

112TH CONGRESS
2D SESSION

H. R. 7

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2012

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

A BILL

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

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

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

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

6 (b) **TABLE OF CONTENTS.**—

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

2 In this Act, the following definitions apply:

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

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

7 **SEC. 3. EFFECTIVE DATE.**

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

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

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

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

1 **Subtitle A—Authorization of**
2 **Programs**

3 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) HIGHWAY TRUST FUND.—The following sums
5 are authorized to be appropriated out of the Highway
6 Trust Fund (other than the Alternative Transportation
7 Account):

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

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

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

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

14 and

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

16 (2) SURFACE TRANSPORTATION PROGRAM.—
17 For the surface transportation program under sec-
18 tion 133 of title 23, United States Code—

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

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

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

22 and

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

24 (3) HIGHWAY SAFETY IMPROVEMENT PRO-
25 GRAM.—For the highway safety improvement pro-

1 gram under section 148 of title 23, United States
2 Code—

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

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

5 (C) \$2,610,000,000 for fiscal year 2015;

6 and

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

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

12 (5) FEDERAL LANDS TRANSPORTATION PRO-
13 GRAM.—For the Federal lands transportation pro-
14 gram under section 203 of title 23, United States
15 Code, \$535,000,000 for each of fiscal years 2013
16 through 2016.

17 (6) RECREATIONAL TRAILS PROGRAM.—For the
18 recreational trails program under section 206 of title
19 23, United States Code, \$85,000,000 for each of fis-
20 cal years 2013 through 2016.

21 (7) APPALACHIAN DEVELOPMENT HIGHWAY
22 SYSTEM PROGRAM.—For the Appalachian develop-
23 ment highway system program under section 14501
24 of title 40, United States Code, \$470,000,000 for
25 each of fiscal years 2013 through 2016.

1 (b) ALTERNATIVE TRANSPORTATION ACCOUNT.—
2 The following sums are authorized to be appropriated out
3 of the Alternative Transportation Account of the Highway
4 Trust Fund:

5 (1) CONGESTION MITIGATION AND AIR QUALITY
6 IMPROVEMENT PROGRAM.—For the congestion miti-
7 gation and air quality improvement program under
8 section 149 of title 23, United States Code,
9 \$2,000,000,000 for each of fiscal years 2013
10 through 2016.

11 (2) FERRY BOAT AND FERRY TERMINAL FACILI-
12 TIES PROGRAM.—For the ferry boat and ferry ter-
13 minal facilities program under section 147 of title
14 23, United States Code, \$67,000,000 for each of fis-
15 cal years 2013 through 2016.

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

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

24 (c) DISADVANTAGED BUSINESS ENTERPRISES.—

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

3 (A) SMALL BUSINESS CONCERN.—

4 (i) IN GENERAL.—The term “small
5 business concern” means a small business
6 concern (as the term is used in section 3
7 of the Small Business Act (15 U.S.C.
8 632)).

9 (ii) EXCLUSIONS.—The term “small
10 business concern” does not include any
11 concern or group of concerns controlled by
12 the same socially and economically dis-
13 advantaged individual or individuals that
14 have average annual gross receipts during
15 the preceding 3 fiscal years in excess of
16 \$22,410,000, as adjusted annually by the
17 Secretary for inflation.

18 (B) SOCIALLY AND ECONOMICALLY DIS-
19 ADVANTAGED INDIVIDUALS.—The term “so-
20 cially and economically disadvantaged individ-
21 uals” means—

22 (i) women; and

23 (ii) any other socially and economi-
24 cally disadvantaged individuals (as the
25 term is used in section 8(d) of the Small

1 Business Act (15 U.S.C. 637(d)) and rel-
2 evant subcontracting regulations promul-
3 gated pursuant to that Act).

4 (2) AMOUNTS FOR SMALL BUSINESS CON-
5 CERNS.—Except to the extent that the Secretary de-
6 termines otherwise, not less than 10 percent of the
7 amounts made available for any program under ti-
8 tles I, II, and VII of this Act and section 403(a) of
9 title 23, United States Code, shall be expended
10 through small business concerns owned and con-
11 trolled by socially and economically disadvantaged
12 individuals.

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

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

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

22 (i) women;

23 (ii) socially and economically dis-
24 advantaged individuals (other than
25 women); and

1 (iii) individuals who are women and
2 are otherwise socially and economically dis-
3 advantaged individuals.

4 (4) UNIFORM CERTIFICATION.—

5 (A) IN GENERAL.—The Secretary shall es-
6 tablish minimum uniform criteria for use by
7 State governments in certifying whether a con-
8 cern qualifies as a small business concern for
9 the purpose of this subsection.

10 (B) INCLUSIONS.—The minimum uniform
11 criteria established under subparagraph (A)
12 shall include, with respect to a potential small
13 business concern—

- 14 (i) on-site visits;
15 (ii) personal interviews with personnel;
16 (iii) issuance or inspection of licenses;
17 (iv) analyses of stock ownership;
18 (v) listings of equipment;
19 (vi) analyses of bonding capacity;
20 (vii) listings of work completed;
21 (viii) examination of the resumes of
22 principal owners;
23 (ix) analyses of financial capacity; and
24 (x) analyses of the type of work pre-
25 ferred.

1 (5) REPORTING.—The Secretary shall establish
2 minimum requirements for use by State govern-
3 ments in reporting to the Secretary—

4 (A) information concerning disadvantaged
5 business enterprise awards, commitments, and
6 achievements; and

7 (B) such other information as the Sec-
8 retary determines to be appropriate for the
9 proper monitoring of the disadvantaged busi-
10 ness enterprise program.

11 (6) COMPLIANCE WITH COURT ORDERS.—Noth-
12 ing in this subsection limits the eligibility of an indi-
13 vidual or entity to receive funds made available
14 under titles I, II, and VII of this Act and section
15 403(a) of title 23, United States Code, if the entity
16 or person is prevented, in whole or in part, from
17 complying with paragraph (2) because a Federal
18 court issues a final order in which the court finds
19 that a requirement or the implementation of para-
20 graph (2) is unconstitutional.

21 **SEC. 1102. HIGHWAY OBLIGATION CEILING.**

22 (a) GENERAL LIMITATION.—Subject to subsection
23 (f), and notwithstanding any other provision of law, the
24 obligations for Federal-aid highway and highway safety
25 construction programs authorized from the Highway

1 Trust Fund (other than the Alternative Transportation
2 Account) shall not exceed—

- 3 (1) \$37,366,000,000 for fiscal year 2013;
- 4 (2) \$37,621,000,000 for fiscal year 2014;
- 5 (3) \$37,676,000,000 for fiscal year 2015; and
- 6 (4) \$38,000,000,000 for fiscal year 2016.

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

- 9 (1) section 125 of title 23, United States Code;
- 10 (2) section 147 of the Surface Transportation
11 Assistance Act of 1978 (23 U.S.C. 144 note; 92
12 Stat. 2714);
- 13 (3) section 9 of the Federal-Aid Highway Act
14 of 1981 (Public Law 97–134; 95 Stat. 1701);
- 15 (4) subsections (b) and (j) of section 131 of the
16 Surface Transportation Assistance Act of 1982
17 (Public Law 97–424; 96 Stat. 2119);
- 18 (5) subsections (b) and (c) of section 149 of the
19 Surface Transportation and Uniform Relocation As-
20 sistance Act of 1987 (Public Law 100–17; 101 Stat.
21 198);
- 22 (6) sections 1103 through 1108 of the Inter-
23 modal Surface Transportation Efficiency Act of
24 1991 (Public Law 102–240; 105 Stat. 2027);

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

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

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

14 (10) section 105 of title 23, United States Code
15 (as in effect for fiscal years 2005 through 2012, but
16 only in an amount equal to \$639,000,000 for each
17 of those fiscal years);

18 (11) section 1603 of SAFETEA–LU (Public
19 Law 109-59; 119 Stat. 1248), to the extent that
20 funds obligated in accordance with that section were
21 not subject to a limitation on obligations at the time
22 at which the funds were initially made available for
23 obligation; and

24 (12) section 105 of title 23, United States Code
25 (as in effect for fiscal years 2013 through 2016, but

1 only in an amount equal to \$639,000,000 for each
2 of such fiscal years).

3 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

4 For each of fiscal years 2013 through 2016, the Sec-
5 retary—

6 (1) shall not distribute obligation authority pro-
7 vided by subsection (a) for the fiscal year for
8 amounts authorized for administrative expenses and
9 programs by section 104(a) of title 23, United
10 States Code;

11 (2) shall not distribute an amount of obligation
12 authority provided by subsection (a) that is equal to
13 the unobligated balance of amounts made available
14 for Federal-aid highway and highway safety con-
15 struction programs for previous fiscal years the
16 funds for which are allocated by the Secretary;

17 (3) shall determine the ratio that—

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

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

1 sions of law described in paragraphs (1)
2 through (11) of subsection (b) and sums au-
3 thorized to be appropriated for section 105 of
4 title 23, United States Code, equal to the
5 amount referred to in subsection (b)(12) for the
6 fiscal year), less the aggregate of amounts not
7 distributed under paragraphs (1) and (2);

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

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

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

19 (B) shall distribute \$2,000,000,000 for section
20 105 of title 23, United States Code;

21 (5) shall distribute among the States the obliga-
22 tion authority provided by subsection (a), less the
23 aggregate amounts not distributed under paragraphs
24 (1) and (2) and the amounts distributed under para-
25 graph (4), for each of the programs that are allo-

1 cated by the Secretary under this Act and title 23,
2 United States Code (other than to programs to
3 which paragraph (1) applies), by multiplying—

4 (A) the ratio determined under paragraph
5 (3); by

6 (B) the amounts authorized to be appro-
7 priated for each such program for the fiscal
8 year; and

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

22 (A) amounts authorized to be appropriated
23 for the programs that are apportioned to each
24 State for the fiscal year; bear to

1 (B) the total of the amounts authorized to
2 be appropriated for the programs that are ap-
3 portioned to all States for the fiscal year.

4 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
5 THORITY.—Notwithstanding subsection (c), the Secretary
6 shall, after August 1 of each of fiscal years 2013 through
7 2016—

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

12 (2) redistribute sufficient amounts to those
13 States able to obligate amounts in addition to those
14 previously distributed during that fiscal year, giving
15 priority to those States having large unobligated bal-
16 ances of funds apportioned under section 104 of title
17 23, United States Code, and section 144 of such
18 title (as in effect on the day before the date of en-
19 actment of this Act).

20 (e) REDISTRIBUTION OF CERTAIN AUTHORIZED
21 FUNDS.—

22 (1) IN GENERAL.—Not later than 30 days after
23 the date of distribution of obligation authority under
24 subsection (c) for each of fiscal years 2013 through

1 2016, the Secretary shall distribute to the States
2 any funds that—

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

6 (B) the Secretary determines will not be
7 allocated to the States, and will not be available
8 for obligation, in the fiscal year due to the im-
9 position of any obligation limitation for the fis-
10 cal year.

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

14 (3) AVAILABILITY.—Funds distributed under
15 paragraph (1) shall be available for any purpose de-
16 scribed in section 133(b) of title 23, United States
17 Code.

18 (f) SPECIAL LIMITATION CHARACTERISTICS.—Obli-
19 gation authority distributed for a fiscal year under sub-
20 section (c)(4) for the provision specified in subsection
21 (c)(4) shall—

22 (1) remain available until used for obligation of
23 funds for that provision; and

24 (2) be in addition to the amount of any limita-
25 tion imposed on obligations for Federal-aid highway

1 and highway safety construction programs for future
2 fiscal years.

3 **SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OB-**
4 **LIGATION CEILING.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, the total of all obligations from amounts made
7 available from the Alternative Transportation Account of
8 the Highway Trust Fund for the programs for which sums
9 are authorized to be appropriated under sections 1101(b)
10 and 7101 of this Act shall not exceed \$2,707,000,000 for
11 each of fiscal years 2013 through 2016.

12 (b) AVAILABILITY OF FUNDS.—Section 118(a) is
13 amended—

14 (1) by striking “Mass Transit Account” and in-
15 sserting “Alternative Transportation Account”; and

16 (2) by inserting “, and amounts made available
17 from the Alternative Transportation Account to
18 carry out the congestion mitigation and air quality
19 improvement program under section 149, the ferry
20 boat and ferry terminal facilities program under sec-
21 tion 147, the Puerto Rico highway program under
22 section 165, and the territorial highway program
23 under section 215,” before “shall be available”.

24 **SEC. 1104. APPORTIONMENT.**

25 Section 104 is amended to read as follows:

1 **“§ 104. Apportionment**

2 “(a) ADMINISTRATIVE EXPENSES.—

3 “(1) IN GENERAL.—There is authorized to be
4 appropriated from the Highway Trust Fund (other
5 than the Alternative Transportation Account) to be
6 made available to the Secretary for administrative
7 expenses of the Federal Highway Administration
8 \$400,000,000 for each of fiscal years 2013 through
9 2016.

10 “(2) PURPOSES.—The funds made available
11 under paragraph (1) shall be used—

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

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

21 “(3) AVAILABILITY.—Funds made available
22 under paragraph (1) shall remain available until ex-
23 pended.

24 “(b) APPORTIONMENTS.—On October 1 of each fiscal
25 year, the Secretary, after making the set-asides authorized
26 by subsection (f), subsections (b) and (c) of section 140,

1 and section 130(e), shall apportion the remainder of the
2 sums authorized to be appropriated for expenditure on the
3 National Highway System program, the congestion miti-
4 gation and air quality improvement program, the surface
5 transportation program, and the highway safety improve-
6 ment program among the several States in the following
7 manner:

8 “(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

9 “(A) IN GENERAL.—For the National
10 Highway System program, in accordance with
11 the following formula:

12 “(i) 15 percent of the apportionments
13 in the ratio that—

14 “(I) the total lane miles of prin-
15 cipal arterial routes (excluding Inter-
16 state System routes) in each State;
17 bears to

18 “(II) the total lane miles of prin-
19 cipal arterial routes (excluding Inter-
20 state System routes) in all States.

21 “(ii) 15 percent of the apportionments
22 in the ratio that—

23 “(I) the total vehicle miles trav-
24 eled on lanes on principal arterial

1 routes (excluding Interstate System
2 routes) in each State; bears to

3 “(II) the total vehicle miles trav-
4 eled on lanes on principal arterial
5 routes (excluding Interstate System
6 routes) in all States.

7 “(iii) 5 percent of the apportionments
8 in the ratio that—

9 “(I) the quotient obtained by di-
10 viding the total lane miles on principal
11 arterial highways in each State by the
12 total population of the State; bears to

13 “(II) the quotient obtained by di-
14 viding the total lane miles on principal
15 arterial highways in all States by the
16 total population of all States.

17 “(iv) 15 percent of the apportion-
18 ments in the ratio that—

19 “(I) the total lane miles on Inter-
20 state System routes open to traffic in
21 each State; bears to

22 “(II) the total lane miles on
23 Interstate System routes open to traf-
24 fic in all States.

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

3 “(I) the total vehicle miles trav-
4 eled on Interstate System routes open
5 to traffic in each State; bears to

6 “(II) the total vehicle miles trav-
7 eled on Interstate System routes open
8 to traffic in all States.

9 “(vi) 35 percent of the appor-
10 tionments in the ratio that—

11 “(I) the total of the annual con-
12 tributions to the Highway Trust Fund
13 (other than the Alternative Transpor-
14 tation Account) attributable to com-
15 mercial vehicles in each State; bears
16 to

17 “(II) the total of the annual con-
18 tributions to the Highway Trust Fund
19 (other than the Alternative Transpor-
20 tation Account) attributable to com-
21 mercial vehicles in all States.

22 “(B) MINIMUM APPORTIONMENT.—Not-
23 withstanding subparagraph (A), each State
24 shall receive a minimum of $\frac{1}{2}$ of 1 percent of

1 the funds apportioned for a fiscal year under
2 this paragraph.

3 “(2) CONGESTION MITIGATION AND AIR QUALITY
4 IMPROVEMENT PROGRAM.—

5 “(A) IN GENERAL.—For the congestion
6 mitigation and air quality improvement pro-
7 gram, in the ratio that—

8 “(i) the total of all weighted non-
9 attainment and maintenance area popu-
10 lations in each State; bears to

11 “(ii) the total of all weighted non-
12 attainment and maintenance area popu-
13 lations in all States.

14 “(B) CALCULATION OF WEIGHTED NON-
15 ATTAINMENT AND MAINTENANCE AREA POPU-
16 LATION.—Subject to subparagraph (C), for the
17 purpose of subparagraph (A), the weighted non-
18 attainment and maintenance area population
19 shall be calculated by multiplying the popu-
20 lation of each area in a State that was a non-
21 attainment area or maintenance area as de-
22 scribed in section 149(b) for ozone or carbon
23 monoxide by a factor of—

24 “(i) 1.0 if, at the time of the appor-
25 tionment, the area is a maintenance area;

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

6 “(iii) 1.1 if, at the time of the appor-
7 tionment, the area is classified as a mod-
8 erate ozone nonattainment area under such
9 subpart;

10 “(iv) 1.2 if, at the time of the appor-
11 tionment, the area is classified as a serious
12 ozone nonattainment area under such sub-
13 part;

14 “(v) 1.3 if, at the time of the appor-
15 tionment, the area is classified as a severe
16 ozone nonattainment area under such sub-
17 part;

18 “(vi) 1.4 if, at the time of the appor-
19 tionment, the area is classified as an ex-
20 treme ozone nonattainment area under
21 such subpart;

22 “(vii) 1.0 if, at the time of the appor-
23 tionment, the area is not a nonattainment
24 or maintenance area as described in sec-
25 tion 149(b) for ozone, but is classified

1 under subpart 3 of part D of title I of such
2 Act (42 U.S.C. 7512 et seq.) as a non-
3 attainment area described in section
4 149(b) for carbon monoxide; or

5 “(viii) 1.0 if, at the time of the appor-
6 tionment, an area is designated as non-
7 attainment for ozone under subpart 1 of
8 part D of title I of such Act (42 U.S.C.
9 7501 et seq.).

10 “(C) ADDITIONAL ADJUSTMENT FOR CAR-
11 BON MONOXIDE AREAS.—If, in addition to
12 being designated as a nonattainment or mainte-
13 nance area for ozone as described in section
14 149(b), any county within the area was also
15 classified under subpart 3 of part D of title I
16 of the Clean Air Act (42 U.S.C. 7512 et seq.)
17 as a nonattainment or maintenance area de-
18 scribed in section 149(b) for carbon monoxide,
19 the weighted nonattainment or maintenance
20 area population of the county, as determined
21 under clauses (i) through (vi) or clause (viii) of
22 subparagraph (B), shall be further multiplied
23 by a factor of 1.2.

24 “(D) MINIMUM APPORTIONMENT.—Not-
25 withstanding any other provision of this para-

1 graph, each State shall receive a minimum of
2 $\frac{1}{2}$ of 1 percent of the funds apportioned for a
3 fiscal year under this paragraph.

4 “(E) DETERMINATIONS OF POPULATION.—
5 In determining population figures for the pur-
6 poses of this paragraph, the Secretary shall use
7 the latest available annual estimates prepared
8 by the Secretary of Commerce.

9 “(3) SURFACE TRANSPORTATION PROGRAM.—

10 “(A) IN GENERAL.—For the surface trans-
11 portation program, in accordance with the fol-
12 lowing formula:

13 “(i) 15 percent of the apportionments
14 in the ratio that—

15 “(I) the total lane miles of Fed-
16 eral-aid highways in each State; bears
17 to

18 “(II) the total lane miles of Fed-
19 eral-aid highways in all States.

20 “(ii) 25 percent of the apportionments
21 in the ratio that—

22 “(I) the total vehicle miles trav-
23 eled on lanes on Federal-aid highways
24 in each State; bears to

1 “(II) the total vehicle miles trav-
2 eled on lanes on Federal-aid highways
3 in all States.

4 “(iii) 25 percent of the apportion-
5 ments in the ratio that—

6 “(I) the estimated tax payments
7 attributable to highway users in each
8 State paid into the Highway Trust
9 Fund (other than the Alternative
10 Transportation Account) in the latest
11 fiscal year for which data are avail-
12 able; bears to

13 “(II) the estimated tax payments
14 attributable to highway users in all
15 States paid into the Highway Trust
16 Fund (other than the Alternative
17 Transportation Account) in the latest
18 fiscal year for which data are avail-
19 able.

20 “(iv) 35 percent of the apportion-
21 ments in the ratio that—

22 “(I) the bridge replacement and
23 rehabilitation costs in each State (as
24 determined under subsection (c)(4));
25 bears to

1 “(II) the bridge replacement and
2 rehabilitation costs in all States (as
3 determined under subsection (c)(5)).

4 “(B) MINIMUM APPORTIONMENT.—Not-
5 withstanding subparagraph (A), each State
6 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
7 the funds apportioned for a fiscal year under
8 this paragraph.

9 “[(4) Repealed.]

10 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
11 GRAM.—

12 “(A) IN GENERAL.—For the highway safe-
13 ty improvement program, in accordance with
14 the following formula:

15 “(i) $33\frac{1}{3}$ percent of the apportion-
16 ments in the ratio that—

17 “(I) the total lane miles of Fed-
18 eral-aid highways in each State; bears
19 to

20 “(II) the total lane miles of Fed-
21 eral-aid highways in all States.

22 “(ii) $33\frac{1}{3}$ percent of the apportion-
23 ments in the ratio that—

1 “(I) the total vehicle miles trav-
2 eled on lanes on Federal-aid highways
3 in each State; bears to

4 “(II) the total vehicle miles trav-
5 eled on lanes on Federal-aid highways
6 in all States.

7 “(iii) $33\frac{1}{3}$ percent of the apportion-
8 ments in the ratio that—

9 “(I) the number of fatalities on
10 Federal-aid highways in each State in
11 the latest fiscal year for which data
12 are available; bears to

13 “(II) the number of fatalities on
14 Federal-aid highways in all States in
15 the latest fiscal year for which data
16 are available.

17 “(B) MINIMUM APPORTIONMENT.—Not-
18 withstanding subparagraph (A), each State
19 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
20 the funds apportioned for a fiscal year under
21 this paragraph.

22 “(c) BRIDGE CALCULATION.—For each fiscal year,
23 the Secretary shall determine the bridge replacement and
24 rehabilitation costs as follows:

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

3 “(2) The Secretary shall place each deficient
4 highway bridge into one of the following categories:

5 “(A) Federal-aid highway bridges eligible
6 for replacement.

7 “(B) Federal-aid highway bridges eligible
8 for rehabilitation.

9 “(C) Bridges not on Federal-aid highways
10 eligible for replacement.

11 “(D) Bridges not on Federal-aid highways
12 eligible for rehabilitation.

13 “(3) The Secretary shall determine—

14 “(A) the deck area of deficient highway
15 bridges in each category described in paragraph
16 (2); and

17 “(B) the respective unit price of such deck
18 area on a State-by-State basis.

19 “(4) The Secretary shall determine the bridge
20 replacement and rehabilitation costs for each State
21 by multiplying the deck area of deficient bridges in
22 the State by the respective unit price.

23 “(5) The Secretary shall determine the bridge
24 replacement and rehabilitation costs for all States by

1 multiplying the deck area of deficient bridges in all
2 States by the respective unit price.

3 “(d) CERTIFICATION OF APPORTIONMENTS.—

4 “(1) IN GENERAL.—On October 1 of each fiscal
5 year, the Secretary shall certify to each of the State
6 transportation departments the sums which the Sec-
7 retary has apportioned under this section to each
8 State for such fiscal year. To permit the States to
9 develop adequate plans for the utilization of appor-
10 tioned sums, the Secretary shall advise each State of
11 the amount that will be apportioned each year under
12 this section not later than 90 days before the begin-
13 ning of the fiscal year for which the sums to be ap-
14 portioned are authorized.

15 “(2) NOTICE TO STATES.—If the Secretary has
16 not made an apportionment under this section or
17 section 105 by the 21st day of a fiscal year begin-
18 ning after September 30, 2012, the Secretary shall
19 transmit, by such 21st day, to the Committee on
20 Transportation and Infrastructure of the House of
21 Representatives and the Committee on Environment
22 and Public Works of the Senate a written statement
23 of the reason for not making such apportionment in
24 a timely manner.

1 “(e) AUDITS OF HIGHWAY TRUST FUND.—From ad-
2 ministrative funds made available under subsection (a),
3 the Secretary may reimburse the Office of Inspector Gen-
4 eral of the Department of Transportation for the conduct
5 of annual audits of financial statements in accordance
6 with section 3521 of title 31.

7 “(f) METROPOLITAN PLANNING.—

8 “(1) SET ASIDE.—On October 1 of each fiscal
9 year, the Secretary shall set aside 1.15 percent of
10 the funds authorized to be appropriated for the Na-
11 tional Highway System program and surface trans-
12 portation program authorized under this title to
13 carry out the requirements of section 5203 of title
14 49.

15 “(2) APPORTIONMENT TO STATES OF SET-
16 ASIDE FUNDS.—Funds set aside under paragraph
17 (1) shall be apportioned to the States in the ratio
18 which the population in urbanized areas, or parts
19 thereof, in each State bears to the total population
20 in such urbanized areas in all the States as shown
21 by the latest available census, except that no State
22 shall receive less than $\frac{1}{2}$ of 1 percent of the amount
23 apportioned.

24 “(3) USE OF FUNDS.—

1 “(A) IN GENERAL.—The funds appor-
2 tioned to any State under paragraph (2) shall
3 be made available by the State to the metropoli-
4 tan planning organizations responsible for car-
5 rying out the provisions of section 5203 of title
6 49, except that States receiving the minimum
7 apportionment under paragraph (2) may, in ad-
8 dition, subject to the approval of the Secretary,
9 use the funds apportioned to finance transpor-
10 tation planning outside of urbanized areas.

11 “(B) UNUSED FUNDS.—Any funds that
12 are not used to carry out section 5203 of title
13 49 may be made available by a metropolitan
14 planning organization to the State to fund ac-
15 tivities under section 5204 of such title.

16 “(4) DISTRIBUTION OF FUNDS WITHIN
17 STATES.—

18 “(A) IN GENERAL.—The distribution with-
19 in any State of the planning funds made avail-
20 able to agencies under paragraph (3) shall be in
21 accordance with a formula developed by each
22 State and approved by the Secretary that shall
23 consider, but not necessarily be limited to, pop-
24 ulation, status of planning, attainment of air
25 quality standards, metropolitan area transpor-

1 tation needs, and other factors necessary to
2 provide for an appropriate distribution of funds
3 to carry out the requirements of section 5203
4 of title 49 and other applicable requirements of
5 Federal law.

6 “(B) REIMBURSEMENT.—Not later than
7 30 days after the date of receipt by a State of
8 a request for reimbursement of expenditures
9 made by a metropolitan planning organization
10 for carrying out section 5203 of title 49, the
11 State shall reimburse, from funds distributed
12 under this paragraph to the metropolitan plan-
13 ning organization by the State, the metropoli-
14 tan planning organization for those expendi-
15 tures.

16 “(5) DETERMINATION OF POPULATION FIG-
17 URES.—For the purposes of determining population
18 figures under this subsection, the Secretary shall use
19 the most recent estimate published by the Secretary
20 of Commerce.

21 “(g) REPORT TO CONGRESS.—For each fiscal year,
22 the Secretary shall submit to Congress, and also make
23 available to the public in a user-friendly format via the
24 Internet, a report on—

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

4 “(2) the balance, as of the last day of the pre-
5 ceding fiscal year, of the unobligated apportionment
6 of each State by fiscal year under this section and
7 section 105;

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

11 “(4) the rates of obligation of funds appor-
12 tioned or set aside under this section and sections
13 105 and 133, according to—

14 “(A) program;

15 “(B) funding category or subcategory;

16 “(C) type of improvement;

17 “(D) State; and

18 “(E) sub-State geographic area, including
19 urbanized and rural areas, on the basis of the
20 population of each such area.

21 “(h) TRANSFER OF HIGHWAY AND TRANSIT
22 FUNDS.—

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

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), funds made available under this title
3 for transit projects or transportation planning
4 may be transferred to and administered by the
5 Secretary in accordance with chapter 53 of title
6 49.

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

11 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
12 WAY PROJECTS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B), funds made available under chapter
15 53 of title 49 for highway projects or transpor-
16 tation planning may be transferred to and ad-
17 ministered by the Secretary in accordance with
18 this title.

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

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

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), the Secretary, at the re-
3 quest of a State, may transfer funds appor-
4 tioned or allocated under this title to the State
5 to another State, or to the Federal Highway
6 Administration, for the purpose of funding one
7 or more projects that are eligible for assistance
8 with funds so apportioned or allocated.

9 “(B) APPORTIONMENT.—A transfer under
10 subparagraph (A) shall have no effect on any
11 apportionment of funds to a State under this
12 section or section 105.

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

22 “(4) TRANSFER OF OBLIGATION AUTHORITY.—
23 Obligation authority for funds transferred under this
24 subsection shall be transferred in the same manner

1 and amount as the funds for the projects that are
2 transferred under this subsection.

3 “(i) RECREATIONAL TRAILS PROGRAM.—

4 “(1) ADMINISTRATIVE COSTS.—Before appor-
5 tioning sums authorized to be appropriated to carry
6 out the recreational trails program under section
7 206, the Secretary shall deduct for administrative,
8 research, technical assistance, and training expenses
9 for such program \$840,000 for each fiscal year. The
10 Secretary may enter into contracts with for-profit
11 organizations or contracts, partnerships, or coopera-
12 tive agreements with other government agencies, in-
13 stitutions of higher learning, or nonprofit organiza-
14 tions to perform these tasks.

15 “(2) APPORTIONMENT TO THE STATES.—The
16 Secretary shall apportion the sums authorized to be
17 appropriated for expenditure on the recreational
18 trails program for each fiscal year among eligible
19 States in the following manner:

20 “(A) 50 percent equally among eligible
21 States.

22 “(B) 50 percent in amounts proportionate
23 to the degree of non-highway recreational fuel
24 use in each eligible State during the preceding
25 year.

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

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

5 Section 103(b) is amended—

6 (1) in paragraph (1)—

7 (A) in the matter preceding subparagraph

8 (A) by inserting “and the modifications to the
9 system approved by the Secretary before the
10 date of enactment of the American Energy and
11 Infrastructure Jobs Act of 2012” after “1996”;

12 and

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

15 (2) in paragraph (2)—

16 (A) in subparagraph (B) by inserting “and
17 border crossings on such routes not included on
18 the National Highway System before the date
19 of enactment of the American Energy and In-
20 rastructure Jobs Act of 2012” before the pe-
21 riod at the end; and

22 (B) in subparagraph (C) by inserting “not
23 included on the National Highway System be-
24 fore the date of enactment of the American En-

1 ergy and Infrastructure Jobs Act of 2012” be-
2 fore the period at the end; and

3 (3) by striking paragraphs (6) and (7) and in-
4 serting the following:

5 “(6) REQUIREMENT FOR STATE ASSET MAN-
6 AGEMENT PLAN FOR NATIONAL HIGHWAY SYSTEM.—

7 “(A) IN GENERAL.—A State shall develop
8 and implement a risk-based State asset man-
9 agement plan for managing all infrastructure
10 assets in the right-of-way corridor of the Na-
11 tional Highway System based on a process es-
12 tablished by the Secretary. The process shall re-
13 quire use of quality information and economic
14 and engineering analysis to identify a sequence
15 of maintenance, repair, and rehabilitation ac-
16 tions that will achieve and maintain a desired
17 state of good repair over the lifecycle of the net-
18 work at the least possible cost.

19 “(B) PERFORMANCE GOALS.—A State
20 asset management plan shall include strategies
21 leading to a program of projects that will make
22 progress toward achievement of the national
23 goals for infrastructure condition and perform-
24 ance of the National Highway System in a

1 manner consistent with the requirements of
2 chapter 52 of title 49.

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

7 “(i) A summary listing of the highway
8 infrastructure assets on the National
9 Highway System in the State that includes
10 current condition and performance statis-
11 tics by asset.

12 “(ii) Asset management objectives and
13 measures.

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

16 “(iv) A financial plan.

17 “(v) Investment strategies.

18 “(D) PROCESS.—Not later than 2 years
19 after the date of enactment of the American
20 Energy and Infrastructure Jobs Act of 2012,
21 the Secretary shall establish a process by which
22 a State shall develop and implement a risk-
23 based State asset management plan described
24 in subparagraph (A).

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

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

13 (a) IN GENERAL.—Section 119 is amended to read
14 as follows:

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

16 “(a) ESTABLISHMENT.—The Secretary shall estab-
17 lish and implement a National Highway System program
18 under this section.

19 “(b) PURPOSES.—The purposes of the National
20 Highway System program shall be—

21 “(1) to provide support for the condition and
22 operational performance of the National Highway
23 System;

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

1 “(3) to ensure that investments of National
2 Highway System program funds are directed to
3 achievement of performance goals established in a
4 State’s asset management plan for the National
5 Highway System under section 103(b)(6).

6 “(c) ELIGIBLE FACILITIES.—Except as otherwise
7 specifically provided by this section, to be eligible for fund-
8 ing apportioned under section 104(b)(1) to carry out this
9 section, a facility must be located on the National High-
10 way System.

11 “(d) ELIGIBLE PROJECTS.—Funds apportioned to a
12 State to carry out this section may be obligated only for
13 a project that is—

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

16 “(2) a project, or is a part of a program of
17 projects, supporting progress toward the achieve-
18 ment of national performance goals under section
19 5206 of title 49 for improving infrastructure condi-
20 tion, safety, mobility, or freight movement on the
21 National Highway System;

22 “(3) consistent with the requirements of sec-
23 tions 5203 and 5204 of title 49; and

24 “(4) for one or more of the purposes specified
25 in subsection (e).

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

4 “(1) Construction, reconstruction, resurfacing,
5 restoration, rehabilitation, preservation, or oper-
6 ational improvements of segments of the National
7 Highway System.

8 “(2) Construction, reconstruction, replacement
9 (including replacement with fill material), rehabilita-
10 tion, preservation, and protection (including scour
11 countermeasures, seismic retrofits, and impact pro-
12 tection measures) of bridges and tunnels on the Na-
13 tional Highway System.

14 “(3) Inspection and evaluation, as defined in
15 section 151, of bridges and tunnels on the National
16 Highway System, or inspection and evaluation of
17 other highway infrastructure assets on the National
18 Highway System.

19 “(4) Training of bridge and tunnel inspectors,
20 as defined in section 151.

21 “(5) Rehabilitation or replacement of existing
22 ferry boats and ferry boat facilities, including ap-
23 proaches, that connect road segments of the Na-
24 tional Highway System.

1 “(6) Highway safety improvements for seg-
2 ments of the National Highway System.

3 “(7) Capital and operating costs for traffic
4 management and traveler information monitoring,
5 management, and control facilities and programs for
6 the National Highway System.

7 “(8) Infrastructure-based intelligent transpor-
8 tation systems capital improvements for the Na-
9 tional Highway System.

10 “(9) Development and implementation of a
11 State asset management plan for the National High-
12 way System in accordance with section 103(b), in-
13 cluding data collection, maintenance, and integration
14 and the cost associated with obtaining, updating,
15 and licensing software and equipment required for
16 risk-based asset management and performance-based
17 management.

18 “(10) Environmental mitigation efforts related
19 to projects funded under this section, as described in
20 subsection (f).

21 “(11) Construction of publicly owned intracity
22 or intercity bus terminals.

23 “(12) Environmental restoration and pollution
24 abatement associated with a project funded under
25 this section in accordance with section 328.

1 “(f) ENVIRONMENTAL MITIGATION.—

2 “(1) ELIGIBLE ACTIVITIES.—Environmental
3 mitigation efforts referred to in subsection (e)(10)
4 include—

5 “(A) participation in mitigation banking or
6 other third-party mitigation arrangements, such
7 as—

8 “(i) the purchase of credits from com-
9 mercial mitigation banks;

10 “(ii) the establishment and manage-
11 ment of agency-sponsored mitigation
12 banks; and

13 “(iii) the purchase of credits or estab-
14 lishment of in-lieu fee mitigation programs;

15 “(B) contributions to statewide and re-
16 gional efforts to conserve, restore, enhance, and
17 create natural habitats, wetlands, and other re-
18 sources; and

19 “(C) the development of statewide and re-
20 gional environmental protection plans.

21 “(2) INCLUSION OF OTHER ACTIVITIES.—The
22 banks, efforts, and plans described in paragraph (1)
23 include any such banks, efforts, and plans developed
24 in accordance with applicable law (including regula-
25 tions).

1 “(3) TERMS AND CONDITIONS.—The following
2 terms and conditions apply to natural habitat and
3 wetlands mitigation efforts referred to in subsection
4 (e)(10):

5 “(A) Contributions to the mitigation effort
6 may take place concurrent with, in advance of,
7 or subsequent to the construction of a project
8 or projects.

9 “(B) Credits from any agency-sponsored
10 mitigation bank that are attributable to funding
11 under this section may be used only for projects
12 funded under this title unless the agency pays
13 to the Secretary an amount equal to the Fed-
14 eral funds attributable to the mitigation bank
15 credits the agency uses for purposes other than
16 mitigation of a project funded under this title.

17 “(4) PREFERENCE.—At the discretion of the
18 project sponsor, preference shall be given, to the
19 maximum extent practicable, to mitigating an envi-
20 ronmental impact through the use of a mitigation
21 bank or other third-party mitigation arrangement, if
22 the use of credits from the mitigation bank for the
23 project is approved by the applicable Federal agency.

24 “(g) FEDERAL SHARE.—

1 “(1) IN GENERAL.—Except as provided by
2 paragraph (2), the Federal share of the cost of a
3 project payable from funds made available to carry
4 out this section shall be determined under section
5 120(b).

6 “(2) INTERSTATE SYSTEM.—The Federal share
7 of the cost of a project on the Interstate System
8 payable from funds made available to carry out this
9 section shall be determined under section 120(a).”.

10 (b) CLERICAL AMENDMENT.—The analysis for chap-
11 ter 1 is amended by striking the item relating to section
12 119 and inserting the following:

“119. National Highway System program.”.

13 **SEC. 1107. SURFACE TRANSPORTATION PROGRAM.**

14 (a) ELIGIBLE PROJECTS.—Section 133(b) is amend-
15 ed—

16 (1) by striking paragraphs (1) and (15);

17 (2) by redesignating paragraphs (2) through
18 (14) as paragraphs (5) through (17), respectively;

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

21 “(1) Construction, reconstruction, rehabilita-
22 tion, resurfacing, restoration, preservation, and oper-
23 ational improvements for highways, including con-
24 struction of designated routes of the Appalachian
25 Development Highway System.

1 “(2) Replacement (including replacement with
2 fill material), rehabilitation, preservation, and pro-
3 tection (including painting, scour countermeasures,
4 seismic retrofits, impact protection measures, secu-
5 rity countermeasures, and protection against ex-
6 tremе events) for bridges and tunnels on public
7 roads of all functional classifications.

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

10 “(4) Inspection and evaluation of bridges and
11 tunnels and training of bridge and tunnel inspectors
12 (as defined in section 151), and inspection and eval-
13 uation of other highway assets (including signs, re-
14 taining walls, and drainage structures).”;

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

17 “(14) Environmental mitigation efforts relating
18 to projects funded under this title in the same man-
19 ner and to the same extent as such activities are eli-
20 gible under section 119(f).”.

21 (b) LOCATION OF PROJECTS.—Section 133(c) is
22 amended to read as follows:

23 “(c) LOCATION OF PROJECTS.—Except for projects
24 described in subsections (b)(2), (b)(6), and (b)(7), surface
25 transportation program projects may not be undertaken

1 on roads functionally classified as local or rural minor col-
2 lectors unless the roads were on a Federal-aid highway
3 system on January 1, 1991, and except as approved by
4 the Secretary.”.

5 (c) ALLOCATION OF APPORTIONED FUNDS.—

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

7 (2) DIVISION BETWEEN URBANIZED AREAS OF
8 OVER 200,000 POPULATION AND OTHER AREAS.—Sec-
9 tion 133(d)(3) is amended—

10 (A) in subparagraph (A)—

11 (i) in the matter preceding clause (i)
12 by striking “62.5 percent of the remaining
13 90 percent” and inserting “50 percent”;
14 and

15 (ii) in matter following clause (ii) by
16 striking “37.5 percent” and inserting “50
17 percent”; and

18 (B) by adding at the end the following:

19 “(E) CONSULTATION WITH RURAL PLAN-
20 NING ORGANIZATIONS.—For purposes of sub-
21 paragraph (A)(ii), before obligating funding at-
22 tributed to an area with a population greater
23 than 5,000 and less than 200,000, a State shall
24 consult with the rural planning organizations
25 that represent the area, if any.”; and

1 (3) in paragraph (5)(A) by striking “funded
2 from the allocation required under paragraph (2)”.

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

5 “(3) PAYMENTS.—The Secretary shall make
6 payments to a State of costs incurred by the State
7 for the surface transportation program in accord-
8 ance with procedures to be established by the Sec-
9 retary.”.

10 (e) OBLIGATION AUTHORITY.—Section 133(f)(1) is
11 amended—

12 (1) by striking “2004 through 2006” and in-
13 serting “2011 through 2013”; and

14 (2) by striking “2007 through 2009” and in-
15 serting “2014 through 2016”.

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

18 (1) SPECIAL RULE.—Notwithstanding section
19 133(c) of title 23, United States Code, and except
20 as provided in paragraph (2), up to 15 percent of
21 the amounts required to be obligated by a State
22 under section 133(d)(3)(B) of such title for each of
23 fiscal years 2013 through 2016 may be obligated on
24 roads functionally classified as minor collectors.

1 7407(d)) and classified pursuant to section
2 181(a), 186(a), 188(a), or 188(b) of the
3 Clean Air Act (42 U.S.C. 7511(a),
4 7512(a), 7513(a), or 7513(b));

5 “(ii) is or was designated as a non-
6 attainment area under such section 107(d)
7 after December 31, 1997; or

8 “(iii) is required to prepare, and file
9 with the Administrator of the Environ-
10 mental Protection Agency, maintenance
11 plans under the Clean Air Act (42 U.S.C.
12 7505a).

13 “(C) PURPOSE OF PROJECT OR PRO-
14 GRAM.—A project or program meets the re-
15 quirements of this subparagraph if—

16 “(i) the Secretary, after consultation
17 with the Administrator, determines that—

18 “(I) on the basis of information
19 published by the Environmental Pro-
20 tection Agency pursuant to section
21 108(f)(1)(A) of the Clean Air Act
22 (other than clause (xvi) of such sec-
23 tion), the project or program is likely
24 to contribute to—

1 “(aa) the attainment of a
2 national ambient air quality
3 standard; or

4 “(bb) the maintenance of a
5 national ambient air quality
6 standard in a maintenance area;
7 or

8 “(II) the project or program is
9 part of a program, method, or strat-
10 egy described in such section
11 108(f)(1)(A);

12 “(ii) the project or program is in-
13 cluded in a State implementation plan that
14 has been approved pursuant to the Clean
15 Air Act and the project will have air qual-
16 ity benefits;

17 “(iii) the Secretary, after consultation
18 with the Administrator, determines that
19 the project or program is likely to con-
20 tribute to the attainment of a national am-
21 bient air quality standard through reduc-
22 tions in travel time delay, vehicle miles
23 traveled, or fuel consumption or through
24 other factors; or

1 “(iv) the Secretary determines that
2 the project or program is likely to con-
3 tribute to the mitigation of congestion.

4 “(2) SPECIAL RULES.—

5 “(A) PROJECTS RESULTING IN NEW CA-
6 PACITY FOR SINGLE OCCUPANT VEHICLES.—A
7 State may obligate funds apportioned to the
8 State under section 104(b)(2) for a project or
9 program that will result in the construction of
10 new capacity available to single occupant vehi-
11 cles only if the project or program is likely to
12 contribute to the mitigation of congestion or the
13 improvement of air quality.

14 “(B) PROJECTS FOR PM-10 NONATTAIN-
15 MENT AREAS.—A State may obligate funds ap-
16 portioned to the State under section 104(b)(2)
17 for a project or program for an area that is
18 nonattainment for ozone or carbon monoxide, or
19 both, and for PM-10 resulting from transpor-
20 tation activities, without regard to any limita-
21 tion of the Department of Transportation relat-
22 ing to the type of ambient air quality standard
23 such project or program addresses.”.

24 (b) COST-EFFECTIVE EMISSION REDUCTION GUID-
25 ANCE.—Section 149 is amended—

1 (1) by striking subsection (f); and

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

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

5 Section 105 is amended to read as follows:

6 **“§ 105. Equity bonus program**

7 “(a) PROGRAM.—

8 “(1) IN GENERAL.—Subject to subsections (c),
9 (d), and (e), for fiscal year 2013 and each fiscal
10 year thereafter, the Secretary shall apportion among
11 the States amounts sufficient to ensure that no
12 State receives a percentage of the total apporportion-
13 ments for the fiscal year for the programs specified
14 in paragraph (2) that is less than the percentage
15 calculated under subsection (b).

16 “(2) SPECIFIED PROGRAMS.—The programs re-
17 ferred to in paragraph (1) are—

18 “(A) the metropolitan planning programs
19 under section 104(f);

20 “(B) the equity bonus program under this
21 section;

22 “(C) the National Highway System pro-
23 gram under section 119;

24 “(D) the rail-highway grade crossing pro-
25 gram under section 130;

1 “(E) the surface transportation program
2 under section 133;

3 “(F) the highway safety improvement pro-
4 gram under section 148;

5 “(G) the recreational trails programs
6 under section 206;

7 “(H) the State infrastructure bank capital-
8 ization program under section 611; and

9 “(I) the Appalachian development highway
10 system program under section 14501 of title
11 40.

12 “(b) STATE PERCENTAGE.—For each of fiscal years
13 2013 through 2016, the percentage referred to in sub-
14 section (a) for each State shall be 94 percent of the
15 quotient obtained by dividing—

16 “(1) the estimated tax payments attributable to
17 highway users in the State paid into the Highway
18 Trust Fund in the most recent fiscal year for which
19 data are available; by

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

23 “(c) MINIMUM AMOUNT.—

24 “(1) IN GENERAL.—For each fiscal year, before
25 making the apportionments under subsection (a)(1),

1 the Secretary shall apportion among the States
2 amounts sufficient to ensure that each State receives
3 a combined total apportionment for the programs
4 specified in subsection (a)(2) and the congestion
5 mitigation and air quality improvement program
6 under section 149 that equals or exceeds the com-
7 bined amount that the State was apportioned for fis-
8 cal year 2012 for the programs specified in section
9 105(a)(2) of this title (other than the high priority
10 projects program under subparagraph (H) of such
11 section), as in effect on the day before the date of
12 enactment of the American Energy and Infrastruc-
13 ture Jobs Act of 2012.

14 “(2) SPECIAL RULE.—In determining a State’s
15 combined apportionment for fiscal year 2012 for
16 purposes of paragraph (1), the Secretary shall not
17 consider amounts apportioned to the State for such
18 fiscal year under the following:

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

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

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

4 “(e) TREATMENT OF FUNDS.—

5 “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-
6 retary shall apportion the amounts made available
7 under this section that exceed \$2,639,000,000 so
8 that the amount apportioned to each State under
9 this section for each program referred to in subpara-
10 graphs (C) and (E) of subsection (a)(2) is equal to
11 the amount determined by multiplying the amount
12 to be apportioned to such State under this section
13 by the ratio that—

14 “(A) the amount of funds apportioned to
15 such State for each program referred to in sub-
16 paragraphs (C) and (E) of subsection (a)(2) for
17 a fiscal year; bears to

18 “(B) the total amount of funds appor-
19 tioned to such State for all such programs for
20 such fiscal year.

21 “(2) REMAINING DISTRIBUTION.—The Sec-
22 retary shall administer the remainder of funds made
23 available under this section to the States in accord-
24 ance with section 133, except that section 133(d)(3)
25 and section 1115(a) of the American Energy and In-

1 frastructure Jobs Act of 2012 shall not apply to the
2 amounts administered pursuant to this paragraph.

3 “(f) METROPOLITAN PLANNING SET-ASIDE.—Not-
4 withstanding section 104(f), no set aside provided for
5 under that section shall apply to funds allocated under this
6 section.

7 “(g) AUTHORIZATION OF APPROPRIATIONS.—

8 “(1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), there is authorized to be appropriated from
10 the Highway Trust Fund (other than the Alternative
11 Transportation Account) to carry out this section
12 \$3,900,000,000 for each of fiscal years 2013
13 through 2016.

14 “(2) UPWARD ADJUSTMENT.—If the amount
15 authorized by paragraph (1) for a fiscal year is less
16 than the minimum amount required to ensure that
17 each State receives the minimum percentage of total
18 apportionments required under subsection (a)(1) and
19 the minimum amount required under subsection
20 (c)(1) for the fiscal year—

21 “(A) the amount authorized by paragraph
22 (1) for the fiscal year shall be increased by the
23 amount of the shortfall, so as to equal such
24 minimum amount; and

1 “(B) the amounts authorized by section
2 1101(a)(2) of the American Energy and Infra-
3 structure Jobs Act of 2012 for the surface
4 transportation program for the fiscal year shall
5 be decreased by the amount of the shortfall.

6 “(3) DOWNWARD ADJUSTMENT.—If the amount
7 authorized by paragraph (1) for a fiscal year is more
8 than the minimum amount required to ensure that
9 each State receives the minimum percentage of total
10 apportionments required under subsection (a)(1) and
11 the minimum amount required under subsection
12 (c)(1) for the fiscal year—

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

17 “(B) the amounts authorized by section
18 1101(a)(1) of the American Energy and Infra-
19 structure Jobs Act of 2012 for the National
20 Highway System program for the fiscal year
21 shall be increased by the amount of the ex-
22 cess.”.

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

2 (a) ASSUMPTION BY STATES OF RESPONSIBILITIES
3 OF THE SECRETARY.—Section 106(c)(1) is amended to
4 read as follows:

5 “(1) NHS PROJECTS.—For projects under this
6 title that are on the National Highway System, in-
7 cluding projects on the Interstate System, the State
8 may assume the responsibility of the Secretary
9 under this title for design, plans, specifications, esti-
10 mates, contract awards, and inspections with respect
11 to such projects unless the Secretary determines
12 that such assumption is not appropriate.”.

13 (b) VALUE ENGINEERING ANALYSIS.—Section
14 106(e) is amended—

15 (1) in paragraph (2)(A)—

16 (A) by striking “Federal-aid system” and
17 inserting “National Highway System receiving
18 Federal assistance”; and

19 (B) by striking “\$25,000,000” and insert-
20 ing “\$50,000,000”;

21 (2) in paragraph (2)(B)—

22 (A) by inserting “on the National Highway
23 System receiving Federal assistance” after
24 “project”; and

25 (B) by striking “\$20,000,000” and insert-
26 ing “\$40,000,000”; and

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

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

6 (c) MAJOR PROJECTS.—Section 106(h)(3) is amend-
7 ed—

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

9 (2) in subparagraph (B) by striking the period
10 and inserting “; and”; and

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

12 “(C) assess the appropriateness of a pub-
13 lic-private partnership to deliver the project.”.

14 (d) USE OF ADVANCED MODELING TECH-
15 NOLOGIES.—Section 106 is amended by adding at the end
16 the following:

17 “(j) USE OF ADVANCED MODELING TECH-
18 NOLOGIES.—

19 “(1) IN GENERAL.—With respect to transpor-
20 tation projects that receive Federal funding, the Sec-
21 retary shall encourage the use of advanced modeling
22 technologies during environmental, planning, finan-
23 cial management, design, simulation, and construc-
24 tion processes related to the projects.

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

3 “(A) compile information relating to ad-
4 vanced modeling technologies, including indus-
5 try best practices with respect to the use of the
6 technologies;

7 “(B) disseminate to States information re-
8 lating to advanced modeling technologies, in-
9 cluding industry best practices with respect to
10 the use of the technologies; and

11 “(C) promote the use of advanced mod-
12 eling technologies.

13 “(3) COMPREHENSIVE PLAN.—The Secretary
14 shall develop and publish on the Internet Web site
15 of the Department of Transportation a detailed and
16 comprehensive plan for the implementation of para-
17 graph (1).

18 “(4) ADVANCED MODELING TECHNOLOGY DE-
19 FINED.—The term ‘advanced modeling technology’
20 means an available or developing technology, includ-
21 ing 3-dimensional digital modeling, that can accel-
22 erate and improve the environmental review process,
23 increase effective public participation, enhance the
24 detail and accuracy of project designs, increase safe-
25 ty, accelerate construction and reduce construction

1 costs, or otherwise expedite project delivery with re-
2 spect to transportation projects that receive Federal
3 funding.”.

4 (e) REVIEW OF OVERSIGHT PROGRAM.—

5 (1) IN GENERAL.—The Secretary shall review
6 the oversight program established under section
7 106(g) of title 23, United States Code, to determine
8 the efficacy of the program in monitoring the effec-
9 tive and efficient use of funds authorized to carry
10 out title 23, United States Code.

11 (2) MINIMUM REQUIREMENTS FOR REVIEW.—

12 At a minimum, the review under paragraph (1) shall
13 assess the capability of the program to—

14 (A) identify projects funded under title 23,
15 United States Code, for which there are cost or
16 schedule overruns; and

17 (B) evaluate the extent of such overruns.

18 (3) REPORT TO CONGRESS.—Not later than 2
19 years after the date of enactment of this Act, the
20 Secretary shall transmit to the Committee on Trans-
21 portation and Infrastructure of the House of Rep-
22 resentatives and the Committee on Environment and
23 Public Works of the Senate a report on the results
24 of the review conducted under paragraph (1), which
25 shall include recommendations for legislative

1 changes to improve the oversight program estab-
2 lished under section 106(g) of title 23, United
3 States Code.

4 (f) TRANSPARENCY AND ACCOUNTABILITY.—

5 (1) DATA COLLECTION.—The Secretary shall
6 compile and make available to the public on the
7 Internet Web site of the Department the annual ex-
8 penditure data for funds made available under title
9 23 and chapter 53 of title 49, United States Code.

10 (2) REQUIREMENTS.—In carrying out para-
11 graph (1), the Secretary shall ensure that the data
12 made available on the Internet Web site of the De-
13 partment—

14 (A) is organized by project and State;

15 (B) to the maximum extent possible, is up-
16 dated regularly to reflect the current status of
17 obligations, expenditures, and Federal-aid
18 projects; and

19 (C) can be searched and downloaded by
20 users of the Web site.

21 (3) REPORT TO CONGRESS.—The Secretary
22 shall transmit, annually, to the Committee on Trans-
23 portation and Infrastructure of the House of Rep-
24 resentatives and the Committee on Environment and
25 Public Works and the Committee on Banking, Hous-

1 ing, and Urban Affairs of the Senate a report con-
2 taining a summary of the data described in para-
3 graph (1) for the 1-year period ending on the date
4 on which the report is submitted.

5 **SEC. 1111. EMERGENCY RELIEF.**

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

8 “(d) **ELIGIBILITY.**—

9 “(1) **IN GENERAL.**—Subject to the require-
10 ments of this subsection, the Secretary may expend
11 funds from the emergency fund authorized by this
12 section for the repair or reconstruction of Federal-
13 aid highways in accordance with the provisions of
14 this chapter.

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

16 “(A) **IN GENERAL.**—The total cost of a
17 project carried out under this section may not
18 exceed the cost of repair or reconstruction of a
19 comparable facility.

20 “(B) **COMPARABLE FACILITY DEFINED.**—

21 In this paragraph, the term ‘comparable facil-
22 ity’ means a facility that meets the current geo-
23 metric and construction standards required for
24 the types and volume of traffic that the facility
25 will carry over its design life.

1 “(3) DEBRIS REMOVAL.—The costs of debris
2 removal shall be an eligible expense under this sec-
3 tion only for—

4 “(A) an event not declared a major dis-
5 aster or emergency by the President under the
6 Robert T. Stafford Disaster Relief and Emer-
7 gency Assistance Act (42 U.S.C. 5121 et seq.);
8 or

9 “(B) an event declared a major disaster or
10 emergency by the President under that Act if
11 the debris removal is not eligible for assistance
12 pursuant to section 403, 407, or 502 of that
13 Act (42 U.S.C. 5170b, 5173, 5192).

14 “(4) TERRITORIES.—The total obligations for
15 projects under this section in a fiscal year in the
16 Virgin Islands, Guam, American Samoa, and the
17 Commonwealth of the Northern Mariana Islands
18 may not exceed \$20,000,000.

19 “(5) TEMPORARY SUBSTITUTE HIGHWAY TRAF-
20 FIC SERVICE.—Notwithstanding any other provision
21 of this chapter, actual and necessary costs of main-
22 tenance and operation of ferryboats or additional
23 transit service providing temporary substitute high-
24 way traffic service, less the amount of fares charged,

1 may be expended from the emergency fund under
2 this section authorized for Federal-aid highways.

3 “(6) APPLICATIONS; EMERGENCY DECLARA-
4 TIONS.—Except as to highways, roads, and trails re-
5 ferred to in subsection (e), no funds may be ex-
6 pended under this section unless—

7 “(A) a declaration is made—

8 “(i) by the Governor of the State and
9 concurred in by the Secretary, that an
10 emergency exists; or

11 “(ii) by the President under the Rob-
12 ert T. Stafford Disaster Relief and Emer-
13 gency Assistance Act (42 U.S.C. 5121 et
14 seq.) that a major disaster or emergency
15 exists; and

16 “(B) not later than 2 years after a dec-
17 laration is made under subparagraph (A), the
18 Secretary has received an application for assist-
19 ance from the State transportation department
20 that includes a comprehensive list of potentially
21 eligible project sites and repair costs.”.

22 (b) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS,
23 AND PUBLIC ROADS ON FEDERAL LANDS.—Section
24 125(e) is amended to read as follows:

1 “(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS,
2 AND PUBLIC ROADS ON FEDERAL LANDS.—

3 “(1) USE OF EMERGENCY FUND.—Notwith-
4 standing subsection (d)(1), the Secretary may ex-
5 pend funds from the emergency fund authorized by
6 this section, either independently or in cooperation
7 with any other branch of the Government, a State
8 agency, tribal organization, organization, or person,
9 for the repair or reconstruction of tribal roads, Fed-
10 eral lands highways, and other federally owned roads
11 that are open to public travel, whether or not such
12 roads are Federal-aid highways.

13 “(2) REIMBURSEMENTS.—The Secretary may
14 reimburse Federal agencies, State (including polit-
15 ical subdivisions of the States) agencies, and Indian
16 tribal governments for expenditures made on
17 projects determined eligible under this section, in-
18 cluding expenditures for emergency repairs made be-
19 fore a determination of eligibility. Such reimburse-
20 ments to Federal agencies and Indian tribal govern-
21 ments shall be transferred to the account from
22 which the expenditure was made, or to a similar ac-
23 count that remains available for obligation, and the
24 budget authority associated with the expenditure
25 shall be restored to the agency from which it was de-

1 rived and shall be available for obligation until the
2 end of the fiscal year following the year in which the
3 transfer occurs.

4 “(3) OPEN TO PUBLIC TRAVEL DEFINED.—In
5 this subsection, the term ‘open to public travel’
6 means that, except during scheduled periods, ex-
7 treme weather conditions, or emergencies, the road
8 is open to the general public for use with a standard
9 passenger auto, without restrictive gates or prohibi-
10 tive signs or regulations, other than for general traf-
11 fic control or restrictions based on size, weight, or
12 class of registration.”.

13 (c) RULEMAKING.—Not later than 6 months after the
14 date of enactment of this Act, the Secretary shall initiate
15 a rulemaking to update regulations governing the emer-
16 gency relief program under section 125 of title 23, United
17 States Code, to—

18 (1) ensure that allocations are made to States
19 only for sums that the State will be able to obligate
20 in the current fiscal year;

21 (2) determine whether to raise the threshold for
22 an eligible event and raise such threshold if war-
23 ranted; and

24 (3) address such other matters as the Secretary
25 considers appropriate.

1 (d) IMPROVING PROGRAM IMPLEMENTATION.—The
2 Secretary shall take steps to—

3 (1) improve training for Federal and State offi-
4 cials on emergency relief requirements and proc-
5 esses;

6 (2) establish an Internet Web site containing
7 information on best practices for the implementation
8 of the emergency relief program;

9 (3) address program differences with the dis-
10 aster assistance program of the Federal Emergency
11 Management Agency; and

12 (4) provide guidance on performing a benefit-
13 cost analysis to justify cases in which a betterment
14 is eligible for funding under the emergency relief
15 program.

16 **SEC. 1112. UNIFORM TRANSFERABILITY OF FEDERAL-AID**
17 **HIGHWAY FUNDS.**

18 Section 126 is amended to read as follows:

19 **“§ 126. Uniform transferability of Federal-aid high-**
20 **way funds**

21 **“(a) GENERAL RULE.—**Notwithstanding any other
22 provision of law, but subject to subsection (b), a State may
23 transfer not to exceed 25 percent of the State’s apportion-
24 ment under paragraph (1), (3), or (5) of section 104(b)

1 for a fiscal year to any other apportionment of the State
2 under any of those paragraphs for that fiscal year.

3 “(b) APPLICATION TO CERTAIN SET-ASIDES.—No
4 funds may be transferred under this section that are sub-
5 ject to section 104(f) or section 133(d)(3).”.

6 **SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILI-**
7 **TIES.**

8 Section 147 is amended—

9 (1) in subsection (b) by striking “ferry boats,
10 ferry terminals, and ferry maintenance facilities”
11 and inserting “ferry boats and ferry terminals”;

12 (2) by striking subsections (c), (d), and (e) and
13 inserting the following:

14 “(c) APPORTIONMENT OF FUNDS.—The Secretary
15 shall apportion the sums authorized to be appropriated for
16 expenditure on the construction of ferry boats and ferry
17 terminal facilities for each fiscal year among eligible
18 States in the following manner:

19 “(1) 35 percent based on the total annual num-
20 ber of vehicles carried by ferry systems operating in
21 each eligible State.

22 “(2) 35 percent based on the total annual num-
23 ber of passengers (including passengers in vehicles)
24 carried by ferry systems operating in each eligible
25 State.

1 “(3) 30 percent based on the total nautical
2 route miles serviced by ferry systems operating in
3 each eligible State.

4 “(d) ELIGIBLE STATE DEFINED.—In this section,
5 the term ‘eligible State’ means a State that has a ferry
6 system operating in the State or between the State and
7 another State.”; and

8 (3) by redesignating subsection (f) as sub-
9 section (e).

10 **SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-**
11 **VENTORY AND INSPECTION PROGRAM.**

12 (a) IN GENERAL.—Section 151 is amended to read
13 as follows:

14 **“§ 151. National highway bridge and tunnel inventory**
15 **and inspection program**

16 “(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-
17 VENTORY.—The Secretary, in consultation with the States
18 and Federal agencies with jurisdiction over highway
19 bridges and tunnels, shall—

20 “(1) inventory all bridges on public roads, on
21 and off Federal-aid highways, including tribally
22 owned and federally owned bridges, that are over
23 waterways, other topographical barriers, other high-
24 ways, and railroads;

1 “(2) inventory all tunnels on public roads, on
2 and off Federal-aid highways, including tribally
3 owned and federally owned tunnels;

4 “(3) identify each bridge or tunnel inventoried
5 under paragraph (1) or (2) that is structurally defi-
6 cient or functionally obsolete;

7 “(4) assign a risk-based priority for replace-
8 ment or rehabilitation of each structurally deficient
9 bridge or tunnel identified under paragraph (3) after
10 consideration of safety, serviceability, and essen-
11 tiality for public use, including the potential impacts
12 to emergency evacuation routes and to regional and
13 national freight and passenger mobility if the serv-
14 iceability of the bridge or tunnel is diminished; and

15 “(5) determine the cost of replacing each struc-
16 turally deficient bridge or tunnel identified under
17 paragraph (3) with a comparable facility or the cost
18 of rehabilitating the bridge or tunnel.

19 “(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-
20 SPECTION STANDARDS.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish and maintain inspection standards for the prop-
23 er safety inspection and evaluation of all highway
24 bridges and tunnels described in subsections (a)(1)
25 and (a)(2). The standards shall be designed to en-

1 sure uniformity in the conduct of such inspections
2 and evaluations.

3 “(2) MINIMUM REQUIREMENTS FOR INSPEC-
4 TION STANDARDS.—At a minimum, the standards
5 established under paragraph (1) shall—

6 “(A) specify, in detail, the method by
7 which inspections will be carried out by States,
8 Federal agencies, and tribal governments;

9 “(B) establish the maximum time period
10 between inspections;

11 “(C) establish the qualifications for those
12 charged with carrying out inspections;

13 “(D) require each State, Federal agency,
14 and tribal government to maintain and make
15 available to the Secretary upon request—

16 “(i) written reports on the results of
17 highway bridge and tunnel inspections, to-
18 gether with notations of any action taken
19 pursuant to the findings of such inspec-
20 tions; and

21 “(ii) inventory data for all highway
22 bridges and tunnels described in sub-
23 sections (a)(1) and (a)(2) under the juris-
24 diction of the State, Federal agency, or
25 tribal government that reflect the findings

1 of the most recent highway bridge and tun-
2 nel inspections;

3 “(E) establish a procedure for national
4 certification of highway bridge and tunnel in-
5 spectors;

6 “(F) establish, in consultation with the
7 States, Federal agencies, and interested and
8 knowledgeable private organizations and indi-
9 viduals, procedures for the Secretary to conduct
10 reviews of State and Federal agency compliance
11 with the standards established under this sub-
12 section; and

13 “(G) establish, in consultation with the
14 States, Federal agencies, and interested and
15 knowledgeable private organizations and indi-
16 viduals, procedures for the States to follow in
17 reporting to the Secretary—

18 “(i) critical findings relating to struc-
19 tural safety-related deficiencies of highway
20 bridges and tunnels; and

21 “(ii) monitoring activities and correc-
22 tive actions taken in response to a critical
23 finding described in clause (i).

24 “(3) COMPLIANCE REQUIREMENTS.—

1 “(A) REVIEWS OF STATE COMPLIANCE.—

2 The Secretary shall annually review State com-
3 pliance with the standards established under
4 this section.

5 “(B) FINDINGS OF NONCOMPLIANCE.—If

6 the Secretary identifies noncompliance by a
7 State in conducting an annual review under
8 subparagraph (A), the Secretary shall issue a
9 report detailing the noncompliance by December
10 31 of the calendar year in which the review is
11 conducted and shall provide the State an oppor-
12 tunity to address the noncompliance by—

13 “(i) developing a corrective action
14 plan to remedy the noncompliance; or

15 “(ii) resolving the noncompliance
16 within 45 days of receiving notification of
17 the noncompliance.

18 “(4) PENALTY FOR NONCOMPLIANCE.—

19 “(A) FUNDING REQUIREMENT.—If the
20 Secretary identifies noncompliance by a State in
21 conducting an annual review under paragraph
22 (3)(A) in a calendar year, and the State fails to
23 address the noncompliance in the manner de-
24 scribed in paragraph (3)(B) by August 1 of the
25 succeeding year, on October 1 of such suc-

1 ceeding year, and each year thereafter as nec-
2 essary, the Secretary shall require the State to
3 dedicate funds apportioned to the State under
4 sections 104(b)(1) and 104(b)(3) to correct the
5 noncompliance.

6 “(B) AMOUNT.—The amount of the funds
7 dedicated to correcting the noncompliance in ac-
8 cordance with subparagraph (A) shall—

9 “(i) be determined by the State based
10 on an analysis of the actions needed to ad-
11 dress the noncompliance; and

12 “(ii) require approval by the Sec-
13 retary.

14 “(c) TRAINING PROGRAM FOR BRIDGE AND TUNNEL
15 INSPECTORS.—The Secretary, in cooperation with State
16 transportation departments, shall establish a program de-
17 signed to train appropriate personnel to carry out highway
18 bridge and tunnel inspections.

19 “(d) AVAILABILITY OF FUNDS.—In carrying out this
20 section—

21 “(1) the Secretary may use funds made avail-
22 able to the Secretary under sections 104(a) and 503;

23 “(2) a State may use amounts apportioned to
24 the State under sections 104(b)(1), 104(b)(3), and
25 104(b)(5);

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

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

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
6 ter 1 is amended by striking the item relating to section
7 151 and inserting the following:

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

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

9 (a) MINIMUM INVESTMENT REQUIREMENTS.—

10 (1) NATIONAL HIGHWAY SYSTEM BRIDGES.—

11 Out of amounts apportioned to a State for a fiscal
12 year under each of sections 104(b)(1) and 104(b)(3)
13 of title 23, United States Code, an amount equal to
14 10 percent of such amounts shall be available to the
15 State only for eligible projects on highway bridges
16 on the National Highway System if the Secretary
17 determines under paragraph (3) for the fiscal year
18 that more than 10 percent of the total deck area of
19 highway bridges in the State on the National High-
20 way System is located on highway bridges that have
21 been classified as structurally deficient.

22 (2) BRIDGES NOT ON FEDERAL-AID HIGH-
23 WAYS.—Out of amounts apportioned to a State for
24 a fiscal year under section 104(b)(3) of title 23,
25 United States Code, an amount equal to 110 percent

1 of the amount that the State was required to expend
2 for fiscal year 2009 on projects under section
3 144(f)(2) of such title (as in effect on the day before
4 the date of enactment of this Act) shall be available
5 to the State only for eligible projects on highway
6 bridges not on Federal-aid highways if the Secretary
7 determines under paragraph (3) for the fiscal year
8 that more than 15 percent of the total deck area of
9 highway bridges not on Federal-aid highways in the
10 State is located on highway bridges not on Federal-
11 aid highways that have been classified as struc-
12 turally deficient.

13 (3) USE OF DATA IN NATIONAL BRIDGE AND
14 TUNNEL INVENTORY.—The Secretary shall make the
15 determinations under paragraphs (1) and (2) with
16 respect to a State for a fiscal year based on an aver-
17 age of the final data concerning highway bridges in
18 the State contained in the national bridge and tun-
19 nel inventory for the most recent 3 calendar years
20 for which such data are available.

21 (4) APPLICABILITY.—This subsection shall
22 apply to amounts apportioned for each of fiscal
23 years 2013 through 2016.

24 (5) DEFINITIONS.—In this subsection, the fol-
25 lowing definitions apply:

1 (A) ELIGIBLE PROJECT.—The term “eligi-
2 ble project” means a project to replace (includ-
3 ing replacement with fill material), rehabilitate,
4 preserve, or protect (including through paint-
5 ing, scour countermeasures, seismic retrofits,
6 impact protection measures, security counter-
7 measures, and protection against extreme
8 events) a bridge or tunnel on a public road of
9 any functional classification.

10 (B) NATIONAL BRIDGE AND TUNNEL IN-
11 VENTORY.—The term “national bridge and tun-
12 nel inventory” means the national bridge and
13 tunnel inventory established under section 151
14 of title 23, United States Code (as amended by
15 this title).

16 (b) BRIDGE REHABILITATION AND REPLACEMENT.—
17 Section 217(e) is amended by striking “then such bridge”
18 and all that follows before the period at the end and in-
19 serting “the State carrying out the rehabilitation or re-
20 placement is encouraged to provide such safe accommoda-
21 tions as part of the rehabilitation or replacement”.

22 **SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
23 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
24 **ING UNDER THE INFLUENCE.**

25 (a) DEFINITIONS.—Section 164(a) is amended—

1 (1) by striking paragraph (3);

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

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

7 “(A) receive—

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

10 “(ii) a suspension of unlimited driving
11 privileges for 1 year with limited driving
12 privileges permitted (subject to require-
13 ments established under State law) if an
14 ignition interlock device is installed for not
15 less than 1 year on each motor vehicle
16 owned or operated, or both, by the indi-
17 vidual;”.

18 (b) TRANSFER OF FUNDS.—Section 164(b)(1)(A) is
19 amended by striking “alcohol-impaired driving counter-
20 measures” and inserting “projects and activities address-
21 ing impaired driving (as such term is defined in section
22 402(p)(11))”.

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

24 (a) IN GENERAL.—Section 165 is amended by strik-
25 ing subsections (a) and (b) and inserting the following:

1 “(a) ALLOCATION OF FUNDS.—On October 1 of each
2 fiscal year, the Secretary shall allocate the funds made
3 available for the fiscal year to carry out this section to
4 the Commonwealth of Puerto Rico to carry out a highway
5 program in the Commonwealth.

6 “(b) APPLICABILITY OF TITLE.—Amounts made
7 available to carry out this section shall be available for
8 obligation in the same manner as if such funds were ap-
9 portioned under this chapter.”.

10 (b) CONFORMING AMENDMENT.—Section 165 is
11 amended—

12 (1) in subsection (c)(1) by striking “sections
13 104(b) and 144” and inserting “section 104(b)”;
14 and

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

17 **SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
18 **TEM.**

19 (a) APPORTIONMENT.—The Secretary shall appor-
20 tion funds made available under section 1101(a) for the
21 Appalachian development highway system program for
22 each of fiscal years 2013 through 2016 among the States
23 in the ratio that—

24 (1) the latest available cost to complete esti-
25 mate for the Appalachian development highway sys-

1 tem under section 14501 of title 40, United States
2 Code, with respect to each State; bears to

3 (2) the latest available cost to complete esti-
4 mate for that system with respect to all States.

5 (b) MINIMUM AND MAXIMUM APPORTIONMENT.—

6 Notwithstanding subsection (a), each State that receives
7 an apportionment under subsection (a) shall receive—

8 (1) not less than 1 percent of the funds appor-
9 tioned under this section; and

10 (2) not more than 25 percent of the funds ap-
11 portioned under this section.

12 (c) APPLICABILITY OF TITLE 23.—Funds made

13 available under section 1101(a) of this Act for the Appa-

14 lachian development highway system program shall be

15 available for obligation in the same manner as if such

16 funds were apportioned under chapter 1 of title 23, United

17 States Code, except that the Federal share of the cost of

18 any project under this section shall be determined in ac-

19 cordance with section 14501 of title 40, United States

20 Code, and such funds shall be available to construct high-

21 ways and access roads under such section 14501 and shall

22 remain available until expended.

23 (d) CREDIT FOR NON-FEDERAL SHARE.—Section

24 120(j)(1)(A) is amended by striking “and the Appalachian

1 development highway system program under section
2 14501 of title 40”.

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

4 Any reference to the Mass Transit Account of the
5 Highway Trust Fund in title 23 or 49, United States
6 Code, or in any other provision of law shall be deemed
7 to refer to the Alternative Transportation Account of the
8 Highway Trust Fund.

9 **Subtitle B—Innovative Financing**

10 **SEC. 1201. TRANSPORTATION INFRASTRUCTURE FINANCE**
11 **AND INNOVATION.**

12 (a) DEFINITIONS.—

13 (1) ELIGIBLE PROJECT COSTS.—Section
14 601(a)(1) is amended in the matter preceding sub-
15 paragraph (A) by inserting “(regardless of when in-
16 curred)” after “including the cost”.

17 (2) MASTER CREDIT AGREEMENT.—Section
18 601(a) is amended—

19 (A) by redesignating paragraphs (7)
20 through (14) as paragraphs (8) through (15),
21 respectively; and

22 (B) by inserting after paragraph (6) the
23 following:

24 “(7) MASTER CREDIT AGREEMENT.—The term
25 ‘master credit agreement’ means an agreement en-

1 tered into by and between the Secretary and an obli-
2 gor for a project that—

3 “(A) makes contingent commitments of
4 one or more secured loans or other Federal
5 credit instruments at future dates;

6 “(B) establishes the amounts and general
7 terms and conditions of such secured loans or
8 other Federal credit instruments;

9 “(C) identifies the dedicated revenue
10 sources that will secure the repayment of such
11 secured loans or other Federal credit instru-
12 ments, which may differ by project; and

13 “(D) provides for the obligation of funds
14 for such a secured loan or other Federal credit
15 instrument for a project included in the agree-
16 ment after all requirements under this section
17 have been met for the project.”.

18 (3) OBLIGOR.—Section 601(a)(8) (as redesign-
19 nated by paragraph (2)(A) of this subsection) is
20 amended by inserting “limited liability company,”
21 after “corporation,”.

22 (4) PROJECT.—Section 601(a)(9) (as redesign-
23 nated by paragraph (2)(A) of this subsection) is
24 amended—

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

3 (B) by striking the period at the end of
4 subparagraph (D) and inserting a semicolon;
5 and

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

7 “(E) a program of related transportation
8 projects that—

9 “(i) are coordinated to achieve a com-
10 mon transportation goal;

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

13 “(iii) together receive not more than
14 30 percent of their funding for capital
15 costs from Federal grant funds made avail-
16 able under this title or chapter 53 of title
17 49; and

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

20 “(i) improves mobility; and

21 “(ii) is located within the station area
22 of a transit, passenger rail, or intercity bus
23 station.”.

24 (5) SUBSIDY AMOUNT.—Section 601(a)(14) (as
25 redesignated by paragraph (2)(A) of this subsection)

1 is amended by inserting “, or other source of funds
2 provided pursuant to section 608(c)(2),” after
3 “budget authority”.

4 (b) PROJECT APPLICATIONS AND DETERMINATIONS
5 OF ELIGIBILITY.—

6 (1) IN GENERAL.—Section 602 is amended to
7 read as follows:

8 **“SEC. 602. PROJECT APPLICATIONS AND DETERMINATIONS**
9 **OF ELIGIBILITY.**

10 “(a) PROJECT APPLICATIONS.—

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

18 “(2) MASTER CREDIT AGREEMENTS.—An appli-
19 cation submitted under paragraph (1) may request
20 that financial assistance under this chapter be pro-
21 vided under a master credit agreement.

22 “(3) APPLICATIONS WHERE OBLIGOR WILL BE
23 IDENTIFIED LATER.—A State, local government,
24 agency or instrumentality of a State or local govern-
25 ment, or public authority may submit an application

1 to the Secretary under paragraph (1) under which a
2 private party to a public-private partnership will be
3 the obligor and will be identified later through com-
4 pletion of a procurement and selection of the private
5 party.

6 “(b) ELIGIBILITY.—

7 “(1) APPROVAL.—The Secretary shall approve
8 an application submitted under subsection (a)(1) for
9 each project that meets the criteria specified in
10 paragraph (2).

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

14 “(A) INCLUSION IN TRANSPORTATION
15 PLANS AND PROGRAMS.—The project shall sat-
16 isfy the applicable planning and programmatic
17 requirements of sections 5203 and 5204 of title
18 49—

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

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

5 “(B) CREDITWORTHINESS.—

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

9 “(I) a rate covenant, if applica-
10 ble;

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

13 “(III) an investment grade rating
14 from at least 2 rating agencies on
15 debt senior to the Federal credit in-
16 strument; and

17 “(IV) a rating from at least 2
18 rating agencies on the Federal credit
19 instrument.

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

1 Federal credit instrument shall be suffi-
2 cient.

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

11 “(C) ELIGIBLE PROJECT COSTS.—The eli-
12 gible costs of the project—

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

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

1 “(iii) in the case of any other project,
2 shall be reasonably anticipated to equal or
3 exceed the lesser of—

4 “(I) \$50,000,000; or

5 “(II) 33¹/₃ percent of the amount
6 apportioned, out of amounts made
7 available from the Highway Trust
8 Fund (other than the Alternative
9 Transportation Account), to the State
10 in which the project is located for
11 Federal-aid highway and highway
12 safety construction programs for the
13 most recently completed fiscal year.

14 “(D) DEDICATED REVENUE SOURCES.—

15 The Federal credit instrument for the project
16 shall be repayable, in whole or in part, from
17 tolls, user fees, payments owing to the obligor
18 under a public-private partnership, or other
19 dedicated revenue sources that also secure or
20 fund the project obligations.

21 “(E) REGIONAL SIGNIFICANCE.—The
22 project shall be regionally significant (as de-
23 fined in regulations implementing sections 134
24 and 135 (as in effect on the day before the date
25 of enactment of the American Energy and In-

1 frastructure Jobs Act of 2012)) or otherwise
2 significantly enhance the national transpor-
3 tation system.

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

11 “(G) BENEFICIAL EFFECTS.—The Sec-
12 retary shall determine that financial assistance
13 for the project under this chapter will—

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

17 “(ii) enable the project to proceed at
18 an earlier date than the project would oth-
19 erwise be able to proceed or reduce the
20 project’s life cycle costs, including debt
21 service costs; and

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

24 “(H) PROJECT READINESS.—The appli-
25 cant shall demonstrate that the contracting

1 process for construction of the project can be
2 commenced not later than 90 days after the
3 date on which a Federal credit instrument is se-
4 cured for the project under this chapter.

5 “(c) PRELIMINARY RATING OPINION LETTER.—For
6 purposes of subsection (b)(2)(B), the Secretary shall re-
7 quire each applicant for a project to provide a preliminary
8 rating opinion letter from at least 1 rating agency indi-
9 cating that the project’s senior obligations, which may
10 consist, in whole or in part, of the Federal credit instru-
11 ment, have the potential to achieve an investment-grade
12 rating.

13 “(d) APPROVAL OF APPLICATIONS AND FUNDING.—

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

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

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

24 “(2) INSUFFICIENT FUNDS.—If the Secretary
25 approves an application submitted under subsection

1 (a)(1) for a project in a fiscal year, but is unable to
2 provide financial assistance for the project in that
3 fiscal year as a result of prior commitments or con-
4 ditional commitments of budget authority under this
5 chapter, the Secretary shall provide the project spon-
6 sor with the option of receiving such financial assist-
7 ance as soon as sufficient budget authority is made
8 available to carry out this chapter in a subsequent
9 fiscal year.

10 “(e) PROCEDURES FOR DETERMINING PROJECT ELI-
11 GIBILITY.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish procedures for—

14 “(A) processing applications received under
15 subsection (a)(1) requesting financial assistance
16 for projects; and

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

20 “(2) APPLICATION PROCESSING PROCE-
21 DURES.—The procedures shall meet the following re-
22 quirements:

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

25 “(B) The procedures shall ensure that—

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

7 “(ii) if the application is complete, the
8 Secretary will provide written notice to the
9 applicant, on or before the 60th day fol-
10 lowing the date of issuance of written no-
11 tice for the application under clause (i), in-
12 forming the applicant of whether the Sec-
13 retary has approved or disapproved the ap-
14 plication;

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

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

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

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

10 “(C) The procedures may not use eligi-
11 bility criteria that are supplemental to those es-
12 tablished by this chapter.

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

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

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

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

4 “(B) approving or disapproving such appli-
5 cations based on whether the proposed project
6 or program of related projects meets the appli-
7 cable eligibility criteria specified in section
8 601(a)(7).

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

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

19 “(1) Title VI of the Civil Rights Act of 1964
20 (42 U.S.C. 2000d et seq.).

21 “(2) The National Environmental Policy Act of
22 1969 (42 U.S.C. 4321 et seq.).

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

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

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

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

11 (c) SECURED LOANS.—

12 (1) IN GENERAL.—

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

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

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

23 (2) TERMS AND LIMITATIONS.—

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

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

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

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

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

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

21 (d) LINES OF CREDIT.—

22 (1) APPROVAL OF PROJECTS.—Section
23 604(a)(1) is amended by striking “selected” and in-
24 serting “approved”.

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

4 (3) TERMS AND LIMITATIONS.—

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

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

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

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

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

1 prior project obligations or project obligations
2 not contemplated by the parties at the time)”.
3

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

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

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

14 (f) FUNDING.—

15 (1) IN GENERAL.—Section 608(a)(1) is amend-
16 ed to read as follows:

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

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

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

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

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

14 “(c) EXHAUSTION OF AVAILABILITY.—

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

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

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

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

1 application or at any time after receipt of such no-
2 tice to pay the subsidy amount from available
3 sources other than the budget authority available in
4 a fiscal year under subparagraph (a)(1), including
5 from Federal assistance available to the applicant
6 under this title or chapter 53 of title 49.

7 “(d) USE OF UNALLOCATED FUNDS.—

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

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

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

1 surface transportation program, and highway
2 safety improvement program for the fiscal year.

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

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

7 (a) FUNDING.—

8 (1) IN GENERAL.—Section 610(d) is amend-
9 ed—

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

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

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

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

19 (B) in subparagraph (B) by striking the
20 period at the end and inserting “; and”; and

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

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

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

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

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

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

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

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

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

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

3 “(b) ELIGIBLE USES OF FUNDING.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), funds apportioned to a State under sub-
6 section (a) shall be used by the State to make cap-
7 italization grants to the highway account of the
8 State’s infrastructure bank established under section
9 610.

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

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

22 “(1) did obligate before such date all of the
23 funds apportioned to the State for the fiscal year
24 under subsection (a); and

1 “(2) certify to the Secretary that the State will
2 use the additional funds to make capitalization
3 grants described in subsection (b) before the end of
4 the fiscal year.

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

8 “(e) APPLICABILITY OF FEDERAL LAW.—The re-
9 quirements referred to in section 610(h) shall apply to any
10 funds apportioned under this section.

11 “(f) FUNDING.—

12 “(1) IN GENERAL.—There is authorized to be
13 appropriated out of the Highway Trust Fund (other
14 than the Alternative Transportation Account) to
15 carry out this section \$750,000,000 for each of fis-
16 cal years 2013 through 2016.

17 “(2) CONTRACT AUTHORITY.—Funds made
18 available under paragraph (1) shall be available for
19 obligation in the same manner as if the funds were
20 apportioned under chapter 1.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 6 is amended by adding at the end the following:

 “611. State infrastructure bank capitalization.”.

23 **SEC. 1204. TOLLING.**

24 (a) AMENDMENT TO TOLLING PROVISION.—Section
25 129(a) is amended to read as follows:

1 “(a) BASIC PROGRAM.—

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

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

10 “(B) initial construction of one or more
11 lanes or other improvements that increase ca-
12 pacity of a highway, bridge, or tunnel (other
13 than a highway on the Interstate System) and
14 conversion of that highway, bridge, or tunnel to
15 a tolled facility;

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

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

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

7 “(F) reconstruction, restoration, or reha-
8 bilitation of a toll-free Federal-aid highway
9 (other than a highway on the Interstate Sys-
10 tem) and conversion of the highway to a toll fa-
11 cility;

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

20 “(H) conversion of a high occupancy vehi-
21 cle lane on a highway, bridge, or tunnel to a toll
22 facility; and

23 “(I) preliminary studies to determine the
24 feasibility of a toll facility for which Federal

1 participation is authorized under this para-
2 graph.

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

6 “(A) be publicly owned; or

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

15 “(3) LIMITATIONS ON USE OF REVENUES.—

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

20 “(i) debt service with respect to the
21 projects on or for which the tolls are au-
22 thorized, including funding of reasonable
23 reserves and debt service on refinancing;

24 “(ii) reasonable return on investment
25 of any private person financing the project,

1 as determined by the State or interstate
2 compact of States concerned;

3 “(iii) any costs necessary for the im-
4 provement and proper operation and main-
5 tenance of the toll facility, including recon-
6 struction, resurfacing, restoration, and re-
7 habilitation;

8 “(iv) if the toll facility is subject to a
9 public-private partnership agreement, pay-
10 ments that the party holding the right to
11 toll revenues owes to the other party under
12 the public-private partnership agreement;
13 and

14 “(v) if the public authority certifies
15 annually that the tolled facility is being
16 adequately maintained, the public author-
17 ity may use toll revenues for any other
18 purpose for which Federal funds may be
19 obligated by a State under this title.

20 “(B) ANNUAL AUDIT.—A public authority
21 with jurisdiction over a toll facility shall con-
22 duct or have an independent auditor conduct an
23 annual audit of toll facility records to verify
24 adequate maintenance and compliance with sub-
25 paragraph (A), and report the results of such

1 audits to the Secretary. Upon reasonable notice,
2 the public authority shall make all records of
3 the public authority pertaining to the toll facil-
4 ity available for audit by the Secretary.

5 “(C) NONCOMPLIANCE.—If the Secretary
6 concludes that a public authority has not com-
7 plied with the limitations on the use of revenues
8 described in subparagraph (A), the Secretary
9 may require the public authority to discontinue
10 collecting tolls until an agreement with the Sec-
11 retary is reached to achieve compliance with the
12 limitation on the use of revenues described in
13 subparagraph (A).

14 “(4) LIMITATIONS ON CONVERSION OF HIGH
15 OCCUPANCY VEHICLE FACILITIES ON INTERSTATE
16 SYSTEM.—

17 “(A) IN GENERAL.—A public authority
18 with jurisdiction over a high occupancy vehicle
19 facility on the Interstate System may undertake
20 reconstruction, restoration, or rehabilitation
21 under subsection (a)(1)(G) on the facility, and
22 may levy tolls on vehicles, excluding high occu-
23 pancy vehicles, using the reconstructed, re-
24 stored, or rehabilitated facility, if the public au-
25 thority—

1 “(i) in the case of a high occupancy
2 vehicle facility that affects a metropolitan
3 area, submits to the Secretary a written
4 assurance that the metropolitan planning
5 organization designated under section
6 5203 of title 49 for the area has been con-
7 sulted concerning the placement and
8 amount of tolls on the converted facility;

9 “(ii) develops, manages, and main-
10 tains a system that will automatically col-
11 lect the toll; and

12 “(iii) establishes policies and proce-
13 dures to—

14 “(I) manage the demand to use
15 the facility by varying the toll amount
16 that is charged; and

17 “(II) enforce sanctions for viola-
18 tions of use of the facility.

19 “(B) EXEMPTION FROM TOLLS.—In lev-
20 ying tolls on a facility under subparagraph (A),
21 a public authority may designate classes of ve-
22 hicles that are exempt from the tolls or charge
23 different toll rates for different classes of vehi-
24 cles.

1 “(5) SPECIAL RULE FOR FUNDING.—In the
2 case of a toll facility under the jurisdiction of a pub-
3 lic authority of a State (other than the State trans-
4 portation department), upon request of the State
5 transportation department and subject to such terms
6 and conditions as such department and public au-
7 thority may agree, the Secretary, working through
8 the State department of transportation, shall reim-
9 burse such public authority for the Federal share of
10 the costs of construction of the project carried out
11 on the toll facility under this subsection in the same
12 manner and to the same extent as such department
13 would be reimbursed if such project was being car-
14 ried out by such department. The reimbursement of
15 funds under this paragraph shall be from sums ap-
16 portioned to the State under this chapter and avail-
17 able for obligations on projects on the Federal-aid
18 system in such State on which the project is being
19 carried out.

20 “(6) LIMITATION ON FEDERAL SHARE.—The
21 Federal share payable for a project described in
22 paragraph (1) shall be a percentage determined by
23 the State but not to exceed 80 percent.

24 “(7) MODIFICATIONS.—If a public authority
25 (including a State transportation department) with

1 jurisdiction over a toll facility subject to an agree-
2 ment under this section or section 119(e), as in ef-
3 fect on the day before the effective date of title I of
4 the Intermodal Surface Transportation Efficiency
5 Act of 1991, requests modification of such agree-
6 ment, the Secretary shall modify such agreement to
7 allow the continuation of tolls in accordance with
8 paragraph (3) without repayment of Federal funds.

9 “(8) LOANS.—

10 “(A) IN GENERAL.—Using amounts made
11 available under this title, a State may loan to
12 a public or private entity constructing or pro-
13 posing to construct under this section a toll fa-
14 cility or non-toll facility with a dedicated rev-
15 enue source an amount equal to all or part of
16 the Federal share of the cost of the project if
17 the project has a revenue source specifically
18 dedicated to it. Dedicated revenue sources for
19 non-toll facilities include excise taxes, sales
20 taxes, motor vehicle use fees, tax on real prop-
21 erty, tax increment financing, and such other
22 dedicated revenue sources as the Secretary de-
23 termines appropriate.

24 “(B) COMPLIANCE WITH FEDERAL
25 LAWS.—As a condition of receiving a loan

1 under this paragraph, the public or private enti-
2 ty that receives the loan shall ensure that the
3 project will be carried out in accordance with
4 this title and any other applicable Federal law,
5 including any applicable provision of a Federal
6 environmental law.

7 “(C) SUBORDINATION OF DEBT.—The
8 amount of any loan received for a project under
9 this paragraph may be subordinated to any
10 other debt financing for the project.

11 “(D) OBLIGATION OF FUNDS LOANED.—
12 Funds loaned under this paragraph may only
13 be obligated for projects under this paragraph.

14 “(E) REPAYMENT.—The repayment of a
15 loan made under this paragraph shall com-
16 mence not later than 5 years after date on
17 which the facility that is the subject of the loan
18 is open to traffic.

19 “(F) TERM OF LOAN.—The term of a loan
20 made under this paragraph shall not exceed 30
21 years from the date on which the loan funds are
22 obligated.

23 “(G) INTEREST.—A loan made under this
24 paragraph shall bear interest at or below mar-
25 ket interest rates, as determined by the State,

1 to make the project that is the subject of the
2 loan feasible.

3 “(H) REUSE OF FUNDS.—Amounts repaid
4 to a State from a loan made under this para-
5 graph may be obligated—

6 “(i) for any purpose for which the
7 loan funds were available under this title;
8 and

9 “(ii) for the purchase of insurance or
10 for use as a capital reserve for other forms
11 of credit enhancement for project debt in
12 order to improve credit market access or to
13 lower interest rates for projects eligible for
14 assistance under this title.

15 “(I) GUIDELINES.—The Secretary shall es-
16 tablish procedures and guidelines for making
17 loans under this paragraph.

18 “(9) STATE LAW PERMITTING TOLLING.—If a
19 State does not have a highway, bridge, or tunnel toll
20 facility as of the date of enactment of the American
21 Energy and Infrastructure Jobs Act of 2012, before
22 commencing any activity authorized under this sec-
23 tion, the State must have in effect a law that per-
24 mits tolling on a highway, bridge, or tunnel.

1 “(10) DEFINITIONS.—In this subsection, the
2 following definitions apply:

3 “(A) HIGH OCCUPANCY VEHICLE; HOV.—

4 The term ‘high occupancy vehicle’ or ‘HOV’
5 means a vehicle with no fewer than 2 occu-
6 pants.

7 “(B) INITIAL CONSTRUCTION.—The term

8 ‘initial construction’ means the construction of
9 a highway, bridge, tunnel, or other facility at
10 any time before it is open to traffic and does
11 not include any improvement to a highway,
12 bridge, tunnel, or other facility after it is open
13 to traffic.

14 “(C) PUBLIC AUTHORITY.—The term ‘pub-

15 lic authority’ means a State, interstate compact
16 of States, or public entity designated by a
17 State.

18 “(D) TOLL FACILITY.—The term ‘toll fa-

19 cility’ means a toll highway, bridge, or tunnel or
20 approach thereto constructed under this sub-
21 section.”.

22 (b) ELECTRONIC TOLL COLLECTION INTEROPER-
23 ABILITY REQUIREMENTS.—Not later than 2 years after
24 the date of enactment of this Act, all toll facilities on the
25 Federal-aid highways shall implement technologies or

1 business practices that provide for the interoperability of
2 electronic toll collection programs.

3 **SEC. 1205. HOV FACILITIES.**

4 (a) HOV EXCEPTIONS.—Section 166(b)(5) is amend-
5 ed—

6 (1) in subparagraphs (A) and (B) by striking
7 “2009” and inserting “2016”; and

8 (2) in subparagraph (C)—

9 (A) by striking “subparagraph (B)” and
10 inserting “this paragraph”; and

11 (B) by inserting “or equal to” after “less
12 than”.

13 (b) REQUIREMENTS APPLICABLE TO TOLLS.—Sec-
14 tion 166(c)(3) is amended to read as follows:

15 “(3) TOLL REVENUE.—Toll revenue collected
16 under this section is subject to the requirements of
17 section 129(a)(3).”.

18 (c) HOV FACILITY MANAGEMENT, OPERATION,
19 MONITORING, AND ENFORCEMENT.—Section 166(d)(2) is
20 amended by adding at the end the following:

21 “(D) MAINTENANCE OF OPERATING PER-
22 FORMANCE.—Not later than 6 months after a
23 facility has been determined to be degraded
24 pursuant to the standard specified in subpara-
25 graph (B), the State agency with jurisdiction

1 over the facility shall bring the facility into
2 compliance with the minimum average oper-
3 ating speed performance standard through
4 changes to operation of the facility, including—

5 “(i) increasing the occupancy require-
6 ment for HOV lanes;

7 “(ii) varying the toll charged to vehi-
8 cles allowed under subsection (b) to reduce
9 demand;

10 “(iii) discontinuing allowing non-HOV
11 vehicles to use HOV lanes under sub-
12 section (b); or

13 “(iv) increasing the available capacity
14 of the HOV facility;”.

15 **SEC. 1206. PUBLIC-PRIVATE PARTNERSHIPS.**

16 (a) **BEST PRACTICES.**—The Secretary shall compile,
17 and make available to the public on the Internet Web site
18 of the Department, best practices on how States, public
19 transportation agencies, and other public officials can
20 work with the private sector in the development, financing,
21 construction, and operation of transportation facilities.

22 (b) **CONTENTS.**—The best practices shall include po-
23 licies and techniques to ensure that the interests of the
24 traveling public and State and local governments are pro-
25 tected in any agreement entered into with the private sec-

1 tor for the development, financing, construction, and oper-
2 ation of transportation facilities.

3 (c) TECHNICAL ASSISTANCE.—The Secretary, upon
4 request, may provide technical assistance to States, public
5 transportation agencies, and other public officials regard-
6 ing proposed public-private partnership agreements for
7 the development, financing, construction, and operation of
8 transportation facilities, including assistance in analyzing
9 whether the use of a public-private partnership agreement
10 would provide value compared with traditional public de-
11 livery methods.

12 (d) STANDARD TRANSACTION CONTRACTS.—

13 (1) DEVELOPMENT.—Not later than 18 months
14 after the date of enactment of this Act, the Sec-
15 retary shall develop standard public-private partner-
16 ship transaction model contracts for the most pop-
17 ular types of public-private partnerships for the de-
18 velopment, financing, construction, and operation of
19 transportation facilities.

20 (2) USE.—The Secretary shall encourage
21 States, public transportation agencies, and other
22 public officials to use the model contracts as a base
23 template when developing their own public-private
24 partnership agreements for the development, financ-

1 ing, construction, and operation of transportation fa-
 2 cilities.

3 **Subtitle C—Highway Safety**

4 **SEC. 1301. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

5 Section 148 is amended to read as follows:

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

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

9 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-
 10 GRAM.—The term ‘highway safety improvement pro-
 11 gram’ means the program carried out under this sec-
 12 tion.

13 “(2) HIGHWAY SAFETY IMPROVEMENT
 14 PROJECT.—The term ‘highway safety improvement
 15 project’ means a project consistent with an applica-
 16 ble State strategic highway safety plan that—

17 “(A) corrects or improves a roadway fea-
 18 ture that constitutes a hazard to any road
 19 users; or

20 “(B) addresses any other highway safety
 21 problem.

22 “(3) PROJECT TO MAINTAIN MINIMUM LEVELS
 23 OF RETROREFLECTIVITY.—The term ‘project to
 24 maintain minimum levels of retroreflectivity’ means
 25 a project undertaken pursuant to the provisions of

1 the Manual on Uniform Traffic Control Devices that
2 require the use of an assessment or management
3 method designed to maintain highway sign or pave-
4 ment marking retroreflectivity at or above minimum
5 levels prescribed in the Manual.

6 “(4) ROAD USERS.—The term ‘road users’
7 means motor vehicle drivers and passengers, public
8 transportation operators and users, truck drivers,
9 bicyclists, motorcyclists, and pedestrians, including
10 persons with disabilities.

11 “(5) SAFETY DATA.—The term ‘safety data’ in-
12 cludes crash, roadway, driver licensing, and traffic
13 data with respect to all public roads and, for high-
14 way-rail grade crossings, data on the characteristics
15 of highway and train traffic.

16 “(6) SAFETY PROJECT UNDER ANY OTHER SEC-
17 TION.—

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

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

24 “(i) projects consistent with an appli-
25 cable State strategic highway safety plan

1 that promote the awareness of the public
2 and educate the public concerning highway
3 safety matters (including motorcycle safe-
4 ty);

5 “(ii) projects to enforce highway safe-
6 ty laws; and

7 “(iii) projects to provide infrastruc-
8 ture and equipment to support emergency
9 services.

10 “(7) STATE HIGHWAY SAFETY IMPROVEMENT
11 PROGRAM.—The term ‘State highway safety im-
12 provement program’ means a program of highway
13 safety improvement projects carried out as part of
14 the statewide transportation improvement program
15 under section 5204(g) of title 49.

16 “(8) STATE STRATEGIC HIGHWAY SAFETY
17 PLAN.—The term ‘State strategic highway safety
18 plan’ means a comprehensive, data-driven safety
19 plan developed in accordance with subsection (c)(2).

20 “(b) IN GENERAL.—The Secretary shall carry out a
21 highway safety improvement program that is consistent
22 with achieving a significant reduction in traffic fatalities
23 and serious injuries on all public roads.

24 “(c) STATE HIGHWAY SAFETY IMPROVEMENT PRO-
25 GRAMS.—

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

5 “(A) includes a set of projects that are
6 consistent with the State strategic highway
7 safety plan of the State;

8 “(B) satisfies the requirements of this sec-
9 tion; and

10 “(C) is consistent with the State’s state-
11 wide transportation improvement program
12 under section 5204(g) of title 49.

13 “(2) STRATEGIC HIGHWAY SAFETY PLAN.—As
14 part of the State highway safety improvement pro-
15 gram of the State, each State shall have in effect,
16 update at least every 2 years, and submit to the Sec-
17 retary a State strategic highway safety plan that—

18 “(A) is developed after consultation with—

19 “(i) a highway safety representative of
20 the Governor of the State;

21 “(ii) regional transportation planning
22 organizations and metropolitan planning
23 organizations, if any;

24 “(iii) representatives of major modes
25 of transportation;

1 “(iv) State and local traffic enforce-
2 ment officials;

3 “(v) representatives of entities con-
4 ducting a Federal or State motor carrier
5 safety program;

6 “(vi) motor vehicle administration
7 agencies;

8 “(vii) a highway-rail grade crossing
9 safety representative of the Governor of
10 the State; and

11 “(viii) other major Federal, State,
12 tribal, regional, and local safety stake-
13 holders;

14 “(B) is approved by the Governor of the
15 State or a responsible State agency;

16 “(C) defines State safety goals, including
17 with respect to performance measures estab-
18 lished under section 5206 of title 49;

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

1 “(E) analyzes and makes effective use of
2 State, regional, and local safety data, including
3 data from the safety data system required
4 under subsection (e);

5 “(F) considers the results of Federal,
6 State, regional, and local transportation and
7 highway safety planning processes; and

8 “(G) considers the safety needs of, and
9 high-fatality segments of, public roads.

10 “(3) IMPLEMENTATION.—

11 “(A) IDENTIFICATION AND ANALYSIS OF
12 HIGHWAY SAFETY PROBLEMS AND OPPORTUNI-
13 TIES.—As part of the State highway safety im-
14 provement program of the State, each State
15 shall, including through use of the safety data
16 system required under subsection (e)—

17 “(i) identify roadway features that
18 constitute a hazard to road users;

19 “(ii) identify highway safety improve-
20 ment projects on the basis of crash history
21 (including crash rates), crash potential, or
22 other data-supported means;

23 “(iii) establish the relative severity of
24 the risks of roadway features based on
25 crash, injury, fatality, traffic volume, and

1 other relevant data (including the number
2 and rates of crashes, injuries, and fatali-
3 ties);

4 “(iv) consider whether highway safety
5 improvement projects maximize opportuni-
6 ties to advance safety; and

7 “(v) in conjunction with the National
8 Highway Traffic Safety Administration
9 and the Federal Motor Carrier Safety Ad-
10 ministration, evaluate the progress made
11 each year in achieving State safety goals
12 identified in the State strategic highway
13 safety plan.

14 “(B) SCHEDULE OF HIGHWAY SAFETY IM-
15 PROVEMENT PROJECTS.—As part of the State
16 highway safety improvement program of the
17 State, each State shall, including through use
18 of the safety data system required under sub-
19 section (e)—

20 “(i) identify highway safety improve-
21 ment projects;

22 “(ii) determine priorities for the cor-
23 rection of roadway features that constitute
24 a hazard to road users as identified
25 through safety data analysis; and

1 “(iii) establish and implement a
2 schedule of highway safety improvement
3 projects to address roadway features iden-
4 tified as constituting a hazard to road
5 users.

6 “(4) ELIGIBLE PROJECTS.—

7 “(A) IN GENERAL.—A State may obligate
8 funds apportioned to the State under section
9 104(b)(5) to carry out—

10 “(i) any highway safety improvement
11 project on any public road or publicly
12 owned pathway or trail;

13 “(ii) any project to put in effect or
14 improve the safety data system required
15 under subsection (e), without regard to
16 whether the project is included in an appli-
17 cable State strategic highway safety plan;

18 “(iii) any project to maintain min-
19 imum levels of retroreflectivity with respect
20 to a public road, without regard to whether
21 the project is included in an applicable
22 State strategic highway safety plan; or

23 “(iv) as provided in subsection (d),
24 other projects.

1 “(B) USE OF OTHER FUNDING FOR SAFE-
2 TY IMPROVEMENT PROJECTS.—

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

8 “(ii) USE OF OTHER FUNDS.—States
9 are encouraged to address the full scope of
10 their safety needs and opportunities by
11 using, for a highway safety improvement
12 project, funds made available under other
13 provisions of this title (except a provision
14 that specifically prohibits that use).

15 “(C) AUTOMATED TRAFFIC ENFORCEMENT
16 SYSTEMS.—

17 “(i) PROHIBITION.—A State may not
18 obligate funds apportioned to the State
19 under section 104(b) to carry out any pro-
20 gram to purchase, operate, or maintain an
21 automated traffic enforcement system.

22 “(ii) AUTOMATED TRAFFIC ENFORCE-
23 MENT SYSTEM DEFINED.—In this subpara-
24 graph, the term ‘automated traffic enforce-

1 ment system’ means automated technology
2 that monitors compliance with traffic laws.

3 “(5) UPDATED STATE STRATEGIC HIGHWAY
4 SAFETY PLAN REQUIRED.—

5 “(A) IN GENERAL.—A State may obligate
6 funds apportioned to the State under section
7 104(b)(5) for the second fiscal year beginning
8 after the date of enactment of the American
9 Energy and Infrastructure Jobs Act of 2012
10 only if the State has in effect and has sub-
11 mitted to the Secretary an updated State stra-
12 tegic highway safety plan that satisfies require-
13 ments under this subsection.

14 “(B) TRANSITION.—Before the second fis-
15 cal year beginning after the date of enactment
16 of the American Energy and Infrastructure
17 Jobs Act of 2012, a State may obligate funds
18 apportioned to the State under section
19 104(b)(5) in a manner consistent with a State
20 strategic highway safety plan of the State devel-
21 oped before such date of enactment.

22 “(d) FLEXIBLE FUNDING.—To further the imple-
23 mentation of a State strategic highway safety plan and
24 the achievement of performance measures established
25 under section 5206 of title 49, a State may use not more

1 than 10 percent of the funds apportioned to the State
2 under section 104(b)(5) for a fiscal year to carry out safe-
3 ty projects under any other section if—

4 “(1) the use is consistent with the State stra-
5 tegic highway safety plan of the State; and

6 “(2) the State certifies to the Secretary that
7 the funds are being used for the most effective
8 projects for making progress toward achieving per-
9 formance measures established under section 5206
10 of title 49.

11 “(e) SAFETY DATA SYSTEM.—

12 “(1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of the American Energy and
14 Infrastructure Jobs Act of 2012, each State, as part
15 of the State highway safety improvement program of
16 the State, shall have in effect a safety data system
17 to—

18 “(A) collect and maintain a record of safe-
19 ty data with respect to all public roads in the
20 State;

21 “(B) advance the capabilities of the State
22 with respect to safety data collection, analysis,
23 and integration;

24 “(C) identify roadway features that con-
25 stitute a hazard to road users; and

1 “(D) perform safety problem identification
2 and countermeasure analysis.

3 “(2) IMPROVEMENT EFFORTS.—Each State
4 shall carry out projects, as needed, to ensure that
5 the safety data system of the State enhances—

6 “(A) the timeliness, accuracy, complete-
7 ness, uniformity, and accessibility of safety data
8 with respect to all public roads in the State;

9 “(B) the ability of the State to integrate
10 all safety data collected throughout the State;

11 “(C) the ability of State and national safe-
12 ty data systems to be compatible and interoper-
13 able;

14 “(D) the ability of the Secretary to observe
15 and analyze national trends in crash rates, out-
16 comes, and circumstances; and

17 “(E) the collection of data on crashes that
18 involve a bicyclist or pedestrian.

19 “(3) EVALUATION OF IMPROVEMENT EF-
20 FORTS.—Each State shall collect and maintain a
21 record of projects undertaken to improve the safety
22 data system of the State and shall evaluate the ef-
23 fectiveness of such projects.

1 “(f) TRANSPARENCY.—A State shall make all plans
2 and reports submitted to the Secretary under this section
3 available to the public through—

4 “(1) the Internet Web site of the State trans-
5 portation department of the State; or

6 “(2) such other means as the Secretary deter-
7 mines to be appropriate.

8 “(g) DISCOVERY AND ADMISSION INTO EVIDENCE OF
9 CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Not-
10 withstanding any other provision of law, reports, surveys,
11 schedules, lists, or data compiled or collected for any pur-
12 pose directly relating to this section, or published in ac-
13 cordance with subsection (f), shall not be subject to dis-
14 covery or admitted into evidence in a Federal or State
15 court proceeding or considered for other purposes in any
16 action for damages arising from any occurrence at a loca-
17 tion identified or addressed in such reports, surveys,
18 schedules, lists, or other data.

19 “(h) FEDERAL SHARE OF HIGHWAY SAFETY IM-
20 PROVEMENT PROJECTS.—The Federal share of the cost
21 of a highway safety improvement project carried out with
22 funds apportioned to a State under section 104(b)(5) shall
23 be 90 percent, unless a Federal share exceeding 90 per-
24 cent would apply to the project under section 120 or
25 130.”.

1 **SEC. 1302. RAILWAY-HIGHWAY CROSSINGS.**

2 (a) TRANSPARENCY OF STATE SURVEYS AND SCHED-
3 ULES WITH RESPECT TO RAILWAY-HIGHWAY CROSS-
4 INGS.—

5 (1) SURVEY AND SCHEDULE OF PROJECTS.—

6 Section 130(d) is amended by adding at the end the
7 following: “Each State shall make the surveys con-
8 ducted and schedules implemented under this sub-
9 section available to the public on an appropriate
10 Internet Web site of the State.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall take effect 1 year after the
13 date of enactment of this Act.

14 (b) RAILWAY-HIGHWAY CROSSING INFORMATION.—

15 Section 130 is amended by adding at the end the fol-
16 lowing:

17 “(m) RAILWAY-HIGHWAY CROSSING INFORMA-
18 TION.—

19 “(1) PRIORITY LISTS AND ACTION PLANS.—

20 “(A) IN GENERAL.—Not later than 1 year
21 after the date of enactment of this subsection,
22 each State shall compile and submit to the Sec-
23 retary a report that includes—

24 “(i) a list of the 10 railway-highway
25 crossings in the State that have the great-
26 est need for safety improvements;

1 “(ii) an action plan that identifies
2 projects and activities the State plans to
3 carry out to improve safety at those rail-
4 way-highway crossings; and

5 “(iii) a list of projects and activities
6 the State carried out to improve safety at
7 those railway-highway crossings during the
8 2-year period ending on the date on which
9 the report is submitted to the Secretary.

10 “(B) UPDATES.—Each State shall update
11 and submit to the Secretary, at least once every
12 2 years, the report of that State under subpara-
13 graph (A).

14 “(2) PUBLICATION OF REPORTS ON U.S. DOT
15 WEB SITE.—The Secretary shall make the reports
16 submitted under paragraph (1) available to the pub-
17 lic on the Internet Web site of the Department of
18 Transportation.

19 “(3) PUBLICATION OF REPORTS ON STATE WEB
20 SITES.—Each State shall make the reports compiled
21 under paragraph (1) available to the public on an
22 appropriate Internet Web site of the State.

23 “(4) LIMITATION ON USE OF DATA IN JUDICIAL
24 PROCEEDINGS.—Notwithstanding any other provi-
25 sion of law, any report, review, survey, schedule, list,

1 data, information, or document of any kind compiled
2 or collected pursuant to this subsection, including
3 for the purpose of identifying, evaluating, or plan-
4 ning the safety enhancement of a potential accident
5 site or railway-highway crossing pursuant to this
6 section, shall not be subject to discovery or admitted
7 into evidence in a Federal or State court proceeding
8 or considered for other purposes in any action for
9 damages arising from any occurrence at a location
10 mentioned or addressed in such report, review, sur-
11 vey, schedule, list, data, information, or document.

12 “(5) NONCOMPLIANCE.—If the Secretary deter-
13 mines that a State is not in compliance with require-
14 ments under this subsection, the Secretary may
15 withhold funding that would otherwise be appor-
16 tioned to that State under this section.”.

17 **SEC. 1303. HIGHWAY WORKER SAFETY.**

18 (a) POSITIVE PROTECTIVE MEASURES.—Not later
19 than 60 days after the date of enactment of this Act, the
20 Secretary shall modify section 630.1108(a) of title 23,
21 Code of Federal Regulations, to ensure that—

22 (1) at a minimum, positive protective measures
23 are used to separate workers on highway construc-
24 tion projects from motorized traffic in all work zones
25 where traffic is present and where workers have no

1 means of escape, including tunnels and bridges, un-
2 less an engineering analysis determines such meas-
3 ures are not necessary;

4 (2) temporary longitudinal traffic barriers are
5 used to protect workers on highway construction
6 projects in stationary work zones lasting 2 weeks or
7 more if traffic is present, the traffic will be traveling
8 at a speed of 45 miles per hour or more, and the
9 nature of the work requires workers to be within 1
10 lane-width from the edge of a live travel lane, un-
11 less—

12 (A) an engineering analysis determines
13 such barriers are not necessary; or

14 (B) the project is located—

15 (i) in a State with a population den-
16 sity of 20 or fewer persons per square
17 mile;

18 (ii) outside of an urbanized area; and

19 (iii) on a roadway with an annual av-
20 erage daily traffic load that is less than
21 100 vehicles per hour; and

22 (3) when positive protective measures are nec-
23 essary for a highway construction project, such
24 measures are paid for on a unit pay basis, unless
25 doing so would create a conflict with innovative con-

1 tracting approaches, including a design-build con-
2 tract or a performance-based contract, under which
3 the contractor is paid to assume a certain risk allo-
4 cation and payment is generally made on a lump
5 sum basis.

6 (b) APPAREL.—Not later than 180 days after the
7 date of enactment of this Act, the Secretary shall modify
8 regulations issued pursuant to section 1402 of
9 SAFETEA-LU (23 U.S.C. 401 note)—

10 (1) to allow fire services personnel, who are
11 subject to the regulations, to wear apparel meeting
12 the high visibility requirements set forth in NFPA
13 1971–2007 (Standard on Protective Ensembles for
14 Structural Fire Fighting and Proximity Fire Fight-
15 ing); and

16 (2) to not require such personnel to wear ap-
17 parel meeting requirements set forth in ANSI/ISEA
18 107–2004.

19 **Subtitle D—Freight Mobility**

20 **SEC. 1401. NATIONAL FREIGHT POLICY.**

21 (a) DEVELOPMENT.—Not later than 1 year after the
22 date of enactment of this Act, and every 5 years there-
23 after, the Secretary, in consultation with interested public
24 and private sector freight stakeholders, including rep-
25 resentatives of ports, shippers, carriers, freight-related as-

1 sociations, State transportation departments, and local
2 governments, shall develop a 5-year National Freight Pol-
3 icy.

4 (b) CONTENTS.—The National Freight Policy shall—

5 (1) specify goals, objectives, and milestones
6 with respect to the expansion of freight transpor-
7 tation capacity and the improvement of freight
8 transportation infrastructure in the United States;

9 (2) specify programs, strategies, and projects
10 that will assist in achieving the goals, objectives, and
11 milestones specified under paragraph (1);

12 (3) specify the manner in which the programs,
13 strategies, and projects specified under paragraph
14 (2) will achieve the goals, objectives, and milestones
15 specified under paragraph (1), including with respect
16 to a 5-year timeframe for meeting the goals, objec-
17 tives, and milestones;

18 (4) identify protocols to promote and ensure the
19 implementation of the National Freight Policy; and

20 (5) identify a cooperative process, which in-
21 cludes State and local governments, for imple-
22 menting the National Freight Policy.

23 (c) GOALS.—In developing the National Freight Pol-
24 icy, the Secretary shall consider the goals of—

1 (1) investing in freight transportation infra-
2 structure to strengthen the economic competitiveness
3 of the United States, reduce congestion, and in-
4 crease productivity, particularly with respect to do-
5 mestic industries and businesses that create high-
6 value jobs;

7 (2) improving and maintaining existing freight
8 transportation infrastructure to ensure that infra-
9 structure meets appropriate standards;

10 (3) expanding the capacity of freight transpor-
11 tation infrastructure to meet future demand;

12 (4) incorporating concepts of performance, in-
13 novation, competition, and accountability into the
14 operation and maintenance of freight transportation
15 infrastructure;

16 (5) increasing the usage and number of strate-
17 gically-located, multi-modal freight transportation
18 facilities to reduce congestion and emissions relating
19 to highways in the United States;

20 (6) improving the safety of freight transpor-
21 tation;

22 (7) implementing new technologies to improve
23 the coordination and efficiency of the movement of
24 freight throughout the United States; and

1 (8) improving methods for incorporating inter-
2 national trade estimates into transportation plan-
3 ning.

4 (d) REPORTING.—The Secretary shall include the
5 National Freight Policy in the National Strategic Trans-
6 portation Plan developed under section 5205 of title 49,
7 United States Code.

8 (e) COMMODITY FLOW SURVEY.—The Secretary, in
9 consultation with other relevant Federal agencies, shall
10 make changes to the commodity flow survey (conducted
11 by the Bureau of Transportation Statistics pursuant to
12 section 111(c)(5) of title 49, United States Code) that the
13 Secretary determines will reduce identified freight data
14 gaps and deficiencies and assist in the evaluation of fore-
15 casts of transportation demand.

16 **SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.**

17 (a) IN GENERAL.—The Secretary shall encourage
18 each State to establish a freight advisory committee con-
19 sisting of a representative cross-section of public and pri-
20 vate sector freight stakeholders, including representatives
21 of ports, shippers, carriers, freight-related associations,
22 the State’s transportation department, and local govern-
23 ments.

24 (b) ROLE OF COMMITTEE.—A freight advisory com-
25 mittee described in subsection (a) shall—

1 (1) advise the State on freight-related priorities,
2 issues, projects, and funding needs;

3 (2) serve as a forum for discussion for State
4 transportation decisions affecting freight mobility;

5 (3) communicate and coordinate regional prior-
6 ities with other organizations;

7 (4) promote the sharing of information between
8 the private and public sectors on freight issues; and

9 (5) participate in the development of the State’s
10 freight plan described in section 1403 of this Act.

11 **SEC. 1403. STATE FREIGHT PLANS.**

12 (a) IN GENERAL.—The Secretary shall encourage
13 each State to develop a freight plan that provides a com-
14 prehensive plan for the State’s immediate and long-range
15 planning activities and investments with respect to freight.

16 (b) PLAN CONTENTS.—A freight plan described in
17 subsection (a) shall include, at a minimum—

18 (1) an identification of significant freight sys-
19 tem trends, needs, and issues with respect to the
20 State;

21 (2) a description of the freight policies, strate-
22 gies, and performance measures that will guide the
23 State’s freight-related transportation investment de-
24 cisions;

1 (3) evidence of consideration of innovative tech-
2 nologies and operational strategies, including intel-
3 ligent transportation systems, that improve the safe-
4 ty and efficiency of freight movement; and

5 (4) for routes on which travel by heavy vehicles,
6 including mining, agricultural, and timber vehicles,
7 is projected to substantially deteriorate the condition
8 of roadways, a description of improvements that may
9 be required to reduce or impede such deterioration.

10 (c) RELATIONSHIP TO LONG-RANGE PLAN.—A
11 freight plan described in subsection (a) may be developed
12 separate from or incorporated into the statewide strategic
13 long-range transportation plan required by section 5204
14 of title 49, United States Code.

15 **SEC. 1404. TRUCKING PRODUCTIVITY.**

16 (a) WEIGHT LIMITATIONS.—Section 127(a) is
17 amended by adding at the end the following:

18 “(13) A State may allow, by special permit, the
19 operation of vehicles with a gross vehicle weight of
20 up to 126,000 pounds, and with loads conforming to
21 such single axle, tandem axle, and bridge formula
22 limits as may be established by the State, on a seg-
23 ment on the Interstate System in the State that is
24 not more than 25 miles in length.”.

1 (b) LONGER COMBINATION VEHICLES.—Section
2 127(d) is amended by adding at the end the following:

3 “(6) OPERATIONS ON SPECIFIC ROUTES.—

4 “(A) IN GENERAL.—If, as of the date of
5 enactment of this paragraph, a State has au-
6 thority under paragraph (1) to allow longer
7 combination vehicles to operate in the State, the
8 State may allow, in addition to such operations,
9 the operation of longer combination vehicles on
10 additional routes in the State.

11 “(B) DETERMINATIONS BY THE SEC-
12 RETARY.—The Secretary may prohibit the oper-
13 ation of a longer combination vehicle under sub-
14 paragraph (A) if the Secretary determines that
15 the operation poses an unreasonable safety risk
16 based on an analysis of engineering data, safety
17 data, or other applicable data.”.

18 (c) ADDITIONAL VEHICLE WEIGHT PROVISIONS.—
19 Section 127 is amended by adding at the end the fol-
20 lowing:

21 “(i) AUTOMOBILE TRANSPORTERS LIMITATIONS.—

22 “(1) IN GENERAL.—A State may not prohibit
23 the operation of an automobile transporter with a
24 gross weight of 88,000 pounds or less on—

1 “(A) any segment of the Interstate System
2 (except a segment exempted under section
3 31111(f) of title 49); or

4 “(B) those classes of qualifying Federal-
5 aid primary highways designated by the Sec-
6 retary under section 31111(e) of title 49.

7 “(2) REASONABLE ACCESS.—A State may not
8 enact or enforce a law denying reasonable access to
9 automobile transporters, to and from highways de-
10 scribed in paragraph (1), to loading or unloading
11 points or facilities for food, fuel, repair, or rest.

12 “(3) AXLE WEIGHT TOLERANCE.—A State shall
13 allow an automobile transporter a tolerance of no
14 more than 10 percent on axle weight limitations set
15 forth in subsection (a).

16 “(4) AUTOMOBILE TRANSPORTER DEFINED.—
17 In this subsection, the term ‘automobile transporter’
18 has the meaning given that term in section 31111(a)
19 of title 49.

20 “(j) ADDITIONAL EXCEPTION TO WEIGHT REQUIRE-
21 MENTS.—

22 “(1) EXCEPTION FOR CERTAIN VEHICLES.—

23 “(A) IN GENERAL.—A State may allow the
24 maximum gross weight, including all enforce-
25 ment tolerances, for a vehicle using Interstate

1 System routes in the State to exceed the max-
2 imum gross weight otherwise applicable under
3 subsection (a), if—

4 “(i) the vehicle is equipped with at
5 least 6 axles;

6 “(ii) the weight of any single axle on
7 the vehicle does not exceed 20,000 pounds,
8 including enforcement tolerances;

9 “(iii) the weight of any tandem axle
10 on the vehicle does not exceed 34,000
11 pounds, including enforcement tolerances;

12 “(iv) the weight of any group of 3 or
13 more axles on the vehicle does not exceed
14 51,000 pounds, including enforcement tol-
15 erances; and

16 “(v) the gross weight of the vehicle
17 does not exceed 97,000 pounds, including
18 enforcement tolerances.

19 “(B) DETERMINATIONS BY THE SEC-
20 RETARY.—The Secretary may prohibit the oper-
21 ation of a vehicle under subparagraph (A) if the
22 Secretary determines that the operation poses
23 an unreasonable safety risk based on an anal-
24 ysis of engineering data, safety data, or any
25 other applicable data the Secretary may use.

1 “(2) SPECIAL RULES.—

2 “(A) SPECIAL EXCEPTION FOR CERTAIN
3 STATES.—This subsection does not—

4 “(i) apply to a vehicle exceeding the
5 maximum gross weight requirements under
6 subsection (a) that could have operated
7 lawfully in a State before the date of en-
8 actment of this subsection; or

9 “(ii) otherwise restrict a vehicle that
10 may lawfully operate under another provi-
11 sion of this section.

12 “(B) INCREASE IN AXLE WEIGHT RE-
13 QUIREMENT.—A State may authorize a vehicle
14 to exceed the maximum axle weight requirement
15 that applies to any one of the axle groupings
16 described in clauses (ii), (iii), and (iv) of para-
17 graph (1)(A) by not more than 2,000 pounds.

18 “(3) AUTHORITY TO COLLECT FEES.—

19 “(A) GENERAL AUTHORITY.—The Sec-
20 retary shall establish and collect a fee for vehi-
21 cles allowed to operate on Interstate System
22 routes under paragraph (1).

23 “(B) AMOUNT TO BE COLLECTED.—The
24 fee established under this paragraph shall equal
25 as nearly as possible the pro rata share of the

1 increased costs, if any, to the Interstate System
2 attributable to the operation of vehicles de-
3 scribed in paragraph (1) on the Interstate Sys-
4 tem.

5 “(C) DEPOSIT.—The Secretary shall de-
6 posit the amounts collected in fees under this
7 paragraph in the Highway Trust Fund (other
8 than the Alternative Transportation Account).

9 “(k) SPECIAL PERMITS DURING PERIODS OF EMER-
10 GENCY.—

11 “(1) IN GENERAL.—A State may issue special
12 permits with respect to a major disaster or emer-
13 gency declared under the Robert T. Stafford Dis-
14 aster Relief and Emergency Assistance Act (42
15 U.S.C. 5121 et seq.) to overweight vehicles and
16 loads that can be easily dismantled or divided allow-
17 ing operations on the Interstate System that would
18 otherwise be prohibited under subsection (a), if—

19 “(A) the permits are issued in accordance
20 with State law; and

21 “(B) the permits are issued exclusively to
22 vehicles and loads that are delivering relief sup-
23 plies in response to the major disaster or emer-
24 gency.

1 “(2) EXPIRATION.—A permit issued with re-
2 spect to a major disaster or emergency under para-
3 graph (1) shall expire not later than 120 days after
4 the date of the declaration of the major disaster or
5 emergency as described in paragraph (1).

6 “(1) EMERGENCY VEHICLES.—

7 “(1) IN GENERAL.—Notwithstanding subsection
8 (a), a State may not enforce against an emergency
9 vehicle a weight limit of—

10 “(A) less than 24,000 pounds on a single
11 steering axle;

12 “(B) less than 33,500 pounds on a single
13 drive axle;

14 “(C) less than 62,000 pounds on a tandem
15 axle; or

16 “(D) less than 52,000 pounds on a tandem
17 rear drive steer axle, up to a maximum gross
18 vehicle weight of 86,000 pounds.

19 “(2) EMERGENCY VEHICLE DEFINED.—In this
20 subsection, the term ‘emergency vehicle’ means a ve-
21 hicle designed to be used under emergency condi-
22 tions—

23 “(A) to transport personnel and equip-
24 ment; and

1 “(B) to support the suppression of fires or
2 mitigation of other hazardous situations.”.

3 (d) WAIVER OF HIGHWAY FUNDING REDUCTION.—

4 The total amount of funds apportioned to a State under
5 section 104(b)(1) of title 23, United States Code, for any
6 period may not be reduced under section 127(a) of such
7 title on the basis that the State authorizes a vehicle to
8 operate on the Interstate System in the State in accord-
9 ance with the amendments made by this section.

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

12 (1) in subsection (a) by adding at the end the
13 following:

14 “(5) TRAILER TRANSPORTER TOWING UNIT.—

15 The term ‘trailer transporter towing unit’ means a
16 power unit that is not used to carry property when
17 operating in a towaway trailer transporter combina-
18 tion.

19 “(6) TOWAWAY TRAILER TRANSPORTER COM-

20 BINATION.—The term ‘towaway trailer transporter
21 combination’ means a combination of vehicles con-
22 sisting of a trailer transporter towing unit and 2
23 trailers or semitrailers—

24 “(A) with a total weight that does not ex-
25 ceed 26,000 pounds; and

1 “(B) in which the trailers or semitrailers
2 carry no property and constitute inventory
3 property of a manufacturer, distributor, or
4 dealer of such trailers or semitrailers.”; and
5 (2) in subsection (b)(1)—

6 (A) by striking subparagraph (A) and in-
7 serting the following:

8 “(A) imposes a vehicle length limitation, on any
9 segment of the Dwight D. Eisenhower System of
10 Interstate and Defense Highways (except a segment
11 exempted under subsection (f)) and those classes of
12 qualifying Federal-aid primary system highways des-
13 ignated by the Secretary of Transportation under
14 subsection (e), of—

15 “(i) less than 45 feet on a bus;

16 “(ii) less than 53 feet on a semitrailer op-
17 erating in a truck tractor-semitrailer combina-
18 tion; or

19 “(iii) notwithstanding section 31112, less
20 than 33 feet on a semitrailer or trailer oper-
21 ating in a truck tractor-semitrailer-trailer com-
22 bination;”;

23 (B) in subparagraph (E) by striking “; or”
24 and inserting a semicolon;

1 (C) in subparagraph (F) by striking the
2 period at the end and inserting a semicolon;
3 and

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

5 “(G) imposes a vehicle length limitation of less
6 than 80 feet on a stinger steered automobile trans-
7 porter with a rear overhand of less than 6 feet;

8 “(H) has the effect of imposing an overall
9 length limitation of less than 82 feet on a towaway
10 trailer transporter combination;

11 “(I) imposes a limitation of less than 46 feet on
12 the distance from the kingpin to the center of the
13 rear axle on a trailer used exclusively or primarily
14 for the transport of livestock; or

15 “(J) has the effect of prohibiting the use of a
16 device designed by a bus manufacturer to affix to
17 the rear of an intercity bus purchased after October
18 1, 2012, for use in carrying passenger baggage, if
19 the device does not result in the bus exceeding 47
20 feet in total length.”.

21 (f) PROPERTY-CARRYING UNIT LIMITATION.—Sec-
22 tion 31112 of title 49, United States Code, is amended—

23 (1) in subsection (a)(1) by striking the period
24 at the end and inserting “, but not including a trail-
25 er or semitrailer transported as part of a towaway

1 trailer transporter combination as defined in section
2 31111(a).”; and

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

4 “(h) ADDITIONAL OPERATIONS.—

5 “(1) IN GENERAL.—If, as of the date of enact-
6 ment of this subsection, a State has authority under
7 subsection (b) or (c) to allow a commercial motor ve-
8 hicle combination with more than one property-car-
9 rying unit (not including the truck tractor) to oper-
10 ate in the State, the State may allow, in addition to
11 such operations, the operation of commercial motor
12 vehicle combinations with more than one property-
13 carrying unit (not including the truck tractor) on
14 additional routes in the State.

15 “(2) DETERMINATIONS BY THE SECRETARY.—

16 The Secretary may prohibit the operation of a vehi-
17 cle under paragraph (1) if the Secretary determines
18 that the operation poses an unreasonable safety risk
19 based on an analysis of engineering data, safety
20 data, or any other applicable data the Secretary may
21 use.”.

22 (g) ACCESS TO INTERSTATE SYSTEM.—Section
23 31114(a)(2) of title 49, United States Code, is amended
24 by inserting “a towaway trailer transporter combination
25 as defined in section 31111(a),” before “or any”.

1 **Subtitle E—Federal Lands and**
2 **Tribal Transportation**

3 **SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
4 **PROGRAMS.**

5 Chapter 2 is amended by striking sections 201
6 through 203 and inserting the following:

7 **“§ 201. General provisions**

8 “(a) **PURPOSE.**—Recognizing the need for all Federal
9 lands transportation facilities and tribal transportation fa-
10 cilities to be treated under uniform policies similar to the
11 policies that apply to Federal-aid highways and other pub-
12 lic road and transit facilities constructed with Federal as-
13 sistance, the Secretary, in consultation with the Secretary
14 of each Federal land management agency, shall establish
15 and coordinate, in accordance with the requirements of
16 this section, a uniform policy for all transportation facili-
17 ties constructed under a covered program.

18 “(b) **COVERED PROGRAM DEFINED.**—In this section,
19 the term ‘covered program’ means—

20 “(1) the tribal transportation program estab-
21 lished under section 202; and

22 “(2) the Federal lands transportation program
23 established under section 203.

24 “(c) **AVAILABILITY OF FUNDS.**—

1 “(1) AVAILABILITY.—Funds made available to
2 carry out a covered program shall be available for
3 contract—

4 “(A) upon apportionment; or

5 “(B) if no apportionment is required, on
6 October 1 of the fiscal year for which author-
7 ized.

8 “(2) PERIOD OF AVAILABILITY.—Funds appor-
9 tioned or allocated to carry out a covered program
10 shall remain available for obligation for a period of
11 3 years after the last day of the fiscal year for which
12 the funds are authorized. Any amounts so appor-
13 tioned or allocated that remain unobligated at the
14 end of that period shall lapse.

15 “(3) AUTHORITY OF DEPARTMENT SECRE-
16 TARIES.—

17 “(A) AUTHORITY TO INCUR OBLIGATIONS,
18 APPROVE PROJECTS, AND ENTER INTO CON-
19 TRACTS.—The Secretary of a Department
20 charged with the administration of funds made
21 available to carry out a covered program may
22 incur obligations, approve projects, and enter
23 into contracts with respect to such funds.

24 “(B) CONTRACTUAL OBLIGATIONS.—A
25 Secretary’s action under subparagraph (A) shall

1 be deemed to be a contractual obligation of the
2 United States to pay the cost thereof, and the
3 funds subject to the action shall be deemed to
4 have been expended when so obligated.

5 “(4) EXPENDITURE.—Any funds made avail-
6 able to carry out a covered program for a fiscal year
7 shall be deemed to have been expended if a sum
8 equal to the total of the sums appropriated for the
9 fiscal year and previous fiscal years have been obli-
10 gated. Any of such funds released by payment of
11 final voucher or modification of project authoriza-
12 tions shall be credited to the balance of unobligated
13 appropriations and be immediately available for ex-
14 penditure.

15 “(5) AUTHORITY OF SECRETARY.—

16 “(A) OBLIGATING FUNDS FOR COVERED
17 PROGRAMS.—Notwithstanding any other provi-
18 sion of law, either of the following actions shall
19 be deemed to constitute a contractual obligation
20 of the United States to pay the total eligible
21 cost of any construction project funded under a
22 covered program:

23 “(i) The authorization by the Sec-
24 retary, or the Secretary of a Department
25 charged with the administration of funds

1 made available to carry out a covered pro-
2 gram, of engineering and related work for
3 the development, design, and acquisition
4 associated with the project, whether per-
5 formed by contract or agreement author-
6 ized by law.

7 “(ii) The approval by the Secretary,
8 or the Secretary of a Department charged
9 with the administration of funds made
10 available to carry out a covered program,
11 of plans, specifications, and estimates for
12 the project.

13 “(B) LIMITATION ON STATUTORY CON-
14 STRUCTION.—Nothing in this paragraph may
15 be construed to affect the application of the
16 Federal share associated with a project under-
17 taken under a covered program or to modify the
18 point of obligation associated with Federal sala-
19 ries and expenses.

20 “(d) FEDERAL SHARE.—

21 “(1) IN GENERAL.—Except as provided by
22 paragraph (2), the Federal share payable on account
23 of a project carried out under a covered program
24 shall be 100 percent of the total cost of the project.

1 “(2) OPERATING ASSISTANCE.—The Federal
2 share payable, with amounts made available to carry
3 out this chapter, on account of operating expenses
4 for a project carried out under a covered program
5 may not exceed 50 percent of the net operating
6 costs, as determined by the Secretary.

7 “(e) TRANSPORTATION PLANNING.—

8 “(1) TRANSPORTATION PLANNING PROCE-
9 DURES.—In consultation with the Secretary of each
10 Federal land management agency, the Secretary
11 shall implement transportation planning procedures
12 for tribal transportation facilities and Federal lands
13 transportation facilities that are consistent with the
14 planning processes required under sections 5203 and
15 5204 of title 49.

16 “(2) APPROVAL OF TRANSPORTATION IMPROVE-
17 MENT PROGRAM.—A transportation improvement
18 program developed as a part of the transportation
19 planning process under this subsection shall be sub-
20 ject to approval by the Secretary, acting in coordina-
21 tion with the Secretary of the appropriate Federal
22 land management agency.

23 “(3) INCLUSION IN OTHER PLANS.—Any
24 project under a covered program that is regionally
25 significant shall—

1 “(A) be developed in cooperation with ap-
2 propriate States and metropolitan planning or-
3 ganizations; and

4 “(B) be included in—

5 “(i) plans for the covered program;

6 “(ii) appropriate State and metropoli-
7 tan long-range transportation plans; and

8 “(iii) appropriate State and metropoli-
9 tan transportation improvement programs.

10 “(4) INCLUSION IN STATE PROGRAMS.—A
11 transportation improvement program that is ap-
12 proved by the Secretary as a part of the transpor-
13 tation planning process under this subsection shall
14 be included in appropriate plans and programs of
15 States and metropolitan planning organizations
16 without further action on the transportation im-
17 provement program.

18 “(5) ASSET MANAGEMENT.—The Secretary and
19 the Secretary of each Federal land management
20 agency, to the extent appropriate, shall have in ef-
21 fect safety, bridge, pavement, and congestion man-
22 agement systems in support of asset management
23 for highways funded under a covered program.

24 “(6) DATA COLLECTION.—

1 “(A) IN GENERAL.—The Secretary of each
2 Federal land management agency shall collect
3 and report on the data that is necessary to im-
4 plement a covered program, including at a min-
5 imum—

6 “(i) inventory and condition informa-
7 tion on tribal roads and Federal lands
8 highways; and

9 “(ii) bridge inspection and inventory
10 information on any Federal bridge that is
11 open to the public.

12 “(B) STANDARDS.—The Secretary, in co-
13 ordination with the Secretary of each Federal
14 land management agency, shall define collection
15 and reporting data standards for purposes of
16 subparagraph (A).

17 “(7) ADMINISTRATIVE EXPENSES.—The Sec-
18 retary may use up to 5 percent of the funds made
19 available to carry out section 203 for a fiscal year
20 for purposes of implementing the activities described
21 in this subsection, including direct support of trans-
22 portation planning activities among Federal land
23 management agencies.

24 “(f) REFERENCES TO SECRETARIES OF FEDERAL
25 LAND MANAGEMENT AGENCIES.—In this chapter, the

1 term ‘Secretary’, when used in connection with a Federal
2 land management agency, means the Secretary of the de-
3 partment that contains the agency.

4 **“§ 202. Tribal transportation program**

5 “(a) IN GENERAL.—The Secretary shall carry out a
6 tribal transportation program in accordance with the re-
7 quirements of this section.

8 “(b) USE OF FUNDS.—

9 “(1) IN GENERAL.—Funds made available to
10 carry out the tribal transportation program shall be
11 used by the Secretary and the Secretary of the Inte-
12 rior to pay for the following:

13 “(A) The covered costs of—

14 “(i) tribal roads;

15 “(ii) vehicular parking areas adjacent
16 to tribal roads;

17 “(iii) pedestrian walkways and bicycle
18 transportation facilities (as defined in sec-
19 tion 217) on tribal lands; and

20 “(iv) roadside rest areas, including
21 sanitary and water facilities, on tribal
22 lands.

23 “(B) The costs of transportation projects
24 eligible for assistance under this title that are
25 within, or provide access to, tribal lands.

1 “(C) The costs of public transportation
2 projects eligible for assistance under section
3 5311(b)(1) of title 49 that are within, or pro-
4 vide access to, tribal lands (without regard to
5 whether the project is located in an urbanized
6 area).

7 “(D) The costs of rehabilitation, restora-
8 tion, and construction of interpretive signage at
9 tribal roads.

10 “(E) The costs of acquisition of necessary
11 scenic easements and scenic or historic sites as-
12 sociated with tribal roads.

13 “(2) COVERED COSTS DEFINED.—In paragraph
14 (1), the term ‘covered costs’ means the costs of
15 transportation planning, research, preventive mainte-
16 nance, engineering, rehabilitation, restoration, con-
17 struction, and reconstruction.

18 “(3) CONTRACT.—In connection with an activ-
19 ity described in paragraph (1), the Secretary and the
20 Secretary of the Interior may enter into a contract
21 or other appropriate agreement with respect to such
22 activity with—

23 “(A) a State (including a political subdivi-
24 sion of a State); or

25 “(B) an Indian tribe.

1 “(4) INDIAN LABOR.—Indian labor may be em-
2 ployed, in accordance with such rules and regula-
3 tions as may be promulgated by the Secretary of the
4 Interior, to carry out any construction or other ac-
5 tivity described in paragraph (1).

6 “(5) FEDERAL EMPLOYMENT.—No maximum
7 limitation on Federal employment shall apply to con-
8 struction or improvement of tribal transportation fa-
9 cilities.

10 “(6) ADMINISTRATIVE EXPENSES.—

11 “(A) IN GENERAL.—Of the funds made
12 available to carry out the tribal transportation
13 program for a fiscal year, up to 6 percent may
14 be used by the Secretary or the Secretary of the
15 Interior for program management and oversight
16 and project-related administrative expenses.

17 “(B) RESERVATION OF FUNDS.—The Sec-
18 retary of the Interior may reserve funds from
19 administrative funds of the Bureau of Indian
20 Affairs that are associated with the tribal trans-
21 portation program to fund tribal technical as-
22 sistance centers under section 504(b).

23 “(7) MAINTENANCE.—

24 “(A) USE OF FUNDS.—Notwithstanding
25 any other provision of this title, of the funds al-

1 located to an Indian tribe under the tribal
2 transportation program for a fiscal year, the
3 Secretary may use for the purpose of mainte-
4 nance (excluding road sealing, which shall not
5 be subject to any limitation) an amount that
6 does not exceed the greater of—

7 “(i) 25 percent of the funds; or

8 “(ii) \$500,000.

9 “(B) ROAD MAINTENANCE PROGRAMS ON
10 INDIAN RESERVATIONS.—

11 “(i) BIA RESPONSIBILITY.—The Bu-
12 reau of Indian Affairs shall continue to re-
13 tain primary responsibility, including an-
14 nual funding request responsibility, for
15 road maintenance programs on Indian res-
16 ervations.

17 “(ii) FUNDING.—The Secretary of the
18 Interior shall ensure that funding made
19 available under this paragraph for mainte-
20 nance of tribal transportation facilities for
21 a fiscal year is supplementary to and not
22 in lieu of any obligation of funds by the
23 Bureau of Indian Affairs for road mainte-
24 nance programs on Indian reservations.

1 “(C) TRIBAL-STATE ROAD MAINTENANCE
2 AGREEMENTS.—

3 “(i) AUTHORITY TO ENTER INTO
4 AGREEMENTS.—An Indian tribe and a
5 State may enter into a road maintenance
6 agreement under which the Indian tribe
7 assumes the responsibilities of the State
8 for tribal transportation facilities.

9 “(ii) NEGOTIATIONS.—Agreements
10 entered into under clause (i)—

11 “(I) shall be negotiated between
12 the State and the Indian tribe; and

13 “(II) shall not require the ap-
14 proval of the Secretary.

15 “(8) COOPERATION OF STATES AND COUN-
16 TIES.—

17 “(A) IN GENERAL.—The cooperation of
18 States, counties, and other political subdivisions
19 of States may be accepted in construction and
20 improvement of tribal transportation facilities.

21 “(B) CREDITING OF FUNDS.—Any funds
22 received from a State, county, or other political
23 subdivision of a State for construction or im-
24 provement of tribal transportation facilities

1 shall be credited to appropriations available for
2 the tribal transportation program.

3 “(9) COMPETITIVE BIDDING.—

4 “(A) IN GENERAL.—Construction of a
5 project under the tribal transportation program
6 shall be performed pursuant to a contract
7 awarded by competitive bidding unless the Sec-
8 retary or the Secretary of the Interior affirma-
9 tively finds that, under the circumstances relat-
10 ing to the project, some other method is in the
11 public interest.

12 “(B) APPLICABILITY OF OTHER LAWS.—
13 Notwithstanding subparagraph (A), section 23
14 of the Act of June 25, 1910 (36 Stat. 861;
15 known as the Buy Indian Act) and section 7(b)
16 of the Indian Self-Determination and Education
17 Assistance Act (88 Stat. 2205) shall apply to
18 all funds administered by the Secretary of the
19 Interior that are appropriated for the construc-
20 tion and improvement of tribal roads.

21 “(c) FUNDS DISTRIBUTION.—

22 “(1) IN GENERAL.—All funds authorized to be
23 appropriated for the tribal transportation program
24 shall be allocated among Indian tribes in accordance

1 with the formula maintained by the Secretary of the
2 Interior under paragraph (4).

3 “(2) NATIONAL TRIBAL ROADS INVENTORY.—

4 “(A) IN GENERAL.—The Secretary of the
5 Interior, in cooperation with the Secretary, shall
6 maintain a comprehensive national inventory of
7 tribal roads that are eligible for assistance
8 under the tribal transportation program.

9 “(B) TRIBAL ROADS INCLUDED IN THE IN-
10 VENTORY.—For purposes of identifying the
11 tribal transportation system and determining
12 the relative transportation needs of Indian
13 tribes, the Secretary of the Interior shall in-
14 clude in the inventory, at a minimum, tribal
15 roads that are eligible for assistance under the
16 tribal transportation program that a tribe has
17 requested, including facilities that—

18 “(i) were included in the Bureau of
19 Indian Affairs system inventory prior to
20 October 1, 2004;

21 “(ii) are owned by an Indian tribal
22 government;

23 “(iii) are owned by the Bureau of In-
24 dian Affairs;

1 “(iv) were constructed or recon-
2 structed with funds from the Highway
3 Trust Fund under the Indian reservation
4 roads program since 1983;

5 “(v) are community streets or bridges
6 within the exterior boundary of Indian res-
7 ervations, Alaska native villages, or other
8 recognized Indian communities (including
9 communities in former Indian reservations
10 in Oklahoma) in which the majority of
11 residents are American Indians or Alaska
12 Natives; or

13 “(vi) are primary access routes pro-
14 posed by tribal governments, including
15 roads between villages, roads to landfills,
16 roads to drinking water sources, roads to
17 natural resources identified for economic
18 development, and roads that provide access
19 to intermodal terminals, such as airports,
20 harbors, or boat landings.

21 “(C) LIMITATION ON PRIMARY ACCESS
22 ROUTES.—For purposes of this paragraph, a
23 proposed primary access route is the shortest
24 practicable route connecting 2 points of the pro-
25 posed route.

1 “(D) ADDITIONAL FACILITIES.—Nothing
2 in this paragraph shall preclude the Secretary
3 of the Interior from including additional trans-
4 portation facilities that are eligible for funding
5 under the tribal transportation program in the
6 inventory if such additional facilities are in-
7 cluded in the inventory in a uniform and con-
8 sistent manner nationally.

9 “(3) REGULATIONS.—Notwithstanding sections
10 563(a) and 565(a) of title 5, the Secretary of the In-
11 terior shall maintain regulations governing the tribal
12 transportation program and the funding formula
13 under paragraph (4) in accordance with established
14 policies and procedures.

15 “(4) BASIS FOR FUNDING FORMULA FAC-
16 TORS.—

17 “(A) IN GENERAL.—The Secretary of the
18 Interior shall maintain a formula for distrib-
19 uting funds made available under the tribal
20 transportation program among Indian tribes.

21 “(B) FACTORS.—Subject to subparagraph
22 (C), such formula shall be based on factors that
23 reflect—

1 “(i) the relative needs among the In-
2 dian tribes, and reservation or tribal com-
3 munities, for transportation assistance;

4 “(ii) the relative administration capaci-
5 ties of, and challenges faced by, various
6 Indian tribes, including the cost of road
7 construction in each Bureau of Indian Af-
8 fairs area, geographic isolation, and dif-
9 ficulty in maintaining all-weather access to
10 employment, commerce, health, safety, and
11 educational resources; and

12 “(iii) the public roads included in the
13 national tribal roads inventory to be main-
14 tained under paragraph (2)(A).

15 “(C) SPECIAL RULE.—Not less than 50
16 percent of the funds distributed under the fund-
17 ing formula shall be allocated among Indian
18 tribes based on an Indian tribe’s relative share
19 of the tribal roads that are included in the na-
20 tional tribal roads inventory as a result of para-
21 graph (2)(B)(i), (2)(B)(ii), or (2)(B)(iii).

22 “(D) LIMITATION ON STATUTORY CON-
23 STRUCTION.—Nothing in this subsection may
24 be construed to prohibit the Secretary of the
25 Interior from distributing funds made available

1 under the tribal transportation program among
2 Indian tribes in accordance with the formula es-
3 tablished by the Secretary of the Interior under
4 part 170 of title 25, Code of Federal Regula-
5 tions, as in effect on the date of enactment of
6 the American Energy and Infrastructure Jobs
7 Act of 2012, except that the special rule estab-
8 lished by subparagraph (C) shall apply to any
9 such distribution.

10 “(5) DISTRIBUTION OF FUNDS TO INDIAN
11 TRIBES.—

12 “(A) IN GENERAL.—Not later than 30
13 days after the date on which funds are made
14 available to the Secretary of the Interior for a
15 fiscal year to carry out the tribal transportation
16 program, the funds shall be distributed to, and
17 available for immediate use by, eligible Indian
18 tribes in accordance with the formula main-
19 tained by the Secretary of the Interior under
20 paragraph (4).

21 “(B) USE OF FUNDS.—Notwithstanding
22 any other provision of this section, funds made
23 available to Indian tribes for tribal transpor-
24 tation facilities shall be expended on projects

1 identified in a transportation improvement pro-
2 gram approved by the Secretary.

3 “(6) HEALTH AND SAFETY ASSURANCES.—Not-
4 withstanding any other provision of law, an Indian
5 tribal government may approve plans, specifications,
6 and estimates for, and may commence, a project for
7 construction of a tribal transportation facility with
8 funds made available to carry out the tribal trans-
9 portation program through a contract or agreement
10 entered into under the Indian Self-Determination
11 and Education Assistance Act (25 U.S.C. 450 et
12 seq.) if the Indian tribal government—

13 “(A) provides assurances in the contract or
14 agreement that the construction will meet or ex-
15 ceed applicable health and safety standards;

16 “(B) obtains the advance review of the
17 plans and specifications for the project from a
18 State-licensed civil engineer that has certified
19 that the plans and specifications meet or exceed
20 the applicable health and safety standards;

21 “(C) provides a copy of the certification
22 under subparagraph (A) to the Deputy Assist-
23 ant Secretary for Tribal Government Affairs of
24 the Department of Transportation or the As-

1 sistant Secretary of Indian Affairs of the De-
2 partment of the Interior, as appropriate; and

3 “(D) obtains the advance written approval
4 of the plans, specifications, and estimates from
5 the facility owner or public authority having
6 maintenance responsibility for the facility and
7 provides a copy of the approval to the officials
8 referred to in subparagraph (C).

9 “(7) CONTRACTS AND AGREEMENTS WITH IN-
10 DIAN TRIBES FOR PROGRAM COSTS.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law or any interagency agree-
13 ment, program guideline, manual, or policy di-
14 rective, all funds made available under this
15 chapter and section 125(e) for tribal transpor-
16 tation facilities to pay for the costs of pro-
17 grams, services, functions, and activities, or
18 portions thereof, that are specifically or func-
19 tionally related to the cost of any tribal trans-
20 portation facility that provides access to or is
21 located within the reservation or community of
22 an Indian tribe shall be made available, upon
23 request of the Indian tribal government, to the
24 Indian tribal government for contracts and
25 agreements for such planning, research, engi-

1 neering, and construction in accordance with
2 the Indian Self-Determination and Education
3 Assistance Act (25 U.S.C. 450 et seq.).

4 “(B) EXCLUSION OF AGENCY PARTICIPA-
5 TION.—Funds for programs, functions, services,
6 or activities, or portions thereof (including sup-
7 portive administrative functions that are other-
8 wise contractible to which subparagraph (A) ap-
9 plies) shall be paid in accordance with subpara-
10 graph (A) without regard to the organizational
11 level at which the Department of the Interior
12 has previously carried out such programs, func-
13 tions, services, or activities.

14 “(8) CONTRACTS AND AGREEMENTS WITH IN-
15 DIAN TRIBES FOR TRIBAL TRANSPORTATION FACIL-
16 ITY PROGRAMS AND PROJECTS.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law or any interagency agree-
19 ment, program guideline, manual, or policy di-
20 rective, all funds made available to an Indian
21 tribal government under this chapter for a trib-
22 al transportation facility program or project
23 that is located on an Indian reservation or pro-
24 vides access to the reservation or a community
25 of an Indian tribe shall be made available, on

1 the request of the Indian tribal government, to
2 the Indian tribal government for use in carrying
3 out, in accordance with the Indian Self-Deter-
4 mination and Education Assistance Act (25
5 U.S.C. 450 et seq.), contracts and agreements
6 for the planning, research, design, engineering,
7 construction, and maintenance relating to the
8 program or project.

9 “(B) EXCLUSION OF AGENCY PARTICIPA-
10 TION.—In accordance with subparagraph (A),
11 all funds for a program or project to which sub-
12 paragraph (A) applies shall be paid to the In-
13 dian tribal government without regard to the
14 organizational level at which the Department of
15 the Interior has previously carried out, or the
16 Department of Transportation has previously
17 carried out, the programs, functions, services,
18 or activities involved.

19 “(C) CONSORTIA.—Two or more Indian
20 tribes that are otherwise eligible to participate
21 in a program or project to which this chapter
22 applies may form a consortium to be considered
23 as a single Indian tribe for the purpose of par-
24 ticipating in the project under this section.

1 “(D) SECRETARY AS SIGNATORY.—Not-
2 withstanding any other provision of law, the
3 Secretary is authorized to enter into a funding
4 agreement with an Indian tribal government to
5 carry out a tribal transportation facility pro-
6 gram or project under subparagraph (A) that is
7 located on an Indian reservation or provides ac-
8 cess to the reservation or a community of the
9 Indian tribe.

10 “(E) FUNDING.—The amount an Indian
11 tribal government receives for a program or
12 project under subparagraph (A) shall equal the
13 sum of the funding that the Indian tribal gov-
14 ernment would otherwise receive for the pro-
15 gram or project in accordance with the funding
16 formula established under this subsection and
17 such additional amounts as the Secretary deter-
18 mines equal the amounts that would have been
19 withheld for the costs of the Bureau of Indian
20 Affairs for administration of the program or
21 project.

22 “(F) ELIGIBILITY.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii), funds may be made available under
25 subparagraph (A) to an Indian tribal gov-

1 ernment for a program or project in a fis-
2 cal year only if the Indian tribal govern-
3 ment requesting the funds demonstrates to
4 the satisfaction of the Secretary financial
5 stability and financial management capa-
6 bility during the 3 fiscal years immediately
7 preceding the fiscal year for which the re-
8 quest is made.

9 “(ii) CRITERIA FOR DETERMINING FI-
10 NANCIAL STABILITY AND FINANCIAL MAN-
11 AGEMENT CAPABILITY.—If an Indian trib-
12 al government did not have an uncorrected
13 significant and material audit exception in
14 a required annual audit of the Indian trib-
15 al government’s self-determination con-
16 tracts or self-governance funding agree-
17 ments with a Federal agency during the 3-
18 fiscal year period referred in clause (i), the
19 Indian tribe shall be treated as having con-
20 clusive evidence of its financial stability
21 and financial management capability for
22 purposes of clause (i).

23 “(G) ASSUMPTION OF FUNCTIONS AND DU-
24 TIES.—An Indian tribal government receiving
25 funding under subparagraph (A) for a program

1 or project shall assume all functions and duties
2 that the Secretary of the Interior would have
3 performed with respect to a program or project
4 under this chapter, other than those functions
5 and duties that inherently cannot be legally
6 transferred under the Indian Self-Determina-
7 tion and Education Assistance Act (25 U.S.C.
8 450 et seq.).

9 “(H) POWERS.—An Indian tribal govern-
10 ment receiving funding under subparagraph (A)
11 for a program or project shall have all powers
12 that the Secretary of the Interior would have
13 exercised in administering the funds transferred
14 to the Indian tribal government for such pro-
15 gram or project under this section if the funds
16 had not been transferred, except to the extent
17 that such powers are powers that inherently
18 cannot be legally transferred under the Indian
19 Self-Determination and Education Assistance
20 Act (25 U.S.C. 450 et seq.).

21 “(I) DISPUTE RESOLUTION.—In the event
22 of a disagreement between the Secretary or the
23 Secretary of the Interior and an Indian tribe
24 over whether a particular function, duty, or
25 power may be lawfully transferred under the In-

1 dian Self-Determination and Education Assist-
2 ance Act (25 U.S.C. 450 et seq.), the Indian
3 tribe shall have the right to pursue all alter-
4 native dispute resolutions and appeal proce-
5 dures authorized by such Act, including regula-
6 tions issued to carry out such Act.

7 “(J) TERMINATION OF CONTRACT OR
8 AGREEMENT.—On the date of the termination
9 of a contract or agreement under this section
10 by an Indian tribal government, the Secretary
11 shall transfer all funds that would have been al-
12 located to the Indian tribal government under
13 the contract or agreement to the Secretary of
14 the Interior to provide continued transportation
15 services in accordance with applicable law.

16 “(d) PLANNING BY INDIAN TRIBAL GOVERN-
17 MENTS.—

18 “(1) IN GENERAL.—Of the funds made avail-
19 able for a fiscal year to carry out the tribal trans-
20 portation program, up to 2 percent may be allocated
21 to Indian tribal governments that have been author-
22 ized to conduct transportation planning pursuant to
23 the Indian Self-Determination and Education Assist-
24 ance Act (25 U.S.C. 450 et seq.).

1 “(2) COOPERATION.—An Indian tribal govern-
2 ment described in paragraph (1), in cooperation with
3 the Secretary of the Interior, and as appropriate
4 with a State, local government, or metropolitan plan-
5 ning organization, shall carry out a transportation
6 planning process in accordance with section 201(e).

7 “(3) APPROVAL.—Projects selected by an In-
8 dian tribal government described in paragraph (1)
9 from a transportation improvement program shall be
10 subject to the approval of the Secretary of the Inte-
11 rior and the Secretary.

12 “(e) FEDERAL-AID ELIGIBLE PROJECT.—Before ap-
13 proving as a project on a tribal transportation facility any
14 project eligible funds apportioned under section 104 in a
15 State, the Secretary shall determine that the obligation
16 of funds for such project is supplementary to and not in
17 lieu of the obligation, for projects on tribal transportation
18 facilities, of a fair and equitable share of funds appor-
19 tioned to such State under section 104.

20 **“§ 203. Federal lands transportation program**

21 “(a) IN GENERAL.—The Secretary shall carry out a
22 Federal lands transportation program in accordance with
23 the requirements of this section.

24 “(b) USE OF FUNDS.—

1 “(1) IN GENERAL.—Funds made available to
2 carry out the Federal lands transportation program
3 shall be used by the Secretary and the Secretaries
4 of Federal land management agencies to pay for the
5 following:

6 “(A) The covered costs of—

7 “(i) Federal lands highways;

8 “(ii) vehicular parking areas adjacent
9 to Federal lands highways;

10 “(iii) pedestrian walkways and bicycle
11 transportation facilities (as defined in sec-
12 tion 217) on Federal lands; and

13 “(iv) roadside rest areas, including
14 sanitary and water facilities, on Federal
15 lands.

16 “(B) The costs of transportation projects
17 on public roads or trails eligible for assistance
18 under this title that are within, or provide ac-
19 cess to, Federal lands.

20 “(C) The costs of public transportation
21 projects eligible for assistance under section
22 5311(b)(1) of title 49 that are within, or pro-
23 vide access to, Federal lands (without regard to
24 whether the project is located in an urbanized
25 area).

1 “(D) The costs of rehabilitation, restora-
2 tion, and construction of interpretive signage at
3 Federal lands highways.

4 “(E) The costs of acquisition of necessary
5 scenic easements and scenic or historic sites as-
6 sociated with Federal lands highways.

7 “(2) COVERED COSTS DEFINED.—In paragraph
8 (1), the term ‘covered costs’ means the costs of pro-
9 gram administration, transportation planning, re-
10 search, preventive maintenance, engineering, reha-
11 bilitation, restoration, construction, and reconstruc-
12 tion.

13 “(3) CONTRACT.—In connection with an activ-
14 ity described in paragraph (1), the Secretary and the
15 Secretary of the appropriate Federal land manage-
16 ment agency may enter into a contract or other ap-
17 propriate agreement with respect to such activity
18 with—

19 “(A) a State (including a political subdivi-
20 sion of a State); or

21 “(B) an Indian tribe.

22 “(4) ADMINISTRATION.—All appropriations for
23 the construction and improvement of Federal lands
24 transportation facilities shall be administered in con-
25 formity with regulations and agreements jointly ap-

1 proved by the Secretary and the Secretary of the ap-
2 propriate Federal land management agency.

3 “(5) COOPERATION.—

4 “(A) IN GENERAL.—The cooperation of
5 States and political subdivisions of States may
6 be accepted in construction and improvement of
7 Federal lands transportation facilities.

8 “(B) CREDITING OF FUNDS.—Any funds
9 received from a State or a political subdivision
10 of a State for such construction or improvement
11 of Federal lands transportation facilities shall
12 be credited to appropriations available for the
13 class of Federal lands transportation facilities
14 to which funds were contributed.

15 “(6) COMPETITIVE BIDDING.—Construction of
16 a project under the Federal lands transportation
17 program shall be performed pursuant to a contract
18 awarded by competitive bidding unless the Secretary
19 or the Secretary of the appropriate Federal land
20 management agency affirmatively finds that, under
21 the circumstances relating to the project, some other
22 method is in the public interest.

23 “(c) AGENCY PROGRAM DISTRIBUTIONS.—

24 “(1) IN GENERAL.—On October 1 of each fiscal
25 year, the Secretary shall allocate the funds made

1 available to carry out the Federal lands transpor-
2 tation program for the fiscal year on the basis of ap-
3 plications of need, as determined by the Secretary,
4 and in coordination with the transportation plans re-
5 quired by section 201(e), of the respective transpor-
6 tation systems of the Federal land management
7 agencies.

8 “(2) MINIMUM ALLOCATIONS.—When making
9 an allocation of funds under paragraph (1) for a fis-
10 cal year, the Secretary shall ensure that, of the total
11 amount of funds subject to the allocation—

12 “(A) the National Park Service receives, at
13 a minimum, 38 percent;

14 “(B) the Forest Service receives, at a min-
15 imum, 32 percent; and

16 “(C) the United States Fish and Wildlife
17 Service receives, at a minimum, 4.5 percent.

18 “(3) APPLICATIONS.—

19 “(A) IN GENERAL.—The Secretary of a
20 Federal land management agency may submit
21 to the Secretary an application for assistance
22 under the Federal lands transportation pro-
23 gram.

24 “(B) CONTENTS.—An application sub-
25 mitted by the Secretary of a Federal land man-

1 agement agency under subparagraph (A) shall
2 contain such information as the Secretary may
3 require, including a description of any proposed
4 program for which the agency is seeking assist-
5 ance and the potential funding levels for the
6 program.

7 “(C) CONSIDERATIONS.—In reviewing a
8 proposed program described in an application
9 submitted by the Secretary of a Federal land
10 management agency under subparagraph (A),
11 the Secretary shall consider the extent to which
12 the program supports—

13 “(i) a state of good repair of transpor-
14 tation facilities across the agency’s inven-
15 tory;

16 “(ii) a reduction of deficient bridges
17 across the agency’s inventory;

18 “(iii) improvement of safety across the
19 agency’s inventory;

20 “(iv) high use Federal recreation sites
21 or Federal economic generators; and

22 “(v) the resource management goals
23 of the Secretary of the respective Federal
24 land management agency.

1 “(d) NATIONAL FEDERAL LANDS HIGHWAYS INVEN-
2 TORY.—

3 “(1) IN GENERAL.—The Secretaries of the Fed-
4 eral land management agencies, in cooperation with
5 the Secretary, shall maintain a comprehensive na-
6 tional inventory of Federal lands highways.

7 “(2) HIGHWAYS INCLUDED IN THE INVEN-
8 TORY.—For purposes of identifying the Federal
9 lands transportation system and determining the rel-
10 ative transportation needs among Federal land man-
11 agement agencies, the inventory shall include, at a
12 minimum, highways that—

13 “(A) provide access to high use Federal
14 recreation sites or Federal economic generators,
15 as determined by the Secretary in coordination
16 with the Secretaries of the Federal land man-
17 agement agencies; and

18 “(B) are administered by a Federal land
19 management agency.

20 “(3) AVAILABILITY.—The Secretary of each
21 Federal land management agency shall maintain an
22 inventory of the Federal lands highways adminis-
23 tered by the agency and make the inventory avail-
24 able to the Secretary.

1 “(4) UPDATES.—The Secretary of each Federal
2 land management agency shall update its inventory
3 referred to in paragraph (3) as determined by the
4 Secretary.

5 “(5) REVIEW.—A decision to add or remove a
6 highway from an inventory referred to in paragraph
7 (1) or (4) shall not be considered a Federal action
8 for purposes of review under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et
10 seq.).”.

11 **SEC. 1502. DEFINITIONS.**

12 (a) REPEALS.—Paragraphs (7), (9), (12), (19), (20),
13 (24), (25), (26), and (28) of section 101(a) are repealed.

14 (b) DEFINITIONS RELATING TO FEDERAL LANDS
15 AND TRIBAL TRANSPORTATION PROGRAMS.—Section
16 101(a) is amended by adding at the end the following:

17 “(40) FEDERAL LAND MANAGEMENT AGEN-
18 CY.—The term ‘Federal land management agency’
19 means each of the following:

20 “(A) The National Park Service.

21 “(B) The Forest Service.

22 “(C) The United States Fish and Wildlife
23 Service.

24 “(D) The Corps of Engineers.

25 “(E) The Bureau of Land Management.

1 “(41) FEDERAL LANDS.—The term ‘Federal
2 lands’ means lands administered by a Federal land
3 management agency.

4 “(42) FEDERAL LANDS HIGHWAY.—The term
5 ‘Federal lands highway’ means a public road, high-
6 way, bridge, or trail that is located on, is adjacent
7 to, or provides access to Federal lands and appears
8 on the national inventory of Federal lands highways
9 maintained under section 203(d).

10 “(43) FEDERAL LANDS TRANSPORTATION FA-
11 CILITY.—The term ‘Federal lands transportation fa-
12 cility’ means a transportation facility eligible for as-
13 sistance under section 203(b).

14 “(44) TRIBAL ROAD.—The term ‘tribal road’
15 means a public road, highway, bridge, or trail that
16 is located on or provides access to tribal lands and
17 appears on the national inventory of tribal roads
18 maintained under section 202(c).

19 “(45) TRIBAL TRANSPORTATION FACILITY.—
20 The term ‘tribal transportation facility’ means a
21 transportation facility eligible for assistance under
22 section 202(b).”.

23 **SEC. 1503. CONFORMING AMENDMENTS.**

24 (a) FEDERAL SHARE PAYABLE.—Section 120 is
25 amended—

1 (1) in subsection (e) by striking “forest high-
2 ways, forest development roads and trails, park
3 roads and trails, parkways, public lands highways,
4 public lands development roads and trails, and In-
5 dian reservation roads” and inserting “tribal roads
6 and Federal lands highways”; and

7 (2) in subsection (l)—

8 (A) in the subsection heading by striking
9 “FEDERAL LANDS HIGHWAYS PROGRAM” and
10 inserting “TRIBAL TRANSPORTATION PROGRAM
11 AND FEDERAL LANDS TRANSPORTATION PRO-
12 GRAM”; and

13 (B) by striking “the Federal lands high-
14 ways program under section 204” and inserting
15 “the tribal transportation program under sec-
16 tion 202 and the Federal lands transportation
17 program under section 203”.

18 (b) PRESERVATION OF PARKLANDS.—Section 138(a)
19 is amended by striking “park road or parkway under sec-
20 tion 204 of this title” and inserting “Federal lands trans-
21 portation facility under section 203”.

22 (c) EFFICIENT ENVIRONMENTAL REVIEWS FOR
23 PROJECT DECISIONMAKING.—Section 139(j)(3) is amend-
24 ed—

1 (1) in the paragraph heading by striking “USE
2 OF FEDERAL LANDS HIGHWAY FUNDS” and inserting
3 “USE OF TRIBAL TRANSPORTATION PROGRAM AND
4 FEDERAL LANDS TRANSPORTATION PROGRAM
5 FUNDS”; and

6 (2) by striking “section 204” and inserting
7 “sections 202 and 203”.

8 (d) BICYCLE TRANSPORTATION AND PEDESTRIAN
9 WALKWAYS.—Section 217(c) is amended—

10 (1) in the subsection heading by striking “FED-
11 ERAL LANDS HIGHWAYS” and inserting “TRIBAL
12 TRANSPORTATION PROGRAM AND FEDERAL LANDS
13 TRANSPORTATION PROGRAM FUNDS”; and

14 (2) by striking “Funds authorized for” and all
15 that follows through “public lands highways” and
16 inserting “Funds authorized for tribal transpor-
17 tation facilities and Federal lands transportation fa-
18 cilities”.

19 (e) RULES, REGULATIONS, AND RECOMMENDA-
20 TIONS.—Section 315 is amended by striking “sections
21 204(f) and 205(a) of this title” and inserting “sections
22 203(b)(4) and 205(a)”.

1 **SEC. 1504. REPEALS; EFFECTIVE DATE.**

2 (a) IN GENERAL.—Sections 204 and 214, and the
3 items relating to such sections in the analysis for chapter
4 2, are repealed.

5 (b) EXISTING FUNDS.—A repeal or amendment made
6 by this subtitle shall not affect funds apportioned or allo-
7 cated (or funds awarded but not yet allocated) before the
8 effective date of the repeal or amendment.

9 **SEC. 1505. CLERICAL AMENDMENT.**

10 The analysis for chapter 2 is amended by striking the
11 items relating to sections 201 through 203 and inserting
12 the following:

“201. General provisions.

“202. Tribal transportation program.

“203. Federal lands transportation program.”.

13 **Subtitle F—Program Elimination**
14 **and Consolidation**

15 **SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.**

16 (a) GENERAL PROVISIONS.—

17 (1) EXISTING FUNDS.—A repeal or amendment
18 made by this section shall not affect funds appor-
19 tioned or allocated before the effective date of the
20 repeal.

21 (2) AMENDATORY PROVISIONS.—A repeal made
22 by this section of a provision that contains an
23 amendment to or repeal of another law shall not be
24 construed to affect that law. The amendment to or

1 repeal of that law shall remain in effect as if this
2 section had not been enacted.

3 (b) REVENUE ALIGNED BUDGET AUTHORITY.—Sec-
4 tion 110, and the item relating to that section in the anal-
5 ysis for chapter 1, are repealed.

6 (c) HIGH PRIORITY PROJECTS PROGRAM.—Section
7 117, and the item relating to that section in the analysis
8 for chapter 1, are repealed.

9 (d) SET ASIDES FOR INTERSTATE DISCRETIONARY
10 PROJECTS.—Section 118(c) is repealed.

11 (e) CONTROL OF JUNKYARDS.—Section 136, and the
12 item relating to that section in the analysis for chapter
13 1, are repealed.

14 (f) HIGHWAY BRIDGE PROGRAM.—Section 144, and
15 the item relating to that section in the analysis for chapter
16 1, are repealed.

17 (g) HAZARD ELIMINATION PROGRAM.—Section 152,
18 and the item relating to that section in the analysis for
19 chapter 1, are repealed.

20 (h) SAFETY INCENTIVE GRANTS FOR THE USE OF
21 SEAT BELTS.—Section 157, and the item relating to that
22 section in the analysis for chapter 1, are repealed.

23 (i) ACCESS HIGHWAYS TO PUBLIC RECREATION
24 AREAS ON CERTAIN LAKES.—Section 155, and the item

1 relating to that section in the analysis for chapter 1, are
2 repealed.

3 (j) REIMBURSEMENT FOR SEGMENTS OF THE INTER-
4 STATE SYSTEM CONSTRUCTED WITHOUT FEDERAL AS-
5 SISTANCE.—Section 160, and the item relating to that
6 section in the analysis for chapter 1, are repealed.

7 (k) NATIONAL SCENIC BYWAYS PROGRAM.—Section
8 162, and the item relating to that section in the analysis
9 for chapter 1, are repealed.

10 (l) INTER-AMERICAN HIGHWAY.—Section 212, and
11 the item relating to that section in the analysis for chapter
12 2, are repealed.

13 (m) DARIEN GAP HIGHWAY.—Section 216, and the
14 item relating to that section in the analysis for chapter
15 2, are repealed.

16 (n) STATE COORDINATORS.—Section 217 (as amend-
17 ed by this Act) is further amended—

18 (1) by striking subsection (d); and

19 (2) by redesignating subsections (e) through (j)
20 as subsections (d) through (i), respectively.

21 (o) ALASKA HIGHWAY.—Section 218 is amended—

22 (1) in subsection (a)—

23 (A) by striking the first 2 sentences;

24 (B) in the third sentence—

1 (i) by striking “, in addition to such
2 funds,”; and

3 (ii) by striking “such highway or”;
4 and

5 (C) by striking “No expenditures” and all
6 that follows through the period at the end;

7 (2) by striking subsection (b); and

8 (3) by redesignating subsection (c) as sub-
9 section (b).

10 (p) MANAGEMENT SYSTEMS.—Section 303, and the
11 item relating to that section in the analysis for chapter
12 3, are repealed.

13 (q) COOPERATION WITH OTHER AMERICAN REPUB-
14 LICS.—Section 309, and the item relating to that section
15 in the analysis for chapter 3, are repealed.

16 (r) LANDSCAPING AND SCENIC ENHANCEMENT.—
17 Section 319 is amended—

18 (1) by striking “(a) LANDSCAPE AND ROAD-
19 SIDE DEVELOPMENT.—”; and

20 (2) by striking subsection (b).

21 (s) MAGNETIC LEVITATION TRANSPORTATION TECH-
22 NOLOGY DEPLOYMENT PROGRAM.—Section 322, and the
23 item relating to that section in the analysis for chapter
24 3, are repealed.

1 (t) TRANSPORTATION, COMMUNITY, AND SYSTEM
2 PRESERVATION PROGRAM.—Section 1117 of SAFETEA–
3 LU (119 Stat. 1177), and the item relating to that section
4 in the table of contents contained in section 1(b) of that
5 Act, are repealed.

6 (u) PROJECTS OF NATIONAL AND REGIONAL SIG-
7 NIFICANCE.—Section 1301 of SAFETEA–LU (119 Stat.
8 1198), and the item relating to that section in the table
9 of contents contained in section 1(b) of that Act, are re-
10 pealed.

11 (v) NATIONAL CORRIDOR INFRASTRUCTURE IM-
12 PROVEMENT PROGRAM.—Section 1302 of SAFETEA–LU
13 (119 Stat. 1204), and the item relating to that section
14 in the table of contents contained in section 1(b) of that
15 Act, are repealed.

16 (w) TRUCK PARKING FACILITIES.—Section 1305 of
17 SAFETEA–LU (119 Stat. 1214), and the item relating
18 to that section in the table of contents contained in section
19 1(b) of that Act, are repealed.

20 (x) FREIGHT INTERMODAL DISTRIBUTION PILOT
21 GRANT PROGRAM.—Section 1306 of SAFETEA–LU (119
22 Stat. 1215), and the item relating to that section in the
23 table of contents contained in section 1(b) of that Act,
24 are repealed.

1 (y) DEPLOYMENT OF MAGNETIC LEVITATION
2 TRANSPORTATION PROJECTS.—Section 1307 of
3 SAFETEA-LU (119 Stat. 1217), and the item relating
4 to that section in the table of contents contained in section
5 1(b) of that Act, are repealed.

6 (z) DELTA REGION TRANSPORTATION DEVELOP-
7 MENT PROGRAM.—Section 1308 of SAFETEA-LU (119
8 Stat. 1218), and the item relating to that section in the
9 table of contents contained in section 1(b) of that Act,
10 are repealed.

11 (aa) SAFE ROUTES TO SCHOOL PROGRAM.—Section
12 1404 of SAFETEA-LU (119 Stat. 1228), and the item
13 relating to that section in the table of contents contained
14 in section 1(b) of that Act, are repealed.

15 (bb) NATIONAL WORK ZONE SAFETY INFORMATION
16 CLEARINGHOUSE.—Section 1410 of SAFETEA-LU (119
17 Stat. 1233), and the item relating to that section in the
18 table of contents contained in section 1(b) of that Act,
19 are repealed.

20 (cc) ROADWAY SAFETY.—Section 1411(b) of
21 SAFETEA-LU (119 Stat. 1234) is repealed.

22 (dd) HIGHWAYS FOR LIFE PILOT PROGRAM.—Sec-
23 tion 1502 of SAFETEA-LU (119 Stat. 1236), and the
24 item relating to that section in the table of contents con-
25 tained in section 1(b) of that Act, are repealed.

1 (ee) EXPRESS LANES DEMONSTRATION PROGRAM.—
2 Section 1604(b) of SAFETEA-LU (119 Stat. 1250) is
3 repealed.

4 (ff) INTERSTATE SYSTEM CONSTRUCTION TOLL
5 PILOT PROGRAM.—Section 1604(c) of SAFETEA-LU
6 (119 Stat. 1253) is repealed.

7 (gg) AMERICA'S BYWAYS RESOURCE CENTER.—Sec-
8 tion 1803 of SAFETEA-LU (119 Stat. 1458), and the
9 item relating to that section in the table of contents con-
10 tained in section 1(b) of that Act, are repealed.

11 (hh) NATIONAL HISTORIC COVERED BRIDGE PRES-
12 ERVATION.—Section 1804 of SAFETEA-LU (119 Stat.
13 1458), and the item relating to that section in the table
14 of contents contained in section 1(b) of that Act, are re-
15 pealed.

16 (ii) NONMOTORIZED TRANSPORTATION PILOT PRO-
17 GRAM.—Section 1807 of SAFETEA-LU (119 Stat.
18 1460), and the item relating to that section in the table
19 of contents contained in section 1(b) of that Act, are re-
20 pealed.

21 (jj) GRANT PROGRAM TO PROHIBIT RACIAL
22 PROFILING.—Section 1906 of SAFETEA-LU (119 Stat.
23 1468), and the item relating to that section in the table
24 of contents contained in section 1(b) of that Act, are re-
25 pealed.

1 (kk) PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.—Section 1907 of SAFETEA-LU (119
2 TION PROJECTS.—Section 1907 of SAFETEA-LU (119
3 Stat. 1469), and the item relating to that section in the
4 table of contents contained in section 1(b) of that Act,
5 are repealed.

6 (ll) LIMITATION ON PROJECT APPROVAL.—Section
7 1958 of SAFETEA-LU (119 Stat. 1515), and the item
8 relating to that section in the table of contents contained
9 in section 1(b) of that Act, are repealed.

10 **Subtitle G—Miscellaneous**

11 **SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DE-**

12 **FINED.**

13 Section 101(a)(35) is amended—

14 (1) by striking subparagraphs (C), (F), (G),
15 (H), and (L); and

16 (2) by redesignating subparagraphs (D), (E),
17 (I), (J), and (K) as subparagraphs (C), (D), (E),
18 (F), and (G), respectively.

19 **SEC. 1702. PAVEMENT MARKINGS.**

20 Section 109 is amended by adding at the end the fol-
21 lowing:

22 “(r) PAVEMENT MARKINGS.—The Secretary may not
23 approve any pavement markings project that includes the
24 use of glass beads containing more than 200 parts per
25 million of arsenic or lead.”.

1 **SEC. 1703. REST AREAS.**

2 (a) AGREEMENTS RELATING TO USE OF AND ACCESS
3 TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.—Section
4 111 is amended—

5 (1) in subsection (a) in the second sentence by
6 striking the period and inserting “and will not
7 change the boundary of any right-of-way on the
8 Interstate System to accommodate construction of,
9 or afford access to, an automotive service station or
10 other commercial establishment.”;

11 (2) by redesignating subsections (b) and (c) as
12 subsections (c) and (d), respectively; and

13 (3) by inserting after subsection (a) the fol-
14 lowing:

15 “(b) REST AREAS.—

16 “(1) IN GENERAL.—Notwithstanding subsection
17 (a), the Secretary shall permit a State to acquire,
18 construct, operate, and maintain a rest area along a
19 highway on the Interstate System in such State.

20 “(2) ELIGIBLE ACTIVITIES.—The Secretary
21 shall permit a rest area under paragraph (1) to in-
22 clude commercial activities that provide goods, serv-
23 ices, and information serving the traveling public
24 and the commercial motor carrier industry. Such
25 commercial activities shall be limited to—

1 “(A) commercial advertising and media
2 displays if such advertising and displays are—

3 “(i) exhibited solely within any facility
4 constructed in the rest area; and

5 “(ii) not legible from the main trav-
6 eled way;

7 “(B) State promotional or tourism items;

8 “(C) tourism-related merchandise and
9 products, including electronics and clothing;

10 “(D) historical or tourism-related enter-
11 tainment items, including event or attraction
12 tickets;

13 “(E) travel-related information, including
14 maps, travel booklets, and hotel coupon book-
15 lets;

16 “(F) automatic teller machines; and

17 “(G) lottery machines.

18 “(3) PRIVATE OPERATORS.—A State may per-
19 mit a private party to operate such commercial ac-
20 tivities.

21 “(4) LIMITATION ON USE OF REVENUES.—A
22 State shall use any revenues received from the com-
23 mercial activities in a rest area under this section to
24 cover the costs of acquiring, constructing, operating,
25 and maintaining rest areas in the State.”.

1 (b) CONTROL OF OUTDOOR ADVERTISING.—Section
2 131(i) is amended by adding at the end the following: “A
3 State may permit the installation of signs that acknowl-
4 edge the sponsorship of rest areas within such rest areas
5 or along the main traveled way of the system, provided
6 that such signs shall not affect the safe and efficient utili-
7 zation of the Interstate System and the primary system.
8 The Secretary shall establish criteria for the installation
9 of such signs on the main traveled way, including criteria
10 pertaining to the placement of rest area sponsorship ac-
11 knowledge signs in relation to the placement of ad-
12 vance guide signs for rest areas.”.

13 **SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS**
14 **ON THE INTERSTATE SYSTEM.**

15 Section 111 is amended by adding at the end the fol-
16 lowing:

17 “(e) JUSTIFICATION REPORTS.—If the Secretary re-
18 quests or requires a justification report for a project that
19 would add a point of access to, or exit from, the Interstate
20 System, the Secretary may permit a State transportation
21 department to approve such report.”.

22 **SEC. 1705. PATENTED OR PROPRIETARY ITEMS.**

23 Section 112 is amended by adding at the end the fol-
24 lowing:

1 “(h) USE OF PATENTED OR PROPRIETARY ITEMS.—
2 The Secretary shall approve the use, by a State, of Federal
3 funds made available to carry out this chapter to pay for
4 patented or proprietary items if the State transportation
5 department certifies, based on the documented analysis
6 and professional judgment of qualified State transpor-
7 tation officials, that—

8 “(1) no equally suitable alternative item exists;

9 “(2) any specified patented or proprietary item
10 will be clearly identified as a patented or proprietary
11 item in bid documents; and

12 “(3) any specified patented or proprietary item
13 will be available in sufficient quantity to complete
14 any project identified in bid documents.”.

15 **SEC. 1706. PREVENTIVE MAINTENANCE.**

16 Section 116 is amended by adding at the end the fol-
17 lowing:

18 “(e) DEFINITIONS.—In this section, the following
19 definitions apply:

20 “(1) PREVENTIVE MAINTENANCE.—The term
21 ‘preventive maintenance’ includes pavement preser-
22 vation programs and activities.

23 “(2) PAVEMENT PRESERVATION PROGRAMS AND
24 ACTIVITIES.—The term ‘pavement preservation pro-
25 grams and activities’ means programs and activities

1 employing a network level, long-term strategy that
2 enhances pavement performance by using an inte-
3 grated, cost-effective set of practices that extend
4 pavement life, improve safety, and meet road user
5 expectations.”.

6 **SEC. 1707. MAPPING.**

7 (a) IN GENERAL.—Section 306 is amended—

8 (1) in subsection (a) by striking “may” and in-
9 serting “shall”;

10 (2) in subsection (b) by striking “State and”
11 and inserting “State government and”; and

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

13 “(c) IMPLEMENTATION.—The Secretary shall develop
14 a process for the oversight and monitoring, on an annual
15 basis, of the compliance of each State with the guidance
16 issued under subsection (b).”.

17 (b) SURVEY.—Not later than 2 years after the date
18 of enactment of this Act, the Secretary shall conduct a
19 survey of all States to determine what percentage of
20 projects carried out under title 23, United States Code,
21 in each State utilize private sector sources for surveying
22 and mapping services.

1 **SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION**
2 **EMERGENCIES.**

3 (a) IN GENERAL.—Chapter 3 is amended by adding
4 at the end the following:

5 **“§ 330. Funding flexibility for transportation emer-**
6 **gencies**

7 “(a) IN GENERAL.—Notwithstanding any other pro-
8 vision of law, the chief executive of a State, after declaring
9 an emergency with respect to a transportation facility
10 under subsection (b), may use any covered funds of the
11 State to repair or replace the transportation facility.

12 “(b) DECLARATION OF EMERGENCY.—To declare an
13 emergency with respect to a transportation facility for
14 purposes of subsection (a), the chief executive of a State
15 shall provide to the Secretary written notice of the declara-
16 tion, which shall specify—

17 “(1) the emergency;

18 “(2) the affected transportation facility; and

19 “(3) the repair or replacement activities to be
20 carried out.

21 “(c) DEFINITIONS.—In this section, the following
22 definitions apply:

23 “(1) COVERED FUNDS.—The term ‘covered
24 funds’ means any amounts apportioned to a State
25 under this title, including any such amounts re-
26 quired to be set aside for a purpose other than the

1 repair or replacement of a transportation facility
2 under this section.

3 “(2) EMERGENCY.—The term ‘emergency’
4 means any unexpected event or condition that—

5 “(A) may cause, or has caused, the cata-
6 strophic failure of a transportation facility; and

7 “(B) is determined to be an emergency by
8 the chief executive of a State.

9 “(3) TRANSPORTATION FACILITY.—The term
10 ‘transportation facility’ means any component of the
11 National Highway System.

12 “(d) LIMITATION ON STATUTORY CONSTRUCTION.—
13 Nothing in this section may be construed to allow a State
14 to change the division of surface transportation program
15 funding under section 133(d)(3).”.

16 (b) CLERICAL AMENDMENT.—The analysis for such
17 chapter is amended by adding at the end the following:
“330. Funding flexibility for transportation emergencies.”.

18 **SEC. 1709. BUDGET JUSTIFICATION.**

19 (a) IN GENERAL.—Subchapter I of chapter 3 of title
20 49, United States Code, is amended by adding at the end
21 the following:

22 **“§ 310. Budget justification**

23 “The Secretary of Transportation and the head of
24 each modal administration of the Department of Trans-
25 portation shall submit to the Committee on Transpor-

1 tation and Infrastructure of the House of Representatives
 2 and the Committee on Environment and Public Works and
 3 the Committee on Banking, Housing, and Urban Affairs
 4 of the Senate a budget justification concurrently with the
 5 President’s annual budget submission to Congress.”.

6 (b) CLERICAL AMENDMENT.—The analysis for chap-
 7 ter 3 is amended by inserting after the item relating to
 8 section 309 the following:

“310. Budget justification.”.

9 **SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND PUB-**
 10 **LIC TRANSIT VEHICLE EXEMPTION FROM**
 11 **AXLE WEIGHT RESTRICTIONS.**

12 Section 1023(h) of the Intermodal Surface Transpor-
 13 tation Efficiency Act of 1991 (23 U.S.C. 127 note) is
 14 amended—

15 (1) in the heading of paragraph (1) by striking
 16 “TEMPORARY EXEMPTION” and inserting “EXEMP-
 17 TION”;

18 (2) in paragraph (1) by striking “, for the pe-
 19 riod beginning on October 6, 1992, and ending on
 20 October 1, 2009,”; and

21 (3) in paragraph (2)(A) by striking “For the
 22 period beginning on the date of enactment of this
 23 subparagraph and ending on September 30, 2009,
 24 a” and inserting “A”.

1 **SEC. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE**
2 **SYSTEM DESIGNATION.**

3 Section 1105(e)(5)(A) of the Intermodal Surface
4 Transportation Efficiency Act of 1991 is amended by
5 striking “that the segment” and all that follows through
6 the period at the end and inserting “that the segment
7 meets the Interstate System design standards approved by
8 the Secretary under section 109(b) of title 23, United
9 States Code.”.

10 **SEC. 1712. RETROREFLECTIVITY.**

11 Not later than 1 year after the date of enactment
12 of this Act, the Secretary shall amend the Manual on Uni-
13 form Traffic Control Devices to remove compliance dates
14 with respect to retroreflectivity standards for regulatory,
15 warning, and other post-mounted guide signs and for
16 street name and other overhead guide signs.

17 **SEC. 1713. ENGINEERING JUDGMENT.**

18 Not later than 90 days after the date of enactment
19 of this Act, the Secretary shall issue guidance to State
20 transportation departments clarifying that the standards,
21 guidance, and options for design and application of traffic
22 control devices provided in the Manual on Uniform Traffic
23 Control Devices should not be considered a substitute for
24 engineering judgment.

1 **SEC. 1714. EVACUATION ROUTES.**

2 Each State shall give adequate consideration to the
3 needs of evacuation routes when allocating funds appor-
4 tioned to the State under title 23, Unites States Code,
5 for the construction of Federal-aid highways.

6 **SEC. 1715. TRUCK PARKING.**

7 (a) TRUCK PARKING SURVEY.—

8 (1) REQUIREMENT.—Not later than 18 months
9 after the date of enactment of this Act, the Sec-
10 retary, in consultation with appropriate State motor
11 carrier safety personnel, shall conduct a survey of
12 each State—

13 (A) to develop a system of metrics to
14 measure the adequacy of commercial motor ve-
15 hicle parking facilities in the State;

16 (B) to assess the volume of commercial
17 motor vehicle traffic in the State; and

18 (C) to evaluate the capability of the State
19 to provide adequate parking and rest facilities
20 for commercial motor vehicles engaged in inter-
21 state transportation.

22 (2) PUBLICATION OF RESULTS.—The Secretary
23 shall make available to the public on the Internet
24 Web site of the Department the results of surveys
25 conducted under paragraph (1).

1 (3) PERIODIC UPDATES.—The Secretary shall
2 periodically update surveys conducted under para-
3 graph (1).

4 (b) TRUCK PARKING PROJECTS.—A State may obli-
5 gate funds apportioned to the State under paragraph (1),
6 (2), (3), or (5) of section 104(b) of title 23, United States
7 Code, for the following, if serving the National Highway
8 System:

9 (1) Constructing a safety rest area (as defined
10 in section 120(c) of such title) that includes parking
11 for commercial motor vehicles.

12 (2) Constructing a commercial motor vehicle
13 parking facility adjacent to a commercial truck stop
14 or travel plaza.

15 (3) Making a facility available to commercial
16 motor vehicle parking, including an inspection and
17 weigh station or a park-and-ride facility.

18 (4) Promoting the availability of publicly or pri-
19 vately provided commercial motor vehicle parking
20 using intelligent transportation systems and other
21 means.

22 (5) Constructing a turnout for commercial
23 motor vehicles.

24 (6) Making capital improvements to a seasonal
25 public commercial motor vehicle parking facility to

1 allow the facility to remain open throughout the
2 year.

3 (7) Improving the geometric design of an inter-
4 change to improve access to a commercial motor ve-
5 hicle parking facility.

6 **SEC. 1716. USE OF CERTAIN ADMINISTRATIVE EXPENSES.**

7 (a) IN GENERAL.—Out of the funds made available
8 under section 104(a) of title 23, United States Code, the
9 Secretary may use not to exceed a total of \$2,000,000
10 each fiscal year—

11 (1) to operate the national work zone safety in-
12 formation clearinghouse authorized by section
13 358(b)(2) of the National Highway System Designa-
14 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.
15 625);

16 (2) to operate a public road safety clearing-
17 house under section 1411(a) of SAFETEA-LU (23
18 U.S.C. 402 note; 119 Stat. 1234); and

19 (3) to provide work zone safety grants under
20 subsections (a) and (b) of section 1409 of
21 SAFETEA-LU (23 U.S.C. 401 note; 119 Stat.
22 1232).

23 (b) CONFORMING AMENDMENTS.—

24 (1) ROADWAY SAFETY.—Section 1411(a) of
25 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.

1 1234) is amended by striking paragraph (2) and in-
2 sserting the following:

3 “(2) FUNDING.—Funding for activities under
4 this subsection may be made available as described
5 in section 1716(a) of the American Energy and In-
6 frastructure Jobs Act of 2012.”.

7 (2) WORK ZONE SAFETY GRANTS.—Section
8 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119
9 Stat. 1232) is amended by striking subsection (c)(1)
10 and inserting the following:

11 “(1) IN GENERAL.—Funding for activities
12 under this section may be made available as de-
13 scribed in section 1716(a) of the American Energy
14 and Infrastructure Jobs Act of 2012.”.

15 **SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYMENT**
16 **PROGRAMS.**

17 To encourage the development of careers in the trans-
18 portation field, the Secretary of Education and the Sec-
19 retary of Labor are encouraged to use funds for training
20 and employment education programs to develop such pro-
21 grams for transportation-related careers and trades, and
22 to work with the Secretary of Transportation to carry out
23 such programs.

1 **SEC. 1717A. ENGINEERING AND DESIGN SERVICES.**

2 (a) IN GENERAL.—For projects carried out under
3 title 23, United States Code, a State transportation de-
4 partment shall utilize, to the maximum extent practicable,
5 commercial enterprises for the delivery of engineering and
6 design services.

7 (b) REPORTING REQUIREMENT.—Not later than 1
8 year after the date of enactment of this Act, each State
9 transportation department shall submit to the Secretary
10 a report documenting the extent to which the State utilizes
11 commercial enterprises for the delivery of engineering and
12 design services for projects carried out under title 23,
13 United States Code, which shall include, at a minimum—

14 (1) the number and types of engineering and
15 design activities for which commercial enterprises
16 were utilized in the preceding year; and

17 (2) the policies or procedures utilized by the
18 State transportation department to increase the
19 amount of engineering and design services for which
20 commercial enterprises were utilized.

21 (c) STATE TRANSPORTATION DEPARTMENT DE-
22 FINED.—In this section, the term “State transportation
23 department” has the meaning given that term under sec-
24 tion 101 of title 23, United States Code.

1 **SEC. 1718. NOTICE OF CERTAIN GRANT AWARDS.**

2 (a) IN GENERAL.—Except to the extent otherwise ex-
3 pressly provided in another provision of law, at least 3
4 business days before a covered grant award is announced,
5 the Secretary shall provide to the Committee on Transpor-
6 tation and Infrastructure of the House of Representatives
7 written notice of the covered grant award.

8 (b) COVERED GRANT AWARD DEFINED.—The term
9 “covered grant award” means a grant award—

10 (1) made—

11 (A) by the Department; and

12 (B) with funds made available under this
13 Act; and

14 (2) in an amount equal to or greater than
15 \$500,000.

16 **TITLE II—PUBLIC**
17 **TRANSPORTATION**

18 **SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49,**
19 **UNITED STATES CODE.**

20 (a) SHORT TITLE.—This title may be cited as the
21 “Public Transportation Act of 2012”.

22 (b) AMENDMENTS TO TITLE 49, UNITED STATES
23 CODE.—Except as otherwise expressly provided, whenever
24 in this title an amendment or repeal is expressed in terms
25 of an amendment to, or a repeal of, a section or other
26 provision, the reference shall be considered to be made to

1 a section or other provision of title 49, United States
2 Code.

3 **SEC. 2002. DEFINITIONS.**

4 Section 5302(a) is amended—

5 (1) in paragraph (1)(I) by striking “10 per-
6 cent” and inserting “15 percent”;

7 (2) by redesignating paragraphs (12) through
8 (17) as paragraphs (13) through (18), respectively;
9 and

10 (3) by inserting after paragraph (11) the fol-
11 lowing:

12 “(12) RURAL AREA.—The term ‘rural area’
13 means an area encompassing a population of less
14 than 50,000 people that has not been designated in
15 the most recent decennial census as an ‘urbanized
16 area’ by the Secretary of Commerce.”.

17 **SEC. 2003. PLANNING PROGRAMS.**

18 Section 5305 is amended—

19 (1) in the heading for subsection (d) by insert-
20 ing “TRANSPORTATION” before “PLANNING”;

21 (2) in paragraph (d)(2), by striking “designated
22 under this section” and inserting “responsible for
23 carrying out the provisions of section 5203 of this
24 title”; and

25 (3) in subsection (e)—

1 (A) in the subsection heading by striking
2 “STATE” and inserting “STATEWIDE TRANS-
3 PORTATION”; and

4 (B) in paragraph (1)(A) by striking
5 “5315.”.

6 **SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.**

7 Section 5306(a) is amended by striking “, as deter-
8 mined by local policies, criteria, and decisionmaking.”.

9 **SEC. 2005. URBANIZED AREA FORMULA GRANTS.**

10 (a) GENERAL AUTHORITY.—Section 5307(b)(3) is
11 amended—

12 (1) by inserting “TRANSPORTATION MANAGE-
13 MENT AREAS.—” before “In a”; and

14 (2) by moving the text 2 ems to the right.

15 (b) GRANT RECIPIENT REQUIREMENTS.—Section
16 5307(d)(1) is amended—

17 (1) in subparagraph (D)—

18 (A) by striking “elderly and handicapped
19 individuals, or an” and inserting “elderly indi-
20 viduals, individuals with disabilities, and any”;
21 and

22 (B) by striking the comma before “will be
23 charged”;

1 (2) in subparagraph (H) by striking “section
2 5301(a), section 5301(d),” and inserting “section
3 5301”;

4 (3) in subparagraph (I) by adding “and” at the
5 end;

6 (4) in subparagraph (J)(ii) by striking “; and”
7 and inserting a period; and

8 (5) by striking subparagraph (K).

9 **SEC. 2006. CAPITAL INVESTMENT GRANTS.**

10 (a) IN GENERAL.—Section 5309 is amended to read
11 as follows:

12 **“§ 5309. Capital investment grants**

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

15 “(1) NEW FIXED GUIDEWAY CAPITAL
16 PROJECT.—The term ‘new fixed guideway capital
17 project’ means an operable segment of a capital
18 project for a new fixed guideway system or extension
19 to an existing fixed guideway system.

20 “(2) NEW START PROJECT.—The term ‘new
21 start project’ means a new fixed guideway capital
22 project for which the Federal assistance provided or
23 to be provided under this section is \$75,000,000 or
24 more.

1 “(3) SMALL START PROJECT.—The term ‘small
2 start project’ means a new fixed guideway capital
3 project for which—

4 “(A) the Federal assistance provided or to
5 be provided under this section is less than
6 \$75,000,000; and

7 “(B) the total estimated net capital cost is
8 less than \$250,000,000.

9 “(b) GENERAL AUTHORITY.—The Secretary may
10 make grants under this section to assist State and local
11 governmental authorities in financing—

12 “(1) new fixed guideway capital projects under
13 subsections (d) and (e), including the acquisition of
14 real property, the initial acquisition of rolling stock
15 for the systems, the acquisition of rights-of-way, and
16 relocation assistance, for fixed guideway corridor de-
17 velopment for projects in the advanced stages of
18 planning or in project development; and

19 “(2) the development of corridors to support
20 new fixed guideway capital projects under sub-
21 sections (d) and (e), including protecting rights-of-
22 way through acquisition, construction of dedicated
23 bus and high occupancy vehicle lanes, park and ride
24 lots, and other nonvehicular capital improvements

1 that the Secretary may determine would result in in-
2 creased public transportation usage in the corridor.

3 “(c) GRANT REQUIREMENTS.—

4 “(1) IN GENERAL.—The Secretary may not ap-
5 prove a grant under this section unless the Secretary
6 determines that—

7 “(A) the project is part of an approved
8 long-range transportation plan and program of
9 projects required under sections 5203, 5204,
10 and 5306; and

11 “(B) the applicant has, or will have—

12 “(i) the legal, financial, and technical
13 capacity to carry out the project, including
14 safety and security aspects of the project;

15 “(ii) satisfactory continuing control
16 over the use of the equipment or facilities;
17 and

18 “(iii) the capability and willingness to
19 maintain the equipment or facilities.

20 “(2) CERTIFICATION.—An applicant that has
21 submitted the certifications required under subpara-
22 graphs (A), (B), (C), and (H) of section 5307(d)(1)
23 shall be deemed to have provided sufficient informa-
24 tion upon which the Secretary may make the deter-
25 minations required under this subsection.

1 “(3) GRANTEE REQUIREMENTS.—The Secretary
2 shall require that any grant awarded under this sec-
3 tion to a recipient be subject to all terms, conditions,
4 requirements, and provisions that the Secretary de-
5 termines to be necessary or appropriate for the pur-
6 poses of this section, including requirements for the
7 disposition of net increases in the value of real prop-
8 erty resulting from the project assisted under this
9 section.

10 “(d) NEW START PROJECTS.—

11 “(1) FULL FUNDING GRANT AGREEMENT.—

12 “(A) IN GENERAL.—A new start project
13 shall be carried out through a full funding
14 grant agreement.

15 “(B) CRITERIA.—The Secretary shall enter
16 into a full funding grant agreement, based on
17 the evaluations and ratings required under this
18 subsection, with each grantee receiving assist-
19 ance for a new start project that—

20 “(i) is authorized for project develop-
21 ment; and

22 “(ii) has been rated as high, medium-
23 high, or medium, in accordance with para-
24 graph (5).

1 “(2) APPROVAL OF GRANTS.—The Secretary
2 may approve a grant under this section for a new
3 start project only if the Secretary, based upon eval-
4 uations and considerations set forth in paragraph
5 (3) and subject to paragraph (6), determines that
6 the project—

7 “(A) has been adopted as the locally pre-
8 ferred alternative as part of the long-range
9 transportation plan required under section
10 5203;

11 “(B) is based on the results of an evalua-
12 tion of the benefits of the project as set forth
13 in paragraph (3); and

14 “(C) is supported by an acceptable degree
15 of local financial commitment (including evi-
16 dence of stable and dependable financing
17 sources) to construct, maintain, and operate the
18 system or extension, and maintain and operate
19 the entire public transportation system without
20 requiring a reduction in existing public trans-
21 portation services or level of service to operate
22 the project.

23 “(3) EVALUATION OF BENEFITS AND FEDERAL
24 INVESTMENT.—In making a determination for a new
25 start project under paragraph (2)(B), the Secretary

1 shall analyze, evaluate, and consider the following
2 evaluation criteria for the project (as compared to a
3 no-action alternative):

4 “(A) The cost effectiveness of the project.

5 “(B) The mobility and accessibility bene-
6 fits of the project, including direct intermodal
7 connectivity with other modes of transportation.

8 “(C) The degree of congestion relief antici-
9 pated as a result of the project.

10 “(D) The reductions in energy consump-
11 tion and air pollution associated with the
12 project.

13 “(E) The economic development effects as-
14 sociated with the project.

15 “(F) The private contributions to the
16 project, including cost-effective project delivery,
17 management or transfer of project risks, expe-
18 dited project schedule, financial partnering, and
19 other public-private strategies.

20 “(4) EVALUATION OF LOCAL FINANCIAL COM-
21 MITMENT.—In making a determination for a new
22 start project under paragraph (2)(C), the Secretary
23 shall—

24 “(A) require that the proposed project plan
25 provide for the availability of contingency

1 amounts that the Secretary determines to be
2 reasonable to cover unanticipated cost in-
3 creases;

4 “(B) require that each proposed local
5 source of capital and operating financing is sta-
6 ble, reliable, and available within the project
7 timetable;

8 “(C) consider private contributions to the
9 project, including cost-effective project delivery,
10 management or transfer of project risks, expe-
11 dited project schedule, financial partnering, and
12 other public-private partnership strategies;

13 “(D) consider the extent to which the
14 project has a local financial commitment that
15 exceeds the required non-Federal share of the
16 cost of the project; and

17 “(E) consider the elements of the overall
18 proposed public transportation system advanced
19 with 100 percent non-Federal funds.

20 “(5) RATINGS.—In carrying out paragraphs (3)
21 and (4) for a new start project, the Secretary shall
22 evaluate and rate the project on a 5-point scale
23 (high, medium-high, medium, medium-low, or low)
24 based on an evaluation of the benefits of the project
25 as compared to the Federal assistance to be provided

1 and the degree of local financial commitment, as re-
2 quired under this subsection. In rating the projects,
3 the Secretary shall provide, in addition to the overall
4 project rating, individual ratings for each of the cri-
5 teria established by this subsection and shall give
6 comparable, but not necessarily equal, numerical
7 weight to the benefits that the project will bring to
8 the community in calculating the overall project rat-
9 ing.

10 “(e) SMALL START PROJECTS.—

11 “(1) IN GENERAL.—

12 “(A) APPLICABILITY OF REQUIRE-
13 MENTS.—Except as provided by subparagraph
14 (B), a small start project shall be subject to the
15 requirements of this subsection.

16 “(B) PROJECTS RECEIVING LESS THAN
17 \$25,000,000 IN FEDERAL ASSISTANCE.—If the
18 assistance provided under this section for a
19 small start project is less than \$25,000,000—

20 “(i) the requirements of this sub-
21 section shall not apply to the project if de-
22 termined appropriate by the Secretary; and

23 “(ii) the Secretary shall utilize special
24 warrants described in subsection (n) to ad-

1 vance the project and provide Federal as-
2 sistance as appropriate.

3 “(2) SELECTION CRITERIA.—The Secretary
4 may provide Federal assistance for a small start
5 project under this subsection only if the Secretary
6 determines that the project—

7 “(A) has been adopted as the locally pre-
8 ferred alternative as part of the long-range
9 transportation plan required under section
10 5203;

11 “(B) is based on the results of an analysis
12 of the benefits of the project as set forth in
13 paragraph (3); and

14 “(C) is supported by an acceptable degree
15 of local financial commitment.

16 “(3) EVALUATION OF BENEFITS AND FEDERAL
17 INVESTMENT.—In making a determination for a
18 small start project under paragraph (2)(B), the Sec-
19 retary shall analyze, evaluate, and consider the fol-
20 lowing evaluation criteria for the project (as com-
21 pared to a no-action alternative):

22 “(A) The cost effectiveness of the project.

23 “(B) The mobility and accessibility bene-
24 fits of the project, including direct intermodal
25 connectivity with other modes of transportation.

1 “(C) The degree of congestion relief antici-
2 pated as a result of the project.

3 “(D) The economic development effects as-
4 sociated with the project.

5 “(4) EVALUATION OF LOCAL FINANCIAL COM-
6 MITMENT.—For purposes of paragraph (2)(C), the
7 Secretary shall require that each proposed local
8 source of capital and operating financing is stable,
9 reliable, and available within the proposed project
10 timetable.

11 “(5) RATINGS.—In carrying out paragraphs (3)
12 and (4) for a small start project, the Secretary shall
13 evaluate and rate the project on a 5-point scale
14 (high, medium-high, medium, medium-low, or low)
15 based on an evaluation of the benefits of the project
16 as compared to the Federal assistance to be provided
17 and the degree of local financial commitment, as re-
18 quired under this subsection. In rating the projects,
19 the Secretary shall provide, in addition to the overall
20 project rating, individual ratings for each of the cri-
21 teria established by this subsection and shall give
22 comparable, but not necessarily equal, numerical
23 weight to the benefits that the project will bring to
24 the community in calculating the overall project rat-
25 ing.

1 “(6) GRANTS AND EXPEDITED GRANT AGREE-
2 MENTS.—

3 “(A) IN GENERAL.—The Secretary, to the
4 maximum extent practicable, shall provide Fed-
5 eral assistance under this subsection in a single
6 grant. If the Secretary cannot provide such a
7 single grant, the Secretary may execute an ex-
8 pedited grant agreement in order to include a
9 commitment on the part of the Secretary to
10 provide funding for the project in future fiscal
11 years.

12 “(B) TERMS OF EXPEDITED GRANT
13 AGREEMENTS.—In executing an expedited grant
14 agreement under this subsection, the Secretary
15 may include in the agreement terms similar to
16 those established under subsection (g)(2)(A).

17 “(C) NOTICE OF PROPOSED GRANTS AND
18 EXPEDITED GRANT AGREEMENTS.—At least 10
19 days before making a grant award or entering
20 into a grant agreement for a project under this
21 subsection, the Secretary shall notify, in writ-
22 ing, the Committee on Transportation and In-
23 frastructure and the Committee on Appropria-
24 tions of the House of Representatives and the
25 Committee on Banking, Housing, and Urban

1 Affairs and the Committee on Appropriations of
2 the Senate of the proposed grant or expedited
3 grant agreement, as well as the evaluations and
4 ratings for the project.

5 “(7) INCLUSION OF CORRIDOR-BASED CAPITAL
6 PROJECTS.—In this subsection, the term ‘small start
7 project’ includes a corridor-based capital project if—

8 “(A) a majority of the project operates in
9 a separate right-of-way dedicated for transit use
10 during peak hour operations; or

11 “(B) the project represents a substantial
12 investment in a defined corridor as dem-
13 onstrated by investment in fixed transit facili-
14 ties and equipment such as substantial transit
15 stations, intelligent transportation systems tech-
16 nology, traffic signal priority, off-board fare col-
17 lection, and other direct investments in the cor-
18 ridor.

19 “(f) PREVIOUSLY ISSUED LETTER OF INTENT OR
20 GRANT AGREEMENT.—Subsections (d) and (e) do not
21 apply to projects for which the Secretary has issued a let-
22 ter of intent, entered into an early systems work agree-
23 ment or a full funding grant agreement, or has been ap-
24 proved to enter final design before the date of enactment
25 of the Public Transportation Act of 2012.

1 “(g) LETTERS OF INTENT, FULL FUNDING GRANT
2 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
3 MENTS.—

4 “(1) LETTERS OF INTENT.—

5 “(A) AMOUNTS INTENDED TO BE OBLI-
6 GATED.—The Secretary may issue a letter of
7 intent to an applicant announcing an intention
8 to obligate, for a new start project, an amount
9 from future available budget authority specified
10 in law that is not more than the amount stipu-
11 lated as the financial participation of the Sec-
12 retary in the project.

13 “(B) TREATMENT.—The issuance of a let-
14 ter under subparagraph (A) is deemed not to be
15 an obligation under section 1108(c), 1108(d),
16 1501, or 1502(a) of title 31 or an administra-
17 tive commitment.

18 “(2) FULL FUNDING GRANT AGREEMENTS.—

19 “(A) TERMS.—The Secretary may enter
20 into a full funding grant agreement with an ap-
21 plicant for a grant under this section for a new
22 start project. The agreement shall—

23 “(i) establish the terms of participa-
24 tion by the Government in the project;

1 “(ii) establish the maximum amount
2 of Government financial assistance for the
3 project;

4 “(iii) cover the period of time for com-
5 pleting the project, including, if necessary,
6 a period extending beyond the period of an
7 authorization;

8 “(iv) make timely and efficient man-
9 agement of the project easier according to
10 the laws of the United States; and

11 “(v) establish terms requiring the ap-
12 plicant to repay all Government payments
13 made under the agreement (plus such rea-
14 sonable interest and penalty charges as are
15 established by the Secretary in the agree-
16 ment) if the applicant does not carry out
17 the project for reasons within the control
18 of the applicant.

19 “(B) SPECIAL FINANCIAL RULES.—

20 “(i) IN GENERAL.—A full funding
21 grant agreement under this paragraph ob-
22 ligates an amount of available budget au-
23 thority specified in law and may include a
24 commitment (contingent on amounts to be
25 specified in law in advance for commit-

1 ments under this paragraph) to obligate an
2 additional amount from future available
3 budget authority specified in law.

4 “(ii) STATEMENT OF CONTINGENT
5 COMMITMENT.—The full funding grant
6 agreement shall state that the contingent
7 commitment is not an obligation of the
8 Government.

9 “(iii) INTEREST AND OTHER FINANC-
10 ING COSTS.—Interest and other financing
11 costs of efficiently carrying out a part of
12 the project within a reasonable time are a
13 cost of carrying out the project under a
14 full funding grant agreement, except that
15 eligible costs may not be more than the
16 cost of the most favorable financing terms
17 reasonably available for the project at the
18 time of borrowing. The applicant shall cer-
19 tify, in a way satisfactory to the Secretary,
20 that the applicant has shown reasonable
21 diligence in seeking the most favorable fi-
22 nancing terms.

23 “(iv) COMPLETION OF OPERABLE
24 SEGMENT.—The amount stipulated in a
25 full funding grant agreement for a new

1 start project shall be sufficient to complete
2 at least one operable segment.

3 “(C) BEFORE AND AFTER STUDY.—

4 “(i) IN GENERAL.—A full funding
5 grant agreement under this paragraph
6 shall require the applicant to conduct a
7 study that—

8 “(I) describes and analyzes the
9 impacts of the new start project on
10 transit services and transit ridership;

11 “(II) evaluates the consistency of
12 predicted and actual project charac-
13 teristics and performance; and

14 “(III) identifies sources of dif-
15 ferences between predicted and actual
16 outcomes.

17 “(ii) INFORMATION COLLECTION AND
18 ANALYSIS PLAN.—

19 “(I) SUBMISSION OF PLAN.—An
20 applicant seeking a full funding grant
21 agreement under this paragraph shall
22 submit to the Secretary a complete
23 plan for the collection and analysis of
24 information to identify the impacts of
25 the new start project and the accuracy

1 of the forecasts prepared during the
2 development of the project. Prepara-
3 tion of the plan shall be included in
4 the agreement as an eligible activity.

5 “(II) CONTENTS OF PLAN.—The
6 plan submitted under subclause (I)
7 shall provide for—

8 “(aa) the collection of data
9 on the current transit system of
10 the applicant regarding transit
11 service levels and ridership pat-
12 terns, including origins and des-
13 tinations, access modes, trip pur-
14 poses, and rider characteristics;

15 “(bb) documentation of the
16 predicted scope, service levels,
17 capital costs, operating costs, and
18 ridership of the project;

19 “(cc) collection of data on
20 the transit system of the appli-
21 cant 2 years after the opening of
22 the new start project, including
23 analogous information on transit
24 service levels and ridership pat-
25 terns and information on the as-

1 built scope and capital costs of
2 the project; and

3 “(dd) an analysis of the con-
4 sistency of predicted project
5 characteristics with the data col-
6 lected under item (cc).

7 “(D) COLLECTION OF DATA ON CURRENT
8 SYSTEM.—To be eligible to enter into a full
9 funding grant agreement under this paragraph
10 for a new start project, an applicant shall have
11 collected data on the current transit system of
12 the applicant, according to the plan required
13 under subparagraph (C)(ii), before the begin-
14 ning of construction of the project. Collection of
15 the data shall be included in the full funding
16 grant agreement as an eligible activity.

17 “(3) EARLY SYSTEMS WORK AGREEMENTS.—

18 “(A) CONDITIONS.—The Secretary may
19 enter into an early systems work agreement
20 with an applicant for a new start project if a
21 record of decision under the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.) has been issued on the project and the
24 Secretary finds there is reason to believe a full

1 funding grant agreement for the project will be
2 made.

3 “(B) CONTENTS.—

4 “(i) IN GENERAL.—A work agreement
5 under this paragraph for a new start
6 project obligates an amount of available
7 budget authority specified in law and shall
8 provide for reimbursement of preliminary
9 costs of carrying out the project, including
10 land acquisition, timely procurement of
11 system elements for which specifications
12 are decided, and other activities the Sec-
13 retary decides are appropriate to make ef-
14 ficient, long-term project management
15 easier.

16 “(ii) PERIOD COVERED.—A work
17 agreement under this paragraph shall
18 cover the period of time the Secretary con-
19 siders appropriate. The period may extend
20 beyond the period of current authorization.

21 “(iii) INTEREST AND OTHER FINANC-
22 ING COSTS.—Interest and other financing
23 costs of efficiently carrying out the work
24 agreement within a reasonable time are a
25 cost of carrying out the agreement, except

1 that eligible costs may not be more than
2 the cost of the most favorable financing
3 terms reasonably available for the project
4 at the time of borrowing. The applicant
5 shall certify, in a manner satisfactory to
6 the Secretary, that the applicant has
7 shown reasonable diligence in seeking the
8 most favorable financing terms.

9 “(iv) FAILURE TO CARRY OUT
10 PROJECT.—If, after entering into a work
11 agreement under this paragraph for a new
12 start project, an applicant does not carry
13 out the project for reasons within the con-
14 trol of the applicant, the applicant shall
15 repay all Government payments made
16 under the work agreement plus reasonable
17 interest and penalty charges the Secretary
18 establishes in the agreement.

19 “(4) LIMITATION ON AMOUNTS.—

20 “(A) NEW START GRANTS CONTINGENT
21 COMMITMENT AUTHORITY.—The total estimated
22 amount of future obligations of the Government
23 and contingent commitments to incur obliga-
24 tions covered by all outstanding letters of in-
25 tent, full funding grant agreements, and early

1 systems work agreements under this subsection
2 for new start projects may be not more than
3 the greater of the amount authorized under sec-
4 tion 5338(b) for such projects or an amount
5 equivalent to the last 3 fiscal years of funding
6 allocated under subsections (m)(2)(B) for such
7 projects, less an amount the Secretary reason-
8 ably estimates is necessary for grants under
9 this section for the projects that are not covered
10 by a letter or agreement. The total amount cov-
11 ered by new letters and contingent commit-
12 ments included in full funding grant agree-
13 ments and early systems work agreements for
14 such projects may be not more than a limitation
15 specified in law.

16 “(B) APPROPRIATION REQUIRED.—An ob-
17 ligation may be made under this subsection only
18 when amounts are appropriated for the obliga-
19 tion.

20 “(5) NOTIFICATION OF CONGRESS.—At least 10
21 days before issuing a letter of intent or an early sys-
22 tems work agreement under this section, and at
23 least 21 days before entering into a full funding
24 grant agreement under this section, the Secretary
25 shall notify, in writing, the Committee on Transpor-

1 tation and Infrastructure and the Committee on Ap-
2 propriations of the House of Representatives and the
3 Committee on Banking, Housing, and Urban Affairs
4 and the Committee on Appropriations of the Senate
5 of the proposed letter or agreement. The Secretary
6 shall include with the notification a copy of the pro-
7 posed letter or agreement as well as the evaluations
8 and ratings for the project.

9 “(h) GOVERNMENT’S SHARE OF NET PROJECT
10 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 of a new fixed guideway capital project. A grant
16 under this section for the project shall be for 80 per-
17 cent of the net capital project cost unless the grant
18 recipient requests a lower grant percentage.

19 “(2) ADJUSTMENT FOR COMPLETION UNDER
20 BUDGET.—The Secretary may adjust the final net
21 project cost of a new fixed guideway capital project
22 evaluated under subsections (d) and (e) to include
23 the cost of eligible activities not included in the
24 originally defined project if the Secretary determines
25 that the originally defined project has been com-

1 pleted at a cost that is significantly below the origi-
2 nal estimate.

3 “(3) REMAINDER OF NET PROJECT COST.—The
4 remainder of net project costs shall be provided from
5 an undistributed cash surplus, a replacement or de-
6 preciation cash fund or reserve, or new capital from
7 public or private sources.

8 “(4) LIMITATION ON STATUTORY CONSTRUC-
9 TION.—Nothing in this section shall be construed as
10 authorizing the Secretary to request or require a
11 non-Federal financial commitment for a project that
12 is more than 20 percent of the net capital project
13 cost.

14 “(5) SPECIAL RULE FOR ROLLING STOCK
15 COSTS.—In addition to amounts allowed pursuant to
16 paragraph (1), a planned extension to a fixed guide-
17 way system may include the cost of rolling stock pre-
18 viously purchased if the applicant satisfies the Sec-
19 retary that only amounts other than amounts of the
20 Government were used and that the purchase was
21 made for use on the extension. A refund or reduc-
22 tion of the remainder may be made only if a refund
23 of a proportional amount of the grant of the Govern-
24 ment is made at the same time.

25 “(i) UNDERTAKING PROJECTS IN ADVANCE.—

1 “(1) IN GENERAL.—The Secretary may pay the
2 Government’s share of the net capital project cost to
3 a State or local governmental authority that carries
4 out any part of a project described in this section
5 without the aid of amounts of the Government and
6 according to all applicable procedures and require-
7 ments if—

8 “(A) the State or local governmental au-
9 thority applies for the payment;

10 “(B) the Secretary approves the payment;

11 and

12 “(C) before carrying out the part of the
13 project, the Secretary approves the plans and
14 specifications for the part in the same manner
15 as other projects under this section.

16 “(2) FINANCING COSTS.—

17 “(A) IN GENERAL.—The cost of carrying
18 out part of a project includes the amount of in-
19 terest earned and payable on bonds issued by
20 the State or local governmental authority to the
21 extent proceeds of the bonds are expended in
22 carrying out the part.

23 “(B) LIMITATION ON AMOUNT OF INTER-
24 EST.—The amount of interest under this para-
25 graph may not be more than the most favorable

1 interest terms reasonably available for the
2 project at the time of borrowing.

3 “(C) CERTIFICATION.—The applicant shall
4 certify, in a manner satisfactory to the Sec-
5 retary, that the applicant has shown reasonable
6 diligence in seeking the most favorable financial
7 terms.

8 “(j) AVAILABILITY OF AMOUNTS.—An amount made
9 available or appropriated under section 5338(b) for new
10 fixed guideway capital projects shall remain available for
11 a period of 3 fiscal years after the fiscal year in which
12 the amount is made available or appropriated. Any of such
13 amount that is unobligated at the end of such period shall
14 be rescinded and deposited in the general fund of the
15 Treasury, where such amounts shall be dedicated for the
16 sole purpose of deficit reduction and prohibited from use
17 as an offset for other spending increases or revenue reduc-
18 tions.

19 “(k) REPORTS ON NEW START 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 Transportation and Infrastruc-
24 ture and the Committee on Appropriations of the
25 House of Representatives and the Committee on

1 Banking, Housing, and Urban Affairs and the Com-
2 mittee on Appropriations of the Senate a report that
3 includes—

4 “(A) a proposal of allocations of amounts
5 to be available to finance grants for new fixed
6 guideway capital projects among applicants for
7 these amounts;

8 “(B) evaluations and ratings, as required
9 under subsections (d) and (e), for each such
10 project that is authorized by the Public Trans-
11 portation Act of 2012; and

12 “(C) recommendations of such projects for
13 funding based on the evaluations and ratings
14 and on existing commitments and anticipated
15 funding levels for the next 3 fiscal years based
16 on information currently available to the Sec-
17 retary.

18 “(2) BIENNIAL GAO REVIEW.—Beginning 2
19 years after the date of enactment of the Public
20 Transportation Act of 2012, the Comptroller Gen-
21 eral shall—

22 “(A) conduct a biennial review of—

23 “(i) the processes and procedures for
24 evaluating, rating, and recommending new
25 fixed guideway capital projects; and

1 “(ii) the Secretary’s implementation
2 of such processes and procedures; and

3 “(B) on a biennial basis, report to Con-
4 gress on the results of such review by May 31.

5 “(l) BEFORE AND AFTER STUDY REPORT.—Not
6 later than the first Monday of August of each year, the
7 Secretary shall submit to the committees referred to in
8 subsection (k)(1) a report containing a summary of the
9 results of the studies conducted under subsection
10 (g)(2)(C).

11 “(m) LIMITATIONS.—

12 “(1) LIMITATION ON GRANTS.—The Secretary
13 may make a grant or enter into a grant agreement
14 for a new fixed guideway capital project under this
15 section only if the project has been rated as high,
16 medium-high, or medium or the Secretary has issued
17 a special warrant described in subsection (n) in lieu
18 of such ratings.

19 “(2) FISCAL YEARS 2013 THROUGH 2016.—Of
20 the amounts made available or appropriated for fis-
21 cal years 2013 through 2016 under section
22 5338(b)—

23 “(A) \$150,000,000 for each fiscal year
24 shall be allocated for small start projects in ac-
25 cordance with subsection (e); and

1 “(B) the remainder shall be allocated for
2 new start projects in accordance with sub-
3 section (d).

4 “(3) LIMITATION ON EXPENDITURES.—None of
5 the amounts made available or appropriated under
6 section 5338(b) may be expended on a project that
7 has not been adopted as the locally preferred alter-
8 native as part of a long-range transportation plan.

9 “(n) EXPEDITED PROJECT ADVANCEMENT.—

10 “(1) WARRANTS.—The Secretary, to the max-
11 imum extent practicable, shall develop and utilize
12 special warrants to advance projects and provide
13 Federal assistance under this section. Special war-
14 rants may be utilized to advance new fixed guideway
15 projects under this section without requiring evalua-
16 tions and ratings described under subsections (d)(5)
17 and (e)(5). Such warrants shall be—

18 “(A) based on current transit ridership,
19 corridor characteristics, and service on existing
20 alignments;

21 “(B) designed to assess distinct categories
22 of projects, such as proposed new service en-
23 hancements on existing alignments, new line
24 haul service, and new urban circulator service;
25 and

1 “(C) based on the benefits for proposed
2 projects as set forth in subsections (d)(3) and
3 (e)(3) for the Federal assistance provided or to
4 be provided under this subsection.

5 “(2) NEW PROJECT DEVELOPMENT.—

6 “(A) IN GENERAL.—A project sponsor who
7 requests Federal funding under this section
8 shall apply to the Secretary to begin new
9 project development after a proposed new fixed
10 guideway capital project has been adopted as
11 the locally preferred alternative as part of the
12 metropolitan long-range transportation plan re-
13 quired under section 5303, and funding options
14 for the non-Federal funding share have been
15 identified. The application for new project de-
16 velopment shall specify whether the project
17 sponsor is seeking Federal assistance under
18 subsection (d) or (e).

19 “(B) APPLICATIONS.—

20 “(i) NOTICE TO CONGRESS.—Not
21 later than 10 days after the date of receipt
22 of an application for new project develop-
23 ment under subparagraph (A), the Sec-
24 retary shall provide written notice of the
25 application to the Committee on Transpor-

1 tation and Infrastructure of the House of
2 Representatives and the Committee on
3 Banking, Housing, and Urban Affairs of
4 the Senate.

5 “(ii) APPROVAL OR DISAPPROVAL.—

6 On the 11th day following the date on
7 which the Secretary provides written notice
8 of an application for new project develop-
9 ment under clause (i), the Secretary shall
10 approve or disapprove the application.

11 “(C) PROJECT AUTHORIZATION.—Upon

12 approval of an application to begin new project
13 development, the proposed new fixed guideway
14 capital project shall be authorized and eligible
15 for Federal funding under this section.

16 “(3) LETTERS OF INTENT AND EARLY SYSTEMS

17 WORK AGREEMENTS.—The Secretary, to the max-
18 imum extent practicable, shall issue letters of intent
19 and make early systems work agreements upon
20 issuance of a record of decision under the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 “(4) FUNDING AGREEMENTS.—The Secretary

24 shall enter into a full funding grant agreement, ex-
25 pedited grant agreement, or grant, as appropriate,

1 between the Government and the project sponsor as
2 soon as the Secretary determines that the project
3 meets the requirements of subsection (d) or (e).

4 “(5) RECORDS RETENTION.—The Secretary
5 shall adhere to a uniform records retention policy re-
6 garding all documentation related to new fixed
7 guideway capital projects.

8 “(o) REGULATIONS.—Not later than 240 days after
9 the date of enactment of the Public Transportation Act
10 of 2012, the Secretary shall issue regulations establishing
11 new program requirements for the programs created
12 under this section, including new evaluation and rating
13 processes for proposed projects under this section.”.

14 (b) CLERICAL AMENDMENT.—The analysis for chap-
15 ter 53 is amended by striking the item relating to section
16 5309 and inserting the following:

“5309. Capital investment grants.”.

17 **SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.**

18 (a) IN GENERAL.—Section 5310 is amended to read
19 as follows:

20 **“§ 5310. Bus and bus facilities formula grants**

21 “(a) GENERAL AUTHORITY.—The Secretary may
22 make grants under this section to assist States and local
23 governmental authorities in financing capital projects—

24 “(1) to replace, rehabilitate, and purchase buses
25 and related equipment; and

1 “(2) to construct bus-related facilities.

2 “(b) GRANT REQUIREMENTS.—The requirements of
3 subsections (c) and (d) of section 5307 apply to recipients
4 of grants made under this section.

5 “(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

6 “(1) RECIPIENTS.—Eligible recipients under
7 this section are providers of public transportation in
8 urbanized areas that operate fixed route bus services
9 and that do not operate heavy rail, commuter rail,
10 or light rail services.

11 “(2) SUBRECIPIENTS.—A recipient that re-
12 ceives a grant under this section may allocate the
13 amounts provided to subrecipients that are public
14 agencies, private companies engaged in public trans-
15 portation, or private nonprofit organizations.

16 “(d) DISTRIBUTION OF GRANT FUNDS.—Grants
17 under this section shall be distributed pursuant to the for-
18 mula set forth in section 5336 other than subsection (b).

19 “(e) GOVERNMENT’S SHARE OF COSTS.—

20 “(1) CAPITAL PROJECTS.—A grant for a capital
21 project, as defined in section 5302(a)(1), shall be for
22 80 percent of the net project cost of the project. The
23 recipient may provide additional local matching
24 amounts.

1 “(2) REMAINING COSTS.—The remainder of the
2 net project cost shall be provided—

3 “(A) in cash from non-Government sources
4 other than revenues from providing public
5 transportation services;

6 “(B) from revenues derived from the sale
7 of advertising and concessions;

8 “(C) from an undistributed cash surplus, a
9 replacement or depreciation cash fund or re-
10 serve, or new capital; and

11 “(D) from amounts received under a serv-
12 ice agreement with a State or local social serv-
13 ice agency or private social service organization.

14 “(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A
15 grant made available under this section may be obligated
16 by the recipient for 3 years after the fiscal year in which
17 the amount is apportioned. Not later than 30 days after
18 the end of the 3-year period, an amount that is not obli-
19 gated at the end of that period shall be added to the
20 amount that may be apportioned under this section in the
21 next fiscal year.

22 “(g) TRANSFERS OF APPORTIONMENTS.—

23 “(1) TRANSFER TO CERTAIN AREAS.—The chief
24 executive officer of a State may transfer any part of
25 the State’s funds made available under this section

1 to urbanized areas of less than 200,000 in popu-
2 lation or to rural areas in the State, after consulting
3 with responsible local officials and publicly owned
4 operators of public transportation in each area for
5 which the amount originally was provided under this
6 section.

7 “(2) TRANSFER TO STATE.—A designated re-
8 cipient for an urbanized area with a population of at
9 least 200,000 may transfer a part of its grant funds
10 provided under this section to the chief executive of-
11 ficer of a State. The chief executive officer shall dis-
12 tribute the transferred amounts to urbanized areas
13 of less than 200,000 in population or to rural areas
14 in the State.

15 “(h) APPLICATION OF OTHER SECTIONS.—Sections
16 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and
17 5333 apply to this section and to a grant made with funds
18 apportioned under this section. Except as provided in this
19 section, no other provision of this chapter applies to this
20 section or to a grant under this section.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 53 is amended by striking the item relating to section
23 5310 and inserting the following:

“5310. Bus and bus facilities formula grants.”.

1 **SEC. 2008. RURAL AREA FORMULA GRANTS.**

2 (a) AMENDMENT TO SECTION HEADING.—Section
3 5311 is amended by striking the section designation and
4 heading and inserting the following:

5 **“§ 5311. Rural area formula grants”.**

6 (b) PROGRAM GOALS.—Section 5311(b) is amended
7 by adding at the end the following:

8 “(5) PROGRAM GOALS.—The goals of this sec-
9 tion are—

10 “(A) to enhance the mobility and access of
11 people in rural areas by assisting in the devel-
12 opment, construction, operation, improvement,
13 maintenance, and use of public transportation
14 systems and services in rural areas;

15 “(B) to increase the intermodalism of and
16 connectivity among public transportation sys-
17 tems and services within rural areas and to
18 urban areas by providing for maximum coordi-
19 nation of programs and services;

20 “(C) to increase the state of good repair of
21 rural public transportation assets; and

22 “(D) to enhance the mobility and access of
23 people in rural areas by assisting in the devel-
24 opment and support of intercity bus transpor-
25 tation.”.

1 (c) PROJECTS OF NATIONAL SCOPE.—Section
2 5311(b)(3)(C) is amended by adding at the end the fol-
3 lowing: “In carrying out such projects, the Secretary shall
4 enter into a competitively selected contract to provide on-
5 site technical assistance to local and regional governments,
6 public transit agencies, and public transportation-related
7 nonprofit and for-profit organizations in rural areas for
8 the purpose of developing training materials and providing
9 necessary training assistance to local officials and agencies
10 in rural areas.”.

11 (d) APPORTIONMENTS.—Section 5311(c)(2) is
12 amended—

13 (1) by striking “and” at the end of subpara-
14 graph (A);

15 (2) by striking subparagraph (B) and inserting
16 the following:

17 “(B) 70 percent shall be apportioned to
18 the States in accordance with paragraph (4);
19 and”;

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

21 “(C) 10 percent shall be apportioned to the
22 States in accordance with paragraph (5).”.

23 (e) APPORTIONMENTS BASED ON PUBLIC TRANSPOR-
24 TATION SERVICES PROVIDED IN RURAL AREAS.—Section
25 5311(c) is amended by adding at the end the following:

1 “(5) APPORTIONMENTS BASED ON PUBLIC
2 TRANSPORTATION SERVICES PROVIDED IN RURAL
3 AREAS.—The Secretary shall apportion to each State
4 an amount equal to the amount apportioned under
5 paragraph (2)(C) as follows:

6 “(A) $\frac{1}{2}$ of such amount multiplied by the
7 ratio that—

8 “(i) the number of public transpor-
9 tation revenue vehicle-miles operated in or
10 attributable to rural areas in that State, as
11 determined by the Secretary; bears to

12 “(ii) the total number of all public
13 transportation revenue vehicle-miles oper-
14 ated in or attributable to rural areas in all
15 States;

16 “(B) $\frac{1}{2}$ of such amount multiplied by the
17 ratio that—

18 “(i) the number of public transpor-
19 tation unlinked passenger trips operated in
20 or attributable to rural areas in that State,
21 as determined by the Secretary; bears to

22 “(ii) the total number of all public
23 transportation unlinked passenger trips op-
24 erated in or attributable to rural areas in
25 all States.”.

1 (f) USE FOR ADMINISTRATIVE, PLANNING, AND
2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended by
3 striking “15 percent” and inserting “10 percent”.

4 (g) INTERCITY BUS TRANSPORTATION.—Section
5 5311(f)(1) is amended—

6 (1) in subparagraph (B) by striking “shelters”
7 and inserting “facilities”; and

8 (2) in subparagraph (C) by striking “stops and
9 depots” and inserting “facilities”.

10 (h) NON-FEDERAL SHARE.—Section 5311(g)(3) is
11 amended—

12 (1) in subparagraph (B) by striking “and” at
13 the end;

14 (2) in subparagraph (C) by striking the period
15 at the end and inserting “; and”; and

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

17 “(D) may be derived from the costs of a
18 private operator’s intercity bus service as an in-
19 kind match for the operating costs of con-
20 necting rural intercity bus feeder service funded
21 under subsection (f), except that this subpara-
22 graph shall apply only if the project includes
23 both feeder service and a connecting unsub-
24 subsidized intercity route segment and if the pri-

1 vate operator agrees in writing to the use of its
2 unsubsidized costs as an in-kind match.”.

3 (i) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 53 is amended by striking the item relating to section
5 5311 and inserting the following:

“5311. Rural area formula grants.”.

6 **SEC. 2009. TRANSIT RESEARCH.**

7 (a) AMENDMENT TO SECTION HEADING.—Section
8 5312 is amended by striking the section designation and
9 heading and inserting the following:

10 **“§ 5312. Transit research”.**

11 (b) RESEARCH PROJECTS.—Section 5312(a) is
12 amended by adding at the end the following:

13 “(4) FUNDING.—The amounts made available
14 under section 5338(e) are available to the Secretary
15 for grants, contracts, cooperative agreements, or
16 other agreements for the purposes of this section
17 and sections 5305 and 5322, as the Secretary con-
18 siders appropriate.”.

19 (c) JOINT PARTNERSHIP PROGRAM.—Section
20 5312(b)(5) is amended by striking “Mass Transit Ac-
21 count” and inserting “Alternative Transportation Ac-
22 count”.

23 (d) TRANSIT COOPERATIVE RESEARCH PROGRAM.—
24 Section 5312(e) is amended to read as follows:

25 “(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a public transportation cooperative research pro-
3 gram using amounts made available under section
4 5338(e).

5 “(2) INDEPENDENT GOVERNING BOARD.—The
6 Secretary shall establish an independent governing
7 board for the program. The board shall recommend
8 public transportation research, development, and
9 technology transfer activities to be carried out under
10 the program.

11 “(3) GRANTS AND COOPERATIVE AGREE-
12 MENTS.—The Secretary may make grants to, and
13 enter into cooperative agreements with, the National
14 Academy of Sciences to carry out activities under
15 this subsection that the Secretary determines appro-
16 priate.”.

17 (e) GOVERNMENT SHARE.—Section 5312 is amended
18 by adding at the end the following:

19 “(d) GOVERNMENT SHARE.—If there would be a
20 clear and direct financial benefit to an entity under a
21 grant or contract financed under this section, the Sec-
22 retary shall establish a Government share consistent with
23 that benefit.”.

1 (f) CLERICAL AMENDMENT.—The analysis for chap-
 2 ter 53 is amended by striking the item relating to section
 3 5312 and inserting the following:

“5312. Transit research.”.

4 **SEC. 2010. COORDINATED ACCESS AND MOBILITY PRO-**
 5 **GRAM FORMULA GRANTS.**

6 (a) IN GENERAL.—Section 5317 is amended to read
 7 as follows:

8 **“§ 5317. Coordinated access and mobility program**
 9 **formula grants**

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

12 “(1) ELDERLY INDIVIDUAL.—The term ‘elderly
 13 individual’ means an individual who is age 65 or
 14 older.

15 “(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The
 16 term ‘eligible low-income individual’ means an indi-
 17 vidual whose family income is at or below 150 per-
 18 cent of the poverty line (as that term is defined in
 19 section 673 of the Community Services Block Grant
 20 Act (42 U.S.C. 9902), including any revision re-
 21 quired by that section) for a family of the size in-
 22 volved.

23 “(3) JOB ACCESS AND REVERSE COMMUTE
 24 PROJECT.—The term ‘job access and reverse com-
 25 mute project’ means a transportation project to fi-

1 nance planning, capital, and operating costs that
2 support the development and maintenance of trans-
3 portation services designed to transport welfare re-
4 cipients and eligible low-income individuals to and
5 from jobs and activities related to their employment,
6 including transportation projects that facilitate the
7 provision of public transportation services from ur-
8 banized areas and rural areas to suburban employ-
9 ment locations.

10 “(4) RECIPIENT.—The term ‘recipient’ means a
11 designated recipient (as defined in section 5307(a))
12 and a State that directly receives a grant under this
13 section.

14 “(5) SUBRECIPIENT.—The term ‘subrecipient’
15 means a State or local governmental authority, non-
16 profit organization, or private operator of public
17 transportation services that receives a grant under
18 this section indirectly through a recipient.

19 “(6) WELFARE RECIPIENT.—The term ‘welfare
20 recipient’ means an individual who has received as-
21 sistance under a State or tribal program funded
22 under part A of title IV of the Social Security Act
23 (42 U.S.C. 601 et seq.) at any time during the 3-
24 year period before the date on which the applicant
25 applies for a grant under this section.

1 “(b) GOALS.—The goals of the program established
2 under this section are to—

3 “(1) improve the accessibility of the Nation’s
4 public transportation systems and services;

5 “(2) improve the mobility of or otherwise meet
6 the special needs of elderly individuals, eligible low-
7 income individuals, and individuals with disabilities;
8 and

9 “(3) improve the coordination among all pro-
10 viders of public transportation and human services
11 transportation.

12 “(c) GENERAL AUTHORITY.—

13 “(1) GRANTS.—The Secretary may make
14 grants under this section to recipients for the fol-
15 lowing purposes:

16 “(A) For public transportation projects
17 planned, designed, and carried out to meet the
18 special needs of elderly individuals and individ-
19 uals with disabilities.

20 “(B) For job access and reverse commute
21 projects carried out by the recipient or a sub-
22 recipient.

23 “(C) For new public transportation serv-
24 ices, and for public transportation alternatives
25 beyond those required by the Americans with

1 Disabilities Act of 1990 (42 U.S.C. 12101 et
2 seq.), that assist individuals with disabilities
3 with transportation, including transportation to
4 and from jobs and employment support serv-
5 ices.

6 “(2) ACQUIRING PUBLIC TRANSPORTATION
7 SERVICES.—A public transportation capital project
8 under this section may include acquisition of public
9 transportation services as an eligible capital expense.

10 “(3) ADMINISTRATIVE EXPENSES.—A recipient
11 may use not more than 10 percent of the amounts
12 apportioned to the recipient under this section to ad-
13 minister, plan, and provide technical assistance for
14 a project funded under this section.

15 “(d) APPORTIONMENTS.—

16 “(1) FORMULA.—The Secretary, using the most
17 recent decennial census data, shall apportion
18 amounts made available for a fiscal year to carry out
19 this section as follows:

20 “(A) 50 percent of the funds shall be ap-
21 portioned among designated recipients (as de-
22 fined in section 5307(a)) for urbanized areas
23 with a population of 200,000 or more in the
24 ratio that—

1 “(i) the number of elderly individuals,
2 individuals with disabilities, eligible low-in-
3 come individuals, and welfare recipients in
4 each such urbanized area; bears to

5 “(ii) the number of elderly individuals,
6 individuals with disabilities, eligible low-in-
7 come individuals, and welfare recipients in
8 all such urbanized areas.

9 “(B) 25 percent of the funds shall be ap-
10 portioned among the States in the ratio that—

11 “(i) the number of elderly individuals,
12 individuals with disabilities, eligible low-in-
13 come individuals, and welfare recipients in
14 urbanized areas with a population of less
15 than 200,000 in each State; bears to

16 “(ii) the number of elderly individuals,
17 individuals with disabilities, eligible low-in-
18 come individuals, and welfare recipients in
19 urbanized areas with a population of less
20 than 200,000 in all States.

21 “(C) 25 percent of the funds shall be ap-
22 portioned among the States in the ratio that—

23 “(i) the number of elderly individuals,
24 individuals with disabilities, eligible low-in-
25 come individuals, and welfare recipients in

1 rural areas with a population of less than
2 50,000 in each State; bears to

3 “(ii) the number of elderly individuals,
4 individuals with disabilities, eligible low-in-
5 come individuals, and welfare recipients in
6 rural areas with a population of less than
7 50,000 in all States.

8 “(2) USE OF APPORTIONED FUNDS.—Except as
9 provided in paragraph (3)—

10 “(A) funds apportioned under paragraph
11 (1)(A) shall be used for projects serving urban-
12 ized areas with a population of 200,000 or
13 more;

14 “(B) funds apportioned under paragraph
15 (1)(B) shall be used for projects serving urban-
16 ized areas with a population of less than
17 200,000; and

18 “(C) funds apportioned under paragraph
19 (1)(C) shall be used for projects serving rural
20 areas.

21 “(3) EXCEPTIONS.—A State may use funds ap-
22 portioned under paragraph (1)(B) or (1)(C)—

23 “(A) for projects serving areas other than
24 the area specified in paragraph (2)(B) or
25 (2)(C), as the case may be, if the Governor of

1 the State certifies that all of the objectives of
2 this section are being met in the specified area;
3 or

4 “(B) for projects anywhere in the State if
5 the State has established a statewide program
6 for meeting the objectives of this section.

7 “(4) MINIMUM APPORTIONMENT.—

8 “(A) IN GENERAL.—The Secretary may es-
9 tablish a minimum apportionment for States
10 and territories under paragraph (1).

11 “(B) LIMITATION.—A minimum apportion-
12 ment received by a State or territory under this
13 paragraph for a fiscal year may not exceed the
14 total of the fiscal year 2012 apportionments re-
15 ceived by the State or territory under sections
16 5310, 5316, and 5317 (as in effect on the day
17 before the date of enactment of the Public
18 Transportation Act of 2012).

19 “(e) COMPETITIVE PROCESS FOR GRANTS TO SUB-
20 RECIPIENTS.—

21 “(1) AREAWIDE SOLICITATIONS.—A recipient of
22 funds apportioned under subsection (d)(1)(A) shall
23 conduct, in cooperation with the appropriate metro-
24 politan planning organization, an areawide sollicita-

1 tion for applications for grants to the recipient and
2 subrecipients under this section.

3 “(2) STATEWIDE SOLICITATION.—A recipient of
4 funds apportioned under subsection (d)(1)(B) or
5 (d)(1)(C) shall conduct a statewide solicitation for
6 applications for grants to the recipient and sub-
7 recipients under this section.

8 “(3) SPECIAL RULE.—A recipient of a grant
9 under this section may allocate the amounts pro-
10 vided under the grant to—

11 “(A) a nonprofit organization or private
12 operator of public transportation, if the public
13 transportation service provided under sub-
14 section (c)(1) is unavailable, insufficient, or in-
15 appropriate; or

16 “(B) in the case of a grant to provide the
17 services described in subsection (c)(1)(A), a
18 governmental authority that—

19 “(i) is approved by the recipient to co-
20 ordinate services for elderly individuals and
21 individuals with disabilities; or

22 “(ii) certifies that there are not any
23 nonprofit organizations or private opera-
24 tors of public transportation services read-

1 ily available in the area to provide the
2 services described in subsection (c)(1)(A).

3 “(4) APPLICATION.—Recipients and subrecipi-
4 ents seeking to receive a grant from funds appor-
5 tioned under subsection (d) shall submit to the re-
6 cipient an application in such form and in accord-
7 ance with such requirements as the recipient shall
8 establish.

9 “(5) GRANT AWARDS.—The recipient shall
10 award grants under paragraphs (1) and (2) on a
11 competitive basis.

12 “(6) FAIR AND EQUITABLE DISTRIBUTION.—A
13 recipient of a grant under this section shall certify
14 to the Secretary that allocations of the grant to sub-
15 recipients will be distributed on a fair, equitable, and
16 competitive basis.

17 “(f) GRANT REQUIREMENTS.—

18 “(1) IN GENERAL.—Subject to paragraph (2), a
19 grant under this section shall be subject to—

20 “(A) for a project in an urbanized area,
21 the requirements of section 5307; and

22 “(B) for a project in a rural area, the re-
23 quirements of section 5311.

24 “(2) WAIVERS.—With respect to a grant made
25 to provide services described in subsection (c), the

1 Secretary shall waive application of the requirements
2 of section 5307 or 5311 to the extent the Secretary
3 determines appropriate.

4 “(g) COORDINATION.—

5 “(1) IN GENERAL.—The Secretary shall coordi-
6 nate activities under this section with related activi-
7 ties under programs of other Federal departments
8 and agencies.

9 “(2) PROJECT SELECTION AND PLANNING.—A
10 recipient of funds under this section shall certify to
11 the Secretary that—

12 “(A) the projects selected to receive fund-
13 ing under this section were derived from a lo-
14 cally developed, coordinated public transpor-
15 tation-human services transportation plan;

16 “(B) the plan was developed through a
17 process that included participation by rep-
18 resentatives of public, private, and nonprofit
19 transportation and human services providers
20 and participation by the public and appropriate
21 advocacy organizations; and

22 “(C) the planning process provided for
23 consideration of projects and strategies to cre-
24 ate or improve regional transportation services
25 that connect multiple jurisdictions.

1 “(h) GOVERNMENT’S SHARE OF COSTS.—

2 “(1) CAPITAL PROJECTS.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a grant for a capital project
5 under this section shall be for 80 percent of the
6 net capital costs of the project, as determined
7 by the Secretary. The recipient may provide ad-
8 ditional local matching amounts.

9 “(B) EXCEPTION.—A State described in
10 section 120(b) of title 23 shall receive an in-
11 creased Government share in accordance with
12 the formula under such section.

13 “(2) OPERATING ASSISTANCE.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), a grant made under this sec-
16 tion for operating assistance may not exceed 50
17 percent of the net operating costs of the
18 project, as determined by the Secretary.

19 “(B) EXCEPTION.—A State described in
20 section 120(b) of title 23 shall receive a Gov-
21 ernment share of the net operating costs that
22 equals 62.5 percent of the Government share
23 provided for under paragraph (1)(B).

24 “(3) REMAINDER.—The remainder of the net
25 project costs—

1 “(A) may be provided from an undistrib-
2 uted cash surplus, a replacement or deprecia-
3 tion cash fund or reserve, a service agreement
4 with a State or local social service agency or a
5 private social service organization, or new cap-
6 ital;

7 “(B) may be derived from amounts appro-
8 priated to or made available to a department or
9 agency of the Government (other than the De-
10 partment of Transportation) that are eligible to
11 be expended for transportation; and

12 “(C) notwithstanding subparagraph (B),
13 may be derived from amounts made available to
14 carry out the Federal lands transportation pro-
15 gram established by section 203 of title 23.

16 “(4) USE OF CERTAIN FUNDS.—For purposes
17 of paragraph (3)(B), the prohibitions on the use of
18 funds for matching requirements under section
19 403(a)(5)(C)(vii) of the Social Security Act (42
20 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
21 or State funds to be used for transportation pur-
22 poses.

23 “(5) LIMITATION ON OPERATING ASSIST-
24 ANCE.—A recipient carrying out a program of oper-
25 ating assistance under this section may not limit the

1 level or extent of use of the Government grant for
2 the payment of operating expenses.

3 “(i) LEASING VEHICLES.—Vehicles and equipment
4 acquired under this section may be leased to a recipient
5 or subrecipient to improve transportation services de-
6 signed to meet the special needs of elderly individuals, eli-
7 gible low-income individuals, and individuals with disabil-
8 ities.

9 “(j) MEAL DELIVERY FOR HOMEBOUND INDIVID-
10 UALS.—Public transportation service providers receiving
11 assistance under this section or section 5311(c) may co-
12 ordinate and assist in regularly providing meal delivery
13 service for homebound individuals if the delivery service
14 does not conflict with providing public transportation serv-
15 ice or reduce service to public transportation passengers.

16 “(k) TRANSFERS OF FACILITIES AND EQUIPMENT.—
17 With the consent of the recipient in possession of a facility
18 or equipment acquired with a grant under this section, a
19 State may transfer the facility or equipment to any recipi-
20 ent eligible to receive assistance under this chapter if the
21 facility or equipment will continue to be used as required
22 under this section.

23 “(l) PROGRAM EVALUATION.—Not later than 2 years
24 after the date of enactment of the Public Transportation

1 Act of 2012, and not later than 2 years thereafter, the
2 Comptroller General shall—

3 “(1) conduct a study to evaluate the grant pro-
4 gram authorized by this section; and

5 “(2) transmit to the Committee on Transpor-
6 tation and Infrastructure of the House of Represent-
7 atives and the Committee on Banking, Housing, and
8 Urban Affairs of the Senate a report describing the
9 results of the study under subparagraph (A).”.

10 (b) CLERICAL AMENDMENT.—The analysis for chap-
11 ter 53 is amended by striking the item relating to section
12 5317 and inserting the following:

“5317. Coordinated access and mobility program formula grants.”.

13 **SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PRO-**
14 **GRAMS.**

15 (a) AMENDMENT TO SECTION HEADING.—Section
16 5322 is amended by striking the section designation and
17 heading and inserting the following:

18 **“§ 5322. Training and technical assistance programs”.**

19 (b) TRAINING AND OUTREACH.—Section 5322(a) is
20 amended—

21 (1) by striking “programs that address” and all
22 that follows before the period at the end of the first
23 sentence and inserting “programs that address
24 training and outreach needs as they apply to public
25 transportation activities, and programs that provide

1 public transportation-related technical assistance to
2 providers of public transportation services”;

3 (2) by striking “and” at the end of paragraph
4 (3);

5 (3) by striking the period at the end of para-
6 graph (4) and inserting “; and”; and

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

8 “(5) technical assistance provided through na-
9 tional nonprofit organizations with demonstrated ca-
10 pacity and expertise in a particular area of public
11 transportation policy.”.

12 (c) NATIONAL TRANSIT INSTITUTE, TECHNICAL AS-
13 SISTANCE, AND FUNDING.—Section 5322 is amended by
14 adding at the end the following:

15 “(c) NATIONAL TRANSIT INSTITUTE.—

16 “(1) GRANTS AND CONTRACTS.—The Secretary
17 may award grants or enter into contracts with a
18 public university to establish a National Transit In-
19 stitute to support training and educational programs
20 for Federal, State, and local transportation employ-
21 ees engaged or to be engaged in Government-aid
22 public transportation work.

23 “(2) EDUCATION AND TRAINING.—The Na-
24 tional Transit Institute shall provide education and
25 training to employees of State and local governments

1 at no cost when the education and training is related
2 to a responsibility under a Government program.

3 “(d) TECHNICAL ASSISTANCE.—The Secretary may
4 provide public transportation-related technical assistance
5 under this section as follows:

6 “(1) To help public transportation providers
7 comply with the Americans with Disabilities Act of
8 1990 (42 U.S.C. 12101 et seq.) through a competi-
9 tively selected contract with a national nonprofit or-
10 ganization serving individuals with disabilities that
11 has a demonstrated capacity to carry out technical
12 assistance, demonstration programs, research, public
13 education, and other activities related to complying
14 with such Act.

15 “(2) To help public transportation providers
16 comply with human services transportation coordina-
17 tion requirements and to enhance the coordination of
18 Federal resources for human services transportation
19 with those of the Department of Transportation
20 through a competitively selected contract with a na-
21 tional nonprofit organization that has a dem-
22 onstrated capacity to carry out technical assistance,
23 training, and support services related to complying
24 with such requirements.

1 “(3) To help public transportation providers
2 meet the transportation needs of elderly individuals
3 through a competitively selected contract with a na-
4 tional nonprofit organization serving elderly individ-
5 uals that has a demonstrated capacity to carry out
6 such activities.

7 “(4) To provide additional technical assistance,
8 mobility management services, volunteer support
9 services, training, and research that the Secretary
10 determines will assist public transportation providers
11 meet the goals of this section.

12 “(e) FUNDING.—Training and outreach programs
13 and technical assistance activities performed under this
14 section shall be paid for with administrative funds made
15 available under section 5338(c).”.

16 (d) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 53 is amended by striking the item relating to section
18 5322 and inserting the following:

“5322. Training and technical assistance programs.”.

19 **SEC. 2012. GENERAL PROVISIONS.**

20 (a) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN
21 PROJECTS.—Section 5323(i) is amended by adding at the
22 end the following:

23 “(3) COSTS INCURRED BY PROVIDERS OF PUB-
24 LIC TRANSPORTATION BY VANPOOL.—

1 “(A) LOCAL MATCHING SHARE.—The local
2 matching share provided by a recipient of as-
3 sistance for a capital project under this chapter
4 may include any amounts expended by a pro-
5 vider of public transportation by vanpool for the
6 acquisition of rolling stock to be used by such
7 provider in the recipient’s service area, exclud-
8 ing any amounts the provider may have re-
9 ceived in Federal, State, or local government
10 assistance for such acquisition.

11 “(B) USE OF REVENUES.—A private pro-
12 vider of public transportation by vanpool may
13 use revenues it receives in the provision of pub-
14 lic transportation service in the service area of
15 a recipient of assistance under this chapter that
16 are in excess of the provider’s operating costs
17 for the purpose of acquiring rolling stock, if the
18 private provider enters into a legally binding
19 agreement with the recipient that requires the
20 provider to use the rolling stock in the recipi-
21 ent’s service area.

22 “(C) DEFINITIONS.—In this paragraph,
23 the following definitions apply:

24 “(i) PRIVATE PROVIDER OF PUBLIC
25 TRANSPORTATION BY VANPOOL.—The term

1 ‘private provider of public transportation
2 by vanpool’ means a private entity pro-
3 viding vanpool services in the service area
4 of a recipient of assistance under this
5 chapter using a commuter highway vehicle
6 or vanpool vehicle.

7 “(ii) COMMUTER HIGHWAY VEHICLE;
8 VANPOOL VEHICLE.—The term ‘commuter
9 highway vehicle’ or ‘vanpool vehicle’ means
10 any vehicle—

11 “(I) the seating capacity of which
12 is at least 6 adults (not including the
13 driver); and

14 “(II) at least 80 percent of the
15 mileage use of which can be reason-
16 ably expected to be for the purposes
17 of transporting commuters in connec-
18 tion with travel between their resi-
19 dences and their place of employment.

20 “(4) INCENTIVES FOR COMPETITIVELY CON-
21 TRACTED SERVICE.—

22 “(A) ELIGIBILITY.—Subject to subpara-
23 graph (C), a recipient of assistance under this
24 chapter that meets the targets under subpara-
25 graph (B) for competitively contracted service

1 shall be eligible, at the request of the recipient,
2 for a Federal share of 90 percent for the capital
3 cost of buses and bus-related facilities and
4 equipment purchased with financial assistance
5 made available under this chapter.

6 “(B) TARGET.—To qualify for the com-
7 petitively contracted service incentive program
8 under this paragraph, a public transit agency or
9 governmental unit shall competitively contract
10 for at least 20 percent of its fixed route bus
11 service. The percentage of competitively con-
12 tracted service shall be calculated by deter-
13 mining the ratio of competitively contracted
14 service vehicles operated in annual maximum
15 service to total vehicles operated in annual max-
16 imum service.

17 “(C) MAINTENANCE OF EFFORT.—A pub-
18 lic transit agency or governmental unit shall be
19 eligible for an increased Federal share under
20 this paragraph only if the amount of State and
21 local funding provided to the affected public
22 transit agency or governmental unit for the
23 capital cost of buses and bus-related facilities
24 and equipment will not be less than the average
25 amount of funding for such purposes provided

1 during the 3 fiscal years preceding the date of
2 enactment of this paragraph.

3 “(D) DEFINITIONS.—In this paragraph,
4 the following definitions apply:

5 “(i) COMPETITIVELY CONTRACTED
6 SERVICE.—The term ‘competitively con-
7 tracted service’ means fixed route bus
8 transportation service purchased by a pub-
9 lic transit agency or governmental unit
10 from a private transportation provider
11 based on a written contract.

12 “(ii) VEHICLES OPERATED IN ANNUAL
13 MAXIMUM SERVICE.—The term ‘vehicles
14 operated in annual maximum service’
15 means the number of transit vehicles oper-
16 ated to meet the annual maximum service
17 requirement during the peak season of the
18 year, on the week and day that maximum
19 service is provided.”.

20 (b) REASONABLE ACCESS TO PUBLIC TRANSPOR-
21 TATION FACILITIES.—Section 5323 is amended by adding
22 at the end the following:

23 “(q) REASONABLE ACCESS TO PUBLIC TRANSPOR-
24 TATION FACILITIES.—A recipient of assistance under this
25 chapter may not deny reasonable access for a private

1 intercity or charter transportation operator to federally
2 funded public transportation facilities, including inter-
3 modal facilities, park and ride lots, and bus-only highway
4 lanes.”.

5 (c) SPECIAL CONDITION ON CHARTER BUS TRANS-
6 PORTATION SERVICE.—If, in any fiscal year, the Secretary
7 is prohibited by law from enforcing regulations related to
8 charter bus service under part 604 of title 49, Code of
9 Federal Regulations, for any transit agency that during
10 fiscal year 2008 was both initially granted a 60-day period
11 to come into compliance with part 604, and then was sub-
12 sequently granted an exception from such part—

13 (1) the transit agency shall be precluded from
14 receiving its allocation of urbanized area formula
15 grant funds for that fiscal year; and

16 (2) any amounts withheld pursuant to para-
17 graph (1) shall be added to the amount that the
18 Secretary may apportion under section 5336 of title
19 49, United States Code, in the following fiscal year.

20 **SEC. 2013. CONTRACT REQUIREMENTS.**

21 Section 5325(h) is amended by striking “Federal
22 Public Transportation Act of 2005” and inserting “Public
23 Transportation Act of 2012”.

1 **SEC. 2014. PRIVATE SECTOR PARTICIPATION.**

2 (a) IN GENERAL.—Chapter 53 is amended by insert-
3 ing after section 5325 the following:

4 **“§ 5326. Private sector participation**

5 “(a) GENERAL PURPOSES.—In the interest of ful-
6 filling the general purposes of this chapter under section
7 5301(f), the Secretary shall—

8 “(1) better coordinate public and private sector-
9 provided public transportation services; and

10 “(2) promote more effective utilization of pri-
11 vate sector expertise, financing, and operational ca-
12 pacity to deliver costly and complex new fixed guide-
13 way capital projects.

14 “(b) ACTIONS TO PROMOTE BETTER COORDINATION
15 BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF
16 PUBLIC TRANSPORTATION.—The Secretary shall—

17 “(1) provide technical assistance to recipients of
18 Federal transit grant assistance on practices and
19 methods to best utilize private providers of public
20 transportation; and

21 “(2) educate recipients of Federal transit grant
22 assistance on laws and regulations under this chap-
23 ter that impact private providers of public transpor-
24 tation.

25 “(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE
26 FOR ALTERNATIVE PROJECT DELIVERY METHODS.—

1 Upon request by a sponsor of a new fixed guideway capital
2 project, the Secretary shall—

3 “(1) identify best practices for public-private
4 partnerships models in the United States and in
5 other countries;

6 “(2) develop standard public-private partner-
7 ship transaction model contracts; and

8 “(3) perform financial assessments that include
9 the calculation of public and private benefits of a
10 proposed public-private partnership transaction.”.

11 (b) CLERICAL AMENDMENT.—The analysis for such
12 chapter is amended by inserting after the item relating
13 to section 5325 the following:

“5326. Private sector participation.”.

14 (c) PUBLIC-PRIVATE PARTNERSHIP PROCEDURES
15 AND APPROACHES.—

16 (1) IDENTIFY IMPEDIMENTS.—The Secretary
17 shall—

18 (A) except as provided in paragraph (4),
19 identify any provisions of chapter 53 of title 49,
20 United States Code, and any regulations or
21 practices thereunder, that impede greater use of
22 public-private partnerships and private invest-
23 ment in public transportation capital projects;

24 (B) develop and implement on a project
25 basis procedures and approaches that—

1 (i) address such impediments in a
2 manner similar to the Special Experi-
3 mental Project Number 15 of the Federal
4 Highway Administration (commonly re-
5 ferred to as “SEP-15”); and

6 (ii) protect the public interest and any
7 public investment in covered projects.

8 (2) REPORT.—Not later than 4 years after the
9 date of enactment of this Act, the Secretary shall
10 submit to Congress a report on the status of the
11 procedures and approaches developed and imple-
12 mented under paragraph (1).

13 (3) RULEMAKING.—Not later than 1 year after
14 the date of enactment of this Act, the Secretary
15 shall issue rules to carry out the procedures and ap-
16 proaches developed under paragraph (1).

17 (4) RULE OF CONSTRUCTION.—Nothing in this
18 subsection may be construed to allow the Secretary
19 to waive any requirement under—

20 (A) section 5333 of title 49, United States
21 Code;

22 (B) the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4321 et seq.); or

24 (C) any other provision of Federal law not
25 described in paragraph (2)(A).

1 (d) CONTRACTING OUT STUDY.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act, the Comptroller
4 General shall submit to the Committee on Transpor-
5 tation and Infrastructure of the House of Represent-
6 atives and the Committee on Banking, Housing, and
7 Urban Affairs of the Senate a comprehensive report
8 on the effect of contracting out public transportation
9 operations and administrative functions on cost,
10 availability and level of service, efficiency, and qual-
11 ity of service.

12 (2) CONSIDERATIONS.—In developing the re-
13 port, the Comptroller General shall consider—

14 (A) the number of grant recipients that
15 have contracted out services and the types of
16 public transportation services that are per-
17 formed under contract, including paratransit
18 service, fixed route bus service, commuter rail
19 operations, and administrative functions;

20 (B) the size of the populations served by
21 such grant recipients;

22 (C) the basis for decisions regarding con-
23 tracting out such services;

24 (D) comparative costs of providing service
25 under contract to providing the same service

1 through public transit agency employees, using
2 to the greatest extent possible a standard cost
3 allocation model;

4 (E) the extent of unionization among pri-
5 vately contracted employees; and

6 (F) barriers to contracting out public
7 transportation operations and administrative
8 functions.

9 (e) GUIDANCE ON DOCUMENTING COMPLIANCE.—
10 Not later than 1 year after the date of enactment of this
11 Act, the Secretary shall publish in the Federal Register
12 policy guidance regarding how to best document compli-
13 ance by recipients of Federal assistance under chapter 53
14 of title 49, United States Code, with the requirements re-
15 garding private enterprise participation in public transpor-
16 tation planning and transportation improvement programs
17 under sections 5203(g)(6) (as added by title IV of this
18 Act), and sections 5306(a) and 5307(c) of this title.

19 **SEC. 2015. PROJECT MANAGEMENT OVERSIGHT.**

20 Section 5327(c)(1) is amended—

21 (1) by striking “to make contracts”; and

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

23 “(F) 1 percent of amounts made available
24 to carry out section 5337.

1 “(G) 0.75 percent of amounts made avail-
2 able to carry out section 5317.”.

3 **SEC. 2016. STATE SAFETY OVERSIGHT.**

4 (a) GENERAL AUTHORITY.—Section 5330(b) is
5 amended to read as follows:

6 “(b) GENERAL AUTHORITY.—The Secretary may re-
7 quire that up to 100 percent of the amount required to
8 be appropriated for use in a State or urbanized area in
9 the State under section 5307 for a fiscal year beginning
10 after September 30, 2013, be utilized on capital safety im-
11 provement and state of good repair projects for the benefit
12 of fixed guideway transportation systems in such State or
13 urbanized area in the State before any other transit cap-
14 ital project is undertaken, if—

15 “(1) the State in the prior fiscal year has not
16 met the requirements of subsection (c); or

17 “(2) the Secretary has certified that the State
18 safety oversight agency (as defined in section
19 5336(k)(1)(B)) does not have adequate technical ca-
20 pacity, personnel resources, and authority under rel-
21 evant State law to perform the agency’s responsibil-
22 ities described in that section.”.

1 **SEC. 2017. APPORTIONMENT OF APPROPRIATIONS FOR**
2 **FORMULA GRANTS.**

3 (a) APPORTIONMENTS.—Section 5336(i) is amended
4 to read as follows:

5 “(i) APPORTIONMENTS.—Of the amounts made avail-
6 able for each fiscal year under section 5338(a)(2)(B)—

7 “(1) 2 percent shall be apportioned to certain
8 urbanized areas with populations of less than
9 200,000 in accordance with subsection (j);

10 “(2) 1 percent shall be apportioned to applica-
11 ble States for operational support and training costs
12 of State safety oversight agencies and personnel em-
13 ployed by or under contract to such agencies in ac-
14 cordance with subsection (k); and

15 “(3) any amount not apportioned under para-
16 graphs (1) and (2) shall be apportioned to urbanized
17 areas in accordance with subsections (a) through
18 (c).”.

19 (b) STATE SAFETY OVERSIGHT AGENCIES.—Section
20 5336(k) is amended to read as follows:

21 “(k) STATE SAFETY OVERSIGHT AGENCIES FOR-
22 MULA.—

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

25 “(A) APPLICABLE STATES.—The term ‘ap-
26 plicable States’ means States that—

1 “(i) have rail fixed guideway public
2 transportation systems that are not subject
3 to regulation by the Federal Railroad Ad-
4 ministration; or

5 “(ii) are designing or constructing rail
6 fixed guideway public transportation sys-
7 tems that will not be subject to regulation
8 by the Federal Railroad Administration.

9 “(B) STATE SAFETY OVERSIGHT AGEN-
10 CIES.—The term ‘State safety oversight agency’
11 means a designated State authority that has re-
12 sponsibility—

13 “(i) for requiring, reviewing, approv-
14 ing, and monitoring safety program plans
15 under section 5330(c)(1);

16 “(ii) for investigating hazardous con-
17 ditions and accidents on fixed guideway
18 public transportation systems that are not
19 subject to regulation by the Federal Rail-
20 road Administration; and

21 “(iii) for requiring action to correct or
22 eliminate those conditions.

23 “(2) APPORTIONMENT.—

24 “(A) APPORTIONMENT FORMULA.—The
25 amount to be apportioned under subsection

1 (i)(2) shall be apportioned among applicable
2 States under a formula to be established by the
3 Secretary. Such formula shall take into account
4 factors of fixed guideway revenue vehicle miles,
5 fixed guideway route miles, and fixed guideway
6 vehicle passenger miles attributable to all rail
7 fixed guideway systems not subject to regula-
8 tion by the Federal Railroad Administration
9 within each applicable State.

10 “(B) RECIPIENTS OF APPORTIONED
11 AMOUNTS.—Amounts apportioned under the
12 formula established pursuant to subparagraph
13 (A) shall be made available as grants to State
14 safety oversight agencies. Such grants are sub-
15 ject to uniform administrative requirements for
16 grants and cooperative agreements to State and
17 local governments under part 18 of title 49,
18 Code of Federal Regulations, and are subject to
19 the requirements of this chapter as the Sec-
20 retary determines appropriate.

21 “(C) USE OF FUNDS.—A State safety
22 oversight agency may use funds apportioned
23 under subparagraph (A) for program oper-
24 ational and administrative expenses, including
25 employee training activities, that assist the

1 agency in carrying out its responsibilities de-
2 scribed in paragraph (1)(B).

3 “(D) CERTIFICATION PROCESS.—

4 “(i) DETERMINATIONS.—The Sec-
5 retary shall determine whether or not each
6 State safety oversight agency has adequate
7 technical capacity, personnel resources,
8 and authority under relevant State law to
9 perform the agency’s defined responsibil-
10 ities described in paragraph (1)(B).

11 “(ii) ISSUANCE OF CERTIFICATIONS
12 AND DENIALS.—The Secretary shall—

13 “(I) issue a certification to each
14 State safety oversight agency that the
15 Secretary determines under clause (i)
16 has adequate technical capacity, per-
17 sonnel resources, and authority; and

18 “(II) issue a denial of certifi-
19 cation to each State safety oversight
20 agency that the Secretary determines
21 under clause (i) does not have ade-
22 quate technical capacity, personnel re-
23 sources, and authority, and provide
24 the agency with a written explanation
25 of the reasons for the denial.

1 “(E) ANNUAL REPORT.—On or before July
2 1 of each year, the Secretary shall submit to
3 the Committee on Transportation and Infra-
4 structure of the House of Representatives and
5 the Committee on Banking, Housing, and
6 Urban Affairs of the Senate a report on—

7 “(i) the amount of funds apportioned
8 to each applicable State; and

9 “(ii) the certification status of each
10 State safety oversight agency, including
11 what steps an agency that has been denied
12 certification must take in order to be so
13 certified.”.

14 **SEC. 2018. FIXED GUIDEWAY MODERNIZATION FORMULA**
15 **GRANTS.**

16 (a) AMENDMENT TO SECTION HEADING.—Section
17 5337 is amended—

18 (1) by striking the section designation and
19 heading and inserting the following:

20 **“§ 5337. Fixed guideway modernization program”.**

21 (b) PROGRAM GOALS.—Section 5337 is amended—

22 (1) by redesignating subsections (a) through (f)
23 as subsections (c) through (h), respectively; and

24 (2) by inserting before subsection (c) (as so re-
25 designated) the following:

1 “(a) PROGRAM GOALS.—The goals of the fixed guide-
2 way modernization program are—

3 “(1) to rehabilitate, maintain, and preserve the
4 Nation’s fixed guideway public transportation sys-
5 tems;

6 “(2) to reduce the maintenance backlog and in-
7 crease the state of good repair of the Nation’s fixed
8 guideway public transportation systems; and

9 “(3) to increase the overall ridership on fixed
10 guideway public transportation systems.

11 “(b) GENERAL AUTHORITY.—The Secretary may
12 make grants to eligible recipients under this section to as-
13 sist State and local government authorities in financing
14 capital projects to modernize eligible fixed guideway sys-
15 tems.”.

16 (c) DISTRIBUTION.—Section 5337(c) (as redesign-
17 nated by subsection (b)(1) of this section) is amended by
18 striking “under section 5309” and all that follows before
19 paragraph (1) and inserting “for a fiscal year as follows:”.

20 (d) AVAILABILITY OF AMOUNTS.—Section 5337(f)
21 (as redesignated by subsection (b)(1) of this section) is
22 amended to read as follows:

23 “(f) AVAILABILITY OF AMOUNTS.—An amount ap-
24 propriated under this section shall remain available for a
25 period of 3 fiscal years after the fiscal year in which the

1 amount is appropriated. Any of such amount that is unob-
2 ligated at the end of such period shall be reapportioned
3 for the next fiscal year among eligible recipients in accord-
4 ance with subsection (c).”.

5 (e) GRANT REQUIREMENTS.—Section 5337 is
6 amended by adding at the end the following:

7 “(i) UNDERTAKING PROJECTS IN ADVANCE.—

8 “(1) IN GENERAL.—When a recipient obligates
9 all amounts apportioned to it under this section and
10 then carries out a part of a project described in this
11 section without amounts of the Government and ac-
12 cording to all applicable procedures and require-
13 ments (except to the extent the procedures and re-
14 quirements limit a State to carrying out a project
15 with amounts of the Government previously appor-
16 tioned to it), the Secretary may pay to the recipient
17 the Government’s share of the cost of carrying out
18 that part when additional amounts are apportioned
19 to the recipient under this section if—

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

21 “(B) the Secretary approves the payment;

22 and

23 “(C) before carrying out that part, the
24 Secretary approves the plans and specifications

1 for the part in the same way as for other
2 projects under this section.

3 “(2) REQUIREMENT FOR APPROVAL OF APPLI-
4 CATIONS.—The Secretary may approve an applica-
5 tion under paragraph (1) only if an authorization for
6 this section is in effect for the fiscal year to which
7 the application applies.

8 “(3) INTEREST PAYMENTS.—The cost of car-
9 rying out that part of a project includes the amount
10 of interest earned and payable on bonds issued by
11 the recipient to the extent proceeds of the bonds are
12 expended in carrying out this part. However, the
13 amount of interest allowed under this paragraph
14 may not be more than the most favorable financing
15 terms reasonably available for the project at the
16 time of borrowing. The applicant shall certify, in a
17 manner satisfactory to the Secretary, that the appli-
18 cant has shown reasonable diligence in seeking the
19 most favorable financing terms.

20 “(j) GRANT REQUIREMENTS.—A grant under this
21 section shall be subject to the requirements of subsections
22 (c), (d), (e), (h), (i), and (m) of section 5307.”.

23 (f) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 53 is amended by striking the item relating to section
25 5337 and inserting the following:

“5337. Fixed guideway modernization program.”.

1 **SEC. 2019. AUTHORIZATIONS.**

2 (a) IN GENERAL.—Section 5338 is amended to read
3 as follows:

4 **“§ 5338. Authorizations**

5 “(a) FORMULA AND BUS GRANTS.—

6 “(1) IN GENERAL.—There shall be available
7 from the Alternative Transportation Account of the
8 Highway Trust Fund to carry out sections 5305,
9 5307, 5310, 5311, 5317, 5330, 5335, and 5337
10 \$8,400,000,000 for each of fiscal years 2013
11 through 2016.

12 “(2) ALLOCATION OF FUNDS.—Amounts made
13 available under paragraph (1) shall be allocated as
14 follows:

15 “(A) \$126,000,000 for each of fiscal years
16 2013 through 2016 shall be available to carry
17 out section 5305.

18 “(B) \$4,578,000,000 for each of fiscal
19 years 2013 through 2016 shall be allocated in
20 accordance with section 5336 to provide finan-
21 cial assistance for urbanized areas and State
22 safety oversight agencies under sections 5307
23 and 5336(k).

24 “(C) \$840,000,000 for each of fiscal years
25 2013 through 2016 shall be available to provide
26 financial assistance for States and local govern-

1 mental authorities to replace, rehabilitate, and
2 purchase buses and related equipment and to
3 construct bus-related facilities under section
4 5310. Of such amount, \$3,000,000 shall be
5 available for each fiscal year for bus testing
6 under section 5318.

7 “(D) \$672,000,000 for each of fiscal years
8 2013 through 2016 shall be available to provide
9 financial assistance for rural areas under sec-
10 tion 5311.

11 “(E) \$504,000,000 for each of fiscal years
12 2013 through 2016 shall be available to provide
13 financial assistance for recipients and subrecipi-
14 ents to provide coordinated access and mobility
15 public transportation projects and services
16 under section 5317.

17 “(F) \$3,500,000 for each of fiscal years
18 2013 through 2016 shall be available to carry
19 out section 5335. Such amount shall be made
20 available from funds allocated in accordance
21 with section 5336 before the apportionments
22 under subsection 5336(i) are carried out.

23 “(G) \$1,680,000,000 for each of fiscal
24 years 2013 through 2016 shall be made avail-
25 able and allocated in accordance with section

1 5337 to provide financial assistance for State
2 and local government authorities to finance cap-
3 ital projects to modernize eligible fixed guide-
4 way systems.

5 “(b) CAPITAL INVESTMENT GRANTS.—There is au-
6 thorized to be appropriated to carry out section
7 5309(m)(2) \$1,955,000,000 for each of fiscal years 2013
8 through 2016.

9 “(c) RESEARCH, TRAINING AND OUTREACH, AND
10 TECHNICAL ASSISTANCE.—There is authorized to be ap-
11 propriated to carry out the transit research program
12 under section 5312 and the training and outreach, Na-
13 tional Transit Institute, and technical assistance activities
14 authorized by section 5322, \$45,000,000 for each of fiscal
15 years 2013 through 2016. Such amounts shall remain
16 available until expended.

17 “(d) ADMINISTRATION.—There is authorized to be
18 appropriated to carry out sections 5326 and 5334
19 \$98,000,000 for each of fiscal years 2013 through 2016.

20 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

21 “(1) GRANTS FINANCED FROM HIGHWAY TRUST
22 FUND.—A grant or contract that is approved by the
23 Secretary and financed with amounts made available
24 from the Alternative Transportation Account of the
25 Highway Trust Fund pursuant to this section is a

1 contractual obligation of the Government to pay the
2 Federal share of the cost of the project.

3 “(2) GRANTS FINANCED FROM GENERAL
4 FUND.—A grant or contract that is approved by the
5 Secretary and financed with amounts appropriated
6 in advance from the General Fund of the Treasury
7 pursuant to this section is a contractual obligation
8 of the Government to pay the Federal share of the
9 cost of the project only to the extent that amounts
10 are appropriated for such purpose by an Act of Con-
11 gress.”.

12 **SEC. 2020. OBLIGATION LIMITS.**

13 The total of all obligations from amounts made avail-
14 able from the Alternative Transportation Account of the
15 Highway Trust Fund by, and amounts appropriated
16 under, subsections (a) through (d) of section 5338 of title
17 49, United States Code, shall not exceed \$10,498,000,000
18 in each of fiscal years 2013 through 2016, of which not
19 more than \$8,400,000,000 shall be from the Alternative
20 Transportation Account.

21 **SEC. 2021. PROGRAM ELIMINATION AND CONSOLIDATION.**

22 (a) GENERAL PROVISION.—A repeal or amendment
23 made by this section shall not affect funds apportioned
24 or allocated before the effective date of the repeal.

1 (b) CLEAN FUELS DISCRETIONARY GRANT PRO-
2 GRAM.—Section 5308, and the item relating to that sec-
3 tion in the analysis for chapter 53, are repealed.

4 (c) CONFORMING AMENDMENTS REGARDING FOR-
5 MULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDI-
6 VIDUALS AND INDIVIDUALS WITH DISABILITIES.—

7 (1) Section 5327(c) is amended by striking
8 “5310” each place it appears and inserting “5317”.

9 (2) Section 31138(e)(4) is amended by striking
10 “section 5307, 5310, or 5311” and inserting “sec-
11 tion 5307, 5311, or 5317”.

12 (d) PUBLIC TRANSPORTATION ON INDIAN RESERVA-
13 TIONS.—Section 5311(c)(1) is repealed.

14 (e) TRANSIT COOPERATIVE RESEARCH PROGRAM.—
15 Section 5313, and the item relating to that section in the
16 analysis for chapter 53, are repealed.

17 (f) NATIONAL RESEARCH PROGRAMS.—Section
18 5314, and the item relating to that section in the analysis
19 for chapter 53, are repealed.

20 (g) NATIONAL TRANSIT INSTITUTE.—

21 (1) REPEAL.—Section 5315, and the item relat-
22 ing to that section in the analysis for chapter 53,
23 are repealed.

24 (2) CONFORMING AMENDMENTS.—Chapter 53
25 is amended—

1 (A) in section 5305(e)(1)(A) by striking
2 “5315,”; and

3 (B) in section 5307(k)(1) by striking
4 “5315(c)”.

5 (h) BICYCLE FACILITIES.—Section 3519 is amended
6 by striking the last sentence.

7 (i) JOB ACCESS AND REVERSE COMMUTE FORMULA
8 GRANTS.—

9 (1) REPEAL.—Section 5316, and the item relat-
10 ing to that section in the analysis for chapter 53,
11 are repealed.

12 (2) CONFORMING AMENDMENT.—Chapter 53 is
13 amended in section 5333(b)(1) by striking “5316,”
14 each place it appears.

15 (j) PAUL S. SARBANES TRANSIT IN THE PARKS PRO-
16 GRAM.—

17 (1) REPEAL.—Section 5320, and the item relat-
18 ing to that section in the analysis for chapter 53,
19 are repealed.

20 (2) CONFORMING AMENDMENTS.—Section
21 5327(c) is amended—

22 (A) in paragraph (1) by striking subpara-
23 graph (F); and

24 (B) in paragraph (2)(B) by striking
25 “5311, and 5320” and inserting “and 5311”

1 (k) REPEAL OF DEBT SERVICE RESERVE PILOT
2 PROGRAM.—Section 5323(e) is amended by striking para-
3 graph (4).

4 (l) PROGRAM OF INTERRELATED PROJECTS.—Sec-
5 tion 5328 is amended by striking subsection (e).

6 (m) ALTERNATIVES ANALYSIS.—Section 5339, and
7 the item relating to that section in the analysis for chapter
8 53, are repealed.

9 (n) APPORTIONMENTS BASED ON GROWING STATES
10 AND HIGH DENSITY STATES FORMULA FACTORS.—Sec-
11 tion 5340, and the item relating to that section in the
12 analysis for chapter 53, are repealed.

13 (o) CONTRACTED PARATRANSIT PILOT.—Section
14 3009 of SAFETEA–LU (119 Stat. 1572) is amended by
15 striking subsection (i).

16 (p) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH
17 DISABILITIES PILOT PROGRAM.—Section 3012(b) of
18 SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1591)
19 is repealed.

20 (q) NATIONAL FUEL CELL BUS TECHNOLOGY DE-
21 VELOPMENT PROGRAM.—Section 3045 of SAFETEA–LU
22 (49 U.S.C. 5308 note; 119 Stat. 1705), and the item re-
23 lating to that section in the table of contents contained
24 in section 1(b) of that Act, are repealed.

1 (r) ALLOCATIONS FOR NATIONAL RESEARCH AND
2 TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-
3 LU (49 U.S.C. 5338 note; 119 Stat. 1706), and the item
4 relating to that section in the table of contents contained
5 in section 1(b) of that Act, are repealed.

6 (s) OVER-THE-ROAD BUS ACCESSIBILITY PRO-
7 GRAM.—Section 3038 of the Transportation Equity Act
8 for the 21st Century (49 U.S.C. 5310 note; 112 Stat.
9 392), and the item relating to that section in the table
10 of contents contained in section 1(b) of that Act, are re-
11 pealed.

12 **TITLE III—ENVIRONMENTAL** 13 **STREAMLINING**

14 **SEC. 3001. AMENDMENTS TO TITLE 23, UNITED STATES** 15 **CODE.**

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

22 **SEC. 3002. DECLARATION OF POLICY.**

23 (a) EXPEDITED PROJECT DELIVERY.—Section
24 101(b) is amended by adding at the end the following:

1 “(4) EXPEDITED PROJECT DELIVERY.—Con-
2 gress declares that it is in the national interest to
3 expedite the delivery of surface transportation
4 projects by substantially reducing the average length
5 of the environmental review process. Accordingly, it
6 is the policy of the United States that—

7 “(A) the Secretary shall have the lead role
8 among Federal agencies in carrying out the en-
9 vironmental review process for surface transpor-
10 tation projects;

11 “(B) each Federal agency shall cooperate
12 with the Secretary to expedite the environ-
13 mental review process for surface transpor-
14 tation projects;

15 “(C) there shall be a presumption that the
16 mode, facility type, and corridor location for a
17 surface transportation project will be deter-
18 mined in the transportation planning process,
19 as established in sections 5203 and 5204 of
20 title 49;

21 “(D) project sponsors shall not be prohib-
22 ited from carrying out pre-construction project
23 development activities concurrently with the en-
24 vironmental review process;

1 “(E) programmatic approaches shall be
2 used, to the maximum extent possible, to reduce
3 the need for project-by-project reviews and deci-
4 sions by Federal agencies; and

5 “(F) the Secretary shall actively support
6 increased opportunities for project sponsors to
7 assume responsibilities of the Secretary in car-
8 rying out the environmental review process.”.

9 **SEC. 3003. EXPEDITED PERMITS.**

10 (a) **IN GENERAL.**—Notwithstanding any other provi-
11 sion of law, the President may issue, during the 2-year
12 period beginning on the date of enactment of this Act, an
13 expedited permit for any transportation infrastructure
14 project determined by the President to enhance the eco-
15 nomic competitiveness of the United States.

16 (b) **APPLICATION.**—

17 (1) **IN GENERAL.**—For a transportation infra-
18 structure project to be eligible for a permit under
19 subsection (a), the Secretary of Transportation shall
20 submit to the President an application in the man-
21 ner and containing the information required by the
22 President.

23 (2) **OTHER ELIGIBLE APPLICANTS.**—A State,
24 local government, or public transportation agency
25 carrying out a transportation infrastructure project

1 may submit an application for a permit under sub-
2 section (a) to the Secretary of Transportation, and
3 the Secretary shall submit the application to the
4 President.

5 (3) RULE OF CONSTRUCTION.—The submission
6 of an application to the President pursuant to para-
7 graphs (1) and (2) is not subject to the National
8 Environmental Policy Act of 1969 (42 U.S.C. 4321
9 et seq.).

10 (c) DETERMINATIONS.—

11 (1) IN GENERAL.—Not later than 30 days after
12 the date on which the President receives the applica-
13 tion under this subsection, the President shall—

14 (A) approve the application if the Presi-
15 dent determines the transportation infrastruc-
16 ture project is imperative to improving the eco-
17 nomic competitiveness of the United States; or

18 (B) deny the application.

19 (2) FAILURE TO MAKE A DETERMINATION.—If
20 the President fails to approve or deny an application
21 in accordance with paragraph (1), the application
22 shall be treated as approved.

23 (d) EFFECT OF PERMIT.—

24 (1) RULE OF CONSTRUCTION.—A transpor-
25 tation infrastructure project with respect to which a

1 permit is issued under subsection (a) shall be
2 deemed as in compliance with all applicable Federal
3 laws, including applicable regulations.

4 (2) JUDICIAL REVIEW.—The submission of an
5 application for a permit, and any permit issued or
6 approved under this section (including compliance
7 with all Federal laws and regulations applicable to
8 such permit) shall not be subject to judicial review.

9 (e) NOTICE.—Not later than 5 days after the date
10 on which a permit is issued under subsection (a), the Sec-
11 retary of Transportation shall provide notice of the permit
12 to the head of each Federal agency that administers a law,
13 including a regulation, applicable to the project for which
14 the permit is issued.

15 (f) RESPONSIBILITY OF FEDERAL AGENCIES.—The
16 head of each Federal agency shall establish, maintain, and
17 periodically publish in the Federal Register a record of
18 any notice received under subsection (e), including a de-
19 scription of the basis on which the applicable permit was
20 issued.

21 **SEC. 3004. EXEMPTION IN EMERGENCIES.**

22 Any road, highway, or bridge that is in operation or
23 under construction when damaged by an emergency de-
24 clared by the Governor of the State and concurred in by
25 the Secretary, or declared by the President pursuant to

1 the Robert T. Stafford Disaster Relief and Emergency As-
2 sistance Act (42 U.S.C. 5121), may be reconstructed in
3 the same location with the same capacity, dimensions, and
4 design as before the emergency and shall be exempt from
5 any environmental reviews, approvals, licensing, and per-
6 mit requirements under—

7 (1) the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.);

9 (2) sections 402 and 404 of the Federal Water
10 Pollution Control Act (33 U.S.C. 1342, 1344);

11 (3) the National Historic Preservation Act (16
12 U.S.C. 470 et seq.);

13 (4) the Migratory Bird Treaty Act (16 U.S.C.
14 703 et seq.);

15 (5) the Wild and Scenic Rivers Act (16 U.S.C.
16 1271 et seq.);

17 (6) the Fish and Wildlife Coordination Act (16
18 U.S.C. 661 et seq.);

19 (7) the Endangered Species Act of 1973 (16
20 U.S.C. 1531 et seq.), except when the reconstruction
21 occurs in designated critical habitat for threatened
22 and endangered species;

23 (8) Executive Order 11990 (42 U.S.C. 4321
24 note; relating to the protection of wetlands); and

1 (B) by striking “Subject to paragraph (2)”
2 and inserting “Subject to paragraph (3)”;

3 (4) by inserting before paragraph (2), as redesi-
4 gnated, the following:

5 “(1) IN GENERAL.—A State may carry out, at
6 the expense of the State, acquisitions of interests in
7 real property for a project before completion of the
8 review process required for the project under the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) without affecting subsequent
11 approvals required for the project by the State or
12 any Federal agency.”; and

13 (5) in paragraph (3), as redesignated—

14 (A) in the matter preceding subparagraph
15 (A) by striking “in paragraph (1)” and insert-
16 ing “in paragraph (2)”;

17 (B) in subparagraph (G) by striking “both
18 the Secretary and the Administrator of the En-
19 vironmental Protection Agency have concurred”
20 and inserting “the Secretary has determined”.

21 (c) **FEDERALLY FUNDED ACQUISITION OF REAL**
22 **PROPERTY INTERESTS.**—Section 108 is further amended
23 by adding at the end the following:

24 “(d) **FEDERALLY FUNDED EARLY ACQUISITION OF**
25 **REAL PROPERTY INTERESTS.**—

1 “(1) IN GENERAL.—The Secretary may author-
2 ize the use of Federal funds for the acquisition of
3 a real property interest by a State. For purposes of
4 this subsection, an acquisition of a real property in-
5 terest includes the acquisition of any interest in
6 land, including the acquisition of a contractual right
7 to acquire any interest in land, or any other similar
8 action to acquire or preserve rights-of-way for a
9 transportation facility.

10 “(2) STATE CERTIFICATION.—A State request-
11 ing Federal funding for an acquisition of a real
12 property interest shall certify in writing that—

13 “(A) the State has authority to acquire the
14 real property interest under State law;

15 “(B) the acquisition of the real property
16 interest is for a transportation purpose; and

17 “(C) the State acknowledges that early ac-
18 quisition will not be considered by the Secretary
19 in the environmental assessment of a project,
20 the decision relative to the need to construct a
21 project, or the selection of a project design or
22 location.

23 “(3) ENVIRONMENTAL COMPLIANCE.—Before
24 authorizing Federal funding for an acquisition of a
25 real property interest, the Secretary shall complete

1 for the acquisition the review process under the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.). For purposes of the review process,
4 the acquisition of a real property interest shall be
5 treated as having independent utility and does not
6 limit consideration of alternatives for future trans-
7 portation improvements with respect to the real
8 property interest.

9 “(4) PROGRAMMING.—The acquisition of a real
10 property interest for which Federal funding is re-
11 quested shall be included as a project in an applica-
12 ble transportation improvement program under sec-
13 tions 5203 and 5204 of title 49, United States Code.
14 The acquisition project may be included in the
15 transportation improvement program on its own,
16 without including the future construction project for
17 which the real property interest is being acquired.
18 The acquisition project may consist of the acquisi-
19 tion of a specific parcel, a portion of a transpor-
20 tation corridor, or an entire transportation corridor.

21 “(5) OTHER REQUIREMENTS.—The acquisition
22 of a real property interest shall be carried out in
23 compliance with all requirements applicable to the
24 acquisition of real property interests for federally
25 funded transportation projects.

1 “(e) CONSIDERATION OF LONG-RANGE TRANSPOR-
2 TATION NEEDS.—The Secretary shall encourage States
3 and other public authorities, if practicable, to acquire
4 transportation real property interests that are sufficient
5 to accommodate long-range transportation needs and, if
6 possible, to do so through the acquisition of broad real
7 property interests that have the capacity for expansion
8 over a 50- to 100-year period and the potential to accom-
9 modate one or more transportation modes.”.

10 **SEC. 3006. STANDARDS.**

11 Section 109 (as amended by title I of this Act) is
12 further amended by adding at the end the following:

13 “(s) UNDERTAKING DESIGN ACTIVITIES BEFORE
14 COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

15 “(1) IN GENERAL.—A State may carry out, at
16 the expense of the State, design activities at any
17 level of detail for a project before completion of the
18 review process required for the project under the
19 National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.) without affecting subsequent
21 approvals of the project.

22 “(2) ELIGIBILITY FOR REIMBURSEMENT.—Sub-
23 ject to paragraph (3), funds apportioned to a State
24 under this title may be used to participate in the
25 payment of costs incurred by the State for design

1 activities, if the results of the activities are subse-
2 quently incorporated (in whole or in substantial
3 part) into a project eligible for surface transpor-
4 tation program funds.

5 “(3) TERMS AND CONDITIONS.—The Federal
6 share payable of the costs described in paragraph
7 (2) shall be eligible for reimbursement out of funds
8 apportioned to a State under this title when the de-
9 sign activities are incorporated (in whole or in sub-
10 stantial part) into a project eligible for surface
11 transportation program funds, if the State dem-
12 onstrates to the Secretary and the Secretary finds
13 that—

14 “(A) before the time that the cost incurred
15 by a State is approved for Federal participa-
16 tion, environmental compliance pursuant to the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) has been completed for the
19 project for which the design activities were con-
20 ducted by the State; and

21 “(B) the design activities conducted pursu-
22 ant to this subsection did not preclude the con-
23 sideration of alternatives to the project.”.

1 **SEC. 3007. LETTING OF CONTRACTS.**

2 (a) BIDDING REQUIREMENTS.—Section 112(b)(1) is
3 amended to read as follows:

4 “(1) IN GENERAL.—

5 “(A) COMPETITIVE BIDDING REQUIRE-
6 MENT.—Subject to paragraphs (2), (3), and
7 (4), construction of each project, subject to the
8 provisions of subsection (a), shall be performed
9 by contract awarded by competitive bidding, un-
10 less the State transportation department dem-
11 onstrates, to the satisfaction of the Secretary,
12 that some other method is more cost effective
13 or that an emergency exists.

14 “(B) BASIS OF AWARD.—

15 “(i) IN GENERAL.—Contracts for the
16 construction of each project shall be
17 awarded only on the basis of the lowest re-
18 sponsive bid submitted by a bidder meeting
19 established criteria of responsibility.

20 “(ii) PROHIBITION.—No requirement
21 or obligation shall be imposed as a condi-
22 tion precedent to the award of a contract
23 to such bidder for a project, or to the Sec-
24 retary’s concurrence in the award of a con-
25 tract to such bidder, unless such require-
26 ment or obligation is otherwise lawful and

1 is specifically set forth in the advertised
2 specifications.”.

3 (b) DESIGN-BUILD CONTRACTING.—Section
4 112(b)(3) is amended—

5 (1) in subparagraph (A) by striking “subpara-
6 graph (C)” and inserting “subparagraph (B)”;

7 (2) by striking subparagraph (B);

8 (3) by redesignating subparagraphs (C) through
9 (E) as subparagraphs (B) through (D), respectively;
10 and

11 (4) in subparagraph (C), as redesignated—

12 (A) in the matter preceding clause (i) by
13 striking “of the SAFETEA-LU” and inserting
14 “of the American Energy and Infrastructure
15 Jobs Act of 2012”;

16 (B) in clause (ii) by striking “and” at the
17 end;

18 (C) in clause (iii)—

19 (i) by striking “final design or”; and

20 (ii) by striking the period at the end
21 and inserting “; and”; and

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

23 “(iv) permit the State transportation
24 department, the local transportation agen-
25 cy, and the design-build contractor to pro-

1 ceed, at the expense of one or more of
2 those entities, with design activities at any
3 level of detail for a project before comple-
4 tion of the review process required for the
5 project under the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.) without affecting subsequent approv-
8 als required for the project. Design activi-
9 ties carried out under this clause shall be
10 eligible for Federal reimbursement as a
11 project expense in accordance with the re-
12 quirements under section 109(s).”.

13 (c) EFFICIENCIES IN CONTRACTING.—Section 112(b)
14 is amended by adding at the end the following:

15 “(4) METHOD OF CONTRACTING.—

16 “(A) IN GENERAL.—

17 “(i) TWO-PHASE CONTRACT.—A con-
18 tracting agency may award a two-phase
19 contract for preconstruction and construc-
20 tion services.

21 “(ii) PRE-CONSTRUCTION SERVICES
22 PHASE.—In the pre-construction services
23 phase, the contractor shall provide the con-
24 tracting agency with advice for scheduling,
25 work sequencing, cost engineering,

1 constructability, cost estimating, and risk
2 identification.

3 “(iii) AGREEMENT.—Prior to the
4 start of the construction services phase,
5 the contracting agency and the contractor
6 may agree to a price and other factors
7 specified in regulation for the construction
8 of the project or a portion of the project.

9 “(iv) CONSTRUCTION PHASE.—If an
10 agreement is reached under clause (iii), the
11 contractor shall be responsible for the con-
12 struction of the project or portion of the
13 project at the negotiated price and other
14 factors specified in regulation.

15 “(B) SELECTION.—A contract shall be
16 awarded to a contractor using a competitive se-
17 lection process based on qualifications, experi-
18 ence, best value, or any other combination of
19 factors considered appropriate by the con-
20 tracting agency.

21 “(C) TIMING.—

22 “(i) RELATIONSHIP TO NEPA PROC-
23 ESS.—Prior to the completion of the proc-
24 ess required under section 102 of the Na-
25 tional Environmental Policy Act of 1969

1 (42 U.S.C. 4332), a contracting agency
2 may—

3 “(I) issue requests for proposals;

4 “(II) proceed with the award of a
5 contract for preconstruction services
6 under subparagraph (A); and

7 “(III) issue notices to proceed
8 with a preliminary design and any
9 work related to preliminary design.

10 “(ii) PRECONSTRUCTION SERVICES
11 PHASE.—If the preconstruction services
12 phase of a contract under subparagraph
13 (A)(ii) focuses primarily on one alternative,
14 the Secretary shall require that the con-
15 tract include appropriate provisions to
16 achieve the objectives of section 102 of the
17 National Environmental Policy Act of
18 1969 (42 U.S.C. 4332) and comply with
19 other applicable Federal laws and regula-
20 tions.

21 “(iii) CONSTRUCTION SERVICES
22 PHASE.—A contracting agency may not
23 proceed with the award of the construction
24 services phase of a contract under subpara-
25 graph (A)(iv) and may not proceed, or per-

1 mit any consultant or contractor to pro-
2 ceed, with construction until completion of
3 the process required under section 102 of
4 the National Environmental Policy Act of
5 1969 (42 U.S.C. 4332).

6 “(iv) APPROVAL REQUIREMENT.—
7 Prior to authorizing construction activities,
8 the Secretary shall approve the contracting
9 agency’s price estimate for the entire
10 project, as well as any price agreement
11 with the general contractor for the project
12 or a portion of the project.

13 “(v) DESIGN ACTIVITIES.—A con-
14 tracting agency may proceed, at its ex-
15 pense, with design activities at any level of
16 detail for a project before completion of
17 the review process required for the project
18 under the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.) with-
20 out affecting subsequent approvals re-
21 quired for the project. Design activities
22 carried out under this clause shall be eligi-
23 ble for Federal reimbursement as a project
24 expense in accordance with the require-
25 ments under section 109(s).”.

1 **SEC. 3008. ELIMINATION OF DUPLICATION IN HISTORIC**
2 **PRESERVATION REQUIREMENTS.**

3 (a) **PRESERVATION OF PARKLANDS.**—Section 138 is
4 amended by adding at the end the following:

5 “(c) **ELIMINATION OF DUPLICATION FOR HISTORIC**
6 **SITES AND PROPERTIES.**—The requirements of this sec-
7 tion shall be considered to be satisfied for an historic site
8 or property where its treatment has been agreed upon in
9 a memorandum of agreement by invited and mandatory
10 signatories, including the Advisory Council on Historic
11 Preservation, if participating, in accordance with section
12 106 of the National Historic Preservation Act (16 U.S.C.
13 470f).”.

14 (b) **POLICY ON LANDS, WILDLIFE AND WATERFOWL**
15 **REFUGES, AND HISTORIC SITES.**—Section 303 of title 49,
16 United States Code, is amended by adding at the end the
17 following:

18 “(e) **ELIMINATION OF DUPLICATION FOR HISTORIC**
19 **SITES AND PROPERTIES.**—The requirements of this sec-
20 tion shall be considered to be satisfied for an historic site
21 or property where its treatment has been agreed upon in
22 a memorandum of agreement by invited and mandatory
23 signatories, including the Advisory Council on Historic
24 Preservation, if participating, in accordance with Section
25 106 of the National Historic Preservation Act (16 U.S.C.
26 470f).”.

1 **SEC. 3009. FUNDING THRESHOLD.**

2 Section 139(b) is amended by adding at the end the
3 following:

4 “(3) **FUNDING THRESHOLD.**—The Secretary’s
5 approval of a project receiving funds under this title
6 or under chapter 53 of title 49 shall not be consid-
7 ered a Federal action for the purposes of the Na-
8 tional Environmental Policy Act of 1969 if such
9 funds—

10 “(A) constitute 15 percent or less of the
11 total estimated project costs; or

12 “(B) are less than \$10,000,000.”.

13 **SEC. 3010. EFFICIENT ENVIRONMENTAL REVIEWS FOR**
14 **PROJECT DECISIONMAKING.**

15 (a) **FLEXIBILITY.**—Section 139(b) is further amend-
16 ed—

17 (1) in paragraph (2) by inserting “, and any re-
18 quirements established in this section may be satis-
19 fied,” after “exercised”; and

20 (2) by adding after paragraph (3), as added by
21 section 3009 of this Act, the following:

22 “(4) **PROGRAMMATIC COMPLIANCE.**—At the re-
23 quest of a State, the Secretary may modify the pro-
24 cedures developed under this section to encourage
25 programmatic approaches and strategies with re-

1 spect to environmental programs and permits (in
2 lieu of project-by-project reviews).”.

3 (b) FEDERAL LEAD AGENCY.—Section 139(c) is
4 amended—

5 (1) in paragraph (1) by adding at the end the
6 following: “If the project requires approval from
7 more than one modal administration within the De-
8 partment, the Secretary shall designate a single
9 modal administration to serve as the Federal lead
10 agency for the Department in the environmental re-
11 view process for the project.”;

12 (2) in paragraph (3) by inserting “or other ap-
13 provals by the Secretary” after “chapter 53 of title
14 49”; and

15 (3) by striking paragraph (5) and inserting the
16 following:

17 “(5) ADOPTION AND USE OF DOCUMENTS.—
18 Any environmental document prepared in accordance
19 with this subsection shall be adopted and used by
20 any Federal agency in making any approval of a
21 project subject to this section as the document re-
22 quired to be completed under the National Environ-
23 mental Policy Act of 1969.”.

24 (c) PARTICIPATING AGENCIES.—

1 (1) EFFECT OF DESIGNATION.—Section
2 139(d)(4) is amended to read as follows:

3 “(4) EFFECT OF DESIGNATION.—

4 “(A) REQUIREMENT.—A participating
5 agency shall comply with the requirements of
6 this section and any schedule established under
7 this section.

8 “(B) IMPLICATION.—Designation as a par-
9 ticipating agency under this subsection shall not
10 imply that the participating agency—

11 “(i) supports a proposed project; or

12 “(ii) has any jurisdiction over, or spe-
13 cial expertise with respect to evaluation of,
14 the project.”.

15 (2) CONCURRENT REVIEWS.—Section 139(d)(7)
16 is amended to read as follows:

17 “(7) CONCURRENT REVIEWS.—Each partici-
18 pating agency and cooperating agency shall—

19 “(A) carry out obligations of that agency
20 under other applicable law concurrently, and in
21 conjunction, with the review required under the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.); and

24 “(B) formulate and implement administra-
25 tive, policy, and procedural mechanisms to en-

1 able the agency to ensure completion of the en-
2 vironmental review process in a timely, coordi-
3 nated, and environmentally responsible man-
4 ner.”.

5 (d) PROJECT INITIATION.—Section 139(e) is amend-
6 ed by adding at the end the following: “The project spon-
7 sor may satisfy this requirement by submitting to the Sec-
8 retary a draft notice for publication in the Federal Reg-
9 ister announcing the preparation of an environmental im-
10 pact statement for the project.”.

11 (e) ALTERNATIVES ANALYSIS.—Section 139(f) is
12 amended—

13 (1) in paragraph (4)—

14 (A) by amending subparagraph (B) to read
15 as follows

16 “(B) RANGE OF ALTERNATIVES.—

17 “(i) IN GENERAL.—Following partici-
18 pation under paragraph (1), the lead agen-
19 cy shall determine the range of alternatives
20 for consideration in any document which
21 the lead agency is responsible for pre-
22 paring for the project.

23 “(ii) LIMITATION.—The range of al-
24 ternatives shall be limited to alternatives
25 that are—

1 “(I) consistent with the transpor-
2 tation mode and general design of the
3 project described in the long-range
4 transportation plan or transportation
5 improvement program prepared pur-
6 suant to sections 5203 or 5204 of title
7 49; and

8 “(II) consistent with the funding
9 identified for the project under the
10 fiscal constraint requirements of sec-
11 tions 5203 or 5204 of title 49.

12 “(iii) RESTRICTION.—A Federal agen-
13 cy may not require the evaluation of any
14 alternative that was evaluated, but not
15 adopted—

16 “(I) in any prior State or Fed-
17 eral environmental document with re-
18 gard to the applicable long-range
19 transportation plan or transportation
20 improvement program; or

21 “(II) after the preparation of a
22 programmatic or tiered environmental
23 document that evaluated alternatives
24 to the project.

1 “(iv) LEGAL SUFFICIENCY.—The eval-
2 uation of the range of alternatives shall be
3 deemed legally sufficient if the environ-
4 mental document complies with the re-
5 quirements of this paragraph.”;

6 (B) in subparagraph (C)—

7 (i) by striking “(C) METHODOLO-
8 GIES.—The lead agency” and inserting the
9 following:

10 “(C) METHODOLOGIES.—

11 “(i) IN GENERAL.—The lead agency”;

12 (ii) by striking “in collaboration with
13 participating agencies at appropriate times
14 during the study process” and inserting
15 “after consultation with participating
16 agencies as part of the scoping process”;
17 and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(ii) COMMENTS.—Each participating
21 agency shall limit comments on such meth-
22 odologies to those issues that are within
23 the authority and expertise of such partici-
24 pating agency.

1 “(iii) STUDIES.—The lead agency may
2 not conduct studies proposed by any par-
3 ticipating agency that are not within the
4 authority or expertise of such participating
5 agency.”; and

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

7 “(E) LIMITATIONS ON THE EVALUATION
8 OF IMPACTS EVALUATED IN PRIOR ENVIRON-
9 MENTAL DOCUMENTS.—

10 “(i) IN GENERAL.—The lead agency
11 may not reevaluate, and a Federal agency
12 may not require the reevaluation of, cumu-
13 lative impacts or growth-inducing impacts
14 where such impacts were previously evalu-
15 ated in—

16 “(I) a long-range transportation
17 plan or transportation improvement
18 program developed pursuant to sec-
19 tion 5203 or 5204 of title 49;

20 “(II) a prior environmental docu-
21 ment approved by the Secretary; or

22 “(III) a prior State environ-
23 mental document approved pursuant
24 to a State law that is substantially
25 equivalent to section 102(2)(C) of the

1 National Environmental Policy Act of
2 1969 (42 U.S.C. 4332(2)(C)).

3 “(ii) LEGAL SUFFICIENCY.—The eval-
4 uation of cumulative impacts and growth
5 inducing impacts shall be deemed legally
6 sufficient if the environmental document
7 complies with the requirements of this
8 paragraph.”; and

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

10 “(5) EFFECTIVE DECISIONMAKING.—

11 “(A) CONCURRENCE.—At the discretion of
12 the lead agency, a participating agency shall be
13 presumed to concur in the determinations made
14 by the lead agency under this subsection unless
15 the participating agency submits an objection to
16 the lead agency in writing within 30 days after
17 receiving notice of the lead agency’s determina-
18 tion and specifies the statutory basis for the ob-
19 jection.

20 “(B) ADOPTION OF DETERMINATION.—If
21 the participating agency concurs or does not ob-
22 ject within the 30-day period, the participating
23 agency shall adopt the lead agency’s determina-
24 tion for purposes of any reviews, approvals, or
25 other actions taken by the participating agency

1 as part of the environmental review process for
2 the project.”.

3 (f) COORDINATION PLAN.—Section 139(g) is amend-
4 ed—

5 (1) in paragraph (1)(A) by striking “project or
6 category of projects” and inserting “project, cat-
7 egory of projects, or program of projects”;

8 (2) by amending paragraph (3) to read as fol-
9 lows:

10 “(3) DEADLINES FOR DECISIONS UNDER
11 OTHER LAWS.—

12 “(A) PRIOR APPROVAL DEADLINE.—If a
13 participating agency is required to make a de-
14 termination regarding or otherwise approve or
15 disapprove the project prior to the record of de-
16 cision or finding of no significant impact of the
17 lead agency, such participating agency shall
18 make such determination or approval not later
19 than 30 days after the lead agency publishes
20 notice of the availability of a final environ-
21 mental impact statement or other final environ-
22 mental document, or not later than such other
23 date that is otherwise required by law, which-
24 ever occurs first.

1 “(B) OTHER DEADLINES.—With regard to
2 any determination or approval of a partici-
3 pating agency that is not subject to subpara-
4 graph (A), each participating agency shall make
5 any required determination regarding or other-
6 wise approve or disapprove the project not later
7 than 90 days after the date that the lead agen-
8 cy approves the record of decision or finding of
9 no significant impact for the project, or not
10 later than such other date that is otherwise re-
11 quired by law, whichever occurs first.

12 “(C) DEEMED APPROVED.—In the event
13 that any participating agency fails to make a
14 determination or approve or disapprove the
15 project within the applicable deadline described
16 in subparagraphs (A) and (B), the project shall
17 be deemed approved by such participating agen-
18 cy, and such approval shall be deemed to com-
19 ply with the applicable requirements of Federal
20 law.

21 “(D) JUDICIAL REVIEW.—

22 “(i) IN GENERAL.—An approval of a
23 project under subparagraph (C) shall not
24 be subject to judicial review.

1 “(ii) WRITTEN FINDING.—The Sec-
2 retary may issue a written finding
3 verifying the approval made in accordance
4 with this paragraph.”; and

5 (3) by striking paragraph (4).

6 (g) ISSUE IDENTIFICATION AND RESOLUTION.—Sec-
7 tion 139(h)(4) is amended by adding at the end the fol-
8 lowing:

9 “(C) RESOLUTION FINAL.—

10 “(i) IN GENERAL.—The lead agency
11 and participating agencies may not recon-
12 sider the resolution of any issue agreed to
13 by the relevant agencies in a meeting
14 under subparagraph (A).

15 “(ii) COMPLIANCE WITH APPLICABLE
16 LAW.—Any such resolution shall be
17 deemed to comply with applicable law not-
18 withstanding that the agencies agreed to
19 such resolution prior to the approval of the
20 environmental document.”.

21 (h) STREAMLINED DOCUMENTATION AND DECISION-
22 MAKING.—Section 139 (as amended by title I of this Act)
23 is further amended—

24 (1) by redesignating subsections (i) through (l)
25 as subsections (k) through (n), respectively; and

1 (2) by inserting after subsection (h) the fol-
2 lowing:

3 “(i) STREAMLINED DOCUMENTATION AND DECISION-
4 MAKING.—

5 “(1) IN GENERAL.—The lead agency in the en-
6 vironmental review process for a project, in order to
7 reduce paperwork and expedite decisionmaking, shall
8 prepare a condensed final environmental impact
9 statement.

10 “(2) CONDENSED FORMAT.—A condensed final
11 environmental impact statement for a project in the
12 environmental review process shall consist only of—

13 “(A) an incorporation by reference of the
14 draft environmental impact statement;

15 “(B) any updates to specific pages or sec-
16 tions of the draft environmental impact state-
17 ment as appropriate; and

18 “(C) responses to comments on the draft
19 environmental impact statement and copies of
20 the comments.

21 “(3) TIMING OF DECISION.—Notwithstanding
22 any other provision of law, in conducting the envi-
23 ronmental review process for a project, the lead
24 agency shall combine a final environmental impact

1 statement and a record of decision for the project
2 into a single document if—

3 “(A) the alternative approved in the record
4 of decision is either a preferred alternative that
5 was identified in the draft environmental im-
6 pact statement or is a modification of such pre-
7 ferred alternative that was developed in re-
8 sponse to comments on the draft environmental
9 impact statement;

10 “(B) the Secretary has received a certifi-
11 cation from a State under section 128, if such
12 a certification is required for the project; and

13 “(C) the Secretary determines that the
14 lead agency, participating agency, or the project
15 sponsor has committed to implement the meas-
16 ures applicable to the approved alternative that
17 are identified in the final environmental impact
18 statement.

19 “(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND
20 RE-EVALUATION.—

21 “(1) SUPPLEMENTAL ENVIRONMENTAL RE-
22 VIEW.—After the approval of a record of decision or
23 finding of no significant impact with regard to a
24 project, an agency may not require the preparation

1 of a subsequent environmental document for such
2 project unless the lead agency determines that—

3 “(A) changes to the project will result in
4 new significant impacts that were not evaluated
5 in the environmental document; or

6 “(B) new information has become available
7 or changes in circumstances have occurred after
8 the lead agency approval of the project that will
9 result in new significant impacts that were not
10 evaluated in the environmental document.

11 “(2) RE-EVALUATIONS.—The Secretary may
12 only require the re-evaluation of a document pre-
13 pared under the National Environmental Policy Act
14 of 1969 (42 U.S.C. 4321 et seq.) if—

15 “(A) the Secretary determines that the
16 events in paragraph (1)(A) or (1)(B) apply; and

17 “(B) more than 5 years has elapsed since
18 the Secretary’s prior approval of the project or
19 authorization of project funding.

20 “(3) CHANGE TO RECORD OF DECISION.—After
21 the approval of a record of decision, the Secretary
22 may not require the record of decision to be changed
23 solely because of a change in the fiscal cir-
24 cumstances surrounding the project.”.

1 (i) REGULATIONS.—Section 139(m) (as redesignated
2 by subsection (h)(1) of this section) is further amended
3 to read as follows:

4 “(m) REGULATIONS.—

5 “(1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of the American Energy and
7 Infrastructure Jobs Act of 2012, the Secretary, by
8 regulation, shall—

9 “(A) implement this section; and

10 “(B) establish methodologies and proce-
11 dures for evaluating the environmental impacts,
12 including cumulative impacts and growth-induc-
13 ing impacts, of transportation projects subject
14 to this section.

15 “(2) COMPLIANCE WITH APPLICABLE LAW.—
16 Any environmental document that utilizes the meth-
17 odologies and procedures established under this sub-
18 section shall be deemed to comply with the applica-
19 ble requirements of—

20 “(A) the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.) or its im-
22 plementing regulations; or

23 “(B) any other Federal environmental
24 statute applicable to transportation projects.”.

1 (j) LIMITATIONS ON CLAIMS.—Section 139(n) (as re-
2 designated by subsection (h)(1) of this section) is further
3 amended—

4 (1) in paragraph (1) by striking “180 days”
5 and inserting “90 days”; and

6 (2) by striking paragraph (2) and inserting the
7 following:

8 “(2) NEW INFORMATION.—The preparation of
9 a supplemental environmental impact statement or
10 other environmental document when required by this
11 section shall be considered a separate final agency
12 action and the deadline for filing a claim for judicial
13 review of such action shall be 90 days after the date
14 of publication of a notice in the Federal Register an-
15 nouncing such action.”.

16 (k) LIMITATIONS ON JUDICIAL RELIEF.—Section
17 139 is further amended by adding at the end the following:

18 “(o) LIMITATIONS ON JUDICIAL RELIEF.—Notwith-
19 standing any other provision of law, the following limita-
20 tions shall apply to actions brought before a court in con-
21 nection with a project under this section:

22 “(1) Venue for any action shall be where the
23 project is located.

1 “(2) A specific property interest impacted by
2 the transportation project in question must exist in
3 order to have standing to bring an action.

4 “(3) No action may be commenced by any per-
5 son alleging a violation of—

6 “(A) the National Environmental Policy
7 Act of 1969 (42 U.S.C. 4321 et seq.), chapters
8 5 and 7 of title 5, United States Code, or any
9 other Federal law applicable to the evaluation,
10 avoidance, or mitigation of environmental im-
11 pacts of the project if such Federal law is iden-
12 tified in the draft environmental impact state-
13 ment, unless such person provided written no-
14 tice to the lead agency of the alleged violation
15 of law, and the facts supporting such claim,
16 during the public comment period on the draft
17 environmental impact statement; or

18 “(B) any other law with regard to the
19 project unless such person provided written no-
20 tice to the applicable approving agency of the
21 alleged violation of law, and the facts sup-
22 porting such claim, during the public comment
23 period on such agency approval.

24 “(4) Elected or appointed officials working for
25 the Government or a State government may not be

1 named in their individual capacities in an action if
2 they are acting within the scope of their official du-
3 ties.”.

4 **SEC. 3011. DISPOSAL OF HISTORIC PROPERTIES.**

5 (a) DISPOSAL OF HISTORIC PROPERTIES.—Section
6 156 is amended—

7 (1) by striking the section heading and insert-
8 ing “**Sale or lease of real property**”; and

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

10 “(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwith-
11 standing part 800 of title 36, Code of Federal Regula-
12 tions, the sale or lease by a State of any historic property
13 that is not listed in the National Register of Historic
14 Places shall not be considered an adverse effect to the
15 property within any consultation process carried out under
16 section 106 of the National Historic Preservation Act (16
17 U.S.C. 470f).”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 1 is amended by striking the item relating to section
20 156 and inserting the following:

“156. Sale or lease of real property.’”.

21 **SEC. 3012. INTEGRATION OF PLANNING AND ENVIRON-**
22 **MENTAL REVIEW.**

23 (a) IN GENERAL.—Chapter 1 is amended by adding
24 at the end the following:

1 **“§ 167. Integration of planning and environmental re-**
2 **view**

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

5 “(1) ENVIRONMENTAL REVIEW PROCESS.—

6 “(A) IN GENERAL.—The term ‘environ-
7 mental review process’ means the process for
8 preparing for a project an environmental impact
9 statement, environmental assessment, categor-
10 ical exclusion, or other document prepared
11 under the National Environmental Policy Act of
12 1969 (42 U.S.C. 4321 et seq.).

13 “(B) INCLUSIONS.—The term ‘environ-
14 mental review process’ includes the process for
15 and completion of any environmental permit,
16 approval, review, or study required for a project
17 under any Federal law other than the National
18 Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).

20 “(2) PLANNING PRODUCT.—The term ‘planning
21 product’ means any decision, analysis, study, or
22 other documented result of an evaluation or deci-
23 sionmaking process carried out during transpor-
24 tation planning.

25 “(3) PROJECT.—The term ‘project’ means any
26 highway project or program of projects, public trans-

1 portation capital project or program of projects, or
2 multimodal project or program of projects that re-
3 quires the approval of the Secretary.

4 “(4) PROJECT SPONSOR.—The term ‘project
5 sponsor’ means the agency or other entity, including
6 any private or public-private entity, that seeks ap-
7 proval of the Secretary for a project.

8 “(b) PURPOSE AND FINDINGS.—

9 “(1) PURPOSE.—The purpose of this section is
10 to establish the authority and provide procedures for
11 achieving integrated planning and environmental re-
12 view processes to—

13 “(A) enable statewide and metropolitan
14 planning processes to more effectively serve as
15 the foundation for project decisions;

16 “(B) foster better decisionmaking;

17 “(C) reduce duplication in work;

18 “(D) avoid delays in transportation im-
19 provements; and

20 “(E) better transportation and environ-
21 mental results for communities and the United
22 States.

23 “(2) FINDINGS.—Congress finds the following:

24 “(A) This section is consistent with and is
25 adopted in furtherance of sections 101 and 102

1 of the National Environmental Policy Act of
2 1969 (42 U.S.C. 4331 and 4332) and section
3 109 of this title.

4 “(B) This section should be broadly con-
5 strued and may be applied to any project, class
6 of projects, or program of projects carried out
7 under this title or chapter 53 of title 49.

8 “(c) ADOPTION OF PLANNING PRODUCTS FOR USE
9 IN NEPA PROCEEDINGS.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law and subject to the conditions set
12 forth in subsection (e), the Federal lead agency for
13 a project, at the request of the project sponsors, may
14 adopt and use a planning product in proceedings re-
15 lating to any class of action in the environmental re-
16 view process of the project.

17 “(2) PARTIAL ADOPTION OF PLANNING PROD-
18 UCTS.—The Federal lead agency may adopt a plan-
19 ning product under paragraph (1) in its entirety or
20 may select portions for adoption.

21 “(3) TIMING.—A determination under para-
22 graph (1) with respect to the adoption of a planning
23 product shall be made at the time the lead agencies
24 decide the appropriate scope of environmental review
25 for the project.

1 “(d) APPLICABILITY.—

2 “(1) PLANNING DECISIONS.—Planning deci-
3 sions that may be adopted pursuant to this section
4 include—

5 “(A) a purpose and need or goals and ob-
6 jectives statement for the project, including
7 with respect to whether tolling, private financial
8 assistance, or other special financial measures
9 are necessary to implement the project;

10 “(B) a decision with respect to travel cor-
11 ridor location, including project termini;

12 “(C) a decision with respect to modal
13 choice, including a decision to implement cor-
14 ridor or subarea study recommendations to ad-
15 vance different modal solutions as separate
16 projects with independent utility;

17 “(D) a decision with respect to the elimi-
18 nation of unreasonable alternatives and the se-
19 lection of the range of reasonable alternatives
20 for detailed study during the environmental re-
21 view process;

22 “(E) a basic description of the environ-
23 mental setting;

24 “(F) a decision with respect to methodolo-
25 gies for analysis; and

1 “(G) identifications of programmatic level
2 mitigation for potential impacts that the Fed-
3 eral lead agency, in consultation with Federal,
4 State, local, and tribal resource agencies, deter-
5 mines are most effectively addressed at a re-
6 gional or national program level, including—

7 “(i) system-level measures to avoid,
8 minimize, or mitigate impacts of proposed
9 transportation investments on environ-
10 mental resources, including regional eco-
11 system and water resources; and

12 “(ii) potential mitigation activities, lo-
13 cations, and investments.

14 “(2) PLANNING ANALYSES.—Planning analyses
15 that may be adopted pursuant to this section include
16 studies with respect to—

17 “(A) travel demands;

18 “(B) regional development and growth;

19 “(C) local land use, growth management,
20 and development;

21 “(D) population and employment;

22 “(E) natural and built environmental con-
23 ditions;

24 “(F) environmental resources and environ-
25 mentally sensitive areas;

1 “(G) potential environmental effects, in-
2 cluding the identification of resources of con-
3 cern and potential cumulative effects on those
4 resources, identified as a result of a statewide
5 or regional cumulative effects assessment; and

6 “(H) mitigation needs for a proposed ac-
7 tion, or for programmatic level mitigation, for
8 potential effects that the Federal lead agency
9 determines are most effectively addressed at a
10 regional or national program level.

11 “(e) CONDITIONS.—Adoption and use of a planning
12 product under this section is subject to a determination
13 by the Federal lead agency, in consultation with joint lead
14 agencies and project sponsors as appropriate, that the fol-
15 lowing conditions have been met:

16 “(1) The planning product was developed
17 through a planning process conducted pursuant to
18 applicable Federal law.

19 “(2) The planning process included broad mul-
20 tidisciplinary consideration of systems-level or cor-
21 ridor-wide transportation needs and potential effects.

22 “(3) During the planning process, notice was
23 provided through publication or other means to Fed-
24 eral, State, and local government agencies and tribal
25 governments that might have an interest in the pro-

1 posed project, and to members of the general public,
2 of the planning products that the planning process
3 might produce and that might be relied on during
4 the environmental review process, and such entities
5 have been provided an appropriate opportunity to
6 participate in the planning process leading to such
7 planning product.

8 “(4) Prior to determining the scope of environ-
9 mental review for the project, the joint lead agencies
10 have made documentation relating to the planning
11 product available to Federal, State, and local gov-
12 ernmental agencies and tribal governments that may
13 have an interest in the proposed action, and to mem-
14 bers of the general public.

15 “(5) There is no significant new information or
16 new circumstance that has a reasonable likelihood of
17 affecting the continued validity or appropriateness of
18 the planning product.

19 “(6) The planning product is based on reliable
20 and reasonably current data and reasonable and sci-
21 entifically acceptable methodologies.

22 “(7) The planning product is documented in
23 sufficient detail to support the decision or the re-
24 sults of the analysis and to meet requirements for

1 use of the information in the environmental review
2 process.

3 “(8) The planning product is appropriate for
4 adoption and use in the environmental review pro-
5 cess for the project.

6 “(f) EFFECT OF ADOPTION.—Notwithstanding any
7 other provision of law, any planning product adopted by
8 the Federal lead agency in accordance with this section
9 shall not be reconsidered or made the subject of additional
10 interagency consultation during the environmental review
11 process of the project unless the Federal lead agency, in
12 consultation with joint lead agencies and project sponsors
13 as appropriate, determines that there is significant new
14 information or new circumstances that affect the contin-
15 ued validity or appropriateness of the adopted planning
16 product. Any planning product adopted by the Federal
17 lead agency in accordance with this section may be relied
18 upon and used by other Federal agencies in carrying out
19 reviews of the project.

20 “(g) RULE OF CONSTRUCTION.—This section may
21 not be construed to make the National Environmental Pol-
22 icy Act of 1969 (42 U.S.C. 4321 et seq.) process applica-
23 ble to the transportation planning process conducted
24 under chapter 52 of title 49. Initiation of the National
25 Environmental Policy Act of 1969 process as a part of,

1 or concurrently with, transportation planning activities
2 does not subject transportation plans and programs to the
3 National Environmental Policy Act of 1969 process. This
4 section may not be construed to affect the use of planning
5 products in the National Environmental Policy Act of
6 1969 process pursuant to other authorities under law or
7 to restrict the initiation of the National Environmental
8 Policy Act of 1969 process during planning.”.

9 (b) CLERICAL AMENDMENT.—The analysis for such
10 chapter is amended by adding at end the following:

“167. Integration of planning and environmental review.”.

11 **SEC. 3013. DEVELOPMENT OF PROGRAMMATIC MITIGATION**

12 **PLANS.**

13 (a) IN GENERAL.—Chapter 1 (as amended by this
14 title) is further amended by adding at the end the fol-
15 lowing:

16 **“§ 168. Development of programmatic mitigation**
17 **plans**

18 “(a) IN GENERAL.—As part of the statewide or met-
19 ropolitan transportation planning process, a State or met-
20 ropolitan planning organization may develop one or more
21 programmatic mitigation plans to address the potential
22 environmental impacts of future transportation projects.

23 “(b) SCOPE.—

1 “(1) SCALE.—A programmatic mitigation plan
2 may be developed on a regional, ecosystem, water-
3 shed, or statewide scale.

4 “(2) RESOURCES.—The plan may encompass
5 multiple environmental resources within a defined
6 geographic area or may focus on a specific resource,
7 such as aquatic resources, parklands, or wildlife
8 habitat.

9 “(3) PROJECT IMPACTS.—The plan may ad-
10 dress impacts from all projects in a defined geo-
11 graphic area or may focus on a specific type of
12 project, such as bridge replacements.

13 “(4) CONSULTATION.—The scope of the plan
14 shall be determined by the State or metropolitan
15 planning organization, as appropriate, in consulta-
16 tion with the agency or agencies with jurisdiction
17 over the resources being addressed in the mitigation
18 plan.

19 “(c) CONTENTS.—A programmatic mitigation plan
20 may include—

21 “(1) an assessment of the condition of environ-
22 mental resources in the geographic area covered by
23 the plan, including an assessment of recent trends
24 and any potential threats to those resources;

1 “(2) an assessment of potential opportunities to
2 improve the overall quality of environmental re-
3 sources in the geographic area covered by the plan,
4 through strategic mitigation for impacts of transpor-
5 tation projects;

6 “(3) standard measures for mitigating certain
7 types of impacts;

8 “(4) parameters for determining appropriate
9 mitigation for certain types of impacts, such as miti-
10 gation ratios or criteria for determining appropriate
11 mitigation sites;

12 “(5) adaptive management procedures, such as
13 protocols that involve monitoring predicted impacts
14 over time and adjusting mitigation measures in re-
15 sponse to information gathered through the moni-
16 toring; and

17 “(6) acknowledgment of specific statutory or
18 regulatory requirements that must be satisfied when
19 determining appropriate mitigation for certain types
20 of resources.

21 “(d) PROCESS.—Before adopting a programmatic
22 mitigation plan, a State or metropolitan planning organi-
23 zation shall—

1 “(1) consult with the agency or agencies with
2 jurisdiction over the environmental resources consid-
3 ered in the programmatic mitigation plan;

4 “(2) make a draft of the plan available for re-
5 view and comment by applicable environmental re-
6 source agencies and the public;

7 “(3) consider any comments received from such
8 agencies and the public on the draft plan; and

9 “(4) address such comments in the final plan.

10 “(e) INTEGRATION WITH OTHER PLANS.—A pro-
11 grammatic mitigation plan may be integrated with other
12 plans, including watershed plans, ecosystem plans, species
13 recovery plans, growth management plans, and land use
14 plans.

15 “(f) CONSIDERATION IN PROJECT DEVELOPMENT
16 AND PERMITTING.—If a programmatic mitigation plan
17 has been developed pursuant to this section, any Federal
18 agency responsible for environmental reviews, permits, or
19 approvals for a transportation project shall give substan-
20 tial weight to the recommendations in a programmatic
21 mitigation plan when carrying out their responsibilities
22 under applicable laws.

23 “(g) PRESERVATION OF EXISTING AUTHORITIES.—
24 Nothing in this section limits the use of programmatic ap-

1 proaches to reviews under the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

3 (b) CLERICAL AMENDMENT.—The analysis for such
4 chapter (as amended by this title) is further amended by
5 adding at the end the following:

“168. Development of programmatic mitigation plans.”.

6 **SEC. 3014. STATE ASSUMPTION OF RESPONSIBILITY FOR**
7 **CATEGORICAL EXCLUSIONS.**

8 Section 326(a) is amended—

9 (1) in paragraph (2) by striking “and only for
10 types of activities specifically designated by the Sec-
11 retary” and inserting “and for any type of activity
12 for which a categorical exclusion classification is ap-
13 propriate”; and

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

15 “(4) PRESERVATION OF FLEXIBILITY.—The
16 Secretary shall not require a State, as a condition of
17 assuming responsibility under this section, to forego
18 project delivery methods that are otherwise permis-
19 sible for highway projects.”.

20 **SEC. 3015. SURFACE TRANSPORTATION PROJECT DELIV-**
21 **ERY PROGRAM.**

22 (a) PROGRAM NAME.—Section 327 is amended—

23 (1) in the section heading by striking “**pilot**”;
24 and

25 (2) in subsection (a)(1) by striking “pilot”.

1 (b) ASSUMPTION OF RESPONSIBILITY.—Section
2 327(a)(2) is amended—

3 (1) in subparagraph (A) by striking “highway”;

4 (2) in subparagraph (B) by striking clause (ii)

5 and inserting the following:

6 “(ii) the Secretary may not assign any
7 responsibility imposed on the Secretary by
8 section 5203 or 5204 of title 49.”; and

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

10 “(F) PRESERVATION OF FLEXIBILITY.—
11 The Secretary may not require a State, as a
12 condition of participation in the program, to
13 forego project delivery methods that are other-
14 wise permissible for projects.”.

15 (c) STATE PARTICIPATION.—Section 327(b) is
16 amended—

17 (1) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) PARTICIPATING STATES.—All States are
20 eligible to participate in the program.”; and

21 (2) in paragraph (2) by striking “this section,
22 the Secretary shall promulgate” and inserting
23 “amendments to this section by the American En-
24 ergy and Infrastructure Jobs Act of 2012, the Sec-
25 retary shall amend, as appropriate,”.

1 (d) WRITTEN AGREEMENT.—Section 327(e) is
2 amended—

3 (1) in paragraph (3)(D) by striking the period
4 at the end and inserting a semicolon; and

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

6 “(4) have a term of not more than 5 years; and

7 “(5) be renewable.”.

8 (e) CONFORMING AMENDMENT.—Section 327(e) is
9 amended by striking “subsection (i)” and inserting “sub-
10 section (j)”.

11 (f) AUDITS.—Section 327(g)(1)(B) is amended by
12 striking “subsequent year” and inserting “of the third and
13 fourth years”.

14 (g) MONITORING.—Section 327 is further amended—

15 (1) by redesignating subsections (h) and (i) as
16 subsections (i) and (j), respectively; and

17 (2) by inserting after subsection (g) the fol-
18 lowing:

19 “(h) MONITORING.—After the fourth year of the par-
20 ticipation of a State in the program, the Secretary shall
21 monitor compliance by the State with the written agree-
22 ment, including the provision by the State of financial re-
23 sources to carry out the written agreement.”.

1 (h) TERMINATION.—Section 327(j) (as redesignated
2 by subsection (g)(1) of this section) is amended to read
3 as follows:

4 “(j) TERMINATION.—The Secretary may terminate
5 the participation of any State in the program if—

6 “(1) the Secretary determines that the State is
7 not adequately carrying out the responsibilities as-
8 signed to the State;

9 “(2) the Secretary provides to the State—

10 “(A) notification of the determination of
11 noncompliance; and

12 “(B) a period of at least 30 days during
13 which to take such corrective action as the Sec-
14 retary determines is necessary to comply with
15 the applicable agreement; and

16 “(3) the State, after the notification and period
17 provided under paragraph (2), fails to take satisfac-
18 tory corrective action, as determined by the Sec-
19 retary.”.

20 (i) DEFINITIONS.—Section 327 is amended by adding
21 at the end the following:

22 “(k) DEFINITIONS.—In this section, the following
23 definitions apply:

24 “(1) MULTIMODAL PROJECT.—The term
25 ‘multimodal project’ means a project funded, in

1 whole or in part, under this title or chapter 53 of
2 title 49 and involving the participation of more than
3 one Department of Transportation administration or
4 agency.

5 “(2) PROJECT.—The term ‘project’ means any
6 highway project, public transportation capital
7 project, or multimodal project that requires the ap-
8 proval of the Secretary.”

9 (j) CLERICAL AMENDMENT.—The analysis for chap-
10 ter 3 is amended by striking the item relating to section
11 327 and inserting the following:

“327. Surface transportation project delivery program.”

12 **SEC. 3016. PROGRAM FOR ELIMINATING DUPLICATION OF**
13 **ENVIRONMENTAL REVIEWS.**

14 (a) IN GENERAL.—Chapter 3 (as amended by title
15 I of this Act) is further amended by adding at the end
16 the following:

17 **“§ 331. Program for eliminating duplication of envi-**
18 **ronmental reviews**

19 “(a) ESTABLISHMENT.—

20 “(1) IN GENERAL.—The Secretary shall estab-
21 lish a program to eliminate duplicative environ-
22 mental reviews and approvals under State and Fed-
23 eral law of projects. Under this program, a State
24 may use State laws and procedures to conduct re-
25 views and make approvals in lieu of Federal environ-

1 mental laws and regulations, consistent with the pro-
2 visions of this section.

3 “(2) PARTICIPATING STATES.—All States are
4 eligible to participate in the program.

5 “(3) SCOPE OF ALTERNATIVE REVIEW AND AP-
6 PROVAL PROCEDURES.—For purposes of this sec-
7 tion, alternative environmental review and approval
8 procedures may include one or more of the following:

9 “(A) Substitution of one or more State en-
10 vironmental laws for one or more Federal envi-
11 ronmental laws, if the Secretary determines in
12 accordance with this section that the State envi-
13 ronmental laws provide environmental protec-
14 tion and opportunities for public involvement
15 that are substantially equivalent to the applica-
16 ble Federal environmental laws.

17 “(B) Substitution of one or more State
18 regulations for Federal regulations imple-
19 menting one or more Federal environmental
20 laws, if the Secretary determines in accordance
21 with this section that the State regulations pro-
22 vide environmental protection and opportunities
23 for public involvement that are substantially
24 equivalent to the Federal regulations.

1 “(b) APPLICATION.—To participate in the program,
2 a State shall submit to the Secretary an application con-
3 taining such information as the Secretary may require, in-
4 cluding—

5 “(1) a full and complete description of the pro-
6 posed alternative environmental review and approval
7 procedures of the State;

8 “(2) for each State law or regulation included
9 in the proposed alternative environmental review and
10 approval procedures of the State, an explanation of
11 the basis for concluding that the law or regulation
12 meets the requirements under subsection (a)(3); and

13 “(3) evidence of having sought, received, and
14 addressed comments on the proposed application
15 from the public and appropriate Federal environ-
16 mental resource agencies.

17 “(c) REVIEW OF APPLICATION.—The Secretary
18 shall—

19 “(1) review an application submitted under sub-
20 section (b);

21 “(2) approve or disapprove the application in
22 accordance with subsection (d) not later than 90
23 days after the date of the receipt of the application;
24 and

1 “(3) transmit to the State notice of the ap-
2 proval or disapproval, together with a statement of
3 the reasons for the approval or disapproval.

4 “(d) APPROVAL OF STATE PROGRAMS.—

5 “(1) IN GENERAL.—The Secretary shall ap-
6 prove each such application if the Secretary finds
7 that the proposed alternative environmental review
8 and approval procedures of the State are substan-
9 tially equivalent to the applicable Federal environ-
10 mental laws and Federal regulations.

11 “(2) EXCLUSION.—The National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
13 and the Endangered Species Act of 1973 (16 U.S.C.
14 1531 et seq.) shall not apply to any decision by the
15 Secretary to approve or disapprove any application
16 submitted pursuant to this section.

17 “(e) COMPLIANCE WITH PERMITS.—Compliance with
18 a permit or other approval of a project issued pursuant
19 to a program approved by the Secretary under this section
20 shall be deemed compliance with the Federal laws and reg-
21 ulations identified in the program approved by the Sec-
22 retary pursuant to this section.

23 “(f) REVIEW AND TERMINATION.—

24 “(1) REVIEW.—All State alternative environ-
25 mental review and approval procedures approved

1 under this section shall be reviewed by the Secretary
2 not less than once every 5 years.

3 “(2) PUBLIC NOTICE AND COMMENT.—In con-
4 ducting the review process under paragraph (1), the
5 Secretary shall provide notice and an opportunity for
6 public comment.

7 “(3) EXTENSIONS AND TERMINATIONS.—At the
8 conclusion of the review process, the Secretary may
9 extend the State alternative environmental review
10 and approval procedures for an additional 5-year pe-
11 riod or terminate the State program.

12 “(g) REPORT TO CONGRESS.—Not later than 2 years
13 after the date of enactment of this section and annually
14 thereafter, the Secretary shall submit to Congress a report
15 that describes the administration of the program.

16 “(h) DEFINITIONS.—For purposes of this section:

17 “(1) ENVIRONMENTAL LAW.—The term ‘envi-
18 ronmental law’ includes any law that provides proce-
19 dural or substantive protection, as applicable, for the
20 natural or built environment with regard to the con-
21 struction and operation of projects.

22 “(2) FEDERAL ENVIRONMENTAL LAWS.—The
23 term ‘Federal environmental laws’ means laws gov-
24 erning the review of environmental impacts of, and
25 issuance of permits and other approvals for, the con-

1 construction and operation of projects, including section
2 102(2)(C) of the National Environmental Policy Act
3 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1344), section 106 of the National Historic Preser-
6 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
7 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. 1536(a)(2),
9 1538(a)(1)(B), 1539(a)(1)(B)).

10 “(3) MULTIMODAL PROJECT.—The term
11 ‘multimodal project’ means a project funded, in
12 whole or in part, under this title or chapter 53 of
13 title 49 and involving the participation of more than
14 one Department of Transportation administration or
15 agency.

16 “(4) PROJECT.—The term ‘project’ means any
17 highway project, public transportation capital
18 project, or multimodal project that requires the ap-
19 proval of the Secretary.”.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 chapter (as amended by title I of this Act) is further
22 amended by adding at the end the following:

“331. Program for eliminating duplication of environmental reviews.”.

1 **SEC. 3017. STATE PERFORMANCE OF LEGAL SUFFICIENCY**

2 **REVIEWS.**

3 (a) IN GENERAL.—Chapter 3 (as amended by this
4 title) is further amended by adding at the end the fol-
5 lowing:

6 **“SEC. 332. STATE PERFORMANCE OF LEGAL SUFFICIENCY**

7 **REVIEWS.**

8 “(a) IN GENERAL.—At the request of any State
9 transportation department, the Federal Highway Adminis-
10 tration shall enter into an agreement with the State trans-
11 portation department to authorize the State to carry out
12 the legal sufficiency reviews for environmental impact
13 statements and environmental assessments under the Na-
14 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
15 et seq.) in accordance with this section.

16 “(b) TERMS OF AGREEMENT.—An agreement au-
17 thORIZING a State to carry out legal sufficiency reviews for
18 Federal-aid highway projects shall contain the following
19 provisions:

20 “(1) A finding by the Federal Highway Admin-
21 istration that the State has the capacity to carry out
22 legal sufficiency reviews that are equivalent in qual-
23 ity and consistency to the reviews that would other-
24 wise be conducted by attorneys employed by such
25 Administration.

1 “(2) An oversight process, including periodic re-
2 views conducted by attorneys employed by such Ad-
3 ministration, to evaluate the quality of the legal suf-
4 ficiency reviews carried out by the State transpor-
5 tation department under the agreement.

6 “(3) A requirement for the State transportation
7 department to submit a written finding of legal suf-
8 ficiency to the Federal Highway Administration con-
9 currently with the request by the State for Federal
10 approval of the National Environmental Policy Act
11 of 1969 (42 U.S.C. 4321 et seq.) document.

12 “(4) An opportunity for the Federal Highway
13 Administration to conduct an additional legal suffi-
14 ciency review for any project, for not more than 30
15 days, if considered necessary by the Federal High-
16 way Administration.

17 “(5) Procedures allowing either party to the
18 agreement to terminate the agreement for any rea-
19 son with 30 days notice to the other party.

20 “(c) EFFECT OF AGREEMENT.—A legal sufficiency
21 review carried out by a State transportation department
22 under this section shall be deemed by the Federal High-
23 way Administration to satisfy the requirement for a legal
24 sufficiency review in sections 771.125(b) and 774.7(d) of
25 title 23, Code of Federal Regulations, or other applicable

1 regulations issued by the Federal Highway Administra-
2 tion.”.

3 (b) CLERICAL AMENDMENT.—The analysis for such
4 chapter (as amended by this title) is further amended by
5 adding at the end the following:

“332. State performance of legal sufficiency reviews.”.

6 **SEC. 3018. CATEGORICAL EXCLUSIONS.**

7 (a) IN GENERAL.—The Secretary shall treat an activ-
8 ity carried out under title 23, United States Code, or
9 project within a right-of-way as a class of action categori-
10 cally excluded from the requirements relating to environ-
11 mental assessments or environmental impact statements
12 under section 771.117(c) of title 23, Code of Federal Reg-
13 ulations.

14 (b) DEFINITIONS.—In this section, the following defi-
15 nitions apply:

16 (1) MULTIMODAL PROJECT.—The term
17 “multimodal project” means a project funded, in
18 whole or in part, under title 23, United States Code,
19 or chapter 53 of title 49 of such Code and involving
20 the participation of more than one Department of
21 Transportation administration or agency.

22 (2) PROJECT.—The term “project” means any
23 highway project, public transportation capital
24 project, or multimodal project that requires the ap-
25 proval of the Secretary.

1 **SEC. 3019. ENVIRONMENTAL REVIEW PROCESS DEADLINE.**

2 (a) IN GENERAL.—

3 (1) DEADLINE.—Notwithstanding any other
4 provision of law, the environmental review process
5 for a project shall be completed not later than 270
6 days after the date on which the notice of project
7 initiation under section 139(e) of title 23, United
8 States Code, is published in the Federal Register.

9 (2) CONSEQUENCES OF MISSED DEADLINE.—If
10 the environmental review process for a project is not
11 completed in accordance with paragraph (1)—

12 (A) the project shall be considered to have
13 no significant impact to the human environment
14 for purposes of the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
16 and

17 (B) that classification shall be considered
18 to be a final agency action.

19 (b) APPEAL.—In this section, the following rules
20 shall apply:

21 (1) There shall be a single administrative ap-
22 peal for the environmental review process carried out
23 pursuant to this section.

24 (2) Upon resolution of the administrative ap-
25 peal, judicial review of the final agency decision after
26 exhaustion of administrative remedies shall lie with

1 the United States Court of Appeals for the District
2 of Columbia Circuit.

3 (3) An appeal to the court specified in para-
4 graph (2) shall be based only on the administrative
5 record.

6 (4) After an agency has made a final decision
7 with respect to the environmental review process car-
8 ried out under this section, that decision shall be ef-
9 fective during the course of any subsequent appeal
10 to a court specified in paragraph (2).

11 (5) All civil actions arising under this section
12 shall be considered to arise under the laws of the
13 United States.

14 (c) DEFINITIONS.—In this section, the following defi-
15 nitions apply:

16 (1) ENVIRONMENTAL REVIEW PROCESS.—

17 (A) IN GENERAL.—The term “environ-
18 mental review process” means the process for
19 preparing for a project an environmental impact
20 statement, environmental assessment, categor-
21 ical exclusion, or other document prepared
22 under the National Environmental Policy Act of
23 1969 (42 U.S.C. 4321 et seq.).

24 (B) INCLUSIONS.—The term “environ-
25 mental review process” includes the process for

1 and completion of any environmental permit,
2 approval, review, or study required for a project
3 under any Federal law other than the National
4 Environmental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.).

6 (2) LEAD AGENCY.—The term “lead agency”
7 means the Department of Transportation and, if ap-
8 plicable, any State or local governmental entity serv-
9 ing as a joint lead agency pursuant to this section.

10 (3) MULTIMODAL PROJECT.—The term
11 “multimodal project” means a project funded, in
12 whole or in part, under title 23, United States Code,
13 or chapter 53 of title 49 of such Code and involving
14 the participation of more than one Department of
15 Transportation administration or agency.

16 (4) PROJECT.—The term “project” means any
17 highway project, public transportation capital
18 project, or multimodal project that requires the ap-
19 proval of the Secretary.

20 **SEC. 3020. RELOCATION ASSISTANCE.**

21 (a) ALTERNATIVE RELOCATION PAYMENT PROC-
22 ESS.—

23 (1) ESTABLISHMENT.—For the purpose of
24 identifying improvements in the timeliness of pro-
25 viding relocation assistance to persons displaced as

1 a result of Federal or federally-assisted programs
2 and projects, the Secretary shall establish an alter-
3 native relocation payment process under which pay-
4 ments to displaced persons eligible for relocation as-
5 sistance pursuant to the Uniform Relocation Assist-
6 ance and Real Property Acquisition Policies Act of
7 1970 (42 U.S.C. 4601 et seq.), are calculated based
8 on reasonable estimates and paid in advance of the
9 physical displacement of the displaced person.

10 (2) PAYMENTS.—

11 (A) TIMING OF PAYMENTS.—Relocation as-
12 sistance payments may be provided to the dis-
13 placed person at the same time as payments of
14 just compensation for real property acquired for
15 a program or project of the State.

16 (B) COMBINED PAYMENT.—Payments for
17 relocation and just compensation may be com-
18 bined into a single unallocated amount.

19 (3) CONDITIONS FOR STATE USE OF ALTER-
20 NATIVE PROCESS.—

21 (A) IN GENERAL.—After public notice and
22 an opportunity to comment, the Secretary shall
23 adopt criteria for States to use the alternative
24 relocation payment process established by the
25 Secretary.

1 (B) MEMORANDUM OF AGREEMENT.—In
2 order to use the alternative relocation payment
3 process, a State shall enter into a memorandum
4 of agreement with the Secretary that includes
5 provisions relating to—

6 (i) the selection of projects or pro-
7 grams within the State to which the alter-
8 native relocation payment process will be
9 applied;

10 (ii) program and project-level moni-
11 toring;

12 (iii) performance measurement;

13 (iv) reporting requirements; and

14 (v) the circumstances under which the
15 Secretary may terminate or suspend the
16 authority of the State to use the alter-
17 native relocation payment process.

18 (C) REQUIRED INFORMATION.—A State
19 may use the alternative relocation payment
20 process only after the displaced persons affected
21 by a program or project—

22 (i) are informed in writing—

23 (I) that the relocation payments
24 the displaced persons receive under
25 the alternative relocation payment

1 process may be higher or lower than
2 the amount that the displaced persons
3 would have received under the stand-
4 ard relocation assistance process; and

5 (II) of their right not to partici-
6 pate in the alternative relocation pay-
7 ment process; and

8 (ii) agree in writing to the alternative
9 relocation payment process.

10 (D) ELECTION NOT TO PARTICIPATE.—

11 The displacing agency shall provide any dis-
12 placed person who elects not to participate in
13 the alternative relocation payment process with
14 relocation assistance in accordance with the
15 Uniform Relocation Assistance and Real Prop-
16 erty Acquisition Policies Act of 1970 (42
17 U.S.C. 4601 et seq.).

18 (4) PROTECTIONS AGAINST INCONSISTENT
19 TREATMENT.—If other Federal agencies plan dis-
20 placements in or adjacent to an area of a project
21 using the alternative relocation payment process
22 within the same time period as a project acquisition
23 and relocation action of the project, the Secretary
24 shall adopt measures to protect against inconsistent
25 treatment of displaced persons. Such measures may

1 include a determination that the alternative reloca-
2 tion payment process authority may not be used on
3 a specific project.

4 (5) REPORT.—

5 (A) IN GENERAL.—The Secretary shall
6 submit to Congress an annual report on the im-
7 plementation of the alternative relocation pay-
8 ment process.

9 (B) CONTENTS.—The report shall include
10 an evaluation of the merits of the alternative
11 relocation payment process, including the ef-
12 fects of the alternative relocation payment proc-
13 ess on—

14 (i) displaced persons and the protec-
15 tions afforded to such persons by the Uni-
16 form Relocation Assistance and Real Prop-
17 erty Acquisition Policies Act of 1970 (42
18 U.S.C. 4601 et seq.);

19 (ii) the efficiency of the delivery of
20 Federal-aid highway projects and overall
21 effects on the Federal-aid highway pro-
22 gram; and

23 (iii) the achievement of the purposes
24 of the Uniform Relocation Assistance and

1 Real Property Acquisition Policies Act of
2 1970 (42 U.S.C. 4601 et seq.).

3 (6) LIMITATION.—The alternative relocation
4 payment process under this section may be used only
5 on projects funded under title 23, United States
6 Code, in cases in which the funds are administered
7 by the Federal Highway Administration.

8 (7) NEPA APPLICABILITY.—Notwithstanding
9 any other provision of law, the use of the alternative
10 relocation payment process established under this
11 section on a project funded under title 23, United
12 States Code, and administered by the Federal High-
13 way Administration is not a major Federal action re-
14 quiring analysis or approval under the National En-
15 vironmental Policy Act of 1969 (42 U.S.C. 4321 et
16 seq.).

17 (b) UNIFORM RELOCATION ASSISTANCE ACT
18 AMENDMENTS.—

19 (1) MOVING AND RELATED EXPENSES.—Sec-
20 tion 202 of the Uniform Relocation Assistance and
21 Real Property Acquisition Policies Act of 1970 (42
22 U.S.C. 4622) is amended—

23 (A) in subsection (a)(4) by striking
24 “\$10,000” and inserting “\$25,000, as adjusted

1 by regulation, in accordance with section
2 213(d)”; and

3 (B) in the second sentence of subsection
4 (c) by striking “\$20,000” and inserting
5 “\$40,000, as adjusted by regulation, in accord-
6 ance with section 213(d)”.

7 (2) REPLACEMENT HOUSING FOR HOME-
8 OWNERS.—The first sentence of section 203(a)(1) of
9 the Uniform Relocation Assistance and Real Prop-
10 erty Acquisition Policies Act of 1970 (42 U.S.C.
11 4623(a)(1)) is amended by—

12 (A) striking “\$22,500” and inserting
13 “\$31,000, as adjusted by regulation, in accord-
14 ance with 213(d),”; and

15 (B) striking “one hundred and eighty days
16 prior to” and inserting “90 days before”.

17 (3) REPLACEMENT HOUSING FOR TENANTS
18 AND CERTAIN OTHERS.—Section 204 of the Uniform
19 Relocation Assistance and Real Property Acquisition
20 Policies Act of 1970 (42 U.S.C. 4624) is amended—

21 (A) in the second sentence of subsection
22 (a) by striking “\$5,250” and inserting “\$7,200,
23 as adjusted by regulation, in accordance with
24 section 213(d)”; and

1 (B) in the second sentence of subsection
2 (b) by striking “, except” and all that follows
3 through the end of the subsection and inserting
4 a period.

5 (4) DUTIES OF LEAD AGENCY.—Section 213 of
6 the Uniform Relocation Assistance and Real Prop-
7 erty Acquisition Policies Act of 1970 (42 U.S.C.
8 4633) is amended—

9 (A) in subsection (b)—

10 (i) in paragraph (2) by striking
11 “and”;

12 (ii) in paragraph (3) by striking the
13 period and inserting “; and”; and

14 (iii) by adding at the end the fol-
15 lowing:

16 “(4) that each Federal agency that has pro-
17 grams or projects requiring the acquisition of real
18 property or causing a displacement from real prop-
19 erty subject to the provisions of this Act shall pro-
20 vide to the lead agency an annual summary report
21 that describes the activities conducted by the Fed-
22 eral agency.”; and

23 (B) by adding at the end the following:

24 “(d) ADJUSTMENT OF PAYMENTS.—The head of the
25 lead agency may adjust, by regulation, the amounts of re-

1 location payments provided under sections 202(a)(4),
2 202(c), 203(a), and 204(a) if the head of the lead agency
3 determines that cost of living, inflation, or other factors
4 indicate that the payments should be adjusted to meet the
5 policy objectives of this Act.”.

6 (5) AGENCY COORDINATION.—Title II of the
7 Uniform Relocation Assistance and Real Property
8 Acquisition Policies Act of 1970 (42 U.S.C. 4601 et
9 seq.) is amended by inserting after section 213 (42
10 U.S.C. 4633) the following:

11 **“§ 214. Agency coordination**

12 “(a) AGENCY CAPACITY.—Each Federal agency re-
13 sponsible for funding or carrying out relocation and acqui-
14 sition activities shall have adequately trained personnel
15 and such other resources as are necessary to manage and
16 oversee the relocation and acquisition program of the Fed-
17 eral agency in accordance with this Act.

18 “(b) INTERAGENCY AGREEMENTS.—Not later than 1
19 year after the date of the enactment of this section, each
20 Federal agency responsible for funding relocation and ac-
21 quisition activities (other than the agency serving as the
22 lead agency) shall enter into a memorandum of under-
23 standing with the lead agency that—

24 “(1) provides for periodic training of the per-
25 sonnel of the Federal agency, which in the case of

1 a Federal agency that provides Federal financial as-
2 sistance, may include personnel of any displacing
3 agency that receives Federal financial assistance;

4 “(2) addresses ways in which the lead agency
5 may provide assistance and coordination to the Fed-
6 eral agency relating to compliance with this Act on
7 a program or project basis; and

8 “(3) addresses the funding of the training, as-
9 sistance, and coordination activities provided by the
10 lead agency, in accordance with subsection (c).

11 “(c) INTERAGENCY PAYMENTS.—

12 “(1) IN GENERAL.—For the fiscal year that be-
13 gins 1 year after the date of the enactment of this
14 section, and each fiscal year thereafter, each Federal
15 agency responsible for funding relocation and acqui-
16 sition activities (other than the agency serving as the
17 lead agency) shall transfer to the lead agency for the
18 fiscal year, such funds as are necessary, but not less
19 than \$35,000, to support the training, assistance,
20 and coordination activities of the lead agency de-
21 scribed in subsection (b).

22 “(2) INCLUDED COSTS.—The cost to a Federal
23 agency of providing the funds described in para-
24 graph (1) shall be included as part of the cost of 1
25 or more programs or projects undertaken by the

1 Federal agency or with Federal financial assistance
2 that result in the displacement of persons or the ac-
3 quisition of real property.”.

4 (c) COOPERATION WITH FEDERAL AGENCIES.—Sec-
5 tion 308(a) is amended to read as follows:

6 “(a) AUTHORIZED ACTIVITIES.—

7 “(1) IN GENERAL.—The Secretary may per-
8 form, by contract or otherwise, authorized engineer-
9 ing or other services in connection with the survey,
10 construction, maintenance, or improvement of high-
11 ways for other Federal agencies, cooperating foreign
12 countries, and State cooperating agencies.

13 “(2) INCLUSIONS.—Services authorized under
14 paragraph (1) may include activities authorized
15 under section 214 of the Uniform Relocation Assist-
16 ance and Real Property Acquisition Policies Act of
17 1970 (42 U.S.C. 4601 et seq.).

18 “(3) REIMBURSEMENT.—Reimbursement for
19 services carried out under this subsection, including
20 depreciation on engineering and road-building equip-
21 ment, shall be credited to the applicable appropria-
22 tion.”.

1 **TITLE IV—TRANSPORTATION**
2 **PLANNING**

3 **SEC. 4001. TRANSPORTATION PLANNING.**

4 (a) IN GENERAL.—Subtitle III of title 49, United
5 States Code, is amended by inserting after chapter 51 the
6 following:

7 **“CHAPTER 52—TRANSPORTATION**
8 **PLANNING**

“Sec.

“5201. Policy.

“5202. Definitions.

“5203. Metropolitan transportation planning.

“5204. Statewide transportation planning.

“5205. National strategic transportation plan.

“5206. National performance management system.

9 **“§ 5201. Policy**

10 “(a) IN GENERAL.—It is in the national interest to—

11 “(1) encourage and promote the safe and effi-
12 cient management, operation, and development of
13 surface transportation systems that will serve the
14 mobility needs of people and freight and foster eco-
15 nomic growth and development within and between
16 States and urbanized areas, while minimizing trans-
17 portation-related fuel consumption and air pollution
18 through metropolitan and statewide transportation
19 planning processes identified in this chapter; and

20 “(2) encourage the continued improvement and
21 evolution of the metropolitan and statewide trans-
22 portation planning processes by metropolitan plan-

1 ning organizations, State departments of transpor-
2 tation, and public transportation operators as guided
3 by the planning factors identified in sections 5203(f)
4 and 5204(d).

5 “(b) COMMON TRANSPORTATION PLANNING PRO-
6 GRAM.—This chapter provides a common transportation
7 planning program to be administered by the Federal High-
8 way Administration and the Federal Transit Administra-
9 tion.

10 **“§ 5202. Definitions**

11 “In this chapter, the following definitions apply:

12 “(1) METROPOLITAN PLANNING AREA.—The
13 term ‘metropolitan planning area’ means the geo-
14 graphic area determined by agreement between the
15 metropolitan planning organization for the area and
16 the Governor under section 5203(c).

17 “(2) METROPOLITAN LONG-RANGE TRANSPOR-
18 TATION PLAN.—The term ‘metropolitan long-range
19 transportation plan’ means a long-range transpor-
20 tation plan developed by an MPO under section
21 5203 for a metropolitan planning area.

22 “(3) METROPOLITAN PLANNING ORGANIZATION;
23 MPO.—The term ‘metropolitan planning organiza-
24 tion’ or ‘MPO’ means the policy board of an organi-

1 zation created as a result of the designation process
2 in section 5203(b).

3 “(4) METROPOLITAN TRANSPORTATION IM-
4 PROVEMENT PROGRAM; METROPOLITAN TIP.—The
5 term ‘metropolitan transportation improvement pro-
6 gram’ or ‘metropolitan TIP’ means a transportation
7 improvement program developed by an MPO under
8 section 5203 for a metropolitan planning area.

9 “(5) NONMETROPOLITAN AREA.—The term
10 ‘nonmetropolitan area’ means a geographic area out-
11 side designated metropolitan planning areas.

12 “(6) NONMETROPOLITAN LOCAL OFFICIAL.—
13 The term ‘nonmetropolitan local official’ means
14 elected and appointed officials of general purpose
15 local government in a nonmetropolitan area with re-
16 sponsibility for transportation.

17 “(7) REGIONAL TRANSPORTATION PLANNING
18 ORGANIZATION.—The term ‘regional transportation
19 planning organization’ means a policy board of an
20 organization created as the result of a designation
21 under section 5204(k).

22 “(8) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of Transportation.

1 “(9) STATE.—The term ‘State’ means any of
2 the 50 States, the District of Columbia, or Puerto
3 Rico.

4 “(10) STATEWIDE STRATEGIC LONG-RANGE
5 TRANSPORTATION PLAN.—The term ‘statewide stra-
6 tegic long-range transportation plan’ means a stra-
7 tegic long-range transportation plan developed by a
8 State under section 5204 for all areas of the State.

9 “(11) STATEWIDE TRANSPORTATION IMPROVE-
10 MENT PROGRAM; STATEWIDE TIP.—The term ‘state-
11 wide transportation improvement program’ or ‘state-
12 wide TIP’ means a transportation improvement pro-
13 gram developed by a State under section 5204 for
14 all areas of the State.

15 “(12) URBANIZED AREA.—The term ‘urbanized
16 area’ means a geographic area with a population of
17 50,000 or more, as designated by the Bureau of the
18 Census.

19 **“§ 5203. Metropolitan transportation planning**

20 “(a) GENERAL REQUIREMENTS.—

21 “(1) DEVELOPMENT OF METROPOLITAN LONG-
22 RANGE PLANS AND TIPS.—To accomplish the objec-
23 tives set forth in section 5201, metropolitan plan-
24 ning organizations designated under subsection (b),
25 in cooperation with the State and public transpor-

1 tation operators, shall develop metropolitan long-
2 range transportation plans and transportation im-
3 provement programs for metropolitan planning areas
4 of the State.

5 “(2) CONTENTS.—Metropolitan long-range
6 transportation plans and TIPs shall provide for the
7 development and integrated management and oper-
8 ation of transportation systems and facilities (includ-
9 ing accessible pedestrian walkways, bicycle transpor-
10 tation facilities, and intermodal facilities that sup-
11 port intercity transportation, including intercity
12 buses and intercity bus facilities) that will function
13 as an intermodal transportation system for the met-
14 ropolitan planning area and as an integral part of
15 an intermodal transportation system for the State
16 and the United States.

17 “(3) PROCESS OF DEVELOPMENT.—The process
18 for developing metropolitan long-range transpor-
19 tation plans and TIPs shall provide for consideration
20 of all modes of transportation and shall be con-
21 tinuing, cooperative, and comprehensive to the de-
22 gree appropriate, based on the complexity of the
23 transportation problems to be addressed.

24 “(b) DESIGNATION OF MPOs.—

1 “(1) IN GENERAL.—To carry out the transpor-
2 tation planning process required by this section, an
3 MPO shall be designated for an urbanized area with
4 a population of more than 100,000 individuals—

5 “(A) by agreement between the Governor
6 and units of general purpose local government
7 that together represent at least 75 percent of
8 the affected population (including the largest
9 incorporated city (based on population) as
10 named by the Bureau of the Census); or

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

13 “(2) STRUCTURE.—An MPO that serves an
14 area designated as a transportation management
15 area, when designated or redesignated under this
16 subsection, shall consist of—

17 “(A) local elected officials;

18 “(B) officials of public agencies that ad-
19 minister or operate major modes of transpor-
20 tation in the metropolitan area; and

21 “(C) appropriate State officials.

22 “(3) LIMITATION ON STATUTORY CONSTRUC-
23 TION.—Nothing in this subsection may be construed
24 to interfere with the authority, under any State law

1 in effect on December 18, 1991, of a public agency
2 with multimodal transportation responsibilities to—

3 “(A) develop metropolitan long-range
4 transportation plans or TIPs for adoption by an
5 MPO; and

6 “(B) develop long-range capital plans, co-
7 ordinate public transportation services or
8 projects, or carry out other activities pursuant
9 to State law.

10 “(4) CONTINUING DESIGNATION.—A designa-
11 tion of an MPO under this subsection or any other
12 provision of law shall remain in effect until the MPO
13 is redesignated under paragraph (5) or revoked by
14 agreement among the Governor and units of general
15 purpose local government that together represent at
16 least 75 percent of the affected population or as oth-
17 erwise provided under State or local procedures.

18 “(5) REDESIGNATION PROCEDURES.—An MPO
19 may be redesignated by agreement between the Gov-
20 ernor and units of general purpose local government
21 that together represent at least 75 percent of the ex-
22 isting planning area population (including the larg-
23 est incorporated city (based on population) as named
24 by the Bureau of the Census) as appropriate to
25 carry out this section.

1 “(6) DESIGNATION OF MULTIPLE MPOS.—More
2 than 1 MPO may be designated within an existing
3 metropolitan planning area only if the Governor and
4 the existing MPO determine that the size and com-
5 plexity of the existing metropolitan planning area
6 make designation of more than 1 MPO for the area
7 appropriate.

8 “(c) METROPOLITAN PLANNING AREA BOUND-
9 ARIES.—

10 “(1) IN GENERAL.—For the purposes of this
11 section, the boundaries of a metropolitan planning
12 area shall be determined by agreement between the
13 MPO and the Governor.

14 “(2) INCLUDED AREA.—A metropolitan plan-
15 ning area—

16 “(A) shall encompass at least the existing
17 urbanized area and the contiguous area ex-
18 pected to become urbanized within a 20-year
19 forecast period for the metropolitan long-range
20 transportation plan; and

21 “(B) may encompass the entire metropoli-
22 tan statistical area or consolidated metropolitan
23 statistical area, as defined by the Bureau of the
24 Census.

1 “(3) IDENTIFICATION OF NEW URBANIZED
2 AREAS WITHIN EXISTING PLANNING AREA BOUND-
3 ARIES.—The designation by the Bureau of the Cen-
4 sus of new urbanized areas within an existing metro-
5 politan planning area shall not require the redesis-
6 gation of the existing MPO.

7 “(4) EXISTING METROPOLITAN PLANNING
8 AREAS IN NONATTAINMENT.—Notwithstanding para-
9 graph (2), in the case of an urbanized area des-
10 ignated as a nonattainment area for ozone or carbon
11 monoxide under the Clean Air Act (42 U.S.C. 7401
12 et seq.) as of August 10, 2005, the boundaries of
13 the metropolitan planning area in existence as of
14 such date shall be retained, except that the bound-
15 aries may be adjusted by agreement of the Governor
16 and affected MPOs in the manner described in sub-
17 section (b)(5).

18 “(5) NEW METROPOLITAN PLANNING AREAS IN
19 NONATTAINMENT.—In the case of an urbanized area
20 designated after August 10, 2005, as a nonattain-
21 ment area for ozone or carbon monoxide, the bound-
22 aries of the metropolitan planning area—

23 “(A) shall be established in the manner de-
24 scribed in subsection (b)(1);

1 “(B) shall encompass the areas described
2 in subsection (c)(2)(A);

3 “(C) may encompass the areas described in
4 subsection (c)(2)(B); and

5 “(D) may address any nonattainment area
6 identified under the Clean Air Act for ozone or
7 carbon monoxide.

8 “(d) COORDINATION IN MULTISTATE AREAS.—

9 “(1) IN GENERAL.—The Secretary shall encour-
10 age a Governor with responsibility for a portion of
11 a multistate metropolitan area and the appropriate
12 MPOs to provide coordinated transportation plan-
13 ning for the entire metropolitan area.

14 “(2) INTERSTATE COMPACTS.—The consent of
15 Congress is granted to any 2 or more States—

16 “(A) to enter into agreements or compacts,
17 not in conflict with any law of the United
18 States, for cooperative efforts and mutual as-
19 sistance in support of activities authorized
20 under this section as the activities pertain to
21 interstate areas and localities within the States;
22 and

23 “(B) to establish such agencies, joint or
24 otherwise, as the States may determine desir-

1 able for making the agreements and compacts
2 effective.

3 “(3) RESERVATION OF RIGHTS.—The right to
4 alter, amend, or repeal interstate compacts entered
5 into under this subsection is expressly reserved.

6 “(e) MPO CONSULTATION IN PLAN AND TIP Co-
7 ORDINATION.—

8 “(1) NONATTAINMENT AREAS.—If more than 1
9 MPO has authority within a metropolitan area or an
10 area that is designated as a nonattainment area for
11 ozone or carbon monoxide under the Clean Air Act,
12 each MPO shall consult with the other MPOs des-
13 ignated for such area and the State in the coordina-
14 tion of metropolitan long-range transportation plans
15 and TIPs.

16 “(2) TRANSPORTATION IMPROVEMENTS LO-
17 CATED IN AREAS REPRESENTED BY MULTIPLE
18 MPOS.—If a transportation improvement, funded
19 from the Highway Trust Fund or authorized under
20 chapter 53 of this title, is located within the bound-
21 aries of more than 1 metropolitan planning area, the
22 MPOs shall coordinate metropolitan long-range
23 transportation plans and TIPs regarding the trans-
24 portation improvement.

1 “(3) RELATIONSHIP WITH OTHER PLANNING
2 OFFICIALS.—The Secretary shall encourage an MPO
3 to consult with officials responsible for other types
4 of planning activities that are affected by transpor-
5 tation in the area (including State and local planned
6 growth, economic development, environmental pro-
7 tection, airport operations, and freight movements)
8 or to coordinate its planning process, to the max-
9 imum extent practicable, with such planning activi-
10 ties. Under the metropolitan planning process, met-
11 ropolitan long-range transportation plans and TIPs
12 shall be developed with due consideration of other
13 related planning activities within the metropolitan
14 area, and the process shall provide for the design
15 and delivery of transportation services within the
16 metropolitan area that are provided by—

17 “(A) recipients of assistance under chapter
18 53;

19 “(B) governmental agencies and nonprofit
20 organizations (including representatives of the
21 agencies and organizations) that receive Federal
22 assistance from a source other than the Depart-
23 ment of Transportation to provide non-
24 emergency transportation services; and

1 “(C) recipients of assistance under sections
2 202 and 203 of title 23.

3 “(f) SCOPE OF PLANNING PROCESS.—

4 “(1) IN GENERAL.—The metropolitan planning
5 process for a metropolitan planning area under this
6 section shall provide for consideration of projects
7 and strategies that will—

8 “(A) support the economic vitality of the
9 metropolitan area, especially by enabling global
10 competitiveness, productivity, and efficiency;

11 “(B) increase the safety of the transpor-
12 tation system for motorized and nonmotorized
13 users;

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

17 “(D) increase the accessibility and mobility
18 of people and for freight;

19 “(E) protect and enhance the environment,
20 promote energy conservation, improve the qual-
21 ity of life, and promote consistency between
22 transportation improvements and State and
23 local planned growth and economic development
24 patterns;

1 “(F) enhance the integration and
2 connectivity of the transportation system,
3 across and between modes, for people and
4 freight;

5 “(G) promote efficient system management
6 and operation, including through the use of in-
7 telligent transportation systems;

8 “(H) emphasize the preservation of the ex-
9 isting transportation system; and

10 “(I) support intermodal facilities or facili-
11 tate regional growth.

12 “(2) FAILURE TO CONSIDER FACTORS.—The
13 failure to consider any factor specified in paragraph
14 (1) shall not be reviewable by any court under title
15 23, chapter 53 of this title, subchapter II of chapter
16 5 of title 5, or chapter 7 of title 5 in any matter af-
17 fecting a metropolitan long-range transportation
18 plan or TIP, a project or strategy, or the certifi-
19 cation of a planning process.

20 “(g) DEVELOPMENT OF LONG-RANGE TRANSPOR-
21 TATION PLAN.—

22 “(1) IN GENERAL.—

23 “(A) EXISTING AND FORMER NONATTAIN-
24 MENT AREAS.—An MPO shall prepare and up-
25 date a metropolitan long-range transportation

1 plan for its metropolitan planning area in ac-
2 cordance with the requirements of this sub-
3 section. The MPO shall prepare and update the
4 plan every 4 years (or more frequently, if the
5 MPO elects to update more frequently) in the
6 case of each of the following:

7 “(i) Any area designated as non-
8 attainment, as defined in section 107(d) of
9 the Clean Air Act (42 U.S.C. 7407(d)).

10 “(ii) Any area that was nonattain-
11 ment and subsequently designated to at-
12 tainment in accordance with section
13 107(d)(3) of that Act (42 U.S.C.
14 7407(d)(3)) and that is subject to a main-
15 tenance plan under section 175A of that
16 Act (42 U.S.C. 7505a).

17 “(B) OTHER AREAS.—In the case of any
18 other area required to have a metropolitan long-
19 range transportation plan, the MPO shall pre-
20 pare and update the plan every 5 years unless
21 the MPO elects to update more frequently.

22 “(2) LONG-RANGE TRANSPORTATION PLAN.—A
23 metropolitan long-range transportation plan shall be
24 in a form that the Secretary determines to be appro-

1 appropriate and shall contain, at a minimum, the fol-
2 lowing:

3 “(A) IDENTIFICATION OF TRANSPOR-
4 TATION FACILITIES.—An identification of trans-
5 portation facilities (including major roadways,
6 public transportation facilities, intercity bus fa-
7 cilities, multimodal and intermodal facilities,
8 and intermodal connectors) that should function
9 as an integrated metropolitan transportation
10 system, giving emphasis to those facilities that
11 serve important national and regional transpor-
12 tation functions. In formulating the plan, the
13 MPO shall consider factors described in sub-
14 section (f) and other relevant data and factors
15 disseminated by the Secretary pursuant to sec-
16 tion 5205(b) as such factors relate to a 20-year
17 forecast period.

18 “(B) MITIGATION ACTIVITIES.—

19 “(i) IN GENERAL.—A metropolitan
20 long-range transportation plan shall in-
21 clude a discussion of types of potential en-
22 vironmental mitigation activities and po-
23 tential areas to carry out these activities,
24 including activities that may have the
25 greatest potential to restore and maintain

1 the environmental functions affected by the
2 plan.

3 “(ii) CONSULTATION.—The discussion
4 shall be developed in consultation with
5 Federal, State, and tribal wildlife, land
6 management, and regulatory agencies.

7 “(C) FINANCIAL PLAN.—

8 “(i) IN GENERAL.—A financial plan
9 that—

10 “(I) demonstrates how the adopt-
11 ed metropolitan long-range transpor-
12 tation plan can be implemented;

13 “(II) indicates resources from
14 public and private sources that are
15 reasonably expected to be made avail-
16 able to carry out the metropolitan
17 long-range transportation plan;

18 “(III) recommends any additional
19 financing strategies for needed
20 projects and programs; and

21 “(IV) may include, for illustrative
22 purposes, additional projects that
23 would be included in the adopted met-
24 ropolitan long-range transportation
25 plan if reasonable additional resources

1 beyond those identified in the finan-
2 cial plan were available.

3 “(ii) ESTIMATES OF FUNDS.—For the
4 purpose of developing the metropolitan
5 long-range transportation plan, the MPO,
6 public transportation operator, and State
7 shall cooperatively develop estimates of
8 funds that will be available to support plan
9 implementation.

10 “(D) OPERATIONAL AND MANAGEMENT
11 STRATEGIES.—Operational and management
12 strategies to improve the performance of exist-
13 ing transportation facilities to relieve vehicular
14 congestion and maximize the safety and mobil-
15 ity of people and goods.

16 “(E) CAPITAL INVESTMENT AND OTHER
17 STRATEGIES.—Capital investment and other
18 strategies to preserve the existing and projected
19 future metropolitan transportation infrastruc-
20 ture and provide for multimodal capacity in-
21 creases based on regional priorities and needs.

22 “(3) INTERCITY BUS.—A metropolitan long-
23 range transportation plan shall consider the role
24 intercity buses may play in reducing congestion, pol-
25 lution, and energy consumption in a cost-effective

1 manner and strategies and investments that preserve
2 and enhance intercity bus systems, including sys-
3 tems that are privately owned and operated.

4 “(4) COORDINATION WITH CLEAN AIR ACT
5 AGENCIES.—In metropolitan areas that are in non-
6 attainment for ozone or carbon monoxide under the
7 Clean Air Act, the MPO shall coordinate the devel-
8 opment of a metropolitan long-range transportation
9 plan with the process for development of the trans-
10 portation control measures of the State implementa-
11 tion plan required by that Act.

12 “(5) CONSULTATION; COMPARISONS.—

13 “(A) CONSULTATION.—A metropolitan
14 long-range transportation plan shall be devel-
15 oped, as appropriate, in consultation with State
16 and local agencies responsible for land use man-
17 agement, natural resources, environmental pro-
18 tection, conservation, and historic preservation.

19 “(B) COMPARISONS.—Consultation under
20 subparagraph (A) shall involve, as appropriate,
21 a comparison of the metropolitan long-range
22 transportation plan—

23 “(i) to State conservation plans and
24 maps, if available; and

1 “(ii) to inventories of natural and his-
2 toric resources, if available.

3 “(6) PARTICIPATION BY INTERESTED PAR-
4 TIES.—

5 “(A) IN GENERAL.—An MPO shall provide
6 citizens, affected public agencies, representa-
7 tives of public transportation employees, freight
8 shippers, providers of freight transportation
9 services, private providers of transportation, in-
10 cluding intercity bus services, representatives of
11 users of public transportation, representatives
12 of users of pedestrian walkways and bicycle
13 transportation facilities, representatives of the
14 disabled, and other interested parties with a
15 reasonable opportunity to comment on its met-
16 ropolitan long-range transportation plan.

17 “(B) CONTENTS OF PARTICIPATION
18 PLAN.—A participation plan shall—

19 “(i) be developed in consultation with
20 all interested parties; and

21 “(ii) provide that all interested parties
22 have reasonable opportunities to comment
23 on the contents of the metropolitan long-
24 range transportation plan.

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

4 “(i) hold any public meetings at con-
5 venient and accessible locations and times;

6 “(ii) employ visualization techniques
7 to describe plans; and

8 “(iii) make public information avail-
9 able in electronically accessible format and
10 means, such as the Internet, as appro-
11 priate to afford a reasonable opportunity
12 for consideration of public information
13 under subparagraph (A).

14 “(7) PUBLICATION.—A metropolitan long-range
15 transportation plan involving Federal participation
16 shall be published or otherwise made readily avail-
17 able by the MPO for public review (including to the
18 maximum extent practicable in electronically acces-
19 sible formats and means, such as the Internet) ap-
20 proved by the MPO, and submitted for information
21 purposes to the Governor, at such times and in such
22 manner as the Secretary shall establish.

23 “(8) SELECTION OF PROJECTS FROM ILLUS-
24 TRATIVE LIST.—Notwithstanding paragraph (2)(C),
25 a State or MPO shall not be required to select any

1 project from the illustrative list of additional
2 projects included in the financial plan under such
3 paragraph.

4 “(h) METROPOLITAN TIP.—

5 “(1) DEVELOPMENT.—

6 “(A) IN GENERAL.—In cooperation with
7 the State and any affected public transportation
8 operator, the MPO designated for a metropoli-
9 tan area shall develop a metropolitan TIP for
10 the area for which the organization is des-
11 ignated.

12 “(B) OPPORTUNITY FOR COMMENT.—In
13 developing the metropolitan TIP, the MPO, in
14 cooperation with the State and any affected
15 public transportation operator, shall provide an
16 opportunity for participation by interested par-
17 ties in the development of the program, in ac-
18 cordance with subsection (g)(6).

19 “(C) FUNDING ESTIMATES.—For the pur-
20 pose of developing the metropolitan TIP, the
21 MPO, public transportation agency, and State
22 shall cooperatively develop estimates of funds
23 that are reasonably expected to be available to
24 support program implementation.

1 “(D) UPDATING AND APPROVAL.—The
2 metropolitan TIP shall be updated at least once
3 every 4 years and shall be approved by the
4 MPO and the Governor.

5 “(2) CONTENTS.—

6 “(A) PRIORITY LIST.—The metropolitan
7 TIP shall include a priority list of proposed fed-
8 erally supported projects and strategies to be
9 carried out within each 4-year period after the
10 initial adoption of the metropolitan TIP.

11 “(B) FINANCIAL PLAN.—The metropolitan
12 TIP shall include a financial plan that—

13 “(i) demonstrates how the metropoli-
14 tan TIP can be implemented;

15 “(ii) indicates resources from public
16 and private sources that are reasonably ex-
17 pected to be available to carry out the met-
18 ropolitan TIP;

19 “(iii) identifies innovative financing
20 techniques to finance projects, programs,
21 and strategies; and

22 “(iv) may include, for illustrative pur-
23 poses, additional projects that would be in-
24 cluded in the approved metropolitan TIP if
25 reasonable additional resources beyond

1 those identified in the financial plan were
2 available.

3 “(C) DESCRIPTIONS.—A project in the
4 metropolitan TIP shall include sufficient de-
5 scriptive material (such as type of work, ter-
6 mini, length, and other similar factors) to iden-
7 tify the project or phase of the project.

8 “(3) INCLUDED PROJECTS.—

9 “(A) PROJECTS UNDER TITLE 23 AND
10 CHAPTER 53 OF THIS TITLE.—A metropolitan
11 TIP for an area shall include the projects with-
12 in the area that are proposed for funding under
13 chapter 1 of title 23 and chapter 53 of this
14 title.

15 “(B) PROJECTS UNDER CHAPTER 2 OF
16 TITLE 23.—

17 “(i) REGIONALLY SIGNIFICANT
18 PROJECTS.—Regionally significant projects
19 proposed for funding under chapter 2 of
20 title 23 shall be identified individually in
21 the metropolitan TIP.

22 “(ii) OTHER PROJECTS.—Projects
23 proposed for funding under such chapter
24 that are not determined to be regionally
25 significant shall be grouped in one line

1 item or identified individually in the metro-
2 politan TIP.

3 “(C) CONSISTENCY WITH LONG-RANGE
4 TRANSPORTATION PLAN.—A project shall be
5 consistent with the metropolitan long-range
6 transportation plan for the area.

7 “(D) REQUIREMENT OF ANTICIPATED
8 FULL FUNDING.—The program shall include a
9 project, or the identified phase of a project,
10 only if full funding can reasonably be antici-
11 pated to be available for the project or the iden-
12 tified phase within the time period con-
13 templated for completion of the project or the
14 identified phase.

15 “(E) TIP MODIFICATIONS BY GOV-
16 ERNOR.—

17 “(i) IN GENERAL.—Notwithstanding
18 any other provisions of this section or sec-
19 tion 5204, if a State and an MPO fail to
20 agree on programming a project of state-
21 wide significance on the Interstate System
22 (as defined in section 101(a) of title 23)
23 into a metropolitan TIP, the Governor may
24 modify the metropolitan TIP to add the

1 project without approval or endorsement
2 by the MPO.

3 “(ii) CONFORMING AMENDMENTS TO
4 METROPOLITAN LONG-RANGE TRANSPOR-
5 TATION PLAN.—If the Governor modifies a
6 metropolitan TIP under clause (i), the
7 MPO shall amend its metropolitan long-
8 range transportation plan to be consistent
9 with the modified metropolitan TIP.

10 “(4) NOTICE AND COMMENT.—Before approv-
11 ing a metropolitan TIP, an MPO, in cooperation
12 with the State and any affected public transpor-
13 tation operator, shall provide an opportunity for par-
14 ticipation by interested parties in the development of
15 the program, in accordance with subsection (g)(5).

16 “(5) SELECTION OF PROJECTS.—

17 “(A) IN GENERAL.—Except as otherwise
18 provided in subsection (i)(4) and in addition to
19 the metropolitan TIP development required
20 under paragraph (1), the selection of federally
21 funded projects in metropolitan areas shall be
22 carried out from the approved metropolitan
23 TIP—

24 “(i) by—

1 “(I) in the case of projects under
2 title 23, the State; and

3 “(II) in the case of projects
4 under chapter 53, the designated re-
5 cipients of public transportation fund-
6 ing; and

7 “(ii) in cooperation with the MPO.

8 “(B) MODIFICATIONS TO PROJECT PRI-
9 ORITY.—Notwithstanding any other provision of
10 law, action by the Secretary shall not be re-
11 quired to advance a project included in the ap-
12 proved metropolitan TIP in place of another
13 project in the program.

14 “(6) SELECTION OF PROJECTS FROM ILLUS-
15 TRATIVE LIST.—

16 “(A) NO REQUIRED SELECTION.—Notwith-
17 standing paragraph (2)(B)(iv), a State or MPO
18 shall not be required to select any project from
19 the illustrative list of additional projects in-
20 cluded in the financial plan under paragraph
21 (2)(B)(iv).

22 “(B) REQUIRED ACTION BY THE SEC-
23 RETARY.—Action by the Secretary shall be re-
24 quired for a State or MPO to select any project
25 from the illustrative list of additional projects

1 included in the financial plan under paragraph
2 (2)(B)(iv) for inclusion in an approved metro-
3 politan TIP.

4 “(7) PUBLICATION.—

5 “(A) PUBLICATION OF TIPS.—A metropoli-
6 tan TIP involving Federal participation shall be
7 published or otherwise made readily available,
8 including on the Internet, by the MPO for pub-
9 lic review.

10 “(B) PUBLICATION OF ANNUAL LISTINGS
11 OF PROJECTS.—An annual listing of projects
12 (including investments in pedestrian walkways,
13 bicycle transportation facilities, and intermodal
14 facilities that support intercity transportation)
15 for which Federal funds have been obligated in
16 the preceding year shall be published or other-
17 wise made available, including on the Internet,
18 by the cooperative effort of the State, public
19 transportation operator, and MPO for public
20 review. The listing shall be consistent with the
21 categories identified in the metropolitan TIP.

22 “(i) TRANSPORTATION MANAGEMENT AREAS.—

23 “(1) IDENTIFICATION AND DESIGNATION.—

24 “(A) REQUIRED IDENTIFICATION.—The
25 Secretary shall identify as a transportation

1 management area each urbanized area (as de-
2 fined by the Bureau of the Census) with a pop-
3 ulation of over 200,000 individuals.

4 “(B) DESIGNATIONS ON REQUEST.—The
5 Secretary shall designate any additional area as
6 a transportation management area on the re-
7 quest of the Governor and the MPO designated
8 for the area.

9 “(2) LONG-RANGE TRANSPORTATION PLANS.—
10 In a transportation management area, metropolitan
11 long-range transportation plans shall be based on a
12 continuing and comprehensive transportation plan-
13 ning process carried out by the MPO in cooperation
14 with the State and public transportation operators.

15 “(3) CONGESTION MANAGEMENT PROCESS.—
16 Within a metropolitan planning area serving a trans-
17 portation management area, the transportation plan-
18 ning process under this section shall address conges-
19 tion management through a process that provides
20 for effective management and operation, based on a
21 cooperatively developed and implemented metropoli-
22 tan-wide strategy, of new and existing transportation
23 facilities eligible for funding under title 23 and chap-
24 ter 53 of this title through the use of travel demand
25 reduction and operational management strategies.

1 The Secretary shall establish an appropriate phase-
2 in schedule for compliance with the requirements of
3 this section but not sooner than 1 year after the
4 identification of a transportation management area.

5 “(4) SELECTION OF PROJECTS.—

6 “(A) IN GENERAL.—All federally funded
7 projects carried out within the boundaries of a
8 metropolitan planning area serving a transpor-
9 tation management area under title 23 (exclud-
10 ing projects carried out on the National High-
11 way System under such title) or under chapter
12 53 of this title shall be selected for implementa-
13 tion from the approved metropolitan TIP by the
14 MPO designated for the area in consultation
15 with the State and any affected public transpor-
16 tation operator.

17 “(B) NATIONAL HIGHWAY SYSTEM
18 PROJECTS.—Projects carried out within the
19 boundaries of a metropolitan planning area
20 serving a transportation management area on
21 the National Highway System under title 23
22 shall be selected for implementation from the
23 approved metropolitan TIP by the State in co-
24 operation with the MPO designated for the
25 area.

1 “(5) CERTIFICATION.—

2 “(A) IN GENERAL.—The Secretary shall—

3 “(i) ensure that the metropolitan
4 planning process of an MPO serving a
5 transportation management area is being
6 carried out in accordance with applicable
7 provisions of Federal law; and

8 “(ii) subject to subparagraph (B), cer-
9 tify, not less often than once every 4 years,
10 that the requirements of this paragraph
11 are met with respect to the metropolitan
12 planning process.

13 “(B) REQUIREMENTS FOR CERTIFI-
14 CATION.—The Secretary may make the certifi-
15 cation under subparagraph (A) if—

16 “(i) the transportation planning proc-
17 ess complies with the requirements of this
18 section and other applicable requirements
19 of Federal law; and

20 “(ii) there is a metropolitan TIP for
21 the metropolitan planning area that has
22 been approved by the MPO and the Gov-
23 ernor.

24 “(C) EFFECT OF FAILURE TO CERTIFY.—

1 “(i) WITHHOLDING OF PROJECT
2 FUNDS.—If the metropolitan planning
3 process of an MPO serving a transpor-
4 tation management area is not certified,
5 the Secretary may withhold up to 20 per-
6 cent of the funds attributable to the metro-
7 politan planning area of the MPO for
8 projects funded under title 23 and chapter
9 53 of this title.

10 “(ii) RESTORATION OF WITHHELD
11 FUNDS.—The withheld funds shall be re-
12 stored to the metropolitan planning area at
13 such time as the metropolitan planning
14 process is certified by the Secretary.

15 “(D) REVIEW OF CERTIFICATION.—In
16 making certification determinations under this
17 paragraph, the Secretary shall provide for pub-
18 lic involvement appropriate to the metropolitan
19 area under review.

20 “(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 in the case of a metropolitan area not designated as
23 a transportation management area under this sec-
24 tion, the Secretary may provide for the development
25 of an abbreviated metropolitan long-range transpor-

1 tation plan and TIP for the metropolitan planning
2 area that the Secretary determines is appropriate to
3 achieve the purposes of this section, taking into ac-
4 count the complexity of transportation problems in
5 the area.

6 “(2) NONATTAINMENT AREAS.—The Secretary
7 may not permit abbreviated plans or TIPs for a
8 metropolitan area that is in nonattainment for ozone
9 or carbon monoxide under the Clean Air Act.

10 “(k) ADDITIONAL REQUIREMENTS FOR CERTAIN
11 NONATTAINMENT AREAS.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of title 23, this chapter, or chapter 53 of
14 this title, for transportation management areas clas-
15 sified as nonattainment for ozone or carbon mon-
16 oxide pursuant to the Clean Air Act, Federal funds
17 may not be advanced in such area for any highway
18 project that will result in a significant increase in
19 the carrying capacity for single-occupant vehicles un-
20 less the project is addressed through a congestion
21 management process.

22 “(2) APPLICABILITY.—This subsection applies
23 to a nonattainment area within the metropolitan
24 planning area boundaries determined under sub-
25 section (c).

1 “(l) LIMITATION ON STATUTORY CONSTRUCTION.—
 2 Nothing in this section may be construed to confer on an
 3 MPO the authority to impose legal requirements on any
 4 transportation facility, provider, or project not eligible
 5 under title 23 or chapter 53 of this title.

6 “(m) FUNDING.—Funds set aside under section
 7 104(f) of title 23 or section 5305(g) of this title shall be
 8 available to carry out this section.

9 “(n) CONTINUATION OF CURRENT REVIEW PRAC-
 10 TICE.—Since metropolitan long-range transportation
 11 plans and TIPs are subject to a reasonable opportunity
 12 for public comment, since individual projects included in
 13 such plans and TIPs are subject to review under the Na-
 14 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
 15 et seq.), and since decisions by the Secretary concerning
 16 such plans and TIPs have not been reviewed under that
 17 Act as of January 1, 1997, any decision by the Secretary
 18 concerning such plans and TIPs shall not be considered
 19 to be a Federal action subject to review under that Act.

20 **“§ 5204. Statewide transportation planning**

21 “(a) GENERAL REQUIREMENTS.—

22 “(1) DEVELOPMENT OF PLANS AND PRO-
 23 GRAMS.—To accomplish the objectives stated in sec-
 24 tion 5201, a State shall develop a statewide strategic
 25 long-range transportation plan and a statewide

1 transportation improvement program for all areas of
2 the State, subject to section 5203.

3 “(2) CONTENTS.—Statewide strategic long-
4 range transportation plans and TIPs shall provide
5 for the development and integrated management and
6 operation of transportation systems and facilities
7 (including accessible pedestrian walkways, bicycle
8 transportation facilities, and intermodal facilities
9 that support intercity transportation, including
10 intercity buses and intercity bus facilities) that will
11 function as an intermodal transportation system for
12 the State and an integral part of an intermodal
13 transportation system for the United States.

14 “(3) PROCESS OF DEVELOPMENT.—The process
15 for developing statewide strategic long-range trans-
16 portation plans and TIPs shall provide for consider-
17 ation of all modes of transportation and the policies
18 stated in section 5201, and shall be continuing, co-
19 operative, and comprehensive to the degree appro-
20 priate, based on the complexity of the transportation
21 problems to be addressed.

22 “(b) COORDINATION WITH METROPOLITAN PLAN-
23 NING; STATE IMPLEMENTATION PLAN.—A State shall—

24 “(1) coordinate planning carried out under this
25 section with the transportation planning activities

1 carried out under section 5203 for metropolitan
2 areas of the State and with statewide trade and eco-
3 nomic development planning activities and related
4 multistate planning efforts; and

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

8 “(c) INTERSTATE AGREEMENTS.—

9 “(1) IN GENERAL.—The consent of Congress is
10 granted to 2 or more States entering into agree-
11 ments or compacts, not in conflict with any law of
12 the United States, for cooperative efforts and mu-
13 tual assistance in support of activities authorized
14 under this section related to interstate areas and lo-
15 calities in the States and establishing authorities the
16 States consider desirable for making the agreements
17 and compacts effective.

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

21 “(d) SCOPE OF PLANNING PROCESS.—

22 “(1) IN GENERAL.—A State shall carry out a
23 statewide transportation planning process that pro-
24 vides for consideration and implementation of
25 projects, strategies, and services that will—

1 “(A) support the economic vitality of the
2 United States, the States, nonmetropolitan
3 areas, and metropolitan areas, especially by en-
4 abling global competitiveness, productivity, and
5 efficiency;

6 “(B) increase the safety of the transpor-
7 tation system for motorized and nonmotorized
8 users;

9 “(C) increase the security of the transpor-
10 tation system for motorized and nonmotorized
11 users;

12 “(D) increase the accessibility and mobility
13 of people and freight;

14 “(E) protect and enhance the environment,
15 promote energy conservation, improve the qual-
16 ity of life, and promote consistency between
17 transportation improvements and State and
18 local planned growth and economic development
19 patterns;

20 “(F) enhance the integration and
21 connectivity of the transportation system,
22 across and between modes throughout the
23 State, for people and freight;

24 “(G) promote efficient system management
25 and operation; and

1 “(H) emphasize the preservation of the ex-
2 isting transportation system.

3 “(2) FAILURE TO CONSIDER FACTORS.—The
4 failure to consider any factor specified in paragraph
5 (1) shall not be reviewable by any court under title
6 23, chapter 53 of this title, subchapter II of chapter
7 5 of title 5, or chapter 7 of title 5 in any matter af-
8 fecting a statewide strategic long-range transpor-
9 tation plan or TIP, a project or strategy, or the cer-
10 tification of a planning process.

11 “(e) ADDITIONAL REQUIREMENTS.—In carrying out
12 planning under this section, a State shall, at a minimum—

13 “(1) with respect to nonmetropolitan areas, co-
14 operate with affected nonmetropolitan local officials
15 or, if applicable, through regional transportation
16 planning organizations described in subsection (k);

17 “(2) consider the concerns of Indian tribal gov-
18 ernments and Federal land management agencies
19 that have jurisdiction over land within the bound-
20 aries of the State; and

21 “(3) coordinate statewide long-range transpor-
22 tation plans and TIPs and planning activities with
23 related planning activities being carried out outside
24 of metropolitan planning areas and between States.

1 “(f) STATEWIDE STRATEGIC LONG-RANGE TRANS-
2 PORTATION PLAN.—

3 “(1) DEVELOPMENT.—

4 “(A) IN GENERAL.—A State shall develop
5 a statewide strategic long-range transportation
6 plan, with a minimum 20-year forecast period
7 for all areas of the State, that provides for the
8 development and implementation of the inter-
9 modal interconnected transportation system of
10 the State.

11 “(B) STATEWIDE STRATEGIC LONG-RANGE
12 TRANSPORTATION PLAN REQUIREMENTS.—

13 “(i) NATIONAL TRANSPORTATION STA-
14 TISTICS.—In developing a statewide stra-
15 tegic long-range transportation plan, the
16 State shall consider the data and factors
17 disseminated by the Secretary pursuant to
18 section 5205(b) for that particular State.

19 “(ii) TRANSPORTATION PROJECTS
20 THAT ARE OF STATEWIDE, REGIONAL, AND
21 NATIONAL IMPORTANCE.—The State shall
22 identify transportation projects across all
23 modes of transportation in the State that
24 have statewide, regional, and national sig-
25 nificance. In identifying these projects, the

1 State shall consider the factors described
2 in section 5205(b).

3 “(iii) STATES WITH CONGESTED AIR-
4 PORTS.—If a State has an airport in its
5 jurisdiction that had at least 1 percent of
6 all delayed aircraft operations in the
7 United States, as identified by the Federal
8 Aviation Administration’s Airport Capacity
9 Benchmark Report, the statewide strategic
10 long-range transportation plan shall in-
11 clude measures to alleviate congestion at
12 that airport either through expansion or
13 the development of additional facilities.

14 “(iv) STATES WITH CONGESTED
15 FREIGHT RAIL CORRIDORS.—If data from
16 the Department of Transportation and the
17 freight railroad industry project that a
18 State has freight railroad corridors that
19 operate at levels of service that are at or
20 exceed capacity, the statewide strategic
21 long-range transportation plan shall in-
22 clude measures by which the State depart-
23 ment of transportation and the freight rail-
24 roads provide relief for the congested cor-
25 ridors.

1 range transportation plan, the State shall
2 include estimates of the costs of each of
3 the projects identified in clause (ii).

4 “(2) CONSULTATION WITH GOVERNMENTS.—

5 “(A) METROPOLITAN AREAS.—The state-
6 wide strategic long-range transportation plan
7 shall be developed for each metropolitan area in
8 the State in cooperation with the metropolitan
9 planning organization designated for the metro-
10 politan area under section 5203.

11 “(B) NONMETROPOLITAN AREAS.—With
12 respect to nonmetropolitan areas, the statewide
13 strategic long-range transportation plan shall be
14 developed in cooperation with affected non-
15 metropolitan local officials or, if applicable,
16 through regional transportation planning orga-
17 nizations described in subsection (k).

18 “(C) INDIAN TRIBAL AREAS.—With respect
19 to an area of the State under the jurisdiction
20 of an Indian tribal government, the statewide
21 strategic long-range transportation plan shall be
22 developed in consultation with the tribal govern-
23 ment and the Secretary of the Interior.

24 “(D) CONSULTATION; COMPARISONS.—

1 “(i) CONSULTATION.—A statewide
2 strategic long-range transportation plan
3 shall be developed, as appropriate, in con-
4 sultation with State, tribal, regional, and
5 local agencies responsible for land use
6 management, natural resources, environ-
7 mental protection, conservation, and his-
8 toric preservation.

9 “(ii) COMPARISONS.—Consultation
10 under clause (i) shall involve, as appro-
11 priate, comparison of statewide strategic
12 long-range transportation plans—

13 “(I) to State and tribal conserva-
14 tion plans and maps, if available; and

15 “(II) to inventories of natural
16 and historic resources, if available.

17 “(3) PARTICIPATION BY INTERESTED PAR-
18 TIES.—

19 “(A) IN GENERAL.—The State shall pro-
20 vide citizens, affected public agencies, rep-
21 resentatives of public transportation employees,
22 freight shippers, providers of freight transpor-
23 tation services, private providers of transpor-
24 tation, including intercity bus services, rep-
25 resentatives of users of public transportation,

1 representatives of users of pedestrian walkways
2 and bicycle transportation facilities, representa-
3 tives of the disabled, and other interested par-
4 ties with a reasonable opportunity to comment
5 on the statewide strategic long-range transpor-
6 tation plan.

7 “(B) METHODS.—In carrying out subpara-
8 graph (A), the State shall, to the maximum ex-
9 tent practicable—

10 “(i) hold any public meetings at con-
11 venient and accessible locations and times;

12 “(ii) employ visualization techniques
13 to describe plans; and

14 “(iii) make public information avail-
15 able in electronically accessible format and
16 means, such as the Internet, as appro-
17 priate to afford a reasonable opportunity
18 for consideration of public information
19 under subparagraph (A).

20 “(4) MITIGATION ACTIVITIES.—

21 “(A) IN GENERAL.—A statewide strategic
22 long-range transportation plan shall include a
23 discussion of potential environmental mitigation
24 activities and potential areas to carry out these
25 activities, including activities that may have the

1 greatest potential to restore and maintain the
2 environmental functions affected by the plan.

3 “(B) CONSULTATION.—The discussion
4 shall be developed in consultation with Federal,
5 State, and tribal wildlife, land management,
6 and regulatory agencies.

7 “(5) FINANCIAL PLAN.—The statewide stra-
8 tegic long-range transportation plan may include a
9 financial plan that—

10 “(A) demonstrates how the adopted state-
11 wide strategic long-range transportation plan
12 can be implemented;

13 “(B) indicates resources from public and
14 private sources that are reasonably expected to
15 be made available to carry out the statewide
16 strategic long-range transportation plan;

17 “(C) recommends any additional financing
18 strategies for needed projects and programs;
19 and

20 “(D) may include, for illustrative purposes,
21 additional projects that would be included in
22 the adopted statewide strategic long-range
23 transportation plan if reasonable additional re-
24 sources beyond those identified in the financial
25 plan were available.

1 “(6) SELECTION OF PROJECTS FROM ILLUS-
2 TRATIVE LIST.—A State shall not be required to se-
3 lect any project from the illustrative list of addi-
4 tional projects included in the financial plan de-
5 scribed in paragraph (5).

6 “(7) EXISTING SYSTEM.—A statewide strategic
7 long-range transportation plan should include cap-
8 ital, operations, and management strategies, invest-
9 ments, procedures, and other measures to ensure the
10 preservation and most efficient use of the existing
11 transportation system.

12 “(8) INTERCITY BUS.—A statewide strategic
13 long-range transportation plan shall consider the
14 role intercity buses may play in reducing congestion,
15 pollution, and energy consumption in a cost-effective
16 manner and strategies and investments that preserve
17 and enhance intercity bus systems, including sys-
18 tems that are privately owned and operated.

19 “(9) PUBLICATION OF STATEWIDE STRATEGIC
20 LONG-RANGE TRANSPORTATION PLANS.—A state-
21 wide strategic long-range transportation plan pre-
22 pared by a State shall be published or otherwise
23 made available, including to the maximum extent
24 practicable in electronically accessible formats and
25 means, such as the Internet.

1 “(g) STATEWIDE TIP.—

2 “(1) DEVELOPMENT.—A State shall develop a
3 statewide TIP for all areas of the State. Such pro-
4 gram shall cover a period of 4 years and be updated
5 every 4 years or more frequently if the Governor
6 elects to update more frequently.

7 “(2) CONSULTATION WITH GOVERNMENTS.—

8 “(A) METROPOLITAN AREAS.—With re-
9 spect to a metropolitan area in the State, the
10 program shall be developed in cooperation with
11 the MPO designated for the metropolitan area
12 under section 5203.

13 “(B) NONMETROPOLITAN AREAS.—With
14 respect to a nonmetropolitan area in the State,
15 the program shall be developed in cooperation
16 with affected nonmetropolitan local officials or,
17 if applicable, through regional transportation
18 planning organizations described in subsection
19 (k).

20 “(C) INDIAN TRIBAL AREAS.—With respect
21 to an area of the State under the jurisdiction
22 of an Indian tribal government, the program
23 shall be developed in consultation with the trib-
24 al government and the Secretary of the Interior.

1 “(3) PARTICIPATION BY INTERESTED PAR-
2 TIES.—In developing the program, the State shall
3 provide citizens, affected public agencies, representa-
4 tives of public transportation employees, freight
5 shippers, private providers of transportation, pro-
6 viders of freight transportation services, representa-
7 tives of users of public transportation, representa-
8 tives of users of pedestrian walkways and bicycle
9 transportation facilities, representatives of the dis-
10 abled, and other interested parties with a reasonable
11 opportunity to comment on the proposed program.

12 “(4) INCLUDED PROJECTS.—

13 “(A) IN GENERAL.—A statewide TIP de-
14 veloped for a State shall include federally sup-
15 ported surface transportation expenditures
16 within the boundaries of the State.

17 “(B) LISTING OF PROJECTS.—An annual
18 listing of projects for which funds have been ob-
19 ligated in the preceding year in each metropoli-
20 tan planning area shall be published or other-
21 wise made available by the cooperative effort of
22 the State, public transportation operator, and
23 the MPO for public review. The listing shall be
24 consistent with the funding categories identified
25 in each metropolitan TIP.

1 “(C) PROJECTS UNDER CHAPTER 2 OF
2 TITLE 23.—

3 “(i) REGIONALLY SIGNIFICANT
4 PROJECTS.—Regionally significant projects
5 proposed for funding under chapter 2 of
6 title 23 shall be identified individually in
7 the statewide TIP.

8 “(ii) OTHER PROJECTS.—Projects
9 proposed for funding under such chapter
10 that are not determined to be regionally
11 significant shall be grouped in one line
12 item or identified individually in the state-
13 wide TIP.

14 “(D) CONSISTENCY WITH STATEWIDE
15 STRATEGIC LONG-RANGE TRANSPORTATION
16 PLAN.—A project shall be—

17 “(i) consistent with the statewide
18 strategic long-range transportation plan
19 developed under this section for the State;

20 “(ii) identical to the project or phase
21 of the project as described in an approved
22 metropolitan long-range transportation
23 plan;

1 “(iii) identical to the project or phase
2 of the project as described in a metropoli-
3 tan TIP approved by the Governor; and

4 “(iv) in conformance with the applica-
5 ble State air quality implementation plan
6 developed under the Clean Air Act, if the
7 project is carried out in an area designated
8 as nonattainment for ozone, particulate
9 matter, or carbon monoxide under that
10 Act.

11 “(E) REQUIREMENT OF ANTICIPATED
12 FULL FUNDING.—The statewide TIP shall in-
13 clude a project, or the identified phase of a
14 project, only if full funding can reasonably be
15 anticipated to be available for the project or the
16 identified phase within the time period con-
17 templated for completion of the project or the
18 identified phase.

19 “(F) FINANCIAL PLAN.—The statewide
20 TIP may include a financial plan that—

21 “(i) demonstrates how the approved
22 statewide TIP can be implemented;

23 “(ii) indicates resources from public
24 and private sources that are reasonably ex-

1 pected to be made available to carry out
2 the statewide TIP;

3 “(iii) recommends any additional fi-
4 nancing strategies for needed projects and
5 programs; and

6 “(iv) may include, for illustrative pur-
7 poses, additional projects that would be in-
8 cluded in the adopted statewide TIP if rea-
9 sonable additional resources beyond those
10 identified in the financial plan were avail-
11 able.

12 “(G) SELECTION OF PROJECTS FROM IL-
13 LUSTRATIVE LIST.—

14 “(i) NO REQUIRED SELECTION.—Not-
15 withstanding subparagraph (F), a State
16 shall not be required to select any project
17 from the illustrative list of additional
18 projects included in the financial plan
19 under subparagraph (F).

20 “(ii) REQUIRED ACTION BY THE SEC-
21 RETARY.—An action by the Secretary shall
22 be required for a State to select any
23 project from the illustrative list of addi-
24 tional projects included in the financial

1 plan under subparagraph (F) for inclusion
2 in an approved statewide TIP.

3 “(H) PRIORITIES.—The statewide TIP
4 shall reflect the priorities for programming and
5 expenditures of funds required by title 23, this
6 chapter, and chapter 53 of this title.

7 “(5) PROJECT SELECTION FOR AREAS WITHOUT
8 MPOS.—

9 “(A) IN GENERAL.—Except as provided by
10 subparagraph (B), projects carried out in areas
11 without a designated MPO shall be selected
12 from the approved statewide TIP by the State
13 in cooperation with affected nonmetropolitan
14 local officials or, if applicable, through regional
15 transportation planning organizations described
16 in subsection (k).

17 “(B) NHS PROJECTS.—Projects carried
18 out on the National Highway System under
19 title 23 or under sections 5311 and 5317 of
20 this title in areas without a designated MPO
21 shall be selected from the approved statewide
22 TIP by the State in consultation with affected
23 nonmetropolitan local officials.

1 “(6) TIP APPROVAL.—Every 4 years, a state-
2 wide TIP shall be reviewed and approved by the Sec-
3 retary if based on a current planning finding.

4 “(7) PLANNING FINDING.—A finding shall be
5 made by the Secretary at least once every 4 years
6 that the transportation planning process through
7 which statewide strategic long-range transportation
8 plans and TIPs are developed is consistent with this
9 section and section 5203.

10 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
11 Notwithstanding any other provision of law, action
12 by the Secretary shall not be required to advance a
13 project included in the approved statewide TIP in
14 place of another project in the program.

15 “(h) FUNDING.—Funds set aside pursuant to sec-
16 tions 104(f) and 505 of title 23 and section 5305(g) of
17 this title shall be available to carry out this section.

18 “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-
19 GESTION MANAGEMENT PROCESSES.—For purposes of
20 this section and section 5203, State laws, rules, or regula-
21 tions pertaining to congestion management systems or
22 programs may constitute the congestion management
23 process under this section and section 5203 if the Sec-
24 retary finds that the State laws, rules, or regulations are

1 consistent with, and fulfill the intent of, the purposes of
2 this section and section 5203, as appropriate.

3 “(j) CONTINUATION OF CURRENT REVIEW PRAC-
4 TICE.—Since statewide strategic long-range transpor-
5 tation plans and TIPs are subject to a reasonable oppor-
6 tunity for public comment, individual projects included in
7 such plans and TIPs are subject to review under the Na-
8 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
9 et seq.), and decisions by the Secretary concerning such
10 plans and TIPs have not been reviewed under that Act
11 as of January 1, 1997, any decision by the Secretary con-
12 cerning such plans and TIPS shall not be considered to
13 be a Federal action subject to review under that Act.

14 “(k) DESIGNATION OF REGIONAL TRANSPORTATION
15 PLANNING ORGANIZATIONS.—

16 “(1) IN GENERAL.—To carry out the transpor-
17 tation planning process required by this section, a
18 State may establish and designate regional transpor-
19 tation planning organizations to enhance the plan-
20 ning, coordination, and implementation of statewide
21 strategic long-range transportation plans and TIPs,
22 with an emphasis on addressing the needs of non-
23 metropolitan areas of the State.

24 “(2) STRUCTURE.—A regional transportation
25 planning organization shall be established as a

1 multi-jurisdictional organization of volunteers from
2 nonmetropolitan local officials or their designees and
3 representatives of local transportation systems.

4 “(3) REQUIREMENTS.—A regional transpor-
5 tation planning organization shall establish, at a
6 minimum—

7 “(A) a policy committee, the majority of
8 which shall consist of nonmetropolitan local of-
9 ficials, or their designees, and which shall also
10 include, as appropriate, additional representa-
11 tives from the State, private business, transpor-
12 tation service providers, economic development
13 practitioners, and the public in the region; and

14 “(B) a fiscal and administrative agent,
15 such as an existing regional planning and devel-
16 opment organization, to provide professional
17 planning, management, and administrative sup-
18 port.

19 “(4) DUTIES.—The duties of a regional trans-
20 portation planning organization shall include—

21 “(A) developing and maintaining, in co-
22 operation with the State, regional long-range
23 multimodal transportation plans;

1 “(B) developing a regional transportation
2 improvement program for consideration by the
3 State;

4 “(C) fostering the coordination of local
5 planning, land use, and economic development
6 plans with State, regional, and local transpor-
7 tation plans and programs;

8 “(D) providing technical assistance to local
9 officials;

10 “(E) participating in national, multistate,
11 and State policy and planning development
12 processes to ensure the regional and local input
13 of nonmetropolitan areas;

14 “(F) providing a forum for public partici-
15 pation in the statewide and regional transpor-
16 tation planning processes;

17 “(G) considering and sharing plans and
18 programs with neighboring regional transpor-
19 tation planning organizations, MPOs, and,
20 where appropriate, tribal organizations; and

21 “(H) conducting other duties, as nec-
22 essary, to support and enhance the statewide
23 planning process under subsection (d).

24 “(5) STATES WITHOUT REGIONAL TRANSPOR-
25 TATION PLANNING ORGANIZATIONS.—If a State

1 chooses not to establish or designate a regional
2 transportation planning organization, the State shall
3 consult with affected nonmetropolitan local officials
4 to determine projects that may be of regional signifi-
5 cance.

6 **“§ 5205. National strategic transportation plan**

7 “(a) DEVELOPMENT OF NATIONAL STRATEGIC
8 TRANSPORTATION PLAN.—

9 “(1) DEVELOPMENT OF PLAN.—

10 “(A) IN GENERAL.—The Secretary, in con-
11 sultation with State departments of transpor-
12 tation, shall develop a national strategic trans-
13 portation plan (in this section referred to as the
14 ‘national plan’) in accordance with the require-
15 ments of this section.

16 “(B) SOLICITATION.—Not later than 30
17 days after the date of enactment of this section,
18 the Secretary shall publish in the Federal Reg-
19 ister a solicitation requesting each State depart-
20 ment of transportation to submit to the Sec-
21 retary, not later than 90 days after such date
22 of enactment, a list of projects that the State
23 recommends for inclusion in the national plan.

24 “(C) STATE SELECTION OF PROJECTS.—In
25 selecting projects under subparagraph (B), a

1 State department of transportation shall con-
2 sider the elements of the national plan de-
3 scribed in paragraph (2).

4 “(D) FAILURE TO SUBMIT RECOMMENDA-
5 TIONS.—If a State does not submit a list of rec-
6 ommended projects in accordance with this
7 paragraph, the Secretary shall select projects in
8 the State that will be considered for inclusion in
9 the national plan.

10 “(E) SELECTION OF PROJECTS.—Not later
11 than 60 days after the date on which the Sec-
12 retary receives a list of recommended projects
13 from a State department of transportation
14 under this paragraph, the Secretary shall review
15 the list and select projects from the list for in-
16 clusion in the national plan.

17 “(F) BASIS FOR SELECTION.—In selecting
18 projects for inclusion in the national plan, the
19 Secretary shall consider, at a minimum—

20 “(i) the projects recommended by
21 State departments of transportation under
22 this paragraph;

23 “(ii) the ability of projects to improve
24 mobility by increasing transportation op-
25 tions for passengers and freight;

1 “(iii) the degree to which projects cre-
2 ate intermodal links between different
3 modes of transportation, including pas-
4 senger and freight rail, public transpor-
5 tation, intercity bus, airports, seaports,
6 and navigable inland waterways; and

7 “(iv) the ability of projects to gen-
8 erate national economic benefits, includ-
9 ing—

10 “(I) improvements to economic
11 productivity through congestion relief;
12 and

13 “(II) improvements to passenger
14 and freight movement.

15 “(2) ELEMENTS OF NATIONAL PLAN.—

16 “(A) ROLE OF STATEWIDE STRATEGIC
17 LONG-RANGE TRANSPORTATION PLANS.—The
18 national plan shall be modeled after the state-
19 wide strategic long-range transportation plans
20 developed under section 5204(f).

21 “(B) NATIONAL AND REGIONAL TRANS-
22 PORTATION PROJECTS.—Giving emphasis to the
23 facilities that serve important national and re-
24 gional transportation functions, the national
25 plan shall include an identification of transpor-

1 tation projects (including major roadways, pub-
2 lic transportation facilities, intercity bus facili-
3 ties, multimodal and intermodal facilities, and
4 intermodal connectors) that facilitate the devel-
5 opment of—

6 “(i) a national transportation system;

7 and

8 “(ii) an integrated regional transpor-
9 tation system.

10 “(C) INTERCONNECTIVITY BETWEEN
11 STATES AND REGIONS.—The national plan shall
12 ensure a level of interconnectivity among trans-
13 portation facilities and strategies at State and
14 regional borders.

15 “(D) IDENTIFICATION OF POTENTIAL
16 HIGH-SPEED INTERCITY RAIL CORRIDORS AND
17 SHIPPING ROUTES.—In developing the national
18 plan, the Secretary, in consultation with State
19 departments of transportation, shall identify po-
20 tential high-speed passenger rail projects and
21 potential short seas shipping routes.

22 “(E) INTERCITY BUS NETWORK.—The na-
23 tional plan shall identify projects to preserve
24 and expand the Nation’s intercity bus network

1 and provide interconnectivity to other forms of
2 intercity and local transportation.

3 “(F) COST ESTIMATES FOR PROJECTS.—In
4 developing the national plan, the Secretary shall
5 include estimates of the costs of each of the
6 projects and strategies identified in the national
7 plan and a total cost of all of the projects and
8 strategies identified in the national plan.

9 “(3) ISSUANCE AND UPDATING OF NATIONAL
10 PLAN.—

11 “(A) ISSUANCE.—Not later than April 30,
12 2014, the Secretary shall submit to the Com-
13 mittee on Transportation and Infrastructure of
14 the House of Representatives and the Com-
15 mittee on Environment and Public Works, the
16 Committee on Banking, Housing, and Urban
17 Affairs, and the Committee on Commerce,
18 Science, and Transportation of the Senate the
19 national plan developed under this section.

20 “(B) UPDATES.—At least once every 2
21 years after the date of submission of the na-
22 tional plan under subparagraph (A), the Sec-
23 retary—

1 “(i) in consultation with State depart-
2 ments of transportation, shall update the
3 national plan; and

4 “(ii) shall submit the updated national
5 plan to the committees referred to in sub-
6 paragraph (A).

7 “(b) DISSEMINATION OF TRANSPORTATION DATA
8 AND STATISTICS FOR DEVELOPMENT OF STRATEGIC
9 LONG-RANGE TRANSPORTATION PLANS.—

10 “(1) IN GENERAL.—The Secretary shall de-
11 velop, and disseminate to the States, relevant long-
12 range transportation data and statistics that a State
13 or the Secretary, as the case may be, shall use in the
14 development of statewide, regional, and national
15 strategic long-range transportation plans.

16 “(2) TYPES OF TRANSPORTATION DATA AND
17 STATISTICS TO BE DEVELOPED.—The data and sta-
18 tistics referred to in paragraph (1) shall include, at
19 a minimum, 20-year projections—

20 “(A) of population growth in each State;

21 “(B) from the Department of Transpor-
22 tation’s Freight Analysis Framework (referred
23 to in this paragraph as ‘FAF’), including pro-
24 jections for annual average daily truck flow on
25 specific highway routes;

1 “(C) from the Department of Transpor-
2 tation’s Highway Performance Monitoring Sys-
3 tem (referred to in this paragraph as ‘HPMS’)
4 of estimated peak period congestion on major
5 highway routes or segments of routes and in
6 metropolitan areas;

7 “(D) from HPMS and FAF of estimated
8 traffic volumes on segments of highway that are
9 projected to be classified as moderately or high-
10 ly congested;

11 “(E) from HPMS and FAF for highway
12 bottlenecks;

13 “(F) of public transportation use in urban-
14 ized areas, including for each urbanized area a
15 comparison of estimated ridership growth and
16 estimated public transportation revenue vehicle
17 miles to available system capacity and current
18 service levels;

19 “(G) of aviation passenger enplanements
20 and cargo ton miles flown;

21 “(H) of increases in unmanned aerial sys-
22 tem and general aviation active aircraft and
23 hours flown;

24 “(I) of capacity-constrained airports and
25 congested air traffic routes;

1 “(J) of passenger demand for suborbital
2 space tourism;

3 “(K) of demand on major freight rail lines;

4 “(L) of shipping traffic at United States
5 ports; and

6 “(M) of intercity bus and passenger rail
7 ridership demand.

8 **“§ 5206. National performance management system**

9 “(a) ESTABLISHMENT OF NATIONAL PERFORMANCE
10 MANAGEMENT SYSTEM.—

11 “(1) ESTABLISHMENT.—The Secretary shall es-
12 tablish a national performance management system
13 to track the Nation’s progress toward broad national
14 performance goals for the Nation’s highway and
15 public transportation systems.

16 “(2) COMPONENTS.—The National Perform-
17 ance Management System shall include the following
18 components:

19 “(A) A national performance management
20 goal.

21 “(B) Core performance measures.

22 “(C) Technical guidance.

23 “(D) A State performance management
24 process, including—

25 “(i) performance targets;

1 “(ii) strategies; and

2 “(iii) reporting requirements.

3 “(b) NATIONAL PERFORMANCE MANAGEMENT

4 GOAL.—

5 “(1) ESTABLISHMENT.—The Secretary shall es-
6 tablish, in broad qualitative terms, a national per-
7 formance management goal for the Nation’s highway
8 and public transportation systems to ensure eco-
9 nomic growth, safety improvement, and increased
10 mobility.

11 “(2) CONSISTENCY WITH NATIONAL STRATEGIC
12 TRANSPORTATION PLAN.—The national strategic
13 transportation plan, to the greatest extent prac-
14 ticable, shall be consistent with the national per-
15 formance management goal.

16 “(c) CORE PERFORMANCE MEASURES.—

17 “(1) ESTABLISHMENT.—Not later than 2 years
18 after the date of enactment of this section, the Sec-
19 retary, in collaboration with the States, metropolitan
20 planning organizations, and public transportation
21 agencies through the process described in paragraph
22 (4) shall establish core performance measures.

23 “(2) IMPLEMENTATION.—A State shall be re-
24 quired to implement the core performance measures

1 as part of the State’s performance management
2 process established in subsection (e).

3 “(3) CATEGORIES.—The core performance
4 measures shall include not more than 2 measures
5 from each of the following categories:

6 “(A) Pavement condition on the National
7 Highway System.

8 “(B) Bridge condition on the National
9 Highway System.

10 “(C) Highway and motor carrier safety.

11 “(D) Highway safety infrastructure asset
12 management.

13 “(E) Bike and pedestrian safety.

14 “(F) Highway congestion.

15 “(G) Air emissions and energy consump-
16 tion.

17 “(H) Freight mobility.

18 “(I) Public transportation state of good re-
19 pair.

20 “(J) Public transportation service avail-
21 ability.

22 “(K) Rural connectivity.

23 “(4) PROCESS.—The core performance meas-
24 ures shall be established under the following process:

1 “(A) At any time after the date of enact-
2 ment of this section, the State departments of
3 transportation (in consultation with metropoli-
4 tan planning organizations and public transpor-
5 tation agencies), acting through their national
6 organization, may jointly submit to the Sec-
7 retary a complete set of recommended core per-
8 formance measures for use in statewide trans-
9 portation planning.

10 “(B) The Secretary shall give substantial
11 weight to the recommendations submitted by
12 the State departments of transportation, if such
13 recommendations are submitted not later than
14 18 months after enactment of this section.

15 “(C) After consultation with the State de-
16 partments of transportation regarding the rec-
17 ommendations, the Secretary shall issue a no-
18 tice in the Federal Register announcing the
19 Secretary’s proposed set of core performance
20 measures and providing an opportunity for
21 comment.

22 “(D) After considering any comments, the
23 Secretary shall publish a notice in the Federal
24 Register not later than 2 years after the date

1 of enactment of this section announcing the
2 final set of core performance measures.

3 “(d) TECHNICAL GUIDANCE.—

4 “(1) IN GENERAL.—Not later than 6 months
5 after the Secretary publishes the final set of core
6 performance measures in the Federal Register under
7 subsection (c)(4)(D), the Secretary shall issue tech-
8 nical guidance, including a uniform methodology for
9 collecting data, for use by the States in applying the
10 core performance measures.

11 “(2) DEVELOPMENT.—The Secretary shall—

12 “(A) develop the technical guidance in col-
13 laboration with the State departments of trans-
14 portation;

15 “(B) give substantial weight to any rec-
16 ommendations submitted by the State depart-
17 ments of transportation through their national
18 organization, if such recommendations are sub-
19 mitted not later than 3 months after the Sec-
20 retary publishes the final set of core perform-
21 ance measures in the Federal Register under
22 subsection (c)(4)(D); and

23 “(C) provide a reasonable opportunity for
24 State departments of transportation to com-

1 ment on the technical guidance before it is
2 issued.

3 “(e) STATE PERFORMANCE MANAGEMENT PROC-
4 ESS.—

5 “(1) ESTABLISHMENT OF PERFORMANCE TAR-
6 GETS.—

7 “(A) INITIAL TARGETS.—Not later than 1
8 year after the Secretary publishes the final set
9 of core performance measures in the Federal
10 Register under subsection (c)(4)(D), a State
11 shall amend its statewide strategic long-range
12 transportation plan to include a target level of
13 performance for each of the core performance
14 measures.

15 “(B) REVISIONS TO TARGETS.—A State
16 may revise its performance targets for the core
17 performance measures at any time by amending
18 its statewide strategic long-range transportation
19 plan and resubmitting the plan to the Sec-
20 retary.

21 “(2) REPORTING REQUIREMENTS.—

22 “(A) IN GENERAL.—In order to improve
23 the outcomes of the transportation planning
24 process, the States shall implement a national

1 performance reporting process in accordance
2 with subparagraphs (B) and (C).

3 “(B) BASELINE REPORT.—Not later than
4 6 months after adopting its initial performance
5 targets for the core performance measures pur-
6 suant to paragraph (1)(A), a State shall publish
7 a baseline report including data from the most
8 recent year for which data is available for the
9 full set of core performance measures.

10 “(C) ANNUAL PROGRESS REPORTS.—Not
11 later than 18 months after publication of the
12 baseline report, and annually thereafter, a State
13 shall publish a report documenting the progress
14 that the State has made in meeting its perform-
15 ance targets for the core performance meas-
16 ures.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) SUBTITLE ANALYSIS.—The analysis for
19 subtitle III of title 49, United States Code, is
20 amended by inserting after the item relating to
21 chapter 51 the following:

“52. **Transportation Planning** **5201.**”.

22 (2) METROPOLITAN TRANSPORTATION PLAN-
23 NING.—

1 (A) TITLE 23.—Section 134 of title 23,
2 United States Code, is amended to read as fol-
3 lows:

4 **“§ 134. Metropolitan transportation planning**

5 “Metropolitan transportation planning programs
6 funded under section 104(f) shall be carried out in accord-
7 ance with the metropolitan planning provisions of section
8 5203 of title 49, United States Code.”.

9 (B) CHAPTER 53 OF TITLE 49.—Section
10 5303 of title 49, United States Code, is amend-
11 ed to read as follows:

12 **“§ 5303. Metropolitan transportation planning**

13 “Metropolitan transportation planning programs
14 funded under section 5305 shall be carried out in accord-
15 ance with the metropolitan planning provisions of section
16 5203.”.

17 (3) STATEWIDE TRANSPORTATION PLANNING.—

18 (A) TITLE 23.—Section 135 of title 23,
19 United States Code, is amended to read as fol-
20 lows:

21 **“§ 135. Statewide transportation planning**

22 “Statewide transportation planning programs funded
23 under sections 104(f) and 505 shall be carried out in ac-
24 cordance with the metropolitan planning provisions of sec-
25 tion 5204 of title 49, United States Code.”.

1 (B) CHAPTER 53 OF TITLE 49.—Section
2 5304 of title 49, United States Code, is amend-
3 ed to read as follows:

4 **“§ 5304. Statewide transportation planning**

5 “Statewide transportation planning programs funded
6 under section 5305 shall be carried out in accordance with
7 the metropolitan planning provisions of section 5204.”.

8 **SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN**
9 **PLANNING ORGANIZATIONS.**

10 (a) CONTINUATION OF APPLICABILITY OF SECTION
11 134.—A metropolitan planning organization that serves
12 an urbanized area with a population of more than 50,000
13 and less than 100,000 and that is subject to the provisions
14 of section 134 of title 23, United States Code, and section
15 5303 of title 49, United States Code (as in effect on the
16 day before the date of enactment of this Act), shall con-
17 tinue to be designated as a metropolitan planning organi-
18 zation subject to section 5203 of title 49, United States
19 Code (as added by this title), unless the Governor and
20 units of general purpose local government that together
21 represent at least 75 percent of the affected population,
22 including the largest incorporated city (based on popu-
23 lation) as determined by the Bureau of the Census, agree
24 to terminate the designation.

1 (b) TREATMENT.—A metropolitan planning organiza-
2 tion described in paragraph (1) shall be treated, for pur-
3 poses of title 23, United States Code, and chapters 52 and
4 53 of title 49, United States Code, the Transportation Eq-
5 uity Act for the 21st Century (Public Law 105–178), and
6 SAFETEA–LU (Public Law 109–59) as a metropolitan
7 planning organization that is subject to the provisions of
8 section 5203 of title 49, United States Code (as added
9 by this title).

10 **SEC. 4003. FINANCIAL PLANS.**

11 Not later than 90 days after the date of enactment
12 of this Act, the Secretary shall issue revised regulations
13 under sections 5203 and 5204 of title 49, United States
14 Code (as added by this title), to clarify that—

15 (1) a financial plan for a long-range transpor-
16 tation plan or transportation improvement program
17 is required to be updated not more than once every
18 4 years;

19 (2) an amendment to a long-range transpor-
20 tation plan or transportation improvement program
21 does not require a review of the entire financial plan,
22 but rather requires only a plan for covering any in-
23 cremental costs associated with the amendment;

24 (3) project costs and revenue estimates used in
25 developing a financial plan for a long-range plan

1 should be based on long-term trends, and need not
2 be adjusted to reflect short-term fluctuations;

3 (4) the Department shall defer to the judgment
4 of State and local governments regarding the mag-
5 nitude of potential State and local revenue streams,
6 including the likelihood that State or local govern-
7 ments will approve tax increases, tolling, bonding, or
8 other measures to increase revenues; and

9 (5) the requirement for a financial plan does
10 not give the Secretary the authority or responsibility
11 to determine the adequacy of a State or metropoli-
12 tan area’s funding levels for operation and mainte-
13 nance of the transportation system.

14 **SEC. 4004. PLAN UPDATE.**

15 Not later than September 30, 2012, a State shall up-
16 date its statewide strategic long-range transportation plan
17 to comply with the requirements of section 5205 of title
18 49, United States Code.

19 **SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR**
20 **TITLE 23.**

21 Section 505 of title 23, United States Code, is
22 amended—

23 (1) in subsection (a)(5) by inserting “intercity
24 bus,” after “public transportation,”; and

1 (2) in subsection (b)(1) by inserting “intercity
2 bus,” after “public transportation,”.

3 **SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.**

4 (a) **STUDY.**—The Secretary shall enter into appro-
5 priate arrangements with the National Academy of
6 Sciences to conduct a study on the implementation of sec-
7 tion 5206 of title 49, United States Code (as added by
8 this title).

9 (b) **CONTENTS.**—The study shall—

10 (1) report on the timeliness of implementation,
11 the quality and consistency of performance measure-
12 ment practices, the costs of compliance, and impact
13 on the transportation planning process;

14 (2) include recommendations for changes to im-
15 prove implementation; and

16 (3) include recommendations for future addi-
17 tions or changes to the performance categories as
18 described in this section.

19 (c) **CONSULTATION.**—The National Academy of
20 Sciences shall conduct the study required under this sec-
21 tion in consultation with the Federal Highway Adminis-
22 tration, Federal Transit Administration, American Asso-
23 ciation of State Highway and Transportation Officials,
24 American Public Transit Association, and Association of
25 Metropolitan Planning Organizations.

1 (d) COMPLETION IN PHASES.—

2 (1) IN GENERAL.—The National Academy of
3 Sciences shall complete the study in 2 phases, cor-
4 responding to the major stages of implementation of
5 section 5206 of title 49, United States Code.

6 (2) PHASE I.—Phase 1 of the study shall—

7 (A) address implementation of perform-
8 ance measures; and

9 (B) be completed not later than 3 years
10 after the date of enactment of this Act.

11 (3) PHASE II.—Phase 2 of the study shall—

12 (A) address implementation of perform-
13 ance targets, as well as performance measures;
14 and

15 (B) be completed not later than 5 years
16 after the date of enactment of this Act.

17 **SEC. 4007. CONGESTION RELIEF.**

18 The Secretary shall—

19 (1) encourage States and metropolitan planning
20 organizations to prioritize congestion relief projects
21 in transportation improvement programs in order to
22 improve the flow of commerce and the productivity
23 of the Federal-aid system; and

24 (2) provide technical assistance and educational
25 materials to States to quantify the economic, envi-

1 ronmental, and quality-of-life damage caused by
2 traffic congestion as well as identify multiple options
3 for solutions, including new roads and lanes, bottle-
4 neck removal, and low-cost congestion relief projects.

5 **TITLE V—HIGHWAY SAFETY**

6 **SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES**

7 **CODE.**

8 Except as otherwise expressly provided, whenever in
9 this title an amendment or repeal is expressed in terms
10 of an amendment to, or a repeal of, a section or other
11 provision, the reference shall be considered to be made to
12 a section or other provision of title 23, United States
13 Code.

14 **SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) IN GENERAL.—The following sums are author-
16 ized to be appropriated out of the Highway Trust Fund
17 (other than the Alternative Transportation Account):

18 (1) HIGHWAY SAFETY PROGRAMS.—For car-
19 rying out section 402 of title 23, United States
20 Code, \$493,312,000 for each of fiscal years 2013
21 through 2016.

22 (2) NATIONAL DRIVER REGISTER.—For the Na-
23 tional Highway Traffic Safety Administration to
24 carry out chapter 303 of title 49, United States

1 Code, \$4,116,000 for each of fiscal years 2013
2 through 2016.

3 (3) ADMINISTRATIVE EXPENSES.—For adminis-
4 trative and related operating expenses of the Na-
5 tional Highway Traffic Safety Administration in car-
6 rying out chapter 4 of title 23, United States Code,
7 and this title (including the amendments made by
8 this title) \$162,572,000 for each of fiscal years 2013
9 through 2016.

10 (b) PROHIBITION ON OTHER USES.—Except as oth-
11 erwise provided in chapter 4 of title 23, United States
12 Code, and this title (including the amendments made by
13 this title), the amounts made available from the Highway
14 Trust Fund (other than the Alternative Transportation
15 Account) for a program under that chapter shall be used
16 only to carry out such program and may not be used by
17 States or local governments for construction purposes.

18 (c) APPLICABILITY OF CHAPTER 1.—Except as oth-
19 erwise provided in chapter 4 of title 23, United States
20 Code, and this title (including the amendments made by
21 this title), the amounts made available under subsection
22 (a) for each of fiscal years 2013 through 2016 shall be
23 available for obligation in the same manner as if such
24 funds were apportioned under chapter 1 of title 23, United
25 States Code.

1 **SEC. 5003. HIGHWAY SAFETY PROGRAMS.**

2 (a) IN GENERAL.—Section 402(a) is amended to
3 read as follows:

4 “(a) STATE HIGHWAY SAFETY PROGRAMS.—

5 “(1) IN GENERAL.—Each State shall have a
6 highway safety program that is subject to approval
7 by the Secretary and is designed to reduce traffic
8 crashes and the fatalities, injuries, and property
9 damage resulting therefrom.

10 “(2) UNIFORM GUIDELINES.—A State’s high-
11 way safety program under paragraph (1) shall be es-
12 tablished and carried out in accordance with uniform
13 guidelines promulgated by the Secretary, which shall
14 be expressed in terms of performance criteria and
15 shall include programs—

16 “(A) to reduce injuries and fatalities re-
17 sulting from motor vehicles being driven in ex-
18 cess of posted speed limits;

19 “(B) to encourage the proper use of occu-
20 pant protection devices (including the use of
21 seat belts and child restraints) by occupants of
22 motor vehicles;

23 “(C) to reduce fatalities and injuries re-
24 sulting from persons driving motor vehicles
25 while impaired by alcohol or a controlled sub-
26 stance;

1 “(D) to prevent crashes and reduce fatali-
2 ties and injuries resulting from crashes involv-
3 ing motor vehicles and motorcycles;

4 “(E) to reduce crashes resulting from un-
5 safe driving behavior (including aggressive or
6 fatigued driving and distracted driving arising
7 from the use of electronic devices in vehicles);

8 “(F) to improve law enforcement activities
9 relating to motor vehicle crash prevention, traf-
10 fic supervision, and postcrash procedures;

11 “(G) to improve the timeliness, accuracy,
12 completeness, uniformity, and accessibility of
13 the safety data of States that is needed—

14 “(i) for activities relating to perform-
15 ance targets established under subsection
16 (m);

17 “(ii) to identify priorities for national,
18 State, and local highway and traffic safety
19 programs; and

20 “(iii) to improve the compatibility and
21 interoperability of the data systems of each
22 State with national data systems and the
23 data systems of other States;

24 “(H) to improve driver performance, in-
25 cluding through driver education, driver testing

1 to determine proficiency to operate motor vehi-
2 cles, driver examinations (both physical and
3 mental), and driver licensing; and

4 “(I) to improve pedestrian and bicycle
5 safety.

6 “(3) RECORD SYSTEM.—The uniform guidelines
7 promulgated under paragraph (2) shall include pro-
8 visions for an effective record system of—

9 “(A) traffic crashes, including injuries and
10 fatalities resulting therefrom;

11 “(B) crash investigation activities carried
12 out to determine the probable causes of crashes,
13 injuries, and fatalities;

14 “(C) vehicle registration, operation, and in-
15 spection activities;

16 “(D) highway design and maintenance ac-
17 tivities, including lighting, markings, and sur-
18 face treatment activities;

19 “(E) traffic surveillance activities relating
20 to the detection and correction of locations with
21 a significant potential for crashes; and

22 “(F) emergency services.

23 “(4) APPLICABILITY OF GUIDELINES.—The
24 uniform guidelines applicable to State highway safe-
25 ty programs shall, to the extent determined appro-

1 appropriate by the Secretary, be applicable to federally ad-
2 ministered areas where a Federal department or
3 agency controls the highways or supervises traffic
4 operations.”.

5 (b) ADMINISTRATION OF STATE PROGRAMS.—Sec-
6 tion 402(b) is amended—

7 (1) in paragraph (1)—

8 (A) in subparagraph (D) by striking “and”
9 at the end;

10 (B) in subparagraph (E)—

11 (i) in clause (i) by striking “national
12 law enforcement mobilizations” and insert-
13 ing “any national traffic safety law en-
14 forcement mobilizations coordinated by the
15 Secretary”; and

16 (ii) by striking the period at the end
17 and inserting a semicolon; and

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

19 “(F) demonstrate that the State has estab-
20 lished a highway safety data and traffic records
21 coordinating committee with a multidisciplinary
22 membership that includes, among others, man-
23 agers, collectors, and users of traffic records
24 and public health and injury control data sys-
25 tems;

1 “(G) demonstrate that the State has devel-
2 oped a multiyear highway safety data and traf-
3 fic records system strategic plan that—

4 “(i) addresses existing deficiencies in
5 the State’s highway safety data and traffic
6 records system;

7 “(ii) is approved by the State’s high-
8 way safety data and traffic records coordi-
9 nating committee;

10 “(iii) specifies how existing defi-
11 ciencies in the State’s highway safety data
12 and traffic records system were identified;

13 “(iv) prioritizes, on the basis of the
14 identified highway safety data and traffic
15 records system deficiencies of the State,
16 the highway safety data and traffic records
17 system needs and goals of the State;

18 “(v) identifies performance-based
19 measures by which progress toward those
20 goals will be determined; and

21 “(vi) specifies how funds apportioned
22 to the State under subsection (c) and any
23 other funds of the State are to be used to
24 address needs and goals identified in the
25 multiyear plan; and

1 “(H) demonstrate that an assessment or
2 audit of the State’s highway safety data and
3 traffic records system was conducted or up-
4 dated during the 5-year period ending on the
5 date on which such State highway safety pro-
6 gram is submitted to the Secretary for ap-
7 proval.”; and

8 (2) by striking paragraph (3).

9 (c) APPORTIONMENT OF FUNDS.—Section 402(c) is
10 amended to read as follows:

11 “(c) APPORTIONMENT OF FUNDS.—

12 “(1) IN GENERAL.—Funds made available to
13 carry out this section shall be used to aid States in
14 conducting the highway safety programs approved
15 under subsection (a).

16 “(2) APPORTIONMENT FORMULA.—Funds de-
17 scribed in paragraph (1) shall be apportioned among
18 the States each fiscal year in the following manner:

19 “(A) 62.5 percent in the ratio that the
20 population of each State bears to the total pop-
21 ulation of all States, as shown by the latest
22 available Federal census.

23 “(B) 20 percent in the ratio that the pub-
24 lic road mileage in each State bears to the total
25 public road mileage in all States.

1 “(C) 10 percent only to States that have
2 enacted and are enforcing a primary safety belt
3 use law, in the ratio that the population of each
4 such State bears to the total population of all
5 such States, as shown by the latest available
6 Federal census.

7 “(D) 5 percent only to States that have
8 enacted and are enforcing an ignition interlock
9 law, in the ratio that the population of each
10 such State bears to the total population of all
11 such States, as shown by the latest available
12 Federal census.

13 “(E) 2.5 percent only to States that have
14 enacted and are enforcing a graduated drivers
15 licensing law, in the ratio that the population of
16 each such State bears to the total population of
17 all such States, as shown by the latest available
18 Federal census.

19 “(3) MINIMUM APPORTIONMENT.—The annual
20 apportionment under paragraph (2) to each State
21 shall not be less than three-quarters of 1 percent of
22 the total apportionment under that paragraph in the
23 applicable fiscal year, except that the apportionment
24 to the Secretary of the Interior shall not be less than
25 1.5 percent of the total apportionment and the ap-

1 portionments to the Virgin Islands, Guam, American
2 Samoa, and the Commonwealth of the Northern
3 Mariana Islands shall not be less than one-quarter
4 of 1 percent of the total apportionment.

5 “(4) IMPLEMENTATION OF APPROVED HIGHWAY
6 SAFETY PROGRAMS.—

7 “(A) REQUIREMENT FOR RECEIVING AP-
8 PORTIONMENTS.—The Secretary shall not ap-
9 portion any funds under this section to any
10 State that is not implementing a highway safety
11 program approved by the Secretary under this
12 section.

13 “(B) LIMITATIONS ON REQUIREMENTS RE-
14 LATING TO MOTORCYCLE SAFETY HELMETS.—A
15 highway safety program approved by the Sec-
16 retary shall not include any requirement that a
17 State implement such program by adopting or
18 enforcing any law, rule, or regulation based on
19 a guideline promulgated by the Secretary under
20 this section that requires any motorcycle oper-
21 ator 18 years of age or older or passenger 18
22 years of age or older to wear a safety helmet
23 when operating or riding a motorcycle on the
24 streets and highways of that State.

1 “(C) COMPLIANCE WITH IMPLEMENTATION
2 REQUIREMENTS.—Implementation of a highway
3 safety program under this section shall not be
4 construed to require the Secretary to require
5 compliance with every uniform guideline pro-
6 mulgated under this section, or with every ele-
7 ment of every uniform guideline, in every State.

8 “(D) MINIMUM REQUIREMENTS FOR IM-
9 PAIRED DRIVING HIGH RANGE STATES.—An im-
10 paired driving high range State shall expend in
11 a fiscal year, on projects and activities address-
12 ing impaired driving, at least 30 percent of the
13 funds apportioned to that State under para-
14 graph (2) for that fiscal year.

15 “(E) AUTOMATED TRAFFIC ENFORCEMENT
16 SYSTEMS.—

17 “(i) PROHIBITION.—A State may not
18 expend funds apportioned to that State
19 under paragraph (2) to carry out any pro-
20 gram to purchase, operate, or maintain an
21 automated traffic enforcement system.

22 “(ii) AUTOMATED TRAFFIC ENFORCE-
23 MENT SYSTEM DEFINED.—In this subpara-
24 graph, the term ‘automated traffic enforce-
25 ment system’ means automated technology

1 that monitors compliance with traffic
2 laws.”.

3 (d) MISCELLANEOUS.—Section 402 is amended—

4 (1) in subsection (d) by striking “(d) All provi-
5 sions” and inserting “(d) APPLICABILITY OF CER-
6 TAIN PROVISIONS.—All provisions”;

7 (2) in subsection (e) by striking “(e) Uniform
8 guidelines” and inserting “(e) COOPERATION.—Uni-
9 form guidelines”;

10 (3) in subsection (f) by striking “(f) The Sec-
11 retary” and inserting “(f) DEPARTMENT AND AGEN-
12 CY PARTICIPATION.—The Secretary”;

13 (4) in subsection (g)—

14 (A) by striking “(g) Nothing in” and in-
15 serting “(g) LIMITATION ON FUNDS.—Nothing
16 in”;

17 (B) by striking “for (1) highway construc-
18 tion” and inserting “for highway construction”;
19 and

20 (C) by striking “guidelines) or” and all
21 that follows before the period at the end and in-
22 serting “guidelines) or for any purpose for
23 which funds are authorized under section
24 403(a)”;

25 (5) by striking subsection (k); and

1 (6) by redesignating subsections (l) and (m) as
2 subsections (k) and (l), respectively.

3 (e) HIGHWAY SAFETY PERFORMANCE MANAGE-
4 MENT.—Section 402 (as amended by this Act) is further
5 amended by adding at the end the following:

6 “(m) ESTABLISHMENT OF PERFORMANCE TAR-
7 GETS.—

8 “(1) IN GENERAL.—The Governor of each State
9 shall establish quantifiable performance targets for
10 their State—

11 “(A) to be incorporated into the highway
12 safety plan of the State under subsection (n)
13 each year; and

14 “(B) with respect to, at a minimum—

15 “(i) the average number of fatalities
16 in the State resulting from traffic crashes
17 per 100,000,000 vehicle miles traveled;

18 “(ii) the average number of serious in-
19 juries in the State resulting from traffic
20 crashes per 100,000,000 vehicle miles trav-
21 eled;

22 “(iii) the average number of traffic fa-
23 talities in the State involving drivers or
24 motorecycle operators with a blood alcohol

1 content of .08 or above per 100,000,000
2 vehicle miles traveled;

3 “(iv) the average number of traffic
4 crashes in the State involving drivers or
5 motorcycle operators with a blood alcohol
6 content of .08 or above per 100,000,000
7 vehicle miles traveled;

8 “(v) the average number of unre-
9 strained motor vehicle occupant fatalities,
10 for all seat positions, in the State resulting
11 from traffic crashes per 100,000,000 vehi-
12 cle miles traveled; and

13 “(vi) the average number of motorcy-
14clist fatalities in the State resulting from
15 traffic crashes per 100,000,000 vehicle
16 miles traveled.

17 “(2) CONSIDERATIONS IN ESTABLISHING PER-
18 FORMANCE TARGETS.—In establishing performance
19 targets for a State under this subsection, a Governor
20 shall consider, at a minimum—

21 “(A) the number of fatalities in the State
22 resulting from traffic crashes during the pre-
23 ceding 3 years;

1 “(B) the number of serious injuries in the
2 State resulting from traffic crashes during the
3 preceding 3 years;

4 “(C) the extent to which vehicle miles trav-
5 eled in the State may impact the number of fa-
6 talities and serious injuries in the State result-
7 ing from traffic crashes; and

8 “(D) data available from the Fatality
9 Analysis Reporting System of the National
10 Highway Traffic Safety Administration.

11 “(n) HIGHWAY SAFETY PLAN AND REPORTING RE-
12 QUIREMENTS.—

13 “(1) IN GENERAL.—With respect to fiscal year
14 2014, and each fiscal year thereafter, the Secretary
15 shall require the Governor of each State, as a condi-
16 tion of the approval of the State’s highway safety
17 program for that fiscal year, to develop and submit
18 to the Secretary for approval a highway safety plan
19 applicable to that fiscal year in accordance with this
20 subsection. The plan required under this paragraph
21 may be incorporated into any other document re-
22 quired to be submitted under this section.

23 “(2) TIMING.—Each Governor shall submit to
24 the Secretary the highway safety plan of their State

1 not later than September 1 of the fiscal year pre-
2 ceding the fiscal year to which the plan applies.

3 “(3) CONTENTS.—A State’s highway safety
4 plan shall include, at a minimum—

5 “(A) current data with respect to each per-
6 formance target established for the State under
7 subsection (m);

8 “(B) for the fiscal year preceding the fiscal
9 year to which the plan applies, a description of
10 the State’s performance regarding each per-
11 formance target category described in sub-
12 section (m)(1)(B);

13 “(C) for the fiscal year preceding the fiscal
14 year to which the plan applies, a description of
15 the projects and activities for which the State
16 obligated funding apportioned to the State
17 under this section;

18 “(D) for the fiscal year to which the plan
19 applies, the State’s strategy for using funds ap-
20 portioned to the State under this section for
21 projects and activities that will allow the State
22 to meet the performance targets established for
23 the State under subsection (m);

1 “(E) data and data analysis supporting the
2 effectiveness of projects and activities proposed
3 in the strategy under subparagraph (D);

4 “(F) a description of any Federal, State,
5 local, or private funds that the State plans to
6 use, in addition to funds apportioned to the
7 State under this section, to carry out the
8 State’s strategy under subparagraph (D); and

9 “(G) a certification that the State will
10 maintain its aggregate expenditures for high-
11 way safety activities, from sources other than
12 funds apportioned to the State under this sec-
13 tion, at or above the average level of such ex-
14 penditures in the 2 fiscal years preceding the
15 date of enactment of this subsection.

16 “(4) REVIEW OF HIGHWAY SAFETY PLANS.—

17 “(A) IN GENERAL.—Not later than 60
18 days after the date on which the Secretary re-
19 ceives a State’s highway safety plan, the Sec-
20 retary shall approve or disapprove the plan.

21 “(B) APPROVALS AND DISAPPROVALS.—
22 The Secretary shall approve or disapprove a
23 State’s highway safety plan based on a review
24 of the plan, including an evaluation of whether,
25 in the Secretary’s judgment, the plan is evi-

1 dence-based, is supported by data and analysis,
2 and, if implemented, will allow the State to
3 meet the performance targets established for
4 the State under subsection (m). The Secretary
5 shall disapprove a State’s highway safety plan
6 if the plan does not, in the Secretary’s judg-
7 ment, provide for the evidenced-based use of
8 funding in a manner sufficient to allow the
9 State to meet performance targets.

10 “(C) ACTIONS UPON DISAPPROVAL.—If the
11 Secretary disapproves a State’s highway safety
12 plan, the Secretary shall inform the Governor of
13 the State of the reasons for the disapproval and
14 require the Governor to resubmit the plan with
15 such modifications as the Secretary determines
16 necessary.

17 “(D) REVIEW OF RESUBMITTED PLANS.—
18 If the Secretary requires a Governor to resub-
19 mit a highway safety plan with modifications,
20 the Secretary shall approve or disapprove the
21 modified plan not later than 30 days after the
22 date on which the modified plan is submitted to
23 the Secretary.

24 “(E) FUNDING ALLOCATIONS.—If a State
25 failed to accomplish, as determined by the Sec-

1 retary, a performance target established for
2 that State under subsection (m) in the fiscal
3 year preceding the fiscal year to which a State
4 highway safety plan under review applies, the
5 Secretary shall require the following to be in-
6 cluded in the highway safety plan under review:

7 “(i) If the State failed to accomplish
8 a performance target established under
9 subsection (m)(1)(B)(iii) or (m)(1)(B)(iv),
10 a certification that the State will expend
11 funds apportioned to the State under this
12 section, during the fiscal year to which the
13 plan applies, for projects and activities ad-
14 dressing impaired driving in an amount
15 that is at least 5 percent more than the
16 amount expended on such projects and ac-
17 tivities in the preceding fiscal year using
18 such funds.

19 “(ii) If the State failed to accomplish
20 a performance target established under
21 subsection (m)(1)(B)(v), a certification
22 that the State will expend funds appor-
23 tioned to the State under this section, dur-
24 ing the fiscal year to which the plan ap-
25 plies, for projects and activities addressing

1 occupant protection in an amount that is
2 at least 5 percent more than the amount
3 expended on such projects and activities in
4 the preceding fiscal year using such funds.

5 “(iii) If the State failed to accomplish
6 a performance target established under
7 subsection (m)(1)(B)(vi), a certification
8 that the State will expend funds appor-
9 tioned to the State under this section, dur-
10 ing the fiscal year to which the plan ap-
11 plies, for projects and activities addressing
12 motorcycle safety in an amount that is at
13 least 5 percent more than the amount ex-
14 pended on such projects and activities in
15 the preceding fiscal year using such funds.

16 “(F) DATA.—

17 “(i) FATALITIES DATA.—A State’s
18 compliance with performance targets relat-
19 ing to fatalities shall be determined using
20 the most recent data from the Fatality
21 Analysis Reporting System of the National
22 Highway Traffic Safety Administration.

23 “(ii) CRASH DATA.—A State’s compli-
24 ance with performance targets relating to

1 serious injuries shall be determined using
2 State crash data files.

3 “(G) PUBLIC NOTICE.—A State shall make
4 each highway safety plan of the State available
5 to the public.

6 “(o) ANNUAL REPORT TO CONGRESS.—Not later
7 than October 1, 2015, and annually thereafter, the Sec-
8 retary shall submit to the Committee on Transportation
9 and Infrastructure of the House of Representatives and
10 the Committee on Commerce, Science, and Transportation
11 of the Senate a report containing—

12 “(1) an evaluation of each State’s performance
13 with respect to the State’s highway safety plan
14 under subsection (n) and performance targets under
15 subsection (m); and

16 “(2) such recommendations as the Secretary
17 may have for improvements to activities carried out
18 under subsections (m) and (n).

19 “(p) DEFINITIONS.—In this section, the following
20 definitions apply:

21 “(1) CHILD RESTRAINT.—The term ‘child re-
22 straint’ means any product designed to provide re-
23 straint to a child in a motor vehicle (including boost-
24 er seats and other products used with a lap and
25 shoulder belt assembly) that meets applicable Fed-

1 eral motor vehicle safety standards prescribed by the
2 National Highway Traffic Safety Administration.

3 “(2) CONTROLLED SUBSTANCE.—The term
4 ‘controlled substance’ has the meaning given that
5 term in section 102 of the Controlled Substances
6 Act (21 U.S.C. 802).

7 “(3) DRIVING WHILE INTOXICATED; DRIVING
8 UNDER THE INFLUENCE.—The terms ‘driving while
9 intoxicated’ and ‘driving under the influence’ have
10 the meaning given those terms in section 164.

11 “(4) GRADUATED DRIVERS LICENSING LAW.—
12 The term ‘graduated drivers licensing law’ means a
13 law enacted by a State that requires, before the
14 granting of an unrestricted driver’s license to indi-
15 viduals under the age of 21 years, a 2-stage licens-
16 ing process that includes the following:

17 “(A) A learner’s permit stage that—

18 “(i) allows for the acquisition of a
19 learner’s permit by an individual not ear-
20 lier than the date on which that individual
21 attains 15 years and 6 months of age;

22 “(ii) is at least 6 months in duration;

23 “(iii) requires an individual with a
24 learner’s permit to complete at least 30

1 hours of driving supervised by a licensed
2 driver who is 21 years of age or older;

3 “(iv) requires an individual with a
4 learner’s permit to be accompanied and su-
5 pervised by a licensed driver who is 21
6 years of age or older at all times when op-
7 erating a motor vehicle; and

8 “(v) is in effect until the commence-
9 ment of the intermediate stage or until the
10 date on which the applicable individual at-
11 tains 18 years of age.

12 “(B) An intermediate stage that—

13 “(i) applies to an individual imme-
14 diately after the expiration of the learner’s
15 permit stage for that individual;

16 “(ii) is at least 6 months in duration;

17 “(iii) prohibits the operation of a
18 motor vehicle by an individual to whom the
19 stage applies, if that individual is trans-
20 porting more than one nonfamilial pas-
21 senger under the age of 18 years and there
22 is no licensed driver 21 years of age or
23 older present in the motor vehicle; and

24 “(iv) prohibits an individual to whom
25 the stage applies from operating a motor

1 vehicle between the hours of midnight and
2 4 a.m., unless such individual is accom-
3 panied and supervised by a licensed driver
4 who is 21 years of age or older.

5 “(5) IMPAIRED DRIVING HIGH RANGE STATE.—
6 The term ‘impaired driving high range State’ means
7 a State that averaged more than .50 alcohol im-
8 paired driving fatalities per 100,000,000 vehicle
9 miles traveled, as determined using data from the
10 Fatality Analysis Reporting System of the National
11 Highway Traffic Safety Administration, for the most
12 recent 3 years for which data are available.

13 “(6) IGNITION INTERLOCK DEVICE.—The term
14 ‘ignition interlock device’ means an in-vehicle device
15 that requires a driver to provide a breath sample
16 prior to a motor vehicle starting and that prevents
17 a motor vehicle from starting if the blood alcohol
18 content of the driver is above the legal limit.

19 “(7) IGNITION INTERLOCK LAW.—The term ‘ig-
20 nition interlock law’ means a law enacted by a State
21 that requires throughout the State the installation of
22 an ignition interlock device, for a minimum of 6
23 months, on each motor vehicle operated by an indi-
24 vidual who is convicted of driving while intoxicated
25 or driving under the influence.

1 “(8) MOTOR VEHICLE.—The term ‘motor vehi-
2 cle’ has the meaning given that term in section 157.

3 “(9) MOTORCYCLIST SAFETY TRAINING.—The
4 term ‘motorcyclist safety training’ means a formal
5 program of instruction that is approved for use in
6 a State by the designated State authority having ju-
7 risdiction over motorcyclist safety issues, which may
8 include a State motorcycle safety administrator or a
9 motorcycle advisory council appointed by the Gov-
10 ernor of the State.

11 “(10) PRIMARY SAFETY BELT USE LAW.—The
12 term ‘primary safety belt use law’ means a law en-
13 acted by a State that—

14 “(A) requires all occupants in the front
15 seat of a motor vehicle to utilize a seat belt
16 when the motor vehicle is being driven; and

17 “(B) allows for a law enforcement officer
18 to stop a vehicle solely for the purpose of
19 issuing a citation for a violation of the require-
20 ment in subparagraph (A) in the absence of evi-
21 dence of another offense.

22 “(11) PROJECTS AND ACTIVITIES ADDRESSING
23 IMPAIRED DRIVING.—The term ‘projects and activi-
24 ties addressing impaired driving’ means projects and
25 activities—

1 “(A) to develop and implement law en-
2 forcement measures and tools designed to re-
3 duce impaired driving, including training, edu-
4 cation, equipment, and other methods of sup-
5 port for law enforcement and criminal justice
6 professionals;

7 “(B) to improve impaired driving prosecu-
8 tion and adjudication, including the establish-
9 ment of courts that specialize in impaired driv-
10 ing cases;

11 “(C) to carry out safety campaigns relat-
12 ing to impaired driving using paid media;

13 “(D) to provide inpatient and outpatient
14 alcohol rehabilitation based on mandatory as-
15 sessment and appropriate treatment;

16 “(E) to establish and improve information
17 systems containing data on impaired driving; or

18 “(F) to establish and implement an igni-
19 tion interlock system for individuals convicted
20 of driving while intoxicated or driving under the
21 influence.

22 “(12) PROJECTS AND ACTIVITIES ADDRESSING
23 MOTORCYCLE SAFETY.—The term ‘projects and ac-
24 tivities addressing motorcycle safety’ means projects
25 and activities—

1 “(A) to improve the content and delivery of
2 motorcyclist safety training curricula;

3 “(B) to support licensing, training, and
4 safety education for motorcyclists, including
5 new entrants;

6 “(C) to enhance motorcycle safety through
7 public service announcements, including safety
8 messages on road sharing, outreach, and public
9 awareness activities; or

10 “(D) to provide for the safety of motorcy-
11 clists through the promotion of appropriate pro-
12 tective equipment.

13 “(13) PROJECTS AND ACTIVITIES ADDRESSING
14 OCCUPANT PROTECTION.—The term ‘projects and
15 activities addressing occupant protection’ means
16 projects and activities—

17 “(A) to provide for occupant protection
18 training, education, equipment, and other meth-
19 ods of support for law enforcement and criminal
20 justice professionals;

21 “(B) to carry out safety campaigns relat-
22 ing to occupant protection using paid media;

23 “(C) to establish and improve information
24 systems containing data on occupant protection;

1 “(D) to provide for training of firefighters,
2 law enforcement officers, emergency medical
3 services professionals, and others on the provi-
4 sion of community child passenger safety serv-
5 ices; or

6 “(E) to purchase child restraints for low-
7 income families.

8 “(14) PUBLIC ROAD.—The term ‘public road’
9 means any road under the jurisdiction of and main-
10 tained by a public authority and open to public trav-
11 el.

12 “(15) PUBLIC ROAD MILEAGE.—The term ‘pub-
13 lic road mileage’ means the number of public road
14 miles in a State as—

15 “(A) determined at the end of the calendar
16 year preceding the year in which applicable
17 funds are apportioned; and

18 “(B) certified by the Governor of the
19 State, subject to approval by the Secretary.

20 “(16) SEAT BELT.—The term ‘seat belt’ has
21 the meaning given that term in section 157.”.

22 **SEC. 5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR**
23 **ADMINISTRATIVE EXPENSES.**

24 (a) IN GENERAL.—Section 403 is amended to read
25 as follows:

1 **“§ 403. Use of certain funds made available for ad-**
2 **ministrative expenses**

3 “(a) HIGHWAY SAFETY RESEARCH AND DEVELOP-
4 MENT.—The Secretary is authorized to carry out, using
5 funds made available out of the Highway Trust Fund
6 (other than the Alternative Transportation Account)
7 under section 5002(a)(3) of the American Energy and In-
8 frastructure Jobs Act of 2012—

9 “(1) ongoing research into driver behavior and
10 its effect on traffic safety;

11 “(2) research on, initiatives to counter, and
12 demonstration projects on fatigued driving by driv-
13 ers of motor vehicles and distracted driving in such
14 vehicles, including the effect that the use of elec-
15 tronic devices and other factors determined relevant
16 by the Secretary have on driving;

17 “(3) training or education programs in coopera-
18 tion with other Federal departments and agencies,
19 States, private sector persons, highway safety per-
20 sonnel, and law enforcement personnel;

21 “(4) research on and evaluations of the effec-
22 tiveness of traffic safety countermeasures, including
23 seat belts and impaired driving initiatives;

24 “(5) research on, evaluations of, and identifica-
25 tion of best practices related to driver education pro-
26 grams (including driver education curricula, instruc-

1 tor training and certification, program administra-
2 tion, and delivery mechanisms) and make rec-
3 ommendations for harmonizing driver education and
4 multistage graduated licensing systems;

5 “(6) research, training, and education programs
6 related to older drivers;

7 “(7) highway safety demonstration projects re-
8 lated to driver behavior; and

9 “(8) research, training, and programs relating
10 to motorcycle safety, including impaired driving.

11 “(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

12 “(1) IN GENERAL.—The Administrator of the
13 National Highway Traffic Safety Administration
14 shall establish and administer, using funds made
15 available out of the Highway Trust Fund (other
16 than the Alternative Transportation Account) under
17 section 5002(a)(3) of the American Energy and In-
18 frastructure Jobs Act of 2012, a program under
19 which at least 2 high-visibility traffic safety law en-
20 forcement campaigns will be carried out for the pur-
21 pose specified in paragraph (2) in each of fiscal
22 years 2013 through 2016.

23 “(2) PURPOSE.—The purpose of each law en-
24 forcement campaign under this subsection shall be
25 to achieve one or more of the following objectives:

1 “(A) Reduce alcohol-impaired or drug-im-
2 paired operation of motor vehicles.

3 “(B) Increase the use of seat belts by oc-
4 cupants of motor vehicles.

5 “(C) Reduce distracted driving of motor
6 vehicles.

7 “(3) ADVERTISING.—The Administrator may
8 use, or authorize the use of, funds made available to
9 carry out this subsection to pay for the development,
10 production, and use of broadcast and print media
11 advertising in carrying out law enforcement cam-
12 paigns under this subsection. Consideration shall be
13 given to advertising directed at non-English speak-
14 ing populations, including those who listen to, read,
15 or watch nontraditional media.

16 “(4) COORDINATION WITH STATES.—The Ad-
17 ministrator shall coordinate with States in carrying
18 out law enforcement campaigns under this sub-
19 section, including advertising funded under para-
20 graph (3), with a view toward—

21 “(A) relying on States to provide the law
22 enforcement resources for the campaigns out of
23 funding available under this subsection and sec-
24 tion 402; and

1 “(B) providing out of National Highway
2 Traffic Safety Administration resources most of
3 the means necessary for national advertising
4 and education efforts associated with the law
5 enforcement campaigns.

6 “(5) ANNUAL EVALUATION.—The Secretary
7 shall conduct an annual evaluation of the effective-
8 ness of campaigns carried out under this subsection.

9 “(6) STATE DEFINED.—In this subsection, the
10 term ‘State’ has the meaning given that term in sec-
11 tion 401.

12 “(c) AVAILABILITY OF FUNDS.—The Secretary shall
13 ensure that at least \$137,244,000 of the funds made avail-
14 able out of the Highway Trust Fund (other than the Alter-
15 native Transportation Account) under section 5002(a)(3)
16 of the American Energy and Infrastructure Jobs Act of
17 2012 each fiscal year are used for programs and activities
18 authorized under this section.”.

19 (b) CLERICAL AMENDMENT.—The analysis for chap-
20 ter 4 is amended by striking the item relating to section
21 403 and inserting the following:

 “403. Use of certain funds made available for administrative expenses.”.

22 **SEC. 5005. REPEAL OF PROGRAMS.**

23 (a) GENERAL PROVISION.—A repeal made by this
24 section shall not affect funds apportioned or allocated be-
25 fore the effective date of the repeal.

1 (b) OCCUPANT PROTECTION INCENTIVE GRANTS.—
2 Section 405, and the item relating to that section in the
3 analysis for chapter 4, are repealed.

4 (c) SAFETY BELT PERFORMANCE GRANTS.—Section
5 406, and the item relating to that section in the analysis
6 for chapter 4, are repealed.

7 (d) INNOVATIVE PROJECT GRANTS.—Section 407,
8 and the item relating to that section in the analysis for
9 chapter 4, are repealed.

10 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
11 IMPROVEMENTS.—Section 408, and the item relating to
12 that section in the analysis for chapter 4, are repealed.

13 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
14 MEASURES.—Section 410, and the item relating to that
15 section in the analysis for chapter 4, are repealed.

16 (g) STATE HIGHWAY SAFETY DATA IMPROVE-
17 MENTS.—Section 411, and the item relating to that sec-
18 tion in the analysis for chapter 4, are repealed.

19 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—
20 Section 2009 of SAFETEA-LU (23 U.S.C. 402 note; 119
21 Stat. 1535), and the item relating to that section in the
22 table of contents contained in section 1(b) of that Act,
23 are repealed.

24 (i) MOTORCYCLIST SAFETY.—Section 2010 of
25 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1535),

1 and the item relating to that section in the table of con-
2 tents contained in section 1(b) of that Act, are repealed.

3 (j) CHILD SAFETY AND CHILD BOOSTER SEAT IN-
4 CENTIVE GRANTS.—Section 2011 of SAFETEA–LU (23
5 U.S.C. 405 note; 119 Stat. 1538), and the item relating
6 to that section in the table of contents contained in section
7 1(b) of that Act, are repealed.

8 (k) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Sec-
9 tion 2013 of SAFETEA–LU (23 U.S.C. 403 note; 119
10 Stat. 1539), and the item relating to that section in the
11 table of contents contained in section 1(b) of that Act,
12 are repealed.

13 (l) FIRST RESPONDER VEHICLE SAFETY PRO-
14 GRAM.—Section 2014 of SAFETEA–LU (23 U.S.C. 402
15 note; 119 Stat. 1540), and the item relating to that sec-
16 tion in the table of contents contained in section 1(b) of
17 that Act, are repealed.

18 (m) RURAL STATE EMERGENCY MEDICAL SERVICES
19 OPTIMIZATION PILOT PROGRAM.—Section 2016 of
20 SAFETEA–LU (119 Stat. 1541), and the item relating
21 to that section in the table of contents contained in section
22 1(b) of that Act, are repealed.

23 (n) OLDER DRIVER SAFETY; LAW ENFORCEMENT
24 TRAINING.—Section 2017 of SAFETEA–LU (119 Stat.
25 1541), and the item relating to that section in the table

1 of contents contained in section 1(b) of that Act, are re-
2 pealed.

3 **SEC. 5006. DISCOVERY AND ADMISSION AS EVIDENCE OF**
4 **CERTAIN REPORTS AND SURVEYS.**

5 Section 409 is amended by striking “and 148” and
6 inserting “148, and 402”.

7 **SEC. 5007. PROHIBITION ON FUNDS TO CHECK HELMET**
8 **USAGE OR CREATE CHECKPOINTS FOR A MO-**
9 **TORCYCLE DRIVER OR PASSENGER.**

10 The Secretary may not provide a grant or otherwise
11 make available funding to a State, Indian tribe, county,
12 municipality, or other local government to be used for any
13 program to check helmet usage or create checkpoints for
14 a motorcycle driver or passenger.

15 **SEC. 5008. NATIONAL DRIVER REGISTER.**

16 (a) ACCURACY OF INFORMATION.—Not later than
17 October 1, 2013, to ensure the accuracy of information
18 contained in the National Driver Register established
19 under section 30302 of title 49, United States Code, the
20 Secretary, in cooperation with the States, shall—

21 (1) establish and implement procedures to—

22 (A) ensure that participating States sub-
23 mit reports required under section 30304(a) of
24 such title with respect to a conviction not later
25 than 31 days after receiving notice of the con-

1 viction, as required under section 30304(e)(2)
2 of such title; and

3 (B) verify and improve the accuracy of re-
4 ports submitted for inclusion in the Register
5 under section 30304 of such title; and

6 (2) establish and implement a process for—

7 (A) the removal or modification of an in-
8 valid or duplicative driver record contained in
9 the Register; and

10 (B) the verification of a request for the re-
11 moval or modification of an invalid or duplica-
12 tive driver record contained in the Register.

13 (b) REPORT TO CONGRESS.—Not later than Feb-
14 ruary 1, 2013, and every February 1 thereafter, the Sec-
15 retary shall submit to the Committee on Transportation
16 and Infrastructure of the House of Representatives and
17 the Committee on Commerce, Science, and Transportation
18 of the Senate a report describing—

19 (1) the timeliness and completeness of State
20 submissions under section 30304 of title 49, United
21 States Code;

22 (2) the Department’s efforts to monitor and en-
23 sure compliance with the reporting requirements
24 under such section; and

1 “(a) IN GENERAL.—Subject to subsection (f), there
2 is authorized to be appropriated from the Highway Trust
3 Fund (other than the Alternative Transportation Account)
4 to carry out section 31102 \$247,000,000 for each of fiscal
5 years 2013 through 2016.”.

6 (b) ADMINISTRATIVE TAKEDOWN.—

7 (1) IN GENERAL.—Section 31104(e) is amend-
8 ed to read as follows:

9 “(e) DEDUCTION FOR ADMINISTRATIVE EX-
10 PENSES.—

11 “(1) IN GENERAL.—On October 1 of each fiscal
12 year (or as soon after that date as practicable), the
13 Secretary may deduct, from amounts made available
14 under subsection (a) for that fiscal year, not more
15 than 1.25 percent of those amounts for administra-
16 tive expenses incurred in carrying out section 31102
17 in that fiscal year.

18 “(2) TRAINING.—The Secretary shall use at
19 least 75 percent of the amounts deducted under
20 paragraph (1) to train non-Government employees
21 and to develop related training materials in carrying
22 out section 31102.”.

23 (2) REPORT TO CONGRESS.—At the end of each
24 fiscal year, the Secretary shall submit to Congress a
25 report detailing the use of amounts deducted under

1 section 31104(e) of title 49, United States Code, as
2 amended by paragraph (1) of this subsection.

3 (c) ALLOCATION CRITERIA.—Section 31104(f) is
4 amended to read as follows:

5 “(f) ALLOCATION CRITERIA.—

6 “(1) IN GENERAL.—On October 1 of each fiscal
7 year (or as soon after that date as practicable) and
8 after making the deduction under subsection (e), the
9 Secretary shall allocate amounts made available to
10 carry out section 31102 for such fiscal year among
11 the States that are eligible for grant funds under
12 section 31102(f)(2).

13 “(2) ALLOCATION FORMULA.—The amounts
14 made available to carry out section 31102 shall be
15 allocated among the States in the following manner:

16 “(A) 20 percent in the ratio that—

17 “(i) the total public road mileage in
18 each State; bears to

19 “(ii) the total public road mileage in
20 all States.

21 “(B) 20 percent in the ratio that—

22 “(i) the total vehicle miles traveled in
23 each State; bears to

24 “(ii) the total vehicle miles traveled in
25 all States.

1 “(C) 20 percent in the ratio that—

2 “(i) the total population of each State
3 (as shown in the annual census estimates
4 issued by the Bureau of the Census); bears
5 to

6 “(ii) the total population of all States
7 (as shown in the annual census estimates
8 issued by the Bureau of the Census).

9 “(D) 20 percent in the ratio that—

10 “(i) the total special fuel consumption
11 (net after reciprocity adjustment) in each
12 State (as determined by the Secretary);
13 bears to

14 “(ii) the total special fuel consumption
15 (net after reciprocity adjustment) in all
16 States (as determined by the Secretary).

17 “(E) 10 percent only to those States that
18 share a land border with another country and
19 conduct border commercial motor vehicle safety
20 programs and related activities (in this sub-
21 paragraph referred to as a ‘border State’),
22 with—

23 “(i) 70 percent of such amount to be
24 allocated among border States in the ratio
25 that—

1 “(I) the total number of inter-
2 national commercial motor vehicle in-
3 spections conducted within the bound-
4 aries of each border State (as deter-
5 mined by the Secretary); bears to

6 “(II) the total number of inter-
7 national commercial motor vehicle in-
8 spections conducted within the bound-
9 aries of all border States (as deter-
10 mined by the Secretary); and

11 “(ii) 30 percent of such amount to be
12 allocated among border States in the ratio
13 that—

14 “(I) the total number of land
15 border crossing locations with State-
16 maintained commercial motor vehicle
17 safety enforcement infrastructure
18 within the boundaries of each border
19 State (as determined by the Sec-
20 retary); bears to

21 “(II) the total number of land
22 border crossing locations with State-
23 maintained commercial motor vehicle
24 safety enforcement infrastructure
25 within the boundaries of all border

1 States (as determined by the Sec-
2 retary).

3 “(F) 10 percent only to those States that
4 reduce the rate of large truck-involved fatal ac-
5 cidents in the State for the most recent cal-
6 endar year for which data are available when
7 compared to the average rate of large truck-in-
8 volved fatal accidents in the State for the 10-
9 year period ending on the last day preceding
10 that calendar year (in this subparagraph re-
11 ferred to as an ‘eligible State’), with—

12 “(i) 25 percent of such amount to be
13 allocated among eligible States in the ratio
14 that—

15 “(I) the total public road mileage
16 in each eligible State; bears to

17 “(II) the total public road mile-
18 age in all eligible States;

19 “(ii) 25 percent of such amount to be
20 allocated among eligible States in the ratio
21 that—

22 “(I) the total vehicle miles trav-
23 eled in each eligible State; bears to

24 “(II) the total vehicle miles trav-
25 eled in all eligible States;

1 “(iii) 25 percent of such amount to be
2 allocated among eligible States in the ratio
3 that—

4 “(I) the total population of each
5 eligible State (as shown in the annual
6 census estimates issued by the Bureau
7 of the Census); bears to

8 “(II) the total population of all
9 eligible States (as shown in the an-
10 nual census estimates issued by the
11 Bureau of the Census); and

12 “(iv) 25 percent of such amount to be
13 allocated among eligible States in the ratio
14 that—

15 “(I) the total special fuel con-
16 sumption (net after reciprocity adjust-
17 ment) in each eligible State (as deter-
18 mined by the Secretary); bears to

19 “(II) the total special fuel con-
20 sumption (net after reciprocity adjust-
21 ment) in all eligible States (as deter-
22 mined by the Secretary).

23 “(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

24 “(A) MAXIMUM ALLOCATION.—The alloca-
25 tion under subparagraphs (A) through (D) of

1 paragraph (2) for a fiscal year to each State
2 (excluding the Virgin Islands, American Samoa,
3 Guam, and the Northern Mariana Islands) shall
4 be not greater than 4.944 percent of the total
5 allocation under those subparagraphs in that
6 fiscal year.

7 “(B) MINIMUM ALLOCATION.—The alloca-
8 tion under paragraph (2) for a fiscal year to
9 each State (excluding the Virgin Islands, Amer-
10 ican Samoa, Guam, and the Northern Mariana
11 Islands) shall be not less than 0.44 percent of
12 the total allocation under that paragraph in
13 that fiscal year.

14 “(C) ALLOCATION TO TERRITORIES.—The
15 annual allocation to each of the Virgin Islands,
16 American Samoa, Guam, and the Northern
17 Mariana Islands shall be \$350,000.”.

18 (d) ADMINISTRATIVE EXPENSES.—Section 31104(i)
19 is amended—

20 (1) by striking paragraph (1) and inserting the
21 following:

22 “(1) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated from the
24 Highway Trust Fund (other than the Alternative
25 Transportation Account) for the Secretary of Trans-

1 portation to pay administrative expenses of the Fed-
2 eral Motor Carrier Safety Administration
3 \$244,144,000 for each of fiscal years 2013 through
4 2016.”; and

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

6 “(3) OUTREACH AND EDUCATION.—

7 “(A) IN GENERAL.—Using the funds au-
8 thorized by this subsection, the Secretary shall
9 conduct an outreach and education program to
10 be administered by the Administrator of the
11 Federal Motor Carrier Safety Administration in
12 cooperation with the Administrator of the Na-
13 tional Highway Traffic Safety Administration.

14 “(B) PROGRAM ELEMENTS.—The program
15 shall include, at a minimum, the following:

16 “(i) A program to promote a more
17 comprehensive and national effort to edu-
18 cate commercial motor vehicle operators
19 and passenger vehicle drivers about how
20 such operators and drivers can more safely
21 share the road with each other.

22 “(ii) A program to promote enhanced
23 traffic enforcement efforts aimed at reduc-
24 ing the incidence of the most common un-
25 safe driving behaviors that cause or con-

1 tribute to crashes involving commercial
2 motor vehicles and passenger vehicles.

3 “(iii) A program to establish a public-
4 private partnership to provide resources
5 and expertise for the development and dis-
6 semination of information relating to shar-
7 ing the road referred to in clauses (i) and
8 (ii) to each partner’s constituents and to
9 the general public through the use of bro-
10 chures, videos, paid and public advertise-
11 ments, the Internet, and other media.”.

12 **SEC. 6102. GRANT PROGRAMS.**

13 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated from the Highway Trust
15 Fund (other than the Alternative Transportation Account)
16 the following sums for the following Federal Motor Carrier
17 Safety Administration programs:

18 (1) **COMMERCIAL DRIVER’S LICENSE PROGRAM**
19 **IMPLEMENTATION GRANTS.**—For commercial driv-
20 er’s license program implementation grants under
21 section 31313 of title 49, United States Code,
22 \$30,000,000 for each of fiscal years 2013 through
23 2016.

24 (2) **COMMERCIAL VEHICLE INFORMATION SYS-**
25 **TEMS AND NETWORKS DEPLOYMENT.**—For carrying

1 out the commercial vehicle information systems and
2 networks deployment program under section 4126 of
3 SAFETEA-LU (119 Stat. 1738) \$30,000,000 for
4 each of fiscal years 2013 through 2016.

5 (b) PERIOD OF AVAILABILITY.—The amounts made
6 available under this section shall remain available until ex-
7 pended.

8 (c) INITIAL DATE OF AVAILABILITY.—Amounts au-
9 thorized to be appropriated from the Highway Trust Fund
10 (other than the Alternative Transportation Account) by
11 this section shall be available for obligation on the date
12 of their apportionment or allocation or on October 1 of
13 the fiscal year for which they are authorized, whichever
14 occurs first.

15 (d) CONTRACT AUTHORITY.—Approval by the Sec-
16 retary of a grant with funds made available under this
17 section imposes upon the United States a contractual obli-
18 gation for payment of the Government's share of costs in-
19 curred in carrying out the objectives of the grant.

20 **Subtitle B—Registration**

21 **SEC. 6201. REGISTRATION REQUIREMENTS.**

22 (a) GENERAL REQUIREMENTS.—Section 13901 is
23 amended to read as follows:

1 **“§ 13901. Requirement for registration**

2 “(a) IN GENERAL.—A person may provide the fol-
3 lowing transportation or services only if the person is reg-
4 istered under this chapter to provide the transportation
5 or service:

6 “(1) Transportation as a motor carrier subject
7 to jurisdiction under subchapter I of chapter 135.

8 “(2) Service as a freight forwarder subject to
9 jurisdiction under subchapter III of chapter 135.

10 “(3) Service as a broker for transportation sub-
11 ject to jurisdiction under subchapter I of chapter
12 135.

13 “(b) REGISTRATION NUMBERS.—

14 “(1) IN GENERAL.—If the Secretary registers a
15 person under this chapter to provide transportation
16 or service, including as a motor carrier, freight for-
17 warder, or broker, the Secretary shall issue a dis-
18 tinctive registration number to the person for the
19 transportation or service. In the case of a person
20 registered by the Secretary to provide more than one
21 type of transportation or service, the Secretary shall
22 issue a separate registration number to the person
23 for each authority to provide transportation or serv-
24 ice.

25 “(2) TRANSPORTATION OR SERVICE TYPE INDI-
26 CATOR.—A registration number issued under para-

1 graph (1) shall include an indicator of the type of
2 transportation or service for which the registration
3 number is issued, including whether the registration
4 number is issued for registration of a motor carrier,
5 freight forwarder, or broker.

6 “(c) SPECIFICATION OF AUTHORITY.—For each
7 agreement to provide transportation or service for which
8 registration is required under this chapter, the registrant
9 shall specify, in writing, the authority under which the
10 person is providing the transportation or service.”.

11 (b) AVAILABILITY OF INFORMATION.—

12 (1) IN GENERAL.—Chapter 139 is amended by
13 adding at the end the following:

14 **“§ 13909. Availability of information**

15 “The Secretary shall make information relating to
16 registration and financial security required by this chapter
17 publicly available on the Internet, including—

18 “(1) the names and addresses of the principals
19 of each entity holding such registration;

20 “(2) the status of such registration; and

21 “(3) the electronic address of the entity’s surety
22 provider for the submission of claims.”.

23 (2) CONFORMING AMENDMENT.—The analysis
24 for such chapter is amended by adding at the end
25 the following:

“13909. Availability of information.”.

1 **SEC. 6202. MOTOR CARRIER REGISTRATION.**

2 (a) MOTOR CARRIER GENERALLY.—Section
3 13902(a) is amended—

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) IN GENERAL.—Except as provided in this
7 section, the Secretary shall register a person to pro-
8 vide transportation subject to jurisdiction under sub-
9 chapter I of chapter 135 as a motor carrier using
10 self-propelled vehicles the motor carrier owns, rents,
11 or leases if the Secretary finds that the person—

12 “(A) is willing and able to comply with—

13 “(i) this part and the applicable regu-
14 lations of the Secretary and the Board;

15 “(ii) any safety regulations imposed
16 by the Secretary;

17 “(iii) the duties of employers and em-
18 ployees established by the Secretary under
19 section 31135;

20 “(iv) the safety fitness requirements
21 established by the Secretary under section
22 31144;

23 “(v) the accessibility requirements es-
24 tablished by the Secretary under subpart
25 H of part 37 of title 49, Code of Federal
26 Regulations, or a successor regulation, for

1 transportation provided by an over-the-
2 road bus; and

3 “(vi) the minimum financial responsi-
4 bility requirements established by the Sec-
5 retary pursuant to sections 13906 and
6 31138;

7 “(B) has demonstrated, through successful
8 completion of a proficiency examination, to be
9 developed by the Secretary by regulation,
10 knowledge of the requirements and regulations
11 described in subparagraph (A);

12 “(C) has disclosed to the Secretary any re-
13 lationship involving common stock, common
14 ownership, common control, common manage-
15 ment, or common familial relationship between
16 that person and any other motor carrier in the
17 3-year period preceding the date of the filing of
18 the application for registration; and

19 “(D) has been issued a Department of
20 Transportation number under section 31134.”;
21 and

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

23 “(6) SEPARATE REGISTRATION REQUIRED.—A
24 motor carrier may not broker transportation services

1 unless the motor carrier has registered as a broker
2 under this chapter.”.

3 (b) ENHANCED REGISTRATION PROCEDURES FOR
4 HOUSEHOLD GOODS MOTOR CARRIERS.—

5 (1) IN GENERAL.—Section 13902(a)(2) is
6 amended to read as follows:

7 “(2) REGISTRATION FOR HOUSEHOLD GOODS
8 MOTOR CARRIERS.—

9 “(A) ADDITIONAL REQUIREMENTS.—In
10 addition to meeting the requirements of para-
11 graph (1), the Secretary may register a person
12 to provide transportation of household goods as
13 a household goods motor carrier only after the
14 person—

15 “(i) provides evidence of participation
16 in an arbitration program under section
17 14708 and provides a copy of the notice of
18 the arbitration program as required by sec-
19 tion 14708(b)(2);

20 “(ii) identifies the motor carrier’s tar-
21 iff and provides a copy of the notice of the
22 availability of that tariff for inspection as
23 required by section 13702(c);

24 “(iii) provides evidence that the per-
25 son has access to, has read, is familiar

1 with, and will observe all applicable Fed-
2 eral laws relating to consumer protection,
3 estimating, consumers' rights and respon-
4 sibilities, and options for limitations of li-
5 ability for loss and damage;

6 “(iv) discloses any relationship involv-
7 ing common stock, common ownership,
8 common control, common management, or
9 common familial relationships between the
10 person and any other motor carrier, freight
11 forwarder, or broker of household goods
12 within 3 years of the proposed date of reg-
13 istration;

14 “(v) demonstrates that the person is
15 willing and able to comply with the house-
16 hold goods consumer protection rules of
17 the Secretary; and

18 “(vi) demonstrates, through successful
19 completion of a proficiency examination, to
20 be developed by the Secretary by regula-
21 tion, knowledge of the requirements and
22 regulations described in this subparagraph.

23 “(B) HOUSEHOLD GOODS AUDITS.—

24 “(i) IN GENERAL.—The Secretary
25 shall require, by regulation, each registrant

1 described in subparagraph (A) to undergo
2 a household goods audit during the 180-
3 day period beginning 1 year after the date
4 of issuance of a provisional registration to
5 the registrant.

6 “(ii) REGULATIONS.—

7 “(I) DEADLINE.—The Secretary
8 shall issue regulations under clause (i)
9 not later than 2 years after the date
10 of enactment of the Motor Carrier
11 Safety, Efficiency, and Accountability
12 Act of 2012.

13 “(II) ISSUANCE OF STAND-
14 ARDS.—The regulations shall include
15 standards for household goods audits.

16 “(iii) CONTENTS.—The Secretary
17 shall ensure that the standards issued
18 under clause (ii)(II) require evidence dem-
19 onstrating that a registrant described in
20 subparagraph (A)—

21 “(I) has consistently adhered to
22 the household goods regulations of the
23 Secretary;

24 “(II) has consistently adhered to
25 the requirements of its tariff;

1 “(III) has not wrongfully with-
2 held the household goods of a cus-
3 tomer;

4 “(IV) has not had a pattern of
5 substantiated customer service com-
6 plaints filed against it; and

7 “(V) has complied with all rel-
8 evant arbitration requirements.

9 “(C) CORRECTIVE ACTION PLAN.—

10 “(i) IN GENERAL.—If a registrant de-
11 scribed in subparagraph (A) fails a house-
12 hold goods audit, the registrant may sub-
13 mit to the Secretary for approval a correc-
14 tive action plan to address deficiencies
15 identified in the audit. The registrant shall
16 submit the plan during the 60-day period
17 beginning on the date the registrant is no-
18 tified of the results of the audit.

19 “(ii) DEADLINE FOR APPROVAL OR
20 DISAPPROVAL.—The Secretary shall ap-
21 prove or disapprove a corrective action
22 plan submitted under clause (i) not later
23 than 60 days after the date of submission
24 of the plan.

1 “(iii) ASSESSMENT OF IMPLEMENTA-
2 TION OF CORRECTIVE ACTION PLAN.—If
3 the Secretary approves a corrective action
4 plan submitted by a registrant under
5 clause (i), the Secretary shall determine,
6 during the 1-year period beginning on the
7 date of such approval, whether the reg-
8 istrant has carried out the plan satisfac-
9 torily.

10 “(D) PROVISIONAL REGISTRATION.—

11 “(i) IN GENERAL.—Any registration
12 issued under subparagraph (A) shall be
13 designated as a provisional registration
14 until the audit required by subparagraph
15 (B) is completed.

16 “(ii) REQUIREMENT FOR ISSUANCE
17 OF PERMANENT REGISTRATION.—A provi-
18 sional registration issued to a registrant
19 under subparagraph (A) shall become per-
20 manent after the registrant—

21 “(I) passes the household goods
22 audit required under subparagraph
23 (B); or

1 “(II) implements to the satisfac-
2 tion of the Secretary a corrective ac-
3 tion plan under subparagraph (C).

4 “(iii) REVOCATION OF PROVISIONAL
5 REGISTRATION.—If a registrant fails a
6 household goods audit required under sub-
7 paragraph (B) or does not implement to
8 the satisfaction of the Secretary a correc-
9 tive action plan under subparagraph (C),
10 the Secretary shall revoke the provisional
11 registration of the registrant.

12 “(E) REAPPLYING FOR REGISTRATION.—

13 “(i) IN GENERAL.—Nothing in this
14 paragraph permanently prohibits a person
15 from reapplying for registration to provide
16 transportation of household goods as a
17 household goods motor carrier.

18 “(ii) LIMITATION.—If the Secretary
19 revokes the provisional registration of a
20 person under this paragraph, the person
21 shall be required to wait at least 1 year be-
22 fore reapplying for a registration to pro-
23 vide transportation of household goods as
24 a household goods motor carrier.”.

1 (2) RULEMAKING.—Not later than 2 years after
2 the date of enactment of this Act, the Secretary
3 shall issue a final rule establishing the proficiency
4 examination referred to in section
5 13902(a)(2)(A)(vi) of title 49, United States Code,
6 as amended by paragraph (1).

7 (c) REGISTRATION AS FREIGHT FORWARDER OR
8 BROKER REQUIRED.—Section 13902 is amended—

9 (1) by redesignating subsection (g) as sub-
10 subsection (h); and

11 (2) by inserting after subsection (f) the fol-
12 lowing:

13 “(g) REGISTRATION AS FREIGHT FORWARDER OR
14 BROKER REQUIRED.—A motor carrier registered under
15 this chapter—

16 “(1) may only provide transportation of prop-
17 erty with—

18 “(A) self-propelled motor vehicles owned or
19 leased by the motor carrier; or

20 “(B) interchanges, as permitted under reg-
21 ulations issued by the Secretary and subject to
22 requirements that the originating carrier phys-
23 ically transports the cargo at some point and
24 retains liability for the cargo and payment of
25 interchanged carriers; and

1 “(c) EXPERIENCE OR TRAINING REQUIREMENT.—A
2 freight forwarder shall employ, as an officer, an individual
3 who—

4 “(1) has at least 3 years of relevant experience;
5 or

6 “(2) provides the Secretary with satisfactory
7 evidence of completion of relevant training.

8 “(d) REGISTRATION AS MOTOR CARRIER RE-
9 QUIRED.—A freight forwarder may not provide transpor-
10 tation as a motor carrier unless the freight forwarder has
11 registered separately under this chapter to provide trans-
12 portation as a motor carrier.”.

13 (b) REGISTRATION OF BROKERS.—Section 13904 is
14 amended to read as follows:

15 **“§ 13904. Registration of brokers**

16 “(a) IN GENERAL.—The Secretary shall register a
17 person to be a broker for transportation of property sub-
18 ject to jurisdiction under subchapter I of chapter 135, if
19 the Secretary finds that the person—

20 “(1) is qualified by experience to act as a
21 broker for transportation; and

22 “(2) is fit, willing, and able to be a broker for
23 transportation and to comply with this part and ap-
24 plicable regulations of the Secretary.

1 “(b) FINANCIAL SECURITY REQUIREMENTS.—A reg-
2 istration issued under subsection (a) shall remain in effect
3 only as long as the broker for transportation is in compli-
4 ance with section 13906(b).

5 “(c) EXPERIENCE OR TRAINING REQUIREMENT.—A
6 broker shall employ, as an officer, an individual who—

7 “(1) has at least 3 years of relevant experience;

8 or

9 “(2) provides the Secretary with satisfactory
10 evidence of completion of relevant training.

11 “(d) REGISTRATION AS MOTOR CARRIER RE-
12 QUIRED.—

13 “(1) IN GENERAL.—A broker for transportation
14 may not provide transportation as a motor carrier
15 unless the broker has registered separately under
16 this chapter to provide transportation as a motor
17 carrier.

18 “(2) LIMITATION.—This subsection does not
19 apply to a motor carrier registered under this chap-
20 ter or to an employee or agent of the motor carrier
21 to the extent the transportation is to be provided en-
22 tirely by the motor carrier.

23 “(e) REGULATIONS TO PROTECT MOTOR CARRIERS
24 AND SHIPPERS.—Regulations of the Secretary applicable
25 to brokers registered under this section shall provide for

1 the protection of motor carriers and shippers by motor ve-
2 hicle.

3 “(f) BOND AND INSURANCE.—The Secretary may im-
4 pose on brokers for motor carriers of passengers such re-
5 quirements for bonds or insurance (or both) as the Sec-
6 retary determines are needed to protect passengers and
7 carriers dealing with such brokers.”.

8 **SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.**

9 Section 13905(c) is amended to read as follows:

10 “(c) EFFECTIVE PERIOD.—

11 “(1) IN GENERAL.—Except as provided in this
12 part, each registration issued under section 13902,
13 13903, or 13904 shall be effective from the date
14 specified by the Secretary and shall remain in effect
15 for such period as the Secretary determines appro-
16 priate by regulation.

17 “(2) REISSUANCE OF REGISTRATION.—Not
18 later than 4 years after the date of enactment of the
19 Motor Carrier Safety, Efficiency, and Accountability
20 Act of 2012, the Secretary shall require a freight
21 forwarder or broker to renew its registration issued
22 under this chapter. Such registration shall expire not
23 later than 5 years after the date of such renewal and
24 may be further renewed as provided under this chap-
25 ter.

1 “(3) REQUIREMENT FOR INFORMATION UP-
2 DATE.—

3 “(A) IN GENERAL.—The Secretary shall
4 require a motor carrier, freight forwarder, or
5 broker to update its registration information
6 under this chapter within 30 days of any
7 change in address, other contact information,
8 officers, process agent, or other essential infor-
9 mation as determined by the Secretary and
10 published in the Federal Register.

11 “(B) MOTOR CARRIERS OF PASSENGERS.—
12 In addition to the requirements of subpara-
13 graph (A), the Secretary shall require a motor
14 carrier of passengers to update its registration
15 information, including numbers of vehicles, an-
16 nual mileage, and individuals responsible for
17 compliance with Federal safety regulations
18 quarterly for the first 2 years after being issued
19 a registration under section 13902.”.

20 **SEC. 6205. REINCARNATED CARRIERS.**

21 (a) DENIALS, SUSPENSIONS, AMENDMENTS, AND
22 REVOCATIONS.—Section 13905(d) is amended—

23 (1) by redesignating paragraph (2) as para-
24 graph (4);

1 (2) by striking paragraph (1) and inserting the
2 following:

3 “(1) APPLICATIONS.—On application of the
4 registrant, the Secretary may deny, suspend, amend,
5 or revoke a registration.

6 “(2) COMPLAINTS AND ACTIONS ON SEC-
7 RETARY’S OWN INITIATIVE.—On complaint or on the
8 Secretary’s own initiative and after notice and an
9 opportunity for a proceeding, the Secretary may—

10 “(A) deny, suspend, amend, or revoke any
11 part of the registration of a motor carrier,
12 broker, or freight forwarder for willful failure to
13 comply with—

14 “(i) this part;

15 “(ii) an applicable regulation or order
16 of the Secretary or the Board, including
17 the accessibility requirements established
18 by the Secretary under subpart H of part
19 37 of title 49, Code of Federal Regula-
20 tions, or a successor regulation, for trans-
21 portation provided by an over-the-road bus;
22 or

23 “(iii) a condition of its registration;

1 “(B) deny, suspend, amend, or revoke any
2 part of the registration of a motor carrier,
3 broker, or freight forwarder for failure to—

4 “(i) pay a civil penalty imposed under
5 chapter 5, 51, 149, or 311 of this title; or

6 “(ii) arrange and abide by an accept-
7 able payment plan for such civil penalty,
8 within 90 days of the time specified by
9 order of the Secretary for the payment of
10 such penalty; and

11 “(C) deny, suspend, amend, or revoke any
12 part of a registration of a motor carrier fol-
13 lowing a determination by the Secretary that
14 the motor carrier failed to disclose in its appli-
15 cation for registration a material fact relevant
16 to its willingness and ability to comply with—

17 “(i) this part;

18 “(ii) an applicable regulation or order
19 of the Secretary or the Board; or

20 “(iii) a condition of its registration.

21 “(3) LIMITATION.—Paragraph (2)(B) shall not
22 apply to any person who is unable to pay a civil pen-
23 alty because such person is a debtor in a case under
24 chapter 11 of title 11.”; and

1 (3) in paragraph (4) (as redesignated by sub-
2 paragraph (A) of this paragraph) by striking “para-
3 graph (1)(B)” and inserting “paragraph (2)(B)”.

4 (b) PROCEDURE.—Section 13905(e) is amended by
5 inserting “or if the Secretary determines that the reg-
6 istrant has failed to disclose a material fact in an applica-
7 tion for registration in accordance with subsection
8 (d)(2)(C)” before the first comma.

9 (c) DUTIES OF EMPLOYERS AND EMPLOYEES.—Sec-
10 tion 31135 is amended—

11 (1) by redesignating subsection (d) as sub-
12 section (e); and

13 (2) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) AVOIDING COMPLIANCE.—

16 “(1) IN GENERAL.—Two or more employers
17 shall not use common ownership, common manage-
18 ment, common control, or common familial relation-
19 ship to enable any or all such employers to avoid
20 compliance, or mask or otherwise conceal noncompli-
21 ance, or a history of noncompliance, with commercial
22 motor vehicle safety regulations issued under this
23 subchapter or an order of the Secretary issued under
24 this subchapter or such regulations.

1 “(2) PENALTY.—If the Secretary determines
2 that actions described in the preceding sentence have
3 occurred, the Secretary shall—

4 “(A) deny, suspend, amend, or revoke all
5 or part of any such employer’s registration
6 under sections 13905 and 31134; and

7 “(B) take into account such noncompliance
8 for purposes of determining civil penalty
9 amounts under section 521(b)(2)(D).”.

10 (d) INFORMATION SYSTEMS.—Section 31106(a)(3) is
11 amended—

12 (1) in subparagraph (F) by striking “and” at
13 the end;

14 (2) in subparagraph (G) by striking the period
15 at the end and inserting “; and”; and

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

17 “(H) determine whether a motor carrier is
18 or has been related, through common stock,
19 common ownership, common control, common
20 management, or common familial relationship
21 to any other motor carrier.”.

1 **SEC. 6206. FINANCIAL SECURITY OF BROKERS AND**
2 **FREIGHT FORWARDERS.**

3 (a) IN GENERAL.—Section 13906 is amended by
4 striking subsections (b) and (c) and inserting the fol-
5 lowing:

6 “(b) **BROKER FINANCIAL SECURITY REQUIRE-**
7 **MENTS.—**

8 “(1) **REQUIREMENTS.—**

9 “(A) IN GENERAL.—The Secretary may
10 register a person as a broker under section
11 13904 only if the person files with the Sec-
12 retary a surety bond, proof of trust fund, or
13 other financial security, or a combination there-
14 of, in a form and amount, and from a provider,
15 determined by the Secretary to be adequate to
16 ensure financial responsibility.

17 “(B) **USE OF A GROUP SURETY BOND,**
18 **TRUST FUND, OR OTHER SURETY.—**In imple-
19 menting the standards established by subpara-
20 graph (A), the Secretary may authorize the use
21 of a group surety bond, trust fund, or other fi-
22 nancial security, or a combination thereof, that
23 meets the requirements of this subsection.

24 “(C) **SURETY BONDS.—**A surety bond ob-
25 tained under this section may only be obtained

1 from a bonding company that has been ap-
2 proved by the Secretary of the Treasury.

3 “(D) PROOF OF TRUST OR OTHER FINAN-
4 CIAL SECURITY.—For purposes of subpara-
5 graph (A), a trust fund or other financial secu-
6 rity may be acceptable to the Secretary only if
7 the trust fund or other financial security con-
8 sists of assets readily available to pay claims
9 without resort to personal guarantees or collec-
10 tion of pledged accounts receivable.

11 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

12 “(A) PAYMENT OF CLAIMS.—A surety
13 bond, trust fund, or other financial security ob-
14 tained under paragraph (1) shall be available to
15 pay any claim against a broker arising from its
16 failure to pay freight charges under its con-
17 tracts, agreements, or arrangements for trans-
18 portation subject to jurisdiction under chapter
19 135 if—

20 “(i) subject to the review by the sur-
21 ety provider, the broker consents to the
22 payment;

23 “(ii) in the case the broker does not
24 respond to adequate notice to address the

1 validity of the claim, the surety provider
2 determines the claim is valid; or

3 “(iii) the claim is not resolved within
4 a reasonable period of time following a rea-
5 sonable attempt by the claimant to resolve
6 the claim under clauses (i) and (ii) and the
7 claim is reduced to a judgment against the
8 broker.

9 “(B) RESPONSE OF SURETY PROVIDERS
10 TO CLAIMS.—If a surety provider receives notice
11 of a claim described in subparagraph (A), the
12 surety provider shall—

13 “(i) respond to the claim on or before
14 the 30th day following receipt of the no-
15 tice; and

16 “(ii) in the case of a denial, set forth
17 in writing for the claimant the grounds for
18 the denial.

19 “(C) COSTS AND ATTORNEYS FEES.—In
20 any action against a surety provider to recover
21 on a claim described in subparagraph (A), the
22 prevailing party shall be entitled to recover its
23 reasonable costs and attorneys fees.

24 “(3) MINIMUM FINANCIAL SECURITY.—A
25 broker subject to the requirements of this section

1 shall provide financial security of \$100,000, regard-
2 less of the number of branch offices or sales agents
3 of the broker.

4 “(4) CANCELLATION NOTICE.—If a financial se-
5 curity required under this subsection is canceled—

6 “(A) the holder of the financial security
7 shall provide electronic notification to the Sec-
8 retary of the cancellation not later than 30 days
9 before the effective date of the cancellation; and

10 “(B) the Secretary shall immediately post
11 such notification on the public Internet Web
12 site of the Department of Transportation.

13 “(5) SUSPENSION.—The Secretary shall imme-
14 diately suspend the registration of a broker issued
15 under this chapter if the available financial security
16 of the broker falls below the amount required under
17 this subsection.

18 “(6) PAYMENT OF CLAIMS IN CASES OF FINAN-
19 CIAL FAILURE OR INSOLVENCY.—If a broker reg-
20 istered under this chapter experiences financial fail-
21 ure or insolvency, the surety provider of the broker
22 shall—

23 “(A) submit a notice to cancel the financial
24 security to the Administrator in accordance
25 with paragraph (4);

1 “(B) publicly advertise for claims for 60
2 days beginning on the date of publication by the
3 Secretary of the notice to cancel the financial
4 security; and

5 “(C) pay, not later than 30 days after the
6 expiration of the 60-day period for submission
7 of claims—

8 “(i) all uncontested claims received
9 during such period; or

10 “(ii) a pro rata share of such claims
11 if the total amount of such claims exceeds
12 the financial security available.

13 “(7) PENALTIES.—

14 “(A) CIVIL ACTIONS.—Either the Sec-
15 retary or the Attorney General may bring a civil
16 action in an appropriate district court of the
17 United States to enforce the requirements of
18 this subsection or a regulation prescribed or
19 order issued under this subsection. The court
20 may award appropriate relief, including injunc-
21 tive relief.

22 “(B) CIVIL PENALTIES.—If the Secretary
23 determines, after notice and opportunity for a
24 hearing, that a surety provider of a broker reg-
25 istered under this chapter has violated the re-

1 quirements of this subsection or a regulation
2 prescribed under this subsection, the surety
3 provider shall be liable to the United States for
4 a civil penalty in an amount not to exceed
5 \$10,000.

6 “(C) ELIGIBILITY.—If the Secretary deter-
7 mines, after notice and opportunity for a hear-
8 ing, that a surety provider of a broker reg-
9 istered under this chapter has violated the re-
10 quirements of this subsection or a regulation
11 prescribed under this subsection, the surety
12 provider shall be ineligible to provide the finan-
13 cial security of a broker for 5 years.

14 “(8) DEDUCTION OF COSTS PROHIBITED.—The
15 amount of the financial security required under this
16 subsection may not be reduced by deducting attor-
17 ney’s fees or administrative costs.

18 “(9) FINANCIAL SECURITY AMOUNT ASSESS-
19 MENT.—Every 5 years, the Secretary shall review,
20 with public notice and comment, the amounts of the
21 financial security required under this subsection to
22 determine whether the amounts are sufficient to pro-
23 vide adequate financial security, and shall be author-
24 ized to increase the amounts, if necessary, based
25 upon that determination.

1 “(c) FREIGHT FORWARDER FINANCIAL SECURITY
2 REQUIREMENTS.—

3 “(1) REQUIREMENTS.—

4 “(A) IN GENERAL.—The Secretary may
5 register a person as a freight forwarder under
6 section 13903 only if the person files with the
7 Secretary a surety bond, proof of trust fund, or
8 other financial security, or a combination there-
9 of, in a form and amount, and from a provider,
10 determined by the Secretary to be adequate to
11 ensure financial responsibility.

12 “(B) USE OF A GROUP SURETY BOND,
13 TRUST FUND, OR OTHER FINANCIAL SECUR-
14 ITY.—In implementing the standards estab-
15 lished by subparagraph (A), the Secretary may
16 authorize the use of a group surety bond, trust
17 fund, or other financial security, or a combina-
18 tion thereof, that meets the requirements of
19 this subsection.

20 “(C) SURETY BONDS.—A surety bond ob-
21 tained under this section may only be obtained
22 from a bonding company that has been ap-
23 proved by the Secretary of the Treasury.

24 “(D) PROOF OF TRUST OR OTHER FINAN-
25 CIAL SECURITY.—For purposes of subpara-

1 graph (A), a trust fund or other financial secu-
2 rity may be acceptable to the Secretary only if
3 the trust fund or other financial security con-
4 sists of assets readily available to pay claims
5 without resort to personal guarantees or collec-
6 tion of pledged accounts receivable.

7 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

8 “(A) PAYMENT OF CLAIMS.—A surety
9 bond, trust fund, or other financial security ob-
10 tained under paragraph (1) shall be available to
11 pay any claim against a freight forwarder aris-
12 ing from its failure to pay freight charges under
13 its contracts, agreements, or arrangements for
14 transportation subject to jurisdiction under
15 chapter 135 if—

16 “(i) subject to the review by the sur-
17 ety provider, the freight forwarder con-
18 sents to the payment;

19 “(ii) in the case the freight forwarder
20 does not respond to adequate notice to ad-
21 dress the validity of the claim, the surety
22 provider determines the claim is valid; or

23 “(iii) the claim is not resolved within
24 a reasonable period of time following a rea-
25 sonable attempt by the claimant to resolve

1 the claim under clauses (i) and (ii) and the
2 claim is reduced to a judgment against the
3 freight forwarder.

4 “(B) RESPONSE OF SURETY PROVIDERS
5 TO CLAIMS.—If a surety provider receives notice
6 of a claim described in subparagraph (A), the
7 surety provider shall—

8 “(i) respond to the claim on or before
9 the 30th day following receipt of the no-
10 tice; and

11 “(ii) in the case of a denial, set forth
12 in writing for the claimant the grounds for
13 the denial.

14 “(C) COSTS AND ATTORNEYS FEES.—In
15 any action against a surety provider to recover
16 on a claim described in subparagraph (A), the
17 prevailing party shall be entitled to recover its
18 reasonable costs and attorneys fees.

19 “(3) FREIGHT FORWARDER INSURANCE.—

20 “(A) IN GENERAL.—The Secretary may
21 register a person as a freight forwarder under
22 section 13903 only if the person files with the
23 Secretary a surety bond, insurance policy, or
24 other type of financial security that meets
25 standards to be prescribed by the Secretary.

1 “(B) LIABILITY INSURANCE.—A financial
2 security filed by a freight forwarder under sub-
3 paragraph (A) shall be sufficient to pay an
4 amount, not to exceed the amount of the finan-
5 cial security, for each final judgment against
6 the freight forwarder for—

7 “(i) bodily injury to, or death of, an
8 individual, or

9 “(ii) loss of, or damage to, property
10 (other than property referred to in sub-
11 paragraph (C)),

12 resulting from the negligent operation, mainte-
13 nance, or use of motor vehicles by, or under the
14 direction and control of, the freight forwarder
15 when providing transfer, collection, or delivery
16 service under this part.

17 “(C) CARGO INSURANCE.—The Secretary
18 may require a registered freight forwarder to
19 file with the Secretary a surety bond, insurance
20 policy, or other type of financial security ap-
21 proved by the Secretary that will pay an
22 amount, not to exceed the amount of the finan-
23 cial security, for loss of, or damage to, property
24 for which the freight forwarder provides service.

1 “(4) MINIMUM FINANCIAL SECURITY.—Each
2 freight forwarder subject to the requirements of this
3 section shall provide financial security of \$100,000,
4 regardless of the number of branch offices or sales
5 agents of the freight forwarder.

6 “(5) CANCELLATION NOTICE.—If a financial se-
7 curity required under this subsection is canceled—

8 “(A) the holder of the financial security
9 shall provide electronic notification to the Sec-
10 retary of the cancellation not later than 30 days
11 before the effective date of the cancellation; and

12 “(B) the Secretary shall immediately post
13 such notification on the public Internet Web
14 site of the Department of Transportation.

15 “(6) SUSPENSION.—The Secretary shall imme-
16 diately suspend the registration of a freight for-
17 warder issued under this chapter if the available fi-
18 nancial security of the freight forwarder falls below
19 the amount required under this subsection.

20 “(7) PAYMENT OF CLAIMS IN CASES OF FINAN-
21 CIAL FAILURE OR INSOLVENCY.—If a freight for-
22 warder registered under this chapter experiences fi-
23 nancial failure or insolvency, the surety provider of
24 the freight forwarder shall—

1 “(A) submit a notice to cancel the financial
2 security to the Administrator in accordance
3 with paragraph (5);

4 “(B) publicly advertise for claims for 60
5 days beginning on the date of publication by the
6 Secretary of the notice to cancel the financial
7 security; and

8 “(C) pay, not later than 30 days after the
9 expiration of the 60-day period for submission
10 of claims—

11 “(i) all uncontested claims received
12 during such period; or

13 “(ii) a pro rata share of such claims
14 if the total amount of such claims exceeds
15 the financial security available.

16 “(8) PENALTIES.—

17 “(A) CIVIL ACTIONS.—Either the Sec-
18 retary or the Attorney General may bring a civil
19 action in an appropriate district court of the
20 United States to enforce the requirements of
21 this subsection or a regulation prescribed or
22 order issued under this subsection. The court
23 may award appropriate relief, including injunc-
24 tive relief.

1 “(B) CIVIL PENALTIES.—If the Secretary
2 determines, after notice and opportunity for a
3 hearing, that a surety provider of a freight for-
4 warder registered under this chapter has vio-
5 lated the requirements of this subsection or a
6 regulation prescribed under this subsection, the
7 surety provider shall be liable to the United
8 States for a civil penalty in an amount not to
9 exceed \$10,000.

10 “(C) ELIGIBILITY.—If the Secretary deter-
11 mines, after notice and opportunity for a hear-
12 ing, that a surety provider of a freight for-
13 warder registered under this chapter has vio-
14 lated the requirements of this subsection or a
15 regulation prescribed under this subsection, the
16 surety provider shall be ineligible to provide the
17 financial security of a freight forwarder for 5
18 years.

19 “(9) DEDUCTION OF COSTS PROHIBITED.—The
20 amount of the financial security required under this
21 subsection may not be reduced by deducting attor-
22 ney’s fees or administrative costs.

23 “(10) FINANCIAL SECURITY AND INSURANCE
24 AMOUNT ASSESSMENT.—Every 5 years, the Sec-
25 retary shall review, with public notice and comment,

1 the amounts of the financial security and insurance
2 required under this subsection to determine whether
3 the amounts are sufficient to provide adequate fi-
4 nancial security, and shall be authorized to increase
5 the amounts, if necessary, based upon that deter-
6 mination.”.

7 (b) RULEMAKING.—Not later than 1 year after the
8 date of enactment of this Act, the Secretary shall issue
9 regulations to implement and enforce the requirements of
10 subsections (b) and (c) of section 13906 of title 49, United
11 States Code, as amended by subsection (a).

12 (c) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall take effect on the date that is 1 year
14 after the date of enactment of this Act.

15 (d) REVIEW OF SECURITY REQUIREMENTS.—Not
16 later than 15 months after the date of enactment of this
17 Act, the Inspector General of the Department of Trans-
18 portation shall—

19 (1) review the regulations and enforcement
20 practices of the Secretary under subsections (b) and
21 (c) of section 13906 of title 49, United States Code,
22 as amended by this Act; and

23 (2) make any recommendations to the Secretary
24 that may be necessary to improve the enforcement of
25 such regulations.

1 **SEC. 6207. REGISTRATION FEE SYSTEM.**

2 Section 13908(d)(1) is amended by striking “but
3 shall not exceed \$300”.

4 **SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.**

5 (a) IN GENERAL.—Chapter 149 is amended by add-
6 ing at the end the following:

7 **“§ 14916. Unlawful brokerage activities**

8 “(a) PROHIBITED ACTIVITIES.—A person may pro-
9 vide interstate brokerage services as a broker only if the
10 person—

11 “(1) is registered under, and in compliance
12 with, section 13904; and

13 “(2) has satisfied the financial security require-
14 ments under section 13906.

15 “(b) Subsection (a) shall not apply to—

16 “(1) a non-vessel-operating common carrier (as
17 defined in section 40102 of title 46);

18 “(2) an ocean freight forwarder (as defined in
19 section 40102 of title 46);

20 “(3) a customs broker licensed in accordance
21 with section 111.2 of title 19, Code of Federal Regu-
22 lations; or

23 “(4) an indirect air carrier holding a Standard
24 Security Program approved by the Transportation
25 Security Administration,

1 when arranging for inland transportation as part of an
2 international through movement involving ocean transpor-
3 tation between the United States and a foreign port.

4 “(c) CIVIL PENALTIES AND PRIVATE CAUSE OF AC-
5 TION.—Any person who knowingly authorizes, consents to,
6 or permits, directly or indirectly, either alone or in con-
7 junction with any other person, a violation of subsection
8 (a) is liable—

9 “(1) to the United States Government for a
10 civil penalty in an amount not to exceed \$10,000 for
11 each violation; and

12 “(2) to the injured party for all valid claims in-
13 curred without regard to amount.

14 “(d) LIABLE PARTIES.—The liability for civil pen-
15 alties and for claims under this section for unauthorized
16 brokering shall apply, jointly and severally—

17 “(1) to any corporate entity or partnership in-
18 volved; and

19 “(2) to the individual officers, directors, and
20 principals of such entities.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 chapter is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

1 **SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT**
2 **NUMBER.**

3 (a) IN GENERAL.—Subchapter III of chapter 311 is
4 amended by inserting after section 31133 the following:

5 **“§ 31134. Requirement for registration and Depart-**
6 **ment of Transportation number**

7 “(a) IN GENERAL.—An employer or an employee of
8 the employer may operate a commercial motor vehicle in
9 interstate commerce only if the Secretary of Transpor-
10 tation registers the employer under this section and issues
11 the employer a Department of Transportation number.

12 “(b) REGISTRATION.—Upon application for registra-
13 tion and a Department of Transportation number under
14 this section, the Secretary shall register the employer if
15 the Secretary determines that—

16 “(1) the employer is willing and able to comply
17 with the requirements of this subchapter and chap-
18 ter 51 if applicable; and

19 “(2)(A) during the 3-year period before the
20 date of the filing of the application, the employer
21 was not related through common stock, common
22 ownership, common control, common management,
23 or common familial relationship to any other person
24 subject to safety regulations under this subchapter
25 who, during such 3-year period, was unwilling or un-

1 able to comply with the requirements of this sub-
2 chapter or chapter 51 if applicable; or

3 “(B) the employer has disclosed to the Sec-
4 retary any relationship involving common stock,
5 common ownership, common control, common man-
6 agement, or common familial relationship between
7 that person and any other motor carrier.

8 “(c) REVOCATION OR SUSPENSION.—The Secretary
9 shall revoke or suspend the registration of an employer
10 issued under subsection (b) if the Secretary determines
11 that—

12 “(1) the authority of the employer to operate as
13 a motor carrier, freight forwarder, or broker pursu-
14 ant to chapter 139 is revoked or suspended under
15 section 13905(d)(1) or 13905(f); or

16 “(2) the employer has willfully failed to comply
17 with the requirements for registration set forth in
18 subsection (b).

19 “(d) COMMERCIAL REGISTRATION.—An employer
20 registered under this section may not provide transpor-
21 tation subject to jurisdiction under subchapter I of chapter
22 135 unless the employer is also registered under section
23 13902 to provide such transportation.

24 “(e) STATE AUTHORITY.—Nothing in this section
25 shall be construed as affecting the authority of a State

1 to issue a Department of Transportation number under
2 State law to a person operating in intrastate commerce.”.

3 (b) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 311 is amended by inserting after the item relating
5 to section 31133 the following:

“31134. Requirement for registration and Department of Transportation num-
ber.”.

6 **Subtitle C—Commercial Motor**
7 **Vehicle Safety**

8 **SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PRO-**
9 **GRAM.**

10 (a) GENERAL AUTHORITY.—Section 31102 is amend-
11 ed to read as follows:

12 **“§ 31102. Motor carrier safety assistance program**

13 “(a) GENERAL AUTHORITY.—The Secretary of
14 Transportation shall administer a motor carrier safety as-
15 sistance program to assist States with—

16 “(1) the development or implementation of pro-
17 grams for improving motor carrier safety; and

18 “(2) the enforcement of Federal regulations,
19 standards, and orders (and compatible State regula-
20 tions, standards, and orders) on—

21 “(A) commercial motor vehicle safety; and

22 “(B) hazardous materials transportation
23 safety.

24 “(b) STATE PLANS.—

1 “(1) PROCEDURES.—The Secretary shall pre-
2 scribe procedures for a State to participate in the
3 program, including procedures under which the
4 State shall submit a plan, in writing, to the Sec-
5 retary in which the State agrees—

6 “(A) to assume responsibility for improv-
7 ing motor carrier safety in the State; and

8 “(B) to adopt and enforce Federal regula-
9 tions, standards, and orders (and compatible
10 State regulations, standards, and orders) on—

11 “(i) commercial motor vehicle safety;

12 and

13 “(ii) hazardous materials transpor-
14 tation safety.

15 “(2) CONTENTS.—A plan submitted by a State
16 under paragraph (1) shall—

17 “(A) provide for implementation of per-
18 formance-based activities, including deployment
19 of technology, to enhance the efficiency and ef-
20 fectiveness of commercial motor vehicle safety
21 programs;

22 “(B) provide for implementation of a bor-
23 der commercial motor vehicle safety program
24 and related enforcement activities if the State
25 shares a land border with another country;

1 “(C) designate a State motor vehicle safety
2 agency (in this paragraph referred to as the
3 ‘designated State agency’) responsible for ad-
4 ministering the plan throughout the State;

5 “(D) provide satisfactory assurances that
6 the designated State agency has or will have the
7 legal authority, resources, and qualified per-
8 sonnel necessary to enforce the regulations,
9 standards, and orders;

10 “(E) provide satisfactory assurances that
11 the State will devote adequate amounts to the
12 administration of the plan and enforcement of
13 the regulations, standards, and orders;

14 “(F) provide a right of entry and inspec-
15 tion to carry out the plan;

16 “(G) provide that all reports required
17 under this section be submitted to the des-
18 ignated State agency and that the designated
19 State agency will make the reports available to
20 the Secretary on request;

21 “(H) provide that the designated State
22 agency will adopt the reporting requirements
23 and use the forms for recordkeeping, inspec-
24 tions, and investigations the Secretary pre-
25 scribes;

1 “(I) require registrants of commercial
2 motor vehicles to make a declaration of knowl-
3 edge of applicable safety regulations, standards,
4 and orders of the Government and the State;

5 “(J) provide that the State will grant max-
6 imum reciprocity for inspections conducted
7 under the North American Inspection Standard
8 through the use of a nationally accepted system
9 that allows ready identification of previously in-
10 spected commercial motor vehicles;

11 “(K) ensure that activities described in
12 subsection (f)(3)(B), if financed with grants
13 under this section, will not diminish the effec-
14 tiveness of the development and implementation
15 of commercial motor vehicle safety programs
16 described in subsection (a);

17 “(L) ensure that the designated State
18 agency will coordinate the plan, data collection,
19 and information systems with State highway
20 safety programs under title 23;

21 “(M) ensure participation in appropriate
22 Federal Motor Carrier Safety Administration
23 information systems and other information sys-
24 tems by all appropriate jurisdictions receiving
25 funding under this section;

1 “(N) provide satisfactory assurances that
2 the State is willing and able to exchange infor-
3 mation with other States in a timely manner;

4 “(O) provide satisfactory assurances that
5 the State will undertake efforts that will em-
6 phasize and improve enforcement of State and
7 local traffic safety laws and regulations related
8 to commercial motor vehicle safety;

9 “(P) provide satisfactory assurances that
10 the State will promote activities in support of
11 national priorities, including—

12 “(i) activities aimed at removing im-
13 paired commercial motor vehicle drivers
14 from the highways of the United States—

15 “(I) through adequate enforce-
16 ment of regulations on the use of alco-
17 hol and controlled substances; and

18 “(II) by ensuring ready roadside
19 access to alcohol detection and meas-
20 uring equipment;

21 “(ii) activities aimed at providing an
22 appropriate level of training to State motor
23 carrier safety assistance program officers
24 and employees on recognizing drivers im-

1 paired by alcohol or controlled substances;
2 and

3 “(iii) interdiction activities affecting
4 the transportation of controlled substances
5 by commercial motor vehicle drivers and
6 training on appropriate strategies for car-
7 rying out those interdiction activities;

8 “(Q) provide satisfactory assurances that
9 the State has established a program to ensure
10 that—

11 “(i) accurate, complete, and timely
12 motor carrier safety data is collected and
13 reported to the Secretary; and

14 “(ii) the State will participate in a na-
15 tional motor carrier safety data correction
16 system prescribed by the Secretary;

17 “(R) ensure that the State will cooperate
18 in the enforcement of financial responsibility re-
19 quirements under sections 13906, 31138, and
20 31139 and regulations issued thereunder;

21 “(S) ensure consistent, effective, and rea-
22 sonable sanctions;

23 “(T) ensure that roadside inspections will
24 be conducted at a location that is adequate to

1 protect the safety of drivers and enforcement
2 personnel;

3 “(U) provide satisfactory assurances that
4 the State will include, in the training manual
5 for the licensing examination to drive a non-
6 commercial motor vehicle and a commercial
7 motor vehicle, information on best practices for
8 driving safely in the vicinity of noncommercial
9 and commercial motor vehicles;

10 “(V) provide satisfactory assurances that
11 the State will enforce the registration require-
12 ments of sections 13902 and 31134 by prohib-
13 iting the operation of any vehicle discovered to
14 be operated by a motor carrier—

15 “(i) without a registration issued
16 under such sections; or

17 “(ii) beyond the scope of such reg-
18 istration;

19 “(W) provide satisfactory assurances that
20 the State will conduct comprehensive and highly
21 visible traffic enforcement and commercial
22 motor vehicle safety inspection programs in
23 high-risk locations and corridors; and

24 “(X) provide for implementation of activi-
25 ties to monitor the safety performance of motor

1 carriers of passengers, including inspections of
2 commercial motor vehicles designed or used to
3 transport passengers; except that roadside in-
4 spections must be conducted at a station, ter-
5 minal, border crossing, maintenance facility,
6 destination, or other location where a motor
7 carrier may make a planned stop, except in the
8 case of an imminent or obvious safety hazard.

9 “(3) MAINTENANCE OF EFFORT.—

10 “(A) IN GENERAL.—A plan submitted by a
11 State under this subsection shall provide that
12 the total expenditure of amounts of the State
13 and political subdivisions of the State (not in-
14 cluding amounts of the United States) for com-
15 mercial motor vehicle safety programs and for
16 enforcement of commercial motor vehicle size
17 and weight limitations, drug interdiction, and
18 State traffic safety laws and regulations under
19 subsection (f) will be maintained at a level at
20 least equal to the average level of that expendi-
21 ture for the 3 most recent fiscal years ending
22 before the date of enactment of the Motor Car-
23 rier Safety, Efficiency, and Accountability Act
24 of 2012.

1 “(B) CALCULATING STATE EXPENDI-
2 TURES.—In calculating the average level of
3 State expenditure, the Secretary—

4 “(i) may allow the State to exclude
5 State expenditures for Government-spon-
6 sored demonstration or pilot programs;
7 and

8 “(ii) shall require the State to exclude
9 Government amounts.

10 “(c) GUIDANCE AND STANDARDS.—

11 “(1) IN GENERAL.—Not later than October 1,
12 2013, the Secretary shall—

13 “(A) develop guidance on the effectiveness
14 of specific enforcement and related activities in
15 generating reductions in fatalities and crashes
16 involving commercial motor vehicles; and

17 “(B) publish standards for data timeliness,
18 accuracy, and completeness that will allow
19 States to meet the objectives of this section and
20 that are consistent with the standards issued
21 under section 31106(a)(4).

22 “(2) OPTIMIZATION OF ALLOCATIONS.—The
23 Secretary shall develop a tool for States to optimize
24 allocations of motor carrier safety resources to carry

1 out enforcement and related activities to meet the
2 objectives of this section.

3 “(3) UPDATES OF GUIDANCE.—The Secretary
4 shall update the guidance issued under paragraph
5 (1)(A) periodically to reflect new information.

6 “(d) PERFORMANCE MEASURES.—

7 “(1) STATE TARGETS.—For fiscal year 2014,
8 and each fiscal year thereafter, each State, in the
9 plan submitted by that State under subsection (b),
10 shall—

11 “(A) establish targets, in quantifiable
12 metrics, for enforcement activities, data quality,
13 and other benchmarks to reduce fatalities and
14 crashes involving commercial motor vehicles;

15 “(B) select target activities in accordance
16 with the Secretary’s latest guidance to ensure
17 States pursue activities likely to generate max-
18 imum fatality and crash reduction; and

19 “(C) meet the standards for data published
20 by the Secretary under subsection (c)(1)(B).

21 “(2) ANNUAL UPDATES OF STATE PLANS.—A
22 State shall—

23 “(A) update its plan under subsection (b)
24 annually to establish targets for the following
25 fiscal year; and

1 “(B) submit the updated plan to the Sec-
2 retary.

3 “(3) REQUIREMENTS FOR TARGETS.—If a
4 State receives an increase in grant funds under this
5 section in a fiscal year as compared to the previous
6 fiscal year, the targets established by the State
7 under paragraph (1) for the fiscal year shall exceed
8 the levels achieved by the State in the previous fiscal
9 year.

10 “(4) STATE REPORTS.—

11 “(A) INFORMATION ON FATALITIES AND
12 CRASHES INVOLVING COMMERCIAL MOTOR VE-
13 HICLES.—Under the motor carrier safety assist-
14 ance program, a State shall report to the Sec-
15 retary the number and rate of fatalities and
16 crashes involving commercial motor vehicles oc-
17 curring in the State in the previous fiscal year.

18 “(B) OTHER INFORMATION.—A State shall
19 include in the report required under subpara-
20 graph (A) information on commercial motor ve-
21 hicles registered in the State and involved in
22 crashes in such fiscal year and any other infor-
23 mation requested by the Secretary.

1 “(5) ASSESSMENTS.—As part of the annual
2 plan approval process under subsection (e), the Sec-
3 retary shall assess whether—

4 “(A) a State met its targets in the pre-
5 vious fiscal year; and

6 “(B) targeted activities are reducing fatali-
7 ties and crashes involving commercial motor ve-
8 hicles.

9 “(e) PLAN REVIEW.—

10 “(1) APPROVAL PROCESS.—Before distributing
11 grant funds under subsection (f) in a fiscal year, the
12 Secretary shall—

13 “(A) review each State plan submitted to
14 the Secretary under subsection (b), as updated
15 by the State under subsection (d); and

16 “(B)(i) approve the plan if the Secretary
17 determines that the plan is adequate to promote
18 the objectives of this section; or

19 “(ii) disapprove the plan.

20 “(2) RESUBMITTAL.—If the Secretary dis-
21 approves a plan under this subsection, the Secretary
22 shall—

23 “(A) give the State a written explanation;

24 and

1 “(B) allow the State to modify and resub-
2 mit the plan for approval.

3 “(3) CONTINUOUS EVALUATION OF PLANS.—

4 “(A) IN GENERAL.—On the basis of re-
5 ports submitted by the motor vehicle safety
6 agency of a State with a plan approved under
7 this subsection and the Secretary’s own inves-
8 tigations, the Secretary shall make a continuing
9 evaluation of the way the State is carrying out
10 the plan.

11 “(B) WITHDRAWAL OF APPROVAL.—

12 “(i) IN GENERAL.—If the Secretary
13 finds, after notice and opportunity for
14 comment, a State plan previously approved
15 under this subsection is not being followed
16 or has become inadequate to ensure en-
17 forcement of the regulations, standards, or
18 orders, the Secretary shall withdraw ap-
19 proval of the plan and notify the State.

20 “(ii) EFFECTIVE DATE.—The plan
21 shall not be effective beginning on the date
22 the notice is received.

23 “(iii) JUDICIAL REVIEW.—A State ad-
24 versely affected by a withdrawal under this

1 subparagraph may seek judicial review
2 under chapter 7 of title 5.

3 “(C) ADMINISTRATIVE AND JUDICIAL PRO-
4 CEEDINGS.—Notwithstanding a withdrawal of
5 approval of a State plan under this paragraph,
6 the State may retain jurisdiction in administra-
7 tive or judicial proceedings begun before the
8 date of the withdrawal if the issues involved are
9 not related directly to the reasons for the with-
10 drawal.

11 “(f) GRANTS TO STATES.—

12 “(1) IN GENERAL.—Subject to the availability
13 of funds, the Secretary shall make grants to States
14 for the development or implementation of programs
15 under this section in accordance with paragraph (3).

16 “(2) ELIGIBILITY.—

17 “(A) IN GENERAL.—A State shall be eligi-
18 ble for a grant under this subsection in a fiscal
19 year in an amount equal to the State’s allocated
20 amount determined under section 31104(f) if
21 the State has in effect a State plan under sub-
22 section (b) that has been approved by the Sec-
23 retary under subsection (e) for that fiscal year.

24 “(B) WITHHOLDING OF FUNDS.—In the
25 case of a State that does not meet the require-

1 ments of subparagraph (A) in a fiscal year, the
2 Secretary may withhold grant funds from a
3 State’s allocated amount determined under sec-
4 tion 31104(f) for that fiscal year as follows:

5 “(i) The Secretary may withhold up to
6 25 percent of such funds if the State had
7 a plan approved under subsection (e) for
8 the fiscal year preceding the fiscal year of
9 the grant, but has not had a plan approved
10 under subsection (e) for the fiscal year of
11 the grant.

12 “(ii) The Secretary may withhold up
13 to 50 percent of such funds if the State
14 had a plan approved under subsection (e)
15 for the second fiscal year preceding the fis-
16 cal year of the grant, but has not had a
17 plan approved under subsection (e) for the
18 fiscal year of the grant and the preceding
19 fiscal year.

20 “(iii) The Secretary may withhold up
21 to 75 percent of such funds if the State
22 had a plan approved under subsection (e)
23 for the third fiscal year preceding the fiscal
24 year of the grant, but has not had a plan
25 approved under subsection (e) for the fiscal

1 year of the grant and the 2 preceding fis-
2 cal years.

3 “(iv) The Secretary may withhold 100
4 percent of such funds if the State has not
5 had a plan approved under subsection (e)
6 for the fiscal year of the grant and the 3
7 preceding fiscal years.

8 “(C) SUBSEQUENT AVAILABILITY OF
9 WITHHELD FUNDS.—The Secretary shall make
10 available to a State the grant funds withheld
11 from the State for a fiscal year under subpara-
12 graph (B) if the Secretary approves the State’s
13 plan under subsection (e) on or before the last
14 day of that fiscal year.

15 “(D) REALLOCATION OF WITHHELD
16 FUNDS.—If the Secretary withholds grant funds
17 from a State for a fiscal year under subpara-
18 graph (B), and the State does not have a plan
19 approved under subsection (e) on or before the
20 last day of that fiscal year, such funds shall be
21 released to the Secretary for reallocation among
22 the States under section 31104(f) in the fol-
23 lowing fiscal year.

24 “(3) USE OF GRANT FUNDS.—

1 “(A) IN GENERAL.—A State receiving a
2 grant under this subsection shall use the grant
3 funds for activities to further the State’s plan
4 under subsection (b).

5 “(B) USE OF GRANTS TO ENFORCE OTHER
6 LAWS.—Subject to subparagraph (C), a State
7 may use grant funds received under this sub-
8 section—

9 “(i) if carried out in conjunction with
10 an appropriate inspection of a commercial
11 motor vehicle to enforce Federal or State
12 commercial motor vehicle safety regula-
13 tions, for—

14 “(I) enforcement of commercial
15 motor vehicle size and weight limita-
16 tions at locations other than fixed
17 weight facilities, at specific locations
18 such as steep grades or mountainous
19 terrains where the weight of a com-
20 mercial motor vehicle can significantly
21 affect the safe operation of the vehi-
22 cle, or at ports where intermodal ship-
23 ping containers enter and leave the
24 United States; and

1 “(II) detection of the unlawful
2 presence of a controlled substance (as
3 defined under section 102 of the Com-
4 prehensive Drug Abuse Prevention
5 and Control Act of 1970 (21 U.S.C.
6 802)) in a commercial motor vehicle
7 or on the person of any occupant (in-
8 cluding the operator) of the vehicle;
9 and

10 “(ii) for documented enforcement of
11 State traffic laws and regulations designed
12 to promote the safe operation of commer-
13 cial motor vehicles, including documented
14 enforcement of such laws and regulations
15 relating to noncommercial motor vehicles
16 when necessary to promote the safe oper-
17 ation of commercial motor vehicles.

18 “(C) LIMITATIONS.—

19 “(i) EFFECT ON COMMERCIAL MOTOR
20 VEHICLE SAFETY PROGRAMS.—A State
21 may use grant funds received under this
22 subsection for an activity described in sub-
23 paragraph (B) only if the activity will not
24 diminish the effectiveness of commercial

1 motor vehicle safety programs described in
2 subsection (a).

3 “(ii) ENFORCEMENT ACTIVITIES RE-
4 LATING TO NONCOMMERCIAL MOTOR VEHI-
5 CLES.—A State may not use more than 5
6 percent of the total amount of grants re-
7 ceived by the State under this subsection
8 in a fiscal year for enforcement activities
9 relating to noncommercial motor vehicles
10 described in subparagraph (B)(ii) unless
11 the Secretary determines a higher percent-
12 age will result in significant increases in
13 commercial motor vehicle safety.

14 “(g) ANNUAL REPORT.—The Secretary shall submit
15 to the Committee on Transportation and Infrastructure
16 of the House of Representatives and the Committee on
17 Commerce, Science, and Transportation of the Senate an
18 annual report that—

19 “(1) analyzes commercial motor vehicle safety
20 trends among the States and documents the most ef-
21 fective commercial motor vehicle safety programs
22 implemented with grants under this section;

23 “(2) describes the effect of activities carried out
24 with grants made under this section on commercial
25 motor vehicle safety; and

1 “(3) documents the number and rate of fatali-
2 ties and crashes involving commercial motor vehicles
3 by State.”.

4 (b) CONFORMING AMENDMENT.—Section 31103(a)
5 is amended by striking “section 31102(b)(1)(E) of this
6 title” and inserting “section 31102(b)(3)”.

7 (c) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 311 is amended by striking the item relating to section
9 31102 and inserting the following:

“31102. Motor carrier safety assistance program.”.

10 **SEC. 6302. PERFORMANCE AND REGISTRATION INFORMA-**
11 **TION SYSTEMS MANAGEMENT PROGRAM.**

12 (a) IN GENERAL.—Section 31109 is amended to read
13 as follows:

14 **“§ 31109. Performance and registration information**
15 **systems management program**

16 “(a) IN GENERAL.—The Secretary shall carry out a
17 performance and registration information systems man-
18 agement program to link Federal motor carrier safety in-
19 formation systems with State commercial vehicle registra-
20 tion and licensing systems as part of the motor carrier
21 information system established under section 31106.

22 “(b) DESIGN.—The program shall enable a State
23 to—

24 “(1) determine the safety fitness of a motor
25 carrier or registrant—

1 “(A) when licensing or registering the
2 motor carrier or registrant; or

3 “(B) while the license or registration is in
4 effect; and

5 “(2) deny, suspend, or revoke the commercial
6 motor vehicle registration of a motor carrier or reg-
7 istrant to whom the Secretary has issued an oper-
8 ations out-of-service order.

9 “(c) PROGRAM PARTICIPATION.—Not later than Sep-
10 tember 30, 2015, the Secretary shall require a State to
11 participate in the program by—

12 “(1) complying with the uniform policies, proce-
13 dures, and technical and operational standards pre-
14 scribed by the Secretary under section 31106(a)(4);

15 “(2) having in effect a law providing the State
16 with the authority to impose the sanctions described
17 in paragraph (3)(A) on the basis of an out-of-service
18 order issued by the Secretary; and

19 “(3) establishing and implementing a process,
20 approved by the Secretary, to—

21 “(A) deny, suspend, or revoke the vehicle
22 registration or seize the registration plates of a
23 commercial motor vehicle registered to a motor
24 carrier to whom the Secretary has issued an
25 out-of-service order; and

1 “(B) reinstate the vehicle registration or
2 return the registration plates of the commercial
3 motor vehicle subject to sanctions under sub-
4 paragraph (A) if the Secretary permits such
5 carrier to resume operations after the date of
6 issuance of such order.

7 “(d) FUNDING.—A State may use grant funds made
8 available to the State under section 4126 of SAFETEA—
9 LU (119 Stat. 1738) for each of fiscal years 2013 through
10 2016 to meet the requirements of this section for partici-
11 pation in the program under subsection (c).”.

12 (b) CONFORMING AMENDMENTS.—Section 31106(b)
13 is amended—

14 (1) by striking paragraphs (2) through (4);

15 (2) by striking “(b) PERFORMANCE AND REG-
16 ISTRATION INFORMATION PROGRAM.—” and all that
17 follows through “(1) INFORMATION CLEARING-
18 HOUSE.—The Secretary” and inserting the fol-
19 lowing:

20 “(b) INFORMATION CLEARINGHOUSE.—The Sec-
21 retary”; and

22 (3) by aligning the remaining text accordingly.

23 (c) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 311 is amended by striking the item relating to section
25 31109 and inserting the following:

“31109. Performance and registration information systems management program.”.

1 **SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
2 **AND NETWORKS DEPLOYMENT GRANTS.**

3 (a) IN GENERAL.—Section 4126(a) of SAFETEA—
4 LU (119 Stat. 1738) is amended—

5 (1) in paragraph (1) by striking “and” at the
6 end;

7 (2) in paragraph (2) by striking “and Federal”
8 and all that follows through the period at the end
9 and inserting a semicolon; and

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

11 “(3) facilitate compliance with Federal and
12 State commercial motor vehicle regulatory require-
13 ments; and

14 “(4) provide assistance for State participation
15 in the performance and registration information sys-
16 tems management program under section 31109.”.

17 (b) AMOUNT OF GRANTS.—

18 (1) CORE DEPLOYMENT GRANTS.—Section
19 4126(c) of such Act (119 Stat. 1738) is amended—

20 (A) by striking paragraph (2); and

21 (B) by redesignating paragraph (3) as
22 paragraph (2).

23 (2) EXPANDED DEPLOYMENT GRANTS.—Section
24 4126(d) of such Act (119 Stat. 1739) is amended—

1 (A) by striking paragraph (3); and

2 (B) by redesignating paragraph (4) as
3 paragraph (3).

4 (c) ELIGIBILITY.—Section 4126(e) of such Act (119
5 Stat. 1739) is amended—

6 (1) in paragraph (2)(B)—

7 (A) by inserting “in interstate commerce”
8 after “efficiency”; and

9 (B) by striking “and” at the end;

10 (2) in paragraph (3) by striking the period at
11 the end and inserting “; and”; and

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

13 “(4) shall be participating not later than Sep-
14 tember 30, 2015, in the performance and registra-
15 tion information systems management program
16 under section 31109 of title 49, United States
17 Code.”.

18 (d) FEDERAL SHARE.—Section 4126(f) of such Act
19 (119 Stat. 1739) is amended—

20 (1) by striking “The Federal” and inserting the
21 following:

22 “(1) IN GENERAL.—The Federal”; and

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

24 “(2) PERFORMANCE AND REGISTRATION INFOR-
25 MATION SYSTEMS MANAGEMENT PROGRAM.—Not-

1 withstanding any other provision of this subsection,
2 the Federal share of the cost of a project relating to
3 participation in the performance and registration in-
4 formation systems management program under sec-
5 tion 31109 of title 49, United States Code, shall be
6 100 percent for fiscal years 2013 through 2016.”.

7 **SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPEC-**
8 **TION PROGRAMS.**

9 (a) IN GENERAL.—Section 31142(b) is amended to
10 read as follows:

11 “(b) INSPECTION OF VEHICLES AND RECORD RE-
12 TENTION.—

13 “(1) REGULATIONS ON GOVERNMENT STAND-
14 ARDS.—The Secretary of Transportation shall pre-
15 scribe regulations on Government standards for in-
16 spection of commercial motor vehicles and retention
17 by employers of records of such inspections.

18 “(2) CONTENTS OF STANDARDS.—The stand-
19 ards shall provide for—

20 “(A) annual or more frequent inspections
21 of a commercial motor vehicle designed or used
22 to transport property unless the Secretary finds
23 that another inspection system is as effective as
24 an annual or more frequent inspection system;
25 and

1 shall consider Safety Recommendation H-99-6 of the Na-
2 tional Transportation Safety Board, issued February 26,
3 1999, closed.

4 **SEC. 6306. NEW ENTRANT CARRIERS.**

5 (a) SAFETY REVIEW.—Section 31144(g)(1) is
6 amended to read as follows:

7 “(1) SAFETY REVIEW.—The Secretary shall re-
8 quire, by regulation, each owner and operator issued
9 a new registration under section 13902 or 31134 to
10 undergo a safety review under this section—

11 “(A) except as provided by subparagraphs
12 (B) and (C), within the first 18 months after
13 the date on which the owner or operator begins
14 operations under such registration;

15 “(B) in the case of an owner or operator
16 with authority to transport hazardous mate-
17 rials, within the first 9 months after the date
18 on which the owner or operator begins oper-
19 ations under such registration; and

20 “(C) in the case of an owner or operator
21 with authority to transport passengers, within
22 the first 90 days after the date on which the
23 owner or operator begins operations under such
24 registration.”.

1 (b) NEW ENTRANT REGISTRATION.—Section
2 31144(g)(4) is amended to read as follows:

3 “(4) NEW ENTRANT REGISTRATION.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of this title, any new registra-
6 tion issued under section 13902 or 31134 shall
7 each be designated as new entrant registration
8 until the safety review required by paragraph
9 (1) is completed.

10 “(B) REQUIREMENT FOR ISSUANCE OF
11 PERMANENT OPERATING AUTHORITY.—A new
12 registration issued to an owner or operator
13 under section 13902 or 31134 shall become
14 permanent after the owner or operator has
15 passed the safety review required under para-
16 graph (1).”.

17 (c) FUNDING.—Section 31144(g)(5) is amended to
18 read as follows:

19 “(5) FUNDING.—

20 “(A) IN GENERAL.—A State shall carry
21 out the requirements of this section with funds
22 allocated to the State under section 31104(f).

23 “(B) DETERMINATION.—If the Secretary
24 determines that a State or local government is
25 not able to use government employees to con-

1 duct new entrant motor carrier safety reviews
2 with funds allocated to the State under section
3 31104(f), the Secretary may conduct for the
4 State or local government the safety reviews
5 that the State or local government is not able
6 to conduct with such funds.”.

7 (d) FEDERAL SHARE.—Section 31103(b) is amended
8 to read as follows:

9 “(b) NEW ENTRANT MOTOR CARRIER SAFETY RE-
10 VIEWS.—

11 “(1) INCREASE IN SHARE OF COSTS.—Subject
12 to paragraph (2), the Secretary may reimburse a
13 State an amount that is up to 100 percent of the
14 costs incurred by the State in a fiscal year for new
15 entrant motor carrier safety reviews conducted
16 under section 31144(g).

17 “(2) LIMITATION.—The increased Federal
18 share provided under paragraph (1) shall apply with
19 respect to reimbursements of costs described in
20 paragraph (1) made using not more than 20 percent
21 of the funds allocated to a State under section
22 31104(f) for a fiscal year. Any such reimbursements
23 made using an amount in excess of 20 percent of
24 such funds shall be subject to the cost-sharing re-
25 quirements of subsection (a).”.

1 (e) CONFORMING AMENDMENT.—Section 31144(g) is
2 amended, in the subsection heading, by striking “SAFETY
3 REVIEWS OF NEW OPERATORS” and inserting “NEW EN-
4 TRANT MOTOR CARRIER SAFETY REVIEWS”.

5 **SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF**
6 **PASSENGERS.**

7 Section 31144 is amended by adding at the end the
8 following:

9 “(h) SAFETY REVIEWS OF OWNERS AND OPERATORS
10 OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHI-
11 CLES DESIGNED OR USED TO TRANSPORT PAS-
12 SENGERS.—

13 “(1) IN GENERAL.—Not later than September
14 30, 2015, the Secretary shall determine the safety
15 fitness of each owner, and each operator, of a com-
16 mercial motor vehicle designed or used to transport
17 passengers who the Secretary registers, on or before
18 September 30, 2014 (including before the date of
19 enactment of this subsection), under section 13902
20 or 31134.

21 “(2) SAFETY FITNESS RATING.—As part of the
22 safety fitness determination required by paragraph
23 (1), the Secretary shall assign a safety fitness rating
24 to each owner and each operator described in para-
25 graph (1).

1 “(3) PERIODIC MONITORING.—

2 “(A) PROCESS.—The Secretary shall es-
3 tablish a process, by regulation, for monitoring
4 on a regular basis the safety performance of an
5 owner or operator of a commercial motor vehi-
6 cle designed or used to transport passengers,
7 following the assignment of a safety rating to
8 such owner or operator.

9 “(B) ELEMENTS OF MONITORING AND
10 SAFETY ENFORCEMENT.—Regulations issued
11 under subparagraph (A) shall provide for the
12 following:

13 “(i) Monitoring of the safety perform-
14 ance, in critical safety areas (as defined by
15 the Secretary, by regulation) of an owner
16 or operator of a commercial motor vehicle
17 designed or used to transport passengers
18 (including by activities conducted onsite at
19 the offices of the owner or operator or off-
20 site).

21 “(ii) Increasingly more stringent
22 interventions designed to correct unsafe
23 practices of an owner or operator of a com-
24 mercial motor vehicle designed or used to
25 transport passengers.

1 “(iii) Periodic updates to the safety
2 fitness rating of an owner or operator if
3 the Secretary determines that such update
4 will improve the safety performance of the
5 owner or operator.

6 “(iv) Enforcement action, including
7 determining that the owner or operator is
8 not fit and may not operate a commercial
9 motor vehicle under subsection (c)(2).”.

10 **SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.**

11 (a) EXAMINATION REQUIREMENT FOR NATIONAL
12 REGISTRY OF MEDICAL EXAMINERS.—Section
13 31149(c)(1)(D) is amended to read as follows:

14 “(D) develop requirements applicable to a
15 medical examiner in order for the medical ex-
16 aminer to be listed in the national registry es-
17 tablished under this section, including—

18 “(i) specific courses and materials
19 that must be completed;

20 “(ii) at a minimum, self-certification
21 requirements to verify that the medical ex-
22 aminer has completed specific training, in-
23 cluding refresher courses, that the Sec-
24 retary determines are necessary; and

1 “(iii) an examination developed by the
2 Secretary for which a passing grade must
3 be achieved.”.

4 (b) ADDITIONAL OVERSIGHT OF LICENSING AU-
5 THORITIES.—

6 (1) IN GENERAL.—Section 31149(c)(1) is
7 amended—

8 (A) in subparagraph (E) by striking “and”
9 at the end;

10 (B) in subparagraph (F) by striking the
11 period at the end and inserting “; and”; and

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

13 “(G) review each year the implementation
14 of commercial driver’s license requirements of a
15 minimum of 10 States to assess the accuracy,
16 validity, and timeliness of—

17 “(i) submission of physical examina-
18 tion reports and medical certificates to
19 State licensing agencies; and

20 “(ii) the processing of such submis-
21 sions by State licensing agencies.”.

22 (2) INTERNAL OVERSIGHT POLICY.—

23 (A) IN GENERAL.—Not later than 2 years
24 after the date of enactment of this Act, the Sec-
25 retary shall establish an oversight policy and

1 process within the Department for the purposes
2 of carrying out the requirement of section
3 31149(c)(1)(G) of title 49, United States Code,
4 as added by paragraph (1) of this subsection.

5 (B) EFFECTIVE DATE.—Section
6 31149(c)(1)(G) of title 49, United States Code,
7 as added by paragraph (1) of this subsection,
8 shall take effect on the date that the oversight
9 policy and process is established pursuant to
10 subparagraph (A).

11 (c) DEADLINE FOR ESTABLISHMENT OF NATIONAL
12 REGISTRY OF MEDICAL EXAMINERS.—Not later than 1
13 year after the date of enactment of this Act, the Secretary
14 shall establish a national registry of medical examiners as
15 required by section 31149(d)(1) of title 49, United States
16 Code.

17 **SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STAND-**
18 **ARDS.**

19 (a) SAFETY STANDARDS FOR COMMERCIAL MOTOR
20 VEHICLES OF PROPERTY.—

21 (1) RESEARCH.—The Secretary shall conduct
22 research on the need for roof strength, pillar
23 strength, frontal and back wall strength, and other
24 potential occupant protection standards for commer-
25 cial motor vehicles of property.

1 (2) COMMERCIAL MOTOR VEHICLE OF PROP-
2 ERTY DEFINED.—In this subsection, the term “com-
3 mercial motor vehicle of property” means a motor
4 vehicle used in commerce to transport property that
5 has a gross vehicle weight rating or gross vehicle
6 weight of at least 26,001 pounds, whichever is great-
7 er.

8 (b) SAFETY STANDARDS FOR MOTORCOACHES.—

9 (1) SAFETY STANDARDS FOR NEW
10 MOTORCOACHES.—

11 (A) OCCUPANT PROTECTION SYSTEMS.—

12 (i) IN GENERAL.—Not later than 3
13 years after the date of enactment of this
14 Act, the Secretary shall issue standards for
15 motorcoach occupant protection systems
16 that account for frontal impact collisions,
17 side impact collisions, rear impact colli-
18 sions, and rollovers. Such standards shall
19 not eliminate or lessen the occupant pro-
20 tection standards in effect on the date of
21 enactment of this Act and shall—

22 (I) be based on sound scientific
23 research, extensive testing, and anal-
24 ysis by the National Highway Traffic
25 Safety Administration, consistent with

1 the recommendations of the National
2 Transportation Safety Board regard-
3 ing motorcoach occupant protection;
4 and

5 (II) take into consideration the
6 various types of motorcoaches and the
7 various uses and configurations of the
8 occupant compartment as well as
9 local, State, and Federal size and
10 weight limits and restrictions.

11 (ii) CONTENTS.—Such standards may
12 include seatbelts or other occupant protec-
13 tion systems, passive or otherwise, for pas-
14 sengers, including those in child safety re-
15 straint systems.

16 (iii) CONSULTATION.—Prior to issuing
17 such standards, the Secretary shall consult
18 with affected parties, as appropriate, on
19 the proceedings leading to the issuance of
20 the standards required by this subpara-
21 graph. Any communications concerning
22 such consultation shall be included in the
23 public record of the proceedings leading to
24 the issuance of such standards and shall be
25 subject to public comment.

1 (B) ROOF STRENGTH.—

2 (i) RESEARCH AND TESTING.—The
3 Secretary shall conduct research and test-
4 ing on roof strength to determine the
5 method or methods that provide adequate
6 survival space for all seating positions.

7 (ii) STANDARDS.—Not later than 3
8 years after the date of enactment of this
9 Act, the Secretary shall issue roof strength
10 standards for motorcoaches based on the
11 results of such research and testing and
12 taking into account all motorcoach window
13 dimensions and highway size and weight
14 restrictions.

15 (C) WINDOW GLAZING.—

16 (i) RESEARCH AND TESTING.—The
17 Secretary shall conduct research and test-
18 ing on advanced window glazing and se-
19 curement to determine the best method or
20 methods for window glazing to prevent mo-
21 torcoach occupant ejection.

22 (ii) STANDARDS.—Not later than 3
23 years after the date of enactment of this
24 Act, the Secretary shall revise window
25 glazing standards for motorcoaches based

1 on the results of such research and testing
2 and taking into account all motorcoach
3 window dimensions and highway height
4 and weight restrictions.

5 (D) FIRE PREVENTION AND MITIGA-
6 TION.—

7 (i) RESEARCH AND TESTING.—The
8 Secretary shall conduct research and test-
9 ing to determine the most prevalent causes
10 of motorcoach fires and the best methods
11 to prevent such fires and to mitigate the
12 effect of such fires, both inside and outside
13 the motorcoach.

14 (ii) STANDARDS.—Not later than 3
15 years after the date of enactment of this
16 Act, the Secretary shall issue fire preven-
17 tion and mitigation standards for
18 motorcoaches, based on the results of the
19 Secretary's research and testing, taking
20 into account motorcoach highway size and
21 weight restrictions.

22 (E) EMERGENCY EVACUATION DESIGN.—

23 (i) RESEARCH AND TESTING.—The
24 Secretary shall conduct research and test-
25 ing to determine any necessary changes in

1 motorcoach design standards, including
2 windows and doors, to improve motorcoach
3 emergency evacuation.

4 (ii) STANDARDS.—Not later than 3
5 years after the date of enactment of this
6 Act, the Secretary shall issue motorcoach
7 emergency evacuation design standards, in-
8 cluding—

9 (I) window standards that en-
10 hance the use of windows for emer-
11 gency evacuation to the maximum ex-
12 tent feasible, while not detracting
13 from the window glazing standards to
14 be issued under this paragraph; and

15 (II) door standards, including de-
16 sign of the wheelchair lift door for
17 emergency evacuation use.

18 (iii) MOTORCOACH HIGHWAY SIZE
19 AND WEIGHT RESTRICTIONS.—Such stand-
20 ards shall take into account motorcoach
21 highway size and weight restrictions.

22 (F) GENERAL PROVISIONS.—

23 (i) EFFECT ON STATE AND LOCAL
24 LAWS.—Notwithstanding any provision of
25 chapter 301 of title 49, United States

1 Code, a State or a political subdivision of
2 a State may not adopt or enforce a law or
3 regulation related to a motorcoach crash
4 avoidance and occupant protection system
5 prior to the effective date of the regula-
6 tions issued pursuant to this paragraph.

7 (ii) APPLICABILITY OF STANDARDS.—
8 The standards issued under subparagraphs
9 (A) through (E) shall require motorcoaches
10 manufactured after the last day of 3-year
11 period beginning on the date on which
12 such standards are issued to be engineered
13 and equipped to meet such standards.

14 (iii) LIMITATION ON STATUTORY CON-
15 STRUCTION.—Nothing in this subsection or
16 in the regulations issued pursuant to this
17 subsection may be construed as indicating
18 an intention by Congress to affect, change,
19 or modify in any way the liability, if any,
20 of a motorcoach manufacturer or motor-
21 coach owner or operator under applicable
22 law to buses or motorcoaches, manufac-
23 tured and operated with or without pas-
24 senger seat belts or other passenger re-
25 straint systems, prior to the effective date

1 of the regulations issued under this sub-
2 section.

3 (2) SAFETY STANDARDS FOR EXISTING
4 MOTORCOACHES.—

5 (A) IN GENERAL.—Not later than 3 years
6 after the date of enactment of this subsection,
7 the Secretary shall issue standards for
8 motorcoaches that are manufactured before the
9 date that is 3 years after the date on which the
10 standards required under paragraph (1) are
11 issued, taking into account the limitations
12 posed by the need to retrofit existing
13 motorcoaches. Such standards shall have the
14 same objectives as the standards required under
15 subparagraphs (A) through (E) of paragraph
16 (1), but may differ from such standards based
17 on what is technically feasible for existing
18 motorcoaches.

19 (B) STANDARDS FOR COMPONENT PARTS
20 AND EQUIPMENT.—In lieu of issuing com-
21 prehensive standards for motorcoaches under
22 subparagraph (A), the Secretary may develop
23 standards for various component parts and
24 equipment of motorcoaches that would increase
25 occupant protection.

1 (C) EFFECTIVE DATE.—The effective date
2 for the standards issued under this subsection
3 shall be the same as the effective date for the
4 standards issued under paragraph (1).

5 (D) CERTIFICATION.—The Secretary shall
6 establish, by regulation, a system whereby the
7 motorcoaches to which the standards issued
8 under subparagraph (A) apply shall be certified
9 as in compliance with such standards. Such cer-
10 tification shall be carried out by the Secretary
11 or by private parties at the discretion and au-
12 thorization of the Secretary.

13 (3) COMPLIANCE TIMETABLES.—

14 (A) EFFECTIVE DATE.—The effective date
15 of the standards issued under paragraphs (1)
16 and (2) shall be 3 years after the date on which
17 such final standards are issued. All
18 motorcoaches manufactured after such date
19 shall comply with such standards.

20 (B) PHASED IN REQUIREMENTS.—

21 (i) FIRST PHASE.—Not later than 6
22 years after the effective date of the stand-
23 ards issued under paragraphs (1) and (2),
24 a motorcoach owner or operator shall en-
25 sure that at least 50 percent of the

1 motorcoaches used by the owner or oper-
2 ator comply with either the standards
3 issued under paragraph (1) or the stand-
4 ards issued under paragraph (2), as appro-
5 priate.

6 (ii) SECOND PHASE.—Not later than
7 12 years after the effective date of the
8 standards issued under paragraphs (1) and
9 (2), a motorcoach owner or operator shall
10 ensure that 100 percent of the
11 motorcoaches used by the owner or oper-
12 ator comply with either of such standards.

13 (C) STATE AND LOCAL LAWS.—

14 (i) LIABILITY OF MOTORCOACH MANU-
15 FACTURERS AND OWNERS AND OPERA-
16 TORS.—Nothing in this subsection may be
17 construed to affect, change, or modify in
18 any way the liability, if any, of a motor-
19 coach manufacturer or motorcoach owner
20 or operator under applicable law to buses
21 or motorcoaches unless the manufacturer
22 or owner or operator is shown not to be in
23 compliance with the timetables set forth in
24 subparagraphs (A) and (B).

1 (ii) PREEMPTION.—Notwithstanding
2 any provision of chapter 301 of title 49,
3 United States Code, a State or a political
4 subdivision of a State may not adopt or
5 enforce a law or regulation related to any
6 of the standards required by paragraphs
7 (1) and (2) during the time periods set
8 forth in subparagraphs (A) and (B).

9 (4) DEFINITION OF MOTORCOACH.—In this
10 subsection, the term “motorcoach” means an over-
11 the-road bus, characterized by an elevated passenger
12 deck located over a baggage compartment.

13 **SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.**

14 (a) STUDY.—The Secretary shall study the effective-
15 ness of crash avoidance technologies as countermeasures
16 to lessen the impact of distracted driving in commercial
17 motor vehicle crashes.

18 (b) REPORT TO CONGRESS.—Not later than October
19 1, 2013, the Secretary shall submit to the Committee on
20 Transportation and Infrastructure of the House of Rep-
21 resentatives and the Committee on Commerce, Science,
22 and Transportation of the Senate a report detailing the
23 results of the study.

1 **SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.**

2 (a) **STUDY.**—The Secretary shall expand the ongoing
3 study of the Department on collision mitigation systems
4 in commercial motor vehicles to include systems that can
5 react to a stopped vehicle.

6 (b) **REPORT TO CONGRESS.**—Not later than October
7 1, 2013, the Secretary shall submit to the Committee on
8 Transportation and Infrastructure of the House of Rep-
9 resentatives and the Committee on Commerce, Science,
10 and Transportation of the Senate a report detailing the
11 results of the study.

12 **Subtitle D—Commercial Motor**
13 **Vehicle Operators**

14 **SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RE-**
15 **LATING TO ALCOHOL AND CONTROLLED SUB-**
16 **STANCES TESTING OF COMMERCIAL MOTOR**
17 **VEHICLE OPERATORS.**

18 (a) **IN GENERAL.**—Chapter 313 is amended by in-
19 serting after section 31306 the following:

20 **“§ 31306a. National clearinghouse for records relating**
21 **to alcohol and controlled substances test-**
22 **ing**

23 **“(a) ESTABLISHMENT.**—

24 **“(1) IN GENERAL.**—Subject to the require-
25 ments of this section, the Secretary of Transpor-
26 tation shall establish and maintain an information

1 system that will serve as a national clearinghouse for
2 records relating to the alcohol and controlled sub-
3 stances testing program applicable to operators of
4 commercial motor vehicles under section 31306.

5 “(2) PURPOSES.—The purposes of the clearing-
6 house shall be—

7 “(A) to improve compliance with the re-
8 quirements of the testing program; and

9 “(B) to help prevent accidents and injuries
10 resulting from the misuse of alcohol or use of
11 controlled substances by operators of commer-
12 cial motor vehicles.

13 “(3) CONTENTS.—The clearinghouse shall be a
14 repository of records relating to violations of the
15 testing program by individuals submitted to the Sec-
16 retary in accordance with this section.

17 “(4) ELECTRONIC EXCHANGE OF RECORDS.—
18 The Secretary shall ensure the ability for records to
19 be submitted to the clearinghouse, and requested
20 from the clearinghouse, on an electronic basis.

21 “(5) DEADLINE.—The Secretary shall establish
22 the clearinghouse not later than 1 year after the
23 date of enactment of this section.

24 “(b) EMPLOYMENT PROHIBITIONS.—

1 “(1) IN GENERAL.—An employer may permit
2 an individual to operate a commercial motor vehicle
3 or perform any other safety sensitive function only
4 if the employer makes a request for information
5 from the clearinghouse at such times as the Sec-
6 retary shall specify, by regulation, and the informa-
7 tion in the clearinghouse at the time of the request
8 indicates that the individual—

9 “(A) has not violated the requirements of
10 the testing program in the preceding 3-year pe-
11 riod; or

12 “(B) if the individual has violated the re-
13 quirements of the testing program during that
14 period, is eligible to return to safety sensitive
15 duties pursuant to the return-to-duty process
16 established under the testing program.

17 “(2) VIOLATIONS.—For purposes of paragraph
18 (1), an individual shall be considered to have vio-
19 lated the requirements of the testing program if the
20 individual—

21 “(A) has a confirmed or verified, as appli-
22 cable, positive alcohol or controlled substances
23 test result under the testing program;

1 “(B) has failed or refused to submit to an
2 alcohol or controlled substances test under the
3 testing program; or

4 “(C) has otherwise failed to comply with
5 the requirements of the testing program.

6 “(3) APPLICABILITY.—Paragraph (1) shall
7 apply to an individual who performs a safety sen-
8 sitive function for an employer as a full-time regu-
9 larly employed driver, casual, intermittent, or occa-
10 sional driver, or leased driver, or independent owner-
11 operator contractor of such employer or, as deter-
12 mined by the Secretary, pursuant to another ar-
13 rangement.

14 “(4) WRITTEN NOTICE THAT CLEARINGHOUSE
15 IS OPERATIONAL.—The Secretary shall issue a writ-
16 ten notice when the Secretary determines that the
17 clearinghouse is operational and employers are able
18 to use the clearinghouse to meet the requirements of
19 section 382.413 of title 49, Code of Federal Regula-
20 tions, as in effect on the date of enactment of this
21 section.

22 “(5) EFFECTIVE DATE.—Paragraph (1) shall
23 take effect on a date specified by the Secretary in
24 the written notice issued under paragraph (4) that

1 is not later than 30 days after the date of issuance
2 of the written notice.

3 “(6) CONTINUED APPLICATION OF EXISTING
4 REQUIREMENTS.—Following the date on which para-
5 graph (1) takes effect, an employer shall continue to
6 be subject to the requirements of section 382.413 of
7 title 49, Code of Federal Regulations, as in effect on
8 the date of enactment of this section, for a period
9 of 3 years or for such longer period as the Secretary
10 determines appropriate.

11 “(7) NOTICE OF REQUIREMENTS APPLICABLE
12 TO EMPLOYERS.—The Secretary shall provide notice
13 of the requirements applicable to employers under
14 this section through published notices in the Federal
15 Register.

16 “(c) REPORTING OF RECORDS.—

17 “(1) IN GENERAL.—The Secretary shall require
18 employers and appropriate service agents, including
19 medical review officers, to submit to the Secretary
20 for inclusion in the clearinghouse records of viola-
21 tions of the testing program by individuals described
22 in subsection (b)(3).

23 “(2) SPECIFIC REPORTING REQUIREMENTS.—In
24 carrying out paragraph (1), the Secretary shall re-
25 quire, at a minimum—

1 “(A) a medical review officer to report
2 promptly, as determined by the Secretary, to
3 the clearinghouse—

4 “(i) a verified positive controlled sub-
5 stances test result of an individual under
6 the testing program; and

7 “(ii) a failure or refusal of an indi-
8 vidual to submit to a controlled substances
9 test in accordance with the requirements of
10 the testing program; and

11 “(B) an employer (or, in the case of an op-
12 erator of a commercial motor vehicle who is
13 self-employed, the service agent administering
14 the operator’s testing program) to report
15 promptly, as determined by the Secretary, to
16 the clearinghouse—

17 “(i) a confirmed positive alcohol test
18 result of an individual under the testing
19 program; and

20 “(ii) a failure or refusal of an indi-
21 vidual to provide a specimen for a con-
22 trolled substances test in accordance with
23 the requirements of the testing program.

24 “(3) UPDATING OF RECORDS.—The Secretary
25 shall ensure that a record in the clearinghouse is up-

1 dated to include a return-to-duty test result of an in-
2 dividual under the testing program.

3 “(4) INCLUSION OF RECORDS IN CLEARING-
4 HOUSE.—The Secretary shall include all records of
5 violations received pursuant to this subsection in the
6 clearinghouse.

7 “(5) MODIFICATIONS AND DELETIONS.—If the
8 Secretary determines that a record contained in the
9 clearinghouse is not accurate, the Secretary shall
10 modify or delete the record.

11 “(6) NOTIFICATION OF INDIVIDUALS.—The
12 Secretary shall establish a process to provide notifi-
13 cation to an individual of—

14 “(A) a submission of a record to the clear-
15 inghouse relating to the individual; and

16 “(B) any modification or deletion of a
17 record in the clearinghouse pertaining to the in-
18 dividual, including the reason for the modifica-
19 tion or deletion.

20 “(7) TIMELY AND ACCURATE REPORTING.—The
21 Secretary may establish additional requirements, as
22 appropriate, to ensure timely and accurate reporting
23 of records to the clearinghouse.

24 “(8) DELETION OF RECORDS.—The Secretary
25 shall delete a record of a violation submitted to the

1 clearinghouse after a period of 3 years beginning on
2 the date the individual is eligible to return to safety
3 sensitive duties pursuant to the return-to-duty proc-
4 ess established under the testing program.

5 “(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish a process for an employer to request and receive
8 records in the clearinghouse pertaining to an indi-
9 vidual in accordance with subsection (b).

10 “(2) WRITTEN CONSENT OF INDIVIDUALS.—An
11 employer shall obtain the written consent of an indi-
12 vidual before requesting any records in the clearing-
13 house pertaining to the individual.

14 “(3) ACCESS TO RECORDS.—Upon receipt of a
15 request for records from an employer under para-
16 graph (1), the Secretary shall provide the employer
17 with access to the records as expeditiously as prac-
18 ticable.

19 “(4) RECORDS OF REQUESTS.—The Secretary
20 shall require an employer to maintain for a 3-year
21 period—

22 “(A) a record of each request made by the
23 employer for records from the clearinghouse;
24 and

1 “(B) any information received pursuant to
2 the request.

3 “(5) USE OF RECORDS.—

4 “(A) IN GENERAL.—An employer—

5 “(i) may obtain from the clearing-
6 house a record pertaining to an individual
7 only for the purpose of determining wheth-
8 er a prohibition applies with respect to the
9 individual to operate a commercial motor
10 vehicle or perform any other safety sen-
11 sitive function under subsection (b)(1); and

12 “(ii) may use the record only for such
13 purpose.

14 “(B) PROTECTION OF PRIVACY OF INDI-
15 VIDUALS.—An employer that receives a record
16 from the clearinghouse pertaining to an indi-
17 vidual shall protect the privacy of the individual
18 and the confidentiality of the record, including
19 taking reasonable precautions to ensure that in-
20 formation contained in the record is not di-
21 vulged to any person who is not directly in-
22 volved in determining whether a prohibition ap-
23 plies with respect to the individual to operate a
24 commercial motor vehicle or perform any other

1 safety sensitive function under subsection
2 (b)(1).

3 “(e) ACCESS TO CLEARINGHOUSE BY INDIVID-
4 UALS.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish a process for an individual to request and re-
7 ceive information from the clearinghouse—

8 “(A) to learn whether a record pertaining
9 to the individual is contained in the clearing-
10 house;

11 “(B) to verify the accuracy of the record;

12 “(C) to verify updates to the individual’s
13 record, including completion of a return-to-duty
14 process under the testing program; and

15 “(D) to learn of requests for information
16 from the clearinghouse regarding the individual.

17 “(2) DISPUTE PROCEDURE.—The Secretary
18 shall establish a procedure, including an appeal
19 process, for an individual to dispute and remedy an
20 administrative error in a record pertaining to the in-
21 dividual in the clearinghouse, except that the appeal
22 process shall not be used to dispute or remedy the
23 validity of a controlled substance or alcohol test re-
24 sult.

1 “(3) ACCESS TO RECORDS.—Upon receipt of a
2 request for records from an individual under para-
3 graph (1), the Secretary shall provide the individual
4 with access to the records as expeditiously as prac-
5 ticable.

6 “(f) ACCESS TO CLEARINGHOUSE BY CHIEF COM-
7 MERCIAL DRIVER LICENSING OFFICIALS.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a process for the chief commercial driver licens-
10 ing official of a State to request and receive records
11 pertaining to an individual from the clearinghouse.

12 “(2) USE OF INFORMATION.—The chief com-
13 mercial driver licensing official of a State may not
14 obtain from the clearinghouse a record pertaining to
15 an individual for any purpose other than to take an
16 action related to a commercial driver’s license for
17 the individual under applicable State law or to com-
18 ply with section 31311(a)(22).

19 “(g) USE OF CLEARINGHOUSE INFORMATION FOR
20 ENFORCEMENT PURPOSES.—The Secretary may use the
21 records in the clearinghouse for the purposes of enforce-
22 ment activities under this chapter.

23 “(h) DESIGN OF CLEARINGHOUSE.—

1 “(1) IN GENERAL.—In establishing the clear-
2 inghouse, the Secretary shall develop a secure proc-
3 ess for—

4 “(A) registration, authorization, and au-
5 thentication of a user of the clearinghouse;

6 “(B) registration, authorization, and au-
7 thentication of individuals required to report to
8 the clearinghouse under subsection (c);

9 “(C) preventing information from the
10 clearinghouse from being accessed by unauthor-
11 ized users;

12 “(D) timely and accurate electronic sub-
13 missions of data to the clearinghouse under
14 subsection (c);

15 “(E) timely and accurate access to records
16 from the clearinghouse under subsections (d),
17 (e), and (f); and

18 “(F) updates to an individual’s record re-
19 lated to compliance with the return-to-duty
20 process under the testing program.

21 “(2) ARCHIVE CAPABILITY.—The clearinghouse
22 shall be designed to allow for an archive of the re-
23 ceipt, modification, and deletion of records for the
24 purposes of auditing and evaluating the timeliness,

1 accuracy, and completeness of data in the clearing-
2 house.

3 “(3) SECURITY STANDARDS.—The clearing-
4 house shall be designed and administered in compli-
5 ance with applicable Department of Transportation
6 information technology security standards.

7 “(4) INTEROPERABILITY WITH OTHER SYS-
8 TEMS.—In establishing the clearinghouse and devel-
9 oping requirements for data to be included in the
10 clearinghouse, the Secretary, to the maximum extent
11 practicable, shall take into consideration—

12 “(A) existing information systems con-
13 taining regulatory and safety data for motor ve-
14 hicle operators;

15 “(B) the efficacy of using or combining
16 clearinghouse data with 1 or more of such sys-
17 tems; and

18 “(C) the potential interoperability of the
19 clearinghouse with existing and future informa-
20 tion systems containing regulatory and safety
21 data for motor vehicle operators.

22 “(i) PRIVACY.—

23 “(1) AVAILABILITY OF CLEARINGHOUSE INFOR-
24 MATION.—The Secretary shall establish a process to
25 make information available from the clearinghouse

1 in a manner that is consistent with this section and
2 applicable Federal information and privacy laws, in-
3 cluding regulations.

4 “(2) UNAUTHORIZED INDIVIDUALS.—The Sec-
5 retary may not provide information from the clear-
6 ingshouse to an individual who is not authorized by
7 this section to receive the information.

8 “(j) FEES.—

9 “(1) AUTHORITY TO COLLECT FEES.—

10 “(A) GENERAL AUTHORITY.—The Sec-
11 retary may collect fees for requests for informa-
12 tion from the clearinghouse.

13 “(B) AMOUNT TO BE COLLECTED.—Fees
14 collected under this subsection in a fiscal year
15 shall equal as nearly as possible the costs of op-
16 erating the clearinghouse in that fiscal year, in-
17 cluding personnel costs.

18 “(C) RECEIPTS TO BE CREDITED AS OFF-
19 SETTING COLLECTIONS.—The amount of any
20 fee collected under this subsection shall be—

21 “(i) credited as offsetting collections
22 to the account that finances the activities
23 and services for which the fee is imposed;
24 and

1 “(ii) available without further appro-
2 priation for such activities and services
3 until expended.

4 “(2) LIMITATION.—The Secretary shall ensure
5 that an individual requesting information from the
6 clearinghouse in order to dispute or remedy an error
7 in a record pertaining to the individual pursuant to
8 subsection (e)(2) may obtain the information with-
9 out being subject to a fee authorized by paragraph
10 (1).

11 “(k) ENFORCEMENT.—An employer, and any person
12 acting as a service agent, shall be subject to civil and
13 criminal penalties for a violation of this section in accord-
14 ance with section 521(b).

15 “(l) DEFINITIONS.—In this section, the following
16 definitions apply:

17 “(1) CHIEF COMMERCIAL DRIVER LICENSING
18 OFFICIAL.—The term ‘chief commercial driver li-
19 censing official’ means the official in a State who is
20 authorized—

21 “(A) to maintain a record about a com-
22 mercial driver’s license issued by the State; and

23 “(B) to take action on a commercial driv-
24 er’s license issued by the State.

1 “(2) CLEARINGHOUSE.—The term ‘clearing-
2 house’ means the clearinghouse to be established
3 under subsection (a).

4 “(3) EMPLOYER.—Notwithstanding section
5 31301, the term ‘employer’ means a person or entity
6 employing 1 or more employees (including an indi-
7 vidual who is self-employed) that is subject to De-
8 partment of Transportation requirements under the
9 testing program. The term does not include a service
10 agent.

11 “(4) MEDICAL REVIEW OFFICER.—The term
12 ‘medical review officer’ means a person who is a li-
13 censed physician and who is responsible for receiving
14 and reviewing laboratory results generated under the
15 testing program and evaluating medical explanations
16 for certain controlled substances test results.

17 “(5) SAFETY SENSITIVE FUNCTION.—The term
18 ‘safety sensitive function’ has the meaning such
19 term has under part 382 of title 49, Code of Federal
20 Regulations, or any successor regulation.

21 “(6) SERVICE AGENT.—The term ‘service
22 agent’ means a person or entity, other than an em-
23 ployee of an employer, who provides services covered
24 by part 40 of title 49, Code of Federal Regulations,
25 or any successor regulation, to employers or employ-

1 ees (or both) under the testing program, and the
2 term includes a medical review officer.

3 “(7) TESTING PROGRAM.—The term ‘testing
4 program’ means the alcohol and controlled sub-
5 stances testing program established under section
6 31306.”.

7 (b) CONFORMING AMENDMENT.—The analysis for
8 such chapter is amended by inserting after the item relat-
9 ing to section 31306 the following:

 “31306a. National clearinghouse for records relating to alcohol and controlled
 substances testing.”.

10 (c) PENALTIES.—

11 (1) APPLICATION OF PENALTY.—Section
12 31306(j) is amended by inserting “An employer, in-
13 cluding an individual who is self-employed, shall be
14 subject to civil and criminal penalties in accordance
15 with section 521(b) for a violation of this section.”
16 before “This section”.

17 (2) VIOLATIONS RELATING TO COMMERCIAL
18 MOTOR VEHICLE SAFETY REGULATIONS AND OPERA-
19 TORS.—Section 521(b) is amended—

20 (A) in paragraph (1)(A) by inserting
21 “31306, 31306a,” before “31310(g)(1)(A)”;

22 (B) in paragraphs (2)(A), (2)(B), and
23 (6)(A) by inserting “31306, 31306a, or” before
24 “31502”; and

1 (C) in paragraph (5)(A) by inserting
2 “31306, 31306a,” before “or 31502”.

3 (3) CONTROLLED SUBSTANCE OR ALCOHOL
4 TESTING.—Any person acting as a service agent
5 under the Secretary’s regulations in part 40 of title
6 49, Code of Federal Regulations, as in effect on the
7 date of enactment of this Act, who violates the re-
8 quirements prescribed by the Secretary for con-
9 ducting alcohol or controlled substances testing
10 under such part or any related regulation of the De-
11 partment shall be liable to the United States Gov-
12 ernment for a civil penalty of not more than
13 \$10,000 for each violation. Each day that a violation
14 continues shall constitute a separate violation.

15 **SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR**
16 **TRAINING.**

17 (a) IN GENERAL.—Not later than 2 years after the
18 date of enactment of this Act, the Secretary shall issue
19 final regulations establishing minimum training require-
20 ments for commercial motor vehicle operators.

21 (b) REQUIREMENTS.—The regulations shall—

22 (1) require commercial motor vehicle operators,
23 before obtaining a commercial driver’s license for the
24 first time or upgrading from one class of commercial

1 driver's license to another, to receive training that
2 meets the requirements established by the Secretary;

3 (2) address the knowledge and skills necessary
4 for an operator of a commercial motor vehicle to
5 safely operate a commercial motor vehicle;

6 (3) address the specific and additional training
7 needs of commercial motor vehicle operators seeking
8 passenger or hazardous materials endorsements;

9 (4) require instruction that is effective for ac-
10 quiring the knowledge and skills referred to in para-
11 graphs (2) and (3);

12 (5) require the issuance of a certification that
13 a commercial motor vehicle operator has met the re-
14 quirements established by the Secretary; and

15 (6) require a training provider (including public
16 or private driving schools, motor carriers, or owners
17 or operators of a commercial motor vehicle) offering
18 training that results in the issuance of a certification
19 to an operator under paragraph (5) to demonstrate
20 that such training meets the requirements of the
21 regulations, through a process established by the
22 Secretary.

23 (c) COMMERCIAL DRIVER'S LICENSE UNIFORM
24 STANDARDS.—Section 31308(1) is amended to read as
25 follows:

1 “(1) an individual issued a commercial driver’s
2 license—

3 “(A) pass written and driving tests for the
4 operation of a commercial motor vehicle that
5 comply with the minimum standards prescribed
6 by the Secretary under section 31305(a); and

7 “(B) present certification of completion of
8 driver training that meets the requirements es-
9 tablished by the Secretary under section 4042
10 of the Motor Carrier Safety, Efficiency, and Ac-
11 countability Act of 2012;”.

12 **SEC. 6403. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

13 (a) IN GENERAL.—Section 31309(e)(4)(A) is amend-
14 ed by striking the period at the end and inserting “and
15 must use the systems to receive and submit conviction and
16 disqualification data.”.

17 (b) REQUIREMENTS FOR STATE PARTICIPATION.—

18 (1) IN GENERAL.—Section 31311(a) is amend-
19 ed—

20 (A) in paragraph (5) by striking “At least”
21 and all that follows through “regulation),” and
22 inserting the following: “Within the time period
23 the Secretary prescribes by regulation,”; and

24 (B) by adding at the end the following:

1 “(22) Before renewing or issuing a commercial
2 driver’s license to an individual, the State shall re-
3 quest information pertaining to the individual from
4 the drug and alcohol clearinghouse maintained under
5 section 31306a.

6 “(23) The State shall ensure that the State’s
7 commercial driver’s license information system com-
8 plies with applicable Federal information technology
9 standards.”.

10 (2) STATE COMMERCIAL DRIVER’S LICENSE
11 PROGRAM PLAN.—Section 31311 is amended by add-
12 ing at the end the following:

13 “(d) STATE COMMERCIAL DRIVER’S LICENSE PRO-
14 GRAM PLAN.—

15 “(1) IN GENERAL.—A State shall develop and
16 submit to the Secretary for approval a plan for com-
17 plying with the requirements of subsection (a) in the
18 period beginning on the date that the plan is ap-
19 proved and ending on September 30, 2017.

20 “(2) CONTENTS.—A plan submitted by a State
21 under paragraph (1) shall identify—

22 “(A) the actions that the State must take
23 to address any deficiencies in the State’s com-
24 mercial driver’s license program, as identified

1 by the Secretary in the most recent audit of the
2 program; and

3 “(B) other actions that the State must
4 take to comply with the requirements of sub-
5 section (a).

6 “(3) PRIORITY.—

7 “(A) IMPLEMENTATION SCHEDULE.—A
8 plan submitted by a State under paragraph (1)
9 shall include a schedule for the implementation
10 of the actions identified under paragraph (2).

11 “(B) DEADLINE FOR COMPLIANCE WITH
12 REQUIREMENTS.—A plan submitted by a State
13 under paragraph (1) shall include assurances
14 that the State will take the necessary actions to
15 comply with the requirements of subsection (a)
16 not later than September 30, 2017.

17 “(4) APPROVAL AND DISAPPROVAL.—The Sec-
18 retary shall—

19 “(A) review a plan submitted by a State
20 under paragraph (1); and

21 “(B)(i) approve the plan if the Secretary
22 determines that the plan is adequate to promote
23 the objectives of this section; or

24 “(ii) disapprove the plan.

1 “(5) MODIFICATION OF DISAPPROVED PLANS.—
2 If the Secretary disapproves a plan under this sub-
3 section, the Secretary shall—

4 “(A) provide the State a written expla-
5 nation of the disapproval; and

6 “(B) allow the State to modify and resub-
7 mit the plan for approval.

8 “(6) PLAN UPDATES.—The Secretary may re-
9 quire States to review and update plans, as appro-
10 priate.”.

11 (3) ANNUAL COMPARISON OF STATE LEVELS OF
12 COMPLIANCE.—Section 31311 is further amended by
13 adding at the end the following:

14 “(e) ANNUAL COMPARISON OF STATE LEVELS OF
15 COMPLIANCE.—On an annual basis, the Secretary shall—

16 “(1) conduct a comparison of the relative levels
17 of compliance by States with the requirements of
18 subsection (a); and

19 “(2) make available to the public the results of
20 the comparison, using a mechanism that the Sec-
21 retary determines appropriate.”.

22 (c) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
23 PROGRAM IMPLEMENTATION.—

24 (1) IN GENERAL.—Section 31313(a) is amend-
25 ed to read as follows:

1 “(a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
2 PROGRAM IMPLEMENTATION.—

3 “(1) IN GENERAL.—The Secretary of Transpor-
4 tation may make a grant to a State in a fiscal year
5 to assist the State in complying with the require-
6 ments of section 31311.

7 “(2) ELIGIBILITY.—A State shall be eligible for
8 a grant under this subsection if the State has in ef-
9 fect a commercial driver’s license program plan ap-
10 proved by the Secretary under section 31311(d).

11 “(3) USES OF GRANT FUNDS.—A State may
12 use grant funds under this subsection—

13 “(A) to comply with section 31311; and

14 “(B) in the case of a State that is making
15 a good faith effort toward substantial compli-
16 ance with the requirements of section 31311
17 and this section, to improve its implementation
18 of its commercial driver’s license program, in-
19 cluding expenses—

20 “(i) for computer hardware and soft-
21 ware;

22 “(ii) for publications, testing, per-
23 sonnel, training, and quality control;

24 “(iii) for commercial driver’s license
25 program coordinators; and

1 “(iv) to establish and implement a
2 system to notify an employer of an oper-
3 ator of a commercial motor vehicle of a
4 suspension or revocation of such operator’s
5 driver’s license.

6 “(C) PROHIBITIONS.—A State may not
7 use grant funds under this subsection to rent,
8 lease, or buy land or buildings.

9 “(4) MAINTENANCE OF EXPENDITURES.—The
10 Secretary may make a grant to a State under this
11 subsection only if the State provides assurances sat-
12 isfactory to the Secretary that the total expenditure
13 of amounts of the State and political subdivisions of
14 the State (not including amounts of the United
15 States) for the State’s commercial driver’s license
16 program will be maintained at a level that at least
17 equals the average level of that expenditure by the
18 State and political subdivisions of the State for the
19 most recent 3 fiscal years ending before the date of
20 enactment of the Motor Carrier Safety, Efficiency,
21 and Accountability Act of 2012.”.

22 (2) APPORTIONMENT.—Section 31313 is
23 amended—

24 (A) by striking subsections (b) and (c);

1 (B) by redesignating subsection (d) as sub-
2 section (b); and

3 (C) by striking subsection (b) (as so redesi-
4 gnated) and inserting the following:

5 “(b) APPORTIONMENT.—

6 “(1) APPORTIONMENT FORMULA.—Subject to
7 paragraph (2), the amounts made available to carry
8 out this section for a fiscal year shall be apportioned
9 among the States in the ratio that—

10 “(A) the number of commercial driver’s li-
11 censes issued in each State; bears to

12 “(B) the total number of commercial driv-
13 er’s licenses issued in all States.

14 “(2) MINIMUM APPORTIONMENT.—The appor-
15 tionment to each State that has in effect a commer-
16 cial driver’s license program plan approved by the
17 Secretary under section 31311(d) shall be not less
18 than one-half of 1 percent of the total funds avail-
19 able to carry out this section.”.

20 (3) CONFORMING AMENDMENT.—The section
21 heading for section 31313 is amended by striking
22 “**improvements**” and inserting “**implementa-**
23 **tion**”.

1 (4) CLERICAL AMENDMENT.—The analysis for
2 chapter 313 is amended by striking the item relating
3 to section 31313 and inserting the following:

“31313. Grants for commercial driver’s license program implementation.”.

4 **SEC. 6404. COMMERCIAL DRIVER’S LICENSE PASSENGER**
5 **ENDORSEMENT REQUIREMENTS.**

6 (a) IN GENERAL.—Not later than 2 years after the
7 date of enactment of this Act, the Secretary shall review
8 and assess the current knowledge and skill testing require-
9 ments for a commercial driver’s license passenger endorse-
10 ment to determine what improvements to the knowledge
11 test or examination of driving skills are necessary to en-
12 sure the safe operation of commercial motor vehicles de-
13 signed or used to transport passengers.

14 (b) REPORT.—Not later than 120 days after comple-
15 tion of the review and assessment under subsection (a),
16 the Secretary shall submit to the Committee on Transpor-
17 tation and Infrastructure of the House of Representatives
18 and the Committee on Commerce, Science, and Transpor-
19 tation of the Senate—

20 (1) a report on the review and assessment con-
21 ducted under subsection (a);

22 (2) a plan to implement any changes to the
23 knowledge and skills tests; and

24 (3) a timeframe by which the Secretary will im-
25 plement the changes.

1 **SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS**
2 **MATERIALS ENDORSEMENT EXEMPTION.**

3 (a) IN GENERAL.—The Secretary may not require an
4 individual with a class A commercial driver's license to ob-
5 tain a hazardous materials endorsement under part 383
6 of title 49, Code of Federal Regulations (or any successor
7 regulation), in order to operate a service vehicle carrying
8 diesel fuel in quantities of 3,785 liters (1,000 gallons) or
9 less if—

10 (1) the tank containing such fuel is clearly
11 marked with a placard reading “Diesel Fuel”; and

12 (2) the individual is acting within the scope of
13 the individual's employment as an employee of any
14 of the following farm-related service industries:

15 (A) Agri-chemical business.

16 (B) Custom harvesters.

17 (C) Farm retail outlets and suppliers.

18 (D) Livestock feeders.

19 (b) IMPLEMENTATION.—The Secretary shall carry
20 out subsection (a) in a manner consistent with the exemp-
21 tion provided to restricted commercial driver's license
22 holders under section 383.3(f) of title 49, Code of Federal
23 Regulations, as in effect on the date of enactment of this
24 Act.

1 **SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE**
2 **COMMERCIAL DRIVER'S LICENSES.**

3 (a) **ESTABLISHMENT.**—Not later than 1 year after
4 the date of enactment of this Act, the Secretary, in con-
5 sultation with the Secretary of Defense and in cooperation
6 with the States, shall establish accelerated licensing proce-
7 dures to assist veterans to acquire commercial driver's li-
8 censes.

9 (b) **ACCELERATED LICENSING PROCEDURES.**—The
10 procedures established under subsection (a) shall be de-
11 signed to be applicable to any veteran who—

12 (1) is attempting to acquire a commercial driv-
13 er's license; and

14 (2) obtained, during military service, driving ex-
15 perience that, in the determination of the Secretary,
16 makes the use of accelerated licensing procedures
17 appropriate.

18 (c) **DEFINITIONS.**—In this section, the following defi-
19 nitions apply:

20 (1) **COMMERCIAL DRIVER'S LICENSE.**—The
21 term “commercial driver's license” has the meaning
22 given that term in section 31301 of title 49, United
23 States Code.

24 (2) **STATE.**—The term “State” has the mean-
25 ing given that term in section 31301 of title 49,
26 United States Code.

1 (3) VETERAN.—The term “veteran” has the
2 meaning given that term in section 101 of title 38,
3 United States Code.

4 **Subtitle E—Motor Carrier Safety**

5 **SEC. 6501. MOTOR CARRIER TRANSPORTATION.**

6 Section 13506(a)(4) is amended by inserting “in
7 interstate or intrastate commerce” after “a motor vehi-
8 cle”.

9 **SEC. 6502. HOURS OF SERVICE STUDY.**

10 (a) HOURS OF SERVICE STUDY.—

11 (1) IN GENERAL.—Not later than March 31,
12 2013, the Secretary shall complete a field study on
13 the efficacy of the restart rule published on Decem-
14 ber 27, 2011 (in this section referred to as the
15 “2011 restart rule”), applicable to operators of com-
16 mercial motor vehicles of property subject to max-
17 imum driving time requirements of the Secretary.

18 (2) REQUIREMENT.—The study shall expand
19 upon the results of the laboratory-based study relat-
20 ing to commercial motor vehicle driver fatigue spon-
21 sored by the Federal Motor Carrier Safety Adminis-
22 tration presented in the report of December 2010 ti-
23 tled “Investigation into Motor Carrier Practices to
24 Achieve Optimal Commercial Motor Vehicle Driver
25 Performance: Phase I”.

1 (3) CRITERIA.—In conducting the field study,
2 the Secretary shall ensure that—

3 (A) the methodology for the field study is
4 consistent, to the maximum extent possible,
5 with the laboratory-based study methodology;

6 (B) the data collected is representative of
7 the drivers and motor carriers affected by the
8 maximum driving time requirements;

9 (C) the analysis is statistically valid; and

10 (D) the field study follows the plan for the
11 “Scheduling and Fatigue Recovery Project” de-
12 veloped by the Federal Motor Carrier Safety
13 Administration.

14 (b) REPORT TO CONGRESS.—Not later than April 30,
15 2013, the Secretary shall submit to the Committee on
16 Transportation and Infrastructure of the House of Rep-
17 resentatives and the Committee on Commerce, Science,
18 and Transportation of the Senate a report detailing the
19 results of the study.

20 (c) RULE MODIFICATION AND IMPLEMENTATION.—

21 (1) APPLICABLE RESTART RULE.—The restart
22 rule published on November 19, 2008, shall remain
23 in effect until the Secretary completes the field
24 study on the 2011 restart rule under subsection (a).

1 (2) IMPLEMENTATION ON SCHEDULE.—If the
2 Secretary determines that the results of the field
3 study support the 2011 restart rule, the rule shall
4 be implemented beginning on the effective date es-
5 tablished in the rule.

6 (3) MODIFICATION.—

7 (A) IN GENERAL.—If the Secretary deter-
8 mines that the results of the field study do not
9 support the 2011 restart rule, the Secretary
10 shall—

11 (i) stay the implementation of the
12 rule; and

13 (ii) conduct a rulemaking to modify
14 the rule based on the results of the study.

15 (B) INTERIM RULE.—If the Secretary
16 stays the implementation of the 2011 restart
17 rule under subparagraph (A)(i), the restart rule
18 published on November 19, 2008, shall remain
19 in effect until the effective date of a final rule
20 issued under subparagraph (A)(ii).

21 **SEC. 6503. ELECTRONIC LOGGING DEVICES.**

22 (a) IN GENERAL.—If the Secretary issues regulations
23 regarding electronic logging devices to be used to monitor
24 compliance with the Secretary's requirements for hours of
25 service of drivers under part 395 of title 49, Code of Fed-

1 eral Regulations, the regulations shall include performance
2 standards.

3 (b) PERFORMANCE STANDARDS AND CERTIFICATION
4 CRITERIA.—

5 (1) PERFORMANCE STANDARDS.—Any perform-
6 ance standards issued under subsection (a) shall en-
7 sure, at a minimum, that an electronic logging de-
8 vice installed in a commercial motor vehicle—

9 (A) is synchronized to the operation of the
10 vehicle engine or provides real-time tracking of
11 vehicle location;

12 (B) is able to identify each individual who
13 operates the vehicle and track the periods dur-
14 ing which such individual operates the vehicle;

15 (C) enables law enforcement personnel to
16 access information contained in the recorder
17 quickly and easily during a roadside inspection;
18 and

19 (D) is tamperproof.

20 (2) CERTIFICATION CRITERIA.—

21 (A) IN GENERAL.—If the Secretary issues
22 regulations described in subsection (a), the Sec-
23 retary, in issuing the regulations, shall establish
24 the criteria and a process for the certification
25 of electronic logging devices to ensure that such

1 devices meet the performance standards issued
2 under subsection (a).

3 (B) EFFECT OF NONCERTIFICATION.—

4 Electronic logging devices that are not certified
5 in accordance with the certification process es-
6 tablished under subparagraph (A) shall not be
7 acceptable evidence of hours of service and
8 record of duty status requirements under part
9 395 of title 49, Code of Federal Regulations.

10 (3) ADDITIONAL REQUIREMENTS.—If the Sec-
11 retary issues regulations described in subsection (a),
12 the Secretary, in issuing the regulations, shall—

13 (A) define a standardized user interface to
14 aid vehicle operator compliance and law en-
15 forcement reviews;

16 (B) establish a secure process for—

17 (i) standardized and unique vehicle
18 operator identification;

19 (ii) data access;

20 (iii) data transfer for vehicle operators
21 between motor vehicles;

22 (iv) data storage for motor carriers;

23 and

24 (v) data transfer and transportability
25 for law enforcement; and

1 (C) establish a standard security level for
2 electronic logging devices to be tamper resist-
3 ant.

4 (c) ADDITIONAL CONSIDERATIONS.—If the Secretary
5 issues regulations described in subsection (a), the Sec-
6 retary, in issuing the regulations, shall—

7 (1) evaluate the ability of electronic logging de-
8 vice technologies that meet the performance stand-
9 ards described in subsection (b)—

10 (A) to record accurately the time an indi-
11 vidual operating a commercial motor vehicle
12 spends on duty but not driving, including time
13 spent loading and unloading; and

14 (B) to ensure all time on duty is accounted
15 for and cannot be altered or otherwise tampered
16 with by the operator or motor carrier;

17 (2) reduce or eliminate requirements for drivers
18 and motor carriers to retain supporting documenta-
19 tion associated with paper-based records of duty sta-
20 tus if—

21 (A) data contained in an electronic logging
22 device supplants such documentation; and

23 (B) using such data without paper-based
24 records does not diminish the Secretary's ability

1 to audit and review compliance with the Sec-
2 retary's hours of service regulations; and

3 (3) include such measures as the Secretary de-
4 termines are necessary to protect the privacy of indi-
5 viduals whose personal information is contained in
6 an electronic logging device.

7 (d) USE OF DATA.—

8 (1) IN GENERAL.—The Secretary may utilize
9 information contained in an electronic logging device
10 only to enforce the Secretary's motor carrier safety
11 and related regulations, including record-of-duty sta-
12 tus regulations.

13 (2) MEASURES TO PRESERVE CONFIDENTIALITY
14 OF PERSONAL DATA.—The Secretary shall institute
15 appropriate measures to preserve the confidentiality
16 of any personal data contained in an electronic log-
17 ging device and disclosed in the course of actions
18 taken by the Secretary or law enforcement officials
19 to enforce the regulations referred to in paragraph
20 (1).

21 (e) DEFINITIONS.—In this section, the following defi-
22 nitions apply:

23 (1) COMMERCIAL MOTOR VEHICLE.—The term
24 “commercial motor vehicle” has the meaning given

1 that term in section 31132 of title 49, United States
2 Code.

3 (2) ELECTRONIC LOGGING DEVICE.—The term
4 “electronic logging device” means an electronic de-
5 vice that acquires and stores data showing the
6 record of duty status of the vehicle operator and
7 performs the functions required in section 395.16(b)
8 of title 49, Code of Federal Regulations, as in effect
9 on April 5, 2010 (75 Fed. Reg. 17246).

10 **SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COM-**
11 **MITTEE.**

12 Section 4144(d) of SAFETEA-LU (49 U.S.C. 31100
13 note; 119 Stat. 1748) is amended by striking “shall termi-
14 nate” and all that follows through the period at the end
15 and inserting “shall terminate on September 30, 2017.”.

16 **SEC. 6505. TRANSPORTATION OF AGRICULTURAL COMMOD-**
17 **ITIES AND FARM SUPPLIES.**

18 Section 229(a)(1) of the Motor Carrier Safety Im-
19 provement Act of 1999 (49 U.S.C. 31136 note) is amend-
20 ed to read as follows:

21 “(1) TRANSPORTATION OF AGRICULTURAL COM-
22 MODITIES AND FARM SUPPLIES.—Regulations issued
23 by the Secretary under sections 31136 and 31502 of
24 title 49, United States Code, regarding maximum
25 driving and on-duty time for a driver used by a

1 motor carrier, shall not apply during a planting or
2 harvest period of a State, as that period is deter-
3 mined by the State, to—

4 “(A) drivers transporting agricultural com-
5 modities in the State from the source of the ag-
6 ricultural commodities to a location within a
7 150 air-mile radius from the source;

8 “(B) drivers transporting farm supplies for
9 agricultural purposes in the State from a whole-
10 sale or retail distribution point of the farm sup-
11 plies to a farm or other location where the farm
12 supplies are intended to be used within a 150
13 air-mile radius from the distribution point; or

14 “(C) drivers transporting farm supplies for
15 agricultural purposes in the State from a whole-
16 sale distribution point of the farm supplies to a
17 retail distribution point of the farm supplies
18 within a 150 air-mile radius from the wholesale
19 distribution point.”.

20 **SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF**
21 **GRAPES DURING HARVEST PERIODS.**

22 Regulations issued by the Secretary of Transpor-
23 tation under sections 31136 and 31502 of title 49, United
24 States Code, regarding maximum driving and on-duty
25 time for a driver used by a motor carrier, shall not apply,

1 beginning on the date of enactment of this Act, to a driver
2 transporting grapes in a State if the transportation—

3 (1) is during a harvest period (as that period
4 is determined by the State); and

5 (2) is limited to an area within a 175 air-mile
6 radius from the location where the grapes are picked
7 or distributed.

8 **Subtitle F—Miscellaneous**

9 **SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CER-** 10 **TAIN FARM VEHICLES.**

11 (a) **FEDERAL REQUIREMENTS.**—A covered farm ve-
12 hicle, including the individual operating that vehicle, shall
13 be exempt from the following:

14 (1) Any requirement relating to commercial
15 driver’s licenses established under chapter 313 of
16 title 49, United States Code.

17 (2) Any requirement relating to drug testing es-
18 tablished under chapter 313 of title 49, United
19 States Code.

20 (3) Any requirement relating to medical certifi-
21 cates established under—

22 (A) subchapter III of chapter 311 of title
23 49, United States Code; or

24 (B) chapter 313 of title 49, United States
25 Code.

1 (4) Any requirement relating to hours of service
2 established under—

3 (A) subchapter III of chapter 311 of title
4 49, United States Code; or

5 (B) chapter 315 of title 49, United States
6 Code.

7 (b) STATE REQUIREMENTS.—

8 (1) IN GENERAL.—Federal transportation fund-
9 ing to a State may not be terminated, limited, or
10 otherwise interfered with as a result of the State ex-
11 empting a covered farm vehicle, including the indi-
12 vidual operating that vehicle, from any State re-
13 quirement relating to the operation of that vehicle.

14 (2) EXCEPTION.—Paragraph (1) does not apply
15 with respect to a covered farm vehicle transporting
16 hazardous materials that require a placard.

17 (c) COVERED FARM VEHICLE DEFINED.—

18 (1) IN GENERAL.—In this section, the term
19 “covered farm vehicle” means a motor vehicle—

20 (A) that—

21 (i) is traveling in the State in which
22 the vehicle is registered or another State;

23 (ii) is operated by—

24 (I) a farm owner or operator;

1 (II) a ranch owner or operator;

2 or

3 (III) an employee or family mem-
4 ber of an individual specified in sub-
5 clause (I) or (II);

6 (iii) is transporting to or from a farm
7 or ranch—

8 (I) agricultural commodities;

9 (II) livestock; or

10 (III) machinery or supplies;

11 (iv) except as provided in paragraph
12 (2), is not used in the operations of a for-
13 hire motor carrier; and

14 (v) is equipped with a special license
15 plate or other designation by the State in
16 which the vehicle is registered to allow for
17 identification of the vehicle as a farm vehi-
18 cle by law enforcement personnel; and

19 (B) that has a gross vehicle weight rating
20 or gross vehicle weight, whichever is greater,
21 that is—

22 (i) 26,001 pounds or less; or

23 (ii) greater than 26,001 pounds and
24 traveling within 150 air miles of the farm

1 or ranch with respect to which the vehicle
2 is being operated.

3 (2) INCLUSION.—In this section, the term “cov-
4 ered farm vehicle” includes a motor vehicle that
5 meets the requirements of paragraph (1) (other than
6 paragraph (1)(A)(iv)) and is—

7 (A) operated pursuant to a crop share
8 farm lease agreement;

9 (B) owned by a tenant with respect to that
10 agreement; and

11 (C) transporting the landlord’s portion of
12 the crops under that agreement.

13 **SEC. 6602. TECHNICAL CORRECTION.**

14 Section 306(c)(2)(B) of the SAFETEA–LU Tech-
15 nical Corrections Act of 2008 (29 U.S.C. 207 note; 122
16 Stat. 1621) is amended—

17 (1) in clause (ii) by striking “or” at the end;

18 (2) in clause (iii) by striking “and” at the end
19 and inserting “or”; and

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

21 “(iv) operating under contracts with
22 rail carriers subject to part A of subtitle
23 IV of title 49, United States Code, and
24 used to transport employees of such rail
25 carriers; and”.

1 **SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL**
2 **TRUCKING COMPANIES.**

3 (a) STUDY.—The Comptroller General of the United
4 States shall conduct a study to assess trends in motor car-
5 rier safety relating to small trucking companies and inde-
6 pendent operators, including the extent to which Federal
7 motor carrier safety regulation adversely impacts and eco-
8 nomically and competitively disadvantages small trucking
9 companies and independent operators and the extent to
10 which there is a correlation between company size and
11 crash rates and crash causation.

12 (b) CONTENTS.—The study shall contain the fol-
13 lowing:

14 (1) Overall trends in highway crashes involving
15 large trucks for the past 2 decades, including a sep-
16 arate analysis of the annual number of incidents in-
17 volving a large truck only, a truck and automobile,
18 and more than one large truck.

19 (2) Crash causation factors typical in each type
20 of incident described in paragraph (1), including the
21 frequency of large truck crashes caused by or in
22 which an automobile driver was predominately at
23 fault, and the ratio of truck driver fatigue versus
24 automobile driver fatigue.

25 (3) The correlation of—

1 (A) truck driver turnover and truck driver
2 retention and longevity rates with a given
3 trucking company to company crash rates,
4 crash causation, the severity of injuries, number
5 of fatalities, and fault; and

6 (B) truck driver experience and safety
7 records proportional to company size.

8 (4) The role of truck driver experience level,
9 longevity with a given trucking company, retention
10 rate, high driver turnover rates, and truck driver in-
11 experience in highway crashes involving trucks, and
12 the degree to which each is a factor in a crash.

13 (5) The degree and frequency of such contrib-
14 uting factors as weather conditions, traffic conges-
15 tion, daytime or nighttime conditions, variety of road
16 and vehicle types, and types of pick-up and delivery
17 locations (such as urban, rural, and small metropoli-
18 tan areas) in crashes involving a truck.

19 (6) Impacts and incentives perceived by truck
20 drivers caused by current Federal motor carrier
21 safety regulations and the inflexibility in the applica-
22 tion and enforcement of regulations.

23 (7) An assessment of the data quality of the
24 Compliance, Safety, and Accountability initiative of
25 the Federal Motor Carrier Safety Administration,

1 including compliance with the Data Quality Act
2 (Public Law 106–554; section 515 of H.R. 5658, as
3 introduced on December 14, 2000), the number of
4 carriers for which there is insufficient data, discrep-
5 ancies in measurements and methodologies, com-
6 plaints about data quality, and whether company
7 size impacts data quality.

8 (c) REPORT.—Not later than 9 months after the date
9 of enactment of this Act, the Comptroller General shall
10 submit to the Committee on Transportation and Infra-
11 structure of the House of Representatives and the Com-
12 mittee on Commerce, Science, and Transportation of the
13 Senate a report on the results of the study, including rec-
14 ommendations for achieving a better balance of safety with
15 competition and efficiency and recommendations to reduce
16 adverse regulatory impacts on small trucking companies
17 and independent operators.

18 (d) PROHIBITION.—No proposed regulations from
19 the Federal Motor Carrier Safety Administration that re-
20 late to the contents of the study may become final or take
21 effect before the expiration of the 180-day period begin-
22 ning on the date the Comptroller General submits to the
23 Committees the report described in subsection (c).

1 **SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of enactment of this Act, and annually thereafter,
4 the Secretary shall submit to the Committee on Transpor-
5 tation and Infrastructure of the House of Representatives
6 and the Committee on Commerce, Science, and Transpor-
7 tation of the Senate a report on the efforts of the Depart-
8 ment of Transportation to better balance truck competi-
9 tion and efficiency with safety.

10 (b) CONTENTS.—The report shall contain the fol-
11 lowing:

12 (1) A description of specific steps that modal
13 administrations within the Department have taken
14 and plan to take to reduce economic and competitive
15 disadvantages imposed by specific regulations on
16 small trucking companies, their truck drivers, and
17 independent operators.

18 (2) A description of specific performance goals,
19 plans for, and performance to date on regulatory
20 flexibility measures, pursuant to the Regulatory
21 Flexibility Act (Public Law 96–354), the Data Qual-
22 ity Act (Public Law 106–554; section 515 of H.R.
23 5658, as introduced on December 14, 2000), and
24 the Paperwork Reduction Act of 1980 (Public Law
25 96–511), that are affirmatively and precisely de-
26 signed to achieve greater flexibility with respect to

1 regulatory compliance, in particular detailing con-
2 crete steps to reasonably accommodate the needs
3 unique to small trucking companies, independent op-
4 erators, and special load haulers (such as of live-
5 stock, frozen foodstuffs, and automobiles), relating
6 to hours of service rules, log- and recordkeeping, and
7 the accounting of driver time lost due to loading and
8 unloading, traffic, or weather delays.

9 (3) A table showing the relation of truck driver
10 experience and tenure with a trucking company or
11 as an independent operator to incidence of being at
12 fault in an accident.

13 **SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICUL-**
14 **TURAL EQUIPMENT.**

15 (a) RULEMAKING.—Not later than 2 years after the
16 date of enactment of this Act, the Secretary, after con-
17 sultation with the American Society of Agricultural and
18 Biological Engineers, other appropriate Federal agencies,
19 and other appropriate persons, shall issue a rule to im-
20 prove the daytime and nighttime visibility of agricultural
21 equipment that may be operated on a public road. Such
22 rule shall establish minimum lighting and marking stand-
23 ards for applicable agricultural equipment manufactured
24 1 year or more subsequent to the effective date of the rule.
25 Such rule shall provide for methods, materials, specifica-

1 tions, or equipment employed, equivalent to the standard
2 set in ANSI/ASAE S279.14 published in July 2008 by
3 the American Society of Agriculture and Biological Engi-
4 neers and entitled “Lighting and Marking of Agricultural
5 Equipment on Highways”, or any successor standard.

6 (b) REVIEW.—The Secretary shall periodically, and
7 not less than once every 5 years, review the standards es-
8 tablished under this section and shall revise the standards
9 to reflect the provisions of the edition of ANSI/ASAE
10 S279 that is in effect at the time of the review.

11 (c) RULES OF CONSTRUCTION.—

12 (1) COMPLIANCE WITH SUCCESSOR STAND-
13 ARDS.—No provision of any rule issued pursuant to
14 this section shall prohibit the operation on public
15 roads of agricultural equipment that is equipped ac-
16 cording to any adopted edition of ANSI/ASAE S279
17 that is later than the edition of such standard that
18 is referenced during the issuance of the rule.

19 (2) NO RETROFITTING REQUIRED.—No provi-
20 sion of any rule issued pursuant to this section shall
21 require the retrofitting of agricultural equipment
22 that is manufactured prior to 1 year after the date
23 on which a final rule is issued pursuant to sub-
24 section (a).

1 (3) NO EFFECT ON ADDITIONAL MATERIALS
2 AND EQUIPMENT.—No provision of any rule issued
3 pursuant to this section shall prohibit the operation
4 on public roads of agricultural equipment that is
5 equipped with materials or equipment that are in
6 addition to the minimum materials and equipment
7 specified by the standards established under the
8 rule.

9 (d) DEFINITIONS.—In this section, the following defi-
10 nitions apply:

11 (1) AGRICULTURAL EQUIPMENT.—The term
12 “agricultural equipment” means “agricultural field
13 equipment” as defined under the standard ANSI/
14 ASABE S390.4 published by the American Society
15 of Agriculture and Biological Engineers, or any suc-
16 cessor standard.

17 (2) PUBLIC ROAD.—The term “public road”
18 has the meaning given that term in section 101 of
19 title 23, United States Code.

20 **SEC. 6606. TRANSPORTATION OF HORSES.**

21 Section 80502 of title 49, United States Code, is
22 amended—

23 (1) in subsection (c) by striking “This section
24 does not” and inserting “Subsections (a) and (b) do
25 not”;

1 (2) by redesignating subsection (d) as sub-
2 section (e);

3 (3) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) TRANSPORTATION OF HORSES.—

6 “(1) PROHIBITION.—No person may transport,
7 or cause to be transported, a horse from a place in
8 a State, the District of Columbia, or a territory or
9 possession of the United States through or to a
10 place in another State, the District of Columbia, or
11 a territory or possession of the United States in a
12 motor vehicle containing 2 or more levels stacked on
13 top of each other.

14 “(2) MOTOR VEHICLE DEFINED.—In this sub-
15 section, the term ‘motor vehicle’ has the meaning
16 given that term in section 13102.”; and

17 (4) in subsection (e) (as redesignated by para-
18 graph (2) of this subsection)—

19 (A) by striking “A rail carrier” and insert-
20 ing the following:

21 “(1) IN GENERAL.—A rail carrier”;

22 (B) by striking “this section” and insert-
23 ing “subsection (a) or (b)”;

24 (C) by striking “On learning of a viola-
25 tion” and inserting the following:

1 “(2) TRANSPORTATION OF HORSES IN MULTI-
2 LEVEL TRAILER.—

3 “(A) CIVIL PENALTY.—A person that
4 knowingly violates subsection (d) is liable to the
5 United States Government for a civil penalty of
6 at least \$100 but not more than \$500 for each
7 violation. A separate violation occurs under sub-
8 section (d) for each horse that is transported,
9 or caused to be transported, in violation of sub-
10 section (d).

11 “(B) RELATIONSHIP TO OTHER LAWS.—
12 The penalty provided under subparagraph (A)
13 shall be in addition to any penalty or remedy
14 available under any other law or common law.

15 “(3) CIVIL ACTION.—On learning of a violation
16 of a provision of this section”.

17 **SEC. 6607. REGULATORY REVIEW AND REVISION.**

18 Not later than 12 months after the date of enactment
19 of this Act, the Secretary shall review and revise the Fed-
20 eral motor carrier safety regulations contained in chapter
21 III of subtitle B of title 49, Code of Federal Regulations,
22 to—

23 (1) simplify the regulations; and

24 (2) eliminate those requirements that are out-
25 moded or excessively burdensome.

1 **SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.**

2 The Secretary shall take such actions as may be nec-
3 essary in fiscal year 2012 to expedite the issuance of safe-
4 ty regulations to carry out this title (and the amendments
5 made by this title) following the effective date of this title.

6 **SEC. 6609. REPEALS.**

7 (a) **REPEAL OF HIGH-PRIORITY PROGRAM.**—Section
8 31104(k) is repealed.

9 (b) **BORDER ENFORCEMENT GRANTS.**—Section
10 31107, and the item relating to that section in the analysis
11 for chapter 311, are repealed.

12 (c) **COMMERCIAL DRIVER'S LICENSE INFORMATION**
13 **SYSTEM MODERNIZATION.**—Subsections (c), (d), and (e)
14 of section 4123 of SAFETEA-LU (119 Stat. 1735–1736)
15 are repealed.

16 (d) **OUTREACH AND EDUCATION.**—Section 4127 of
17 SAFETEA-LU (119 Stat. 1741), and the item relating
18 to that section in the table of contents contained in section
19 1(b) of that Act, are repealed.

20 (e) **SAFETY DATA IMPROVEMENT PROGRAM.**—Sec-
21 tion 4128 of SAFETEA-LU (119 Stat. 1742), and the
22 item relating to that section in the table of contents con-
23 tained in section 1(b) of that Act, are repealed.

24 (f) **GRANT PROGRAM FOR COMMERCIAL MOTOR VE-**
25 **HICLE OPERATORS.**—Section 4134 of SAFETEA-LU
26 (119 Stat. 1744), and the item relating to that section

1 in the table of contents contained in section 1(b) of that
2 Act, are repealed.

3 (g) REPORT ON MOTOR CARRIER EMPLOYEE PRO-
4 TECTIONS.—Section 4023 of the Transportation Equity
5 Act for the 21st Century (49 U.S.C. 31105 note; 112 Stat.
6 415), and the item relating to that section in the table
7 of contents contained in section 1(b) of that Act, are re-
8 pealed.

9 **TITLE VII—RESEARCH AND**
10 **EDUCATION**

11 **SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.**

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

15 (1) HIGHWAY RESEARCH AND DEVELOPMENT
16 PROGRAM.—To carry out section 503 of title 23,
17 United States Code, \$141,750,000 for each of fiscal
18 years 2013 through 2016.

19 (2) TECHNOLOGY AND INNOVATION DEPLOY-
20 MENT PROGRAM.—To carry out section 503a of title
21 23, United States Code, \$60,750,000 for each of fis-
22 cal years 2013 through 2016.

23 (3) TRAINING AND EDUCATION.—To carry out
24 section 504 of title 23, United States Code,

1 \$25,500,000 for each of fiscal years 2013 through
2 2016.

3 (4) INTELLIGENT TRANSPORTATION SYSTEMS
4 RESEARCH.—To carry out sections 512, 514, 515,
5 516, and 517 of title 23, United States Code,
6 \$110,000,000 for each of fiscal years 2013 through
7 2016.

8 (5) UNIVERSITY TRANSPORTATION RE-
9 SEARCH.—To carry out section 5506 of title 49,
10 United States Code, \$75,000,000 for each of fiscal
11 years 2013 through 2016.

12 (6) BUREAU OF TRANSPORTATION STATIS-
13 TICS.—To carry out section 111 of title 49, United
14 States Code, \$27,000,000 for each of fiscal years
15 2013 through 2016.

16 (b) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—
17 Funds authorized to be appropriated by subsection (a)
18 shall be available for obligation in the same manner as
19 if such funds were apportioned under chapter 1 of title
20 23, United States Code, except that the Federal share of
21 the cost of a project or activity carried out using such
22 funds shall be 80 percent, unless otherwise expressly pro-
23 vided by this Act (including the amendments made by this
24 Act) or otherwise determined by the Secretary, and such

1 funds shall remain available until expended and shall not
2 be transferable.

3 **SEC. 7002. OBLIGATION CEILING.**

4 Notwithstanding any other provision of law, the total
5 of all obligations from amounts made available from the
6 Alternative Transportation Account of the Highway Trust
7 Fund by section 7001(a) shall be \$440,000,000 for each
8 of fiscal years 2013 through 2016.

9 **SEC. 7003. DEFINITIONS.**

10 Section 501 of title 23, United States Code, is
11 amended—

12 (1) by redesignating paragraph (2) as para-
13 graph (7);

14 (2) by redesignating paragraph (1) as para-
15 graph (2);

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

18 “(1) CONNECTED VEHICLE TECHNOLOGY.—The
19 term ‘connected vehicle technology’ means the utili-
20 zation of wireless technology to enable multiple vehi-
21 cles to communicate information to each other.”;
22 and

23 (4) by inserting after paragraph (2) (as so re-
24 designated) the following:

1 “(3) INCIDENT.—The term ‘incident’ means a
2 crash, natural disaster, workzone activity, special
3 event, or other emergency road user occurrence that
4 adversely affects or impedes the normal flow of traf-
5 fic.

6 “(4) INTELLIGENT TRANSPORTATION INFRA-
7 STRUCTURE.—The term ‘intelligent transportation
8 infrastructure’ means fully integrated public sector
9 intelligent transportation system components, as de-
10 fined by the Secretary.

11 “(5) INTELLIGENT TRANSPORTATION SYS-
12 TEM.—The term ‘intelligent transportation system’
13 means electronics, photonics, communications, or in-
14 formation processing used singly or in combination
15 to improve the efficiency or safety of a surface
16 transportation system.

17 “(6) NATIONAL ARCHITECTURE.—The term
18 ‘national architecture’ means the common frame-
19 work for interoperability that defines—

20 “(A) the functions associated with intel-
21 ligent transportation system user services;

22 “(B) the physical entities or subsystems
23 within which the functions reside;

24 “(C) the data interfaces and information
25 flows between physical subsystems; and

1 “(D) the communications requirements as-
2 sociated with the information flows.”.

3 **SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVELOP-**
4 **MENT, AND TECHNOLOGY.**

5 (a) IN GENERAL.—Section 502 of title 23, United
6 States Code, is amended—

7 (1) in the section heading by striking “**re-**
8 **search**” and inserting “**research, develop-**
9 **ment, and technology**”;

10 (2) in subsection (a)—

11 (A) in paragraph (2)—

12 (i) by redesignating subparagraphs
13 (B) through (D) as subparagraphs (C)
14 through (E), respectively;

15 (ii) by inserting after subparagraph
16 (A) the following:

17 “(B) addresses current or emerging
18 needs;”;

19 (iii) in subparagraph (C) (as redesign-
20 ated by clause (i) of this subparagraph)
21 by striking “supports research in which
22 there is” and inserting “delivers”;

23 (iv) in subparagraph (D) (as redesign-
24 ated by clause (i) of this subparagraph)
25 by striking “or” after the semicolon;

1 (v) in subparagraph (E) (as redesignig-
2 nated by clause (i) of this subparagraph)
3 by striking the period at the end and in-
4 serting a semicolon; and

5 (vi) by adding at the end the fol-
6 lowing:

7 “(F) presents the best means to align re-
8 sources with multiyear plans and priorities; or

9 “(G) ensures the coordination of highway
10 research and technology transfer activities, in-
11 cluding those performed by the university trans-
12 portation centers established under subchapter
13 I of chapter 55 of title 49.”;

14 (B) in paragraph (3)—

15 (i) in subparagraph (B)—

16 (I) by striking “support and”
17 and inserting “partner with State
18 transportation departments and other
19 stakeholders as appropriate to”; and

20 (II) by striking “by State high-
21 way agencies”;

22 (ii) in subparagraph (C)—

23 (I) by striking “share” and in-
24 serting “communicate”;

1 (II) by inserting “on-going and”
2 before “completed”; and

3 (III) by striking “and” after the
4 semicolon;

5 (iii) in subparagraph (D)—

6 (I) by striking “support and fa-
7 cilitate technology” and inserting
8 “lead efforts to coordinate areas of
9 national emphasis for highway re-
10 search, technology,”; and

11 (II) by striking the period at the
12 end and inserting a semicolon; and

13 (iv) by adding at the end the fol-
14 lowing:

15 “(E) leverage partnerships with industry,
16 academia, and other entities; and

17 “(F) conduct, facilitate, and support train-
18 ing and education of current and future trans-
19 portation professionals.”;

20 (C) in paragraph (4)(C) by striking “policy
21 and planning” and inserting “all highway objec-
22 tives seeking to improve the performance of the
23 transportation system”;

24 (D) in paragraph (5) by inserting “tribal
25 governments,” after “local governments,”;

1 (E) by striking paragraph (7) and insert-
2 ing the following:

3 “(7) PERFORMANCE REVIEW AND EVALUA-
4 TION.—

5 “(A) IN GENERAL.—To the maximum ex-
6 tent practicable, all surface transportation re-
7 search and development projects shall include a
8 component of performance measurement and
9 evaluation.

10 “(B) PERFORMANCE MEASURES.—Per-
11 formance measures shall be established during
12 the proposal stage of a research and develop-
13 ment project and shall, to the maximum extent
14 practicable, be outcome-based.

15 “(C) PROGRAM PLAN.—To the maximum
16 extent practicable, each program pursued under
17 this chapter shall be part of a data-driven, out-
18 come-oriented program plan.

19 “(D) AVAILABILITY OF EVALUATIONS.—All
20 evaluations under this paragraph shall be made
21 readily available to the public.”; and

22 (F) in paragraph (8) by striking “surface”;
23 (3) in subsection (b)—

24 (A) by striking paragraph (4) and insert-
25 ing the following:

1 “(4) TECHNOLOGICAL INNOVATION.—The Sec-
2 retary shall ensure that the programs and activities
3 carried out under this chapter are consistent with
4 the transportation research and development stra-
5 tegic plan developed under section 508.”;

6 (B) in paragraph (5) by striking “section”
7 each place it appears and inserting “chapter”;

8 (C) in paragraph (6) by adding at the end
9 the following:

10 “(C) TRANSFER OF FUNDS AMONG STATES
11 OR TO FEDERAL HIGHWAY ADMINISTRATION.—
12 The Secretary, at the request of a State, may
13 transfer funds apportioned or allocated under
14 this chapter to the State to another State, or
15 to the Federal Highway Administration, for the
16 purpose of funding research, development, and
17 technology transfer activities of mutual interest
18 on a pooled funds basis.

19 “(D) TRANSFER OF OBLIGATION AUTHOR-
20 ITY.—Obligation authority for funds trans-
21 ferred under this subsection shall be transferred
22 in the same manner and amount as the funds
23 for projects that are transferred under this sub-
24 section.”; and

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

1 “(7) PRIZE COMPETITIONS.—

2 “(A) IN GENERAL.—Consistent with sec-
3 tion 24 of the Stevenson-Wydler Technology In-
4 novation Act of 1980, the Secretary may carry
5 out a program to award prizes competitively to
6 stimulate innovation in the area of surface
7 transportation that has the potential to advance
8 the Federal Highway Administration’s research
9 and technology objectives and activities under
10 section 503.

11 “(B) ANNUAL REPORT.—

12 “(i) IN GENERAL.—Not later than
13 March 1 of each year, the Secretary shall
14 submit to the Committees on Transpor-
15 tation and Infrastructure and Science,
16 Space, and Technology of the House of
17 Representatives and the Committees on
18 Environment and Public Works and Com-
19 merce, Science, and Transportation of the
20 Senate a report on the activities carried
21 out during the preceding fiscal year under
22 the authority in subparagraph (A) if such
23 authority under subparagraph (A) was uti-
24 lized by the Secretary.

1 “(ii) INFORMATION INCLUDED.—A re-
2 port under this subparagraph shall include,
3 for each prize competition under subpara-
4 graph (A), the following:

5 “(I) A description of the pro-
6 posed goals of each prize competition.

7 “(II) An analysis of why the uti-
8 lization of the authority in subpara-
9 graph (A) was the preferable method
10 of achieving the goals described in
11 subclause (I) as opposed to other au-
12 thorities available to the agency, such
13 as contracts, grants, and cooperative
14 agreements.

15 “(III) The total amount of cash
16 prizes awarded for each prize competi-
17 tion, including a description of the
18 amount of private funds contributed
19 to the program, the sources of such
20 funds, and the manner in which the
21 amounts of cash prizes awarded and
22 claimed were allocated among the ac-
23 counts of the agency for recording as
24 obligations and expenditures.

1 “(IV) The methods used for the
2 solicitation and evaluation of submis-
3 sions under each prize competition,
4 together with an assessment of the ef-
5 fectiveness of such methods and les-
6 sons learned for future prize competi-
7 tions.

8 “(V) A description of the re-
9 sources, including personnel and fund-
10 ing, used in the execution of each
11 prize competition together with a de-
12 tailed description of the activities for
13 which such resources were used and
14 an accounting of how funding for exe-
15 cution was allocated among the ac-
16 counts of the agency for recording as
17 obligations and expenditures.

18 “(VI) A description of how each
19 prize competition advanced the mis-
20 sion of the Department of Transpor-
21 tation.”;

22 (4) in subsection (c)—

23 (A) in paragraph (3)(A)—

1 (i) by striking “The” and inserting
2 “Except as otherwise provided in this
3 chapter, the”;

4 (ii) by striking “subsection” and in-
5 serting “chapter”; and

6 (iii) by striking “50” and inserting
7 “80”;

8 (B) in paragraph (4) by striking “sub-
9 section” and inserting “chapter”; and
10 (5) by striking subsections (d) through (j).

11 (b) CONFORMING AMENDMENT.—The analysis for
12 chapter 5 of title 23, United States Code, is amended by
13 striking the item relating to section 502 and inserting the
14 following:

“502. Surface transportation research, development, and technology.”.

15 **SEC. 7005. RESEARCH AND DEVELOPMENT.**

16 Section 503 of title 23, United States Code, is
17 amended to read as follows:

18 **“§ 503. Research and development**

19 “(a) IN GENERAL.—The Secretary shall establish a
20 research and development program in accordance with this
21 section and the strategic plan developed under section
22 508.

23 “(b) RESPONSIBILITIES.—To address current and
24 emerging highway transportation needs, the Secretary, in
25 carrying out the program under this section, shall—

1 “(1) identify research topics;

2 “(2) conduct research, testing, and evaluation
3 activities;

4 “(3) facilitate technology transfer;

5 “(4) provide technical assistance; and

6 “(5) ensure program activities are coordinated
7 with the transportation research and development
8 strategic plan developed under section 508.

9 “(c) IMPROVING HIGHWAY SAFETY.—

10 “(1) OBJECTIVES.—In carrying out the pro-
11 gram under this section, the Secretary shall create
12 systematic measures to improve highway safety for
13 all road users, vehicles, and public roads to—

14 “(A) achieve greater long-term safety
15 gains;

16 “(B) reduce the number of fatalities and
17 serious injuries;

18 “(C) fill knowledge gaps that currently
19 limit the effectiveness of research;

20 “(D) support the development and imple-
21 mentation of State strategic highway safety
22 plans under section 148;

23 “(E) advance improvements in and use of
24 performance prediction analysis for decision-
25 making;

1 “(F) expand technology transfer to part-
2 ners and stakeholders;

3 “(G) achieve safety benefits through con-
4 nected vehicle technology; and

5 “(H) enhance rural highway safety.

6 “(2) ACTIVITIES.—Research and development
7 activities carried out under this subsection may in-
8 clude activities relating to—

9 “(A) safety assessments and decision-
10 making tools;

11 “(B) data collection and analysis;

12 “(C) crash reduction projections;

13 “(D) low-cost safety countermeasures;

14 “(E) innovative operational improvements
15 and designs of roadway and roadside features;

16 “(F) evaluation of countermeasure costs
17 and benefits;

18 “(G) development of tools for projecting
19 impacts of safety countermeasures;

20 “(H) rural road safety;

21 “(I) safety policy studies;

22 “(J) human factors studies and methods;

23 “(K) safety technology deployment;

24 “(L) safety program and process improve-
25 ments; and

1 “(M) tools and methods to enhance safety
2 performance, including achievement of state-
3 wide safety performance targets.

4 “(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEG-
5 RITY.—

6 “(1) OBJECTIVES.—In carrying out the pro-
7 gram under this section, the Secretary shall improve
8 the ability to maintain highway infrastructure integ-
9 rity, meet user needs, and improve system perform-
10 ance through targeted Federal transportation invest-
11 ments to—

12 “(A) reduce the number of fatalities attrib-
13 utable to highway infrastructure design charac-
14 teristics and work zones;

15 “(B) improve the safety of highway infra-
16 structure;

17 “(C) increase the reliability of life-cycle
18 performance predictions used in highway infra-
19 structure design, construction, and manage-
20 ment;

21 “(D) improve the ability of transportation
22 agencies to deliver projects that meet expecta-
23 tions for timeliness, quality, and cost;

1 “(E) reduce user delay attributable to
2 highway infrastructure system performance,
3 maintenance, rehabilitation, and construction;

4 “(F) improve highway condition and per-
5 formance through increased use of innovative
6 pavements during highway design, construction,
7 and maintenance;

8 “(G) improve highway condition and per-
9 formance through increased use of innovative
10 designs, materials, and construction methods in
11 the construction, repair, and rehabilitation of
12 bridges;

13 “(H) reduce the life-cycle environmental
14 impacts of highway infrastructure, including de-
15 sign, construction, operation, preservation, and
16 maintenance; and

17 “(I) improve the resiliency of roadways to
18 commercial heavy freight traffic.

19 “(2) ACTIVITIES.—Research and technology ac-
20 tivities carried out under this subsection may include
21 activities relating to—

22 “(A) long-term infrastructure performance
23 programs addressing pavements, bridges, tun-
24 nels, and other structures;

1 “(B) short-term and accelerated studies of
2 highway infrastructure performance;

3 “(C) the development of more durable
4 highway and bridge infrastructure materials
5 and systems, including the use of carbon fiber
6 composite materials in bridge replacement and
7 rehabilitation;

8 “(D) advanced highway and bridge infra-
9 structure design methods;

10 “(E) accelerated highway construction;

11 “(F) performance-based specifications;

12 “(G) construction and materials quality as-
13 surance;

14 “(H) comprehensive and integrated high-
15 way infrastructure asset management;

16 “(I) technology transfer and adoption of
17 permeable, pervious, or porous paving mate-
18 rials, practices, and systems that are designed
19 to minimize environmental impacts, stormwater
20 runoff, and flooding and to treat or remove pol-
21 lutants by allowing stormwater to infiltrate
22 through the pavement in a manner similar to
23 predevelopment hydrologic conditions;

24 “(J) sustainable highway infrastructure
25 design and construction;

1 “(K) highway and bridge infrastructure re-
2 habilitation and preservation techniques, includ-
3 ing those techniques to address historic infra-
4 structure;

5 “(L) hydraulic, geotechnical, and aero-
6 dynamic aspects of highway infrastructure;

7 “(M) improved highway construction tech-
8 nologies and practices;

9 “(N) improved tools, technologies, and
10 models for highway and bridge infrastructure
11 management, including assessment and moni-
12 toring of infrastructure condition;

13 “(O) improving flexibility and resiliency of
14 highway and bridge infrastructure systems to
15 withstand climate variability; and

16 “(P) highway infrastructure resilience and
17 other adaptation measures.

18 “(e) REDUCING CONGESTION, IMPROVING HIGHWAY
19 OPERATIONS, AND ENHANCING FREIGHT PRODUC-
20 TIVITY.—

21 “(1) OBJECTIVES.—In carrying out the pro-
22 gram under this section, the Secretary shall examine
23 approaches to reduce traffic congestion (including
24 freight-related congestion throughout the transpor-

1 tation network), reduce the costs of such congestion,
2 and improve freight movement.

3 “(2) ACTIVITIES.—Research and technology ac-
4 tivities carried out under this subsection may include
5 examination of—

6 “(A) active traffic and demand manage-
7 ment;

8 “(B) accelerating deployment of intelligent
9 transportation systems;

10 “(C) arterial management and traffic sig-
11 nal operation;

12 “(D) congestion pricing;

13 “(E) corridor management;

14 “(F) emergency operations;

15 “(G) freeway management;

16 “(H) impacts of vehicle size and weight;

17 “(I) freight operations and technology;

18 “(J) operations and freight performance
19 measurement and management;

20 “(K) organizing and planning for oper-
21 ations;

22 “(L) planned special events management;

23 “(M) real-time transportation information;

24 “(N) road weather management;

1 “(O) traffic and freight data and analysis
2 tools;
3 “(P) traffic control devices;
4 “(Q) traffic incident management;
5 “(R) workzone management;
6 “(S) mechanisms that communicate travel,
7 roadway, and emergency information to all road
8 users (as defined in section 148); and
9 “(T) enhanced mode choice and intermodal
10 connectivity.

11 “(f) ASSESSING POLICY AND SYSTEM FINANCING
12 ALTERNATIVES.—

13 “(1) OBJECTIVES.—In carrying out the pro-
14 gram under this section, the Secretary shall conduct
15 policy analysis on emerging issues in the transpor-
16 tation community to provide information to policy-
17 makers and decisionmakers.

18 “(2) ACTIVITIES.—Research and technology ac-
19 tivities carried out under this subsection may include
20 activities relating to—

21 “(A) highway needs and investment anal-
22 ysis;

23 “(B) analysis of legislative development
24 and implementation;

25 “(C) highway policy analysis;

1 “(D) the effect of highway congestion on
2 the economy;

3 “(E) research in emerging policy areas;

4 “(F) advancing innovations in revenue gen-
5 eration, financing, and procurement for project
6 delivery;

7 “(G) improving project financial and cost
8 analysis;

9 “(H) highway performance measurement;

10 “(I) travel demand performance measure-
11 ment; and

12 “(J) highway finance performance meas-
13 urement.

14 “(3) INFRASTRUCTURE INVESTMENT NEEDS
15 REPORT.—

16 “(A) IN GENERAL.—Not later than July
17 31, 2012, and July 31 of every second year
18 thereafter, the Secretary shall transmit to the
19 Committee on Transportation and Infrastruc-
20 ture of the House of Representatives and the
21 Committee on Environment and Public Works
22 of the Senate a report that describes estimates
23 of the future highway and bridge needs of the
24 United States and the backlog of highway and
25 bridge needs at the time of the report.

1 “(B) COMPARISON.—Each report under
2 subparagraph (A) shall provide the means, in-
3 cluding all necessary information, to relate and
4 compare the conditions and service measures
5 used in the previous biennial reports.

6 “(g) EXPLORATORY ADVANCED RESEARCH.—In car-
7 rying out the program under this section, the Secretary
8 shall conduct long-term, higher-risk research, consistent
9 with the transportation research and development plan
10 under section 508, with the potential for dramatic break-
11 throughs in the field of highway transportation.

12 “(h) GRANTS, COOPERATIVE AGREEMENTS, AND
13 CONTRACTS.—

14 “(1) IN GENERAL.—In carrying out the pro-
15 gram under this section, the Secretary may make
16 grants to, and enter into cooperative agreements and
17 contracts with, States, other Federal agencies, insti-
18 tutions of higher education, private sector entities,
19 and nonprofit organizations to pay the Federal share
20 of the cost of research, development, and technology
21 transfer activities.

22 “(2) APPLICATIONS.—To receive a grant under
23 this subsection, an entity described in paragraph (1)
24 shall submit an application to the Secretary. The ap-
25 plication shall be in such form and contain such in-

1 formation and assurances as the Secretary may re-
2 quire.

3 “(3) TECHNOLOGY AND INFORMATION TRANS-
4 FER.—The Secretary shall ensure that the informa-
5 tion and technology resulting from research con-
6 ducted under this subsection is made available to
7 State and local transportation departments and
8 other interested parties as specified by the Sec-
9 retary.

10 “(i) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-
11 TER.—

12 “(1) IN GENERAL.—The Secretary shall operate
13 in the Federal Highway Administration a Turner-
14 Fairbank Highway Research Center.

15 “(2) USES OF THE CENTER.—The Center shall
16 support—

17 “(A) the conduct of highway research and
18 development related to new highway technology,
19 including connected vehicle technology;

20 “(B) the development of understandings,
21 tools, and techniques that provide solutions to
22 complex technical problems through the devel-
23 opment of economical and environmentally sen-
24 sitive designs, efficient and quality-controlled
25 construction practices, and durable materials;

1 “(C) the development of innovative high-
2 way products and practices; and

3 “(D) long-term high-risk research to im-
4 prove the materials used in highway infrastruc-
5 ture.

6 “(j) CENTERS FOR SURFACE TRANSPORTATION EX-
7 CELLENCE.—

8 “(1) ESTABLISHMENT.—The Secretary may es-
9 tablish not more than 4 centers for surface transpor-
10 tation excellence.

11 “(2) GOALS.—The goals of the centers for sur-
12 face transportation excellence are to promote and
13 support strategic national surface transportation
14 programs and activities relating to the work of State
15 departments of transportation.

16 “(3) ROLE OF THE CENTERS.—To achieve the
17 goals set forth in paragraph (2), the Secretary shall
18 establish centers that provide technical assistance,
19 information sharing of best practices, and training
20 in the use of tools and decisionmaking processes that
21 can assist States in effectively implementing surface
22 transportation programs, projects, and policies.

23 “(4) PROGRAM ADMINISTRATION.—

24 “(A) COMPETITION.—A party entering
25 into a contract, cooperative agreement, or other

1 transaction with the Secretary under this sub-
2 section, or receiving a grant to perform re-
3 search or provide technical assistance under
4 this subsection, shall be selected on a competi-
5 tive basis.

6 “(B) STRATEGIC PLAN.—The Secretary
7 shall require each center to develop a multiyear
8 strategic plan, and submit the plan to the Sec-
9 retary at such time as the Secretary requires,
10 that describes—

11 “(i) the activities to be undertaken by
12 the center; and

13 “(ii) how the work of the center will
14 be coordinated with the activities of the
15 Federal Highway Administration and the
16 various other research, development, and
17 technology transfer activities authorized by
18 this chapter.

19 “(5) FUNDING.—Of the amounts made avail-
20 able by section 7001(a)(1) of the American Energy
21 and Infrastructure Jobs Act of 2012, not more than
22 \$3,000,000 for each of fiscal years 2013 through
23 2016 shall be available to carry out this sub-
24 section.”.

1 **SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT**
2 **PROGRAM.**

3 (a) IN GENERAL.—Chapter 5 of title 23, United
4 States Code, is amended by inserting after section 503 the
5 following:

6 **“§ 503a. Technology and innovation deployment pro-**
7 **gram**

8 “(a) IN GENERAL.—The Secretary, in accordance
9 with the strategic plan developed under section 508, shall
10 carry out a technology and innovation deployment pro-
11 gram on all aspects of highway transportation by pro-
12 moting and facilitating the products, technologies, tools,
13 methods, or other findings resulting from highway re-
14 search conducted under this chapter.

15 “(b) OBJECTIVES.—The Secretary shall seek to ad-
16 vance the following objectives:

17 “(1) Significantly accelerate the adoption of in-
18 novative technologies by the surface transportation
19 community.

20 “(2) Significantly accelerate the adoption of ad-
21 vanced modeling technologies, as described in section
22 106, by the surface transportation community.

23 “(3) Provide leadership and incentives to dem-
24 onstrate and promote state-of-the-art technologies,
25 elevated performance standards, and new business
26 practices in highway construction processes that re-

1 sult in improved safety, faster construction, reduced
2 congestion from construction, and improved quality
3 and user satisfaction.

4 “(4) Advance longer-lasting highways using in-
5 novative technologies and practices to accomplish
6 more rapid construction of efficient and safe high-
7 ways and bridges.

8 “(5) Improve highway efficiency, safety, mobil-
9 ity, reliability, service life, and environmental protec-
10 tion.

11 “(6) Develop and deploy new tools, techniques,
12 and practices to accelerate the adoption of innova-
13 tion in all aspects of highway transportation.

14 “(c) ACTIVITIES.—The program may include—

15 “(1) activities conducted under section 503;

16 “(2) other technologies and innovations requir-
17 ing additional development and testing not per-
18 formed under section 503 but necessary to bring
19 about successful deployment and delivery; and

20 “(3) developing and improving innovative tech-
21 nologies and practices and exploring new tech-
22 nologies to accelerate innovation adoption.

23 “(d) GRANTS, COOPERATIVE AGREEMENTS, AND
24 CONTRACTS.—

1 “(1) IN GENERAL.—Under the program, the
2 Secretary may make grants to, and enter into coop-
3 erative agreements and contracts with, States, other
4 Federal agencies, institutions of higher education,
5 private sector entities, Federal laboratories, and
6 nonprofit organizations to pay the Federal share of
7 the cost of research, development, and deployment
8 activities.

9 “(2) APPLICATIONS.—To receive a grant under
10 this subsection, an entity described in paragraph (1)
11 shall submit an application to the Secretary. The ap-
12 plication shall be in such form and contain such in-
13 formation and assurances as the Secretary may re-
14 quire.

15 “(3) TECHNOLOGY AND INFORMATION TRANS-
16 FER.—The Secretary shall ensure that the informa-
17 tion and technology resulting from research con-
18 ducted under this subsection is made available to
19 State and local transportation departments and
20 other interested parties as specified by the Sec-
21 retary.

22 “(e) DEPLOYMENT OF FUTURE STRATEGIC HIGH-
23 WAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

24 “(1) IN GENERAL.—The Secretary, in consulta-
25 tion with the American Association of State High-

1 way and Transportation Officials and the National
2 Academy of Sciences, shall promote research results
3 and products developed under the Strategic Highway
4 Research Program 2 administered by the Transpor-
5 tation Research Board of the National Academy of
6 Sciences.

7 “(2) STRATEGY OF PROMOTION.—The Sec-
8 retary, to the extent practicable, shall base the de-
9 ployment of research results and products described
10 in paragraph (1) on the recommendations included
11 in the Transportation Research Board Special Re-
12 port 296 entitled ‘Implementing the Results of the
13 Second Strategic Highway Research Program: Sav-
14 ing Lives, Reducing Congestion, Improving Quality
15 of Life’.”.

16 (b) CONFORMING AMENDMENT.—The analysis for
17 chapter 5 of title 23, United States Code, is amended by
18 inserting after the item relating to section 503 the fol-
19 lowing:

“503a. Technology and innovation deployment program.”.

20 **SEC. 7007. TRAINING AND EDUCATION.**

21 Section 504 of title 23, United States Code, is
22 amended—

23 (1) in subsection (a)(2) by striking subpara-
24 graph (A) and inserting the following:

1 “(A) Federal Highway Administration em-
2 ployees, State and local transportation agency
3 employees, and Federal agency partners;”;

4 (2) in subsection (b) by striking paragraph (3)
5 and inserting the following:

6 “(3) FEDERAL SHARE.—

7 “(A) LOCAL TECHNICAL ASSISTANCE CEN-
8 TERS.—Subject to clause (ii), the Federal share
9 of the cost of any activity carried out by a local
10 technical assistance center under paragraphs
11 (1) and (2) shall be 50 percent, except that the
12 remaining share may include funds provided to
13 a recipient under subsection (e) or section 505.

14 “(B) TRIBAL TECHNICAL ASSISTANCE
15 CENTERS.—The Federal share of the cost of ac-
16 tivities carried out by the tribal technical assist-
17 ance centers under paragraph (2)(D)(ii) shall
18 be 100 percent.”;

19 (3) in subsection (e)(2) by adding at the end
20 the following: “Funds provided to institutions of
21 higher education to carry out this paragraph shall be
22 used in direct support of student expenses associated
23 with their transportation studies.”;

24 (4) by striking subsection (d);

1 (5) by redesignating subsections (e) through (g)
2 as subsections (d) through (f), respectively;

3 (6) in subsection (d) (as so redesignated)—

4 (A) in paragraph (1)—

5 (i) by striking “sections 104(b)(1),
6 104(b)(2), 104(b)(3), 104(b)(4), and
7 144(e)” and inserting “paragraphs (1),
8 (2), and (3) of section 104(b)”;

9 (ii) in subparagraph (D) by striking
10 “and”;

11 (iii) in subparagraph (E) by striking
12 the period at the end and inserting a semi-
13 colon; and

14 (iv) by adding at the end the fol-
15 lowing:

16 “(F) activities delivered by the National
17 Highway Institute under subsection (a); and

18 “(G) the local technical assistance program
19 under subsection (b).”; and

20 (B) in paragraph (2) by inserting before
21 the period at the end the following: “, except
22 for activities carried out under paragraph
23 (1)(G), for which the Federal share shall be 50
24 percent as described in subsection (b)(3)(A)”;
25 and

1 (7) in the heading of subsection (e) (as redesignig-
2 nated by paragraph (4) of this section) by striking
3 “PILOT”.

4 **SEC. 7008. STATE PLANNING AND RESEARCH.**

5 Section 505(a) of title 23, United States Code, is
6 amended in the first sentence by striking “104(h)) and
7 under section 144” and inserting “104(i))”.

8 **SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION**
9 **OUTREACH PROGRAM.**

10 Section 506 of title 23, United States Code, and the
11 item relating to such section in the analysis for chapter
12 5 of such title, are repealed.

13 **SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL**
14 **COOPERATIVE RESEARCH PROGRAM.**

15 Section 507 of title 23, United States Code, and the
16 item relating to such section in the analysis for chapter
17 5 of such title, are repealed.

18 **SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOP-**
19 **MENT STRATEGIC PLANNING.**

20 Section 508(a) of title 23, United States Code, is
21 amended—

22 (1) in paragraph (1)—

23 (A) by striking “SAFETEA-LU” and in-
24 serting “American Energy and Infrastructure
25 Jobs Act of 2012”; and

1 (B) by adding “, acting through the Ad-
2 ministrator of the Research and Innovative
3 Technology Administration,” after “Secretary”;
4 and

5 (2) in paragraph (2)(A)(iii) by striking “pro-
6 moting security” and inserting “improving goods
7 movement”.

8 **SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPOR-**
9 **TATION RESEARCH PROGRAM.**

10 Section 509 of title 23, United States Code, and the
11 item relating to such section in the analysis for chapter
12 5 of such title, are repealed.

13 **SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PRO-**
14 **GRAM.**

15 Section 510 of title 23, United States Code, and the
16 item relating to such section in the analysis for chapter
17 5 of such title, are repealed.

18 **SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYS-**
19 **TEMS PROGRAM PLAN.**

20 (a) IN GENERAL.—Section 512 of title 23, United
21 States Code, is amended—

22 (1) in the section heading by striking “**ITS**”
23 and inserting “**intelligent transportation sys-**
24 **tems**”; and

1 (2) in subsection (a)(1) by striking
2 “SAFETEA-LU” and inserting “American Energy
3 and Infrastructure Jobs Act of 2012”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 5 of title 23, United States Code, is amended by
6 striking the item relating to section 512 and inserting the
7 following:

“512. National intelligent transportation systems program plan.”.

8 **SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPOR-**
9 **TATION SYSTEMS ACTIVITIES.**

10 (a) IN GENERAL.—Section 513 of title 23, United
11 States Code, is amended—

12 (1) in the section heading by striking “**ITS**”
13 and inserting “**intelligent transportation sys-**
14 **tems**”; and

15 (2) in subsection (a) by striking “subtitle C of
16 title V of the SAFETEA-LU” and inserting “section
17 7001(a)(4) of the American Energy and Infrastruc-
18 ture Jobs Act of 2012”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 chapter 5 of title 23, United States Code, is amended by
21 striking the item relating to section 513 and inserting the
22 following:

“513. Use of funds for intelligent transportation systems activities.”.

1 **SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PRO-**
2 **GRAM GOALS AND PURPOSES.**

3 (a) IN GENERAL.—Chapter 5 of title 23, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 514. Intelligent transportation systems program**
7 **goals and purposes**

8 “(a) GOALS.—The goals of the intelligent transpor-
9 tation system program include—

10 “(1) enhancement of surface transportation ef-
11 ficiency and facilitation of intermodalism and inter-
12 national trade to enable existing facilities to meet a
13 significant portion of future transportation needs,
14 including public access to employment, goods, and
15 services, and to reduce regulatory, financial, and
16 other transaction costs to public agencies and sys-
17 tem users;

18 “(2) achievement of national transportation
19 safety goals, including the enhancement of safe oper-
20 ation of motor vehicles and nonmotorized vehicles
21 and improved emergency response to a crash, with
22 particular emphasis on decreasing the number and
23 severity of collisions;

24 “(3) protection and enhancement of the natural
25 environment and communities affected by surface
26 transportation, with particular emphasis on assisting

1 State and local governments to achieve national en-
2 vironmental goals;

3 “(4) accommodation of the needs of all users of
4 surface transportation systems, including operators
5 of commercial motor vehicles, passenger motor vehi-
6 cles, motorcycles, and bicycles and pedestrians, in-
7 cluding individuals with disabilities; and

8 “(5) improvement of the Nation’s ability to re-
9 spond to emergencies and natural disasters.

10 “(b) PURPOSES.—The Secretary shall implement ac-
11 tivities under the intelligent system transportation pro-
12 gram to, at a minimum—

13 “(1) expedite, in both metropolitan and rural
14 areas, deployment and integration of intelligent
15 transportation systems for consumers of passenger
16 and freight transportation;

17 “(2) ensure that Federal, State, and local
18 transportation officials have adequate knowledge of
19 intelligent transportation systems for consideration
20 in the transportation planning process;

21 “(3) improve regional cooperation and oper-
22 ations planning for effective intelligent transpor-
23 tation system deployment;

24 “(4) promote the innovative use of private re-
25 sources;

1 “(5) facilitate, in cooperation with the motor
2 vehicle industry, the introduction of vehicle-based
3 safety enhancing systems;

4 “(6) support the application of intelligent trans-
5 portation systems that increase the safety and effi-
6 ciency of commercial motor vehicle operations;

7 “(7) develop a workforce capable of developing,
8 operating, and maintaining intelligent transportation
9 systems; and

10 “(8) provide continuing support for operations
11 and maintenance of intelligent transportation sys-
12 tems.”.

13 (b) REPEAL.—Section 5303 of the Safe, Accountable,
14 Flexible, Efficient Transportation Equity Act: A Legacy
15 for Users is repealed.

16 (c) CONFORMING AMENDMENT.—The analysis for
17 chapter 5 of title 23, United States Code, is amended by
18 adding after the item relating to section 513 the following:

 “514. Intelligent transportation systems program goals and purposes.”.

19 **SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PRO-**
20 **GRAM GENERAL AUTHORITIES AND RE-**
21 **QUIREMENTS.**

22 (a) IN GENERAL.—Chapter 5 of title 23, United
23 States Code, is further amended by adding at the end the
24 following:

1 **“§ 515. Intelligent transportation systems program**
2 **general authority and requirements**

3 “(a) SCOPE.—Subject to the provisions of this chap-
4 ter, the Secretary shall conduct an ongoing intelligent
5 transportation system program to research, develop, and
6 operationally test intelligent transportation systems and to
7 provide technical assistance in the nationwide application
8 of those systems as a component of the surface transpor-
9 tation systems of the United States.

10 “(b) POLICY.—Intelligent transportation system re-
11 search projects and operational tests funded pursuant to
12 this chapter shall encourage and not displace public-pri-
13 vate partnerships or private sector investment in such
14 tests and projects.

15 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
16 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
17 shall carry out the intelligent transportation system pro-
18 gram in cooperation with State and local governments and
19 other public entities, private sector firms in the United
20 States, Federal laboratories, and institutions of higher
21 education, including historically Black colleges and univer-
22 sities and other minority institutions of higher education.

23 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
24 In carrying out the intelligent transportation system pro-
25 gram, the Secretary shall consult with the heads of other
26 Federal departments and agencies, as appropriate.

1 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
2 FORMATION.—The Secretary may provide technical assist-
3 ance, training, and information to State and local govern-
4 ments seeking to implement, operate, maintain, or evalu-
5 ate intelligent transportation system technologies and
6 services.

7 “(f) TRANSPORTATION PLANNING.—The Secretary
8 may provide funding to support adequate consideration of
9 transportation systems management and operations, in-
10 cluding intelligent transportation systems, within metro-
11 politan and statewide transportation planning processes.

12 “(g) INFORMATION CLEARINGHOUSE.—

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

14 “(A) maintain a repository for technical
15 and safety data collected as a result of federally
16 sponsored projects carried out under this chap-
17 ter; and

18 “(B) make, on request, that information
19 (except for proprietary information and data)
20 readily available to all users of the repository at
21 an appropriate cost.

22 “(2) AGREEMENT.—

23 “(A) IN GENERAL.—The Secretary may
24 enter into an agreement with a third party for

1 the maintenance of the repository for technical
2 and safety data under paragraph (1)(A).

3 “(B) FEDERAL FINANCIAL ASSISTANCE.—

4 If the Secretary enters into an agreement with
5 an entity for the maintenance of the repository,
6 the entity shall be eligible for Federal financial
7 assistance under this section.

8 “(3) AVAILABILITY OF INFORMATION.—Infor-
9 mation in the repository shall not be subject to sec-
10 tions 552 and 555 of title 5, United States Code.

11 “(h) INFRASTRUCTURE DEVELOPMENT.—Funds
12 made available to carry out this chapter for operational
13 tests—

14 “(1) shall be used primarily for the development
15 of intelligent transportation system infrastructure;
16 and

17 “(2) to the maximum extent practicable, shall
18 not be used for the construction of physical highway
19 and public transportation infrastructure unless the
20 construction is incidental and critically necessary to
21 the implementation of an intelligent transportation
22 system project.”.

23 (b) REPEAL.—Sections 5304 and 5305 of the Safe,
24 Accountable, Flexible, Efficient Transportation Equity
25 Act: A Legacy for Users are repealed.

1 (c) CONFORMING AMENDMENT.—The analysis for
2 chapter 5 of title 23, United States Code, is further
3 amended by adding after the item relating to section 514
4 the following:

“515. Intelligent transportation systems program general authority and require-
ments.”.

5 **SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RE-**
6 **SEARCH AND DEVELOPMENT.**

7 (a) IN GENERAL.—Chapter 5 of title 23, United
8 States Code, is further amended by adding at the end the
9 following:

10 **“§ 516. Intelligent transportation systems research**
11 **and development**

12 “(a) IN GENERAL.—The Secretary shall carry out a
13 comprehensive program of intelligent transportation sys-
14 tem research, development, and operational tests of intel-
15 ligent vehicles and intelligent infrastructure systems and
16 other similar activities that are necessary to carry out this
17 chapter.

18 “(b) PRIORITY AREAS.—Under the program, the Sec-
19 retary shall give higher priority to funding projects that—

20 “(1) enhance mobility and productivity through
21 improved traffic management, incident management,
22 transit management, freight management, road
23 weather management, toll collection, traveler infor-

1 mation, or highway operations systems and remote
2 sensing products;

3 “(2) utilize interdisciplinary approaches to de-
4 velop traffic management strategies and tools to ad-
5 dress multiple impacts of congestion concurrently;

6 “(3) address traffic management, incident man-
7 agement, transit management, toll collection traveler
8 information, or highway operations systems;

9 “(4) incorporate research on the impact of envi-
10 ronmental, weather, and natural conditions on intel-
11 ligent transportation systems, including the effects
12 of cold climates;

13 “(5) enhance intermodal use of intelligent
14 transportation systems for diverse groups, including
15 for emergency and health-related services;

16 “(6) enhance safety through improved crash
17 avoidance and protection, crash and other emergency
18 personnel notification, commercial motor vehicle op-
19 erations, and infrastructure-based or cooperative
20 safety systems; and

21 “(7) facilitate the integration of intelligent in-
22 frastructure, vehicle, and control technologies.”.

23 (b) REPEAL.—Section 5306 of the Safe, Accountable,
24 Flexible, Efficient Transportation Equity Act: A Legacy
25 for Users is repealed.

1 (c) CONFORMING AMENDMENT.—The analysis for
 2 chapter 5 of title 23, United States Code, is further
 3 amended by adding after the item relating to section 515
 4 the following:

“516. Intelligent transportation systems research and development.”.

5 **SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NA-**
 6 **TIONAL ARCHITECTURE AND STANDARDS.**

7 (a) IN GENERAL.—Chapter 5 of title 23, United
 8 States Code, is further amended by adding at the end the
 9 following:

10 **“§ 517. Intelligent transportation systems national ar-**
 11 **chitecture and standards**

12 “(a) IN GENERAL.—

13 “(1) DEVELOPMENT, IMPLEMENTATION, AND
 14 MAINTENANCE.—Consistent with section 12(d) of
 15 the National Technology Transfer and Advancement
 16 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
 17 the Secretary shall develop, implement, and maintain
 18 a national architecture and supporting standards
 19 and protocols to promote the widespread use and
 20 evaluation of intelligent transportation system tech-
 21 nology as a component of the surface transportation
 22 systems of the United States.

23 “(2) INTEROPERABILITY AND EFFICIENCY.—To
 24 the maximum extent practicable, the national archi-
 25 tecture shall promote interoperability among, and ef-

1 iciency of, intelligent transportation system tech-
2 nologies implemented throughout the United States.

3 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
4 NIZATIONS.—In carrying out this section, the Sec-
5 retary shall use the services of such standards devel-
6 opment organizations as the Secretary determines to
7 be appropriate.

8 “(b) PROVISIONAL STANDARDS.—

9 “(1) IN GENERAL.—If the Secretary finds that
10 the development or balloting of an intelligent trans-
11 portation system standard jeopardizes the timely
12 achievement of the objectives identified in subsection
13 (a), the Secretary may establish a provisional stand-
14 ard, after consultation with affected parties, using,
15 to the extent practicable, the work product of appro-
16 priate standards development organizations.

17 “(2) PERIOD OF EFFECTIVENESS.—A provi-
18 sional standard established under paragraph (1)
19 shall be published in the Federal Register and re-
20 main in effect until the appropriate standards devel-
21 opment organization adopts and publishes a stand-
22 ard.

23 “(c) CONFORMITY WITH NATIONAL ARCHITEC-
24 TURE.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3), the Secretary shall ensure that
3 intelligent transportation system projects carried out
4 using funds made available from the Highway Trust
5 Fund, including funds made available under this
6 chapter, to deploy intelligent transportation system
7 technologies conform to the national architecture,
8 applicable standards or provisional standards, and
9 protocols developed under subsection (a).

10 “(2) SECRETARY’S DISCRETION.—The Sec-
11 retary may authorize exceptions to paragraph (1)
12 for—

13 “(A) projects designed to achieve specific
14 research objectives outlined in the national in-
15 telligent transportation system program plan or
16 the surface transportation research and devel-
17 opment strategic plan developed under section
18 508; or

19 “(B) the upgrade or expansion of an intel-
20 ligent transportation system in existence on the
21 date of enactment of the SAFETEA-LU if the
22 Secretary determines that the upgrade or ex-
23 pansion—

24 “(i) would not adversely affect the
25 goals or purposes of this chapter;

1 “(ii) is carried out before the end of
2 the useful life of such system; and

3 “(iii) is cost-effective as compared to
4 alternatives that would meet the con-
5 formity requirement of paragraph (1).

6 “(3) EXCEPTIONS.—Paragraph (1) shall not
7 apply to funds used for operation or maintenance of
8 an intelligent transportation system in existence on
9 the date of enactment of the SAFETEA-LU.

10 “(d) STANDARD DEFINED.—The term ‘standard’
11 means a document that—

12 “(1) contains technical specifications or other
13 precise criteria for intelligent transportation systems
14 that are to be used consistently as rules, guidelines,
15 or definitions of characteristics so as to ensure that
16 materials, products, processes, and services are fit
17 for their purposes; and

18 “(2) may support the national architecture and
19 promote—

20 “(A) the widespread use and adoption of
21 intelligent transportation system technology as
22 a component of the surface transportation sys-
23 tems of the United States; and

1 “(B) interoperability among intelligent
2 transportation system technologies implemented
3 throughout the States.”.

4 (b) REPEAL.—Section 5307 of the Safe, Accountable,
5 Flexible, Efficient Transportation Equity Act: A Legacy
6 for Users is repealed.

7 (c) CONFORMING AMENDMENT.—The analysis for
8 chapter 5 of title 23, United States Code, is further
9 amended by adding after the item relating to section 516
10 the following:

“517. Intelligent transportation systems national architecture and standards.”.

11 **SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CEN-**
12 **TERS.**

13 Section 5505 of title 49, United States Code, and the
14 item relating to such section in the analysis of chapter
15 55 of such title, is repealed.

16 **SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.**

17 Section 5506 of title 49, United States Code, is
18 amended—

19 (1) in subsection (b)(1) by adding “that is con-
20 sistent with section 503 of title 23” after “applied
21 research”;

22 (2) in subsection (c)—

23 (A) in the heading by striking “REGIONAL,
24 TIER I, AND TIER II CENTERS” and inserting
25 “REGIONAL AND STANDARD CENTERS”;

1 (B) in paragraph (1)—

2 (i) in the heading by striking “RE-
3 GIONAL AND TIER I CENTERS” and insert-
4 ing “REGIONAL AND STANDARD CEN-
5 TERS”;

6 (ii) in the matter preceding subpara-
7 graph (A) by striking “2005 through
8 2009” and inserting “2013 through
9 2016”; and

10 (iii) in subparagraph (B) by striking
11 “10 Tier I” and inserting “20 standard”;
12 (C) by striking paragraph (2); and

13 (D) by redesignating paragraphs (3) and
14 (4) as paragraphs (2) and (3), respectively;
15 (3) in subsection (e)—

16 (A) in paragraph (1) by striking “March
17 31, 2006, and not later than March 31st of
18 every 4th year thereafter” and inserting “180
19 days after the date of enactment of the Amer-
20 ican Energy and Infrastructure Jobs Act of
21 2012, and every 4 years thereafter”;

22 (B) in paragraph (5)—

23 (i) in subparagraph (B) by striking
24 “and”;

1 (ii) in subparagraph (C) by striking
2 the period and adding “; and”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(D) \$3,500,000 for each of fiscal years
6 2013 through 2016.”; and

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

8 “(6) RESEARCH REQUIREMENT.—

9 “(A) COMPREHENSIVE TRANSPORTATION
10 SAFETY.—The Secretary shall make a grant to
11 1 of the 10 regional university transportation
12 centers established under subsection (c) for the
13 purpose of furthering the objectives described in
14 subsection (b) in the field of comprehensive
15 transportation safety.

16 “(B) INTELLIGENT TRANSPORTATION SYS-
17 TEMS.—The Secretary shall make a grant to 1
18 of the 10 regional university transportation cen-
19 ters established under subsection (c) (other
20 than the center described in subparagraph (A))
21 for the purpose of furthering the objectives de-
22 scribed in subsection (b) in the field of intel-
23 ligent transportation systems.”;

24 (4) in subsection (f)—

1 (A) by striking “TIER I” in the subsection
2 heading and inserting “STANDARD”;

3 (B) in paragraph (1)—

4 (i) by striking “June 30, 2006, and
5 not later than June 30 of every 4th year
6 thereafter” and inserting “180 days after
7 the date of enactment of the American En-
8 ergy and Infrastructure Jobs Act of 2012,
9 and every 4 years thereafter”; and

10 (ii) by striking “10 Tier I” and in-
11 sserting “20 standard”;

12 (C) in paragraph (3) by striking “Tier I”
13 and inserting “standard”; and

14 (D) in paragraph (5)—

15 (i) by striking “\$1,000,000” and in-
16 sserting “\$2,000,000”;

17 (ii) by striking “2005 through 2009”
18 and inserting “2013 through 2016”; and

19 (iii) by striking “Tier I” and inserting
20 “standard”;

21 (5) by striking subsection (g) and redesignating
22 subsections (h) through (m) as subsections (g)
23 through (l), respectively;

24 (6) in subsection (h) (as redesignated by para-
25 graph (5) of this section)—

1 (A) by striking “MAINTENANCE OF EF-
2 FORT.—”and all that follows through “In order
3 to be” and inserting “MAINTENANCE OF EF-
4 FORT.—In order to be”; and

5 (B) by striking paragraph (2); and

6 (7) in subsection (i) (as redesignated by para-
7 graph (5) of this section)—

8 (A) by striking “50” and inserting “65”;
9 and

10 (B) by striking “503” and inserting
11 “503A”.

12 **SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.**

13 Section 111 of title 49, United States Code, is
14 amended—

15 (1) in subsection (c) by striking paragraph (5)
16 and inserting the following:

17 “(5) TRANSPORTATION STATISTICS.—Col-
18 lecting, compiling, analyzing, and publishing a com-
19 prehensive set of transportation statistics on the per-
20 formance and impacts of the national transportation
21 system, including statistics on—

22 “(A) transportation safety across all modes
23 and intermodally;

24 “(B) the state of good repair of United
25 States transportation infrastructure;

1 “(C) the extent, connectivity, and condition
2 of the transportation system, building on the
3 national transportation atlas database devel-
4 oped under subsection (g);

5 “(D) economic efficiency across the entire
6 transportation sector;

7 “(E) the effects of the transportation sys-
8 tem on global and domestic economic competi-
9 tiveness;

10 “(F) demographic, economic, and other
11 variables influencing travel behavior, including
12 choice of transportation mode and goods move-
13 ment;

14 “(G) transportation-related variables that
15 influence the domestic economy and global
16 competitiveness;

17 “(H) economic costs and impacts for pas-
18 senger travel and freight movement;

19 “(I) intermodal and multimodal passenger
20 movement; and

21 “(J) consequences of transportation for the
22 environment.”;

23 (2) by striking subsection (d) and inserting the
24 following:

1 “(d) ACCESS TO FEDERAL DATA.—In carrying out
2 subsection (c), the Director shall be provided access to all
3 transportation and transportation-related information and
4 data, including safety-related data, held by an agency of
5 the Department of Transportation and, upon written re-
6 quest and subject to any statutory or regulatory restric-
7 tions, to all such data held by any other Federal Govern-
8 ment agency, that is germane to carrying out subsection
9 (c).”;

10 (3) in subsection (n) by striking “Mass Tran-
11 sit” and inserting “Alternative Transportation”; and

12 (4) in subsection (o)(2)—

13 (A) in subparagraph (A) by inserting
14 “and” after the semicolon;

15 (B) by striking subparagraph (B); and

16 (C) by redesignating subparagraph (C) as
17 subparagraph (B).

18 **SEC. 7023. ADMINISTRATIVE AUTHORITY.**

19 Section 112 of title 49, United States Code, is
20 amended by adding at the end the following:

21 “(f) PROGRAM EVALUATION AND OVERSIGHT.—For
22 each of fiscal years 2013 through 2016, the Administrator
23 may expend not more than 1 ½ percent of the amounts
24 authorized to be appropriated for the administration and
25 operation of the Research and Innovative Technology Ad-

1 ministration to carry out the coordination, evaluation, and
2 oversight of the programs administered by the Administra-
3 tion.

4 “(g) COLLABORATIVE RESEARCH AND DEVELOP-
5 MENT.—

6 “(1) IN GENERAL.—To encourage innovative
7 solutions to multimodal transportation problems and
8 stimulate the deployment of new technology, the Ad-
9 ministrator may carry out, on a cost-shared basis,
10 collaborative research and development with—

11 “(A) non-Federal entities, including State
12 and local governments, foreign governments, in-
13 stitutions of higher education, corporations, in-
14 stitutions, partnerships, sole proprietorships,
15 and trade associations that are incorporated or
16 established under the laws of any State;

17 “(B) Federal laboratories; and

18 “(C) other Federal agencies.

19 “(2) COOPERATION, GRANTS, CONTRACTS, AND
20 AGREEMENTS.—Notwithstanding any other provision
21 of law, the Administrator may directly initiate con-
22 tracts, grants, cooperative research and development
23 agreements (as defined in section 12 of the Steven-
24 son-Wydler Technology Innovation Act of 1980 (15
25 U.S.C. 3710a)), and other agreements to fund, and

1 accept funds from, the Transportation Research
2 Board of the National Research Council of the Na-
3 tional Academy of Sciences, State departments of
4 transportation, cities, counties, institutions of higher
5 education, associations, and the agents of those enti-
6 ties to carry out joint transportation research and
7 technology efforts.

8 “(3) FEDERAL SHARE.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), the Federal share of the cost of an
11 activity carried out under paragraph (2) shall
12 not exceed 50 percent.

13 “(B) EXCEPTION.—If the Secretary deter-
14 mines that the activity is of substantial public
15 interest or benefit, the Secretary may approve
16 a greater Federal share.

17 “(C) NON-FEDERAL SHARE.—All costs di-
18 rectly incurred by the non-Federal partners, in-
19 cluding personnel, travel, facility, and hardware
20 development costs, shall be credited toward the
21 non-Federal share of the cost of an activity de-
22 scribed in subparagraph (A).

23 “(4) USE OF TECHNOLOGY.—The research, de-
24 velopment, or use of a technology under a contract,
25 grant, cooperative research and development agree-

1 ment, or other agreement entered into under this
2 subsection, including the terms under which the
3 technology may be licensed and the resulting roy-
4 alties may be distributed, shall be subject to the Ste-
5 venson-Wydler Technology Innovation Act of 1980
6 (15 U.S.C. 3701 et seq.).”.

7 **SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.**

8 (a) **ADDITIONAL REPEALS.**—Sections 5308, 5309,
9 5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Ac-
10 countable, Flexible, Efficient Transportation Equity Act:
11 A Legacy for Users are repealed.

12 (b) **TABLE OF CONTENTS FOR SAFETEA-LU.**—The
13 table of contents for the Safe, Accountable, Flexible, Effi-
14 cient Transportation Equity Act: A Legacy for Users is
15 amended by striking the items relating to sections 5303
16 through 5310, 5501, 5506, 5507, 5511, and 5513.

17 (c) **CONFORMING AMENDMENT.**—Section 6010(c) of
18 the Safe, Accountable, Flexible, Efficient Transportation
19 Equity Act: A Legacy for Users (23 U.S.C. 512 note) is
20 amended by striking “subtitle C of title V of this Act”
21 and inserting “section 501 of title 23, United States
22 Code”.

1 **TITLE VIII—RAILROADS**
2 **Subtitle A—Repeals and Reforms of**
3 **Intercity Passenger Rail Capital**
4 **Grant Programs**

5 **SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III**
6 **RAILROADS.**

7 Chapter 223 of title 49, United States Code, and the
8 item relating thereto in the table of chapters for subtitle
9 V of such title, are repealed.

10 **SEC. 8002. CONGESTION GRANTS.**

11 Section 24105 of title 49, United States Code, and
12 the item relating thereto in the table of sections for chap-
13 ter 241 of such title, are repealed.

14 **SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS**
15 **TO STATES.**

16 (a) **AMENDMENTS.**—Section 24402 of title 49,
17 United States Code, is amended—

18 (1) in the section heading, by striking “**CAP-**
19 **ITAL INVESTMENT GRANTS TO SUPPORT**
20 **INTERCITY PASSENGER RAIL SERVICE**” and in-
21 serting “**INTERCITY PASSENGER RAIL CAPITAL**
22 **GRANTS TO STATES**”;

23 (2) by striking subsection (b);

24 (3) by redesignating subsections (c) through (l)
25 as subsections (b) through (k), respectively;

1 (4) in subsection (b)(1)(D), as so redesignated
2 by paragraph (3) of this subsection, by striking
3 “that if an applicant has selected the proposed oper-
4 ator of its service competitively, that the applicant
5 provide” and inserting “that the applicant shall se-
6 lect the proposed operator of its service competi-
7 tively, and that the applicant shall provide”;

8 (5) in subsection (b)(2)(B), as so redesignated
9 by paragraph (3) of this subsection—

10 (A) by inserting “and” at the end of clause
11 (ii); and

12 (B) by inserting “and” at the end of clause
13 (iii); and

14 (C) by striking clauses (iv) and (v);

15 (6) in subsection (c), as so redesignated by
16 paragraph (3) of this subsection, by striking “sub-
17 section (c)(1)(A)” and inserting “subsection
18 (b)(1)(A)”;

19 (7) in subsection (d), as so redesignated by
20 paragraph (3) of this subsection, by striking “sub-
21 section (g)” and inserting “subsection (f)”;

22 (8) in subsection (e)(2), as so redesignated by
23 paragraph (3) of this subsection, by striking “sub-
24 section (c)” and inserting “subsection (b)”;

1 (9) in subsection (f), as so redesignated by
 2 paragraph (3) of this subsection, by striking para-
 3 graphs (3) and (4); and

4 (10) in subsection (g), as so redesignated by
 5 paragraph (3) of this subsection, by amending the
 6 second sentence to read as follows: “If any amount
 7 provided as a grant under this section is not obli-
 8 gated within 3 years after the date on which the
 9 State is awarded the grant, such amount shall be re-
 10 scinded and deposited to the general fund of the
 11 Treasury, where such amount shall be dedicated for
 12 the sole purpose of deficit reduction and prohibited
 13 from use as an offset for other spending increases
 14 or revenue reductions.”.

15 (b) CONFORMING AMENDMENT.—The item relating
 16 to section 24402 in the table of sections for chapter 244
 17 of title 49, United States Code, is amended to read as
 18 follows:

“Intercity passenger rail capital grants to States.”.

19 **Subtitle B—Amtrak Reforms**

20 **SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EX-**
 21 **PENSES.**

22 Section 101(a) of the Passenger Rail Investment and
 23 Improvement Act of 2008 (Division B of Public Law 110–
 24 432, 122 Stat. 4908) is amended—

1 (1) in paragraph (4), by striking
2 “\$616,000,000” and inserting “\$466,000,000”; and

3 (2) in paragraph (5), by striking
4 “\$631,000,000” and inserting “\$473,250,000”.

5 **SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.**

6 Section 24305 of title 49, United States Code, is
7 amended by adding at the end the following new sub-
8 section:

9 “(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—

10 “(1) LIMITATIONS.—Amtrak may not use any
11 Federal funds for the following purposes:

12 “(A) Hiring or contracting with any out-
13 side legal professional for the purpose of filing,
14 litigating, or otherwise pursuing any cause of
15 action in a Federal or State court against a
16 passenger rail service provider.

17 “(B) Filing, litigating, or otherwise pur-
18 suing in any Federal or State court any cause
19 of action against a passenger rail service pro-
20 vider arising from a competitive bid process in
21 which Amtrak and the passenger rail service
22 provider participated.

23 “(2) DEFINITIONS.—For the purposes of this
24 subsection—

1 “(A) the term ‘outside legal professional’
2 means any individual, corporation, partnership,
3 limited liability corporation, limited liability
4 partnership, or other private entity in the busi-
5 ness of providing legal services that is not em-
6 ployed on a full-time basis solely by Amtrak;
7 and

8 “(B) the term ‘passenger rail service pro-
9 vider’ means any company, partnership, or
10 other public or private entity that operates pas-
11 senger rail service or bids to operate passenger
12 rail service in a competitive process.”.

13 **SEC. 8103. APPLICABILITY OF LAWS.**

14 (a) **TITLE 18 VIOLATIONS.**—For purposes of sections
15 286, 287, 371, 641, 1001, and 1002 of title 18, United
16 States Code, and, with respect to audits conducted by the
17 Amtrak Office of the Inspector General, for purposes of
18 section 1516 of such title, Amtrak and the Amtrak Office
19 of the Inspector General shall be considered to be agencies
20 of the United States Government.

21 (b) **FALSE CLAIMS.**—Claims made or presented to
22 Amtrak shall be considered as claims under section
23 3729(b)(2)(A)(ii) of title 31, United States Code, and
24 statements made or presented to Amtrak shall be consid-

1 ered as statements under section 3729(a)(1)(B) and (G)
2 of title 31, United States Code.

3 (c) LIMITATION.—Subsections (a) and (b) shall be ef-
4 fective only with respect to a fiscal year for which Amtrak
5 receives a Federal subsidy.

6 **SEC. 8104. INSPECTOR GENERAL OF AMTRAK.**

7 (a) IN GENERAL.—Chapter 243 is amended by in-
8 serting after section 24316 the following:

9 **“§ 24317. Inspector General**

10 “(a) INVESTIGATION AUTHORITY.—The Inspector
11 General of Amtrak shall have all authority available to
12 other Inspectors General, as necessary in carrying out the
13 duties specified in the Inspector General Act 1978 (5
14 U.S.C. App. 3), to investigate any alleged violation of sec-
15 tion 286, 287, 371, 641, 1001, or 1002 of title 18, and,
16 with respect to audits conducted by the Amtrak Office of
17 the Inspector General, any violation of section 1516 of
18 such title.

19 “(b) SERVICES FROM GENERAL SERVICES ADMINIS-
20 TRATION.—The Inspector General of Amtrak may obtain
21 from the Administrator of General Services, and the Ad-
22 ministrator shall provide to the Inspector General, services
23 under sections 502(a) and 602 of title 40, including travel
24 programs.

25 “(c) QUALIFIED IMMUNITY.—

1 “(1) IN GENERAL.—An employee of the Amtrak
2 Office of Inspector General shall enjoy the same per-
3 sonal qualified immunity from lawsuit or liability as
4 the employees of other inspectors general that oper-
5 ate under authority of the Inspector General Act of
6 1978 with respect to the performance of investiga-
7 tive, audit, or inspection functions authorized under
8 that Act that are carried out for the Amtrak Office
9 of Inspector General.

10 “(2) FEDERAL GOVERNMENT LIABILITY.—No
11 liability of any kind shall attach to or rest upon the
12 United States for any damages from or by any ac-
13 tions of the Amtrak Office of Inspector General, its
14 employees, agents, or representatives.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
16 tions for chapter 243 is amended by inserting after the
17 item relating to section 24316 the following:

“24317. Inspector General.”.

18 **SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.**

19 Section 24310 is amended to read as follows:

20 **“§ 24310. Management accountability**

21 “(a) IN GENERAL.—Promptly after the date of enact-
22 ment of the American Energy and Infrastructure Jobs Act
23 of 2012, and again not later than 5 years after the date
24 of enactment of the Passenger Rail Investment and Im-
25 provement Act of 2008, the Inspector General of the De-

1 partment of Transportation shall complete an overall as-
2 sessment of the progress made by the Department of
3 Transportation, and the Inspector General of Amtrak
4 shall complete an overall assessment of the progress made
5 by Amtrak management, in implementing the provisions
6 of the Passenger Rail Investment and Improvement Act
7 of 2008.

8 “(b) ASSESSMENT.—The management assessment
9 undertaken by the Amtrak Inspector General may include
10 a review of—

11 “(1) effectiveness in improving annual financial
12 planning;

13 “(2) effectiveness in implementing improved fi-
14 nancial accounting;

15 “(3) efforts to implement minimum train per-
16 formance standards;

17 “(4) progress maximizing revenues, minimizing
18 Federal subsidies, and improving financial results;
19 and

20 “(5) any other aspect of Amtrak operations the
21 Amtrak Inspector General finds appropriate to re-
22 view.”.

23 **SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.**

24 (a) AUTHORITY.—Section 24305(c)(4) of title 49,
25 United States Code, is amended by striking “only if reve-

1 nues from the services each year at least equal the cost
2 of providing the services” and inserting “only as provided
3 in subsection (h)”.

4 (b) PROCEDURES.—Section 24305 of title 49, United
5 States Code, is further amended by adding at the end the
6 following new subsection:

7 “(h) FOOD AND BEVERAGE SERVICE.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (6), food and beverage service may be pro-
10 vided on Amtrak trains only by a bidder selected by
11 the Federal Railroad Administration under para-
12 graph (5). The Federal Railroad Administration may
13 consult with and obtain assistance from the General
14 Services Administration in carrying out this sub-
15 section.

16 “(2) REQUESTS FOR PROPOSALS.—Not later
17 than 60 days after the date of enactment of this
18 subsection, the Federal Railroad Administration
19 shall issue separate requests for proposals for provi-
20 sion of food and beverage service on Amtrak trains
21 on the national rail passenger transportation system
22 for each of subparagraphs (A) through (D) of sec-
23 tion 24102(5).

24 “(3) DEADLINES.—

1 “(A) SUBMITTAL OF BIDS.—Bids for the
2 provision of food and beverage service on Am-
3 trak trains pursuant to the requests for pro-
4 posals issued under paragraph (2) shall be sub-
5 mitted to the Federal Railroad Administration
6 not later than 60 days after the issuance of the
7 relevant request for proposals.

8 “(B) SELECTION OF WINNING BIDS.—The
9 Federal Railroad Administration shall select
10 winning bidders pursuant to paragraph (5) not
11 later than 90 days after the issuance of the rel-
12 evant request for proposals.

13 “(4) AMTRAK PARTICIPATION.—Amtrak may
14 participate in the bidding pursuant to a request for
15 proposals issued under paragraph (2).

16 “(5) SELECTION OF PROVIDERS.—The Federal
17 Railroad Administration shall select for the provision
18 of food and beverage service on Amtrak trains the
19 qualified bidder responding to the request for pro-
20 posals issued under paragraph (2) whose bid would
21 result in the lowest cost, or the greatest source of
22 revenue, to Amtrak.

23 “(6) EXEMPTION.—If no qualified bidder re-
24 sponds to the request for proposals issued under
25 paragraph (2), Amtrak, after transmitting to the

1 Federal Railroad Administration and the Congress
 2 an explanation of the reasons for the need of an ex-
 3 emption, may request from the Federal Railroad Ad-
 4 ministration, and the Federal Railroad Administra-
 5 tion may grant, an exemption from the limitations
 6 under this subsection.

7 “(7) SUBSIDY FOR NET LOSS.—The Federal
 8 Railroad Administration shall provide directly to the
 9 entity providing food and beverage service on Am-
 10 trak trains any portion of appropriations for Amtrak
 11 necessary to cover a net loss resulting from the pro-
 12 vision of such service, but only to the extent that
 13 such net loss was anticipated in the bid selected.”.

14 **Subtitle C—Project Development**
 15 **and Review**

16 **SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.**

17 (a) AMENDMENT.—Part B of subtitle V of title 49,
 18 United States Code, is amended by adding at the end the
 19 following new chapter:

20 **“CHAPTER 229—PROJECT DEVELOPMENT**
 21 **AND REVIEW**

“Sec.

“22901. Applicability.

“22902. Definitions.

“22903. Efficient environmental reviews for rail project decisionmaking.

“22904. Integration of planning and environmental review.

“22905. Program for eliminating duplication of environmental reviews.

“22906. Railroad corridor preservation.

“22907. Treatment of railroads for historic preservation.

“22908. Categorical exclusion.

“22909. State assumption of responsibility for categorical exclusions.

“22910. Rail project delivery program.

“22911. Exemption in emergencies.

1 **“§ 22901. Applicability**

2 “The provisions of this chapter—

3 “(1) shall be applicable to any freight or inter-
4 city passenger rail capital project that is carried out
5 or planned to be carried out with the use of Federal
6 funds administered by the Federal Railroad Admin-
7 istration through a grant, contract, loan, or other fi-
8 nancing instrument;

9 “(2) shall be broadly construed; and

10 “(3) may be applied by the Secretary to any
11 class or program of such projects.

12 **“§ 22902. Definitions**

13 “In this chapter, the following definitions apply:

14 “(1) AGENCY.—The term ‘agency’ means any
15 agency, department, or other unit of Federal, State,
16 local, or Indian tribal government.

17 “(2) ENVIRONMENTAL IMPACT STATEMENT.—
18 The term ‘environmental impact statement’ means
19 the detailed statement of environmental impacts re-
20 quired to be prepared under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

22 “(3) ENVIRONMENTAL LAW.—The term ‘envi-
23 ronmental law’ includes any law that provides proce-
24 dural or substantive protection, as applicable, for the

1 natural or built environment with regard to the con-
2 struction and operation of transportation projects.

3 “(4) ENVIRONMENTAL REVIEW PROCESS.—

4 “(A) IN GENERAL.—The term ‘environ-
5 mental review process’ means the process for
6 preparing for a rail project an environmental
7 impact statement, environmental assessment,
8 categorical exclusion, or other document pre-
9 pared under the National Environmental Policy
10 Act of 1969 (42 U.S.C. 4321 et seq.).

11 “(B) INCLUSIONS.—The term ‘environ-
12 mental review process’ includes the process for
13 and completion of any environmental permit,
14 approval, review, or study required for a rail
15 project under any Federal law other than the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.).

18 “(5) FEDERAL ENVIRONMENTAL LAWS.—The
19 term ‘Federal environmental laws’ means Federal
20 laws governing the review, including through the
21 issuance of permits and other approvals of environ-
22 mental impacts of, the construction and operation of
23 transportation projects. Such term includes section
24 102(2)(C) of the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the

1 Federal Water Pollution Control Act (33 U.S.C.
2 1344), section 106 of the National Historic Preser-
3 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
4 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
5 cies Act of 1973 (16 U.S.C. 1536(a)(2),
6 1538(a)(1)(B), 1539(a)(1)(B)).

7 “(6) FEDERAL LEAD AGENCY.—The term ‘Fed-
8 eral lead agency’ means the Department of Trans-
9 portation.

10 “(7) JOINT LEAD AGENCY.—The term ‘joint
11 lead agency’ means an agency designated as a joint
12 lead agency as described in paragraph (1) or (2) of
13 section 22903(b).

14 “(8) LEAD AGENCY.—The term ‘lead agency’
15 means the Department of Transportation and, if ap-
16 plicable, any joint lead agency.

17 “(9) PLANNING PRODUCT.—The term ‘planning
18 product’ means any decision, analysis, study, or
19 other documented result of an evaluation or deci-
20 sionmaking process carried out during rail and
21 transportation planning.

22 “(10) PROJECT SPONSOR.—The term ‘project
23 sponsor’ means the State agency or other entity, in-
24 cluding any private or public-private entity, that
25 seeks approval of the Secretary for a rail project.

1 “(11) RAIL PROJECT.—The term ‘rail project’
2 means any freight or intercity passenger rail capital
3 project that is carried out or is planned to be carried
4 out with the use of Federal funds administered by
5 the Federal Railroad Administration through a
6 grant, contract, loan, or other financing instrument.

7 “(12) SECRETARY.—The term ‘Secretary’
8 means the Secretary of Transportation.

9 “(13) STATE.—The term ‘State’ has the mean-
10 ing given that term in section 22701(3).

11 “(14) STATE TRANSPORTATION DEPART-
12 MENT.—The term ‘State transportation department’
13 means any statewide agency of a State with respon-
14 sibility for one or more modes of transportation.

15 **“§ 22903. Efficient environmental reviews for rail**
16 **project decisionmaking**

17 “(a) APPLICABILITY.—

18 “(1) IN GENERAL.—The project development
19 procedures in this section are applicable to all rail
20 projects for which an environmental impact state-
21 ment is prepared under the National Environmental
22 Policy Act of 1969 and may be applied, to the extent
23 determined appropriate by the Secretary, to other
24 rail projects for which an environmental document is
25 prepared as part of an environmental review process.

1 “(2) FLEXIBILITY.—Any authorities granted in
2 this section may be exercised, and any requirements
3 established in this section may be satisfied, for a rail
4 project, class of projects, or program of rail projects.

5 “(3) FUNDING THRESHOLD.—The Secretary’s
6 approval of a rail project involving Federal funds
7 shall not be considered a Federal action for the pur-
8 poses of the National Environmental Policy Act of
9 1969 if the Federal funding share—

10 “(A) constitutes 15 percent or less of the
11 total estimated project costs; or

12 “(B) is less than \$10,000,000.

13 “(4) PROGRAMMATIC COMPLIANCE.—At the re-
14 quest of a State, the Secretary may modify the pro-
15 cedures developed under this section to encourage
16 programmatic approaches and strategies with re-
17 spect to environmental programs and permits (in
18 lieu of project-by-project reviews).

19 “(b) LEAD AGENCIES.—

20 “(1) IN GENERAL.—If the rail project requires
21 approval from more than one modal administration
22 within the Department of Transportation, the Sec-
23 retary shall designate a single modal administration
24 to serve as the Federal lead agency for the Depart-

1 ment in the environmental review process for the
2 project.

3 “(2) JOINT LEAD AGENCIES.—Nothing in this
4 section precludes another agency from being a joint
5 lead agency in accordance with regulations under the
6 National Environmental Policy Act of 1969.

7 “(3) PROJECT SPONSOR AS JOINT LEAD AGEN-
8 CY.—Any project sponsor that is a State or local
9 governmental entity applying to receive or receiving
10 Federal funds for the rail project shall serve as a
11 joint lead agency with the Department of Transpor-
12 tation for purposes of preparing any environmental
13 document under the National Environmental Policy
14 Act of 1969 and may prepare any such environ-
15 mental document required in support of any action
16 or approval by the Secretary if the Federal lead
17 agency furnishes guidance in such preparation and
18 independently evaluates such document and the doc-
19 ument is approved and adopted by the Secretary
20 prior to the Secretary taking any subsequent action
21 or making any approval based on such document,
22 whether or not the Secretary’s action or approval re-
23 sults in Federal funding.

24 “(4) ENSURING COMPLIANCE.—The Secretary
25 shall ensure that a project sponsor complies with all

1 design and mitigation commitments made jointly by
2 the Secretary and the project sponsor in any envi-
3 ronmental document prepared by the project sponsor
4 in accordance with this subsection, and that such
5 document is appropriately supplemented if rail
6 project changes become necessary.

7 “(5) ADOPTION AND USE OF DOCUMENTS.—

8 Any environmental document prepared in accordance
9 with this subsection shall be adopted and used by
10 any Federal agency in making any approval of a rail
11 project as the document required to be completed
12 under the National Environmental Policy Act of
13 1969.

14 “(6) ROLES AND RESPONSIBILITY OF LEAD

15 AGENCY.—With respect to the environmental review
16 process for any rail project, the lead agency shall
17 have authority and responsibility—

18 “(A) to take such actions as are necessary
19 and proper, within the authority of the lead
20 agency, to facilitate the expeditious resolution
21 of the environmental review process for the rail
22 project; and

23 “(B) to prepare or ensure that any re-
24 quired environmental impact statement or other
25 document required to be completed under the

1 National Environmental Policy Act of 1969 is
2 completed in accordance with this section and
3 other applicable Federal law.

4 “(c) PARTICIPATING AGENCIES.—

5 “(1) IN GENERAL.—The lead agency shall be
6 responsible for inviting and designating participating
7 agencies in accordance with this subsection.

8 “(2) INVITATION.—The lead agency shall iden-
9 tify, as early as practicable in the environmental re-
10 view process for a rail project, any other Federal
11 and non-Federal agencies that may have an interest
12 in the rail project, and shall invite such agencies to
13 become participating agencies in the environmental
14 review process for the rail project. The invitation
15 shall set a deadline for responses to be submitted.
16 The deadline may be extended by the lead agency for
17 good cause.

18 “(3) FEDERAL PARTICIPATING AGENCIES.—Any
19 Federal agency that is invited by the lead agency to
20 participate in the environmental review process for a
21 rail project shall be designated as a participating
22 agency by the lead agency unless the invited agency
23 informs the lead agency, in writing, by the deadline
24 specified in the invitation that the invited agency—

1 “(A) has no jurisdiction or authority with
2 respect to the rail project;

3 “(B) has no expertise or information rel-
4 evant to the rail project; and

5 “(C) does not intend to submit comments
6 on the rail project.

7 “(4) EFFECT OF DESIGNATION.—

8 “(A) REQUIREMENT.—A participating
9 agency shall comply with the requirements of
10 this section and any schedule established under
11 this section.

12 “(B) IMPLICATION.—Designation as a par-
13 ticipating agency under this subsection shall not
14 imply that the participating agency—

15 “(i) supports a proposed rail project;

16 or

17 “(ii) has any jurisdiction over, or spe-
18 cial expertise with respect to evaluation of,
19 the rail project.

20 “(5) COOPERATING AGENCY.—A participating
21 agency may also be designated by a lead agency as
22 a ‘cooperating agency’ under the regulations con-
23 tained in part 1500 of title 40, Code of Federal Reg-
24 ulations.

1 “(6) DESIGNATIONS FOR CATEGORIES OF RAIL
2 PROJECTS.—The Secretary may exercise the authori-
3 ties granted under this subsection for a rail project,
4 class of rail projects, or program of rail projects.

5 “(7) CONCURRENT REVIEWS.—Each partici-
6 pating agency and cooperating agency shall—

7 “(A) carry out obligations of that agency
8 under other applicable law concurrently, and in
9 conjunction, with the review required under the
10 National Environmental Policy Act of 1969 (42
11 U.S.C. 4321 et seq.); and

12 “(B) formulate and implement administra-
13 tive, policy, and procedural mechanisms to en-
14 able the agency to ensure completion of the en-
15 vironmental review process in a timely, coordi-
16 nated, and environmentally responsible manner.

17 “(d) RAIL PROJECT INITIATION.—The project spon-
18 sor shall notify the Secretary of the type of work, length,
19 and general location of the proposed rail project, together
20 with a statement of any Federal approvals anticipated to
21 be necessary for the proposed rail project, for the purpose
22 of informing the Secretary that the environmental review
23 process should be initiated. The project sponsor may sat-
24 isfy this requirement by submitting to the Secretary a
25 draft notice for publication in the Federal Register an-

1 nouncing the preparation of an environmental impact
2 statement for the rail project.

3 “(e) PURPOSE AND NEED.—

4 “(1) PARTICIPATION.—As early as practicable
5 during the environmental review process, the lead
6 agency shall provide an opportunity for involvement
7 by participating agencies and the public in defining
8 the purpose and need for a rail project.

9 “(2) DEFINITION.—Following participation
10 under paragraph (1), the lead agency shall define
11 the rail project’s purpose and need for purposes of
12 any document which the lead agency is responsible
13 for preparing for the rail project.

14 “(3) OBJECTIVES.—The statement of purpose
15 and need shall include a clear statement of the ob-
16 jectives that the proposed action is intended to
17 achieve, which may include—

18 “(A) achieving a transportation objective
19 identified in an applicable rail or transportation
20 plan;

21 “(B) supporting land use, economic devel-
22 opment, or growth objectives established in ap-
23 plicable Federal, State, local, or tribal plans;

1 “(C) serving national defense, national se-
2 curity, or other national objectives, as estab-
3 lished in Federal laws, plans, or policies; and

4 “(D) serving the purpose for which the ap-
5 plicable grant, contract, loan, or other financing
6 program was established.

7 “(4) ALTERNATIVES ANALYSIS.—

8 “(A) PARTICIPATION.—As early as prac-
9 ticable during the environmental review process,
10 the lead agency shall provide an opportunity for
11 involvement by participating agencies and the
12 public in determining the range of alternatives
13 to be considered for a rail project.

14 “(B) RANGE OF ALTERNATIVES.—

15 “(i) IN GENERAL.—Following partici-
16 pation under paragraph (1), the lead agen-
17 cy shall determine the range of alternatives
18 for consideration in any document which
19 the lead agency is responsible for pre-
20 paring for the rail project.

21 “(ii) RESTRICTION.—A Federal agen-
22 cy may not require the evaluation of any
23 alternative that was evaluated, but not
24 adopted—

1 “(I) in any prior State or Fed-
2 eral environmental document with re-
3 gard to the applicable transportation
4 or rail plan or program; or

5 “(II) after the preparation of a
6 programmatic or tiered environmental
7 document that evaluated alternatives
8 to the rail project.

9 “(iii) **LEGAL SUFFICIENCY.**—The
10 evaluation of the range of alternatives shall
11 be deemed legally sufficient if the environ-
12 mental document complies with the re-
13 quirements of this paragraph.

14 “(C) **METHODOLOGIES.**—

15 “(i) **IN GENERAL.**—The lead agency
16 also shall determine, after consultation
17 with participating agencies as part of the
18 scoping process, the methodologies to be
19 used and the level of detail required in the
20 analysis of each alternative for a rail
21 project.

22 “(ii) **COMMENTS.**—Each participating
23 agency shall limit comments on such meth-
24 odologies to those issues that are within

1 the authority and expertise of such partici-
2 pating agency.

3 “(iii) STUDIES.—The lead agency may
4 not conduct studies proposed by any par-
5 ticipating agency that are not within the
6 authority or expertise of such participating
7 agency.

8 “(D) PREFERRED ALTERNATIVE.—At the
9 discretion of the lead agency, the preferred al-
10 ternative for a rail project, after being identi-
11 fied, may be developed to a higher level of detail
12 than other alternatives in order to facilitate the
13 development of mitigation measures or concur-
14 rent compliance with other applicable laws if
15 the lead agency determines that the develop-
16 ment of such higher level of detail will not pre-
17 vent the lead agency from making an impartial
18 decision as to whether to accept another alter-
19 native which is being considered in the environ-
20 mental review process.

21 “(E) LIMITATIONS ON THE EVALUATION
22 OF IMPACTS EVALUATED IN PRIOR ENVIRON-
23 MENTAL DOCUMENTS.—

24 “(i) IN GENERAL.—The lead agency
25 may not reevaluate, and a Federal agency

1 may not require the reevaluation of, cumu-
2 lative impacts or growth-inducing impacts
3 where such impacts were previously evalu-
4 ated in—

5 “(I) a rail transportation plan or
6 program;

7 “(II) a prior environmental docu-
8 ment approved by the Secretary; or

9 “(III) a prior State environ-
10 mental document approved pursuant
11 to a State law that is substantially
12 equivalent to section 102(2)(C) of the
13 National Environmental Policy Act of
14 1969 (42 U.S.C. 4332(2)(C)).

15 “(ii) LEGAL SUFFICIENCY.—The eval-
16 uation of cumulative impacts and growth
17 inducing impacts shall be deemed legally
18 sufficient if the environmental document
19 complies with the requirements of this
20 paragraph.

21 “(5) EFFECTIVE DECISIONMAKING.—

22 “(A) CONCURRENCE.—At the discretion of
23 the lead agency, a participating agency shall be
24 presumed to concur in the determinations made
25 by the lead agency under this subsection unless

1 the participating agency submits an objection to
2 the lead agency in writing within 30 days after
3 receiving notice of the lead agency's determina-
4 tion and specifies the statutory basis for the ob-
5 jection.

6 “(B) ADOPTION OF DETERMINATION.—If
7 the participating agency concurs or does not ob-
8 ject within the 30-day period, the participating
9 agency shall adopt the lead agency's determina-
10 tion for purposes of any reviews, approvals, or
11 other actions taken by the participating agency
12 as part of the environmental review process for
13 the rail project.

14 “(f) COORDINATION AND SCHEDULING.—

15 “(1) COORDINATION PLAN.—

16 “(A) IN GENERAL.—The lead agency shall
17 establish a rail plan for coordinating public and
18 agency participation in and comment on the en-
19 vironmental review process for a rail project,
20 category of rail projects, or program of rail
21 projects. The coordination plan may be incor-
22 porated into a memorandum of understanding.

23 “(B) SCHEDULE.—

24 “(i) IN GENERAL.—The lead agency
25 may establish as part of the coordination

1 plan, after consultation with each partici-
2 pating agency for the rail project and with
3 each State in which the rail project is lo-
4 cated (and, if the State is not the project
5 sponsor, with the project sponsor), a
6 schedule for completion of the environ-
7 mental review process for the rail project.

8 “(ii) FACTORS FOR CONSIDER-
9 ATION.—In establishing the schedule, the
10 lead agency shall consider factors such
11 as—

12 “(I) the responsibilities of par-
13 ticipating agencies under applicable
14 laws;

15 “(II) resources available to the
16 cooperating agencies;

17 “(III) overall size and complexity
18 of the rail project;

19 “(IV) the overall schedule for
20 and cost of the rail project; and

21 “(V) the sensitivity of the natural
22 and historic resources that could be
23 affected by the rail project.

24 “(C) CONSISTENCY WITH OTHER TIME PE-
25 RIODS.—A schedule under subparagraph (B)

1 shall be consistent with any other relevant time
2 periods established under Federal law.

3 “(D) MODIFICATION.—The lead agency
4 may—

5 “(i) lengthen a schedule established
6 under subparagraph (B) for good cause;
7 and

8 “(ii) shorten a schedule only with the
9 concurrence of the affected cooperating
10 agencies.

11 “(E) DISSEMINATION.—A copy of a sched-
12 ule established under subparagraph (B), and of
13 any modifications to the schedule, shall be—

14 “(i) provided to all participating agen-
15 cies and to the State transportation de-
16 partment of each State in which the rail
17 project is located (and, if the State is not
18 the project sponsor, to the project spon-
19 sor); and

20 “(ii) made available to the public.

21 “(2) COMMENT DEADLINES.—The lead agency
22 shall establish the following deadlines for comment
23 during the environmental review process for a rail
24 project:

1 “(A) For comments by agencies and the
2 public on a draft environmental impact state-
3 ment, a period of not more than 60 days after
4 publication in the Federal Register of notice of
5 the date of public availability of such document,
6 unless—

7 “(i) a different deadline is established
8 by agreement of the lead agency, the
9 project sponsor, and all participating agen-
10 cies; or

11 “(ii) the deadline is extended by the
12 lead agency for good cause.

13 “(B) For all other comment periods estab-
14 lished by the lead agency for agency or public
15 comments in the environmental review process,
16 a period of no more than 30 days from avail-
17 ability of the materials on which comment is re-
18 quested, unless—

19 “(i) a different deadline is established
20 by agreement of the lead agency, the
21 project sponsor, and all participating agen-
22 cies; or

23 “(ii) the deadline is extended by the
24 lead agency for good cause.

1 “(3) DEADLINES FOR DECISIONS UNDER
2 OTHER LAWS.—

3 “(A) PRIOR APPROVAL DEADLINE.—If a
4 participating agency is required to make a de-
5 termination regarding or otherwise approve or
6 disapprove the rail project prior to the record of
7 decision or finding of no significant impact of
8 the lead agency, such participating agency shall
9 make such determination or approval no later
10 than 30 days after the lead agency publishes
11 notice of the availability of a final environ-
12 mental impact statement or other final environ-
13 mental document, or no later than such other
14 date that is otherwise required by law, which-
15 ever occurs first.

16 “(B) OTHER DEADLINES.—With regard to
17 any determination or approval of a partici-
18 pating agency that is not subject to subpara-
19 graph (A), each participating agency shall make
20 any required determination regarding or other-
21 wise approve or disapprove the rail project no
22 later than 90 days after the date that the lead
23 agency approves the record of decision or find-
24 ing of no significant impact for the rail project,

1 or not later than such other date that is other-
2 wise required by law, whichever occurs first.

3 “(C) DEEMED APPROVED.—In the event
4 that any participating agency fails to make a
5 determination or approve or disapprove the rail
6 project within the applicable deadline described
7 in subparagraphs (A) and (B), the rail project
8 shall be deemed approved by such participating
9 agency and such approval shall be deemed to
10 comply with the applicable requirements of Fed-
11 eral law.

12 “(D) JUDICIAL REVIEW.—

13 “(i) IN GENERAL.—An approval of a
14 rail project under subparagraph (C) shall
15 not be subject to judicial review.

16 “(ii) WRITTEN FINDING.—The Sec-
17 retary may issue a written finding
18 verifying the approval made in accordance
19 with this paragraph.

20 “(g) ISSUE IDENTIFICATION AND RESOLUTION.—

21 “(1) COOPERATION.—The lead agency and the
22 participating agencies shall work cooperatively in ac-
23 cordance with this section to identify and resolve
24 issues that could delay completion of the environ-
25 mental review process or could result in denial of

1 any approvals required for the rail project under ap-
2 plicable laws.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—The
4 lead agency shall make information available to the
5 participating agencies as early as practicable in the
6 environmental review process regarding the environ-
7 mental and socioeconomic resources located within
8 the rail project area and the general locations of the
9 alternatives under consideration. Such information
10 may be based on existing data sources, including ge-
11 ographic information systems mapping.

12 “(3) PARTICIPATING AGENCY RESPONSIBIL-
13 ITIES.—Based on information received from the lead
14 agency, participating agencies shall identify, as early
15 as practicable, any issues of concern regarding the
16 rail project’s potential environmental or socio-
17 economic impacts. In this paragraph, issues of con-
18 cern include any issues that could substantially delay
19 or prevent an agency from granting a permit or
20 other approval that is needed for the rail project.

21 “(4) ISSUE RESOLUTION.—

22 “(A) MEETING OF PARTICIPATING AGEN-
23 CIES.—At any time upon request of a project
24 sponsor or the Governor of a State in which the
25 rail project is located, the lead agency shall

1 promptly convene a meeting with the relevant
2 participating agencies, the project sponsor, and
3 the Governor (if the meeting was requested by
4 the Governor) to resolve issues that could delay
5 completion of the environmental review process
6 or could result in denial of any approvals re-
7 quired for the rail project under applicable
8 laws.

9 “(B) NOTICE THAT RESOLUTION CANNOT
10 BE ACHIEVED.—If a resolution cannot be
11 achieved within 30 days following such a meet-
12 ing and a determination by the lead agency that
13 all information necessary to resolve the issue
14 has been obtained, the lead agency shall notify
15 the heads of all participating agencies, the
16 project sponsor, the Governor, the Committee
17 on Environment and Public Works of the Sen-
18 ate, the Committee on Transportation and In-
19 frastructure of the House of Representatives,
20 and the Council on Environmental Quality, and
21 shall publish such notification in the Federal
22 Register.

23 “(C) RESOLUTION FINAL.—

24 “(i) IN GENERAL.—The lead agency
25 and participating agencies may not recon-

1 sider the resolution of any issue agreed to
2 by the relevant agencies in a meeting
3 under subparagraph (A).

4 “(ii) COMPLIANCE WITH APPLICABLE
5 LAW.—Any such resolution shall be
6 deemed to comply with applicable law not-
7 withstanding that the agencies agreed to
8 such resolution prior to the approval of the
9 environmental document.

10 “(h) STREAMLINED DOCUMENTATION AND DECI-
11 SIONMAKING.—

12 “(1) IN GENERAL.—The lead agency in the en-
13 vironmental review process for a rail project, in
14 order to reduce paperwork and expedite decision-
15 making, shall prepare a condensed final environ-
16 mental impact statement.

17 “(2) CONDENSED FORMAT.—A condensed final
18 environmental impact statement for a rail project in
19 the environmental review process shall consist only
20 of—

21 “(A) an incorporation by reference of the
22 draft environmental impact statement;

23 “(B) any updates to specific pages or sec-
24 tions of the draft environmental impact state-
25 ment as appropriate; and

1 “(C) responses to comments on the draft
2 environmental impact statement and copies of
3 the comments.

4 “(3) TIMING OF DECISION.—Notwithstanding
5 any other provision of law, in conducting the envi-
6 ronmental review process for a rail project, the lead
7 agency shall combine a final environmental impact
8 statement and a record of decision for the rail
9 project into a single document if—

10 “(A) the alternative approved in the record
11 of decision is either a preferred alternative that
12 was identified in the draft environmental im-
13 pact statement or is a modification of such pre-
14 ferred alternative that was developed in re-
15 sponse to comments on the draft environmental
16 impact statement; and

17 “(B) the Secretary determines that the
18 lead agency, participating agency, or the project
19 sponsor has committed to implement the meas-
20 ures applicable to the approved alternative that
21 are identified in the final environmental impact
22 statement.

23 “(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND
24 RE-EVALUATION.—

1 “(1) SUPPLEMENTAL ENVIRONMENTAL RE-
2 VIEW.—After the approval of a record of decision or
3 finding of no significant impact with regard to a rail
4 project, an agency may not require the preparation
5 of a subsequent environmental document for such
6 rail project unless the lead agency determines that—

7 “(A) changes to the rail project will result
8 in new significant impacts that were not evalu-
9 ated in the environmental document; or

10 “(B) new information has become available
11 or changes in circumstances have occurred after
12 the lead agency approval of the rail project that
13 will result in new significant impacts that were
14 not evaluated in the environmental document.

15 “(2) RE-EVALUATIONS.—The Secretary may
16 only require the re-evaluation of a document pre-
17 pared under the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4321 et seq.) if—

19 “(A) the Secretary determines that the
20 events in paragraph (1)(A) or (1)(B) apply; and

21 “(B) more than 5 years has elapsed since
22 the Secretary’s prior approval of the rail project
23 or authorization of rail project funding.

24 “(3) CHANGE TO RECORD OF DECISIONS.—
25 After the approval of a record of decision, the Sec-

1 retary may not require the record of decision to be
2 changed based solely because of a change in the fis-
3 cal circumstances surrounding the rail project.

4 “(j) PERFORMANCE MEASUREMENT.—The Secretary
5 shall establish a program to measure and report on
6 progress toward improving and expediting the planning
7 and environmental review processes.

8 “(k) ASSISTANCE TO AFFECTED STATE AND FED-
9 ERAL AGENCIES.—

10 “(1) IN GENERAL.—For a rail project that is
11 subject to the environmental review process estab-
12 lished under this section and for which funds are
13 made available to a State under funding programs
14 administered by the Federal Railroad Administra-
15 tion, the Secretary may approve a request by the
16 State to provide such funds to affected Federal
17 agencies (including the Department of Transpor-
18 tation), State agencies, and Indian tribes partici-
19 pating in the environmental review process for the
20 rail projects in that State or participating in a State
21 process that has been approved by the Secretary for
22 that State. Such funds may be provided only to sup-
23 port activities that directly and meaningfully con-
24 tribute to expediting and improving transportation

1 or rail project planning and delivery for rail projects
2 in that State.

3 “(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Ac-
4 tivities for which funds may be provided under para-
5 graph (1) include transportation planning activities
6 that precede the initiation of the environmental re-
7 view process, dedicated staffing, training of agency
8 personnel, information gathering and mapping, and
9 development of programmatic agreements.

10 “(3) AMOUNTS.—Requests under paragraph (1)
11 may be approved only for the additional amounts
12 that the Secretary determines are necessary for the
13 Federal agencies, State agencies, or Indian tribes
14 participating in the environmental review process to
15 meet the time limits for environmental review.

16 “(4) CONDITION.—A request under paragraph
17 (1) to expedite time limits for environmental review
18 may be approved only if such time limits are less
19 than the customary time necessary for such review.

20 “(1) REGULATIONS.—

21 “(1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of the American Energy and
23 Infrastructure Jobs Act of 2012, the Secretary, by
24 regulation, shall—

25 “(A) implement this section; and

1 “(B) establish methodologies and proce-
2 dures for evaluating the environmental impacts,
3 including cumulative impacts and growth-induc-
4 ing impacts, of rail projects subject to this sec-
5 tion.

6 “(2) COMPLIANCE WITH APPLICABLE LAW.—
7 Any environmental document that utilizes the meth-
8 odologies and procedures established under this sub-
9 section shall be deemed to comply with the applica-
10 ble requirements of—

11 “(A) the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4321 et seq.) or its im-
13 plementing regulations; or

14 “(B) any other Federal environmental
15 statute applicable to rail projects.

16 “(m) LIMITATIONS ON CLAIMS.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of law, a claim arising under Federal law
19 seeking judicial review of a permit, license, or ap-
20 proval issued by a Federal agency for a rail project
21 shall be barred unless it is filed within 90 days after
22 publication of a notice in the Federal Register an-
23 nouncing that the permit, license, or approval is
24 final pursuant to the law under which the agency ac-
25 tion is taken, unless a shorter time is specified in

1 the Federal law pursuant to which judicial review is
2 allowed. Nothing in this subsection shall create a
3 right to judicial review or place any limit on filing
4 a claim that a person has violated the terms of a
5 permit, license, or approval.

6 “(2) NEW INFORMATION.—The preparation of
7 a supplemental environmental impact statement or
8 other environmental document when required by this
9 section shall be considered a separate final agency
10 action and the deadline for filing a claim for judicial
11 review of such action shall be 90 days after the date
12 of publication of a notice in the Federal Register an-
13 nouncing such action.

14 “(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwith-
15 standing any other provision of law, the following limita-
16 tions shall apply to actions brought before a court in con-
17 nection with a rail project under this section:

18 “(1) Venue for any action shall be where the
19 rail project is located.

20 “(2) A specific property interest impacted by
21 the rail project in question must exist in order to
22 have standing to bring an action.

23 “(3) No action may be commenced by any per-
24 son alleging a violation of—

1 “(A) the National Environmental Policy
2 Act of 1969 (42 U.S.C. 4321 et seq.), chapters
3 5 and 7 of title 5, or any other Federal environ-
4 mental law if such Federal law is identified in
5 the draft environmental impact statement, un-
6 less such person provided written notice to the
7 lead agency of the alleged violation of law, and
8 the facts supporting such claim, during the
9 public comment period on the draft environ-
10 mental impact statement; or

11 “(B) any other law with regard to the rail
12 project unless such person provided written no-
13 tice to the applicable approving agency of the
14 alleged violation of law, and the facts sup-
15 porting such claim, during the public comment
16 period on such agency approval.

17 “(4) Elected or appointed officials working for
18 the Federal Government or a State government may
19 not be named in their individual capacities in an ac-
20 tion if they are acting within the scope of their offi-
21 cial duties.

22 **“§ 22904. Integration of planning and environmental**
23 **review**

24 “(a) ADOPTION OF PLANNING PRODUCTS FOR USE
25 IN NEPA PROCEEDINGS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law and subject to the conditions set
3 forth in subsection (c), the Federal lead agency for
4 a rail project, at the request of the project sponsors,
5 may adopt and use a planning product in pro-
6 ceedings relating to any class of action in the envi-
7 ronmental review process of the rail project.

8 “(2) PARTIAL ADOPTION OF PLANNING PROD-
9 UCTS.—The Federal lead agency may adopt a plan-
10 ning product under paragraph (1) in its entirety or
11 may select portions for adoption.

12 “(3) TIMING.—A determination under para-
13 graph (1) with respect to the adoption of a planning
14 product shall be made at the time the lead agencies
15 decide the appropriate scope of environmental review
16 for the rail project.

17 “(b) APPLICABILITY.—

18 “(1) PLANNING DECISIONS.—Planning deci-
19 sions that may be adopted pursuant to this section
20 include—

21 “(A) a purpose and need or goals and ob-
22 jectives statement for the rail project, including
23 with respect to whether private financial assist-
24 ance or other special financial measures are
25 necessary to implement the rail project;

1 “(B) a decision with respect to rail project
2 location;

3 “(C) a decision with respect to the elimi-
4 nation of unreasonable alternatives and the se-
5 lection of the range of reasonable alternatives
6 for detailed study during the environmental re-
7 view process;

8 “(D) a basic description of the environ-
9 mental setting;

10 “(E) a decision with respect to methodolo-
11 gies for analysis; and

12 “(F) identifications of programmatic level
13 mitigation for potential impacts that the Fed-
14 eral lead agency, in consultation with Federal,
15 State, local, and tribal resource agencies, deter-
16 mines are most effectively addressed at a re-
17 gional or national program level, including—

18 “(i) system-level measures to avoid,
19 minimize, or mitigate impacts of proposed
20 transportation and rail investments on en-
21 vironmental resources, including regional
22 ecosystem and water resources; and

23 “(ii) potential mitigation activities, lo-
24 cations, and investments.

1 “(2) PLANNING ANALYSES.—Planning analyses
2 that may be adopted pursuant to this section include
3 studies with respect to—

4 “(A) freight and passenger rail needs and
5 demands;

6 “(B) regional development and growth;

7 “(C) local land use, growth management,
8 and development;

9 “(D) population and employment;

10 “(E) natural and built environmental con-
11 ditions;

12 “(F) environmental resources and environ-
13 mentally sensitive areas;

14 “(G) potential environmental effects, in-
15 cluding the identification of resources of con-
16 cern and potential cumulative effects on those
17 resources, identified as a result of a statewide
18 or regional cumulative effects assessment; and

19 “(H) mitigation needs for a proposed ac-
20 tion, or programmatic level mitigation, for po-
21 tential effects that the Federal lead agency de-
22 termines are most effectively addressed at a re-
23 gional or national program level.

24 “(c) CONDITIONS.—Adoption and use of a planning
25 product under this section is subject to a determination

1 by the Federal lead agency, in consultation with joint lead
2 agencies and project sponsors as appropriate, that the fol-
3 lowing conditions have been met:

4 “(1) The planning product was developed
5 through a planning process conducted pursuant to
6 applicable Federal law.

7 “(2) The planning process included broad con-
8 sideration of freight and passenger rail needs and
9 potential effects.

10 “(3) During the planning process, notice was
11 provided, to the extent required by applicable law,
12 through publication or other means to Federal,
13 State, and local government agencies and tribal gov-
14 ernments that might have an interest in the pro-
15 posed rail project, and to members of the general
16 public, of the planning products that the planning
17 process might produce and that might be relied on
18 during the environmental review process, and such
19 entities have been provided an appropriate oppor-
20 tunity to participate in the planning process leading
21 to such planning product.

22 “(4) Prior to determining the scope of environ-
23 mental review for the rail project, the joint lead
24 agencies have made documentation relating to the
25 planning product available to Federal, State, and

1 local governmental agencies and tribal governments
2 that may have an interest in the proposed action,
3 and to members of the general public.

4 “(5) There is no significant new information or
5 new circumstance that has a reasonable likelihood of
6 affecting the continued validity or appropriateness of
7 the planning product.

8 “(6) The planning product is based on reliable
9 and reasonably current data and reasonable and sci-
10 entifically acceptable methodologies.

11 “(7) The planning product is documented in
12 sufficient detail to support the decision or the re-
13 sults of the analysis and to meet requirements for
14 use of the information in the environmental review
15 process.

16 “(8) The planning product is appropriate for
17 adoption and use in the environmental review pro-
18 cess for the rail project.

19 “(d) EFFECT OF ADOPTION.—Notwithstanding any
20 other provision of law, any planning product adopted by
21 the Federal lead agency in accordance with this section
22 shall not be reconsidered or made the subject of additional
23 interagency consultation during the environmental review
24 process of the rail project unless the Federal lead agency,
25 in consultation with joint lead agencies and project spon-

1 sors as appropriate, determines that there is significant
2 new information or new circumstances that affect the con-
3 tinued validity or appropriateness of the adopted planning
4 product. Any planning product adopted by the Federal
5 lead agency in accordance with this section may be relied
6 upon and used by other Federal agencies in carrying out
7 reviews of the rail project.

8 “(e) RULE OF CONSTRUCTION.—This section may
9 not be construed to make the National Environmental Pol-
10 icy Act of 1969 (42 U.S.C. 4321 et seq.) process applica-
11 ble to the transportation planning processes conducted
12 under chapters 52 and 227 of this title, section 211 of
13 the Passenger Rail Investment and Improvement Act of
14 2008, or section 26101 of this title. Initiation of the Na-
15 tional Environmental Policy Act of 1969 process as a part
16 of, or concurrently with, transportation planning activities
17 does not subject transportation plans and programs to the
18 National Environmental Policy Act of 1969 process. This
19 section may not be construed to affect the use of planning
20 products in the National Environmental Policy Act of
21 1969 process pursuant to other authorities under law or
22 to restrict the initiation of the National Environmental
23 Policy Act of 1969 process during planning.

1 **“§ 22905. Program for eliminating duplication of envi-**
2 **ronmental reviews**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Secretary shall estab-
5 lish a program to eliminate duplicative environ-
6 mental reviews and approvals under State and Fed-
7 eral law of rail projects. Under this program, a
8 State may use State laws and procedures to conduct
9 reviews and make approvals in lieu of Federal envi-
10 ronmental laws and regulations, consistent with the
11 provisions of this section.

12 “(2) PARTICIPATING STATES.—All States are
13 eligible to participate in the program.

14 “(3) SCOPE OF ALTERNATIVE REVIEW AND AP-
15 PROVAL PROCEDURES.—For purposes of this sec-
16 tion, alternative environmental review and approval
17 procedures may include one or more of the following:

18 “(A) Substitution of one or more State en-
19 vironmental laws for one or more Federal envi-
20 ronmental laws, if the Secretary determines in
21 accordance with this section that the State envi-
22 ronmental laws provide environmental protec-
23 tion and opportunities for public involvement
24 that are substantially equivalent to the applica-
25 ble Federal environmental laws.

1 “(B) Substitution of one or more State
2 regulations for Federal regulations imple-
3 menting one or more Federal environmental
4 laws, if the Secretary determines in accordance
5 with this section that the State regulations pro-
6 vide environmental protection and opportunities
7 for public involvement that are substantially
8 equivalent to the Federal regulations.

9 “(b) APPLICATION.—To participate in the program,
10 a State shall submit to the Secretary an application con-
11 taining such information as the Secretary may require, in-
12 cluding—

13 “(1) a full and complete description of the pro-
14 posed alternative environmental review and approval
15 procedures of the State;

16 “(2) for each State law or regulation included
17 in the proposed alternative environmental review and
18 approval procedures of the State, an explanation of
19 the basis for concluding that the law or regulation
20 meets the requirements under subsection (a)(3); and

21 “(3) evidence of having sought, received, and
22 addressed comments on the proposed application
23 from the public and appropriate Federal environ-
24 mental resource agencies.

1 “(c) REVIEW OF APPLICATION.—The Secretary
2 shall—

3 “(1) review an application submitted under sub-
4 section (b);

5 “(2) approve or disapprove the application in
6 accordance with subsection (d) not later than 90
7 days after the date of the receipt of the application;
8 and

9 “(3) transmit to the State notice of the ap-
10 proval or disapproval, together with a statement of
11 the reasons for the approval or disapproval.

12 “(d) APPROVAL OF STATE PROGRAMS.—

13 “(1) IN GENERAL.—The Secretary shall ap-
14 prove each such application if the Secretary finds
15 that the proposed alternative environmental review
16 and approval procedures of the State are substan-
17 tially equivalent to the applicable Federal environ-
18 mental laws and Federal regulations.

19 “(2) EXCLUSION.—The National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
21 and the Endangered Species Act of 1973 (16 U.S.C.
22 1531 et seq.) shall not apply to any decision by the
23 Secretary to approve or disapprove any application
24 submitted pursuant to this section.

1 “(e) COMPLIANCE WITH PERMITS.—Compliance with
2 a permit or other approval of a rail project issued pursu-
3 ant to a program approved by the Secretary under this
4 section shall be deemed compliance with the Federal laws
5 and regulations identified in the program approved by the
6 Secretary pursuant to this section.

7 “(f) REVIEW AND TERMINATION.—

8 “(1) REVIEW.—All State alternative environ-
9 mental review and approval procedures approved
10 under this section shall be reviewed by the Secretary
11 not less than once every 5 years.

12 “(2) PUBLIC NOTICE AND COMMENT.—In con-
13 ducting the review process under paragraph (1), the
14 Secretary shall provide notice and an opportunity for
15 public comment.

16 “(3) EXTENSIONS AND TERMINATIONS.—At the
17 conclusion of the review process, the Secretary may
18 extend the State alternative environmental review
19 and approval procedures for an additional 5-year pe-
20 riod or terminate the State program.

21 “(g) REPORT TO CONGRESS.—Not later than 2 years
22 after the date of enactment of this section, and annually
23 thereafter, the Secretary shall submit to Congress a report
24 that describes the administration of the program.

1 of the National Historic Preservation Act (16 U.S.C. 470f
2 or 470h-2) by virtue of being listed as a resource in, or
3 eligible for listing in, the National Register of Historic
4 Places. At the discretion of the Secretary, with the advice
5 of the Department of the Interior, significant individual
6 elements of a railroad such as depots and major bridges
7 would be subject to such section 106 or 110.

8 **“§ 22908. Categorical exclusion**

9 “(a) TREATMENT OF RAIL PROJECTS.—The Sec-
10 retary shall, for the purposes of this title, treat a rail
11 project as a class of action categorically excluded from the
12 requirements relating to the environmental assessment
13 process or the preparation of environmental impact state-
14 ments under the standards promulgated by the Council
15 on Environmental Quality (40 C.F.R. 1508.4), if such rail
16 project—

17 “(1) replaces or maintains existing railroad
18 equipment; track and bridge structures; electrifica-
19 tion, communication, signaling, or security facilities;
20 stations; maintenance-of-way and maintenance-of-
21 equipment bases; or other existing railroad-related
22 facilities;

23 “(2) is a rail line addition of any length within
24 an existing right of way;

1 “(3) is related to the implementation of positive
2 train control systems, as required by section 20157
3 of title 49, United States Code; or

4 “(4) replaces, reconstructs, or rehabilitates an
5 existing railroad bridge, including replacement of a
6 culvert, that does not require the acquisition of a
7 significant amount of right-of-way.

8 “(b) ADDITIONAL ACTIONS.—If a rail project quali-
9 fies for categorical exclusion under this section except for
10 additional actions that do not fit in the relevant category,
11 the rail project may be categorically excluded if the Sec-
12 retary determines, based on information provided by the
13 project sponsor, that the additional actions meet the
14 standards for categorical exclusion promulgated by the
15 Council on Environmental Quality (40 C.F.R. 1508.4).

16 “(c) OTHER OPERATING ADMINISTRATIONS’ CAT-
17 EGORICAL EXCLUSIONS.—If a rail project would be eligi-
18 ble for categorical exclusion from the requirements relat-
19 ing to the environmental assessment process or the prepa-
20 ration of environmental impact statements by another op-
21 erating administration of the Department of Transpor-
22 tation, the Federal Railroad Administration may categori-
23 cally exclude the rail project.

1 **“§ 22909. State assumption of responsibility for cat-**
2 **egorical exclusions**

3 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

4 “(1) IN GENERAL.—The Secretary may assign,
5 and a State may assume, responsibility for deter-
6 mining whether certain designated activities are in-
7 cluded within classes of action identified by the Sec-
8 retary that are categorically excluded from require-
9 ments for environmental assessments or environ-
10 mental impact statements pursuant to regulations
11 promulgated by the Council on Environmental Qual-
12 ity under part 1500 of title 40, Code of Federal
13 Regulations (as in effect on October 1, 2003).

14 “(2) SCOPE OF AUTHORITY.—A determination
15 described in paragraph (1) shall be made by a State
16 in accordance with criteria established by the Sec-
17 retary and for any type of activity for which a cat-
18 egorical exclusion classification is appropriate.

19 “(3) CRITERIA.—The criteria under paragraph
20 (2) shall include provisions for public availability of
21 information consistent with section 552 of title 5
22 and the National Environmental Policy Act of 1969
23 (42 U.S.C. 4321 et seq.).

24 “(4) PRESERVATION OF FLEXIBILITY.—The
25 Secretary shall not require a State, as a condition of
26 assuming responsibility under this section, to forego

1 project delivery methods that are otherwise permis-
2 sible for rail projects.

3 “(b) OTHER APPLICABLE FEDERAL LAWS.—

4 “(1) IN GENERAL.—If a State assumes respon-
5 sibility under subsection (a), the Secretary may also
6 assign and the State may assume all or part of the
7 responsibilities of the Secretary for environmental
8 review, consultation, or other related actions re-
9 quired under any Federal environmental law applica-
10 ble to activities that are classified by the Secretary
11 as categorical exclusions, with the exception of gov-
12 ernment-to-government consultation with Indian
13 tribes, subject to the same procedural and sub-
14 stantive requirements as would be required if that
15 responsibility were carried out by the Secretary.

16 “(2) SOLE RESPONSIBILITY.—A State that as-
17 sumes responsibility under paragraph (1) with re-
18 spect to a Federal law shall be solely responsible and
19 solely liable for complying with and carrying out
20 that law, and the Secretary shall have no such re-
21 sponsibility or liability.

22 “(c) MEMORANDA OF UNDERSTANDING.—

23 “(1) IN GENERAL.—The Secretary and the
24 State, after providing public notice and opportunity
25 for comment, shall enter into a memorandum of un-

1 derstanding setting forth the responsibilities to be
2 assigned under this section and the terms and condi-
3 tions under which the assignments are made, includ-
4 ing establishment of the circumstances under which
5 the Secretary would reassume responsibility for cat-
6 egorical exclusion determinations.

7 “(2) TERM.—A memorandum of under-
8 standing—

9 “(A) shall have a term of not more than
10 3 years; and

11 “(B) shall be renewable.

12 “(3) ACCEPTANCE OF JURISDICTION.—In a
13 memorandum of understanding, the State shall con-
14 sent to accept the jurisdiction of the Federal courts
15 for the compliance, discharge, and enforcement of
16 any responsibility of the Secretary that the State as-
17 sumes.

18 “(4) MONITORING.—The Secretary shall—

19 “(A) monitor compliance by the State with
20 the memorandum of understanding and the
21 provision by the State of financial resources to
22 carry out the memorandum of understanding;
23 and

1 “(B) take into account the performance by
2 the State when considering renewal of the
3 memorandum of understanding.

4 “(d) TERMINATION.—The Secretary may terminate
5 any assumption of responsibility under a memorandum of
6 understanding on a determination that the State is not
7 adequately carrying out the responsibilities assigned to the
8 State.

9 “(e) STATE AGENCY DEEMED TO BE FEDERAL
10 AGENCY.—A State agency that is assigned a responsibility
11 under a memorandum of understanding shall be deemed
12 to be a Federal agency for the purposes of the Federal
13 law under which the responsibility is exercised.

14 **“§ 22910. Rail project delivery program**

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—The Secretary shall carry
17 out a rail project delivery program (referred to in
18 this section as the ‘program’).

19 “(2) ASSUMPTION OF RESPONSIBILITY.—

20 “(A) IN GENERAL.—Subject to the other
21 provisions of this section, with the written
22 agreement of the Secretary and a State, which
23 may be in the form of a memorandum of under-
24 standing, the Secretary may assign, and the
25 State may assume, the responsibilities of the

1 Secretary with respect to one or more rail
2 projects within the State under the National
3 Environmental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.).

5 “(B) ADDITIONAL RESPONSIBILITY.—If a
6 State assumes responsibility under subpara-
7 graph (A)—

8 “(i) the Secretary may assign to the
9 State, and the State may assume, all or
10 part of the responsibilities of the Secretary
11 for environmental review, consultation, or
12 other action required under any Federal
13 environmental law pertaining to the review
14 or approval of a specific rail project; but

15 “(ii) the Secretary may not assign any
16 responsibility imposed on the Secretary by
17 chapter 227 of this title.

18 “(C) PROCEDURAL AND SUBSTANTIVE RE-
19 QUIREMENTS.—A State shall assume responsi-
20 bility under this section subject to the same
21 procedural and substantive requirements as
22 would apply if that responsibility were carried
23 out by the Secretary.

24 “(D) FEDERAL RESPONSIBILITY.—Any re-
25 sponsibility of the Secretary not explicitly as-

1 sumed by the State by written agreement under
2 this section shall remain the responsibility of
3 the Secretary.

4 “(E) NO EFFECT ON AUTHORITY.—Noth-
5 ing in this section preempts or interferes with
6 any power, jurisdiction, responsibility, or au-
7 thority of an agency, other than the Depart-
8 ment of Transportation, under applicable law
9 (including regulations) with respect to a rail
10 project.

11 “(F) PRESERVATION OF FLEXIBILITY.—
12 The Secretary may not require a State, as a
13 condition of participation in the program, to
14 forego project delivery methods that are other-
15 wise permissible for rail projects.

16 “(b) STATE PARTICIPATION.—

17 “(1) PARTICIPATING STATES.—All States are
18 eligible to participate in the program.

19 “(2) APPLICATION.—Not later than 270 days
20 after the date of enactment of this section, the Sec-
21 retary shall promulgate regulations that establish re-
22 quirements relating to information required to be
23 contained in any application of a State to participate
24 in the program, including, at a minimum—

1 “(A) the rail projects or classes of projects
2 for which the State anticipates exercising the
3 authority that may be granted under the pro-
4 gram;

5 “(B) verification of the financial resources
6 necessary to carry out the authority that may
7 be granted under the program; and

8 “(C) evidence of the notice and solicitation
9 of public comment by the State relating to par-
10 ticipation of the State in the program, including
11 copies of comments received from that sollicita-
12 tion.

13 “(3) PUBLIC NOTICE.—

14 “(A) IN GENERAL.—Each State that sub-
15 mits an application under this subsection shall
16 give notice of the intent of the State to partici-
17 pate in the program not later than 30 days be-
18 fore the date of submission of the application.

19 “(B) METHOD OF NOTICE AND SOLICITA-
20 TION.—The State shall provide notice and so-
21 licit public comment under this paragraph by
22 publishing the complete application of the State
23 in accordance with the appropriate public notice
24 law of the State.

1 “(4) SELECTION CRITERIA.—The Secretary
2 may approve the application of a State under this
3 section only if—

4 “(A) the regulatory requirements under
5 paragraph (2) have been met;

6 “(B) the Secretary determines that the
7 State has the capability, including financial and
8 personnel, to assume the responsibility; and

9 “(C) the head of the State agency having
10 primary jurisdiction over rail matters enters
11 into a written agreement with the Secretary de-
12 scribed in subsection (c).

13 “(5) OTHER FEDERAL AGENCY VIEWS.—If a
14 State applies to assume a responsibility of the Sec-
15 retary that would have required the Secretary to
16 consult with another Federal agency, the Secretary
17 shall solicit the views of the Federal agency before
18 approving the application.

19 “(c) WRITTEN AGREEMENT.—A written agreement
20 under this section shall—

21 “(1) be executed by the Governor or the top-
22 ranking transportation official in the State who is
23 charged with responsibility for rail construction;

24 “(2) be in such form as the Secretary may pre-
25 scribe;

1 “(3) provide that the State—

2 “(A) agrees to assume all or part of the re-
3 sponsibilities of the Secretary described in sub-
4 section (a);

5 “(B) expressly consents, on behalf of the
6 State, to accept the jurisdiction of the Federal
7 courts for the compliance, discharge, and en-
8 forcement of any responsibility of the Secretary
9 assumed by the State;

10 “(C) certifies that State laws (including
11 regulations) are in effect that—

12 “(i) authorize the State to take the
13 actions necessary to carry out the respon-
14 sibilities being assumed; and

15 “(ii) are comparable to section 552 of
16 title 5, including providing that any deci-
17 sion regarding the public availability of a
18 document under those State laws is review-
19 able by a court of competent jurisdiction;
20 and

21 “(D) agrees to maintain the financial re-
22 sources necessary to carry out the responsibil-
23 ities being assumed;

24 “(4) shall have a term of not more than 5
25 years; and

1 “(5) shall be renewable.

2 “(d) JURISDICTION.—

3 “(1) IN GENERAL.—The United States district
4 courts shall have exclusive jurisdiction over any civil
5 action against a State for failure to carry out any
6 responsibility of the State under this section.

7 “(2) LEGAL STANDARDS AND REQUIRE-
8 MENTS.—A civil action under paragraph (1) shall be
9 governed by the legal standards and requirements
10 that would apply in such a civil action against the
11 Secretary had the Secretary taken the actions in
12 question.

13 “(3) INTERVENTION.—The Secretary shall have
14 the right to intervene in any action described in
15 paragraph (1).

16 “(e) EFFECT OF ASSUMPTION OF RESPONSI-
17 BILITY.—A State that assumes responsibility under sub-
18 section (a)(2) shall be solely responsible and solely liable
19 for carrying out, in lieu of the Secretary, the responsibil-
20 ities assumed under subsection (a)(2), until the program
21 is terminated as provided in subsection (j).

22 “(f) LIMITATIONS ON AGREEMENTS.—Nothing in
23 this section permits a State to assume any rulemaking au-
24 thority of the Secretary under any Federal law.

25 “(g) AUDITS.—

1 “(1) IN GENERAL.—To ensure compliance by a
2 State with any agreement of the State under sub-
3 section (c) (including compliance by the State with
4 all Federal laws for which responsibility is assumed
5 under subsection (a)(2)), for each State partici-
6 pating in the program under this section, the Sec-
7 retary shall conduct—

8 “(A) semiannual audits during each of the
9 first 2 years of State participation; and

10 “(B) annual audits during each of the
11 third and fourth years of State participation.

12 “(2) PUBLIC AVAILABILITY AND COMMENT.—

13 “(A) IN GENERAL.—An audit conducted
14 under paragraph (1) shall be provided to the
15 public for comment.

16 “(B) RESPONSE.—Not later than 60 days
17 after the date on which the period for public
18 comment ends, the Secretary shall respond to
19 public comments received under subparagraph
20 (A).

21 “(h) MONITORING.—After the fourth year of partici-
22 pation of the State in the program, the Secretary shall
23 monitor compliance by the State with the written agree-
24 ment, including the provision by the State of financial re-
25 sources to carry out the written agreement.

1 “(i) REPORT TO CONGRESS.—The Secretary shall
2 submit to Congress an annual report that describes the
3 administration of the program.

4 “(j) TERMINATION.—The Secretary may terminate
5 the participation of any State in the program if—

6 “(1) the Secretary determines that the State is
7 not adequately carrying out the responsibilities as-
8 signed to the State;

9 “(2) the Secretary provides to the State—

10 “(A) notification of the determination of
11 noncompliance; and

12 “(B) a period of at least 30 days during
13 which to take such corrective action as the Sec-
14 retary determines is necessary to comply with
15 the applicable agreement; and

16 “(3) the State, after the notification and period
17 provided under paragraph (2), fails to take satisfac-
18 tory corrective action, as determined by Secretary.

19 **“§ 22911. Exemption in emergencies**

20 “Any railroad, track, bridge, or other facility that is
21 in operation or under construction when damaged by an
22 emergency declared by the Governor of the State and con-
23 curred in by the Secretary, or declared by the President
24 pursuant to the Robert T. Stafford Disaster Relief and
25 Emergency Assistance Act (42 U.S.C. 5121), and is pro-

1 posed to be reconstructed with Federal funds may be re-
2 constructed in the same location with the same capacity,
3 dimensions, and design as before the emergency and shall
4 be exempt from any environmental reviews, approvals, li-
5 censing, and permit requirements under—

6 “(1) the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.);

8 “(2) sections 402 and 404 of the Federal Water
9 Pollution Control Act (33 U.S.C. 1342, 1344);

10 “(3) the National Historic Preservation Act (16
11 U.S.C. 470 et seq.);

12 “(4) the Migratory Bird Treaty Act (16 U.S.C.
13 703 et seq.);

14 “(5) the Wild and Scenic Rivers Act (16 U.S.C.
15 1271 et seq.);

16 “(6) the Fish and Wildlife Coordination Act (16
17 U.S.C. 661 et seq.);

18 “(7) the Endangered Species Act of 1973 (16
19 U.S.C. 1531 et seq.), except when the reconstruction
20 occurs in designated critical habitat for threatened
21 and endangered species;

22 “(8) Executive Order 11990 (42 U.S.C. 4321
23 note; relating to the protection of wetlands); and

24 “(9) any Federal law (including regulations) re-
25 quiring no net loss of wetlands.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
 2 ysis for subtitle V of title 49, United States Code, is
 3 amended by inserting after the item relating to chapter
 4 227 the following:

“229. **Project development and review**22901”.

5 **Subtitle D—Railroad Rehabilita-**
 6 **tion and Improvement Financ-**
 7 **ing**

8 **SEC. 8301. RAILROAD REHABILITATION AND IMPROVE-**
 9 **MENT FINANCING.**

10 (a) PURPOSE AND REGULATIONS.—

11 (1) PURPOSE.—The amendments made by this
 12 section are intended to encourage a higher level of
 13 participation in the railroad rehabilitation and im-
 14 provement financing program under section 502 of
 15 the Railroad Revitalization and Regulatory Reform
 16 Act of 1976 and to make the loan process under
 17 that program faster, more efficient, and more pre-
 18 dictable.

19 (2) REGULATIONS.—Not later than 1 year after
 20 the date of enactment of this Act, the Secretary
 21 shall issue regulations implementing the amend-
 22 ments made by this section in a manner that
 23 achieves the purpose stated in paragraph (1).

24 (b) HIGH-SPEED RAIL.—Section 502(b)(1)(C) of
 25 such Act (45 U.S.C. 822(b)(1)(C)) is amended by insert-

1 ing “, including high-speed rail (as defined in section
2 26101(6)) of title 49, United States Code) facilities” after
3 “railroad facilities”.

4 (c) PRIVATE INSURANCE.—Section 502(f)(1) of such
5 Act (45 U.S.C. 822(f)(1)) is amended—

6 (1) by striking “under this section a commit-
7 ment” and inserting “under this section private in-
8 surance, including bond insurance, or any other
9 commitment”; and

10 (2) by inserting “or private insurance, including
11 bond insurance,” after “authority and credit risk
12 premiums”.

13 (d) FINANCING OF CREDIT RISK PREMIUM.—Section
14 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended
15 by inserting “, or, at the discretion of the Secretary, in
16 a series of payments over the term of the loan. If private
17 insurance, including bond insurance, is used, the policy
18 premium shall be paid before the loan is disbursed” after
19 “of loan amounts”.

20 (e) COLLATERAL.—

21 (1) FULL VALUE.—Section 502(h)(2) of such
22 Act (45 U.S.C. 822(h)(2)) is amended by inserting
23 “Such collateral shall be valued at 100 percent of
24 the liquidated asset valuation, or going concern valu-

1 ation when applicable.” after “operation of the
2 project.”.

3 (2) DEDICATED REVENUE AND SUBORDINA-
4 TION.—Such section 502(h)(2) is further amended—

5 (A) by striking “(2) The Secretary” and
6 inserting “(2)(A) The Secretary”;

7 (B) by adding at the end of subparagraph
8 (A) the following: “The Secretary may subordi-
9 nate rights of the Secretary under any provision
10 of title 49 or title 23 of the United States Code,
11 to the rights of the Secretary under this section
12 and section 503”; and

13 (C) by adding at the end the following new
14 subparagraph:

15 “(B) In the case of an applicant that is a State,
16 an Interstate compact, a local government authority
17 as defined in section 5302 of title 49, United States
18 Code, or a high-speed rail system as defined in sec-
19 tion 26101 of title 49, United States Code, the Sec-
20 retary shall, for purposes of making a finding under
21 subsection (g)(4), accept the net present value on a
22 future stream of State or local subsidy income or
23 dedicated revenue as collateral offered to secure the
24 loan.”.

1 (f) OFFICE OF MANAGEMENT AND BUDGET.—Sec-
2 tion 502(i) of such Act (45 U.S.C. 822(i)) is amended by
3 inserting “In order to enable compliance with such time
4 limit, the Office of Management and Budget shall take
5 any actions required with respect to the application within
6 such 90-day period.” after “disapprove the application.”.

7 (g) COMPLETION OF APPLICATION.—Section 502(i)
8 of such Act (45 U.S.C. 822(i)) is further amended—

9 (1) by striking “DISAPPROVAL.—Not later than
10 90 days after receiving” and inserting “DIS-
11 APPROVAL.—

12 “(1) IN GENERAL.—Not later than 90 days
13 after an application is determined pursuant to para-
14 graph (2) to be”; and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2) COMPLETION OF APPLICATION.—The Sec-
18 retary shall establish procedures for making a deter-
19 mination not later than 45 days after submission of
20 an application under this section whether the appli-
21 cation is complete. Such procedures shall—

22 “(A) provide for a checklist of the required
23 components of a complete application;

1 “(B) provide that an independent financial
2 analyst be assigned within 45 days of submittal
3 to review the application;

4 “(C) require the Secretary to provide to
5 the applicant a description of the specific com-
6 ponents of the application that remain incom-
7 plete or unsatisfactory if an application is de-
8 termined to be incomplete; and

9 “(D) permit reapplication without preju-
10 dice for applications determined to be incom-
11 plete or unsatisfactory.”.

12 (h) REPAYMENT DEFERRAL.—Section 502(j) of such
13 Act (45 U.S.C. 822(j)) is amended by adding at the end
14 the following new paragraph:

15 “(3) TREATMENT OF COSTS ASSOCIATED WITH
16 DEFERRAL.—Any additional costs associated with a
17 deferred repayment schedule under paragraph (1)
18 may be financed over the remaining term of the loan
19 beginning at the time the payments begin, or may
20 be included in the credit risk premium determined
21 under subsection (f)(2).”.

22 (i) POSITIVE TRAIN CONTROL.—

23 (1) PRIORITY.—Section 502(e)(1) of such Act
24 (45 U.S.C. 822(e)(1)) is amended by inserting “, in-
25 cluding projects for the installation of positive train

1 control systems as defined in section 20157(a) of
2 title 49, United States Code” after “public safety”.

3 (2) COLLATERAL.—Section 502(h)(2) of such
4 Act (45 U.S.C. 822(h)(2)), as amended by this sec-
5 tion, is further amended by adding at the end the
6 following new subparagraph:

7 “(C) For purposes of making a finding under
8 subsection (g)(4) with respect to an application for
9 a project for the installation of positive train control
10 systems, the collateral value of that asset shall be
11 deemed to be equal to the total cost of the labor and
12 materials associated with installing the positive train
13 control systems.”.

14 (j) REPORT TO CONGRESS.—Section 502 of such Act
15 (45 U.S.C. 822) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(k) REPORT TO CONGRESS.—Not later than 1 year
18 after the date of enactment of the American Energy and
19 Infrastructure Jobs Act of 2012, and annually thereafter,
20 the Secretary shall transmit to the Congress a report on
21 the program under this section that summarizes the num-
22 ber of loans approved and disapproved by the Secretary
23 during the previous year. Such report shall not disclose
24 the identity of loan or loan guarantee recipients. The re-
25 port shall describe—

1 “(1) the number of preapplication meetings
2 with potential applicants;

3 “(2) the number of applications received and
4 determined complete under subsection (i)(2), includ-
5 ing the requested loan amounts;

6 “(3) the dates of receipt of applications;

7 “(4) the dates applications were determined
8 complete under subsection (i)(2);

9 “(5) the number of applications determined in-
10 complete under subsection (i)(2);

11 “(6) the final decision dates for both approvals
12 and denials of applications;

13 “(7) the number of applications withdrawn
14 from consideration; and

15 “(8) the annual loan portfolio asset quality.”.

16 (k) AUTHORIZATION OF APPROPRIATIONS.—Section
17 502 of such Act (45 U.S.C. 822) is amended by adding
18 at the end the following new subsection:

19 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary for pur-
21 poses of carrying out subsections (f)(3) and (j)(3),
22 \$50,000,000 for fiscal year 2013.”.

1 **Subtitle E—Positive Train Control**

2 **SEC. 8401. POSITIVE TRAIN CONTROL.**

3 (a) RAILROAD SAFETY RISK REDUCTION PRO-
4 GRAM.—Section 20156(e)(4) of title 49, United States
5 Code, is amended to read as follows:

6 “(4) POSITIVE TRAIN CONTROL.—Except as re-
7 quired by section 20157 (relating to the require-
8 ments for implementation of positive train control
9 systems), the Secretary shall ensure that each rail-
10 road carrier’s technology implementation plan re-
11 quired under paragraph (1) that includes a schedule
12 for implementation of a positive train control system
13 complies with that schedule. Nothing in this section
14 shall be construed as requiring the installation of
15 positive train control on railroad tracks if positive
16 train control is not required on those tracks by sec-
17 tion 20157 and positive train control on those tracks
18 is not chosen by the railroad as a technology to be
19 implemented under this section.”.

20 (b) IMPLEMENTATION OF POSITIVE TRAIN CONTROL
21 SYSTEMS.—Section 20157 of title 49, United States Code,
22 is amended—

23 (1) in subsection (a)(1)—

24 (A) by striking “December 31, 2015” and
25 inserting “December 31, 2020”;

1 (B) by inserting “and” after the semicolon
2 at the end of subparagraph (A);

3 (C) by striking “; and” at the end of sub-
4 paragraph (B) and inserting “on or after De-
5 cember 31, 2020.”; and

6 (D) by striking subparagraph (C);

7 (2) by adding at the end of subsection (a) the
8 following new paragraph:

9 “(3) ALTERNATIVE STRATEGY.—A plan sub-
10 mitted under this subsection may provide that, in
11 lieu of installing positive train control on all or some
12 of the tracks on which positive train control is other-
13 wise required to be installed pursuant to paragraph
14 (1)(B), the railroad carrier will utilize an alternative
15 risk reduction strategy that would reduce the risk of
16 release of poison- or toxic-by-inhalation hazardous
17 materials to the same extent the risk of a release of
18 poison- or toxic-by-inhalation hazardous materials
19 would be reduced if positive train control were in-
20 stalled on those tracks. An alternative risk reduction
21 strategy may only be used pursuant to this para-
22 graph on tracks for which positive train control is
23 not required pursuant to paragraph (1)(A).”;

24 (3) in subsection (c)—

1 (A) by striking “APPROVAL.—Not later
2 than 90 days after the Secretary receives a
3 plan” and inserting “APPROVAL.—

4 “(1) IN GENERAL.—Not later than 90 days
5 after the Secretary receives a plan or revision of a
6 plan under this section”; and

7 (B) by adding at the end the following new
8 paragraph:

9 “(2) REVISION OF PLAN.—A railroad carrier
10 may revise a plan under this section as necessary to
11 reflect rail lines that are added or removed, or to re-
12 flect alternative risk reduction strategies proposed
13 pursuant to subsection (a)(3).”;

14 (4) in subsection (d)—

15 (A) by striking “December 31, 2012” and
16 inserting “December 31, 2015”; and

17 (B) by inserting “and alternative risk re-
18 duction strategies. Such report shall include
19 any recommendations for improving the ability
20 of rail carriers to implement positive train con-
21 trol systems or alternative risk reduction strate-
22 gies in accordance with this section” after
23 “positive train control systems”;

1 (5) in subsection (e), by inserting “and alter-
2 native risk reduction strategies” after “positive train
3 control”; and

4 (6) in subsection (f), by striking “or section
5 20156” the first place it appears.

6 **Subtitle F—Regulatory Reform**

7 **SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULA-** 8 **TIONS.**

9 (a) AMENDMENT.—Section 103 of title 49, United
10 States Code, is amended by adding at the end the fol-
11 lowing new subsection:

12 “(l) IMPROVING REGULATION AND REGULATORY RE-
13 VIEW.—

14 “(1) IN GENERAL.—Before any final regulation
15 within the jurisdiction of the Administration is
16 issued, the Administrator shall make all preliminary
17 and final determinations based on evidence and con-
18 sider, in addition to other applicable considerations,
19 the following:

20 “(A) The legal authority under which a
21 rule may be proposed, including whether a rule-
22 making is required by statute, and if so, wheth-
23 er by a specific date, or whether the agency has
24 discretion to commence a rulemaking.

1 “(B) Other statutory considerations appli-
2 cable to whether the agency can or should pro-
3 pose a rule or undertake other agency action.

4 “(C) The specific nature and significance
5 of the problem the agency may address with a
6 rule (including the degree and nature of risks
7 the problem poses and the priority of address-
8 ing those risks compared to other matters or
9 activities within the agency’s jurisdiction),
10 whether the problem warrants new agency ac-
11 tion, and the countervailing risks that may be
12 posed by alternatives for new agency action.

13 “(D) Whether existing rules have created
14 or contributed to the problem the agency may
15 address with a rule and whether those rules
16 could be amended or rescinded to address the
17 problem in whole or part.

18 “(E) The best reasonably obtainable sci-
19 entific, technical, and other information related
20 to the need for, and consequences of, the rule.

21 “(F) The potential costs and benefits, in-
22 cluding direct, indirect, and cumulative costs
23 and benefits and estimated impacts on jobs,
24 economic growth, innovation, and economic
25 competitiveness.

1 “(G) Means to increase the cost-effective-
2 ness of any Federal response.

3 “(H) Incentives for innovation, consist-
4 ency, predictability, lower costs of enforcement
5 and compliance (to government entities, regu-
6 lated entities, and the public), and flexibility.

7 “(I) Any reasonable alternatives for a new
8 rule or other response identified by the agency
9 or interested persons, including not only re-
10 sponses that mandate particular conduct or
11 manners of compliance, but also—

12 “(i) the alternative of no Federal re-
13 sponse;

14 “(ii) amending or rescinding existing
15 rules;

16 “(iii) potential regional, State, local,
17 or tribal regulatory action or other re-
18 sponses that could be taken in lieu of
19 agency action; and

20 “(iv) potential responses that—

21 “(I) specify performance objec-
22 tives rather than conduct or manners
23 of compliance;

24 “(II) establish economic incen-
25 tives to encourage desired behavior;

1 “(III) provide information upon
2 which choices can be made by the
3 public; or

4 “(IV) incorporate other innova-
5 tive alternatives rather than agency
6 actions that specify conduct or man-
7 ners of compliance.

8 “(2) PUBLIC COMMENT.—The Administrator
9 shall solicit and take into consideration public com-
10 ment on the subjects described in subparagraphs (A)
11 through (I) of paragraph (1) before issuance of a
12 final regulation described in paragraph (1).

13 “(3) AGENCY STATEMENTS.—

14 “(A) IN GENERAL.—The Administrator
15 shall follow applicable rulemaking procedures
16 under section 553 of title 5 before issuing a
17 binding obligation applicable to recipients of
18 Federal assistance.

19 “(B) BINDING OBLIGATION DEFINED.—In
20 this paragraph, the term ‘binding obligation’
21 means a substantive policy statement, rule, or
22 guidance document issued by the Administra-
23 tion that grants rights, imposes obligations,
24 produces significant effects on private interests,

1 or effects a significant change in existing pol-
2 icy.”.

3 (b) EFFECTIVE DATE.—Paragraphs (1) and (2) of
4 the subsection (l) added by the amendment made by sub-
5 section (a) of this section shall be effective only with re-
6 spect to regulations with respect to which no notice of pro-
7 posed rulemaking has been issued before the date of enact-
8 ment of this Act.

9 **Subtitle G—Technical Corrections**

10 **SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS,** 11 **AND REPEALS.**

12 (a) TECHNICAL CORRECTIONS TO PROVISIONS OF
13 THE UNITED STATES CODE ENACTED IN, OR AMENDED
14 BY, THE RAIL SAFETY IMPROVEMENT ACT OF 2008.—

15 (1) Section 1139 of title 49, United States Code, is
16 amended—

17 (A) in subsection (a)(1) by striking “phone
18 number” and inserting “telephone number”;

19 (B) in subsection (a)(2) by striking “post trau-
20 ma communication with families” and inserting
21 “post-trauma communication with families”; and

22 (C) in subsection (j)(2) by striking “railroad
23 passenger accident” and inserting “rail passenger
24 accident”.

1 (2) Section 10909 of title 49, United States Code,
2 is amended—

3 (A) in subsection (b), by striking “Clean Rail-
4 road Act of 2008,” and inserting “Clean Railroads
5 Act of 2008,”; and

6 (B) in subsection (e), by striking “Upon the
7 granting of petition from the State” and inserting
8 “Upon the granting of a petition from the State”.

9 (3) Section 20116 of title 49, United States Code,
10 is amended—

11 (A) by inserting “(1)” after “unless”; and

12 (B) by inserting “(2)” before “the code, rule,
13 standard, requirement, or practice has been subject
14 to notice and comment under a rule or order issued
15 under this part.”.

16 (4) Section 20120(a) of title 49, United States Code,
17 is amended—

18 (A) by striking “website” and inserting “Web
19 site”;

20 (B) in paragraph (1), by striking “accident and
21 incidence reporting” and inserting “accident and in-
22 cident reporting”;

23 (C) in paragraph (2)(G), by inserting “and” at
24 the end; and

1 (D) in paragraph (5)(B), by striking “Adminis-
2 trative Hearing Officer or Administrative Law
3 Judge” and inserting “administrative hearing officer
4 or administrative law judge”.

5 (5) Section 20156 of title 49, United States Code,
6 is amended—

7 (A) in subsection (e), by inserting a comma
8 after “In developing its railroad safety risk reduc-
9 tion program”; and

10 (B) in subsection (g)(1), by inserting a comma
11 after “good faith” and by striking “non-profit” and
12 inserting “nonprofit”.

13 (6) Section 20157(a)(1)(B) of title 49, United States
14 Code, is amended by striking “parts 171.8, 173.115, and
15 173.132” and inserting “sections 171.8, 173.115, and
16 173.132”.

17 (7) Section 20159 of title 49, United States Code,
18 is amended by striking “the Secretary” and inserting “the
19 Secretary of Transportation”.

20 (8) Section 20160 of title 49, United States Code,
21 is amended—

22 (A) in subsection (a)(1), by striking “or with”
23 and inserting “with”; and

24 (B) in subsection (b)(1)(A), by striking “or
25 with” and inserting “with”.

1 (9) Section 20162(a)(3) of title 49, United States
2 Code, is amended by striking “railroad compliance with
3 Federal standards” and inserting “railroad carrier compli-
4 ance with Federal standards”.

5 (10) Section 20164(a) of title 49, United States
6 Code, is amended by striking “after enactment of the Rail-
7 road Safety Enhancement Act of 2008” and inserting
8 “after the enactment of the Rail Safety Improvement Act
9 of 2008”.

10 (11) Section 22106(b) of title 49, United States
11 Code, is amended by striking “interest thereof” and in-
12 serting “interest thereon”.

13 (12) The item relating to section 24316 in the chap-
14 ter analysis for chapter 243 of title 49, United States
15 Code, is amended by striking “to assist families of pas-
16 sengers” and inserting “to address needs of families of
17 passengers”.

18 (b) TECHNICAL CORRECTIONS TO RAIL SAFETY IM-
19 PROVEMENT ACT OF 2008.—(1) The table of contents in
20 section 1(b) of the Rail Safety Improvement Act of 2008
21 is amended—

22 (A) in the item relating to section 307, by strik-
23 ing “website” and inserting “Web site”;

24 (B) in the item relating to section 403, by
25 striking “Track inspection time study” and inserting

1 “Study and rulemaking on track inspection time;
2 rulemaking on concrete cross ties”;

3 (C) in the item relating to section 408, by strik-
4 ing “Conrail” and inserting “Consolidated Rail Cor-
5 poration”;

6 (D) in the item relating to title VI, by striking
7 “Solid waste facilities” and inserting “Solid waste
8 rail transfer facilities”; and

9 (E) in the item relating to section 602 by strik-
10 ing “solid waste transfer facilities” and inserting
11 “solid waste rail transfer facilities”.

12 (2) Section 2(a)(1) of the Rail Safety Improvement
13 Act of 2008 is amended by inserting a comma after
14 “tracks at grade”.

15 (3) Section 102(a)(6) of the Rail Safety Improvement
16 Act of 2008 is amended to read as follows:

17 “(6) Improving the safety of railroad bridges,
18 tunnels, and related infrastructure to prevent acci-
19 dents, incidents, injuries, and fatalities caused by
20 catastrophic and other failures of such infrastruc-
21 ture.”.

22 (4) Section 206(a) of the Rail Safety Improvement
23 Act of 2008 is amended by striking “Public Service An-
24 nouncements” and inserting “public service announce-
25 ments”.

1 (5) Section 307 of the Rail Safety Improvement Act
2 of 2008 is amended—

3 (A) in the section heading, by striking
4 “**WEBSITE**” and inserting “**WEB SITE**”;

5 (B) in subsection (a), by striking “website” and
6 inserting “Web site”; and

7 (C) in subsection (b), by striking “website’s”
8 and inserting “Web site’s”.

9 (6) Section 403 of the Rail Safety Improvement Act
10 of 2008 is amended in the section heading by striking
11 “**TRACK INSPECTION TIME STUDY**” and inserting
12 “**STUDY AND RULEMAKING ON TRACK INSPECTION**
13 **TIME; RULEMAKING ON CONCRETE CROSS TIES**”.

14 (7) Section 405 of the Rail Safety Improvement Act
15 of 2008 is amended—

16 (A) in subsection (a), by striking “cell phones”
17 and inserting “cellular telephones”; and

18 (B) in subsection (d), by striking “Secretary of
19 Transportation” and inserting “Secretary”.

20 (8) Section 408 of the Rail Safety Improvement Act
21 of 2008 is amended in the section heading by striking
22 “**CONRAIL**” and inserting “**CONSOLIDATED RAIL COR-**
23 **PORATION**”.

1 (9) Section 412 of the Rail Safety Improvement Act
2 of 2008 is amended by striking “Secretary of Transpor-
3 tation” and inserting “Secretary”.

4 (10) Section 414 of the Rail Safety Improvement Act
5 of 2008 is amended—

6 (A) by striking “parts 171.8, 173.115,” and in-
7 serting “sections 171.8, 173.115,”; and

8 (B) by striking “part 1520.5” and inserting
9 “section 1520.5”.

10 (11) Section 416 of the Rail Safety Improvement Act
11 of 2008 is amended—

12 (A) by striking “Secretary of Transportation”
13 and inserting “Secretary”; and

14 (B) in paragraph (4), by striking “subsection”
15 and inserting “section”.

16 (12) Section 417(c) of the Rail Safety Improvement
17 Act of 2008 is amended by striking “each railroad” and
18 inserting “each railroad carrier”.

19 (13) Section 503 of the Rail Safety Improvement Act
20 of 2008 is amended—

21 (A) in subsection (b)—

22 (i) in paragraph (1), by striking “pas-
23 senger rail accidents” and inserting “rail pas-
24 senger accidents”;

1 (ii) by striking “passenger rail accident”
2 each place it appears and inserting “rail pas-
3 senger accident”; and

4 (iii) in paragraph (4), by striking “a count
5 of the number of passengers onboard the train”
6 and inserting “a count of the number of pas-
7 sengers aboard the train”; and

8 (B) by adding at the end a new subsection (d)
9 to read as follows:

10 “(d) DEFINITIONS.—In this section, the terms ‘pas-
11 senger’ and ‘rail passenger accident’ have the meaning
12 given those terms by section 1139 of this title.”.

13 (14) The heading title VI of the Rail Safety Improve-
14 ment Act of 2008 is amended by striking “**SOLID**
15 **WASTE FACILITIES**” and inserting “**SOLID**
16 **WASTE RAIL TRANSFER FACILITIES**”.

17 (15) The heading of section 602 of the Rail Safety
18 Improvement Act of 2008 is amended by striking “**SOLID**
19 **WASTE TRANSFER FACILITIES**” and inserting “**SOLID**
20 **WASTE RAIL TRANSFER FACILITIES**”.

21 (c) TECHNICAL CORRECTIONS TO PROVISIONS OF
22 THE UNITED STATES CODE ENACTED IN, OR AMENDED
23 BY, THE PASSENGER RAIL INVESTMENT AND IMPROVE-
24 MENT ACT OF 2008.—

1 (1) ALTERNATE PASSENGER RAIL SERVICE
2 PILOT.—Section 24711 of title 49, United States
3 Code, is amended—

4 (A) in subsection (a)(1) by striking “a pe-
5 riod not to exceed 5 years after the date of en-
6 actment of the Passenger Rail Investment and
7 Improvement Act of 2008” and inserting “an
8 operations period of 5 years, renewable for a
9 second 5-year operations period at the discre-
10 tion of the Administrator”; and

11 (B) by inserting after subsection (e) the
12 following new subsection:

13 “(f) TRANSFER AUTHORITY.—The Secretary of
14 Transportation may provide directly to a winning bidder
15 selected under this section any portion of appropriations
16 for Amtrak operations necessary to cover the operating
17 subsidy described in subsection (a)(5)(B).”.

18 (2) COMPETITIVE GRANT SELECTION AND CRI-
19 TERIA FOR GRANTS.—Section 26106(e)(2) of title
20 49, United States Code, is amended—

21 (A) in subparagraph (A)(v), by striking
22 “that if an applicant has selected the proposed
23 operator of its service, that the applicant pro-
24 vide”, and inserting “that the applicant shall
25 select the proposed operator of its service com-

1 petitively, and that the applicant shall provide”;

2 and

3 (B) in subparagraph (B)(ii)—

4 (i) by inserting “and” at the end of
5 subclause (I);

6 (ii) by inserting “and” at the end of
7 subclause (II); and

8 (iii) by striking subclauses (III) and
9 (IV).

10 (d) STATE-SUPPORTED ROUTES.—Section 209(e) of
11 the Passenger Rail Investment and Improvement Act of
12 2008 (Public Law 110–432, 122 Stat. 4918) is amended
13 by striking “within 1 year after the Board’s determina-
14 tion” and inserting “by the first day of the first fiscal year
15 beginning at least 1 year after the Board’s determina-
16 tion”.

17 **TITLE IX—HAZARDOUS**
18 **MATERIAL TRANSPORTATION**

19 **SEC. 9001. SHORT TITLE.**

20 This title may be cited as the “Hazardous Material
21 Transportation Safety, Efficiency, and Accountability Act
22 of 2012”.

1 **SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES**
2 **CODE.**

3 Except as otherwise provided, whenever in this Act
4 an amendment or repeal is expressed in terms of an
5 amendment to, or repeal of, a section or other provision,
6 the reference shall be considered to be made to a section
7 or other provision of title 49, United States Code.

8 **SEC. 9003. FINDINGS.**

9 Congress finds the following:

10 (1) There are annually 2.2 billion tons of haz-
11 ardous material shipments by all modes across the
12 United States totaling more than \$1.4 trillion.

13 (2) The number of fatalities and serious inju-
14 ries caused by the transportation of hazardous mate-
15 rial has been historically low, averaging 4.2 fatalities
16 per 100 million shipments – meaning an American
17 is about 4 times more likely to be killed by lightning
18 than a hazardous material in transportation. In fis-
19 cal year 2010, there was the lowest number of haz-
20 ardous material incidents on record.

21 (3) It is critical to the economic health of the
22 Nation that the laws and regulations governing the
23 transportation of hazardous material maintain a
24 high level of safety, while balancing the need for eco-
25 nomic growth, innovation, competitiveness, and job
26 creation.

1 (4) The individuals involved in the transpor-
2 tation stream and the public benefit from a regu-
3 latory regime that is certain, uniform, cost-efficient,
4 and science-based.

5 (5) Because of the potential risks to life, prop-
6 erty, and the environment posed by an unintentional
7 release of hazardous material, consistency and uni-
8 formity in laws and regulation regarding the trans-
9 portation of hazardous material is necessary and de-
10 sirable.

11 **SEC. 9004. PURPOSES.**

12 Section 5101 is amended by striking “that are inher-
13 ent”.

14 **SEC. 9005. DEFINITIONS.**

15 (a) HAZMAT EMPLOYER.—Section 5102(4)(A)(i)(I)
16 is amended by striking “or uses”.

17 (b) TRANSPORTS.—Section 5102(13) is amended to
18 read as follows:

19 “(13) ‘transports’ or ‘transportation’—

20 “(A) means the movement of property and
21 loading, unloading, handling, or storage inci-
22 dental to the movement;

23 “(B) includes all activities related to—

24 “(i) loading or unloading packaged or
25 containerized hazardous material, such as

1 portable tanks, cylinders, and intermediate
2 bulk containers, onto a transport vehicle,
3 rail car, aircraft, or vessel at its origin,
4 during en route movement, or at its des-
5 tination; or

6 “(ii) loading or unloading a hazardous
7 material into or from a bulk packaging
8 with a capacity greater than 3,000 liters,
9 such as a portable tank, cargo tank, or rail
10 tank car, at its origin, during en route
11 movement, or at its destination; and

12 “(C) includes storage of a hazardous mate-
13 rial from the time the hazardous material is
14 loaded for purposes of movement until the haz-
15 ardous material is unloaded at its destination,
16 including during en route movement.”.

17 **SEC. 9006. GENERAL REGULATORY AUTHORITY.**

18 (a) REGULATIONS FOR SAFE TRANSPORTATION.—

19 Section 5103(b)(1)(A) is amended—

20 (1) in clause (vi) by striking “or” at the end;

21 (2) by redesignating clause (vii) as clause (viii);

22 (3) by inserting after clause (vi) the following:

23 “(vii) provides hazardous material
24 transportation emergency response infor-
25 mation services required or governed by

1 regulations prescribed under this chapter;
2 or”; and

3 (4) in clause (viii) (as redesignated by para-
4 graph (2) of this section) by striking “(vi); and” and
5 inserting “(vii);”.

6 (b) FITNESS DETERMINATIONS.—

7 (1) IN GENERAL.—Section 5103(b)(1) is
8 amended—

9 (A) in subparagraph (B) by striking the
10 period at the end and inserting “; and”; and

11 (B) by adding at the end the following:

12 “(C) shall govern the procedures and cri-
13 teria used by the Secretary for determining the
14 fitness of a person applying for an approval
15 under the regulations.”.

16 (2) REGULATION REQUIRED.—In accordance
17 with section 5103(b)(2) of title 49, United States
18 Code, not later than 1 year after the date of enact-
19 ment of this Act, the Secretary of Transportation
20 shall take all actions necessary to finalize a regula-
21 tion pursuant to section 5103(b)(1)(C) of such title.

22 (c) IMPROVING REGULATIONS AND REGULATORY RE-
23 VIEW.—

24 (1) IN GENERAL.—Section 5103(b) is amended
25 by adding at the end the following:

1 “(3) Before any final regulation within the jurisdic-
2 tion of the Secretary is issued, the Secretary shall make
3 all preliminary and final determinations based on evidence
4 and consider, in addition to other applicable consider-
5 ations, the following:

6 “(A) The legal authority under which a rule
7 may be proposed, including whether a rulemaking is
8 required by statute, and if so, whether by a specific
9 date, or whether the agency has discretion to com-
10 mence a rulemaking.

11 “(B) Other statutory considerations applicable
12 to whether the agency can or should propose a rule
13 or undertake other agency action.

14 “(C) The specific nature and significance of the
15 problem the agency may address with a rule (includ-
16 ing the degree and nature of risks the problem poses
17 and the priority of addressing those risks compared
18 to other matters or activities within the agency’s ju-
19 risdiction), whether the problem warrants new agen-
20 cy action, and the countervailing risks that may be
21 posed by alternatives for new agency action.

22 “(D) Whether existing rules have created or
23 contributed to the problem the agency may address
24 with a rule and whether those rules could be amend-

1 ed or rescinded to address the problem in whole or
2 part.

3 “(E) The best reasonably obtainable scientific,
4 technical, and other information related to the need
5 for, and consequences of, the rule.

6 “(F) The potential costs and benefits, including
7 direct, indirect, and cumulative costs and benefits
8 and estimated impacts on jobs, economic growth, in-
9 novation, and economic competitiveness.

10 “(G) Means to increase the cost-effectiveness of
11 any Federal response.

12 “(H) Incentives for innovation, consistency, pre-
13 dictability, lower costs of enforcement and compli-
14 ance (to government entities, regulated entities, and
15 the public), and flexibility.

16 “(I) Any reasonable alternatives for a new rule
17 or other response identified by the agency or inter-
18 ested persons, including not only responses that
19 mandate particular conduct or manners of compli-
20 ance, but also—

21 “(i) the alternative of no Federal response;

22 “(ii) amending or rescinding existing rules;

23 “(iii) potential regional, State, local, or
24 tribal regulatory action or other responses that
25 could be taken in lieu of agency action; and

1 “(iv) potential responses that—
2 “(I) specify performance objectives
3 rather than conduct or manners of compli-
4 ance;
5 “(II) establish economic incentives to
6 encourage desired behavior;
7 “(III) provide information upon which
8 choices can be made by the public; or
9 “(IV) incorporate other innovative al-
10 ternatives rather than agency actions that
11 specify conduct or manners of compliance.

12 “(4) The Secretary shall solicit and take into consid-
13 eration public comment on the subjects described in sub-
14 paragraphs (A) through (I) of paragraph (3) before
15 issuance of a final regulation described in paragraph (3).

16 “(5) The Secretary shall follow applicable rulemaking
17 procedures under section 553 of title 5 before issuing a
18 binding obligation applicable to recipients of Federal as-
19 sistance. In this paragraph, the term ‘binding obligation’
20 means a substantive policy statement, rule, or guidance
21 document issued by the Secretary that grants rights, im-
22 poses obligations, produces significant effects on private
23 interests, or effects a significant change in existing pol-
24 icy.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) of this subsection shall apply to
3 regulations for which the notice of proposed rule-
4 making is published after the date of enactment of
5 this Act.

6 (d) INCORPORATION BY REFERENCE.—Section
7 5103(b) is further amended by adding after paragraph (5)
8 (as added by subsection (c)(1) of this section) the fol-
9 lowing:

10 “(6) In considering whether to incorporate by ref-
11 erence any publication in prescribing regulations, the Sec-
12 retary shall—

13 “(A) consider—

14 “(i) the cost of such publication;

15 “(ii) the broadness of its applicability;

16 “(iii) the cost imposed on the public in ac-
17 quiring such publication; and

18 “(iv) other alternatives to incorporation by
19 reference; and

20 “(B) either incorporate by reference the publi-
21 cation or use the alternative that meets the Depart-
22 ment of Transportation’s safety objectives in the
23 most cost-effective manner.”.

1 **SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANS-**
2 **PORTING RADIOACTIVE MATERIAL.**

3 Section 5105(d) is amended to read as follows:

4 “(d) **INSPECTIONS OF MOTOR VEHICLES TRANS-**
5 **PORTING CERTAIN MATERIAL.—**

6 “(1) **REQUIREMENT.—**The Secretary shall re-
7 quire by regulation that before each use of a motor
8 vehicle to transport a highway-route-controlled quan-
9 tity of radioactive material in commerce, the vehicle
10 shall be inspected and certified as complying with
11 this chapter and applicable United States motor car-
12 rier safety laws and regulations.

13 “(2) **TYPE OF INSPECTOR.—**In carrying out
14 paragraph (1), the Secretary may—

15 “(A) require that the inspection be carried
16 out by an authorized United States Government
17 inspector or according to appropriate State pro-
18 cedures; or

19 “(B) allow a person, transporting or caus-
20 ing to be transported a highway-route-con-
21 trolled quantity of radioactive material, to in-
22 spect the motor vehicle used to transport the
23 material and to certify that the vehicle complies
24 with this chapter.

25 “(3) **QUALIFICATION REQUIREMENTS.—**An in-
26 dividual conducting an inspection under paragraph

1 (2)(B) shall be in compliance with the inspector
2 qualification requirements the Secretary prescribes
3 for an individual inspecting a motor vehicle.

4 “(4) PREEMPTION.—Each State that a motor
5 vehicle transporting a highway-route-controlled
6 quantity of radioactive material in commerce enters
7 shall recognize the inspection and certification re-
8 quired by paragraph (1) and may not require a new
9 inspection at an equivalent level and certification ex-
10 cept as provided in paragraph (5).

11 “(5) CHANGED CONDITION.—If an en route
12 change to the condition of the cargo, the driver, the
13 motor vehicle, or the operation of the motor vehicle
14 invalidates the certification under paragraph (1), the
15 State where such change is discovered may require
16 a new inspection and certification under such para-
17 graph.”.

18 **SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**

19 **AND GRANTS.**

20 (a) TRAINING GRANTS.—Section 5107 is amended—

21 (1) by striking subsections (e) and (h); and

22 (2) by redesignating subsections (f) and (g) as
23 subsections (e) and (f), respectively.

1 (b) SAFE LOADING, UNLOADING, AND HANDLING.—
2 Section 5107(f)(2), as redesignated by subsection (a)(2)
3 of this section, is amended by striking “and section 5106”.

4 **SEC. 9009. FEES.**

5 Section 5108(g)(2) is amended—

6 (1) in subparagraph (A)—

7 (A) in the matter before clause (i) by strik-
8 ing “be at least \$250 but not more than” and
9 inserting “not exceed”; and

10 (B) in clause (viii) by striking “sections
11 5108(g)(2), 5115,” and inserting “this para-
12 graph and sections 5115”; and

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

14 “(D) In establishing and collecting a fee under
15 subparagraph (A), the Secretary may not consider
16 whether a person has or is likely to apply for a spe-
17 cial permit or approval, nor is the Secretary author-
18 ized to establish a separate fee in order to apply for
19 or receive a special permit or approval.”.

20 **SEC. 9010. MOTOR CARRIER SAFETY PERMITS.**

21 (a) APPLICABLE TRANSPORTATION.—Section
22 5109(b)(1) is amended by striking “class A or B” and
23 inserting “division 1.1, 1.2, or 1.3”.

1 (b) OFFEROR RESPONSIBILITY.—The heading for
2 subsection (f) of section 5109 is amended by striking
3 “SHIPPER” and inserting “OFFEROR”.

4 (c) TECHNICAL AMENDMENT.—Section 5109 is
5 amended by striking subsection (h).

6 (d) PROGRAM REVIEW AND REPORT.—

7 (1) PROGRAM REVIEW.—

8 (A) IN GENERAL.—Not later than 9
9 months after the date of enactment of this Act,
10 the Secretary of Transportation shall conduct a
11 proceeding, using notice and comment proce-
12 dures in accordance with section 553 of title 5,
13 United States Code, to examine the implemen-
14 tation of the hazardous material safety permit
15 program established by section 5109 of title 49
16 of such Code, including—

17 (i) safety concerns related to former
18 permit holders that have re-applied for a
19 permit after being out of the program for
20 a year or longer; and

21 (ii) fairness of the program for car-
22 riers whose total number of inspections
23 over the course of the fiscal year cycle may
24 create a disadvantage.

1 (B) CONSULTATION.—In carrying out sub-
2 paragraph (A), the Secretary shall consult with
3 motor carriers, persons offering hazardous ma-
4 terial for transportation in commerce, the Com-
5 mercial Vehicle Safety Alliance, and others that
6 have direct experience with the implementation
7 of the program.

8 (2) REPORT.—

9 (A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this Act, the Sec-
11 retary of Transportation shall transmit to the
12 Committee on Transportation and Infrastruc-
13 ture of the House of Representatives and the
14 Committee on Commerce, Science, and Trans-
15 portation of the Senate a report on the imple-
16 mentation of the hazardous material safety per-
17 mit program established by section 5109 of title
18 49, United States Code.

19 (B) CONTENTS.—The report shall in-
20 clude—

21 (i) an identification of the number of
22 permits that have been issued, denied, re-
23 voked, or suspended for each registration
24 cycle since the inception of the program by

1 the type of covered hazardous material
2 transported;

3 (ii) an explanation of the reason for
4 each denial, revocation, and suspension, in-
5 cluding administrative denials, revocations,
6 and suspensions;

7 (iii) a record and analysis of the types
8 of implementation issues identified in the
9 proceeding under paragraph (1)(A); and

10 (iv) a description of the Secretary's
11 actions—

12 (I) to simplify the permit applica-
13 tion process;

14 (II) to minimize the number of
15 administrative denials, revocations,
16 and suspensions;

17 (III) to address the issues identi-
18 fied under clause (iii); and

19 (IV) to ensure a consistent
20 standard of safety fitness that does
21 not fluctuate over time.

22 (e) REGULATION.—Not later than 2 years after the
23 date of enactment of this Act, the Secretary of Transpor-
24 tation shall take such actions as are necessary to ensure
25 that regulations prescribed to carry out the program under

1 section 5109 of title 49, United States Code, ensure a con-
2 sistent standard of safety fitness that does not fluctuate
3 over time and address issues identified in the proceeding
4 in subsection (d)(1)(A).

5 **SEC. 9011. PLANNING AND TRAINING GRANTS, MONI-**
6 **TORING, AND REVIEW.**

7 (a) TRAINING GRANTS.—Section 5116(b)(4) is
8 amended—

9 (1) in the matter preceding subparagraph (A)—

10 (A) by inserting “and subsection (a)” after
11 “this subsection”; and

12 (B) by inserting “planning and” after
13 “emergency response”; and

14 (2) in subparagraph (E) by inserting “and sub-
15 section (a)” before the period at the end.

16 (b) COMPLIANCE WITH CERTAIN LAWS.—Section
17 5116(c) is amended to read as follows:

18 “(c) COMPLIANCE WITH CERTAIN LAW.—The Sec-
19 retary may make a grant to a State or Indian tribe under
20 this section in a fiscal year only if—

21 “(1) the State certifies that the State complies
22 with sections 301 and 303 of the Emergency Plan-
23 ning and Community Right-To-Know Act of 1986
24 (42 U.S.C. 11001, 11003); and

1 “(2) the State or Indian tribe certifies to the
2 Secretary that such State or Indian tribe is in com-
3 pliance with section 5125(f).”.

4 (c) SUPPLEMENTAL TRAINING GRANTS.—Section
5 5116(j) is amended—

6 (1) in paragraph (1) by striking “funds,” and
7 all that follows through “fighting fires for” and in-
8 serting “funds and through a competitive process,
9 make grants to national nonprofit fire service orga-
10 nizations for”;

11 (2) in paragraph (3)(A) by striking “train” and
12 inserting “provide portable training for”; and

13 (3) in paragraph (4)—

14 (A) by striking “train” and inserting “pro-
15 vide portable training for”; and

16 (B) by inserting after “training courses
17 shall” the following: “comply with national con-
18 sensus standards for hazardous material re-
19 sponse and”.

20 (d) REPORTS.—Section 5116(k) is amended—

21 (1) in the first sentence by striking “planning
22 grants” and all that follows through “and under sec-
23 tion 5107” and inserting “grants allocated under
24 subsections (a), (b), and (j)”;

25 (2) in the second sentence—

- 1 (A) by inserting “planning and” before
2 “training grants”; and
3 (B) by inserting “planning and” before
4 “training programs”.”.

5 **SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.**

6 Section 5117 is amended—

7 (1) in subsection (a)—

8 (A) by striking “(a) AUTHORITY TO ISSUE
9 SPECIAL PERMITS.—(1) As provided under pro-
10 cedures prescribed by regulation,” and inserting
11 the following:

12 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

13 “(1) IN GENERAL.—As provided under proce-
14 dures and criteria prescribed by regulation in ac-
15 cordance with section 553 of title 5, United States
16 Code,”;

17 (B) by inserting after paragraph (1) the
18 following:

19 “(2) REQUIREMENTS.—The Secretary shall en-
20 sure that the procedures and criteria prescribed
21 under paragraph (1) provide adequate consistency,
22 predictability, and transparency in making the deter-
23 minations to issue, modify, or terminate a special
24 permit.”; and

1 (C) by striking “(2) A special permit” and
2 inserting the following:

3 “(3) EFFECTIVE PERIOD.—A special permit”;
4 and

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

6 “(f) LIMITATION ON DENIAL.—The Secretary may
7 not deny an application for a modification or renewal of
8 a special permit or an application for party status to an
9 existing special permit for the sole reason that the appli-
10 cant has a hazardous material out-of-service percentage
11 of greater than the national average, according to the safe-
12 ty and fitness records maintained by the Federal Motor
13 Carrier Safety Administration.

14 “(g) INCORPORATION INTO REGULATION.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date on which a special permit has been in con-
17 tinuous effect for a 6-year period, the Secretary
18 shall develop and implement a rulemaking pursuant
19 to section 5103 to incorporate the special permit
20 into regulation if the special permit—

21 “(A) concerns a matter of general applica-
22 bility;

23 “(B) has future effect; and

24 “(C) is consistent with hazardous material
25 safety.

1 “(2) INTENT.—Nothing in paragraph (1) limits
2 the Secretary from incorporating a special permit
3 into regulation at any time before the deadline set
4 by paragraph (1).

5 “(3) OLDER SPECIAL PERMITS.—Not later than
6 3 years after the date of enactment of this sub-
7 section, the Secretary shall finalize a rulemaking
8 pursuant to section 5103 to incorporate into regula-
9 tion any special permit that concerns a matter of
10 general applicability, has future effect, is consistent
11 with hazardous material safety, and has been in con-
12 tinuous effect for more than a 6-year period as of
13 the date of enactment of this subsection.”.

14 **SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CAR-**
15 **RIER PERMIT PROGRAM.**

16 Section 5119 is amended by striking subsection (a)
17 and all that follows and inserting the following:

18 “(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM
19 DEFINED.—In this section, the term ‘Uniform Motor Car-
20 rier Permit Program’ means the State-based, reciprocal
21 program of uniform forms and procedures for registering
22 and permitting persons who transport hazardous material
23 by motor vehicle developed and recommended by the Alli-
24 ance for Uniform Hazmat Transportation Procedures, in-

1 cluding any superseding amendments or revisions adopted
2 by the Secretary pursuant to subsection (b).

3 “(b) REGULATIONS.—

4 “(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of the Hazardous Material
6 Transportation Safety, Efficiency, and Account-
7 ability Act of 2012, the Secretary shall issue regula-
8 tions to implement the Uniform Motor Carrier Per-
9 mit Program.

10 “(2) REVISIONS.—The Secretary may modify
11 the regulations issued under paragraph (1) only as
12 necessary to promote safety, efficiency, and uni-
13 formity.

14 “(c) FINANCIAL AND TECHNICAL ASSISTANCE AND
15 SUPPORT.—

16 “(1) IN GENERAL.—The Secretary may provide
17 planning and transition assistance to States to facili-
18 tate the adoption of the Uniform Motor Carrier Per-
19 mit Program.

20 “(2) USE OF FUNDS.—A State shall use assist-
21 ance awarded under this subsection only to transi-
22 tion existing State registration and permitting pro-
23 grams to the Uniform Motor Carrier Permit Pro-
24 gram.

1 “(3) TERMINATION OF AUTHORITY.—The au-
2 thority to provide assistance to States under this
3 subsection shall terminate 6 years after the date of
4 enactment of the Hazardous Material Transpor-
5 tation Safety, Efficiency, and Accountability Act of
6 2012.

7 “(d) COOPERATIVE AGREEMENT.—The Secretary
8 may enter into a cooperative agreement for outreach, data
9 management, and other centralized functions supporting
10 implementation of the Uniform Motor Carrier Permit Pro-
11 gram.

12 “(e) RELATED EXPENSES.—For purposes of section
13 5125(f)(1), a fee used for a purpose related to trans-
14 porting hazardous material may include the costs incurred
15 in implementing and administering the Uniform Motor
16 Carrier Permit Program, including the costs of estab-
17 lishing or modifying forms, procedures, and systems.

18 “(f) TRANSITION OF STATE PROGRAMS.—Not later
19 than 6 years after the date of enactment of the Hazardous
20 Material Transportation Safety, Efficiency, and Account-
21 ability Act of 2012, a State may enforce registration and
22 permitting requirements for motor carriers that transport
23 hazardous material in commerce only in accordance with
24 the Uniform Motor Carrier Permit Program.

1 “(g) LIMITATION.—Nothing in this section shall de-
2 fine or limit the amount of a fee a State may impose or
3 collect for registration and permitting.”.

4 **SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS**
5 **AND REQUIREMENTS.**

6 Section 5120 is amended—

7 (1) in subsection (a) by striking “State, the
8 Secretary of Transportation shall participate” and
9 inserting “State and the Secretary of Transpor-
10 tation, the Administrator of the Pipelines and Haz-
11 arduous Materials Safety Administration, or the Ad-
12 ministrator’s designee, shall represent the United
13 States and serve as the United States competent au-
14 thority”; and

15 (2) in subsection (b)—

16 (A) by striking “The Secretary” and in-
17 serting “The Administrator”; and

18 (B) by striking “sections 5103(b), 5104,
19 5110, and 5112 of this title” and inserting
20 “this chapter”.

21 **SEC. 9015. INVESTIGATIONS.**

22 (a) INSPECTIONS AND INVESTIGATIONS.—Section
23 5121(c)(1) is amended—

24 (1) in subparagraph (B) by striking “may con-
25 tain a hazardous material;” and inserting “may con-

1 tain an undeclared hazardous material and such ac-
2 tivity takes place at a properly equipped facility des-
3 ignated by the Secretary for this purpose;”;

4 (2) in subparagraph (C), in the matter pre-
5 ceding clause (i), by striking “or related packages”
6 and inserting “suspected of containing undeclared
7 hazardous material”;

8 (3) in subparagraph (E) by striking “may
9 order” and all that follows through “; and” and in-
10 serting “may order the offeror, after giving notice to
11 the carrier, to have the package transported to,
12 opened, and the contents examined and analyzed at
13 a properly equipped facility designated by the Sec-
14 retary for this purpose;”;

15 (4) in subparagraph (F) by striking the period
16 at the end and inserting “; and”; and

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

18 “(G) shall provide contemporaneous notice
19 to the affected offeror and carrier of its decision
20 to exercise its authority under subparagraphs
21 (B), (C), (D), or (E).”.

22 (b) REGULATIONS.—

23 (1) IN GENERAL.—Section 5121(e) is amended
24 to read as follows:

1 “(e) REGULATIONS.—To carry out subsections (c)
2 and (d), the Secretary shall issue regulations in accord-
3 ance with section 553 of title 5 that address, at a min-
4 imum, the following:

5 “(1) Avoidance of delay in the transportation of
6 time-sensitive materials, such as medical products,
7 perishables, and other packages that are not the
8 subject of the inspection.

9 “(2) Appropriate training and equipment for in-
10 spectors.

11 “(3) Restoration of the properly certified status
12 of the inspected package before resumption of trans-
13 portation of that package.

14 “(4) Consideration of the costs and damages
15 that might occur as a result of an inspection.”.

16 (2) REGULATION REQUIRED.—In accordance
17 with section 5103(b)(2) of title 49, United States
18 Code, not later than 1 year after the date of enact-
19 ment of this Act, the Secretary of Transportation
20 shall take all actions necessary to finalize a regula-
21 tion pursuant to section 5121(e) of such title.

22 **SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFE-**
23 **TY AND SYSTEM PERFORMANCE.**

24 Section 5121(g) is amended—

1 (1) in paragraph (3) by striking “or” after the
2 semicolon;

3 (2) by redesignating paragraph (4) as para-
4 graph (5); and

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) to work with State enforcement personnel
8 with information and training relating to the uni-
9 form enforcement of the regulations governing the
10 transportation of hazardous material; or”.

11 **SEC. 9017. SAFETY REPORTING.**

12 Section 5121(h) is amended—

13 (1) in the heading by inserting “BIENNIAL” be-
14 fore “REPORT”;

15 (2) in the matter before paragraph (1) by strik-
16 ing “materials during” and inserting “material in all
17 modes of transportation during”;

18 (3) by redesignating paragraphs (2) through
19 (6) as paragraphs (3) through (7), respectively;

20 (4) by inserting after paragraph (1) the fol-
21 lowing:

22 “(2) a summary of the hazardous material
23 transported during the period covered by the report,
24 set forth by the type and quantity of hazardous ma-
25 terial and by mode;”;

1 (5) in paragraph (4), as redesignated by para-
2 graph (3) of this section, by striking “permit” and
3 inserting “permit issued”;

4 (6) in paragraph (5), as redesignated by para-
5 graph (3) of this section, by striking “activities” and
6 inserting “activities, including activities conducted
7 under subsections (c) and (d),”; and

8 (7) in paragraph (7), as redesignated by para-
9 graph (3) of this section, by striking “appropriate
10 legislation” and inserting “legislative action that the
11 Secretary considers appropriate”.

12 **SEC. 9018. CIVIL PENALTIES.**

13 (a) PENALTY.—Section 5123(a) is amended—

14 (1) in paragraph (1) by striking “at least \$250
15 but”;

16 (2) by striking paragraph (3) and redesignating
17 paragraph (4) as paragraph (3); and

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

19 “(4) A carrier shall not be liable for violations of this
20 chapter, or a regulation issued under this chapter, stem-
21 ming from pre-transportation functions, as defined in sec-
22 tion 171.1 of title 49, Code of Federal Regulations, that
23 are performed by another person unless the carrier has
24 actual knowledge of a violation.”.

1 (b) PENALTY FOR FAILURE TO MAINTAIN RECORDS,
2 REPORTS, AND INFORMATION.—Section 5123 is amended
3 by adding at the end the following:

4 “(h) PENALTY FOR FAILURE TO MAINTAIN
5 RECORDS, REPORTS, AND INFORMATION.—The Secretary
6 may impose a penalty on a person who fails to comply
7 with section 5121(b).”.

8 **SEC. 9019. PREEMPTION.**

9 (a) BURDEN ON COMMERCE.—Section 5125(a) is
10 amended—

11 (1) in paragraph (1) by striking “or” after the
12 semicolon;

13 (2) in paragraph (2) by striking the period at
14 the end and inserting “; or”; and

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

16 “(3) the requirement of the State, political sub-
17 division, or Indian tribe, as applied or enforced, is
18 an unreasonable burden on commerce.”.

19 (b) SUBSTANTIVE DIFFERENCES.—Section
20 5125(b)(1)(D) is amended by striking “written”.

21 (c) ROUTE REGISTRY.—Section 5125(c)(1) is amend-
22 ed by striking the period at the end and inserting “and
23 is published in the Department’s hazardous material route
24 registry under section 5112(c).”.

1 (d) FEES.—Section 5125(f)(2) is amended by strik-
2 ing “, upon the Secretary’s request,” and inserting “bien-
3 nially”.

4 (e) NON-FEDERAL ENFORCEMENT STANDARDS.—
5 Section 5125 is amended by striking subsection (h).

6 (f) CONFORMING CHANGE.—Section 5125 is further
7 amended—

8 (1) in subsections (d)(1) and (e) by striking “or
9 section 5119(f)”; and

10 (2) in subsection (g) by striking “, and in sec-
11 tion 5119(f),”.

12 **SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 5128 is amended to read as follows:

14 **“§ 5128. Authorization of appropriations**

15 “(a) IN GENERAL.—In order to carry out this chap-
16 ter (except sections 5108(g)(2), 5113, 5115, 5116, and
17 5119), there are authorized to be appropriated to the Sec-
18 retary \$39,000,000 for each of fiscal years 2012 through
19 2016.

20 “(b) HAZARDOUS MATERIAL EMERGENCY PRE-
21 PAREDNESS FUND.—For each of the fiscal years 2012
22 through 2016, there shall be available to the Secretary,
23 from the account established pursuant to section 5116(i),
24 the following:

25 “(1) To carry out section 5115, \$188,000.

1 “(2) To carry out subsections (a) and (b) of
2 section 5116, \$21,800,000.

3 “(3) To carry out section 5116(f), \$150,000.

4 “(4) To publish and distribute the Emergency
5 Response Guidebook under section 5116(j)(3),
6 \$625,000.

7 “(5) To carry out section 5116(j), \$1,000,000.

8 “(c) ISSUANCE OF HAZMAT LICENSES.—There are
9 authorized to be appropriated to the Secretary such
10 amounts as may be necessary to carry out section 5103a.

11 “(d) CREDITS TO APPROPRIATIONS.—The Secretary
12 may credit to any appropriation to carry out this chapter
13 an amount received from a State, Indian tribe, or other
14 public authority or private entity for expenses the Sec-
15 retary incurs in providing training to the State, tribe, au-
16 thority, or entity.

17 “(e) UNIFORM FORMS AND PROCEDURES.—There
18 are authorized to be appropriated to the Secretary
19 \$1,000,000 to carry out section 5119. This amount shall
20 remain available to be expended by the Secretary for the
21 6-year period that begins on the date of enactment of this
22 section.

23 “(f) AVAILABILITY OF AMOUNTS.—Amounts made
24 available by or under this section, except for the amount

1 under subsection (e), shall remain available until ex-
2 pended.”.

3 **SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PRO-**
4 **GRAM.**

5 (a) IN GENERAL.—The Secretary of Transportation
6 shall establish pilot projects, at least one of which shall
7 be in a rural area, to evaluate the feasibility and cost effec-
8 tiveness of electronic shipping paper systems that facili-
9 tate the exchange of shipping paper information between
10 offerors of hazardous material under chapter 51 of title
11 49, United States Code, carriers, and emergency respond-
12 ers.

13 (b) REPORT.—

14 (1) IN GENERAL.—Not later than 3 years after
15 the date of enactment of this Act, the Secretary
16 shall transmit to the Committee on Transportation
17 and Infrastructure of the House of Representatives
18 and the Committee on Commerce, Science, and
19 Transportation of the Senate a report on the results
20 of the pilot projects carried out under this section.

21 (2) CONTENTS.—The report shall contain, at a
22 minimum—

23 (A) an evaluation of each pilot project, in-
24 cluding an evaluation of the impacts on safety
25 and the performance of each system evaluated

1 under that project and a cost-benefit analysis
2 for each mode of transportation; and

3 (B) based on the results of the cost-benefit
4 analyses, a recommendation on whether elec-
5 tronic shipping papers systems described in
6 subsection (a) should be incorporated into the
7 Federal hazardous material safety program
8 under chapter 51 of title 49, United States
9 Code, on a permanent basis.

10 **SEC. 9022. WETLINES.**

11 (a) STUDY.—

12 (1) IN GENERAL.—The Secretary of Transpor-
13 tation shall enter into an arrangement with an ob-
14 jective non-profit organization to conduct a peer-re-
15 viewed study of the transportation of flammable liq-
16 uids in the external product piping of cargo tank
17 motor vehicles (commonly referred to as “wetlines”).

18 (2) CONTENTS.—The study shall—

19 (A) accurately quantify the number of
20 wetlines incidents over a 10-year period;

21 (B) identify various alternatives to loading
22 and transporting flammable liquids in cargo
23 tank wetlines;

24 (C) examine the costs and benefits of each
25 alternative; and

1 (D) identify existing obstacles to imple-
2 menting each alternative.

3 (3) TRANSMITTAL.—Not later than 1 year after
4 the date of enactment of this Act, the Secretary
5 shall transmit to the Committee on Transportation
6 and Infrastructure of the House of Representatives
7 and the Committee on Commerce, Science, and
8 Transportation of the Senate a copy of the study.

9 (b) REGULATORY RESTRICTION.—The Secretary may
10 not issue a final rule regulating the transportation of flam-
11 mable liquids in the external product piping of cargo tank
12 motor vehicles.

13 **SEC. 9023. PRODUCT STUDY.**

14 (a) IN GENERAL.—The Secretary shall conduct a
15 study on whether it is necessary to continue to designate
16 any amount or form of finished pharmaceutical, finished
17 cosmetic, or similar product containing ethyl alcohol as a
18 hazardous material under section 5103(a) of title 49,
19 United States Code.

20 (b) CONTENTS.—The study conducted under sub-
21 section (a) shall include, at a minimum—

22 (1) an evaluation of the history, severity, and
23 costs of any incidents in transporting such products;

24 (2) an evaluation of the risk posed by such
25 products in commercial packaging in current use in

1 transportation and the risk associated in trans-
2 porting the products without any specific packaging
3 required by any applicable special permit or regula-
4 tion;

5 (3) the costs to the industry of designating the
6 products as hazardous material, including the cost of
7 regulation, as compared with the costs of incidents
8 that have occurred or are probable with regard to
9 the products; and

10 (4) a summary of comments from industry
11 stakeholders and the public on whether there is a
12 need for continued designation of such products as
13 hazardous material.

14 (c) TRANSMITTAL.—Not later than 1 year after the
15 date of enactment of this Act, the Secretary shall transmit
16 to the Committee on Transportation and Infrastructure
17 of the House of Representatives and the Committee on
18 Commerce, Science, and Transportation of the Senate a
19 report on the results of the study conducted under sub-
20 section (a) and any proposed actions to be taken by the
21 Secretary resulting from the study.

1 **TITLE X—WATERBORNE**
2 **TRANSPORTATION**

3 **SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.**
4

5 (a) FINDINGS.—Congress finds the following:

6 (1) There are 926 ports served by federally
7 maintained channels which handle more than 2.2 bil-
8 lion tons of cargo annually, and this figure is ex-
9 pected to increase.

10 (2) More than \$1.1 trillion in foreign commerce
11 enters the United States through the Nation’s ports
12 annually, and this figure is expected to increase.

13 (3) Expansion of the Panama Canal system in
14 Central America will likely be completed in 2014,
15 and this will present opportunities and challenges for
16 the Nation’s economic well-being.

17 (4) Insufficient maintenance dredging of the
18 Nation’s navigation channels results in inefficient
19 water transportation and harmful economic con-
20 sequences.

21 (5) In 1986, Congress created the Harbor
22 Maintenance Trust Fund to provide funds for the
23 operation and maintenance of the Nation’s naviga-
24 tion channels.

1 (6) The fiscal year 2011, Harbor Maintenance
2 Trust Fund equity grew by 13.7 percent from fiscal
3 year 2010 (to \$6.42 billion) and total annual re-
4 ceipts increased 17.3 percent (to \$1.6 billion).

5 (7) Despite growth of the Harbor Maintenance
6 Trust Fund, expenditures from the Harbor Mainte-
7 nance Trust Fund continue to decline.

8 (8) Despite growth of the Harbor Maintenance
9 Trust Fund, federally maintained channels are only
10 at their authorized widths or depths 35 percent of
11 the time, thereby restricting access to the Nation's
12 ports for both imports and exports.

13 (b) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 (1) the Harbor Maintenance Trust Fund is not
16 being used for its intended purpose and charging
17 maritime commerce a harbor maintenance tax while
18 failing to provide the service for which it was estab-
19 lished is unfair and places the Nation at economic
20 risk;

21 (2) the Administration should request full use
22 of the Harbor Maintenance Trust Fund for oper-
23 ating and maintaining the Nation's navigation sys-
24 tem; and

1 (3) Congress should fully expend the amounts
2 in the Harbor Maintenance Trust Fund to operate
3 and maintain the Nation’s navigation system.

4 **TITLE XI—REAUTHORIZATION**
5 **AND AMENDMENTS TO THE**
6 **SPORT FISH RESTORATION**
7 **AND BOATING TRUST FUND**

8 **SEC. 11001. SHORT TITLE.**

9 This title may be cited as the “Sportfishing and Rec-
10 reational Boating Safety Act of 2012”.

11 **SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE**
12 **SPORT FISH RESTORATION AND BOATING**
13 **TRUST FUND.**

14 (a) DINGELL-JOHNSON SPORT FISH RESTORATION
15 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
16 toration Act (16 U.S.C. 777c) is amended—

17 (1) in subsection (a) in the matter preceding
18 paragraph (1), by striking “For each of” and all
19 that follows through “the balance of each annual”
20 and inserting “For each fiscal year through fiscal
21 year 2016, the balance of each annual”;

22 (2) in subsection (b)(1)(A), by striking “From
23 the annual” and all that follows through “the Sec-
24 retary” and inserting “From the annual appropria-
25 tion made in accordance with section 3 for each fis-

1 cal year through fiscal year 2016, the Secretary”;
2 and

3 (3) in subsection (b)(1)(B)—

4 (A) by striking “The available amount”
5 and all that follows through “the sum of—”
6 and inserting “The available amount referred to
7 in subparagraph (A) is, for each fiscal year, the
8 sum of—”; and

9 (B) by redesignating subitems (aa) and
10 (bb) as clauses (i) and (ii), and moving them 4
11 items to the left.

12 (b) EXTENSION OF EXPENDITURE AUTHORITY FROM
13 THE SPORT FISH RESTORATION AND BOATING TRUST
14 FUND.—Section 9504 of the Internal Revenue Code of
15 1986 is amended—

16 (1) in subsection (b)(2), by striking “(as in ef-
17 fect on” each place it appears and all that follows
18 through the next closed parenthesis and inserting
19 “(as in effect on the date of enactment of the
20 Sportfishing and Recreational Boating Safety Act of
21 2012)”, and

22 (2) in subsection (d)(2), by striking “before”
23 and all that follows through “in accordance” and in-
24 serting “before October 1, 2016, in accordance”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Chapter
2 131 of title 46, United States Code, is amended—

3 (1) in section 13107(a)(2), by striking “two”
4 and inserting “1.5”; and

5 (2) in section 13107(c), by striking so much as
6 precedes paragraph (2) and inserting the following:

7 “(c)(1) Of the amount transferred to the Secretary
8 under section 4(a)(2) of the Dingell-Johnson Sport Fish
9 Restoration Act (16 U.S.C. 777c(a)(2))—

10 “(A) \$6,000,000 is available to the Secretary
11 for the payment of expenses of the Coast Guard for
12 personnel and activities directly related to coordi-
13 nating and carrying out the national recreational
14 boating safety program under this title, of which not
15 less than \$2,000,000 shall be available to the Sec-
16 retary only to ensure compliance with chapter 43 of
17 this title; and

18 “(B) \$100,000 is available to fund the activities
19 of the National Boating Safety Advisory Council es-
20 tablished under this chapter.”.

1 **TITLE XII—EXTENSION OF SUR-**
2 **FACE TRANSPORTATION PRO-**
3 **GRAMS**

4 **SEC. 12001. SHORT TITLE; EFFECTIVE DATE.**

5 (a) **SHORT TITLE.**—This title may be cited as the
6 “Surface Transportation Extension Act of 2012”.

7 (b) **EFFECTIVE DATE.**—The amendments made by
8 this title take effect on April 1, 2012.

9 **Subtitle A—Federal-Aid Highways**

10 **SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PRO-**
11 **GRAMS.**

12 (a) **IN GENERAL.**—Section 111 of the Surface Trans-
13 portation Extension Act of 2011, Part II (Public Law
14 112–30; 125 Stat. 343) is amended—

15 (1) by striking “the period beginning on Octo-
16 ber 1, 2011, and ending on March 31, 2012,” each
17 place it appears and inserting “fiscal year 2012”;

18 (2) by striking “½ of” each place it appears;
19 and

20 (3) in subsection (a) by striking “March 31,
21 2012” and inserting “September 30, 2012”.

22 (b) **USE OF FUNDS.**—Section 111(c) of the Surface
23 Transportation Extension Act of 2011, Part II (125 Stat.
24 343) is amended—

25 (1) in paragraph (3)—

1 (A) in subparagraph (A) by striking “, ex-
2 cept that during such period” and all that fol-
3 lows before the period at the end; and

4 (B) in subparagraph (B)(ii) by striking
5 “\$319,500,000” and inserting “\$639,000,000”;
6 and

7 (2) by striking paragraph (4).

8 (c) EXTENSION OF AUTHORIZATIONS UNDER TITLE
9 V OF SAFETEA-LU.—Section 111(e)(2) of the Surface
10 Transportation Extension Act of 2011, Part II (125 Stat.
11 343) is amended by striking “the period beginning on Oc-
12 tober 1, 2011, and ending on March 31, 2012.” and in-
13 serting “fiscal year 2012.”.

14 (d) ADMINISTRATIVE EXPENSES.—Section 112(a) of
15 the Surface Transportation Extension Act of 2011, Part
16 II (125 Stat. 346) is amended by striking “\$196,427,625
17 for the period beginning on October 1, 2011, and ending
18 on March 31, 2012.” and inserting “\$392,855,250 for fis-
19 cal year 2012.”.

1 **Subtitle B—Extension of Highway**
2 **Safety Programs**

3 **SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**
4 **SAFETY ADMINISTRATION HIGHWAY SAFETY**
5 **PROGRAMS.**

6 (a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Sec-
7 tion 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is
8 amended by striking “\$235,000,000 for fiscal year 2009”
9 and all that follows through the period at the end and
10 inserting “and \$235,000,000 for each of fiscal years 2009
11 through 2012.”.

12 (b) HIGHWAY SAFETY RESEARCH AND DEVELOP-
13 MENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat.
14 1519) is amended by striking “\$108,244,000 for fiscal
15 year 2011” and all that follows through the period at the
16 end and inserting “and \$108,244,000 for each of fiscal
17 years 2011 and 2012.”.

18 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—
19 Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519)
20 is amended by striking “, \$25,000,000 for fiscal year
21 2006” and all that follows through the period at the end
22 and inserting “and \$25,000,000 for each of fiscal years
23 2006 through 2012.”.

24 (d) SAFETY BELT PERFORMANCE GRANTS.—Section
25 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amend-

1 ed by striking “and \$24,250,000 for the period beginning
2 on October 1, 2011, and ending on March 31, 2012.” and
3 inserting “and \$48,500,000 for fiscal year 2012.”.

4 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
5 IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU
6 (119 Stat. 1519) is amended by striking “for fiscal year
7 2006” and all that follows through the period at the end
8 and inserting “for each of fiscal years 2006 through
9 2012.”.

10 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
11 MEASURES INCENTIVE GRANT PROGRAM.—Section
12 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amend-
13 ed by striking “\$139,000,000 for fiscal year 2009” and
14 all that follows through the period at the end and inserting
15 “and \$139,000,000 for each of fiscal years fiscal years
16 2009 through 2012.”.

17 (g) NATIONAL DRIVER REGISTER.—Section
18 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amend-
19 ed by striking “and \$2,058,000 for the period beginning
20 on October 1, 2011, and ending on March 31, 2012.” and
21 inserting “and \$4,000,000 for fiscal year 2012.”.

22 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—
23 Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520)
24 is amended by striking “for fiscal year 2006” and all that

1 follows through the period at the end and inserting “for
2 each of fiscal years 2006 through 2012.”.

3 (i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of
4 SAFETEA–LU (119 Stat. 1520) is amended by striking
5 “\$7,000,000 for fiscal year 2009” and all that follows
6 through the period at the end and inserting “and
7 \$7,000,000 for each of fiscal years 2009 through 2012.”.

8 (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFE-
9 TY INCENTIVE GRANTS.—Section 2001(a)(10) of
10 SAFETEA–LU (119 Stat. 1520) is amended by striking
11 “\$7,000,000 for fiscal year 2009” and all that follows
12 through the period at the end and inserting “and
13 \$7,000,000 for each of fiscal years 2009 through 2012.”.

14 (k) ADMINISTRATIVE EXPENSES.—Section
15 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is
16 amended by striking “\$25,328,000 for fiscal year 2011”
17 and all that follows through the period at the end and
18 inserting “and \$25,328,000 for each of fiscal years 2011
19 and 2012.”.

20 **SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER**
21 **SAFETY ADMINISTRATION PROGRAMS.**

22 (a) MOTOR CARRIER SAFETY GRANTS.—Section
23 31104(a)(8) of title 49, United States Code, is amended
24 to read as follows:

25 “(8) \$212,000,000 for fiscal year 2012.”.

1 (b) ADMINISTRATIVE EXPENSES.—Section
2 31104(i)(1)(H) of title 49, United States Code, is amend-
3 ed to read as follows:

4 “(H) \$244,144,000 for fiscal year 2012.”.

5 (c) GRANT PROGRAMS.—Section 4101(c) of
6 SAFETEA-LU (119 Stat. 1715) is amended—

7 (1) in paragraph (1) by striking “and
8 \$15,000,000 for the period beginning on October 1,
9 2011, and ending on March 31, 2012.” and insert-
10 ing “and \$30,000,000 for fiscal year 2012.”;

11 (2) in paragraph (2) by striking “2011 and
12 \$16,000,000 for the period beginning on October 1,
13 2011, and ending on March 31, 2012.” and insert-
14 ing “2012.”;

15 (3) in paragraph (3) by striking “2011 and
16 \$2,500,000 for the period beginning on October 1,
17 2011, and ending on March 31, 2012.” and insert-
18 ing “2012.”;

19 (4) in paragraph (4) by striking “2011 and
20 \$12,500,000 for the period beginning on October 1,
21 2011, and ending on March 31, 2012.” and insert-
22 ing “2012.”; and

23 (5) in paragraph (5) by striking “2011 and
24 \$1,500,000 for the period beginning on October 1,

1 2011, and ending on March 31, 2012.” and insert-
2 ing “2012”.

3 (d) HIGH-PRIORITY ACTIVITIES.—Section
4 31104(k)(2) of title 49, United States Code, is amended
5 by striking “2011 and \$7,500,000 for the period begin-
6 ning on October 1, 2011, and ending on March 31, 2012,”
7 and inserting “2012”.

8 (e) NEW ENTRANT AUDITS.—Section
9 31144(g)(5)(B) of title 49, United States Code, is amend-
10 ed by striking “and up to \$14,500,000 for the period be-
11 ginning on October 1, 2011, and ending on March 31,
12 2012,”.

13 (f) OUTREACH AND EDUCATION.—Section 4127(e) of
14 SAFETEA–LU (119 Stat. 1741) is amended by striking
15 “and 2011 (and \$500,000 to the Federal Motor Carrier
16 Safety Administration, and \$1,500,000 to the National
17 Highway Traffic Safety Administration, for the period be-
18 ginning on October 1, 2011, and ending on March 31,
19 2012)” and inserting “2011, and 2012”.

20 (g) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-
21 HICLE OPERATORS.—Section 4134(c) of SAFETEA–LU
22 (119 Stat. 1744) is amended by striking “2011 and
23 \$500,000 for the period beginning on October 1, 2011,
24 and ending on March 31, 2012,” and inserting “2012”.

1 (h) MOTOR CARRIER SAFETY ADVISORY COM-
2 MITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat.
3 1748) is amended by striking “March 31, 2012” and in-
4 serting “September 30, 2012”.

5 (i) WORKING GROUP FOR DEVELOPMENT OF PRAC-
6 TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE
7 RELATIONS.—Section 4213(d) of SAFETEA-LU (49
8 U.S.C. 14710 note; 119 Stat. 1759) is amended by strik-
9 ing “March 31, 2012” and inserting “September 30,
10 2012”.

11 **SEC. 12203. ADDITIONAL PROGRAMS.**

12 (a) HAZARDOUS MATERIALS RESEARCH
13 PROJECTS.—Section 7131(e) of SAFETEA-LU (119
14 Stat. 1910) is amended by striking “2011 and \$580,000
15 for the period beginning on October 1, 2011, and ending
16 on March 31, 2012,” and inserting “2012”.

17 (b) DINGELL-JOHNSON SPORT FISH RESTORATION
18 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
19 toration Act (16 U.S.C. 777c) is amended—

20 (1) in subsection (a) by striking “2011 and for
21 the period beginning on October 1, 2011, and ending
22 on March 31, 2012,” and inserting “2012,”; and

23 (2) in the first sentence of subsection (b)(1)(A)
24 by striking “2011 and for the period beginning on

1 October 1, 2011, and ending on March 31, 2012,”
2 and inserting “2012,”.

3 **Subtitle C—Public Transportation**
4 **Programs**

5 **SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PRO-**
6 **GRAMS.**

7 Section 5305(g) of title 49, United States Code, is
8 amended by striking “2011 and for the period beginning
9 on October 1, 2011, and ending on March 31, 2012” and
10 inserting “2012”.

11 **SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FOR-**
12 **MULA GRANTS.**

13 Section 5307(b)(2) of title 49, United States Code,
14 is amended—

15 (1) by striking the paragraph heading and in-
16 serting “SPECIAL RULE FOR FISCAL YEARS 2005
17 THROUGH 2012.—”;

18 (2) in subparagraph (A) by striking “2011 and
19 the period beginning on October 1, 2011, and ending
20 on March 31, 2012,” and inserting “2012,” ; and

21 (3) in subparagraph (E)—

22 (A) by striking the subparagraph heading
23 and inserting “MAXIMUM AMOUNTS IN FISCAL
24 YEARS 2008 THROUGH 2012.—”; and

1 (B) in the matter preceding clause (i) by
2 striking “2011 and during the period beginning
3 on October 1, 2011, and ending on March 31,
4 2012” and inserting “2012”.

5 **SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**
6 **MENT GRANTS.**

7 Section 5309(m) of title 49, United States Code, is
8 amended—

9 (1) in paragraph (2)—

10 (A) by striking the paragraph heading and
11 inserting “FISCAL YEARS 2006 THROUGH
12 2012.—”;

13 (B) in the matter preceding subparagraph
14 (A) by striking “2011 and the period beginning
15 on October 1, 2011, and ending on March 31,
16 2012,” and inserting “2012”; and

17 (C) in subparagraph (A)(i) by striking
18 “2011 and \$100,000,000 for the period begin-
19 ning on October 1, 2011, and ending on March
20 31, 2012,” and inserting “2012”;

21 (2) in paragraph (6)—

22 (A) in subparagraph (B) by striking “2011
23 and \$7,500,000 shall be available for the period
24 beginning on October 1, 2011, and ending on
25 March 31, 2012,” and inserting “2012”; and

1 (B) in subparagraph (C) by striking “2011
2 and \$2,500,000 shall be available for the period
3 beginning on October 1, 2011, and ending on
4 March 31, 2012,” and inserting “2012”; and

5 (3) in paragraph (7)—

6 (A) in subparagraph (A)—

7 (i) in the matter preceding clause

8 (i)—

9 (I) in the first sentence by strik-
10 ing “2011 and \$5,000,000 shall be
11 available for the period beginning on
12 October 1, 2011, and ending on
13 March 31, 2012,” and inserting
14 “2012”; and

15 (II) in the second sentence by in-
16 serting “each fiscal year” before the
17 colon;

18 (ii) in clause (i) by striking “for each
19 fiscal year and \$1,250,000 for the period
20 beginning on October 1, 2011, and ending
21 on March 31, 2012,”;

22 (iii) in clause (ii) by striking “for each
23 fiscal year and \$1,250,000 for the period
24 beginning on October 1, 2011, and ending
25 on March 31, 2012,”;

1 (iv) in clause (iii) by striking “for
2 each fiscal year and \$500,000 for the pe-
3 riod beginning on October 1, 2011, and
4 ending on March 31, 2012,”;

5 (v) in clause (iv) by striking “for each
6 fiscal year and \$500,000 for the period be-
7 ginning on October 1, 2011, and ending on
8 March 31, 2012,”;

9 (vi) in clause (v) by striking “for each
10 fiscal year and \$500,000 for the period be-
11 ginning on October 1, 2011, and ending on
12 March 31, 2012,”;

13 (vii) in clause (vi) by striking “for
14 each fiscal year and \$500,000 for the pe-
15 riod beginning on October 1, 2011, and
16 ending on March 31, 2012,”;

17 (viii) in clause (vii) by striking “for
18 each fiscal year and \$325,000 for the pe-
19 riod beginning on October 1, 2011, and
20 ending on March 31, 2012,”; and

21 (ix) in clause (viii) by striking “for
22 each fiscal year and \$175,000 for the pe-
23 riod beginning on October 1, 2011, and
24 ending on March 31, 2012,”;

1 (B) in subparagraph (B) by striking clause
2 (vii) and inserting the following:

3 “(vii) \$13,500,000 for fiscal year
4 2012.”;

5 (C) in subparagraph (C) by striking “and
6 during the period beginning on October 1,
7 2011, and ending on March 31, 2012.”;

8 (D) in subparagraph (D) by striking “and
9 not less than \$17,500,000 shall be available for
10 the period beginning on October 1, 2011, and
11 ending on March 31, 2012.”; and

12 (E) in subparagraph (E) by striking “and
13 \$1,500,000 shall be available for the period be-
14 ginning on October 1, 2011, and ending on
15 March 31, 2012.”.

16 **SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR**
17 **OTHER THAN URBANIZED AREAS.**

18 Section 5311(c)(1)(G) of title 49, United States
19 Code, is amended to read as follows:

20 “(G) \$15,000,000 for fiscal year 2012.”.

21 **SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY**
22 **FACTORS.**

23 Section 5337 of title 49, United States Code, is
24 amended by striking subsection (g).

1 **SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**
2 **TATION.**

3 (a) **FORMULA AND BUS GRANTS.**—Section 5338(b)
4 of title 49, United States Code, is amended—

5 (1) in paragraph (1) by striking subparagraph
6 (G) and inserting the following:

7 “(G) \$8,360,565,000 for fiscal year
8 2012.”; and

9 (2) in paragraph (2)—

10 (A) in subparagraph (A) by striking
11 “\$113,500,000 for each of fiscal years 2009
12 and 2010, \$113,500,000 for fiscal year 2011,
13 and \$56,750,000 for the period beginning on
14 October 1, 2011, and ending on March 31,
15 2012,” and inserting “and \$113,500,000 for
16 each of fiscal years 2009 through 2012”;

17 (B) in subparagraph (B) by striking
18 “\$4,160,365,000 for each of fiscal years 2009
19 and 2010, \$4,160,365,000 for fiscal year 2011,
20 and \$2,080,182,500 for the period beginning on
21 October 1, 2011, and ending on March 31,
22 2012,” and inserting “and \$4,160,365,000 for
23 each of fiscal years 2009 through 2012”;

24 (C) in subparagraph (C) by striking
25 “\$51,500,000 for each of fiscal years 2009 and
26 2010, \$51,500,000 for fiscal year 2011, and

1 \$25,750,000 for the period beginning on Octo-
2 ber 1, 2011, and ending on March 31, 2012,”
3 and inserting “and \$51,500,000 for each of fis-
4 cal years 2009 through 2012”;

5 (D) in subparagraph (D) by striking
6 “\$1,666,500,000 for each of fiscal years 2009
7 and 2010, \$1,666,500,000 for fiscal year 2011,
8 and \$833,250,000 for the period beginning on
9 October 1, 2011, and ending on March 31,
10 2012,” and inserting “and \$1,666,500,000 for
11 each of fiscal years 2009 through 2012”;

12 (E) in subparagraph (E) by striking
13 “\$984,000,000 for each of fiscal years 2009
14 and 2010, \$984,000,000 for fiscal year 2011,
15 and \$492,000,000 for the period beginning on
16 October 1, 2011, and ending on March 31,
17 2012,” and inserting “and \$984,000,000 for
18 each of fiscal years 2009 through 2012”;

19 (F) in subparagraph (F) by striking
20 “\$133,500,000 for each of fiscal years 2009
21 and 2010, \$133,500,000 for fiscal year 2011,
22 and \$66,750,000 for the period beginning on
23 October 1, 2011, and ending on March 31,
24 2012,” and inserting “and \$133,500,000 for
25 each of fiscal years 2009 through 2012”;

1 (G) in subparagraph (G) by striking
2 “\$465,000,000 for each of fiscal years 2009
3 and 2010, \$465,000,000 for fiscal year 2011,
4 and \$232,500,000 for the period beginning on
5 October 1, 2011, and ending on March 31,
6 2012,” and inserting “and \$465,000,000 for
7 each of fiscal years 2009 through 2012”;

8 (H) in subparagraph (H) by striking
9 “\$164,500,000 for each of fiscal years 2009
10 and 2010, \$164,500,000 for fiscal year 2011,
11 and \$82,250,000 for the period beginning on
12 October 1, 2011, and ending on March 31,
13 2012,” and inserting “and \$164,500,000 for
14 each of fiscal years 2009 through 2012”;

15 (I) in subparagraph (I) by striking
16 “\$92,500,000 for each of fiscal years 2009 and
17 2010, \$92,500,000 for fiscal year 2011, and
18 \$46,250,000 for the period beginning on Octo-
19 ber 1, 2011, and ending on March 31, 2012,”
20 and inserting “and \$92,500,000 for each of fis-
21 cal years 2009 through 2012”;

22 (J) in subparagraph (J) by striking
23 “\$26,900,000 for each of fiscal years 2009 and
24 2010, \$26,900,000 for fiscal year 2011, and
25 \$13,450,000 for the period beginning on Octo-

1 ber 1, 2011, and ending on March 31, 2012,”
2 and inserting “and \$26,900,000 for each of fis-
3 cal years 2009 through 2012”;

4 (K) in subparagraph (K) by striking “in
5 fiscal year 2006” and all that follows through
6 “March 31, 2012,” and inserting “for each of
7 fiscal years 2006 through 2012”;

8 (L) in subparagraph (L) by striking “in
9 fiscal year 2006” and all that follows through
10 “March 31, 2012,” and inserting “for each of
11 fiscal years 2006 through 2012”;

12 (M) in subparagraph (M) by striking
13 “\$465,000,000 for each of fiscal years 2009
14 and 2010, \$465,000,000 for fiscal year 2011,
15 and \$232,500,000 for the period beginning on
16 October 1, 2011, and ending on March 31,
17 2012,” and inserting “and \$465,000,000 for
18 each of fiscal years 2009 through 2012”; and

19 (N) in subparagraph (N) by striking
20 “\$8,800,000 for each of fiscal years 2009 and
21 2010, \$8,800,000 for fiscal year 2011, and
22 \$4,400,000 for the period beginning on October
23 1, 2011, and ending on March 31, 2012,” and
24 inserting “and \$8,800,000 for each of fiscal
25 years 2009 through 2012”.

1 (b) CAPITAL INVESTMENT GRANTS.—Section
2 5338(c)(7) of title 49, United States Code, is amended
3 to read as follows:

4 “(7) \$1,600,000,000 for fiscal year 2012.”.

5 (c) RESEARCH AND UNIVERSITY RESEARCH CEN-
6 TERS.—Section 5338(d) of title 49, United States Code,
7 is amended—

8 (1) in paragraph (1), in the matter preceding
9 subparagraph (A), by striking “and 2010,
10 \$69,750,000 for fiscal year 2011, and \$29,500,000
11 for the period beginning on October 1, 2011, and
12 ending on March 31, 2012,” and inserting “through
13 2011 and \$44,000,000 for fiscal year 2012”; and

14 (2) by striking paragraph (3) and inserting the
15 following:

16 “(3) ADDITIONAL AUTHORIZATIONS.—

17 “(A) RESEARCH.—Of amounts authorized
18 to be appropriated under paragraph (1) for fis-
19 cal year 2012, the Secretary shall allocate for
20 each of the activities and projects described in
21 subparagraphs (A) through (F) of paragraph
22 (1) an amount equal to 63 percent of the
23 amount allocated for fiscal year 2009 under
24 each such subparagraph.

25 “(B) UNIVERSITY CENTERS PROGRAM.—

1 “(i) FISCAL YEAR 2012.—Of the
2 amounts allocated under subparagraph
3 (A)(i) for the university centers program
4 under section 5506 for fiscal year 2012,
5 the Secretary shall allocate for each pro-
6 gram described in clauses (i) through (iii)
7 and (v) through (viii) of paragraph (2)(A)
8 an amount equal to 63 percent of the
9 amount allocated for fiscal year 2009
10 under each such clause.

11 “(ii) FUNDING.—If the Secretary de-
12 termines that a project or activity de-
13 scribed in paragraph (2) received sufficient
14 funds in fiscal year 2011, or a previous fis-
15 cal year, to carry out the purpose for
16 which the project or activity was author-
17 ized, the Secretary may not allocate any
18 amounts under clause (i) for the project or
19 activity for fiscal year 2012 or any subse-
20 quent fiscal year.”.

21 (d) ADMINISTRATION.—Section 5338(e)(7) of title
22 49, United States Code, is amended to read as follows:

23 “(7) \$98,713,000 for fiscal year 2012.”.

1 **SEC. 12307. AMENDMENTS TO SAFETEA-LU.**

2 (a) **CONTRACTED PARATRANSIT PILOT.**—Section
3 3009(i)(1) of SAFETEA–LU (119 Stat. 1572) is amend-
4 ed by striking “2011 and the period beginning on October
5 1, 2011, and ending on March 31, 2012,” and inserting
6 “2012”.

7 (b) **PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-**
8 **GRAM.**—Section 3011 of SAFETEA–LU (49 U.S.C. 5309
9 note; 119 Stat. 1588) is amended—

10 (1) in subsection (c)(5) by striking “2011 and
11 the period beginning on October 1, 2011, and ending
12 on March 31, 2012” and inserting “2012”; and

13 (2) in the second sentence of subsection (d) by
14 striking “2011 and the period beginning on October
15 1, 2011, and ending on March 31, 2012,” and in-
16 serting “2012”.

17 (c) **ELDERLY INDIVIDUALS AND INDIVIDUALS WITH**
18 **DISABILITIES PILOT PROGRAM.**—Section 3012(b)(8) of
19 SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1593)
20 is amended by striking “March 31, 2012” and inserting
21 “September 30, 2012”.

22 (d) **OBLIGATION CEILING.**—Section 3040(8) of
23 SAFETEA–LU (119 Stat. 1639) is amended to read as
24 follows:

1 “(8) \$10,458,278,000 for fiscal year 2012, of
2 which not more than \$8,360,565,000 shall be from
3 the Mass Transit Account.”.

4 (e) PROJECT AUTHORIZATIONS FOR NEW FIXED
5 GUIDEWAY CAPITAL PROJECTS.—Section 3043 of
6 SAFETEA-LU (119 Stat. 1640) is amended—

7 (1) in subsection (b), in the matter preceding
8 paragraph (1), by striking “2011 and the period be-
9 ginning on October 1, 2011, and ending on March
10 31, 2012,” and inserting “2012”; and

11 (2) in subsection (c), in the matter preceding
12 paragraph (1), by striking “2011 and the period be-
13 ginning on October 1, 2011, and ending on March
14 31, 2012,” and inserting “2012”.

15 (f) ALLOCATIONS FOR NATIONAL RESEARCH AND
16 TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-
17 LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

18 (1) in subsection (b) by striking “fiscal year or
19 period” and inserting “fiscal year”; and

20 (2) by striking subsection (c)(2) and inserting
21 the following:

22 “(2) for fiscal year 2012, in amounts equal to
23 63 percent of the amounts allocated for fiscal year

- 1 2009 under each of paragraphs (2), (3), (5), and (8)
- 2 through (25) of subsection (a).”.

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