATION THAT PROJECT IS
19 JUSTIFIED.—In making a determination under
20 subparagraph (A)(iv), the Secretary shall evalu-
21 ate, analyze, and consider—

22 “(i) the reliability of the forecasting
23 methods used to estimate costs and utiliza-
24 tion made by the recipient and the contrac-
25 tors to the recipient;

1 “(ii) whether the project will ade-
2 quately address the capacity concerns in a
3 corridor;

4 “(iii) whether the project will improve
5 interconnectivity among existing systems;
6 and

7 “(iv) whether the project will improve
8 environmental outcomes.

9 “(f) FINANCING SOURCES.—

10 “(1) REQUIREMENTS.—In determining whether
11 a project is supported by an acceptable degree of
12 local financial commitment and shows evidence of
13 stable and dependable financing sources for purposes
14 of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Sec-
15 retary shall require that—

16 “(A) the proposed project plan provides for
17 the availability of contingency amounts that the
18 Secretary determines to be reasonable to cover
19 unanticipated cost increases or funding short-
20 falls;

21 “(B) each proposed local source of capital
22 and operating financing is stable, reliable, and
23 available within the proposed project timetable;
24 and

1 “(C) local resources are available to recapitalize,
2 talize, maintain, and operate the overall existing
3 and proposed public transportation system, including
4 essential feeder bus and other services
5 necessary to achieve the projected ridership levels
6 without requiring a reduction in existing
7 public transportation services or level of service
8 to operate the project.

9 “(2) CONSIDERATIONS.—In assessing the stability,
10 reliability, and availability of proposed sources
11 of local financing for purposes of subsection
12 (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—
13 sider—

14 “(A) the reliability of the forecasting methods
15 used to estimate costs and revenues made
16 by the recipient and the contractors to the recipient;
17 recipient;

18 “(B) existing grant commitments;

19 “(C) the degree to which financing sources
20 are dedicated to the proposed purposes;

21 “(D) any debt obligation that exists, or is
22 proposed by the recipient, for the proposed
23 project or other public transportation purpose;
24 and

1 “(E) the extent to which the project has a
2 local financial commitment that exceeds the re-
3 quired non-Government share of the cost of the
4 project.

5 “(g) PROJECT ADVANCEMENT AND RATINGS.—

6 “(1) PROJECT ADVANCEMENT.—A new fixed
7 guideway capital project or core capacity improve-
8 ment project proposed to be carried out using a
9 grant under this section may not advance from the
10 project development phase to the engineering phase,
11 or from the engineering phase to the construction
12 phase, unless the Secretary determines that—

13 “(A) the project meets the applicable re-
14 quirements under this section; and

15 “(B) there is a reasonable likelihood that
16 the project will continue to meet the require-
17 ments under this section.

18 “(2) RATINGS.—

19 “(A) OVERALL RATING.—In making a de-
20 termination under paragraph (1), the Secretary
21 shall evaluate and rate a project as a whole on
22 a 5-point scale (high, medium-high, medium,
23 medium-low, or low) based on—

24 “(i) in the case of a new fixed guide-
25 way capital project, the project justifica-

1 tion criteria under subsection
2 (d)(2)(A)(iii), the policies and land use
3 patterns that support public transpor-
4 tation, and the degree of local financial
5 commitment; and

6 “*(ii)* in the case of a core capacity im-
7 provement project, the capacity needs of
8 the corridor, the project justification cri-
9 teria under subsection (e)(2)(A)(iv), and
10 the degree of local financial commitment.

11 “(B) INDIVIDUAL RATINGS FOR EACH CRI-
12 TERION.—In rating a project under this para-
13 graph, the Secretary shall—

14 “(i) provide, in addition to the overall
15 project rating under subparagraph (A), in-
16 dividual ratings for each of the criteria es-
17 tablished under subsection (d)(2)(A)(iii) or
18 (e)(2)(A)(iv), as applicable; and

19 “(ii) give comparable, but not nec-
20 essarily equal, numerical weight to each of
21 the criteria established under subsections
22 (d)(2)(A)(iii) or (e)(2)(A)(iv), as applica-
23 ble, in calculating the overall project rating
24 under clause (i).

1 “(C) MEDIUM RATING NOT REQUIRED.—
2 The Secretary shall not require that any single
3 project justification criterion meet or exceed a
4 ‘medium’ rating in order to advance the project
5 from one phase to another.

6 “(3) WARRANTS.—The Secretary shall, to the
7 maximum extent practicable, develop and use special
8 warrants for making a project justification deter-
9 mination under subsection (d)(2) or (e)(2), as appli-
10 cable, for a project proposed to be funded using a
11 grant under this section, if—

12 “(A) the share of the cost of the project to
13 be provided under this section does not ex-
14 ceed—

15 “(i) \$100,000,000; or

16 “(ii) 50 percent of the total cost of
17 the project;

18 “(B) the applicant requests the use of the
19 warrants;

20 “(C) the applicant certifies that its existing
21 public transportation system is in a state of
22 good repair; and

23 “(D) the applicant meets any other re-
24 quirements that the Secretary considers appro-
25 priate to carry out this subsection.

1 “(4) LETTERS OF INTENT AND EARLY SYSTEMS
2 WORK AGREEMENTS.—In order to expedite a project
3 under this subsection, the Secretary shall, to the
4 maximum extent practicable, issue letters of intent
5 and enter into early systems work agreements upon
6 issuance of a record of decision for projects that re-
7 ceive an overall project rating of medium or better.

8 “(5) POLICY GUIDANCE.—The Secretary shall
9 issue policy guidance regarding the review and eval-
10 uation process and criteria—

11 “(A) not later than 180 days after the date
12 of enactment of the Federal Public Transpor-
13 tation Act of 2012; and

14 “(B) each time the Secretary makes sig-
15 nificant changes to the process and criteria, but
16 not less frequently than once every 2 years.

17 “(6) RULES.—Not later than 1 year after the
18 date of enactment of the Federal Public Transpor-
19 tation Act of 2012, the Secretary shall issue rules
20 establishing an evaluation and rating process for—

21 “(A) new fixed guideway capital projects
22 that is based on the results of project justifica-
23 tion, policies and land use patterns that pro-
24 mote public transportation, and local financial

1 commitment, as required under this subsection;
2 and

3 “(B) core capacity improvement projects
4 that is based on the results of the capacity
5 needs of the corridor, project justification, and
6 local financial commitment.

7 “(7) APPLICABILITY.—This subsection shall not
8 apply to a project for which the Secretary issued a
9 letter of intent, entered into a full funding grant
10 agreement, or entered into a project construction
11 agreement before the date of enactment of the Fed-
12 eral Public Transportation Act of 2012.

13 “(h) PROGRAMS OF INTERRELATED PROJECTS.—

14 “(1) PROJECT DEVELOPMENT PHASE.—A fed-
15 erally funded project in a program of interrelated
16 projects shall advance through project development
17 as provided in subsection (d) or (e), as applicable.

18 “(2) ENGINEERING PHASE.—A federally funded
19 project in a program of interrelated projects may ad-
20 vance into the engineering phase upon completion of
21 activities required under the National Environmental
22 Policy Act of 1969 (42 U.S.C. 4321 et seq.), as
23 demonstrated by a record of decision with respect to
24 the project, a finding that the project has no signifi-
25 cant impact, or a determination that the project is

1 categorically excluded, only if the Secretary deter-
2 mines that—

3 “(A) the project is selected as the locally
4 preferred alternative at the completion of the
5 process required under the National Environ-
6 mental Policy Act of 1969;

7 “(B) the project is adopted into the metro-
8 politan transportation plan required under sec-
9 tion 5303;

10 “(C) the program of interrelated projects
11 involves projects that have a logical connectivity
12 to one another;

13 “(D) the program of interrelated projects,
14 when evaluated as a whole, meets the require-
15 ments of subsection (d)(2) or (e)(2), as applica-
16 ble;

17 “(E) the program of interrelated projects
18 is supported by a program implementation plan
19 demonstrating that construction will begin on
20 each of the projects in the program of inter-
21 related projects within a reasonable time frame;
22 and

23 “(F) the program of interrelated projects
24 is supported by an acceptable degree of local fi-

1 nancial commitment, as described in subsection
2 (f).

3 “(3) PROJECT ADVANCEMENT AND RATINGS.—

4 “(A) PROJECT ADVANCEMENT.—A project
5 receiving a grant under this section that is part
6 of a program of interrelated projects may not
7 advance from the project development phase to
8 the engineering phase, or from the engineering
9 phase to the construction phase, unless the Sec-
10 retary determines that the program of inter-
11 related projects meets the applicable require-
12 ments of this section and there is a reasonable
13 likelihood that the program will continue to
14 meet such requirements.

15 “(B) RATINGS.—

16 “(i) OVERALL RATING.—In making a
17 determination under subparagraph (A), the
18 Secretary shall evaluate and rate a pro-
19 gram of interrelated projects on a 5-point
20 scale (high, medium-high, medium, me-
21 dium-low, or low) based on the criteria de-
22 scribed in paragraph (2).

23 “(ii) INDIVIDUAL RATING FOR EACH
24 CRITERION.—In rating a program of inter-
25 related projects, the Secretary shall pro-

1 vide, in addition to the overall program
2 rating, individual ratings for each of the
3 criteria described in paragraph (2) and
4 shall give comparable, but not necessarily
5 equal, numerical weight to each such cri-
6 terion in calculating the overall program
7 rating.

8 “(iii) MEDIUM RATING NOT RE-
9 QUIRED.—The Secretary shall not require
10 that any single criterion described in para-
11 graph (2) meet or exceed a ‘medium’ rat-
12 ing in order to advance the program of
13 interrelated projects from one phase to an-
14 other.

15 “(4) ANNUAL REVIEW.—

16 “(A) REVIEW REQUIRED.—The Secretary
17 shall annually review the program implementa-
18 tion plan required under paragraph (2)(E) to
19 determine whether the program of interrelated
20 projects is adhering to its schedule.

21 “(B) EXTENSION OF TIME.—If a program
22 of interrelated projects is not adhering to its
23 schedule, the Secretary may, upon the request
24 of the applicant, grant an extension of time if

1 the applicant submits a reasonable plan that in-
2 cludes—

3 “(i) evidence of continued adequate
4 funding; and

5 “(ii) an estimated time frame for com-
6 pleting the program of interrelated
7 projects.

8 “(C) SATISFACTORY PROGRESS RE-
9 QUIRED.—If the Secretary determines that a
10 program of interrelated projects is not making
11 satisfactory progress, no Federal funds shall be
12 provided for a project within the program of
13 interrelated projects.

14 “(5) FAILURE TO CARRY OUT PROGRAM OF
15 INTERRELATED PROJECTS.—

16 “(A) REPAYMENT REQUIRED.—If an appli-
17 cant does not carry out the program of inter-
18 related projects within a reasonable time, for
19 reasons within the control of the applicant, the
20 applicant shall repay all Federal funds provided
21 for the program, and any reasonable interest
22 and penalty charges that the Secretary may es-
23 tablish.

24 “(B) CREDITING OF FUNDS RECEIVED.—
25 Any funds received by the Government under

1 this paragraph, other than interest and penalty
2 charges, shall be credited to the appropriation
3 account from which the funds were originally
4 derived.

5 “(6) NON-FEDERAL FUNDS.—Any non-Federal
6 funds committed to a project in a program of inter-
7 related projects may be used to meet a non-Govern-
8 ment share requirement for any other project in the
9 program of interrelated projects, if the Government
10 share of the cost of each project within the program
11 of interrelated projects does not exceed 80 percent.

12 “(7) PRIORITY.—In making grants under this
13 section, the Secretary may give priority to programs
14 of interrelated projects for which the non-Govern-
15 ment share of the cost of the projects included in the
16 programs of interrelated projects exceed the non-
17 Government share required under subsection (k).

18 “(8) NON-GOVERNMENT PROJECTS.—Including
19 a project not financed by the Government in a pro-
20 gram of interrelated projects does not impose Gov-
21 ernment requirements that would not otherwise
22 apply to the project.

23 “(i) PREVIOUSLY ISSUED LETTER OF INTENT OR
24 FULL FUNDING GRANT AGREEMENT.—Subsections (d)
25 and (e) shall not apply to projects for which the Secretary

1 has issued a letter of intent, entered into a full funding
2 grant agreement, or entered into a project construction
3 grant agreement before the date of enactment of the Fed-
4 eral Public Transportation Act of 2012.

5 “(j) LETTERS OF INTENT, FULL FUNDING GRANT
6 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
7 MENTS.—

8 “(1) LETTERS OF INTENT.—

9 “(A) AMOUNTS INTENDED TO BE OBLI-
10 GATED.—The Secretary may issue a letter of
11 intent to an applicant announcing an intention
12 to obligate, for a new fixed guideway capital
13 project or core capacity improvement project,
14 an amount from future available budget author-
15 ity specified in law that is not more than the
16 amount stipulated as the financial participation
17 of the Secretary in the project. When a letter
18 is issued for a capital project under this section,
19 the amount shall be sufficient to complete at
20 least an operable segment.

21 “(B) TREATMENT.—The issuance of a let-
22 ter under subparagraph (A) is deemed not to be
23 an obligation under sections 1108(c), 1501, and
24 1502(a) of title 31, United States Code, or an
25 administrative commitment.

1 “(2) FULL FUNDING GRANT AGREEMENTS.—

2 “(A) IN GENERAL.—A new fixed guideway
3 capital project or core capacity improvement
4 project shall be carried out through a full fund-
5 ing grant agreement.

6 “(B) CRITERIA.—The Secretary shall enter
7 into a full funding grant agreement, based on
8 the evaluations and ratings required under sub-
9 sections (d), (e), or (h), as applicable, with each
10 grantee receiving assistance for a new fixed
11 guideway capital project or core capacity im-
12 provement project that has been rated as high,
13 medium-high, or medium, in accordance with
14 subsection (g)(2)(A) or (h)(3)(B), as applicable.

15 “(C) TERMS.—A full funding grant agree-
16 ment shall—

17 “(i) establish the terms of participa-
18 tion by the Government in a new fixed
19 guideway capital project or core capacity
20 improvement project;

21 “(ii) establish the maximum amount
22 of Federal financial assistance for the
23 project;

24 “(iii) include the period of time for
25 completing the project, even if that period

1 extends beyond the period of an authoriza-
2 tion; and

3 “(iv) make timely and efficient man-
4 agement of the project easier according to
5 the law of the United States.

6 “(D) SPECIAL FINANCIAL RULES.—

7 “(i) IN GENERAL.—A full funding
8 grant agreement under this paragraph ob-
9 ligates an amount of available budget au-
10 thority specified in law and may include a
11 commitment, contingent on amounts to be
12 specified in law in advance for commit-
13 ments under this paragraph, to obligate an
14 additional amount from future available
15 budget authority specified in law.

16 “(ii) STATEMENT OF CONTINGENT
17 COMMITMENT.—The agreement shall state
18 that the contingent commitment is not an
19 obligation of the Government.

20 “(iii) INTEREST AND OTHER FINANC-
21 ING COSTS.—Interest and other financing
22 costs of efficiently carrying out a part of
23 the project within a reasonable time are a
24 cost of carrying out the project under a
25 full funding grant agreement, except that

1 eligible costs may not be more than the
2 cost of the most favorable financing terms
3 reasonably available for the project at the
4 time of borrowing. The applicant shall cer-
5 tify, in a way satisfactory to the Secretary,
6 that the applicant has shown reasonable
7 diligence in seeking the most favorable fi-
8 nancing terms.

9 “(iv) COMPLETION OF OPERABLE
10 SEGMENT.—The amount stipulated in an
11 agreement under this paragraph for a new
12 fixed guideway capital project shall be suf-
13 ficient to complete at least an operable seg-
14 ment.

15 “(E) BEFORE AND AFTER STUDY.—

16 “(i) IN GENERAL.—A full funding
17 grant agreement under this paragraph
18 shall require the applicant to conduct a
19 study that—

20 “(I) describes and analyzes the
21 impacts of the new fixed guideway
22 capital project or core capacity im-
23 provement project on public transpor-
24 tation services and public transpor-
25 tation ridership;

1 “(II) evaluates the consistency of
2 predicted and actual project charac-
3 teristics and performance; and

4 “(III) identifies reasons for dif-
5 ferences between predicted and actual
6 outcomes.

7 “(ii) INFORMATION COLLECTION AND
8 ANALYSIS PLAN.—

9 “(I) SUBMISSION OF PLAN.—Ap-
10 plicants seeking a full funding grant
11 agreement under this paragraph shall
12 submit a complete plan for the collec-
13 tion and analysis of information to
14 identify the impacts of the new fixed
15 guideway capital project or core ca-
16 pacity improvement project and the
17 accuracy of the forecasts prepared
18 during the development of the project.
19 Preparation of this plan shall be in-
20 cluded in the full funding grant agree-
21 ment as an eligible activity.

22 “(II) CONTENTS OF PLAN.—The
23 plan submitted under subclause (I)
24 shall provide for—

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“(aa) the collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

1 “(ii) the terms of the work agreement
2 will promote ultimate completion of the
3 project more rapidly and at less cost.

4 “(B) CONTENTS.—

5 “(i) IN GENERAL.—An early systems
6 work agreement under this paragraph obli-
7 gates budget authority available under this
8 chapter and title 23 and shall provide for
9 reimbursement of preliminary costs of car-
10 rying out the project, including land acqui-
11 sition, timely procurement of system ele-
12 ments for which specifications are decided,
13 and other activities the Secretary decides
14 are appropriate to make efficient, long-
15 term project management easier.

16 “(ii) CONTINGENT COMMITMENT.—An
17 early systems work agreement may include
18 a commitment, contingent on amounts to
19 be specified in law in advance for commit-
20 ments under this paragraph, to obligate an
21 additional amount from future available
22 budget authority specified in law.

23 “(iii) PERIOD COVERED.—A work
24 agreement under this paragraph shall
25 cover the period of time the Secretary con-

1 siders appropriate. The period may extend
2 beyond the period of current authorization.

3 “(iv) INTEREST AND OTHER FINANC-
4 ING COSTS.—Interest and other financing
5 costs of efficiently carrying out the work
6 agreement within a reasonable time are a
7 cost of carrying out the agreement, except
8 that eligible costs may not be more than
9 the cost of the most favorable financing
10 terms reasonably available for the project
11 at the time of borrowing. The applicant
12 shall certify, in a way satisfactory to the
13 Secretary, that the applicant has shown
14 reasonable diligence in seeking the most
15 favorable financing terms.

16 “(v) FAILURE TO CARRY OUT
17 PROJECT.—If an applicant does not carry
18 out the project for reasons within the con-
19 trol of the applicant, the applicant shall
20 repay all Federal grant funds awarded for
21 the project from all Federal funding
22 sources, for all project activities, facilities,
23 and equipment, plus reasonable interest
24 and penalty charges allowable by law or es-

1 tablished by the Secretary in the early sys-
2 tems work agreement.

3 “(vi) CREDITING OF FUNDS RE-
4 CEIVED.—Any funds received by the Gov-
5 ernment under this paragraph, other than
6 interest and penalty charges, shall be cred-
7 ited to the appropriation account from
8 which the funds were originally derived.

9 “(4) LIMITATION ON AMOUNTS.—

10 “(A) IN GENERAL.—The Secretary may
11 enter into full funding grant agreements under
12 this subsection for new fixed guideway capital
13 projects and core capacity improvement projects
14 that contain contingent commitments to incur
15 obligations in such amounts as the Secretary
16 determines are appropriate.

17 “(B) APPROPRIATION REQUIRED.—An ob-
18 ligation may be made under this subsection only
19 when amounts are appropriated for the obliga-
20 tion.

21 “(5) NOTIFICATION TO CONGRESS.—At least 30
22 days before issuing a letter of intent, entering into
23 a full funding grant agreement, or entering into an
24 early systems work agreement under this section, the
25 Secretary shall notify, in writing, the Committee on

1 Banking, Housing, and Urban Affairs and the Com-
2 mittee on Appropriations of the Senate and the
3 Committee on Transportation and Infrastructure
4 and the Committee on Appropriations of the House
5 of Representatives of the proposed letter or agree-
6 ment. The Secretary shall include with the notifica-
7 tion a copy of the proposed letter or agreement as
8 well as the evaluations and ratings for the project.

9 “(k) GOVERNMENT SHARE OF NET CAPITAL
10 PROJECT COST.—

11 “(1) IN GENERAL.—Based on engineering stud-
12 ies, studies of economic feasibility, and information
13 on the expected use of equipment or facilities, the
14 Secretary shall estimate the net capital project cost.
15 A grant for the project shall not exceed 80 percent
16 of the net capital project cost.

17 “(2) ADJUSTMENT FOR COMPLETION UNDER
18 BUDGET.—The Secretary may adjust the final net
19 capital project cost of a new fixed guideway capital
20 project or core capacity improvement project evalu-
21 ated under subsection (d), (e), or (h) to include the
22 cost of eligible activities not included in the origi-
23 nally defined project if the Secretary determines that
24 the originally defined project has been completed at

1 a cost that is significantly below the original esti-
2 mate.

3 “(3) MAXIMUM GOVERNMENT SHARE.—The
4 Secretary may provide a higher grant percentage
5 than requested by the grant recipient if—

6 “(A) the Secretary determines that the net
7 capital project cost of the project is not more
8 than 10 percent higher than the net capital
9 project cost estimated at the time the project
10 was approved for advancement into the engi-
11 neering phase; and

12 “(B) the ridership estimated for the
13 project is not less than 90 percent of the rider-
14 ship estimated for the project at the time the
15 project was approved for advancement into the
16 engineering phase.

17 “(4) REMAINDER OF NET CAPITAL PROJECT
18 COST.—The remainder of net capital project costs
19 shall be provided from an undistributed cash sur-
20 plus, a replacement or depreciation cash fund or re-
21 serve, or new capital.

22 “(5) LIMITATION ON STATUTORY CONSTRUC-
23 TION.—Nothing in this section shall be construed as
24 authorizing the Secretary to require a non-Federal

1 financial commitment for a project that is more than
2 20 percent of the net capital project cost.

3 “(6) SPECIAL RULE FOR ROLLING STOCK
4 COSTS.—In addition to amounts allowed pursuant to
5 paragraph (1), a planned extension to a fixed guide-
6 way system may include the cost of rolling stock pre-
7 viously purchased if the applicant satisfies the Sec-
8 retary that only amounts other than amounts pro-
9 vided by the Government were used and that the
10 purchase was made for use on the extension. A re-
11 fund or reduction of the remainder may be made
12 only if a refund of a proportional amount of the
13 grant of the Government is made at the same time.

14 “(7) LIMITATION ON APPLICABILITY.—This
15 subsection shall not apply to projects for which the
16 Secretary entered into a full funding grant agree-
17 ment before the date of enactment of the Federal
18 Public Transportation Act of 2012.

19 “(1) UNDERTAKING PROJECTS IN ADVANCE.—

20 “(1) IN GENERAL.—The Secretary may pay the
21 Government share of the net capital project cost to
22 a State or local governmental authority that carries
23 out any part of a project described in this section
24 without the aid of amounts of the Government and

1 according to all applicable procedures and require-
2 ments if—

3 “(A) the State or local governmental au-
4 thority applies for the payment;

5 “(B) the Secretary approves the payment;
6 and

7 “(C) before the State or local govern-
8 mental authority carries out the part of the
9 project, the Secretary approves the plans and
10 specifications for the part in the same way as
11 other projects under this section.

12 “(2) FINANCING COSTS.—

13 “(A) IN GENERAL.—The cost of carrying
14 out part of a project includes the amount of in-
15 terest earned and payable on bonds issued by
16 the State or local governmental authority to the
17 extent proceeds of the bonds are expended in
18 carrying out the part.

19 “(B) LIMITATION ON AMOUNT OF INTER-
20 EST.—The amount of interest under this para-
21 graph may not be more than the most favorable
22 interest terms reasonably available for the
23 project at the time of borrowing.

24 “(C) CERTIFICATION.—The applicant shall
25 certify, in a manner satisfactory to the Sec-

1 retary, that the applicant has shown reasonable
2 diligence in seeking the most favorable financial
3 terms.

4 “(m) AVAILABILITY OF AMOUNTS.—

5 “(1) IN GENERAL.—An amount made available
6 or appropriated for a new fixed guideway capital
7 project or core capacity improvement project shall
8 remain available to that project for 5 fiscal years, in-
9 cluding the fiscal year in which the amount is made
10 available or appropriated. Any amounts that are un-
11 obligated to the project at the end of the 5-fiscal-
12 year period may be used by the Secretary for any
13 purpose under this section.

14 “(2) USE OF DEOBLIGATED AMOUNTS.—An
15 amount available under this section that is
16 deobligated may be used for any purpose under this
17 section.

18 “(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE
19 CAPACITY IMPROVEMENT PROJECTS.—

20 “(1) ANNUAL REPORT ON FUNDING REC-
21 OMMENDATIONS.—Not later than the first Monday
22 in February of each year, the Secretary shall submit
23 to the Committee on Banking, Housing, and Urban
24 Affairs and the Committee on Appropriations of the
25 Senate and the Committee on Transportation and

1 Infrastructure and the Committee on Appropriations
2 of the House of Representatives a report that in-
3 cludes—

4 “(A) a proposal of allocations of amounts
5 to be available to finance grants for projects
6 under this section among applicants for these
7 amounts;

8 “(B) evaluations and ratings, as required
9 under subsections (d), (e), and (h) for each
10 such project that is in project development, en-
11 gineering, or has received a full funding grant
12 agreement; and

13 “(C) recommendations of such projects for
14 funding based on the evaluations and ratings
15 and on existing commitments and anticipated
16 funding levels for the next 3 fiscal years based
17 on information currently available to the Sec-
18 retary.

19 “(2) REPORTS ON BEFORE AND AFTER STUD-
20 IES.—Not later than the first Monday in August of
21 each year, the Secretary shall submit to the commit-
22 tees described in paragraph (1) a report containing
23 a summary of the results of any studies conducted
24 under subsection (j)(2)(E).

1 “(3) ANNUAL GAO REVIEW.—The Comptroller
2 General of the United States shall—

3 “(A) conduct an annual review of—

4 “(i) the processes and procedures for
5 evaluating, rating, and recommending new
6 fixed guideway capital projects and core
7 capacity improvement projects; and

8 “(ii) the Secretary’s implementation
9 of such processes and procedures; and

10 “(B) report to Congress on the results of
11 such review by May 31 of each year.”.

12 (b) PILOT PROGRAM FOR EXPEDITED PROJECT DE-
13 LIVERY.—

14 (1) DEFINITIONS.—In this subsection the fol-
15 lowing definitions shall apply:

16 (A) ELIGIBLE PROJECT.—The term “eligi-
17 ble project” means a new fixed guideway capital
18 project or a core capacity improvement project,
19 as those terms are defined in section 5309 of
20 title 49, United States Code, as amended by
21 this section, that has not entered into a full
22 funding grant agreement with the Federal
23 Transit Administration before the date of en-
24 actment of the Federal Public Transportation
25 Act of 2012.

1 (B) PROGRAM.—The term “program”
2 means the pilot program for expedited project
3 delivery established under this subsection.

4 (C) RECIPIENT.—The term “recipient”
5 means a recipient of funding under chapter 53
6 of title 49, United States Code.

7 (D) SECRETARY.—The term “Secretary”
8 means the Secretary of Transportation.

9 (2) ESTABLISHMENT.—The Secretary shall es-
10 tablish and implement a pilot program to dem-
11 onstrate whether innovative project development and
12 delivery procurement methods or innovative financ-
13 ing arrangements can expedite project delivery for
14 certain meritorious new fixed guideway capital
15 projects and core capacity improvement projects.

16 (3) LIMITATION ON NUMBER OF PROJECTS.—
17 The Secretary shall select 3 eligible projects to par-
18 ticipate in the program, of which—

19 (A) at least 1 shall be an eligible project
20 requesting more than \$100,000,000 in Federal
21 financial assistance under section 5309 of title
22 49, United States Code; and

23 (B) at least 1 shall be an eligible project
24 requesting less than \$100,000,000 in Federal

1 financial assistance under section 5309 of title
2 49, United States Code.

3 (4) GOVERNMENT SHARE.—The Government
4 share of the total cost of an eligible project that par-
5 ticipates in the program may not exceed 50 percent.

6 (5) ELIGIBILITY.—A recipient that desires to
7 participate in the program shall submit to the Sec-
8 retary an application that contains, at a minimum—

9 (A) identification of an eligible project;

10 (B) a schedule and finance plan for the
11 construction and operation of the eligible
12 project;

13 (C) an analysis of the efficiencies of the
14 proposed project development and delivery
15 methods or innovative financing arrangement
16 for the eligible project; and

17 (D) a certification that the recipient's ex-
18 isting public transportation system is in a state
19 of good repair.

20 (6) SELECTION CRITERIA.—The Secretary may
21 award a full funding grant agreement under this
22 subsection if the Secretary determines that—

23 (A) the recipient has completed planning
24 and the activities required under the National

1 Environmental Policy Act of 1969 (42 U.S.C.
2 4321 et seq.); and

3 (B) the recipient has the necessary legal,
4 financial, and technical capacity to carry out
5 the eligible project.

6 (7) BEFORE AND AFTER STUDY AND RE-
7 PORT.—

8 (A) STUDY REQUIRED.—A full funding
9 grant agreement under this paragraph shall re-
10 quire a recipient to conduct a study that—

11 (i) describes and analyzes the impacts
12 of the eligible project on public transpor-
13 tation services and public transportation
14 ridership;

15 (ii) describes and analyzes the consist-
16 ency of predicted and actual benefits and
17 costs of the innovative project development
18 and delivery methods or innovative financ-
19 ing for the eligible project; and

20 (iii) identifies reasons for any dif-
21 ferences between predicted and actual out-
22 comes for the eligible project.

23 (B) SUBMISSION OF REPORT.—Not later
24 than 9 months after an eligible project selected
25 to participate in the program begins revenue

1 operations, the recipient shall submit to the
2 Secretary a report on the results of the study
3 under subparagraph (A).

4 **SEC. 11. FORMULA GRANTS FOR ENHANCED MOBILITY OF**
5 **SENIORS AND INDIVIDUALS WITH DISABIL-**
6 **ITIES.**

7 Section 5310 of title 49, United States Code, is
8 amended to read as follows:

9 **“§ 5310. Formula grants for the enhanced mobility of**
10 **seniors and individuals with disabilities**

11 “(a) DEFINITIONS.—In this section, the following
12 definitions shall apply:

13 “(1) RECIPIENT.—The term ‘recipient’ means a
14 designated recipient or a State that receives a grant
15 under this section directly.

16 “(2) SUBRECIPIENT.—The term ‘subrecipient’
17 means a State or local governmental authority, non-
18 profit organization, or operator of public transpor-
19 tation that receives a grant under this section indi-
20 rectly through a recipient.

21 “(b) GENERAL AUTHORITY.—

22 “(1) GRANTS.—The Secretary may make
23 grants under this section to recipients for—

24 “(A) public transportation capital projects
25 planned, designed, and carried out to meet the

1 special needs of seniors and individuals with
2 disabilities when public transportation is insuf-
3 ficient, inappropriate, or unavailable;

4 “(B) public transportation projects that
5 exceed the requirements of the Americans with
6 Disabilities Act of 1990 (42 U.S.C. 12101 et
7 seq.);

8 “(C) public transportation projects that
9 improve access to fixed route service and de-
10 crease reliance by individuals with disabilities
11 on complementary paratransit; and

12 “(D) alternatives to public transportation
13 that assist seniors and individuals with disabil-
14 ities with transportation.

15 “(2) LIMITATIONS FOR CAPITAL PROJECTS.—

16 “(A) AMOUNT AVAILABLE.—The amount
17 available for capital projects under paragraph
18 (1)(A) shall be not less than 55 percent of the
19 funds apportioned to the recipient under this
20 section.

21 “(B) ALLOCATION TO SUBRECIPIENTS.—A
22 recipient of a grant under paragraph (1)(A)
23 may allocate the amounts provided under the
24 grant to—

25 “(i) a nonprofit organization; or

1 “(ii) a State or local governmental au-
2 thority that—

3 “(I) is approved by a State to co-
4 ordinate services for seniors and indi-
5 viduals with disabilities; or

6 “(II) certifies that there are no
7 nonprofit organizations readily avail-
8 able in the area to provide the services
9 described in paragraph (1)(A).

10 “(3) ADMINISTRATIVE EXPENSES.—

11 “(A) IN GENERAL.—A recipient may use
12 not more than 10 percent of the amounts ap-
13 portioned to the recipient under this section to
14 administer, plan, and provide technical assist-
15 ance for a project funded under this section.

16 “(B) GOVERNMENT SHARE OF COSTS.—
17 The Government share of the costs of admin-
18 istering a program carried out using funds
19 under this section shall be 100 percent.

20 “(4) ELIGIBLE CAPITAL EXPENSES.—The ac-
21 quisition of public transportation services is an eligi-
22 ble capital expense under this section.

23 “(5) COORDINATION.—

24 “(A) DEPARTMENT OF TRANSPOR-
25 TATION.—To the maximum extent feasible, the

1 Secretary shall coordinate activities under this
2 section with related activities under other Fed-
3 eral departments and agencies.

4 “(B) OTHER FEDERAL AGENCIES AND
5 NONPROFIT ORGANIZATIONS.—A State or local
6 governmental agency or nonprofit organization
7 that receives assistance from Government
8 sources (other than the Department of Trans-
9 portation) for nonemergency transportation
10 services shall—

11 “(i) participate and coordinate with
12 recipients of assistance under this chapter
13 in the design and delivery of transportation
14 services; and

15 “(ii) participate in the planning for
16 the transportation services described in
17 clause (i).

18 “(6) PROGRAM OF PROJECTS.—

19 “(A) IN GENERAL.—Amounts made avail-
20 able to carry out this section may be used for
21 transportation projects to assist in providing
22 transportation services for seniors and individ-
23 uals with disabilities, if such transportation
24 projects are included in a program of projects.

1 “(B) SUBMISSION.—A recipient shall an-
2 nually submit a program of projects to the Sec-
3 retary.

4 “(C) ASSURANCE.—The program of
5 projects submitted under subparagraph (B)
6 shall contain an assurance that the program
7 provides for the maximum feasible coordination
8 of transportation services assisted under this
9 section with transportation services assisted by
10 other Government sources.

11 “(7) MEAL DELIVERY FOR HOMEBOUND INDI-
12 VIDUALS.—A public transportation service provider
13 that receives assistance under this section or section
14 5311(e) may coordinate and assist in regularly pro-
15 viding meal delivery service for homebound individ-
16 uals, if the delivery service does not conflict with
17 providing public transportation service or reduce
18 service to public transportation passengers.

19 “(c) APPORTIONMENT AND TRANSFERS.—

20 “(1) FORMULA.—The Secretary shall apportion
21 amounts made available to carry out this section as
22 follows:

23 “(A) LARGE URBANIZED AREAS.—Sixty
24 percent of the funds shall be apportioned
25 among designated recipients for urbanized

1 areas with a population of 200,000 or more in-
2 dividuals, as determined by the Bureau of the
3 Census, in the ratio that—

4 “(i) the number of seniors and indi-
5 viduals with disabilities in each such ur-
6 banized area; bears to

7 “(ii) the number of seniors and indi-
8 viduals with disabilities in all such urban-
9 ized areas.

10 “(B) SMALL URBANIZED AREAS.—Twenty
11 percent of the funds shall be apportioned
12 among the States in the ratio that—

13 “(i) the number of seniors and indi-
14 viduals with disabilities in urbanized areas
15 with a population of fewer than 200,000
16 individuals, as determined by the Bureau
17 of the Census, in each State; bears to

18 “(ii) the number of seniors and indi-
19 viduals with disabilities in urbanized areas
20 with a population of fewer than 200,000
21 individuals, as determined by the Bureau
22 of the Census, in all States.

23 “(C) OTHER THAN URBANIZED AREAS.—
24 Twenty percent of the funds shall be appor-
25 tioned among the States in the ratio that—

1 “(i) the number of seniors and indi-
2 viduals with disabilities in other than ur-
3 banized areas in each State; bears to

4 “(ii) the number of seniors and indi-
5 viduals with disabilities in other than ur-
6 banized areas in all States.

7 “(2) AREAS SERVED BY PROJECTS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B)—

10 “(i) funds apportioned under para-
11 graph (1)(A) shall be used for projects
12 serving urbanized areas with a population
13 of 200,000 or more individuals, as deter-
14 mined by the Bureau of the Census;

15 “(ii) funds apportioned under para-
16 graph (1)(B) shall be used for projects
17 serving urbanized areas with a population
18 of fewer than 200,000 individuals, as de-
19 termined by the Bureau of the Census; and

20 “(iii) funds apportioned under para-
21 graph (1)(C) shall be used for projects
22 serving other than urbanized areas.

23 “(B) EXCEPTIONS.—A State may use
24 funds apportioned to the State under subpara-
25 graph (B) or (C) of paragraph (1)—

1 “(i) for a project serving an area
2 other than an area specified in subpara-
3 graph (A)(ii) or (A)(iii), as the case may
4 be, if the Governor of the State certifies
5 that all of the objectives of this section are
6 being met in the area specified in subpara-
7 graph (A)(ii) or (A)(iii); or

8 “(ii) for a project anywhere in the
9 State, if the State has established a state-
10 wide program for meeting the objectives of
11 this section.

12 “(C) LIMITED TO ELIGIBLE PROJECTS.—
13 Any funds transferred pursuant to subpara-
14 graph (B) shall be made available only for eligi-
15 ble projects selected under this section.

16 “(D) CONSULTATION.—A recipient may
17 transfer an amount under subparagraph (B)
18 only after consulting with responsible local offi-
19 cials, publicly owned operators of public trans-
20 portation, and nonprofit providers in the area
21 for which the amount was originally appor-
22 tioned.

23 “(d) GOVERNMENT SHARE OF COSTS.—

24 “(1) CAPITAL PROJECTS.—A grant for a capital
25 project under this section shall be in an amount

1 equal to 80 percent of the net capital costs of the
2 project, as determined by the Secretary.

3 “(2) OPERATING ASSISTANCE.—A grant made
4 under this section for operating assistance may not
5 exceed an amount equal to 50 percent of the net op-
6 erating costs of the project, as determined by the
7 Secretary.

8 “(3) REMAINDER OF NET COSTS.—The remain-
9 der of the net costs of a project carried out under
10 this section—

11 “(A) may be provided from an undistrib-
12 uted cash surplus, a replacement or deprecia-
13 tion cash fund or reserve, a service agreement
14 with a State or local social service agency or a
15 private social service organization, or new cap-
16 ital; and

17 “(B) may be derived from amounts appro-
18 priated or otherwise made available—

19 “(i) to a department or agency of the
20 Government (other than the Department of
21 Transportation) that are eligible to be ex-
22 pended for transportation; or

23 “(ii) to carry out the Federal lands
24 highways program under section 204 of
25 title 23, United States Code.

1 “(4) USE OF CERTAIN FUNDS.—For purposes
2 of paragraph (3)(B)(i), the prohibition under section
3 403(a)(5)(C)(vii) of the Social Security Act (42
4 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds
5 for matching requirements shall not apply to Fed-
6 eral or State funds to be used for transportation
7 purposes.

8 “(e) GRANT REQUIREMENTS.—

9 “(1) IN GENERAL.—A grant under this section
10 shall be subject to the same requirements as a grant
11 under section 5307, to the extent the Secretary de-
12 termines appropriate.

13 “(2) CERTIFICATION REQUIREMENTS.—

14 “(A) PROJECT SELECTION AND PLAN DE-
15 VELOPMENT.—Before receiving a grant under
16 this section, each recipient shall certify that—

17 “(i) the projects selected by the recipi-
18 ent are included in a locally developed, co-
19 ordinated public transit-human services
20 transportation plan;

21 “(ii) the plan described in clause (i)
22 was developed and approved through a
23 process that included participation by sen-
24 iors, individuals with disabilities, represent-
25 atives of public, private, and nonprofit

1 transportation and human services pro-
2 viders and other members of the public;
3 and

4 “(iii) to the maximum extent feasible,
5 the services funded under this section will
6 be coordinated with transportation services
7 assisted by other Federal departments and
8 agencies.

9 “(B) ALLOCATIONS TO SUBRECIPIENTS.—
10 If a recipient allocates funds received under this
11 section to subrecipients, the recipient shall cer-
12 tify that the funds are allocated on a fair and
13 equitable basis.

14 “(f) COMPETITIVE PROCESS FOR GRANTS TO SUB-
15 RECIPIENTS.—

16 “(1) AREAWIDE SOLICITATIONS.—A recipient of
17 funds apportioned under subsection (c)(1)(A) may
18 conduct, in cooperation with the appropriate metro-
19 politan planning organization, an areawide solici-
20 tation for applications for grants under this section.

21 “(2) STATEWIDE SOLICITATIONS.—A recipient
22 of funds apportioned under subparagraph (B) or (C)
23 of subsection (c)(1) may conduct a statewide solici-
24 tation for applications for grants under this section.

1 “(3) APPLICATION.—If the recipient elects to
2 engage in a competitive process, a recipient or sub-
3 recipient seeking to receive a grant from funds ap-
4 portioned under subsection (c) shall submit to the
5 recipient making the election an application in such
6 a form and in accordance with such requirements as
7 the recipient making the election shall establish.

8 “(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—
9 A recipient may transfer a facility or equipment acquired
10 using a grant under this section to any other recipient eli-
11 gible to receive assistance under this chapter, if—

12 “(1) the recipient in possession of the facility or
13 equipment consents to the transfer; and

14 “(2) the facility or equipment will continue to
15 be used as required under this section.

16 “(h) PERFORMANCE MEASURES.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of the Federal Public Trans-
19 portation Act of 2012, the Secretary shall issue a
20 final rule to establish performance measures for
21 grants under this section.

22 “(2) TARGETS.—Not later than 3 months after
23 the date on which the Secretary issues a final rule
24 under paragraph (1), and each fiscal year thereafter,
25 each recipient that receives Federal financial assist-

1 ance under this section shall establish performance
2 targets in relation to the performance measures es-
3 tablished by the Secretary.

4 “(3) REPORTS.—Each recipient of Federal fi-
5 nancial assistance under this section shall submit to
6 the Secretary an annual report that describes—

7 “(A) the progress of the recipient toward
8 meeting the performance targets established
9 under paragraph (2) for that fiscal year; and

10 “(B) the performance targets established
11 by the recipient for the subsequent fiscal year.”.

12 **SEC. 12. FORMULA GRANTS FOR OTHER THAN URBANIZED**
13 **AREAS.**

14 Section 5311 of title 49, United States Code, is
15 amended to read as follows:

16 **“§ 5311. Formula grants for other than urbanized**
17 **areas**

18 “(a) DEFINITIONS.—As used in this section, the fol-
19 lowing definitions shall apply:

20 “(1) RECIPIENT.—The term ‘recipient’ means a
21 State or Indian tribe that receives a Federal transit
22 program grant directly from the Government.

23 “(2) SUBRECIPIENT.—The term ‘subrecipient’
24 means a State or local governmental authority, a
25 nonprofit organization, or an operator of public

1 transportation or intercity bus service that receives
2 Federal transit program grant funds indirectly
3 through a recipient.

4 “(b) GENERAL AUTHORITY.—

5 “(1) GRANTS AUTHORIZED.—Except as pro-
6 vided by paragraph (2), the Secretary may award
7 grants under this section to recipients located in
8 areas other than urbanized areas for—

9 “(A) planning, provided that a grant under
10 this section for planning activities shall be in
11 addition to funding awarded to a State under
12 section 5305 for planning activities that are di-
13 rected specifically at the needs of other than ur-
14 banized areas in the State;

15 “(B) public transportation capital projects;

16 “(C) operating costs of equipment and fa-
17 cilities for use in public transportation; and

18 “(D) the acquisition of public transpor-
19 tation services, including service agreements
20 with private providers of public transportation
21 services.

22 “(2) STATE PROGRAM.—

23 “(A) IN GENERAL.—A project eligible for a
24 grant under this section shall be included in a
25 State program for public transportation service

1 projects, including agreements with private pro-
2 viders of public transportation service.

3 “(B) SUBMISSION TO SECRETARY.—Each
4 State shall submit to the Secretary annually the
5 program described in subparagraph (A).

6 “(C) APPROVAL.—The Secretary may not
7 approve the program unless the Secretary de-
8 termines that—

9 “(i) the program provides a fair dis-
10 tribution of amounts in the State, includ-
11 ing Indian reservations; and

12 “(ii) the program provides the max-
13 imum feasible coordination of public trans-
14 portation service assisted under this sec-
15 tion with transportation service assisted by
16 other Federal sources.

17 “(3) RURAL TRANSPORTATION ASSISTANCE
18 PROGRAM.—

19 “(A) IN GENERAL.—The Secretary shall
20 carry out a rural transportation assistance pro-
21 gram in other than urbanized areas.

22 “(B) GRANTS AND CONTRACTS.—In car-
23 rying out this paragraph, the Secretary may use
24 not more than 2 percent of the amount made
25 available under section 5338(a)(2)(F) to make

1 grants and contracts for transportation re-
2 search, technical assistance, training, and re-
3 lated support services in other than urbanized
4 areas.

5 “(C) PROJECTS OF A NATIONAL SCOPE.—
6 Not more than 15 percent of the amounts avail-
7 able under subparagraph (B) may be used by
8 the Secretary to carry out projects of a national
9 scope, with the remaining balance provided to
10 the States.

11 “(4) DATA COLLECTION.—Each recipient under
12 this section shall submit an annual report to the
13 Secretary containing information on capital invest-
14 ment, operations, and service provided with funds
15 received under this section, including—

16 “(A) total annual revenue;

17 “(B) sources of revenue;

18 “(C) total annual operating costs;

19 “(D) total annual capital costs;

20 “(E) fleet size and type, and related facili-
21 ties;

22 “(F) revenue vehicle miles; and

23 “(G) ridership.

24 “(c) APPORTIONMENTS.—

1 “(1) PUBLIC TRANSPORTATION ON INDIAN RES-
2 ERVATIONS.—Of the amounts made available or ap-
3 propriated for each fiscal year pursuant to section
4 5338(a)(2)(F) to carry out this paragraph, the fol-
5 lowing amounts shall be apportioned each fiscal year
6 for grants to Indian tribes for any purpose eligible
7 under this section, under such terms and conditions
8 as may be established by the Secretary:

9 “(A) \$10,000,000 shall be distributed on a
10 competitive basis by the Secretary.

11 “(B) \$20,000,000 shall be apportioned as
12 formula grants, as provided in subsection (k).

13 “(2) APPALACHIAN DEVELOPMENT PUBLIC
14 TRANSPORTATION ASSISTANCE PROGRAM.—

15 “(A) DEFINITIONS.—In this paragraph—

16 “(i) the term ‘Appalachian region’ has
17 the same meaning as in section 14102 of
18 title 40; and

19 “(ii) the term ‘eligible recipient’
20 means a State that participates in a pro-
21 gram established under subtitle IV of title
22 40.

23 “(B) IN GENERAL.—The Secretary shall
24 carry out a public transportation assistance
25 program in the Appalachian region.

1 “(C) APPORTIONMENT.—Of amounts made
2 available or appropriated for each fiscal year
3 under section 5338(a)(2)(F) to carry out this
4 paragraph, the Secretary shall apportion funds
5 to eligible recipients for any purpose eligible
6 under this section, based on the guidelines es-
7 tablished under section 9.5(b) of the Appa-
8 lachian Regional Commission Code.

9 “(D) SPECIAL RULE.—An eligible recipient
10 may use amounts that cannot be used for oper-
11 ating expenses under this paragraph for a high-
12 way project if—

13 “(i) that use is approved, in writing,
14 by the eligible recipient after appropriate
15 notice and an opportunity for comment
16 and appeal is provided to affected public
17 transportation providers; and

18 “(ii) the eligible recipient, in approv-
19 ing the use of amounts under this subpara-
20 graph, determines that the local transit
21 needs are being addressed.

22 “(3) REMAINING AMOUNTS.—

23 “(A) IN GENERAL.—The amounts made
24 available or appropriated for each fiscal year
25 pursuant to section 5338(a)(2)(F) that are not

1 apportioned under paragraph (1) or (2) shall be
2 apportioned in accordance with this paragraph.

3 “(B) APPORTIONMENT BASED ON LAND
4 AREA AND POPULATION IN NONURBANIZED
5 AREAS.—

6 “(i) IN GENERAL.—83.15 percent of
7 the amount described in subparagraph (A)
8 shall be apportioned to the States in ac-
9 cordance with this subparagraph.

10 “(ii) LAND AREA.—

11 “(I) IN GENERAL.—Subject to
12 subclause (II), each State shall receive
13 an amount that is equal to 20 percent
14 of the amount apportioned under
15 clause (i), multiplied by the ratio of
16 the land area in areas other than ur-
17 banized areas in that State and di-
18 vided by the land area in all areas
19 other than urbanized areas in the
20 United States, as shown by the most
21 recent decennial census of population.

22 “(II) MAXIMUM APPORTION-
23 MENT.—No State shall receive more
24 than 5 percent of the amount appor-
25 tioned under subclause (I).

1 United States, as shown by the most re-
2 cent decennial census of population.

3 “(iii) REVENUE VEHICLE-MILES.—
4 Subject to clause (v), each State shall re-
5 ceive an amount that is equal to 29.68 per-
6 cent of the amount apportioned under
7 clause (i), multiplied by the ratio of rev-
8 enue vehicle-miles in areas other than ur-
9 banized areas in that State and divided by
10 the revenue vehicle-miles in all areas other
11 than urbanized areas in the United States,
12 as determined by national transit database
13 reporting.

14 “(iv) LOW-INCOME INDIVIDUALS.—
15 Each State shall receive an amount that is
16 equal to 40.64 percent of the amount ap-
17 portioned under clause (i), multiplied by
18 the ratio of low-income individuals in areas
19 other than urbanized areas in that State
20 and divided by the number of low-income
21 individuals in all areas other than urban-
22 ized areas in the United States, as shown
23 by the Bureau of the Census.

24 “(v) MAXIMUM APPORTIONMENT.—No
25 State shall receive—

1 “(I) more than 5 percent of the
2 amount apportioned under clause (ii);

3 or

4 “(II) more than 5 percent of the
5 amount apportioned under clause (iii).

6 “(d) USE FOR LOCAL TRANSPORTATION SERVICE.—

7 A State may use an amount apportioned under this sec-
8 tion for a project included in a program under subsection
9 (b) of this section and eligible for assistance under this
10 chapter if the project will provide local transportation
11 service, as defined by the Secretary of Transportation, in
12 an area other than an urbanized area.

13 “(e) USE FOR ADMINISTRATION, PLANNING, AND

14 TECHNICAL ASSISTANCE.—The Secretary may allow a

15 State to use not more than 15 percent of the amount ap-

16 portioned under this section to administer this section and

17 provide technical assistance to a subrecipient, including

18 project planning, program and management development,

19 coordination of public transportation programs, and re-

20 search the State considers appropriate to promote effec-

21 tive delivery of public transportation to an area other than

22 an urbanized area.

23 “(f) INTERCITY BUS TRANSPORTATION.—

24 “(1) IN GENERAL.—A State shall expend at

25 least 15 percent of the amount made available in

1 each fiscal year to carry out a program to develop
2 and support intercity bus transportation. Eligible ac-
3 tivities under the program include—

4 “(A) planning and marketing for intercity
5 bus transportation;

6 “(B) capital grants for intercity bus shel-
7 ters;

8 “(C) joint-use stops and depots;

9 “(D) operating grants through purchase-
10 of-service agreements, user-side subsidies, and
11 demonstration projects; and

12 “(E) coordinating rural connections be-
13 tween small public transportation operations
14 and intercity bus carriers.

15 “(2) CERTIFICATION.—A State does not have
16 to comply with paragraph (1) of this subsection in
17 a fiscal year in which the Governor of the State cer-
18 tifies to the Secretary, after consultation with af-
19 fected intercity bus service providers, that the inter-
20 city bus service needs of the State are being met
21 adequately.

22 “(g) ACCESS TO JOBS PROJECTS.—

23 “(1) IN GENERAL.—Amounts made available
24 under section 5338(a)(2)(F) may be used to carry

1 out a program to develop and maintain job access
2 projects. Eligible projects may include—

3 “(A) a project relating to the development
4 and maintenance of public transportation serv-
5 ices designed to transport eligible low-income
6 individuals to and from jobs and activities re-
7 lated to their employment, including—

8 “(i) public transportation projects to
9 finance planning, capital, and operating
10 costs of providing access to jobs under this
11 chapter;

12 “(ii) promoting public transportation
13 by low-income workers, including the use
14 of public transportation by workers with
15 nontraditional work schedules;

16 “(iii) promoting the use of transit
17 vouchers for welfare recipients and eligible
18 low-income individuals; and

19 “(iv) promoting the use of employer-
20 provided transportation, including the
21 transit pass benefit program under section
22 132 of the Internal Revenue Code of 1986;
23 and

1 “(B) transportation projects designed to
2 support the use of public transportation includ-
3 ing—

4 “(i) enhancements to existing public
5 transportation service for workers with
6 non-traditional hours or reverse commutes;

7 “(ii) guaranteed ride home programs;

8 “(iii) bicycle storage facilities; and

9 “(iv) projects that otherwise facilitate
10 the provision of public transportation serv-
11 ices to employment opportunities.

12 “(2) PROJECT SELECTION AND PLAN DEVELOP-
13 MENT.—Each grant recipient under this subsection
14 shall certify that—

15 “(A) the projects selected were included in
16 a locally developed, coordinated public transit-
17 human services transportation plan;

18 “(B) the plan was developed and approved
19 through a process that included individuals with
20 low incomes, representatives of public, private,
21 and nonprofit transportation and human serv-
22 ices providers and participation by the public;

23 “(C) to the maximum extent feasible, serv-
24 ices funded under this subsection are coordi-

1 nated with transportation services funded by
2 other Federal departments and agencies; and

3 “(D) allocations of the grant to subrecipi-
4 ents, if any, are distributed on a fair and equi-
5 table basis.

6 “(3) COMPETITIVE PROCESS FOR GRANTS TO
7 SUBRECIPIENTS.—

8 “(A) STATEWIDE SOLICITATIONS.—A
9 State may conduct a Statewide solicitation for
10 applications for grants to recipients and sub-
11 recipients under this subsection.

12 “(B) APPLICATION.—If the State elects to
13 engage in a competitive process, recipients and
14 subrecipients seeking to receive a grant from
15 apportioned funds shall submit to the State an
16 application in the form and in accordance with
17 such requirements as the State shall establish.

18 “(h) GOVERNMENT SHARE OF COSTS.—

19 “(1) CAPITAL PROJECTS.—

20 “(A) IN GENERAL.—Except as provided by
21 subparagraph (B), a grant awarded under this
22 section for a capital project or project adminis-
23 trative expenses shall be for 80 percent of the
24 net costs of the project, as determined by the
25 Secretary.

1 “(B) EXCEPTION.—A State described in
2 section 120(b) of title 23 shall receive a Gov-
3 ernment share of the net costs in accordance
4 with the formula under that section.

5 “(2) OPERATING ASSISTANCE.—

6 “(A) IN GENERAL.—Except as provided by
7 subparagraph (B), a grant made under this sec-
8 tion for operating assistance may not exceed 50
9 percent of the net operating costs of the
10 project, as determined by the Secretary.

11 “(B) EXCEPTION.—A State described in
12 section 120(b) of title 23 shall receive a Gov-
13 ernment share of the net operating costs equal
14 to 62.5 percent of the Government share pro-
15 vided for under paragraph (1)(B).

16 “(3) REMAINDER.—The remainder of net
17 project costs—

18 “(A) may be provided from an undistrib-
19 uted cash surplus, a replacement or deprecia-
20 tion cash fund or reserve, a service agreement
21 with a State or local social service agency or a
22 private social service organization, or new cap-
23 ital;

24 “(B) may be derived from amounts appro-
25 priated or otherwise made available to a depart-

1 ment or agency of the Government (other than
2 the Department of Transportation) that are eli-
3 gible to be expended for transportation; and

4 “(C) notwithstanding subparagraph (B),
5 may be derived from amounts made available to
6 carry out the Federal lands highway program
7 established by section 204 of title 23.

8 “(4) USE OF CERTAIN FUNDS.—For purposes
9 of paragraph (3)(B), the prohibitions on the use of
10 funds for matching requirements under section
11 403(a)(5)(C)(vii) of the Social Security Act (42
12 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
13 or State funds to be used for transportation pur-
14 poses.

15 “(5) LIMITATION ON OPERATING ASSIST-
16 ANCE.—A State carrying out a program of operating
17 assistance under this section may not limit the level
18 or extent of use of the Government grant for the
19 payment of operating expenses.

20 “(i) TRANSFER OF FACILITIES AND EQUIPMENT.—
21 With the consent of the recipient currently having a facil-
22 ity or equipment acquired with assistance under this sec-
23 tion, a State may transfer the facility or equipment to any
24 recipient eligible to receive assistance under this chapter

1 if the facility or equipment will continue to be used as
2 required under this section.

3 “(j) RELATIONSHIP TO OTHER LAWS.—

4 “(1) IN GENERAL.—Section 5333(b) applies to
5 this section if the Secretary of Labor utilizes a spe-
6 cial warranty that provides a fair and equitable ar-
7 rangement to protect the interests of employees.

8 “(2) RULE OF CONSTRUCTION.—This sub-
9 section does not affect or discharge a responsibility
10 of the Secretary of Transportation under a law of
11 the United States.

12 “(k) FORMULA GRANTS FOR PUBLIC TRANSPOR-
13 TATION ON INDIAN RESERVATIONS.—

14 “(1) APPORTIONMENT.—

15 “(A) IN GENERAL.—Of the amounts de-
16 scribed in subsection (c)(1)(B)—

17 “(i) 50 percent of the total amount
18 shall be apportioned so that each Indian
19 tribe providing public transportation serv-
20 ice shall receive an amount equal to the
21 total amount apportioned under this clause
22 multiplied by the ratio of the number of
23 revenue vehicle miles provided by an In-
24 dian tribe divided by the total number of

1 revenue vehicle miles provided by all In-
2 dian tribes, as reported to the Secretary;

3 “(ii) 25 percent of the total amount
4 shall be apportioned equally among each
5 Indian tribe providing at least 200,000 ve-
6 hicle revenue miles of public transportation
7 service annually, as reported to the Sec-
8 retary;

9 “(iii) 25 percent of the total amount
10 shall be apportioned among each Indian
11 tribe providing public transportation on
12 tribal lands on which more than 1,000 low-
13 income individuals reside (as determined
14 by the Bureau of the Census) so that each
15 Indian tribe shall receive an amount equal
16 to the total amount apportioned under this
17 clause multiplied by the ratio of the num-
18 ber of low-income individuals residing on
19 an Indian tribe’s lands divided by the total
20 number of low-income individuals on tribal
21 lands on which more than 1,000 low-in-
22 come individuals reside .

23 “(B) LIMITATION.—No recipient shall re-
24 ceive more than \$300,000 of the amounts ap-

1 portioned under subparagraph (A)(iii) in a fis-
2 cal year.

3 “(C) REMAINING AMOUNTS.—Of the
4 amounts made available under subparagraph
5 (A)(iii), any amounts not apportioned under
6 that subparagraph shall be allocated among In-
7 dian tribes receiving less than \$300,000 in a
8 fiscal year according to the formula specified in
9 that clause.

10 “(D) LOW-INCOME INDIVIDUALS.—For
11 purposes of subparagraph (A)(iii), the term
12 ‘low-income individual’ means an individual
13 whose family income is at or below 100 percent
14 of the poverty line, as that term is defined in
15 section 673(2) of the Community Services
16 Block Grant Act (42 U.S.C. 9902(2)), including
17 any revision required by that section, for a fam-
18 ily of the size involved.

19 “(2) NON-TRIBAL SERVICE PROVIDERS.—A re-
20 cipient that is an Indian tribe may use funds appor-
21 tioned under this subsection to finance public trans-
22 portation services provided by a non-tribal provider
23 of public transportation that connects resident of
24 tribal lands with surrounding communities, improves

1 access to employment or healthcare, or otherwise ad-
2 dresses the mobility needs of tribal members.”.

3 **SEC. 13. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
4 **AND DEPLOYMENT PROJECTS.**

5 Section 5312 of title 49, United States Code, is
6 amended to read as follows:

7 **“§ 5312. Research, development, demonstration, and**
8 **deployment projects**

9 “(a) RESEARCH, DEVELOPMENT, DEMONSTRATION,
10 AND DEPLOYMENT PROJECTS.—

11 “(1) IN GENERAL.—The Secretary may make
12 grants and enter into contracts, cooperative agree-
13 ments, and other agreements for research, develop-
14 ment, demonstration, and deployment projects, and
15 evaluation of research and technology of national
16 significance to public transportation, that the Sec-
17 retary determines will improve public transportation.

18 “(2) AGREEMENTS.—In order to carry out
19 paragraph (1), the Secretary may make grants to
20 and enter into contracts, cooperative agreements,
21 and other agreements with—

22 “(A) departments, agencies, and instru-
23 mentalities of the Government;

24 “(B) State and local governmental entities;

25 “(C) providers of public transportation;

1 “(D) private or non-profit organizations;

2 “(E) institutions of higher education; and

3 “(F) technical and community colleges.

4 “(3) APPLICATION.—

5 “(A) IN GENERAL.—To receive a grant,
6 contract, cooperative agreement, or other agree-
7 ment under this section, an entity described in
8 paragraph (2) shall submit an application to
9 the Secretary.

10 “(B) FORM AND CONTENTS.—An applica-
11 tion under subparagraph (A) shall be in such
12 form and contain such information as the Sec-
13 retary may require, including—

14 “(i) a statement of purpose detailing
15 the need being addressed;

16 “(ii) the short- and long-term goals of
17 the project, including opportunities for fu-
18 ture innovation and development, the po-
19 tential for deployment, and benefits to rid-
20 ers and public transportation; and

21 “(iii) short- and long-term funding re-
22 quirements to complete the project and any
23 future objectives of the project.

24 “(b) RESEARCH.—

1 “(1) IN GENERAL.—The Secretary may make a
2 grant to or enter into a contract, cooperative agree-
3 ment, or other agreement under this section with an
4 entity described in subsection (a)(2) to carry out a
5 public transportation research project that has as its
6 ultimate goal the development and deployment of
7 new and innovative ideas, practices, and approaches.

8 “(2) PROJECT ELIGIBILITY.—A public trans-
9 portation research project that receives assistance
10 under paragraph (1) shall focus on—

11 “(A) providing more effective and efficient
12 public transportation service, including services
13 to—

14 “(i) seniors;

15 “(ii) individuals with disabilities; and

16 “(iii) individuals with lower incomes;

17 “(B) mobility management and improve-
18 ments and travel management systems;

19 “(C) data and communication system ad-
20 vancements;

21 “(D) system capacity, including—

22 “(i) train control;

23 “(ii) capacity improvements; and

24 “(iii) performance management;

25 “(E) capital and operating efficiencies;

1 “(F) planning and forecasting modeling
2 and simulation;

3 “(G) advanced vehicle design;

4 “(H) advancements in vehicle technology;

5 “(I) asset maintenance and repair systems
6 advancement;

7 “(J) construction and project management;

8 “(K) alternative fuels;

9 “(L) the environment and energy effi-
10 ciency;

11 “(M) safety improvements; or

12 “(N) any other area that the Secretary de-
13 termines is important to advance the interests
14 of public transportation.

15 “(c) INNOVATION AND DEVELOPMENT.—

16 “(1) IN GENERAL.—The Secretary may make a
17 grant to or enter into a contract, cooperative agree-
18 ment, or other agreement under this section with an
19 entity described in subsection (a)(2) to carry out a
20 public transportation innovation and development
21 project that seeks to improve public transportation
22 systems nationwide in order to provide more efficient
23 and effective delivery of public transportation serv-
24 ices, including through technology and technological
25 capacity improvements.

1 “(2) PROJECT ELIGIBILITY.—A public trans-
2 portation innovation and development project that
3 receives assistance under paragraph (1) shall focus
4 on—

5 “(A) the development of public transpor-
6 tation research projects that received assistance
7 under subsection (b) that the Secretary deter-
8 mines were successful;

9 “(B) planning and forecasting modeling
10 and simulation;

11 “(C) capital and operating efficiencies;

12 “(D) advanced vehicle design;

13 “(E) advancements in vehicle technology;

14 “(F) the environment and energy effi-
15 ciency;

16 “(G) system capacity, including train con-
17 trol and capacity improvements; or

18 “(H) any other area that the Secretary de-
19 termines is important to advance the interests
20 of public transportation.

21 “(d) DEMONSTRATION, DEPLOYMENT, AND EVALUA-
22 TION.—

23 “(1) IN GENERAL.—The Secretary may, under
24 terms and conditions that the Secretary prescribes,
25 make a grant to or enter into contract, cooperative

1 agreement, or other agreement with an entity de-
2 scribed in paragraph (2) to promote the early de-
3 ployment and demonstration of innovation in public
4 transportation that has broad applicability.

5 “(2) PARTICIPANTS.—An entity described in
6 this paragraph is—

7 “(A) an entity described in subsection
8 (a)(2); or

9 “(B) a consortium of entities described in
10 subsection (a)(2), including a provider of public
11 transportation, that will share the costs, risks,
12 and rewards of early deployment and dem-
13 onstration of innovation.

14 “(3) PROJECT ELIGIBILITY.—A project that re-
15 ceives assistance under paragraph (1) shall seek to
16 build on successful research, innovation, and devel-
17 opment efforts to facilitate—

18 “(A) the deployment of research and tech-
19 nology development resulting from private ef-
20 forts or federally funded efforts; and

21 “(B) the implementation of research and
22 technology development to advance the interests
23 of public transportation.

24 “(4) EVALUATION.—Not later than 2 years
25 after the date on which a project receives assistance

1 under paragraph (1) the Secretary shall conduct a
2 comprehensive evaluation of the success or failure of
3 the projects funded under this subsection and any
4 plan for broad-based implementation of the innova-
5 tion promoted by successful projects.

6 “(e) ANNUAL REPORT ON RESEARCH.—Not later
7 than the first Monday in February of each year, the Sec-
8 retary shall submit to the Committee on Banking, Hous-
9 ing, and Urban Affairs and the Committee on Appropria-
10 tions of the Senate and the Committee on Transportation
11 and Infrastructure and the Committee on Appropriations
12 of the House of Representatives a report that includes—

13 “(1) a description of each project that received
14 assistance under this section during the preceding
15 fiscal year;

16 “(2) an evaluation of each project described in
17 paragraph (1), including any evaluation conducted
18 under subsection (d)(4) for the preceding fiscal year;
19 and

20 “(3) a proposal for allocations of amounts for
21 assistance under this section for the subsequent fis-
22 cal year.

23 “(f) GOVERNMENT SHARE OF COSTS.—

1 “(1) IN GENERAL.—The Government share of
2 the cost of a project carried out under this section
3 shall not exceed 80 percent.

4 “(2) NON-GOVERNMENT SHARE.—The non-Gov-
5 ernment share of the cost of a project carried out
6 under this section may be derived from in-kind con-
7 tributions.

8 “(3) FINANCIAL BENEFIT.—If the Secretary
9 determines that there would be a clear and direct fi-
10 nancial benefit to an entity under a grant, contract,
11 cooperative agreement, or other agreement under
12 this section, the Secretary shall establish a Govern-
13 ment share of the costs of the project to be carried
14 out under the grant, contract, cooperative agree-
15 ment, or other agreement that is consistent with the
16 benefit.”.

17 **SEC. 14. TECHNICAL ASSISTANCE AND STANDARDS DEVEL-**
18 **OPMENT.**

19 Section 5314 of title 49, United States Code, is
20 amended to read as follows:

21 **“§ 5314. Technical assistance and standards develop-**
22 **ment**

23 “(a) TECHNICAL ASSISTANCE AND STANDARDS DE-
24 VELOPMENT.—

1 “(1) IN GENERAL.—The Secretary may make
2 grants and enter into contracts, cooperative agree-
3 ments, and other agreements (including agreements
4 with departments, agencies, and instrumentalities of
5 the Government) to carry out activities that the Sec-
6 retary determines will assist recipients of assistance
7 under this chapter to—

8 “(A) more effectively and efficiently pro-
9 vide public transportation service;

10 “(B) administer funds received under this
11 chapter in compliance with Federal law; and

12 “(C) improve public transportation.

13 “(2) ELIGIBLE ACTIVITIES.—The activities car-
14 ried out under paragraph (1) may include—

15 “(A) technical assistance; and

16 “(B) the development of standards and
17 best practices by the public transportation in-
18 dustry.

19 “(b) TECHNICAL ASSISTANCE CENTERS.—

20 “(1) DEFINITION.—In this subsection, the term
21 ‘eligible entity’ means a nonprofit organization, an
22 institution of higher education, or a technical or
23 community college.

24 “(2) IN GENERAL.—The Secretary may make
25 grants to and enter into contracts, cooperative

1 agreements, and other agreements with eligible enti-
2 ties to administer centers to provide technical assist-
3 ance, including—

4 “(A) the development of tools and guid-
5 ance; and

6 “(B) the dissemination of best practices.

7 “(3) COMPETITIVE PROCESS.—The Secretary
8 may make grants and enter into contracts, coopera-
9 tive agreements, and other agreements under para-
10 graph (2) through a competitive process on a bian-
11 nual basis for technical assistance in each of the fol-
12 lowing categories:

13 “(A) Human services transportation co-
14 ordination, including—

15 “(i) transportation for seniors;

16 “(ii) transportation for individuals
17 with disabilities; and

18 “(iii) coordination of local resources
19 and programs to assist low-income individ-
20 uals and veterans in gaining access to
21 training and employment opportunities.

22 “(B) Transit-oriented development.

23 “(C) Transportation equity with regard to
24 the impact that transportation planning, invest-

1 ment, and operations have on low-income and
2 minority individuals.

3 “(D) Financing mechanisms, including—
4 “(i) public-private partnerships;
5 “(ii) bonding; and
6 “(iii) State and local capacity build-
7 ing.

8 “(E) Any other activity that the Secretary
9 determines is important to advance the inter-
10 ests of public transportation.

11 “(4) EXPERTISE OF TECHNICAL ASSISTANCE
12 CENTERS.—In selecting an eligible entity to admin-
13 ister a center under this subsection, the Secretary
14 shall consider—

15 “(A) the demonstrated subject matter ex-
16 pertise of the eligible entity; and

17 “(B) the capacity of the eligible entity to
18 deliver technical assistance on a regional or na-
19 tionwide basis.

20 “(5) PARTNERSHIPS.—An eligible entity may
21 partner with another eligible entity to provide tech-
22 nical assistance under this subsection.

23 “(c) GOVERNMENT SHARE OF COSTS.—

1 “(1) IN GENERAL.—The Government share of
2 the cost of an activity under this section may not ex-
3 ceed 80 percent.

4 “(2) NON-GOVERNMENT SHARE.—The non-Gov-
5 ernment share of the cost of an activity under this
6 section may be derived from in-kind contributions.”.

7 **SEC. 15. BUS TESTING FACILITIES.**

8 Section 5318 of title 49, United States Code, is
9 amended to read as follows:

10 **“§ 5318. Bus testing facilities**

11 “(a) FACILITIES.—The Secretary shall certify not
12 more than 4 comprehensive facilities for testing new bus
13 models for maintainability, reliability, safety, performance
14 (including braking performance), structural integrity, fuel
15 economy, emissions, and noise.

16 “(b) COOPERATIVE AGREEMENT.—The Secretary
17 shall enter into a cooperative agreement with not more
18 than 4 qualified entities to test public transportation vehi-
19 cles under subsection (a).

20 “(c) FEES.—An entity that operates and maintains
21 a facility certified under subsection (a) shall establish and
22 collect reasonable fees for the testing of vehicles at the
23 facility. The Secretary must approve the fees.

24 “(d) AVAILABILITY OF AMOUNTS TO PAY FOR TEST-
25 ING.—

1 “(1) IN GENERAL.—The Secretary shall enter
2 into a cooperative agreement with an entity that op-
3 erates and maintains a facility certified under sub-
4 section (a), under which 80 percent of the fee for
5 testing a vehicle at the facility may be available from
6 amounts apportioned to a recipient under section
7 5336 or from amounts appropriated to carry out
8 this section.

9 “(2) PROHIBITION.—An entity that operates
10 and maintains a facility described in subsection (a)
11 shall not have a financial interest in the outcome of
12 the testing carried out at the facility.

13 “(e) ACQUIRING NEW BUS MODELS.—Amounts ap-
14 propriated or made available under this chapter may be
15 obligated or expended to acquire a new bus model only
16 if—

17 “(1) a bus of that model has been tested at a
18 facility described in subsection (a); and

19 “(2) the bus tested under paragraph (1) met—

20 “(A) performance standards for maintain-
21 ability, reliability, performance (including brak-
22 ing performance), structural integrity, fuel
23 economy, emissions, and noise, as established
24 by the Secretary by rule; and

1 “(B) the minimum safety performance
2 standards established by the Secretary pursuant
3 to section 5329(b).”.

4 **SEC. 16. PUBLIC TRANSPORTATION WORKFORCE DEVELOP-**
5 **MENT AND HUMAN RESOURCE PROGRAMS.**

6 Section 5322 of title 49, United States Code, is
7 amended to read as follows:

8 **“§ 5322. Public transportation workforce develop-**
9 **ment and human resource programs**

10 “(a) IN GENERAL.—The Secretary may undertake,
11 or make grants or enter into contracts for, activities that
12 address human resource needs as the needs apply to public
13 transportation activities, including activities that—

14 “(1) educate and train employees;

15 “(2) develop the public transportation work-
16 force through career outreach and preparation;

17 “(3) develop a curriculum for workforce devel-
18 opment;

19 “(4) conduct outreach programs to increase mi-
20 nority and female employment in public transpor-
21 tation;

22 “(5) conduct research on public transportation
23 personnel and training needs;

24 “(6) provide training and assistance for minor-
25 ity business opportunities;

1 “(7) advance training relating to maintenance
2 of alternative energy, energy efficiency, or zero emis-
3 sion vehicles and facilities used in public transpor-
4 tation; and

5 “(8) address a current or projected workforce
6 shortage in an area that requires technical expertise.

7 “(b) FUNDING.—

8 “(1) URBANIZED AREA FORMULA GRANTS.—A
9 recipient or subrecipient of funding under section
10 5307 shall expend not less than 0.5 percent of such
11 funding for activities consistent with subsection (a).

12 “(2) WAIVER.—The Secretary may waive the
13 requirement under paragraph (1) with respect to a
14 recipient or subrecipient if the Secretary determines
15 that the recipient or subrecipient—

16 “(A) has an adequate workforce develop-
17 ment program; or

18 “(B) has partnered with a local edu-
19 cational institution in a manner that suffi-
20 ciently promotes or addresses workforce devel-
21 opment and human resource needs.

22 “(c) INNOVATIVE PUBLIC TRANSPORTATION WORK-
23 FORCE DEVELOPMENT PROGRAM.—

24 “(1) PROGRAM ESTABLISHED.—The Secretary
25 shall establish a competitive grant program to assist

1 the development of innovative activities eligible for
2 assistance under subsection (a).

3 “(2) SELECTION OF RECIPIENTS.—To the max-
4 imum extent feasible, the Secretary shall select re-
5 cipients that—

6 “(A) are geographically diverse;

7 “(B) address the workforce and human re-
8 sources needs of large public transportation
9 providers;

10 “(C) address the workforce and human re-
11 sources needs of small public transportation
12 providers;

13 “(D) address the workforce and human re-
14 sources needs of urban public transportation
15 providers;

16 “(E) address the workforce and human re-
17 sources needs of rural public transportation
18 providers;

19 “(F) advance training related to mainte-
20 nance of alternative energy, energy efficiency,
21 or zero emission vehicles and facilities used in
22 public transportation;

23 “(G) target areas with high rates of unem-
24 ployment; and

1 “(H) address current or projected work-
2 force shortages in areas that require technical
3 expertise.

4 “(d) GOVERNMENT’S SHARE OF COSTS.—The Gov-
5 ernment share of the cost of a project carried out using
6 a grant under this section shall be 50 percent.

7 “(e) REPORT.—Not later than 2 years after the date
8 of enactment of the Federal Public Transportation Act of
9 2012, the Secretary shall submit to the Committee on
10 Banking, Housing, and Urban Affairs of the Senate and
11 the Committee on Transportation and Infrastructure of
12 the House of Representatives a report concerning the
13 measurable outcomes and impacts of the programs funded
14 under this section.”.

15 **SEC. 17. GENERAL PROVISIONS.**

16 Section 5323 of title 49, United States Code, is
17 amended to read as follows:

18 **“§ 5323. General provisions**

19 “(a) INTERESTS IN PROPERTY.—

20 “(1) IN GENERAL.—Financial assistance pro-
21 vided under this chapter to a State or a local gov-
22 ernmental authority may be used to acquire an in-
23 terest in, or to buy property of, a private company
24 engaged in public transportation, for a capital
25 project for property acquired from a private com-

1 pany engaged in public transportation after July 9,
2 1964, or to operate a public transportation facility
3 or equipment in competition with, or in addition to,
4 transportation service provided by an existing public
5 transportation company, only if—

6 “(A) the Secretary determines that such fi-
7 nancial assistance is essential to a program of
8 projects required under sections 5303 and
9 5304;

10 “(B) the Secretary determines that the
11 program provides for the participation of pri-
12 vate companies engaged in public transpor-
13 tation to the maximum extent feasible; and

14 “(C) just compensation under State or
15 local law will be paid to the company for its
16 franchise or property.

17 “(2) LIMITATION.—A governmental authority
18 may not use financial assistance of the United
19 States Government to acquire land, equipment, or a
20 facility used in public transportation from another
21 governmental authority in the same geographic area.

22 “(b) RELOCATION AND REAL PROPERTY REQUIRE-
23 MENTS.—The Uniform Relocation Assistance and Real
24 Property Acquisition Policies Act of 1970 (42 U.S.C. 4601

1 et seq.) shall apply to financial assistance for capital
2 projects under this chapter.

3 “(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND
4 ENVIRONMENTAL INTERESTS.—

5 “(1) COOPERATION AND CONSULTATION.—In
6 carrying out the goal described in section
7 5301(e)(2), the Secretary shall cooperate and con-
8 sult with the Secretary of the Interior and the Ad-
9 ministrator of the Environmental Protection Agency
10 on each project that may have a substantial impact
11 on the environment.

12 “(2) COMPLIANCE WITH NEPA.—The National
13 Environmental Policy Act of 1969 (42 U.S.C. 4321
14 et seq.) shall apply to financial assistance for capital
15 projects under this chapter.

16 “(d) CORRIDOR PRESERVATION.—

17 “(1) IN GENERAL.—The Secretary may assist a
18 recipient in acquiring right-of-way before the com-
19 pletion of the environmental reviews for any project
20 that may use the right-of-way if the acquisition is
21 otherwise permitted under Federal law. The Sec-
22 retary may establish restrictions on such an acquisi-
23 tion as the Secretary determines to be necessary and
24 appropriate.

1 “(2) ENVIRONMENTAL REVIEWS.—Right-of-way
2 acquired under this subsection may not be developed
3 in anticipation of the project until all required envi-
4 ronmental reviews for the project have been com-
5 pleted.

6 “(e) CONDITION ON CHARTER BUS TRANSPOR-
7 TATION SERVICE.—

8 “(1) AGREEMENTS.—Financial assistance
9 under this chapter may be used to buy or operate
10 a bus only if the applicant, governmental authority,
11 or publicly owned operator that receives the assist-
12 ance agrees that, except as provided in the agree-
13 ment, the governmental authority or an operator of
14 public transportation for the governmental authority
15 will not provide charter bus transportation service
16 outside the urban area in which it provides regularly
17 scheduled public transportation service. An agree-
18 ment shall provide for a fair arrangement the Sec-
19 retary of Transportation considers appropriate to
20 ensure that the assistance will not enable a govern-
21 mental authority or an operator for a governmental
22 authority to foreclose a private operator from pro-
23 viding intercity charter bus service if the private op-
24 erator can provide the service.

25 “(2) VIOLATIONS.—

1 “(A) INVESTIGATIONS.—On receiving a
2 complaint about a violation of the agreement
3 required under paragraph (1), the Secretary
4 shall investigate and decide whether a violation
5 has occurred.

6 “(B) ENFORCEMENT OF AGREEMENTS.—If
7 the Secretary decides that a violation has oc-
8 curred, the Secretary shall correct the violation
9 under terms of the agreement.

10 “(C) ADDITIONAL REMEDIES.—In addition
11 to any remedy specified in the agreement, the
12 Secretary shall bar a recipient or an operator
13 from receiving Federal transit assistance in an
14 amount the Secretary considers appropriate if
15 the Secretary finds a pattern of violations of
16 the agreement.

17 “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL
18 SHARE.—

19 “(1) USE AS LOCAL MATCHING FUNDS.—Not-
20 withstanding any other provision of law, a recipient
21 of assistance under section 5307, 5309, or 5337
22 may use the proceeds from the issuance of revenue
23 bonds as part of the local matching funds for a cap-
24 ital project.

1 “(2) MAINTENANCE OF EFFORT.—The Sec-
2 retary shall approve of the use of the proceeds from
3 the issuance of revenue bonds for the remainder of
4 the net project cost only if the Secretary finds that
5 the aggregate amount of financial support for public
6 transportation in the urbanized area provided by the
7 State and affected local governmental authorities
8 during the next 3 fiscal years, as programmed in the
9 State transportation improvement program under
10 section 5304, is not less than the aggregate amount
11 provided by the State and affected local govern-
12 mental authorities in the urbanized area during the
13 preceding 3 fiscal years.

14 “(3) DEBT SERVICE RESERVE.—The Secretary
15 may reimburse an eligible recipient for deposits of
16 bond proceeds in a debt service reserve that the re-
17 cipient establishes pursuant to section 5302(3)(J)
18 from amounts made available to the recipient under
19 section 5309.

20 “(g) SCHOOLBUS TRANSPORTATION.—

21 “(1) AGREEMENTS.—Financial assistance
22 under this chapter may be used for a capital project,
23 or to operate public transportation equipment or a
24 public transportation facility, only if the applicant
25 agrees not to provide schoolbus transportation that

1 exclusively transports students and school personnel
2 in competition with a private schoolbus operator.

3 This subsection does not apply—

4 “(A) to an applicant that operates a school
5 system in the area to be served and a separate
6 and exclusive schoolbus program for the school
7 system; and

8 “(B) unless a private schoolbus operator
9 can provide adequate transportation that com-
10 plies with applicable safety standards at reason-
11 able rates.

12 “(2) VIOLATIONS.—If the Secretary finds that
13 an applicant, governmental authority, or publicly
14 owned operator has violated the agreement required
15 under paragraph (1), the Secretary shall bar a re-
16 cipient or an operator from receiving Federal transit
17 assistance in an amount the Secretary considers ap-
18 propriate.

19 “(h) BUYING BUSES UNDER OTHER LAWS.—Sub-
20 sections (e) and (g) of this section apply to financial as-
21 sistance to buy a bus under sections 133 and 142 of title
22 23.

23 “(i) GRANT AND LOAN PROHIBITIONS.—A grant or
24 loan may not be used to—

1 “(1) pay ordinary governmental or nonproject
2 operating expenses; or

3 “(2) support a procurement that uses an exclu-
4 sionary or discriminatory specification.

5 “(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN
6 PROJECTS.—A grant for a project to be assisted under
7 this chapter that involves acquiring vehicle-related equip-
8 ment or facilities required by the Americans with Disabil-
9 ities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-
10 related equipment or facilities (including clean fuel or al-
11 ternative fuel vehicle-related equipment or facilities) for
12 purposes of complying with or maintaining compliance
13 with the Clean Air Act, is for 90 percent of the net project
14 cost of such equipment or facilities attributable to compli-
15 ance with those Acts. The Secretary shall have discretion
16 to determine, through practicable administrative proce-
17 dures, the costs of such equipment or facilities attributable
18 to compliance with those Acts.

19 “(k) BUY AMERICA.—

20 “(1) IN GENERAL.—The Secretary may obligate
21 an amount that may be appropriated to carry out
22 this chapter for a project only if the steel, iron, and
23 manufactured goods used in the project are pro-
24 duced in the United States.

1 “(2) WAIVER.—The Secretary may waive para-
2 graph (1) of this subsection if the Secretary finds
3 that—

4 “(A) applying paragraph (1) would be in-
5 consistent with the public interest;

6 “(B) the steel, iron, and goods produced in
7 the United States are not produced in a suffi-
8 cient and reasonably available amount or are
9 not of a satisfactory quality;

10 “(C) when procuring rolling stock (includ-
11 ing train control, communication, and traction
12 power equipment) under this chapter—

13 “(i) the cost of components and sub-
14 components produced in the United States
15 is more than 60 percent of the cost of all
16 components of the rolling stock; and

17 “(ii) final assembly of the rolling
18 stock has occurred in the United States; or

19 “(D) including domestic material will in-
20 crease the cost of the overall project by more
21 than 25 percent.

22 “(3) WRITTEN JUSTIFICATION FOR PUBLIC IN-
23 TEREST WAIVER.—When issuing a waiver based on
24 a public interest determination under paragraph
25 (2)(A), the Secretary shall issue a detailed written

1 justification as to why the waiver is in the public in-
2 terest. The Secretary shall publish such justification
3 in the Federal Register and provide the public with
4 a reasonable period of time for notice and comment.

5 “(4) LABOR COSTS FOR FINAL ASSEMBLY.—In
6 this subsection, labor costs involved in final assembly
7 are not included in calculating the cost of compo-
8 nents.

9 “(5) WAIVER PROHIBITED.—The Secretary may
10 not make a waiver under paragraph (2) of this sub-
11 section for goods produced in a foreign country if
12 the Secretary, in consultation with the United States
13 Trade Representative, decides that the government
14 of that foreign country—

15 “(A) has an agreement with the United
16 States Government under which the Secretary
17 has waived the requirement of this subsection;
18 and

19 “(B) has violated the agreement by dis-
20 criminating against goods to which this sub-
21 section applies that are produced in the United
22 States and to which the agreement applies.

23 “(6) PENALTY FOR MISLABELING AND MIS-
24 REPRESENTATION.—A person is ineligible under
25 subpart 9.4 of the Federal Acquisition Regulation,

1 or any successor thereto, to receive a contract or
2 subcontract made with amounts authorized under
3 the Federal Public Transportation Act of 2012 if a
4 court or department, agency, or instrumentality of
5 the Government decides the person intentionally—

6 “(A) affixed a ‘Made in America’ label, or
7 a label with an inscription having the same
8 meaning, to goods sold in or shipped to the
9 United States that are used in a project to
10 which this subsection applies but not produced
11 in the United States; or

12 “(B) represented that goods described in
13 subparagraph (A) of this paragraph were pro-
14 duced in the United States.

15 “(7) STATE REQUIREMENTS.—The Secretary
16 may not impose any limitation on assistance pro-
17 vided under this chapter that restricts a State from
18 imposing more stringent requirements than this sub-
19 section on the use of articles, materials, and supplies
20 mined, produced, or manufactured in foreign coun-
21 tries in projects carried out with that assistance or
22 restricts a recipient of that assistance from com-
23 plying with those State-imposed requirements.

24 “(8) OPPORTUNITY TO CORRECT INADVERTENT
25 ERROR.—The Secretary may allow a manufacturer

1 or supplier of steel, iron, or manufactured goods to
2 correct after bid opening any certification of non-
3 compliance or failure to properly complete the cer-
4 tification (but not including failure to sign the cer-
5 tification) under this subsection if such manufac-
6 turer or supplier attests under penalty of perjury
7 that such manufacturer or supplier submitted an in-
8 correct certification as a result of an inadvertent or
9 clerical error. The burden of establishing inadvertent
10 or clerical error is on the manufacturer or supplier.

11 “(9) ADMINISTRATIVE REVIEW.—A party ad-
12 versely affected by an agency action under this sub-
13 section shall have the right to seek review under sec-
14 tion 702 of title 5.

15 “(1) PARTICIPATION OF GOVERNMENTAL AGENCIES
16 IN DESIGN AND DELIVERY OF TRANSPORTATION SERV-
17 ICES.—Governmental agencies and nonprofit organiza-
18 tions that receive assistance from Government sources
19 (other than the Department of Transportation) for non-
20 emergency transportation services shall—

21 “(1) participate and coordinate with recipients
22 of assistance under this chapter in the design and
23 delivery of transportation services; and

24 “(2) be included in the planning for those serv-
25 ices.

1 “(m) RELATIONSHIP TO OTHER LAWS.—

2 “(1) FRAUD AND FALSE STATEMENTS.—Sec-
3 tion 1001 of title 18 applies to a certificate, submis-
4 sion, or statement provided under this chapter. The
5 Secretary may terminate financial assistance under
6 this chapter and seek reimbursement directly, or by
7 offsetting amounts, available under this chapter if
8 the Secretary determines that a recipient of such fi-
9 nancial assistance has made a false or fraudulent
10 statement or related act in connection with a Fed-
11 eral public transportation program.

12 “(2) POLITICAL ACTIVITIES OF NON-
13 SUPERVISORY EMPLOYEES.—The provision of assist-
14 ance under this chapter shall not be construed to re-
15 quire the application of chapter 15 of title 5 to any
16 nonsupervisory employee of a public transportation
17 system (or any other agency or entity performing re-
18 lated functions) to whom such chapter does not oth-
19 erwise apply.

20 “(n) PREAWARD AND POSTDELIVERY REVIEW OF
21 ROLLING STOCK PURCHASES.—The Secretary shall pre-
22 scribe regulations requiring a preaward and postdelivery
23 review of a grant under this chapter to buy rolling stock
24 to ensure compliance with Government motor vehicle safe-
25 ty requirements, subsection (k) of this section, and bid

1 specifications requirements of grant recipients under this
2 chapter. Under this subsection, independent inspections
3 and review are required, and a manufacturer certification
4 is not sufficient. Rolling stock procurements of 20 vehicles
5 or fewer made for the purpose of serving other than ur-
6 banized areas and urbanized areas with populations of
7 200,000 or fewer shall be subject to the same require-
8 ments as established for procurements of 10 or fewer
9 buses under the post-delivery purchaser's requirements
10 certification process under section 663.37(e) of title 49,
11 Code of Federal Regulations.

12 “(o) SUBMISSION OF CERTIFICATIONS.—A certifi-
13 cation required under this chapter and any additional cer-
14 tification or assurance required by law or regulation to
15 be submitted to the Secretary may be consolidated into
16 a single document to be submitted annually as part of a
17 grant application under this chapter. The Secretary shall
18 publish annually a list of all certifications required under
19 this chapter with the publication required under section
20 5336(d)(2).

21 “(p) GRANT REQUIREMENTS.—The grant require-
22 ments under sections 5307, 5309, and 5337 apply to any
23 project under this chapter that receives any assistance or
24 other financing under chapter 6 (other than section 609)
25 of title 23.

1 “(q) ALTERNATIVE FUELING FACILITIES.—A recipi-
2 ent of assistance under this chapter may allow the inci-
3 dental use of federally funded alternative fueling facilities
4 and equipment by nontransit public entities and private
5 entities if—

6 “(1) the incidental use does not interfere with
7 the recipient’s public transportation operations;

8 “(2) all costs related to the incidental use are
9 fully recaptured by the recipient from the nontransit
10 public entity or private entity;

11 “(3) the recipient uses revenues received from
12 the incidental use in excess of costs for planning,
13 capital, and operating expenses that are incurred in
14 providing public transportation; and

15 “(4) private entities pay all applicable excise
16 taxes on fuel.

17 “(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

18 “(1) STUDY.—Not later than 6 months after
19 the date of enactment of this Act, the Secretary
20 shall conduct a study to determine the feasibility of
21 providing a categorical exclusion for streetcar, bus
22 rapid transit, and light rail projects located within
23 an existing transportation right-of-way from the re-
24 quirements of the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.) in accordance

1 with the Council on Environmental Quality imple-
2 menting regulations under parts 1500 through 1508
3 of title 40, Code of Federal Regulations, or any suc-
4 cessor thereto.

5 “(2) FINDINGS AND RULES.—Not later than 1
6 year after the date of enactment of this Act, the
7 Secretary shall issue findings and, if appropriate,
8 issue rules to provide categorical exclusions for suit-
9 able categories of projects.”.

10 **SEC. 18. CONTRACT REQUIREMENTS.**

11 Section 5325 of title 49, United States Code, is
12 amended—

13 (1) in subsection (h), by striking “Federal Pub-
14 lic Transportation Act of 2005” and inserting “Fed-
15 eral Public Transportation Act of 2012”;

16 (2) in subsection (j)(2)(C), by striking “, in-
17 cluding the performance reported in the Contractor
18 Performance Assessment Reports required under
19 section 5309(l)(2)”;

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

21 “(k) VETERANS EMPLOYMENT.—Recipients and sub-
22 recipients of Federal financial assistance under this chap-
23 ter shall ensure that contractors working on a capital
24 project funded using such assistance give a hiring pref-
25 erence to veterans, as defined in section 2108 of title 5,

1 who have the requisite skills and abilities to perform the
2 construction work required under the contract.”.

3 **SEC. 19. TRANSIT ASSET MANAGEMENT.**

4 Section 5326 of title 49, United States Code, is
5 amended to read as follows:

6 **“§ 5326. Transit asset management**

7 “(a) DEFINITIONS.—In this section the following
8 definitions shall apply:

9 “(1) CAPITAL ASSET.—The term ‘capital asset’
10 includes equipment, rolling stock, infrastructure, and
11 facilities for use in public transportation and owned
12 or leased by a recipient or subrecipient of Federal fi-
13 nancial assistance under this chapter.

14 “(2) TRANSIT ASSET MANAGEMENT PLAN.—
15 The term ‘transit asset management plan’ means a
16 plan developed by a recipient of funding under this
17 chapter that—

18 “(A) includes, at a minimum, capital asset
19 inventories and condition assessments, decision
20 support tools, and investment prioritization;
21 and

22 “(B) the recipient certifies complies with
23 the rule issued under this section.

24 “(3) TRANSIT ASSET MANAGEMENT SYSTEM.—
25 The term ‘transit asset management system’ means

1 a strategic and systematic process of operating,
2 maintaining, and improving public transportation
3 capital assets effectively throughout the life cycle of
4 such assets.

5 “(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The
6 Secretary shall establish and implement a national transit
7 asset management system, which shall include—

8 “(1) a definition of the term ‘state of good re-
9 pair’ that includes objective standards for measuring
10 the condition of capital assets of recipients, includ-
11 ing equipment, rolling stock, infrastructure, and fa-
12 cilities;

13 “(2) a requirement that recipients and sub-
14 recipients of Federal financial assistance under this
15 chapter develop a transit asset management plan;

16 “(3) a requirement that each recipient of Fed-
17 eral financial assistance under this chapter report on
18 the condition of the system of the recipient and pro-
19 vide a description of any change in condition since
20 the last report;

21 “(4) an analytical process or decision support
22 tool for use by public transportation systems that—

23 “(A) allows for the estimation of capital
24 investment needs of such systems over time;
25 and

1 “(B) assists with asset investment
2 prioritization by such systems; and

3 “(5) technical assistance to recipients of Fed-
4 eral financial assistance under this chapter.

5 “(c) PERFORMANCE MEASURES AND TARGETS.—

6 “(1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of the Federal Public Trans-
8 portation Act of 2012, the Secretary shall issue a
9 final rule to establish performance measures based
10 on the state of good repair standards established
11 under subsection (b)(1).

12 “(2) TARGETS.—Not later than 3 months after
13 the date on which the Secretary issues a final rule
14 under paragraph (1), and each fiscal year thereafter,
15 each recipient of Federal financial assistance under
16 this chapter shall establish performance targets in
17 relation to the performance measures established by
18 the Secretary.

19 “(3) REPORTS.—Each recipient of Federal fi-
20 nancial assistance under this chapter shall submit to
21 the Secretary an annual report that describes—

22 “(A) the progress of the recipient during
23 the fiscal year to which the report relates to-
24 ward meeting the performance targets estab-

1 lished under paragraph (2) for that fiscal year;
2 and

3 “(B) the performance targets established
4 by the recipient for the subsequent fiscal year.

5 “(d) RULEMAKING.—Not later than 1 year after the
6 date of enactment of the Federal Public Transportation
7 Act of 2012, the Secretary shall issue a final rule to imple-
8 ment the transit asset management system described in
9 subsection (b).”.

10 **SEC. 20. PROJECT MANAGEMENT OVERSIGHT.**

11 Section 5327 of title 49, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) in the matter preceding paragraph (1),
15 by striking “United States” and all that follows
16 through “Secretary of Transportation” and in-
17 serting the following: “Federal financial assist-
18 ance for a major capital project for public
19 transportation under this chapter or any other
20 provision of Federal law, a recipient must pre-
21 pare a project management plan approved by
22 the Secretary and carry out the project in ac-
23 cordance with the project management plan”;
24 and

1 (B) in paragraph (12), by striking “each
2 month” and inserting “quarterly”;

3 (2) by striking subsections (e), (d), and (f);

4 (3) by inserting after subsection (b) the fol-
5 lowing:

6 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
7 ent of Federal financial assistance for public transpor-
8 tation under this chapter or any other provision of Federal
9 law shall provide the Secretary and a contractor the Sec-
10 retary chooses under section 5338(g) with access to the
11 construction sites and records of the recipient when rea-
12 sonably necessary.”;

13 (4) by redesignating subsection (e) as sub-
14 section (d); and

15 (5) in subsection (d), as so redesignated—

16 (A) in paragraph (1), by striking “sub-
17 section (c) of this section” and inserting “sec-
18 tion 5338(g)”;

19 (B) in paragraph (2)—

20 (i) by striking “preliminary engineer-
21 ing stage” and inserting “project develop-
22 ment phase”; and

23 (ii) by striking “another stage” and
24 inserting “another phase”.

1 **SEC. 21. PUBLIC TRANSPORTATION SAFETY.**

2 (a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—

3 Section 5329 of title 49, United States Code, is amended
4 to read as follows:

5 **“§ 5329. Public transportation safety program**

6 “(a) DEFINITION.—In this section, the term ‘recipi-
7 ent’ means a State or local governmental authority, or any
8 other operator of a public transportation system, that re-
9 ceives financial assistance under this chapter.

10 “(b) NATIONAL PUBLIC TRANSPORTATION SAFETY
11 PLAN.—

12 “(1) IN GENERAL.—The Secretary shall create
13 and implement a national public transportation safe-
14 ty plan to improve the safety of all public transpor-
15 tation systems that receive funding under this chap-
16 ter.

17 “(2) CONTENTS OF PLAN.—The national public
18 transportation safety plan under paragraph (1) shall
19 include—

20 “(A) safety performance criteria for all
21 modes of public transportation;

22 “(B) the definition of the term ‘state of
23 good repair’ established under section 5326(b);

24 “(C) minimum safety performance stand-
25 ards for public transportation vehicles used in
26 revenue operations that—

1 “(i) do not apply to rolling stock oth-
2 erwise regulated by the Secretary or any
3 other Federal agency; and

4 “(ii) to the extent practicable, take
5 into consideration—

6 “(I) relevant recommendations of
7 the National Transportation Safety
8 Board; and

9 “(II) recommendations of, and
10 best practices standards developed by,
11 the public transportation industry;
12 and

13 “(D) a public transportation safety certifi-
14 cation training program, as described in sub-
15 section (c).

16 “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-
17 CATION TRAINING PROGRAM.—

18 “(1) IN GENERAL.—The Secretary shall estab-
19 lish a public transportation safety certification train-
20 ing program for Federal and State employees, or
21 other designated personnel, who conduct safety au-
22 dits and examinations of public transportation sys-
23 tems and employees of public transportation agen-
24 cies directly responsible for safety oversight.

1 “(2) INTERIM PROVISIONS.—Not later than 90
2 days after the date of enactment of the Federal
3 Public Transportation Act of 2012, the Secretary
4 shall establish interim provisions for the certification
5 and training of the personnel described in paragraph
6 (1), which shall be in effect until the effective date
7 of the final rule issued by the Secretary to imple-
8 ment this subsection.

9 “(d) PUBLIC TRANSPORTATION AGENCY SAFETY
10 PLAN.—

11 “(1) IN GENERAL.—Effective 1 year after the
12 effective date of a final rule issued by the Secretary
13 to carry out this subsection, each recipient shall cer-
14 tify that the recipient has established a comprehen-
15 sive agency safety plan that includes, at a min-
16 imum—

17 “(A) a requirement that the board of di-
18 rectors (or equivalent entity) of the recipient
19 approve the agency safety plan and any updates
20 to the agency safety plan;

21 “(B) methods for identifying and evalu-
22 ating safety risks throughout all elements of the
23 public transportation system of the recipient;

1 “(C) strategies to minimize the exposure of
2 the public, personnel, and property to hazards
3 and unsafe conditions;

4 “(D) a process and timeline for conducting
5 an annual review and update of the safety plan
6 of the recipient;

7 “(E) performance targets based on the
8 safety performance criteria and state of good
9 repair standards established under subpara-
10 graphs (A) and (B), respectively, of subsection
11 (b)(2);

12 “(F) assignment of an adequately trained
13 safety officer who reports directly to the general
14 manager, president, or equivalent officer of the
15 recipient; and

16 “(G) a comprehensive staff training pro-
17 gram for the operations personnel and per-
18 sonnel directly responsible for safety of the re-
19 cipient that includes—

20 “(i) the completion of a safety train-
21 ing program; and

22 “(ii) continuing safety education and
23 training.

24 “(2) INTERIM AGENCY SAFETY PLAN.—A sys-
25 tem safety plan developed pursuant to part 659 of

1 title 49, Code of Federal Regulations, as in effect on
2 the date of enactment of the Federal Public Trans-
3 portation Act of 2012, shall remain in effect until
4 such time as this subsection takes effect.

5 “(e) STATE SAFETY OVERSIGHT PROGRAM.—

6 “(1) APPLICABILITY.—This subsection applies
7 only to eligible States.

8 “(2) DEFINITION.—In this subsection, the term
9 ‘eligible State’ means a State that has—

10 “(A) a rail fixed guideway public transpor-
11 tation system within the jurisdiction of the
12 State that is not subject to regulation by the
13 Federal Railroad Administration; or

14 “(B) a rail fixed guideway public transpor-
15 tation system in the engineering or construction
16 phase of development within the jurisdiction of
17 the State that will not be subject to regulation
18 by the Federal Railroad Administration.

19 “(3) IN GENERAL.—In order to obligate funds
20 apportioned under section 5338 to carry out this
21 chapter, effective 3 years after the date on which a
22 final rule under this subsection becomes effective, an
23 eligible State shall have in effect a State safety over-
24 sight program approved by the Secretary under
25 which the State—

1 “(A) assumes responsibility for overseeing
2 rail fixed guideway public transportation safety;

3 “(B) adopts and enforces Federal law on
4 rail fixed guideway public transportation safety;

5 “(C) establishes a State safety oversight
6 agency;

7 “(D) determines, in consultation with the
8 Secretary, an appropriate staffing level for the
9 State safety oversight agency that is commensu-
10 rate with the number, size, and complexity of
11 the rail fixed guideway public transportation
12 systems in the eligible State;

13 “(E) requires that employees and other
14 designated personnel of the eligible State safety
15 oversight agency who are responsible for rail
16 fixed guideway public transportation safety
17 oversight are qualified to perform such func-
18 tions through appropriate training, including
19 successful completion of the public transpor-
20 tation safety certification training program es-
21 tablished under subsection (c); and

22 “(F) prohibits any public transportation
23 agency from providing funds to the State safety
24 oversight agency or an entity designated by the

1 eligible State as the State safety oversight
2 agency under paragraph (4).

3 “(4) STATE SAFETY OVERSIGHT AGENCY.—

4 “(A) IN GENERAL.—Each State safety
5 oversight program shall establish a State safety
6 oversight agency that—

7 “(i) is an independent legal entity re-
8 sponsible for the safety of rail fixed guide-
9 way public transportation systems;

10 “(ii) is financially and legally inde-
11 pendent from any public transportation en-
12 tity that the State safety oversight agency
13 oversees;

14 “(iii) does not fund, promote, or pro-
15 vide public transportation services;

16 “(iv) does not employ any individual
17 who is also responsible for the administra-
18 tion of public transportation programs;

19 “(v) has the authority to review, ap-
20 prove, oversee, and enforce the implemen-
21 tation by the rail fixed guideway public
22 transportation agency of the public trans-
23 portation agency safety plan required
24 under subsection (d);

1 “(vi) has investigative and enforce-
2 ment authority with respect to the safety
3 of rail fixed guideway public transportation
4 systems of the eligible State;

5 “(vii) audits, at least once triennially,
6 the compliance of the rail fixed guideway
7 public transportation systems in the eligi-
8 ble State subject to this subsection with
9 the public transportation agency safety
10 plan required under subsection (d); and

11 “(viii) provides, at least once annu-
12 ally, a status report on the safety of the
13 rail fixed guideway public transportation
14 systems the State safety oversight agency
15 oversees to—

16 “(I) the Federal Transit Admin-
17 istration;

18 “(II) the Governor of the eligible
19 State; and

20 “(III) the board of directors, or
21 equivalent entity, of any rail fixed
22 guideway public transportation system
23 that the State safety oversight agency
24 oversees.

1 “(B) WAIVER.—At the request of an eligi-
2 ble State, the Secretary may waive clauses (i)
3 and (iii) of subparagraph (A) for eligible States
4 with 1 or more rail fixed guideway systems in
5 revenue operations, design, or construction,
6 that—

7 “(i) have fewer than 1,000,000 com-
8 bined actual and projected rail fixed guide-
9 way revenue miles per year; or

10 “(ii) provide fewer than 10,000,000
11 combined actual and projected unlinked
12 passenger trips per year.

13 “(5) ENFORCEMENT.—Each State safety over-
14 sight agency shall have the authority to request that
15 the Secretary take enforcement actions available
16 under subsection (g) against a rail fixed guideway
17 public transportation system that is not in compli-
18 ance with Federal safety laws.

19 “(6) PROGRAMS FOR MULTI-STATE RAIL FIXED
20 GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An
21 eligible State that has within the jurisdiction of the
22 eligible State a rail fixed guideway public transpor-
23 tation system that operates in more than 1 eligible
24 State shall—

1 “(A) jointly with all other eligible States in
2 which the rail fixed guideway public transpor-
3 tation system operates, ensure uniform safety
4 standards and enforcement procedures that
5 shall be in compliance with this section, and es-
6 tablish and implement a State safety oversight
7 program approved by the Secretary; or

8 “(B) jointly with all other eligible States in
9 which the rail fixed guideway public transpor-
10 tation system operates, designate an entity hav-
11 ing characteristics consistent with the charac-
12 teristics described in paragraph (3) to carry out
13 the State safety oversight program approved by
14 the Secretary.

15 “(7) GRANTS.—

16 “(A) IN GENERAL.—The Secretary may
17 make a grant to an eligible State to develop or
18 carry out a State safety oversight program, if
19 the eligible State submits—

20 “(i) a proposal for the establishment
21 of a State safety oversight program to the
22 Secretary for review and written approval
23 before implementing a State safety over-
24 sight program; and

1 “(ii) any amendment to the State
2 safety oversight program of the eligible
3 State to the Secretary for review not later
4 than 60 days before the effective date of
5 the amendment.

6 “(B) DETERMINATION BY SECRETARY.—

7 “(i) IN GENERAL.—The Secretary
8 shall transmit written approval to an eligi-
9 ble State that submits a State safety over-
10 sight program, if the Secretary determines
11 the State safety oversight program meets
12 the requirements of this subsection and the
13 State safety oversight program is adequate
14 to promote the purposes of this section.

15 “(ii) AMENDMENT.—The Secretary
16 shall transmit to an eligible State that sub-
17 mits an amendment under subparagraph
18 (A)(ii) a written determination with re-
19 spect to the amendment.

20 “(iii) NO WRITTEN DECISION.—If an
21 eligible State does not receive a written de-
22 cision from the Secretary with respect to
23 an amendment submitted under subpara-
24 graph (A)(ii) before the end of the 60-day
25 period beginning on the date on which the

1 eligible State submits the amendment, the
2 amendment shall be deemed to be ap-
3 proved.

4 “(iv) DISAPPROVAL.—If the Secretary
5 determines that a State safety oversight
6 program does not meet the requirements of
7 this subsection, the Secretary shall trans-
8 mit to the eligible State a written expla-
9 nation and allow the eligible State to mod-
10 ify and resubmit the State safety oversight
11 program for approval.

12 “(C) GOVERNMENT SHARE.—

13 “(i) IN GENERAL.—The Government
14 share of the reasonable cost of a State
15 safety oversight program developed or car-
16 ried out using a grant under this para-
17 graph shall be 80 percent.

18 “(ii) IN-KIND CONTRIBUTIONS.—Any
19 calculation of the non-Government share of
20 a State safety oversight program shall in-
21 clude in-kind contributions by an eligible
22 State.

23 “(iii) NON-GOVERNMENT SHARE.—
24 The non-Government share of the cost of
25 a State safety oversight program developed

1 or carried out using a grant under this
2 paragraph may not be met by—

3 “(I) any Federal funds;

4 “(II) any funds received from a
5 public transportation agency; or

6 “(III) any revenues earned by a
7 public transportation agency.

8 “(iv) SAFETY TRAINING PROGRAM.—

9 The Secretary may reimburse an eligible
10 State or a recipient for the full costs of
11 participation in the public transportation
12 safety certification training program estab-
13 lished under subsection (c) by an employee
14 of a State safety oversight agency or a re-
15 cipient who is directly responsible for safe-
16 ty oversight.

17 “(8) CONTINUAL EVALUATION OF PROGRAM.—

18 The Secretary shall continually evaluate the imple-
19 mentation of a State safety oversight program by a
20 State safety oversight agency, on the basis of—

21 “(A) reports submitted by the State safety
22 oversight agency under paragraph (4)(A)(viii);
23 and

24 “(B) audits carried out by the Secretary.

25 “(9) INADEQUATE PROGRAM.—

1 “(A) IN GENERAL.—If the Secretary finds
2 that a State safety oversight program approved
3 by the Secretary is not being carried out in ac-
4 cordance with this section or has become inad-
5 equate to ensure the enforcement of Federal
6 safety regulations, the Secretary shall—

7 “(i) transmit to the eligible State a
8 written explanation of the reason the pro-
9 gram has become inadequate and inform
10 the State of the intention to withhold
11 funds, including the amount of funds pro-
12 posed to be withheld under this section, or
13 withdraw approval of the State safety over-
14 sight program; and

15 “(ii) allow the eligible State a reason-
16 able period of time to modify the State
17 safety oversight program or implementa-
18 tion of the program and submit an up-
19 dated proposal for the State safety over-
20 sight program to the Secretary for ap-
21 proval.

22 “(B) FAILURE TO CORRECT.—If the Sec-
23 retary determines that a modification by an eli-
24 gible State of the State safety oversight pro-
25 gram is not sufficient to ensure the enforcement

1 of Federal safety regulations, the Secretary
2 may—

3 “(i) withhold funds available under
4 this section in an amount determined by
5 the Secretary; or

6 “(ii) provide written notice of with-
7 drawal of State safety oversight program
8 approval.

9 “(C) TEMPORARY OVERSIGHT.—In the
10 event the Secretary takes action under subpara-
11 graph (B)(ii), the Secretary shall provide over-
12 sight of the rail fixed guideway systems in an
13 eligible State until the State submits a State
14 safety oversight program approved by the Sec-
15 retary.

16 “(D) RESTORATION.—

17 “(i) CORRECTION.—The eligible State
18 shall address any inadequacy to the satis-
19 faction of the Secretary prior to the Sec-
20 retary restoring funds withheld under this
21 paragraph.

22 “(ii) AVAILABILITY AND REALLOCA-
23 TION.—Any funds withheld under this
24 paragraph shall remain available for res-
25 toration to the eligible State until the end

1 of the first fiscal year after the fiscal year
2 in which the funds were withheld, after
3 which time the funds shall be available to
4 the Secretary for allocation to other eligi-
5 ble States under this section.

6 “(10) FEDERAL OVERSIGHT.—The Secretary
7 shall—

8 “(A) oversee the implementation of each
9 State safety oversight program under this sub-
10 section;

11 “(B) audit the operations of each State
12 safety oversight agency at least once triennially;
13 and

14 “(C) issue rules to carry out this sub-
15 section.

16 “(f) AUTHORITY OF SECRETARY.—In carrying out
17 this section, the Secretary may—

18 “(1) conduct inspections, investigations, audits,
19 examinations, and testing of the equipment, facili-
20 ties, rolling stock, and operations of the public
21 transportation system of a recipient;

22 “(2) make reports and issue directives with re-
23 spect to the safety of the public transportation sys-
24 tem of a recipient;

1 “(3) in conjunction with an accident investiga-
2 tion or an investigation into a pattern or practice of
3 conduct that negatively affects public safety, issue a
4 subpoena to, and take the deposition of, any em-
5 ployee of a recipient or a State safety oversight
6 agency, if—

7 “(A) before the issuance of the subpoena,
8 the Secretary requests a determination by the
9 Attorney General of the United States as to
10 whether the subpoena will interfere with an on-
11 going criminal investigation; and

12 “(B) the Attorney General—

13 “(i) determines that the subpoena will
14 not interfere with an ongoing criminal in-
15 vestigation; or

16 “(ii) fails to make a determination
17 under clause (i) before the date that is 30
18 days after the date on which the Secretary
19 makes a request under subparagraph (A);

20 “(4) require the production of documents by,
21 and prescribe recordkeeping and reporting require-
22 ments for, a recipient or a State safety oversight
23 agency;

1 “(5) investigate public transportation accidents
2 and incidents and provide guidance to recipients re-
3 garding prevention of accidents and incidents;

4 “(6) at reasonable times and in a reasonable
5 manner, enter and inspect equipment, facilities, roll-
6 ing stock, operations, and relevant records of the
7 public transportation system of a recipient; and

8 “(7) issue rules to carry out this section.

9 “(g) ENFORCEMENT ACTIONS.—

10 “(1) TYPES OF ENFORCEMENT ACTIONS.—The
11 Secretary may take enforcement action against a re-
12 cipient that does not comply with Federal law with
13 respect to the safety of the public transportation
14 system, including—

15 “(A) issuing directives;

16 “(B) requiring more frequent oversight of
17 the recipient by a State safety oversight agency
18 or the Secretary;

19 “(C) imposing more frequent reporting re-
20 quirements;

21 “(D) requiring that any Federal financial
22 assistance provided under this chapter be spent
23 on correcting safety deficiencies identified by
24 the Secretary or the State safety oversight

1 agency before such funds are spent on other
2 projects;

3 “(E) subject to paragraph (2), withholding
4 Federal financial assistance, in an amount to be
5 determined by the Secretary, from the recipient,
6 until such time as the recipient comes into com-
7 pliance with this section; and

8 “(F) subject to paragraph (3), imposing a
9 civil penalty, in an amount to be determined by
10 the Secretary.

11 “(2) USE OR WITHHOLDING OF FUNDS.—

12 “(A) IN GENERAL.—The Secretary may re-
13 quire the use of funds in accordance with para-
14 graph (1)(D), or withhold funds under para-
15 graph (1)(E), only if the Secretary finds that a
16 recipient is engaged in a pattern or practice of
17 serious safety violations or has otherwise re-
18 fused to comply with Federal law relating to the
19 safety of the public transportation system.

20 “(B) NOTICE.—Before withholding funds
21 from a recipient under paragraph (1)(E), the
22 Secretary shall provide to the recipient—

23 “(i) written notice of a violation and
24 the amount proposed to be withheld; and

1 Secretary for allocation to other eligible re-
2 cipients.

3 “(E) NOTIFICATION.—Not later than 3
4 days before taking any action under subpara-
5 graph (C), the Secretary shall notify the Com-
6 mittee on Banking, Housing, and Urban Affairs
7 of the Senate and the Committee on Transpor-
8 tation and Infrastructure of the House of Rep-
9 resentatives of such action.

10 “(3) CIVIL PENALTIES.—

11 “(A) IMPOSITION OF CIVIL PENALTIES.—

12 “(i) IN GENERAL.—The Secretary
13 may impose a civil penalty under para-
14 graph (1)(F) only if—

15 “(I) the Secretary has exhausted
16 the enforcement actions available
17 under subparagraphs (A) through (E)
18 of paragraph (1); and

19 “(II) the recipient continues to
20 be in violation of Federal safety law.

21 “(ii) EXCEPTION.—The Secretary
22 may waive the requirement under clause
23 (i)(I) if the Secretary determines that such
24 a waiver is in the public interest.

1 “(B) NOTICE.—Before imposing a civil
2 penalty on a recipient under paragraph (1)(F),
3 the Secretary shall provide to the recipient—

4 “(i) written notice of any violation
5 and the penalty proposed to be imposed;
6 and

7 “(ii) a reasonable period of time with-
8 in which the recipient may address the vio-
9 lation or propose and initiate an alter-
10 native means of compliance that the Sec-
11 retary determines is acceptable.

12 “(C) FAILURE TO ADDRESS.—If the recipi-
13 ent does not address the violation or propose an
14 alternative means of compliance that the Sec-
15 retary determines is acceptable within the pe-
16 riod of time specified in the written notice, the
17 Secretary may impose a civil penalty under
18 paragraph (1)(F).

19 “(D) NOTIFICATION.—Not later than 3
20 days before taking any action under subpara-
21 graph (C), the Secretary shall notify the Com-
22 mittee on Banking, Housing, and Urban Affairs
23 of the Senate and the Committee on Transpor-
24 tation and Infrastructure of the House of Rep-
25 resentatives of such action.

1 “(E) DEPOSIT OF CIVIL PENALTIES.—Any
2 amounts collected by the Secretary under this
3 paragraph shall be deposited into the Mass
4 Transit Account of the Highway Trust Fund.

5 “(4) ENFORCEMENT BY THE ATTORNEY GEN-
6 ERAL.—At the request of the Secretary, the Attor-
7 ney General may bring a civil action—

8 “(A) for appropriate injunctive relief to en-
9 sure compliance with this section;

10 “(B) to collect a civil penalty imposed
11 under paragraph (1)(F); and

12 “(C) to enforce a subpoena, request for ad-
13 missions, request for production of documents
14 or other tangible things, or request for testi-
15 mony by deposition issued by the Secretary
16 under this section.

17 “(h) COST-BENEFIT ANALYSIS.—

18 “(1) ANALYSIS REQUIRED.—In carrying out
19 this section, the Secretary shall take into consider-
20 ation the costs and benefits of each action the Sec-
21 retary proposes to take under this section.

22 “(2) WAIVER.—The Secretary may waive the
23 requirement under this subsection if the Secretary
24 determines that such a waiver is in the public inter-
25 est.

1 “(i) CONSULTATION BY THE SECRETARY OF HOME-
2 LAND SECURITY.—The Secretary of Homeland Security
3 shall consult with the Secretary of Transportation before
4 the Secretary of Homeland Security issues a rule or order
5 that the Secretary of Transportation determines affects
6 the safety of public transportation design, construction, or
7 operations.

8 “(j) PREEMPTION OF STATE LAW.—

9 “(1) NATIONAL UNIFORMITY OF REGULA-
10 TION.—Laws, regulations, and orders related to pub-
11 lic transportation safety shall be nationally uniform
12 to the extent practicable.

13 “(2) IN GENERAL.—A State may adopt or con-
14 tinue in force a law, regulation, or order related to
15 the safety of public transportation until the Sec-
16 retary issues a rule or order covering the subject
17 matter of the State requirement.

18 “(3) MORE STRINGENT LAW.—A State may
19 adopt or continue in force a law, regulation, or order
20 related to the safety of public transportation that is
21 consistent with, in addition to, or more stringent
22 than a regulation or order of the Secretary if the
23 Secretary determines that the law, regulation, or
24 order—

25 “(A) has a safety benefit;

1 “(B) is not incompatible with a law, regu-
2 lation, or order, or the terms and conditions of
3 a financial assistance agreement of the United
4 States Government; and

5 “(C) does not unreasonably burden inter-
6 state commerce.

7 “(4) ACTIONS UNDER STATE LAW.—

8 “(A) RULE OF CONSTRUCTION.—Nothing
9 in this section shall be construed to preempt an
10 action under State law seeking damages for
11 personal injury, death, or property damage al-
12 leging that a party has failed to comply with—

13 “(i) a Federal standard of care estab-
14 lished by a regulation or order issued by
15 the Secretary under this section;

16 “(ii) its own program, rule, or stand-
17 ard that it created pursuant to a rule or
18 order issued by the Secretary; or

19 “(iii) a State law, regulation, or order
20 that is not incompatible with paragraph
21 (2).

22 “(B) EFFECTIVE DATE.—This paragraph
23 shall apply to any cause of action under State
24 law arising from an event or activity occurring

1 on or after the date of enactment of the Fed-
2 eral Public Transportation Act of 2012.

3 “(5) JURISDICTION.—Nothing in this section
4 shall be construed to create a cause of action under
5 Federal law on behalf of an injured party or confer
6 Federal question jurisdiction for a State law cause
7 of action.

8 “(k) ANNUAL REPORT.—The Secretary shall submit
9 to the Committee on Banking, Housing, and Urban Af-
10 fairs of the Senate and the Committee on Transportation
11 and Infrastructure of the House of Representatives an an-
12 nual report that—

13 “(1) analyzes public transportation safety
14 trends among the States and documents the most ef-
15 fective safety programs implemented using grants
16 under this section; and

17 “(2) describes the effect on public transpor-
18 tation safety of activities carried out using grants
19 under this section.”.

20 (b) BUS SAFETY STUDY.—

21 (1) DEFINITION.—In this subsection, the term
22 “highway route” means a route where 50 percent or
23 more of the route is on roads having a speed limit
24 of more than 45 miles per hour.

1 (2) STUDY.—Not later than 180 days after the
2 date of enactment of this Act, the Secretary of
3 Transportation shall submit to the Committee on
4 Banking, Housing, and Urban Affairs of the Senate
5 and the Committee on Transportation and Infra-
6 structure of the House of Representatives a report
7 that—

8 (A) examines the safety of public transpor-
9 tation buses that travel on highway routes;

10 (B) examines laws and regulations that
11 apply to commercial over-the-road buses; and

12 (C) makes recommendations as to whether
13 additional safety measures should be required
14 for public transportation buses that travel on
15 highway routes.

16 **SEC. 22. ALCOHOL AND CONTROLLED SUBSTANCES TEST-**
17 **ING.**

18 Section 5331(b)(2) of title 49, United States Code,
19 is amended—

20 (1) by redesignating subparagraphs (A) and
21 (B) as subparagraphs (B) and (C), respectively; and

22 (2) by inserting before subparagraph (B), as so
23 redesignated, the following:

1 “(A) shall establish and implement an enforce-
2 ment program that includes the imposition of pen-
3 alties for failure to comply with this section;”.

4 **SEC. 23. NONDISCRIMINATION.**

5 (a) AMENDMENTS.—Section 5332 of title 49, United
6 States Code, is amended—

7 (1) in subsection (b)—

8 (A) by striking “creed” and inserting “reli-
9 gion”; and

10 (B) by inserting “disability,” after “sex,”;
11 and

12 (2) in subsection (d)(3), by striking “and” and
13 inserting “or”.

14 (b) EVALUATION AND REPORT.—

15 (1) EVALUATION.—The Comptroller General of
16 the United States shall evaluate the progress and ef-
17 fectiveness of the Federal Transit Administration in
18 assisting recipients of assistance under chapter 53 of
19 title 49, United States Code, to comply with section
20 5332(b) of title 49, including—

21 (A) by reviewing discrimination complaints,
22 reports, and other relevant information collected
23 or prepared by the Federal Transit Administra-
24 tion or recipients of assistance from the Federal
25 Transit Administration pursuant to any appli-

1 cable civil rights statute, regulation, or other re-
2 quirement; and

3 (B) by reviewing the process that the Fed-
4 eral Transit Administration uses to resolve dis-
5 crimination complaints filed by members of the
6 public.

7 (2) REPORT.—Not later than 1 year after the
8 date of enactment of this Act, the Comptroller Gen-
9 eral shall submit to the Committee on Banking,
10 Housing, and Urban Affairs of the Senate and the
11 Committee on Transportation and Infrastructure of
12 the House of Representatives a report concerning
13 the evaluation under paragraph (1) that includes—

14 (A) a description of the ability of the Fed-
15 eral Transit Administration to address discrimi-
16 nation and foster equal opportunities in feder-
17 ally funded public transportation projects, pro-
18 grams, and activities;

19 (B) recommendations for improvements if
20 the Comptroller General determines that im-
21 provements are necessary; and

22 (C) information upon which the evaluation
23 under paragraph (1) is based.

1 **SEC. 24. LABOR STANDARDS.**

2 Section 5333(b) of title 49, United States Code, is
3 amended—

4 (1) in paragraph (1), by striking “sections
5 5307-5312, 5316, 5318, 5323(a)(1), 5323(b),
6 5323(d), 5328, 5337, and 5338(b)” each place that
7 term appears and inserting “sections 5307, 5308,
8 5309, 5311, and 5337”; and

9 (2) in paragraph (5), by inserting “of Labor”
10 after “Secretary”.

11 **SEC. 25. ADMINISTRATIVE PROVISIONS.**

12 Section 5334 of title 49, United States Code, is
13 amended—

14 (1) in subsection (a)(1), by striking “under sec-
15 tions 5307 and 5309-5311 of this title” and insert-
16 ing “that receives Federal financial assistance under
17 this chapter”;

18 (2) in subsection (b)(1)—

19 (A) by inserting after “emergency,” the
20 following: “or for purposes of establishing and
21 enforcing a program to improve the safety of
22 public transportation systems in the United
23 States,”; and

24 (B) by striking “chapter, nor may the Sec-
25 retary” and inserting “chapter. The Secretary
26 may not”;

1 (3) in subsection (c)(4), by striking “section
2 (except subsection (i)) and sections 5318(e),
3 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and in-
4 serting “subsection”;

5 (4) in subsection (h)(3), by striking “another”
6 and inserting “any other”;

7 (5) in subsection (i)(1), by striking “title 23
8 shall” and inserting “title 23 may”;

9 (6) by striking subsection (j); and

10 (7) by redesignating subsections (k) and (l) as
11 subsections (j) and (k), respectively.

12 **SEC. 26. NATIONAL TRANSIT DATABASE.**

13 Section 5335 of title 49, United States Code, is
14 amended by adding at the end the following:

15 “(c) DATA REQUIRED TO BE REPORTED.—The re-
16 cipient of a grant under this chapter shall report to the
17 Secretary, for inclusion in the National Transit Database,
18 any information relating to—

19 “(1) the causes of a reportable incident, as de-
20 fined by the Secretary; and

21 “(2) a transit asset inventory or condition as-
22 sessment conducted by the recipient.”.

1 **SEC. 27. APPORTIONMENT OF APPROPRIATIONS FOR FOR-**
2 **MULA GRANTS.**

3 Section 5336 of title 49, United States Code, is
4 amended to read as follows:

5 **“§ 5336. Apportionment of appropriations for formula**
6 **grants**

7 “(a) **BASED ON URBANIZED AREA POPULATION.—**
8 Of the amount apportioned under subsection (h)(4) to
9 carry out section 5307—

10 “(1) 9.32 percent shall be apportioned each fis-
11 cal year only in urbanized areas with a population
12 of less than 200,000 so that each of those areas is
13 entitled to receive an amount equal to—

14 “(A) 50 percent of the total amount appor-
15 tioned multiplied by a ratio equal to the popu-
16 lation of the area divided by the total popu-
17 lation of all urbanized areas with populations of
18 less than 200,000 as shown in the most recent
19 decennial census; and

20 “(B) 50 percent of the total amount appor-
21 tioned multiplied by a ratio for the area based
22 on population weighted by a factor, established
23 by the Secretary, of the number of inhabitants
24 in each square mile; and

25 “(2) 90.68 percent shall be apportioned each
26 fiscal year only in urbanized areas with populations

1 of at least 200,000 as provided in subsections (b)
2 and (c) of this section.

3 “(b) BASED ON FIXED GUIDEWAY REVENUE VEHI-
4 CLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—(1)

5 In this subsection, ‘fixed guideway revenue vehicle-miles’
6 and ‘fixed guideway route-miles’ include passenger ferry
7 operations directly or under contract by the designated re-
8 cipient.

9 “(2) Of the amount apportioned under subsection
10 (a)(2) of this section, 33.29 percent shall be apportioned
11 as follows:

12 “(A) 95.61 percent of the total amount appor-
13 tioned under this subsection shall be apportioned so
14 that each urbanized area with a population of at
15 least 200,000 is entitled to receive an amount equal
16 to—

17 “(i) 60 percent of the 95.61 percent appor-
18 tioned under this subparagraph multiplied by a
19 ratio equal to the number of fixed guideway
20 revenue vehicle-miles attributable to the area,
21 as established by the Secretary, divided by the
22 total number of all fixed guideway revenue vehi-
23 cle-miles attributable to all areas; and

24 “(ii) 40 percent of the 95.61 percent ap-
25 portioned under this subparagraph multiplied

1 by a ratio equal to the number of fixed guide-
2 way route-miles attributable to the area, estab-
3 lished by the Secretary, divided by the total
4 number of all fixed guideway route-miles attrib-
5 utable to all areas.

6 An urbanized area with a population of at least
7 750,000 in which commuter rail transportation is
8 provided shall receive at least .75 percent of the
9 total amount apportioned under this subparagraph.

10 “(B) 4.39 percent of the total amount appor-
11 tioned under this subsection shall be apportioned so
12 that each urbanized area with a population of at
13 least 200,000 is entitled to receive an amount equal
14 to—

15 “(i) the number of fixed guideway vehicle
16 passenger-miles traveled multiplied by the num-
17 ber of fixed guideway vehicle passenger-miles
18 traveled for each dollar of operating cost in an
19 area; divided by

20 “(ii) the total number of fixed guideway
21 vehicle passenger-miles traveled multiplied by
22 the total number of fixed guideway vehicle pas-
23 senger-miles traveled for each dollar of oper-
24 ating cost in all areas.

1 An urbanized area with a population of at least
2 750,000 in which commuter rail transportation is
3 provided shall receive at least .75 percent of the
4 total amount apportioned under this subparagraph.

5 “(C) Under subparagraph (A) of this para-
6 graph, fixed guideway revenue vehicle- or route-
7 miles, and passengers served on those miles, in an
8 urbanized area with a population of less than
9 200,000, where the miles and passengers served oth-
10 erwise would be attributable to an urbanized area
11 with a population of at least 1,000,000 in an adja-
12 cent State, are attributable to the governmental au-
13 thority in the State in which the urbanized area with
14 a population of less than 200,000 is located. The au-
15 thority is deemed an urbanized area with a popu-
16 lation of at least 200,000 if the authority makes a
17 contract for the service.

18 “(D) A recipient’s apportionment under sub-
19 paragraph (A)(i) of this paragraph may not be re-
20 duced if the recipient, after satisfying the Secretary
21 that energy or operating efficiencies would be
22 achieved, reduces revenue vehicle-miles but provides
23 the same frequency of revenue service to the same
24 number of riders.

1 “(c) BASED ON BUS REVENUE VEHICLE-MILES AND
2 PASSENGER-MILES.—Of the amount apportioned under
3 subsection (a)(2) of this section, 66.71 percent shall be
4 apportioned as follows:

5 “(1) 90.8 percent of the total amount appor-
6 tioned under this subsection shall be apportioned as
7 follows:

8 “(A) 73.39 percent of the 90.8 percent ap-
9 portioned under this paragraph shall be appor-
10 tioned so that each urbanized area with a popu-
11 lation of at least 1,000,000 is entitled to receive
12 an amount equal to—

13 “(i) 50 percent of the 73.39 percent
14 apportioned under this subparagraph mul-
15 tiplied by a ratio equal to the total bus rev-
16 enue vehicle-miles operated in or directly
17 serving the urbanized area divided by the
18 total bus revenue vehicle-miles attributable
19 to all areas;

20 “(ii) 25 percent of the 73.39 percent
21 apportioned under this subparagraph mul-
22 tiplied by a ratio equal to the population of
23 the area divided by the total population of
24 all areas, as shown in the most recent de-
25 cennial census; and

1 “(iii) 25 percent of the 73.39 percent
2 apportioned under this subparagraph mul-
3 tiplied by a ratio for the area based on
4 population weighted by a factor, estab-
5 lished by the Secretary, of the number of
6 inhabitants in each square mile.

7 “(B) 26.61 percent of the 90.8 percent ap-
8 portioned under this paragraph shall be appor-
9 tioned so that each urbanized area with a popu-
10 lation of at least 200,000 but not more than
11 999,999 is entitled to receive an amount equal
12 to—

13 “(i) 50 percent of the 26.61 percent
14 apportioned under this subparagraph mul-
15 tiplied by a ratio equal to the total bus rev-
16 enue vehicle-miles operated in or directly
17 serving the urbanized area divided by the
18 total bus revenue vehicle-miles attributable
19 to all areas;

20 “(ii) 25 percent of the 26.61 percent
21 apportioned under this subparagraph mul-
22 tiplied by a ratio equal to the population of
23 the area divided by the total population of
24 all areas, as shown by the most recent de-
25 cennial census; and

1 “(iii) 25 percent of the 26.61 percent
2 apportioned under this subparagraph mul-
3 tiplied by a ratio for the area based on
4 population weighted by a factor, estab-
5 lished by the Secretary, of the number of
6 inhabitants in each square mile.

7 “(2) 9.2 percent of the total amount appor-
8 tioned under this subsection shall be apportioned so
9 that each urbanized area with a population of at
10 least 200,000 is entitled to receive an amount equal
11 to—

12 “(A) the number of bus passenger-miles
13 traveled multiplied by the number of bus pas-
14 senger-miles traveled for each dollar of oper-
15 ating cost in an area; divided by

16 “(B) the total number of bus passenger-
17 miles traveled multiplied by the total number of
18 bus passenger-miles traveled for each dollar of
19 operating cost in all areas.

20 “(d) DATE OF APPORTIONMENT.—The Secretary
21 shall—

22 “(1) apportion amounts appropriated under sec-
23 tion 5338(a)(2)(C) of this title to carry out section
24 5307 of this title not later than the 10th day after
25 the date the amounts are appropriated or October 1

1 of the fiscal year for which the amounts are appro-
2 priated, whichever is later; and

3 “(2) publish apportionments of the amounts, in-
4 cluding amounts attributable to each urbanized area
5 with a population of more than 50,000 and amounts
6 attributable to each State of a multistate urbanized
7 area, on the apportionment date.

8 “(e) AMOUNTS NOT APPORTIONED TO DESIGNATED
9 RECIPIENTS.—The Governor of a State may expend in an
10 urbanized area with a population of less than 200,000 an
11 amount apportioned under this section that is not appor-
12 tioned to a designated recipient, as defined in section
13 5302(5).

14 “(f) TRANSFERS OF APPORTIONMENTS.—(1) The
15 Governor of a State may transfer any part of the State’s
16 apportionment under subsection (a)(1) of this section to
17 supplement amounts apportioned to the State under sec-
18 tion 5311(c)(3). The Governor may make a transfer only
19 after consulting with responsible local officials and pub-
20 licly owned operators of public transportation in each area
21 for which the amount originally was apportioned under
22 this section.

23 “(2) The Governor of a State may transfer any part
24 of the State’s apportionment under section 5311(c)(3) to

1 supplement amounts apportioned to the State under sub-
2 section (a)(1) of this section.

3 “(3) The Governor of a State may use throughout
4 the State amounts of a State’s apportionment remaining
5 available for obligation at the beginning of the 90-day pe-
6 riod before the period of the availability of the amounts
7 expires.

8 “(4) A designated recipient for an urbanized area
9 with a population of at least 200,000 may transfer a part
10 of its apportionment under this section to the Governor
11 of a State. The Governor shall distribute the transferred
12 amounts to urbanized areas under this section.

13 “(5) Capital and operating assistance limitations ap-
14 plicable to the original apportionment apply to amounts
15 transferred under this subsection.

16 “(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An
17 amount apportioned under this section may be obligated
18 by the recipient for 5 years after the fiscal year in which
19 the amount is apportioned. Not later than 30 days after
20 the end of the 5-year period, an amount that is not obli-
21 gated at the end of that period shall be added to the
22 amount that may be apportioned under this section in the
23 next fiscal year.

1 “(h) APPORTIONMENTS.—Of the amounts made
2 available for each fiscal year under section
3 5338(a)(2)(C)—

4 “(1) \$35,000,000 shall be set aside to carry out
5 section 5307(i);

6 “(2) 3.07 percent shall be apportioned to ur-
7 banized areas in accordance with subsection (j);

8 “(3) of amounts not apportioned under para-
9 graphs (1) and (2), 1 percent shall be apportioned
10 to urbanized areas with populations of less than
11 200,000 in accordance with subsection (i); and

12 “(4) any amount not apportioned under para-
13 graphs (1), (2), and (3) shall be apportioned to ur-
14 banized areas in accordance with subsections (a)
15 through (c).

16 “(i) SMALL TRANSIT INTENSIVE CITIES FOR-
17 MULA.—

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

20 “(A) ELIGIBLE AREA.—The term ‘eligible
21 area’ means an urbanized area with a popu-
22 lation of less than 200,000 that meets or ex-
23 ceeds in one or more performance categories the
24 industry average for all urbanized areas with a
25 population of at least 200,000 but not more

1 than 999,999, as determined by the Secretary
2 in accordance with subsection (c)(2).

3 “(B) PERFORMANCE CATEGORY.—The
4 term ‘performance category’ means each of the
5 following:

6 “(i) Passenger miles traveled per vehi-
7 cle revenue mile.

8 “(ii) Passenger miles traveled per ve-
9 hicle revenue hour.

10 “(iii) Vehicle revenue miles per capita.

11 “(iv) Vehicle revenue hours per capita.

12 “(v) Passenger miles traveled per cap-
13 ita.

14 “(vi) Passengers per capita.

15 “(2) APPORTIONMENT.—

16 “(A) APPORTIONMENT FORMULA.—The
17 amount to be apportioned under subsection
18 (h)(3) shall be apportioned among eligible areas
19 in the ratio that—

20 “(i) the number of performance cat-
21 egories for which each eligible area meets
22 or exceeds the industry average in urban-
23 ized areas with a population of at least
24 200,000 but not more than 999,999; bears
25 to

1 “(ii) the aggregate number of per-
2 formance categories for which all eligible
3 areas meet or exceed the industry average
4 in urbanized areas with a population of at
5 least 200,000 but not more than 999,999.

6 “(B) DATA USED IN FORMULA.—The Sec-
7 retary shall calculate apportionments under this
8 subsection for a fiscal year using data from the
9 national transit database used to calculate ap-
10 portionments for that fiscal year under this sec-
11 tion.

12 “(j) APPORTIONMENT FORMULA.—The amounts ap-
13 portioned under subsection (h)(2) shall be apportioned
14 among urbanized areas as follows:

15 “(1) 75 percent of the funds shall be appor-
16 tioned among designated recipients for urbanized
17 areas with a population of 200,000 or more in the
18 ratio that—

19 “(A) the number of eligible low-income in-
20 dividuals in each such urbanized area; bears to

21 “(B) the number of eligible low-income in-
22 dividuals in all such urbanized areas.

23 “(2) 25 percent of the funds shall be appor-
24 tioned among designated recipients for urbanized

1 areas with a population of less than 200,000 in the
2 ratio that—

3 “(A) the number of eligible low-income in-
4 dividuals in each such urbanized area; bears to
5 “(B) the number of eligible low-income in-
6 dividuals in all such urbanized areas.”.

7 **SEC. 28. STATE OF GOOD REPAIR GRANTS.**

8 Section 5337 of title 49, United States Code, is
9 amended to read as follows:

10 **“§ 5337. State of good repair grants**

11 “(a) DEFINITIONS.—In this section, the following
12 definitions shall apply:

13 “(1) FIXED GUIDEWAY.—The term ‘fixed
14 guideway’ means a public transportation facility—

15 “(A) using and occupying a separate right-
16 of-way for the exclusive use of public transpor-
17 tation;

18 “(B) using rail;

19 “(C) using a fixed catenary system;

20 “(D) for a passenger ferry system; or

21 “(E) for a bus rapid transit system.

22 “(2) STATE.—The term ‘State’ means the 50
23 States, the District of Columbia, and Puerto Rico.

1 “(3) STATE OF GOOD REPAIR.—The term ‘state
2 of good repair’ has the meaning given that term by
3 the Secretary, by rule, under section 5326(b).

4 “(4) TRANSIT ASSET MANAGEMENT PLAN.—
5 The term ‘transit asset management plan’ means a
6 plan developed by a recipient of funding under this
7 chapter that—

8 “(A) includes, at a minimum, capital asset
9 inventories and condition assessments, decision
10 support tools, and investment prioritization;
11 and

12 “(B) the recipient certifies that the recipi-
13 ent complies with the rule issued under section
14 5326(d).

15 “(b) GENERAL AUTHORITY.—

16 “(1) ELIGIBLE PROJECTS.—The Secretary may
17 make grants under this section to assist State and
18 local governmental authorities in financing capital
19 projects to maintain public transportation systems in
20 a state of good repair, including projects to replace
21 and rehabilitate—

22 “(A) rolling stock;

23 “(B) track;

24 “(C) line equipment and structures;

25 “(D) signals and communications;

1 “(E) power equipment and substations;

2 “(F) passenger stations and terminals;

3 “(G) security equipment and systems;

4 “(H) maintenance facilities and equipment;

5 “(I) operational support equipment, includ-
6 ing computer hardware and software;

7 “(J) development and implementation of a
8 transit asset management plan; and

9 “(K) other replacement and rehabilitation
10 projects the Secretary determines appropriate.

11 “(2) INCLUSION IN PLAN.—A recipient shall in-
12 clude a project carried out under paragraph (1) in
13 the transit asset management plan of the recipient
14 upon completion of the plan.

15 “(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF
16 GOOD REPAIR FORMULA.—

17 “(1) IN GENERAL.—Of the amount authorized
18 or made available under section 5338(a)(2)(M),
19 \$1,874,763,500 shall be apportioned to recipients in
20 accordance with this subsection.

21 “(2) AREA SHARE.—

22 “(A) IN GENERAL.—50 percent of the
23 amount described in paragraph (1) shall be ap-
24 portioned for fixed guideway systems in accord-
25 ance with this paragraph.

1 “(B) SHARE.—A recipient shall receive an
2 amount equal to the amount described in sub-
3 paragraph (A), multiplied by the amount the
4 recipient would have received under this section,
5 as in effect for fiscal year 2011, if the amount
6 had been calculated using the definition of the
7 term ‘fixed guideway’ under subsection (a) of
8 this section, as in effect on the day after the
9 date of enactment of the Federal Public Trans-
10 portation Act of 2012, and divided by the total
11 amount apportioned for all areas under this
12 section for fiscal year 2011.

13 “(C) RECIPIENT.—For purposes of this
14 paragraph, the term ‘recipient’ means an entity
15 that received funding under this section, as in
16 effect for fiscal year 2011.

17 “(3) REVENUE VEHICLE-MILES AND ROUTE-
18 MILES.—

19 “(A) IN GENERAL.—50 percent of the
20 amount described in paragraph (1) shall be ap-
21 portioned to recipients in accordance with this
22 paragraph.

23 “(B) REVENUE VEHICLE-MILES.—A recipi-
24 ent in an urbanized area shall receive an
25 amount equal to 60 percent of the amount de-

1 scribed in subparagraph (A), multiplied by the
2 number of fixed guideway revenue vehicle-miles
3 attributable to the urbanized area, as estab-
4 lished by the Secretary, divided by the total
5 number of all fixed guideway revenue vehicle-
6 miles attributable to all urbanized areas.

7 “(C) ROUTE-MILES.—A recipient in an ur-
8 banized area shall receive an amount equal to
9 40 percent of the amount described in subpara-
10 graph (A), multiplied by the number of fixed
11 guideway route-miles attributable to the urban-
12 ized area, as established by the Secretary, di-
13 vided by the total number of all fixed guideway
14 route-miles attributable to all urbanized areas.

15 “(4) LIMITATION.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the share of the total
18 amount apportioned under this section that is
19 apportioned to an area under this subsection
20 shall not decrease by more than 0.25 percent-
21 age points compared to the share apportioned
22 to the area under this subsection in the pre-
23 vious fiscal year.

24 “(B) SPECIAL RULE FOR FISCAL YEAR
25 2012.—In fiscal year 2012, the share of the

1 total amount apportioned under this section
2 that is apportioned to an area under this sub-
3 section shall not decrease by more than 0.25
4 percentage points compared to the share that
5 would have been apportioned to the area under
6 this section, as in effect for fiscal year 2011, if
7 the share had been calculated using the defini-
8 tion of the term ‘fixed guideway’ under sub-
9 section (a) of this section, as in effect on the
10 day after the date of enactment of the Federal
11 Public Transportation Act of 2012.

12 “(5) USE OF FUNDS.—Amounts made available
13 under this subsection shall be available for the exclu-
14 sive use of fixed guideway projects.

15 “(6) RECEIVING APPORTIONMENT.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), for an area with a fixed
18 guideway system, the amounts provided under
19 this section shall be apportioned to the des-
20 ignated recipient for the urbanized area in
21 which the system operates.

22 “(B) EXCEPTION.—An area described in
23 the amendment made by section 3028(a) of the
24 Transportation Equity Act for the 21st Century
25 (Public Law 105–178; 112 Stat. 366) shall re-

1 ceive an individual apportionment under this
2 subsection.

3 “(7) APPORTIONMENT REQUIREMENTS.—For
4 purposes of determining the number of fixed guide-
5 way revenue vehicle-miles or fixed guideway route-
6 miles attributable to an urbanized area for a fiscal
7 year under this subsection, only segments of fixed
8 guideway systems placed in revenue service not later
9 than 7 years before the first day of the fiscal year
10 shall be deemed to be attributable to an urbanized
11 area.

12 “(d) FIXED GUIDEWAY STATE OF GOOD REPAIR
13 GRANT PROGRAM.—

14 “(1) IN GENERAL.—The Secretary may make
15 grants under this section to assist State and local
16 governmental authorities in financing fixed guideway
17 capital projects to maintain public transportation
18 systems in a state of good repair.

19 “(2) COMPETITIVE PROCESS.—The Secretary
20 shall solicit grant applications and make grants for
21 eligible projects on a competitive basis.

22 “(3) PRIORITY CONSIDERATION.—In making
23 grants under this subsection, the Secretary shall give
24 priority to grant applications received from recipi-
25 ents receiving an amount under this section that is

1 not less than 2 percent less than the amount the re-
2 cipient would have received under this section, as in
3 effect for fiscal year 2011, if the amount had been
4 calculated using the definition of the term ‘fixed
5 guideway’ under subsection (a) of this section, as in
6 effect on the day after the date of enactment of the
7 Federal Public Transportation Act of 2012.

8 “(e) HIGH INTENSITY MOTORBUS STATE OF GOOD
9 REPAIR.—

10 “(1) DEFINITION.—For purposes of this sub-
11 section, the term ‘fixed guideway motorbus’ means
12 public transportation that is provided on a facility
13 with access for other high-occupancy vehicles.

14 “(2) APPORTIONMENT.—Of the amount author-
15 ized or made available under section 5338(a)(2)(M),
16 \$112,500,000 shall be apportioned to an urbanized
17 area for high intensity motorbus state of good repair
18 in accordance with this subsection.

19 “(3) REVENUE VEHICLE-MILES AND ROUTE-
20 MILES.—

21 “(A) IN GENERAL.—\$60,000,000 of the
22 amount described in paragraph (2) shall be ap-
23 portioned to each area in accordance with this
24 paragraph.

1 “(B) REVENUE VEHICLE-MILES.—Each
2 area shall receive an amount equal to 60 per-
3 cent of the amount described in subparagraph
4 (A), multiplied by the number of fixed guideway
5 motor bus revenue vehicle-miles attributable to
6 the area, as established by the Secretary, di-
7 vided by the total number of all fixed guideway
8 motorbus revenue vehicle-miles attributable to
9 all areas.

10 “(C) ROUTE-MILES.—Each area shall re-
11 ceive an amount equal to 40 percent of the
12 amount described in subparagraph (A), multi-
13 plied by the number of fixed guideway motorbus
14 route-miles attributable to the area, as estab-
15 lished by the Secretary, divided by the total
16 number of all fixed guideway motorbus route-
17 miles attributable to all areas.

18 “(4) SPECIAL RULE FOR FIXED GUIDEWAY
19 MOTORBUS.—

20 “(A) IN GENERAL.—\$52,500,000 of the
21 amount described in paragraph (2) shall be ap-
22 portioned—

23 “(i) in accordance with this para-
24 graph; and

1 “(ii) among urbanized areas within a
2 State in the same proportion as funds are
3 apportioned within a State under section
4 5336, except subsection (b), and shall be
5 added to such amounts.

6 “(B) TERRITORIES.—Of the amount de-
7 scribed in subparagraph (A), \$500,000 shall be
8 distributed among the territories, as determined
9 by the Secretary.

10 “(C) STATES.—Of the amount described in
11 subparagraph (A), each State shall receive
12 \$1,000,000.

13 “(5) USE OF FUNDS.—A recipient may transfer
14 any part of the apportionment under this subsection
15 for use under subsection (c).

16 “(6) APPORTIONMENT REQUIREMENTS.—For
17 purposes of determining the number of fixed guide-
18 way motorbus revenue vehicle-miles or fixed guide-
19 way motorbus route-miles attributable to an urban-
20 ized area for a fiscal year under this subsection, only
21 segments of fixed guideway motorbus systems placed
22 in revenue service not later than 7 years before the
23 first day of the fiscal year shall be deemed to be at-
24 tributable to an urbanized area.”.

1 **SEC. 29. AUTHORIZATIONS.**

2 Section 5338 of title 49, United States Code, is
3 amended to read as follows:

4 **“§ 5338. Authorizations**

5 “(a) FORMULA GRANTS.—

6 “(1) IN GENERAL.—There shall be available
7 from the Mass Transit Account of the Highway
8 Trust Fund to carry out sections 5305, 5307, 5308,
9 5310, 5311, 5335, 5337, and 5340, and subsections
10 (b) and (c) of section 3005 of the Federal Public
11 Transportation Act of 2012, \$8,360,565,000 for fis-
12 cal years 2012 and 2013.

13 “(2) ALLOCATION OF FUNDS.—Of the amounts
14 made available under paragraph (1)—

15 “(A) \$124,850,000 for each of fiscal years
16 2012 and 2013 shall be available to carry out
17 section 5305;

18 “(B) \$20,000,000 for each of fiscal years
19 2012 and 2013 shall be available to carry out
20 section 3005(b) of the Federal Public Transpor-
21 tation Act of 2012;

22 “(C) \$4,756,161,500 for each of fiscal
23 years 2012 and 2013 shall be allocated in ac-
24 cordance with section 5336 to provide financial
25 assistance for urbanized areas under section
26 5307;

1 “(D) \$65,150,000 for each of fiscal years
2 2012 and 2013 shall be available to carry out
3 section 5308, of which not less than \$8,500,000
4 shall be used to carry out activities under sec-
5 tion 5312;

6 “(E) \$248,600,000 for each of fiscal years
7 2012 and 2013 shall be available to provide fi-
8 nancial assistance for services for the enhanced
9 mobility of seniors and individuals with disabili-
10 ties under section 5310;

11 “(F) \$591,190,000 for each of fiscal years
12 2012 and 2013 shall be available to provide fi-
13 nancial assistance for other than urbanized
14 areas under section 5311, of which not less
15 than \$30,000,000 shall be available to carry out
16 section 5311(c)(1) and \$20,000,000 shall be
17 available to carry out section 5311(c)(2);

18 “(G) \$34,000,000 for each of fiscal years
19 2012 and 2013 shall be available to carry out
20 research, development, demonstration, and de-
21 ployment projects under section 5312;

22 “(H) \$6,500,000 for each of fiscal years
23 2012 and 2013 shall be available to carry out
24 a transit cooperative research program under
25 section 5313;

1 “(I) \$4,500,000 for each of fiscal years
2 2012 and 2013 shall be available for technical
3 assistance and standards development under
4 section 5314;

5 “(J) \$5,000,000 for each of fiscal years
6 2012 and 2013 shall be available for the Na-
7 tional Transit Institute under section 5315;

8 “(K) \$2,000,000 for each of fiscal years
9 2012 and 2013 shall be available for workforce
10 development and human resource grants under
11 section 5322;

12 “(L) \$3,850,000 for each of fiscal years
13 2012 and 2013 shall be available to carry out
14 section 5335;

15 “(M) \$1,987,263,500 for each of fiscal
16 years 2012 and 2013 shall be available to carry
17 out subsections (c) and (e) of section 5337; and

18 “(N) \$511,500,000 for each of fiscal years
19 2012 and 2013 shall be allocated in accordance
20 with section 5340 to provide financial assist-
21 ance for urbanized areas under section 5307
22 and other than urbanized areas under section
23 5311.

1 “(b) EMERGENCY RELIEF PROGRAM.—There are au-
2 thORIZED to be appropriated such sums as are necessary
3 to carry out section 5306.

4 “(c) CAPITAL INVESTMENT GRANTS.—There are au-
5 thORIZED to be appropriated to carry out section 5309,
6 \$1,955,000,000 for each of fiscal years 2012 and 2013.

7 “(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—
8 There are authorized to be appropriated to carry out sec-
9 tion 5320, \$26,900,000 for each of fiscal years 2012 and
10 2013.

11 “(e) FIXED GUIDEWAY STATE OF GOOD REPAIR
12 GRANT PROGRAM.—There are authorized to be appro-
13 priated to carry out section 5337(d), \$7,463,000 for each
14 of fiscal years 2012 and 2013.

15 “(f) ADMINISTRATION.—

16 “(1) IN GENERAL.—There are authorized to be
17 appropriated to carry out section 5334,
18 \$108,350,000 for each of fiscal years 2012 and
19 2013.

20 “(2) SECTION 5329.—Of the amounts author-
21 ized to be appropriated under paragraph (1), not
22 less than \$10,000,000 shall be available to carry out
23 section 5329.

24 “(3) SECTION 5326.—Of the amounts made
25 available under paragraph (2), not less than

1 \$1,000,000 shall be available to carry out section
2 5326.

3 “(g) OVERSIGHT.—

4 “(1) IN GENERAL.—Of the amounts made
5 available to carry out this chapter for a fiscal year,
6 the Secretary may use not more than the following
7 amounts for the activities described in paragraph
8 (2):

9 “(A) 0.5 percent of amounts made avail-
10 able to carry out section 5305.

11 “(B) 0.75 percent of amounts made avail-
12 able to carry out section 5307.

13 “(C) 1 percent of amounts made available
14 to carry out section 5309.

15 “(D) 1 percent of the amounts made avail-
16 able to carry out section 601 of the Passenger
17 Rail Investment and Improvement Act of 2008
18 (Public Law 110–432; 126 Stat. 4968).

19 “(E) 0.5 percent of amounts made avail-
20 able to carry out section 5310.

21 “(F) 0.5 percent of amounts made avail-
22 able to carry out section 5311.

23 “(G) 0.5 percent of amounts made avail-
24 able to carry out section 5320.

1 “(H) 0.75 percent of amounts made avail-
2 able to carry out section 5337(c).

3 “(2) ACTIVITIES.—The activities described in
4 this paragraph are as follows:

5 “(A) Activities to oversee the construction
6 of a major capital project.

7 “(B) Activities to review and audit the
8 safety and security, procurement, management,
9 and financial compliance of a recipient or sub-
10 recipient of funds under this chapter.

11 “(C) Activities to provide technical assist-
12 ance generally, and to provide technical assist-
13 ance to correct deficiencies identified in compli-
14 ance reviews and audits carried out under this
15 section.

16 “(3) GOVERNMENT SHARE OF COSTS.—The
17 Government shall pay the entire cost of carrying out
18 a contract under this subsection.

19 “(4) AVAILABILITY OF CERTAIN FUNDS.—
20 Funds made available under paragraph (1)(C) shall
21 be made available to the Secretary before allocating
22 the funds appropriated to carry out any project
23 under a full funding grant agreement.

24 “(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

1 “(1) GRANTS FINANCED FROM HIGHWAY TRUST
2 FUND.—A grant or contract that is approved by the
3 Secretary and financed with amounts made available
4 from the Mass Transit Account of the Highway
5 Trust Fund pursuant to this section is a contractual
6 obligation of the Government to pay the Government
7 share of the cost of the project.

8 “(2) GRANTS FINANCED FROM GENERAL
9 FUND.—A grant or contract that is approved by the
10 Secretary and financed with amounts appropriated
11 in advance from the General Fund of the Treasury
12 pursuant to this section is a contractual obligation
13 of the Government to pay the Government share of
14 the cost of the project only to the extent that
15 amounts are appropriated for such purpose by an
16 Act of Congress.

17 “(i) AVAILABILITY OF AMOUNTS.—Amounts made
18 available by or appropriated under this section shall re-
19 main available until expended.”.

20 **SEC. 30. APPORTIONMENTS BASED ON GROWING STATES**
21 **AND HIGH DENSITY STATES FORMULA FAC-**
22 **TORS.**

23 Section 5340 of title 49, United States Code, is
24 amended to read as follows:

1 **“§ 5340. Apportionments based on growing States and**
2 **high density States formula factors**

3 “(a) DEFINITION.—In this section, the term ‘State’
4 shall mean each of the 50 States of the United States.

5 “(b) ALLOCATION.—Of the amounts made available
6 for each fiscal year under section 5338(a)(2)(N), the Sec-
7 retary shall apportion—

8 “(1) 50 percent to States and urbanized areas
9 in accordance with subsection (c); and

10 “(2) 50 percent to States and urbanized areas
11 in accordance with subsection (d).

12 “(c) GROWING STATE APPORTIONMENTS.—

13 “(1) APPORTIONMENT AMONG STATES.—The
14 amounts apportioned under subsection (b)(1) shall
15 provide each State with an amount equal to the total
16 amount apportioned multiplied by a ratio equal to
17 the population of that State forecast for the year
18 that is 15 years after the most recent decennial cen-
19 sus, divided by the total population of all States
20 forecast for the year that is 15 years after the most
21 recent decennial census. Such forecast shall be based
22 on the population trend for each State between the
23 most recent decennial census and the most recent
24 estimate of population made by the Secretary of
25 Commerce.

1 “(2) APPORTIONMENTS BETWEEN URBANIZED
2 AREAS AND OTHER THAN URBANIZED AREAS IN
3 EACH STATE.—

4 “(A) IN GENERAL.—The Secretary shall
5 apportion amounts to each State under para-
6 graph (1) so that urbanized areas in that State
7 receive an amount equal to the amount appor-
8 tioned to that State multiplied by a ratio equal
9 to the sum of the forecast population of all ur-
10 banized areas in that State divided by the total
11 forecast population of that State. In making the
12 apportionment under this subparagraph, the
13 Secretary shall utilize any available forecasts
14 made by the State. If no forecasts are available,
15 the Secretary shall utilize data on urbanized
16 areas and total population from the most recent
17 decennial census.

18 “(B) REMAINING AMOUNTS.—Amounts re-
19 maining for each State after apportionment
20 under subparagraph (A) shall be apportioned to
21 that State and added to the amount made avail-
22 able for grants under section 5311.

23 “(3) APPORTIONMENTS AMONG URBANIZED
24 AREAS IN EACH STATE.—The Secretary shall appor-
25 tion amounts made available to urbanized areas in

1 each State under paragraph (2)(A) so that each ur-
2 banized area receives an amount equal to the
3 amount apportioned under paragraph (2)(A) multi-
4 plied by a ratio equal to the population of each ur-
5 banized area divided by the sum of populations of all
6 urbanized areas in the State. Amounts apportioned
7 to each urbanized area shall be added to amounts
8 apportioned to that urbanized area under section
9 5336, and made available for grants under section
10 5307.

11 “(d) HIGH DENSITY STATE APPORTIONMENTS.—
12 Amounts to be apportioned under subsection (b)(2) shall
13 be apportioned as follows:

14 “(1) ELIGIBLE STATES.—The Secretary shall
15 designate as eligible for an apportionment under this
16 subsection all States with a population density in ex-
17 cess of 370 persons per square mile.

18 “(2) STATE URBANIZED LAND FACTOR.—For
19 each State qualifying for an apportionment under
20 paragraph (1), the Secretary shall calculate an
21 amount equal to—

22 “(A) the total land area of the State (in
23 square miles); multiplied by

24 “(B) 370; multiplied by

1 “(C)(i) the population of the State in ur-
2 banized areas; divided by

3 “(ii) the total population of the State.

4 “(3) STATE APPORTIONMENT FACTOR.—For
5 each State qualifying for an apportionment under
6 paragraph (1), the Secretary shall calculate an
7 amount equal to the difference between the total
8 population of the State less the amount calculated in
9 paragraph (2).

10 “(4) STATE APPORTIONMENT.—Each State
11 qualifying for an apportionment under paragraph
12 (1) shall receive an amount equal to the amount to
13 be apportioned under this subsection multiplied by
14 the amount calculated for the State under paragraph
15 (3) divided by the sum of the amounts calculated
16 under paragraph (3) for all States qualifying for an
17 apportionment under paragraph (1).

18 “(5) APPORTIONMENTS AMONG URBANIZED
19 AREAS IN EACH STATE.—The Secretary shall appor-
20 tion amounts made available to each State under
21 paragraph (4) so that each urbanized area receives
22 an amount equal to the amount apportioned under
23 paragraph (4) multiplied by a ratio equal to the pop-
24 ulation of each urbanized area divided by the sum
25 of populations of all urbanized areas in the State.

1 For multistate urbanized areas, the Secretary shall
2 suballocate funds made available under paragraph
3 (4) to each State’s part of the multistate urbanized
4 area in proportion to the State’s share of population
5 of the multistate urbanized area. Amounts appor-
6 tioned to each urbanized area shall be made avail-
7 able for grants under section 5307.”.

8 **SEC. 31. TECHNICAL AND CONFORMING AMENDMENTS.**

9 (a) SECTION 5305.—Section 5305 of title 49, United
10 States Code, is amended—

11 (1) in subsection (c), by striking “sections
12 5303, 5304, and 5306” and inserting “sections
13 5303 and 5304”;

14 (2) in subsection (d), by striking “sections 5303
15 and 5306” each place that term appears and insert-
16 ing “section 5303”;

17 (3) in subsection (e)(1)(A), by striking “sec-
18 tions 5304, 5306, 5315, and 5322” and inserting
19 “section 5304”;

20 (4) in subsection (f)—

21 (A) in the heading, by striking “GOVERN-
22 MENT’S” and inserting “GOVERNMENT”; and

23 (B) by striking “Government’s” and in-
24 serting “Government”; and

1 (5) in subsection (g), by striking “section
2 5338(e) for fiscal years 2005 through 2011 and for
3 the period beginning on October 1, 2011, and ending
4 on March 31, 2012” and inserting “section
5 5338(a)(2)(A) for a fiscal year”.

6 (b) SECTION 5313.—Section 5313(a) of title 49,
7 United States Code, is amended—

8 (1) in the first sentence, by striking “sub-
9 sections (a)(5)(C)(iii) and (d)(1) of section 5338”
10 and inserting section “5338(a)(2)(H)”; and

11 (2) in the second sentence, by striking “of
12 Transportation”.

13 (c) SECTION 5319.—Section 5319 of title 49, United
14 States Code, is amended, in the second sentence—

15 (1) by striking “sections 5307(e), 5309(h), and
16 5311(g) of this title” and inserting “sections
17 5307(e), 5309(k), and 5311(h)”; and

18 (2) by striking “of the United States” and in-
19 serting “made by the”.

20 (d) SECTION 5325.—Section 5325 of title 49, United
21 States Code, is amended—

22 (1) in subsection (b)(2)(A), by striking “title
23 48, Code of Federal Regulations (commonly known
24 as the Federal Acquisition Regulation)” and insert-

1 ing “the Federal Acquisition Regulation, or any suc-
2 cessor thereto”; and

3 (2) in subsection (e), by striking “Government
4 financial assistance” and inserting “Federal finan-
5 cial assistance”.

6 (e) SECTION 5331.—Section 5331 of title 49, United
7 States Code, is amended by striking “Secretary of Trans-
8 portation” each place that term appears and inserting
9 “Secretary”.

10 (f) SECTION 5332.—Section 5332(e)(1) of title 49,
11 United States Code, is amended by striking “of Transpor-
12 tation”.

13 (g) SECTION 5333.—Section 5333(a) of title 49,
14 United States Code, is amended by striking “sections
15 3141-3144” and inserting “sections 3141 through 3144”.

16 (h) SECTION 5334.—Section 5334 of title 49, United
17 States Code, is amended—

18 (1) in subsection (c)—

19 (A) by striking “Secretary of Transpor-
20 tation” each place that term appears and in-
21 serting “Secretary”; and

22 (B) in paragraph (1), by striking “Com-
23 mittees on Transportation and Infrastructure
24 and Appropriations of the House of Representa-
25 tives and the Committees on Banking, Housing,

1 and Urban Affairs and Appropriations” and in-
2 serting “Committee on Banking, Housing, and
3 Urban Affairs and the Committee on Appro-
4 priations of the Senate and the Committee on
5 Transportation and Infrastructure and the
6 Committee on Appropriations of the House of
7 Representatives”;

8 (2) in subsection (d), by striking “of Transpor-
9 tation”;

10 (3) in subsection (e), by striking “of Transpor-
11 tation”;

12 (4) in subsection (f), by striking “of Transpor-
13 tation”;

14 (5) in subsection (g), in the matter preceding
15 paragraph (1)—

16 (A) by striking “of Transportation”; and

17 (B) by striking “subsection (a)(3) or (4) of
18 this section” and inserting “paragraph (3) or
19 (4) of subsection (a)”;

20 (6) in subsection (h)—

21 (A) in paragraph (1), in the matter pre-
22 ceding subparagraph (A), by striking “of
23 Transportation”; and

24 (B) in paragraph (2), by striking “of this
25 section”; and

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- “5313. Transit cooperative research program.
- “5314. Technical assistance and standards development.
- “5315. National transit institute.
- “[5316. Repealed.]
- “[5317. Repealed.]
- “5318. Bus testing facilities.
- “5319. Bicycle facilities.
- “5320. Alternative transportation in parks and public lands.
- “[5321. Repealed.]
- “5322. Public transportation workforce development and human resource programs.
- “5323. General provisions.
- “[5324. Repealed.]
- “5325. Contract requirements.
- “5326. Transit asset management.
- “5327. Project management oversight.
- “[5328. Repealed.]
- “5329. Public transportation safety program.
- “5330. State safety oversight.
- “5331. Alcohol and controlled substances testing.
- “5332. Nondiscrimination.
- “5333. Labor standards.
- “5334. Administrative provisions.
- “5335. National transit database.
- “5336. Apportionment of appropriations for formula grants.
- “5337. State of good repair grants.
- “5338. Authorizations.
- “[5339. Repealed.]
- “5340. Apportionments based on growing States and high density States formula factors.”.