

1                   **DIVISION B—PUBLIC**  
2                   **TRANSPORTATION**

3 **SEC. 20001. SHORT TITLE; TABLE OF CONTENTS.**

4           (a) **SHORT TITLE.**—This division may be cited as the  
5 “Federal Public Transportation Act of 2012”.

6           (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this division is as follows:

- Sec. 20001. Short title; table of contents.
- Sec. 20002. Repeals.
- Sec. 20003. Policies, purposes, and goals.
- Sec. 20004. Definitions.
- Sec. 20005. Metropolitan transportation planning.
- Sec. 20006. Statewide and nonmetropolitan transportation planning.
- Sec. 20007. Public Transportation Emergency Relief Program.
- Sec. 20008. Urbanized area formula grants.
- Sec. 20009. Clean fuel grant program.
- Sec. 20010. Fixed guideway capital investment grants.
- Sec. 20011. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
- Sec. 20012. Formula grants for other than urbanized areas.
- Sec. 20013. Research, development, demonstration, and deployment projects.
- Sec. 20014. Technical assistance and standards development.
- Sec. 20015. Bus testing facilities.
- Sec. 20016. Public transportation workforce development and human resource programs.
- Sec. 20017. General provisions.
- Sec. 20018. Contract requirements.
- Sec. 20019. Transit asset management.
- Sec. 20020. Project management oversight.
- Sec. 20021. Public transportation safety.
- Sec. 20022. Alcohol and controlled substances testing.
- Sec. 20023. Nondiscrimination.
- Sec. 20024. Labor standards.
- Sec. 20025. Administrative provisions.
- Sec. 20026. National transit database.
- Sec. 20027. Apportionment of appropriations for formula grants.
- Sec. 20028. State of good repair grants.
- Sec. 20029. Authorizations.
- Sec. 20030. Apportionments based on growing States and high density States formula factors.
- Sec. 20031. Technical and conforming amendments.

1 **SEC. 20002. REPEALS.**

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

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

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10 repealed:

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

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

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

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

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

21 **SEC. 20003. POLICIES, PURPOSES, AND GOALS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(A) connecting workers to jobs;

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

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

8 **SEC. 20004. DEFINITIONS.**

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

11 **“§ 5302. Definitions**

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

14           “(1) ASSOCIATED TRANSIT IMPROVEMENT.—

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

20       Eligible projects are—

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

1           “(B) bus shelters;

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

4           “(D) pedestrian access and walkways;

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

9           “(F) signage; or

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

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

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

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

22           “(i) defined stations;

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

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

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

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

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

24                   “(B) rehabilitating a bus;

25                   “(C) remanufacturing a bus;

1 “(D) overhauling rail rolling stock;

2 “(E) preventive maintenance;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

9 "(K) mobility management—

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

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

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

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

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

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

11 “(4) DESIGNATED RECIPIENT.—The term ‘des-  
12 ignated recipient’ means—

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

20 “(B) a State or regional authority, if the  
21 authority is responsible under the laws of a  
22 State for a capital project and for financing  
23 and directly providing public transportation.

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

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

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

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

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

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

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

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

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

25           “(B) using rail;

1 “(C) using a fixed catenary system;

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

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

4 “(8) GOVERNOR.—The term ‘Governor’—

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

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

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

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

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

16 “(C) an Indian tribe; and

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

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

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

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

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

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

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

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

20                 “(B) does not include—

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

25                         “(ii) intercity bus service;

1 “(iii) charter bus service;

2 “(iv) school bus service;

3 “(v) sightseeing service;

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

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

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

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

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

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

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



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

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

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

15 **SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8           “(8) NONMETROPOLITAN AREA.—

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

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

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

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

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

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

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

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

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

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

23          “(B) is located in a rural area—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(C) appropriate State officials.



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

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

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

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

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

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

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

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

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

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

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

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

25                   “(6) REDESIGNATION.—

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

8                   “(i) the applicable Governor; and

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

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

20           “(7) DESIGNATION OF MULTIPLE MPOS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           “(e) REQUIREMENTS.—

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

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

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

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

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

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

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

15          “(4) TIERING.—

16          “(A) TIER I MPOS.—

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

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



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

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

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

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

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

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

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

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

24 “(B) TIER II MPOS.—

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

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

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

17                   “(II) include—

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

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

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

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

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

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

1 “(C) CONSOLIDATION.—

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

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

14 “(f) COORDINATION IN MULTISTATE AREAS.—

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

6 “(h) SCOPE OF PLANNING PROCESS.—

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

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

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

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

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

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

1 local planned growth and economic development  
2 patterns;

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

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

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

11 “(2) PERFORMANCE-BASED APPROACH.—

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

19 “(B) PERFORMANCE TARGETS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1                   “(vii) the statewide transportation  
2                   plan.

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

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

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

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

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

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

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

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

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

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

1 the metropolitan transportation plan and  
2 transportation improvement program;

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

6 “(I) convenient; and

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

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

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

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

22 “(1) DEVELOPMENT.—

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



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

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

14                           “(i) a nonattainment area; or

15                           “(ii) a maintenance area.

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

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

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

22                           “(C) contain, at a minimum—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(3) SCENARIO DEVELOPMENT.—

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

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

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

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

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

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

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

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

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

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

1                   “(ii) Freight movement.

2                   “(iii) Safety.

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

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

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

10                  “(B) contain a description of—

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

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



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

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

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

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

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

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

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

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

11             “(7) CONSULTATION.—

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

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

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

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

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

10                  “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

11                   “(1) DEVELOPMENT.—

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

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

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

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

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

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

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

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

22                  “(2) CONTENTS.—

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

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

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

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

1                   “(D) ILLUSTRATIVE LIST OF PROJECTS.—

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

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

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

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

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

17                  “(B) contain a description of—

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

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

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

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

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

22 “(4) INCLUDED PROJECTS.—

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

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

5 “(B) PROJECTS UNDER CHAPTER 2.—

6 “(i) REGIONALLY SIGNIFICANT.—

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

11 “(ii) NONREGIONALLY SIGNIFI-

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

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

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



1           “(6) SELECTION OF PROJECTS.—

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

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

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

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

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

13 “(7) PUBLICATION.—

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

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

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

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

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

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

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

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

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

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

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

7       “(1) CERTIFICATION.—

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

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

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

18       “(2) REQUIREMENTS FOR CERTIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           “(2) REPORT.—

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

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

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

1           politan planning organization under this  
2           section.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17                (B) facilitate multimodal connectivity and  
18                accessibility;

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

21                (D) enable mixed-use development;

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

24                (F) include private sector participation.

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

6                   (A) identification of an eligible project;

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

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

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

16                  (E) identification of—

17                           (i) partners;

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

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

1 **SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANS-**  
2 **PORTATION PLANNING.**

3 Section 5304 of title 49, United States Code, is  
4 amended to read as follows:

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

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

9 “(1) DEVELOPMENT.—

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

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

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

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

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

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

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

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

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

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

5           “(b) COORDINATION AND CONSULTATION.—

6           “(1) IN GENERAL.—Each State shall—

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

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

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

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

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

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

4           “(2) MULTISTATE AREAS.—

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

7           “(d) SCOPE OF PLANNING PROCESS.—

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

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

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

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

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

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

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

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

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

15          “(2) PERFORMANCE-BASED APPROACH.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17                   “(I) convenient; and

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

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



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

7                   “(e) COORDINATION AND CONSULTATION.—

8                   “(1) METROPOLITAN AREAS.—

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

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

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

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

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

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

21                   “(A) the tribal government; and

22                   “(B) the Secretary of the Interior.

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

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

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

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

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

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

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

22 “(f) STATEWIDE TRANSPORTATION PLAN.—

23 “(1) DEVELOPMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 performance recorded in previous  
2 reports; and

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

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

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

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

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

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

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

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



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

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

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

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

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

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

5                   “(B) contain a description of—

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

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

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

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

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

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

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



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

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

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

16          “(C) OTHER REQUIREMENTS.—

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

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

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

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

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

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

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

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

24           “(2) CONTENTS.—

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

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

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

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

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

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

6 “(D) ILLUSTRATIVE LIST OF PROJECTS.—  
7 An optional illustrative list of projects may be  
8 prepared containing additional investment pri-  
9 orities that—

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

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

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

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

21 “(B) contain a description of—

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



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

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

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

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

1           “(4) INCLUDED PROJECTS.—

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

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

10                   “(i) REGIONALLY SIGNIFICANT.—

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

16                   “(ii) NONREGIONALLY SIGNIFI-

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

24           “(5) PUBLICATION.—

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

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

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

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

10           “(7) APPROVAL BY SECRETARY.—

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

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

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

7           “(h) CERTIFICATION.—

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

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

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

18          “(2) REQUIREMENTS FOR CERTIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(2) REPORT.—

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

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

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

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

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

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

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

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

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



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

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

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

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

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

3 **SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF**  
4 **PROGRAM.**

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

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

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

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

13 “(A) evacuation services;

14 “(B) rescue operations;

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

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

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

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

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

8           “(b) GENERAL AUTHORITY.—

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

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

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

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

8           “(c) COORDINATION OF EMERGENCY FUNDS.—

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

12           “(A) under this chapter; or

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

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

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

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

4 “(e) INTERAGENCY AGREEMENT.—

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

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

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

23 “(g) GOVERNMENT SHARE OF COSTS.—

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

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

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

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

12 **SEC. 20008. URBANIZED AREA FORMULA GRANTS.**

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

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

16 “(a) GENERAL AUTHORITY.—

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

19 “(A) capital projects;

20 “(B) planning; and

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

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

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

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

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

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

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

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

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

9 “(I) greater than 7 percent; and

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

15 “(B) AWARD OF GRANT.—

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

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



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

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

18 “(C) LIMITATION.—

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

1 be available for operating assistance for  
2 the area.

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

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

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

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

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

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

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

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



1 of public transportation by workers with  
2 nontraditional work schedules;

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

7 “(iv) promoting the use of employer-  
8 provided transportation, including the  
9 transit pass benefit program under section  
10 132 of the Internal Revenue Code of 1986;  
11 and

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

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

18 “(ii) guaranteed ride home programs;

19 “(iii) bicycle storage facilities; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

9           “(i) senior;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(2) the Secretary accepts the certification.

19 “(e) GOVERNMENT SHARE OF COSTS.—

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

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

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

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

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

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

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

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

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

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

5        “(f) UNDERTAKING PROJECTS IN ADVANCE.—

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

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

14                “(B) the Secretary approves the payment;

15                and

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

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

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

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

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

12             “(3) FINANCING COSTS.—

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

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

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

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

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

5           “(1) ANNUAL REVIEW.—

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

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

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

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

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

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

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

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

19 “(i) PASSENGER FERRY GRANT PROGRAM.—

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

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



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

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

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

12 **SEC. 20009. CLEAN FUEL GRANT PROGRAM.**

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

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

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

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

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

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

3 “(3) DIRECT CARBON EMISSIONS.—The term  
4 ‘direct carbon emissions’ means the quantity of di-  
5 rect greenhouse gas emissions from a vehicle, as de-  
6 termined by the Administrator of the Environmental  
7 Protection Agency.

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

10 “(A) designated as a nonattainment area  
11 for ozone or carbon monoxide under section  
12 107(d) of the Clean Air Act (42 U.S.C.  
13 7407(d)); or

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

16 “(5) ELIGIBLE PROJECT.—The term ‘eligible  
17 project’ means a project or program of projects in  
18 an eligible area for—

19 “(A) acquiring or leasing clean fuel vehi-  
20 cles;

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

23 “(C) constructing new public transpor-  
24 tation facilities to accommodate clean fuel vehi-  
25 cles; or

1           “(D) rehabilitating or improving existing  
2           public transportation facilities to accommodate  
3           clean fuel vehicles.

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

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

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

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

16          “(c) GRANT REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

19 **SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT**  
20 **GRANTS.**

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

23 **“§ 5309. Fixed guideway capital investment grants**

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

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

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

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

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

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

16           “(i) defined stations;

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

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

22           “(iv) any other features the Secretary  
23 may determine are necessary to produce  
24 high-quality public transportation services  
25 that emulate the services provided by rail

1 fixed guideway public transportation sys-  
2 tems.

3 “(3) CORE CAPACITY IMPROVEMENT  
4 PROJECT.—The term ‘core capacity improvement  
5 project’ means a substantial corridor-based capital  
6 investment in an existing fixed guideway system that  
7 adds capacity and functionality.

8 “(4) NEW FIXED GUIDEWAY CAPITAL  
9 PROJECT.—The term ‘new fixed guideway capital  
10 project’ means—

11 “(A) a new fixed guideway project that is  
12 a minimum operable segment or extension to an  
13 existing fixed guideway system; or

14 “(B) a bus rapid transit project that is a  
15 minimum operable segment or an extension to  
16 an existing bus rapid transit system.

17 “(5) PROGRAM OF INTERRELATED PROJECTS.—  
18 The term ‘program of interrelated projects’ means  
19 the simultaneous development of—

20 “(A) 2 or more new fixed guideway capital  
21 projects or core capacity improvement projects;  
22 or

23 “(B) 1 or more new fixed guideway capital  
24 projects and 1 or more core capacity improve-  
25 ment projects.

1       “(b) GENERAL AUTHORITY.—The Secretary may  
2 make grants under this section to State and local govern-  
3 mental authorities to assist in financing—

4           “(1) new fixed guideway capital projects, in-  
5 cluding the acquisition of real property, the initial  
6 acquisition of rolling stock for the system, the acqui-  
7 sition of rights-of-way, and relocation, for fixed  
8 guideway corridor development for projects in the  
9 advanced stages of project development or engineer-  
10 ing; and

11           “(2) core capacity improvement projects, includ-  
12 ing the acquisition of real property, the acquisition  
13 of rights-of-way, double tracking, signalization im-  
14 provements, electrification, expanding system plat-  
15 forms, acquisition of rolling stock, construction of  
16 infill stations, and such other capacity improvement  
17 projects as the Secretary determines are appro-  
18 priate.

19       “(c) GRANT REQUIREMENTS.—

20           “(1) IN GENERAL.—The Secretary may make a  
21 grant under this section for new fixed guideway cap-  
22 ital projects or core capacity improvement projects,  
23 if the Secretary determines that—

1           “(A) the project is part of an approved  
2           transportation plan required under sections  
3           5303 and 5304; and

4           “(B) the applicant has, or will have—

5                 “(i) the legal, financial, and technical  
6                 capacity to carry out the project, including  
7                 the safety and security aspects of the  
8                 project;

9                 “(ii) satisfactory continuing control  
10                over the use of the equipment or facilities;  
11                and

12                “(iii) the technical and financial ca-  
13                pacity to maintain new and existing equip-  
14                ment and facilities.

15           “(2) CERTIFICATION.—An applicant that has  
16           submitted the certifications required under subpara-  
17           graphs (A), (B), (C), and (H) of section 5307(d)(1)  
18           shall be deemed to have provided sufficient informa-  
19           tion upon which the Secretary may make the deter-  
20           minations required under this subsection.

21           “(3) TECHNICAL CAPACITY.—The Secretary  
22           shall use an expedited technical capacity review  
23           process for applicants that have recently and suc-  
24           cessfully completed at least 1 new bus rapid transit



1 project, new fixed guideway capital project, or core  
2 capacity improvement project, if—

3 “(A) the applicant achieved budget, cost,  
4 and ridership outcomes for the project that are  
5 consistent with or better than projections; and

6 “(B) the applicant demonstrates that the  
7 applicant continues to have the staff expertise  
8 and other resources necessary to implement a  
9 new project.

10 “(4) RECIPIENT REQUIREMENTS.—A recipient  
11 of a grant awarded under this section shall be sub-  
12 ject to all terms, conditions, requirements, and pro-  
13 visions that the Secretary determines to be necessary  
14 or appropriate for purposes of this section.

15 “(d) NEW FIXED GUIDEWAY GRANTS.—

16 “(1) PROJECT DEVELOPMENT PHASE.—

17 “(A) ENTRANCE INTO PROJECT DEVELOP-  
18 MENT PHASE.—A new fixed guideway capital  
19 project shall enter into the project development  
20 phase when—

21 “(i) the applicant—

22 “(I) submits a letter to the Sec-  
23 retary describing the project and re-  
24 questing entry into the project devel-  
25 opment phase; and

1                   “(II) initiates activities required  
2                   to be carried out under the National  
3                   Environmental Policy Act of 1969 (42  
4                   U.S.C. 4321 et seq.) with respect to  
5                   the project; and

6                   “(ii) the Secretary responds in writing  
7                   to the applicant within 45 days whether  
8                   the information provided is sufficient to  
9                   enter into the project development phase,  
10                  including, when necessary, a detailed de-  
11                  scription of any information deemed insuf-  
12                  ficient.

13                  “(B) ACTIVITIES DURING PROJECT DEVEL-  
14                  OPMENT PHASE.—Concurrent with the analysis  
15                  required to be made under the National Envi-  
16                  ronmental Policy Act of 1969 (42 U.S.C. 4321  
17                  et seq.), each applicant shall develop sufficient  
18                  information to enable the Secretary to make  
19                  findings of project justification, policies and  
20                  land use patterns that promote public transpor-  
21                  tation, and local financial commitment under  
22                  this subsection.

23                  “(C) COMPLETION OF PROJECT DEVELOP-  
24                  MENT ACTIVITIES REQUIRED.—

1           “(i) IN GENERAL.—Not later than 2  
2           years after the date on which a project en-  
3           ters into the project development phase,  
4           the applicant shall complete the activities  
5           required to obtain a project rating under  
6           subsection (g)(2) and submit completed  
7           documentation to the Secretary.

8           “(ii) EXTENSION OF TIME.—Upon the  
9           request of an applicant, the Secretary may  
10          extend the time period under clause (i), if  
11          the applicant submits to the Secretary—

12                   “(I) a reasonable plan for com-  
13                   pleting the activities required under  
14                   this paragraph; and

15                   “(II) an estimated time period  
16                   within which the applicant will com-  
17                   plete such activities.

18          “(2) ENGINEERING PHASE.—

19                   “(A) IN GENERAL.—A new fixed guideway  
20                   capital project may advance to the engineering  
21                   phase upon completion of activities required  
22                   under the National Environmental Policy Act of  
23                   1969 (42 U.S.C. 4321 et seq.), as demonstrated  
24                   by a record of decision with respect to the  
25                   project, a finding that the project has no sig-

1           nificant impact, or a determination that the  
2           project is categorically excluded, only if the Sec-  
3           retary determines that the project—

4                   “(i) is selected as the locally preferred  
5                   alternative at the completion of the process  
6                   required under the National Environ-  
7                   mental Policy Act of 1969 (42 U.S.C.  
8                   4321 et seq.);

9                   “(ii) is adopted into the metropolitan  
10                  transportation plan required under section  
11                  5303;

12                  “(iii) is justified based on a com-  
13                  prehensive review of the project’s mobility  
14                  improvements, environmental benefits, and  
15                  cost-effectiveness, as measured by cost per  
16                  rider;

17                  “(iv) is supported by policies and land  
18                  use patterns that promote public transpor-  
19                  tation, including plans for future land use  
20                  and rezoning, and economic development  
21                  around public transportation stations; and

22                  “(v) is supported by an acceptable de-  
23                  gree of local financial commitment (includ-  
24                  ing evidence of stable and dependable fi-

1 financing sources), as required under sub-  
2 section (f).

3 “(B) DETERMINATION THAT PROJECT IS  
4 JUSTIFIED.—In making a determination under  
5 subparagraph (A)(iii), the Secretary shall evalu-  
6 ate, analyze, and consider—

7 “(i) the reliability of the forecasting  
8 methods used to estimate costs and utiliza-  
9 tion made by the recipient and the contrac-  
10 tors to the recipient; and

11 “(ii) population density and current  
12 public transportation ridership in the  
13 transportation corridor.

14 “(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

15 “(1) PROJECT DEVELOPMENT PHASE.—

16 “(A) ENTRANCE INTO PROJECT DEVELOP-  
17 MENT PHASE.—A core capacity improvement  
18 project shall be deemed to have entered into the  
19 project development phase if—

20 “(i) the applicant—

21 “(I) submits a letter to the Sec-  
22 retary describing the project and re-  
23 questing entry into the project devel-  
24 opment phase; and



1           the applicant shall complete the activities  
2           required to obtain a project rating under  
3           subsection (g)(2) and submit completed  
4           documentation to the Secretary.

5           “(ii) EXTENSION OF TIME.—Upon the  
6           request of an applicant, the Secretary may  
7           extend the time period under clause (i), if  
8           the applicant submits to the Secretary—

9                   “(I) a reasonable plan for com-  
10                   pleting the activities required under  
11                   this paragraph; and

12                   “(II) an estimated time period  
13                   within which the applicant will com-  
14                   plete such activities.

15           “(2) ENGINEERING PHASE.—

16                   “(A) IN GENERAL.—A core capacity im-  
17                   provement project may advance into the engi-  
18                   neering phase upon completion of activities re-  
19                   quired under the National Environmental Pol-  
20                   icy Act of 1969 (42 U.S.C. 4321 et seq.), as  
21                   demonstrated by a record of decision with re-  
22                   spect to the project, a finding that the project  
23                   has no significant impact, or a determination  
24                   that the project is categorically excluded, only if  
25                   the Secretary determines that the project—

1           “(i) is selected as the locally preferred  
2           alternative at the completion of the process  
3           required under the National Environ-  
4           mental Policy Act of 1969;

5           “(ii) is adopted into the metropolitan  
6           transportation plan required under section  
7           5303;

8           “(iii) is in a corridor that is—

9                   “(I) at or over capacity; or

10                   “(II) projected to be at or over  
11           capacity within the next 5 years;

12           “(iv) is justified based on a com-  
13           prehensive review of the project’s mobility  
14           improvements, environmental benefits, and  
15           cost-effectiveness, as measured by cost per  
16           rider; and

17           “(v) is supported by an acceptable de-  
18           gree of local financial commitment (includ-  
19           ing evidence of stable and dependable fi-  
20           nancing sources), as required under sub-  
21           section (f).

22           “(B) DETERMINATION THAT PROJECT IS  
23           JUSTIFIED.—In making a determination under  
24           subparagraph (A)(iv), the Secretary shall evalu-  
25           ate, analyze, and consider—



1                   “(i) the reliability of the forecasting  
2                   methods used to estimate costs and utiliza-  
3                   tion made by the recipient and the contrac-  
4                   tors to the recipient;

5                   “(ii) whether the project will ade-  
6                   quately address the capacity concerns in a  
7                   corridor;

8                   “(iii) whether the project will improve  
9                   interconnectivity among existing systems;  
10                  and

11                  “(iv) whether the project will improve  
12                  environmental outcomes.

13                  “(f) FINANCING SOURCES.—

14                   “(1) REQUIREMENTS.—In determining whether  
15                   a project is supported by an acceptable degree of  
16                   local financial commitment and shows evidence of  
17                   stable and dependable financing sources for purposes  
18                   of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Sec-  
19                   retary shall require that—

20                   “(A) the proposed project plan provides for  
21                   the availability of contingency amounts that the  
22                   Secretary determines to be reasonable to cover  
23                   unanticipated cost increases or funding short-  
24                   falls;

1           “(B) each proposed local source of capital  
2           and operating financing is stable, reliable, and  
3           available within the proposed project timetable;  
4           and

5           “(C) local resources are available to recapitalize,  
6           maintain, and operate the overall existing  
7           and proposed public transportation system, including  
8           essential feeder bus and other services  
9           necessary to achieve the projected ridership levels  
10          without requiring a reduction in existing  
11          public transportation services or level of service  
12          to operate the project.

13          “(2) CONSIDERATIONS.—In assessing the stability,  
14          reliability, and availability of proposed sources  
15          of local financing for purposes of subsection  
16          (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—  
17          sider—

18                 “(A) the reliability of the forecasting methods  
19                 used to estimate costs and revenues made  
20                 by the recipient and the contractors to the recipient;  
21                 recipient;

22                 “(B) existing grant commitments;

23                 “(C) the degree to which financing sources  
24                 are dedicated to the proposed purposes;

1           “(D) any debt obligation that exists, or is  
2           proposed by the recipient, for the proposed  
3           project or other public transportation purpose;  
4           and

5           “(E) the extent to which the project has a  
6           local financial commitment that exceeds the re-  
7           quired non-Government share of the cost of the  
8           project.

9           “(g) PROJECT ADVANCEMENT AND RATINGS.—

10           “(1) PROJECT ADVANCEMENT.—A new fixed  
11           guideway capital project or core capacity improve-  
12           ment project proposed to be carried out using a  
13           grant under this section may not advance from the  
14           project development phase to the engineering phase,  
15           or from the engineering phase to the construction  
16           phase, unless the Secretary determines that—

17           “(A) the project meets the applicable re-  
18           quirements under this section; and

19           “(B) there is a reasonable likelihood that  
20           the project will continue to meet the require-  
21           ments under this section.

22           “(2) RATINGS.—

23           “(A) OVERALL RATING.—In making a de-  
24           termination under paragraph (1), the Secretary  
25           shall evaluate and rate a project as a whole on

1 a 5-point scale (high, medium-high, medium,  
2 medium-low, or low) based on—

3 “(i) in the case of a new fixed guide-  
4 way capital project, the project justifica-  
5 tion criteria under subsection  
6 (d)(2)(A)(iii), the policies and land use  
7 patterns that support public transpor-  
8 tation, and the degree of local financial  
9 commitment; and

10 “(ii) in the case of a core capacity im-  
11 provement project, the capacity needs of  
12 the corridor, the project justification cri-  
13 teria under subsection (e)(2)(A)(iv), and  
14 the degree of local financial commitment.

15 “(B) INDIVIDUAL RATINGS FOR EACH CRI-  
16 TERION.—In rating a project under this para-  
17 graph, the Secretary shall—

18 “(i) provide, in addition to the overall  
19 project rating under subparagraph (A), in-  
20 dividual ratings for each of the criteria es-  
21 tablished under subsection (d)(2)(A)(iii) or  
22 (e)(2)(A)(iv), as applicable; and

23 “(ii) give comparable, but not nec-  
24 essarily equal, numerical weight to each of  
25 the criteria established under subsections

1 (d)(2)(A)(iii) or (e)(2)(A)(iv), as applica-  
2 ble, in calculating the overall project rating  
3 under clause (i).

4 “(C) MEDIUM RATING NOT REQUIRED.—  
5 The Secretary shall not require that any single  
6 project justification criterion meet or exceed a  
7 ‘medium’ rating in order to advance the project  
8 from one phase to another.

9 “(3) WARRANTS.—The Secretary shall, to the  
10 maximum extent practicable, develop and use special  
11 warrants for making a project justification deter-  
12 mination under subsection (d)(2) or (e)(2), as appli-  
13 cable, for a project proposed to be funded using a  
14 grant under this section, if—

15 “(A) the share of the cost of the project to  
16 be provided under this section does not ex-  
17 ceed—

18 “(i) \$100,000,000; or

19 “(ii) 50 percent of the total cost of  
20 the project;

21 “(B) the applicant requests the use of the  
22 warrants;

23 “(C) the applicant certifies that its existing  
24 public transportation system is in a state of  
25 good repair; and

1           “(D) the applicant meets any other re-  
2           quirements that the Secretary considers appro-  
3           priate to carry out this subsection.

4           “(4) LETTERS OF INTENT AND EARLY SYSTEMS  
5           WORK AGREEMENTS.—In order to expedite a project  
6           under this subsection, the Secretary shall, to the  
7           maximum extent practicable, issue letters of intent  
8           and enter into early systems work agreements upon  
9           issuance of a record of decision for projects that re-  
10          ceive an overall project rating of medium or better.

11          “(5) POLICY GUIDANCE.—The Secretary shall  
12          issue policy guidance regarding the review and eval-  
13          uation process and criteria—

14                 “(A) not later than 180 days after the date  
15                 of enactment of the Federal Public Transpor-  
16                 tation Act of 2012; and

17                 “(B) each time the Secretary makes sig-  
18                 nificant changes to the process and criteria, but  
19                 not less frequently than once every 2 years.

20          “(6) RULES.—Not later than 1 year after the  
21          date of enactment of the Federal Public Transpor-  
22          tation Act of 2012, the Secretary shall issue rules  
23          establishing an evaluation and rating process for—

24                 “(A) new fixed guideway capital projects  
25                 that is based on the results of project justifica-

1           tion, policies and land use patterns that pro-  
2           mote public transportation, and local financial  
3           commitment, as required under this subsection;  
4           and

5           “(B) core capacity improvement projects  
6           that is based on the results of the capacity  
7           needs of the corridor, project justification, and  
8           local financial commitment.

9           “(7) APPLICABILITY.—This subsection shall not  
10          apply to a project for which the Secretary issued a  
11          letter of intent, entered into a full funding grant  
12          agreement, or entered into a project construction  
13          agreement before the date of enactment of the Fed-  
14          eral Public Transportation Act of 2012.

15          “(h) PROGRAMS OF INTERRELATED PROJECTS.—

16                 “(1) PROJECT DEVELOPMENT PHASE.—A fed-  
17                 erally funded project in a program of interrelated  
18                 projects shall advance through project development  
19                 as provided in subsection (d) or (e), as applicable.

20                 “(2) ENGINEERING PHASE.—A federally funded  
21                 project in a program of interrelated projects may ad-  
22                 vance into the engineering phase upon completion of  
23                 activities required under the National Environmental  
24                 Policy Act of 1969 (42 U.S.C. 4321 et seq.), as  
25                 demonstrated by a record of decision with respect to

1 the project, a finding that the project has no signifi-  
2 cant impact, or a determination that the project is  
3 categorically excluded, only if the Secretary deter-  
4 mines that—

5 “(A) the project is selected as the locally  
6 preferred alternative at the completion of the  
7 process required under the National Environ-  
8 mental Policy Act of 1969;

9 “(B) the project is adopted into the metro-  
10 politan transportation plan required under sec-  
11 tion 5303;

12 “(C) the program of interrelated projects  
13 involves projects that have a logical connectivity  
14 to one another;

15 “(D) the program of interrelated projects,  
16 when evaluated as a whole, meets the require-  
17 ments of subsection (d)(2) or (e)(2), as applica-  
18 ble;

19 “(E) the program of interrelated projects  
20 is supported by a program implementation plan  
21 demonstrating that construction will begin on  
22 each of the projects in the program of inter-  
23 related projects within a reasonable time frame;  
24 and



1           “(F) the program of interrelated projects  
2 is supported by an acceptable degree of local fi-  
3 nancial commitment, as described in subsection  
4 (f).

5           “(3) PROJECT ADVANCEMENT AND RATINGS.—

6           “(A) PROJECT ADVANCEMENT.—A project  
7 receiving a grant under this section that is part  
8 of a program of interrelated projects may not  
9 advance from the project development phase to  
10 the engineering phase, or from the engineering  
11 phase to the construction phase, unless the Sec-  
12 retary determines that the program of inter-  
13 related projects meets the applicable require-  
14 ments of this section and there is a reasonable  
15 likelihood that the program will continue to  
16 meet such requirements.

17           “(B) RATINGS.—

18           “(i) OVERALL RATING.—In making a  
19 determination under subparagraph (A), the  
20 Secretary shall evaluate and rate a pro-  
21 gram of interrelated projects on a 5-point  
22 scale (high, medium-high, medium, me-  
23 dium-low, or low) based on the criteria de-  
24 scribed in paragraph (2).

1                   “(ii) INDIVIDUAL RATING FOR EACH  
2                   CRITERION.—In rating a program of inter-  
3                   related projects, the Secretary shall pro-  
4                   vide, in addition to the overall program  
5                   rating, individual ratings for each of the  
6                   criteria described in paragraph (2) and  
7                   shall give comparable, but not necessarily  
8                   equal, numerical weight to each such cri-  
9                   terion in calculating the overall program  
10                  rating.

11                  “(iii) MEDIUM RATING NOT RE-  
12                  QUIRED.—The Secretary shall not require  
13                  that any single criterion described in para-  
14                  graph (2) meet or exceed a ‘medium’ rat-  
15                  ing in order to advance the program of  
16                  interrelated projects from one phase to an-  
17                  other.

18                  “(4) ANNUAL REVIEW.—

19                  “(A) REVIEW REQUIRED.—The Secretary  
20                  shall annually review the program implementa-  
21                  tion plan required under paragraph (2)(E) to  
22                  determine whether the program of interrelated  
23                  projects is adhering to its schedule.

24                  “(B) EXTENSION OF TIME.—If a program  
25                  of interrelated projects is not adhering to its

1           schedule, the Secretary may, upon the request  
2           of the applicant, grant an extension of time if  
3           the applicant submits a reasonable plan that in-  
4           cludes—

5                   “(i) evidence of continued adequate  
6                   funding; and

7                   “(ii) an estimated time frame for com-  
8                   pleting the program of interrelated  
9                   projects.

10                   “(C) SATISFACTORY PROGRESS RE-  
11                   QUIRED.—If the Secretary determines that a  
12                   program of interrelated projects is not making  
13                   satisfactory progress, no Federal funds shall be  
14                   provided for a project within the program of  
15                   interrelated projects.

16                   “(5) FAILURE TO CARRY OUT PROGRAM OF  
17                   INTERRELATED PROJECTS.—

18                   “(A) REPAYMENT REQUIRED.—If an appli-  
19                   cant does not carry out the program of inter-  
20                   related projects within a reasonable time, for  
21                   reasons within the control of the applicant, the  
22                   applicant shall repay all Federal funds provided  
23                   for the program, and any reasonable interest  
24                   and penalty charges that the Secretary may es-  
25                   tablish.

1           “(B) CREDITING OF FUNDS RECEIVED.—

2           Any funds received by the Government under  
3           this paragraph, other than interest and penalty  
4           charges, shall be credited to the appropriation  
5           account from which the funds were originally  
6           derived.

7           “(6) NON-FEDERAL FUNDS.—Any non-Federal  
8           funds committed to a project in a program of inter-  
9           related projects may be used to meet a non-Govern-  
10          ment share requirement for any other project in the  
11          program of interrelated projects, if the Government  
12          share of the cost of each project within the program  
13          of interrelated projects does not exceed 80 percent.

14          “(7) PRIORITY.—In making grants under this  
15          section, the Secretary may give priority to programs  
16          of interrelated projects for which the non-Govern-  
17          ment share of the cost of the projects included in the  
18          programs of interrelated projects exceeds the non-  
19          Government share required under subsection (k).

20          “(8) NON-GOVERNMENT PROJECTS.—Including  
21          a project not financed by the Government in a pro-  
22          gram of interrelated projects does not impose Gov-  
23          ernment requirements that would not otherwise  
24          apply to the project.

1           “(i) PREVIOUSLY ISSUED LETTER OF INTENT OR  
2 FULL FUNDING GRANT AGREEMENT.—Subsections (d)  
3 and (e) shall not apply to projects for which the Secretary  
4 has issued a letter of intent, entered into a full funding  
5 grant agreement, or entered into a project construction  
6 grant agreement before the date of enactment of the Fed-  
7 eral Public Transportation Act of 2012.

8           “(j) LETTERS OF INTENT, FULL FUNDING GRANT  
9 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-  
10 MENTS.—

11           “(1) LETTERS OF INTENT.—

12           “(A) AMOUNTS INTENDED TO BE OBLI-  
13 GATED.—The Secretary may issue a letter of  
14 intent to an applicant announcing an intention  
15 to obligate, for a new fixed guideway capital  
16 project or core capacity improvement project,  
17 an amount from future available budget author-  
18 ity specified in law that is not more than the  
19 amount stipulated as the financial participation  
20 of the Secretary in the project. When a letter  
21 is issued for a capital project under this section,  
22 the amount shall be sufficient to complete at  
23 least an operable segment.

24           “(B) TREATMENT.—The issuance of a let-  
25 ter under subparagraph (A) is deemed not to be

1 an obligation under sections 1108(c), 1501, and  
2 1502(a) of title 31, United States Code, or an  
3 administrative commitment.

4 “(2) FULL FUNDING GRANT AGREEMENTS.—

5 “(A) IN GENERAL.—A new fixed guideway  
6 capital project or core capacity improvement  
7 project shall be carried out through a full fund-  
8 ing grant agreement.

9 “(B) CRITERIA.—The Secretary shall enter  
10 into a full funding grant agreement, based on  
11 the evaluations and ratings required under sub-  
12 section (d), (e), or (h), as applicable, with each  
13 grantee receiving assistance for a new fixed  
14 guideway capital project or core capacity im-  
15 provement project that has been rated as high,  
16 medium-high, or medium, in accordance with  
17 subsection (g)(2)(A) or (h)(3)(B), as applicable.

18 “(C) TERMS.—A full funding grant agree-  
19 ment shall—

20 “(i) establish the terms of participa-  
21 tion by the Government in a new fixed  
22 guideway capital project or core capacity  
23 improvement project;

1           “(ii) establish the maximum amount  
2 of Federal financial assistance for the  
3 project;

4           “(iii) include the period of time for  
5 completing the project, even if that period  
6 extends beyond the period of an authoriza-  
7 tion; and

8           “(iv) make timely and efficient man-  
9 agement of the project easier according to  
10 the law of the United States.

11           “(D) SPECIAL FINANCIAL RULES.—

12           “(i) IN GENERAL.—A full funding  
13 grant agreement under this paragraph ob-  
14 ligates an amount of available budget au-  
15 thority specified in law and may include a  
16 commitment, contingent on amounts to be  
17 specified in law in advance for commit-  
18 ments under this paragraph, to obligate an  
19 additional amount from future available  
20 budget authority specified in law.

21           “(ii) STATEMENT OF CONTINGENT  
22 COMMITMENT.—The agreement shall state  
23 that the contingent commitment is not an  
24 obligation of the Government.

1                   “(iii) INTEREST AND OTHER FINANC-  
2                   ING COSTS.—Interest and other financing  
3                   costs of efficiently carrying out a part of  
4                   the project within a reasonable time are a  
5                   cost of carrying out the project under a  
6                   full funding grant agreement, except that  
7                   eligible costs may not be more than the  
8                   cost of the most favorable financing terms  
9                   reasonably available for the project at the  
10                  time of borrowing. The applicant shall cer-  
11                  tify, in a way satisfactory to the Secretary,  
12                  that the applicant has shown reasonable  
13                  diligence in seeking the most favorable fi-  
14                  nancing terms.

15                  “(iv) COMPLETION OF OPERABLE  
16                  SEGMENT.—The amount stipulated in an  
17                  agreement under this paragraph for a new  
18                  fixed guideway capital project shall be suf-  
19                  ficient to complete at least an operable seg-  
20                  ment.

21                  “(E) BEFORE AND AFTER STUDY.—

22                  “(i) IN GENERAL.—A full funding  
23                  grant agreement under this paragraph  
24                  shall require the applicant to conduct a  
25                  study that—



1 “(I) describes and analyzes the  
2 impacts of the new fixed guideway  
3 capital project or core capacity im-  
4 provement project on public transpor-  
5 tation services and public transpor-  
6 tation ridership;

7 “(II) evaluates the consistency of  
8 predicted and actual project charac-  
9 teristics and performance; and

10 “(III) identifies reasons for dif-  
11 ferences between predicted and actual  
12 outcomes.

13 “(ii) INFORMATION COLLECTION AND  
14 ANALYSIS PLAN.—

15 “(I) SUBMISSION OF PLAN.—Ap-  
16 plicants seeking a full funding grant  
17 agreement under this paragraph shall  
18 submit a complete plan for the collec-  
19 tion and analysis of information to  
20 identify the impacts of the new fixed  
21 guideway capital project or core ca-  
22 pacity improvement project and the  
23 accuracy of the forecasts prepared  
24 during the development of the project.  
25 Preparation of this plan shall be in-

1 included in the full funding grant agree-  
2 ment as an eligible activity.

3 “(II) CONTENTS OF PLAN.—The  
4 plan submitted under subclause (I)  
5 shall provide for—

6 “(aa) collection of data on  
7 the current public transportation  
8 system regarding public transpor-  
9 tation service levels and ridership  
10 patterns, including origins and  
11 destinations, access modes, trip  
12 purposes, and rider characteris-  
13 tics;

14 “(bb) documentation of the  
15 predicted scope, service levels,  
16 capital costs, operating costs, and  
17 ridership of the project;

18 “(cc) collection of data on  
19 the public transportation system  
20 2 years after the opening of a  
21 new fixed guideway capital  
22 project or core capacity improve-  
23 ment project, including analogous  
24 information on public transpor-  
25 tation service levels and ridership

1 patterns and information on the  
2 as-built scope, capital, and fi-  
3 nancing costs of the project; and

4 “(dd) analysis of the consist-  
5 ency of predicted project charac-  
6 teristics with actual outcomes.

7 “(F) COLLECTION OF DATA ON CURRENT  
8 SYSTEM.—To be eligible for a full funding  
9 grant agreement under this paragraph, recipi-  
10 ents shall have collected data on the current  
11 system, according to the plan required under  
12 subparagraph (E)(ii), before the beginning of  
13 construction of the proposed new fixed guide-  
14 way capital project or core capacity improve-  
15 ment project. Collection of this data shall be in-  
16 cluded in the full funding grant agreement as  
17 an eligible activity.

18 “(3) EARLY SYSTEMS WORK AGREEMENTS.—

19 “(A) CONDITIONS.—The Secretary may  
20 enter into an early systems work agreement  
21 with an applicant if a record of decision under  
22 the National Environmental Policy Act of 1969  
23 (42 U.S.C. 4321 et seq.) has been issued on the  
24 project and the Secretary finds there is reason  
25 to believe—

1                   “(i) a full funding grant agreement  
2                   for the project will be made; and

3                   “(ii) the terms of the work agreement  
4                   will promote ultimate completion of the  
5                   project more rapidly and at less cost.

6                   “(B) CONTENTS.—

7                   “(i) IN GENERAL.—An early systems  
8                   work agreement under this paragraph obli-  
9                   gates budget authority available under this  
10                  chapter and title 23 and shall provide for  
11                  reimbursement of preliminary costs of car-  
12                  rying out the project, including land acqui-  
13                  sition, timely procurement of system ele-  
14                  ments for which specifications are decided,  
15                  and other activities the Secretary decides  
16                  are appropriate to make efficient, long-  
17                  term project management easier.

18                  “(ii) CONTINGENT COMMITMENT.—An  
19                  early systems work agreement may include  
20                  a commitment, contingent on amounts to  
21                  be specified in law in advance for commit-  
22                  ments under this paragraph, to obligate an  
23                  additional amount from future available  
24                  budget authority specified in law.

1           “(iii) PERIOD COVERED.—An early  
2 systems work agreement under this para-  
3 graph shall cover the period of time the  
4 Secretary considers appropriate. The pe-  
5 riod may extend beyond the period of cur-  
6 rent authorization.

7           “(iv) INTEREST AND OTHER FINANC-  
8 ING COSTS.—Interest and other financing  
9 costs of efficiently carrying out the early  
10 systems work agreement within a reason-  
11 able time are a cost of carrying out the  
12 agreement, except that eligible costs may  
13 not be more than the cost of the most fa-  
14 vorable financing terms reasonably avail-  
15 able for the project at the time of bor-  
16 rowing. The applicant shall certify, in a  
17 way satisfactory to the Secretary, that the  
18 applicant has shown reasonable diligence in  
19 seeking the most favorable financing  
20 terms.

21           “(v) FAILURE TO CARRY OUT  
22 PROJECT.—If an applicant does not carry  
23 out the project for reasons within the con-  
24 trol of the applicant, the applicant shall  
25 repay all Federal grant funds awarded for

1 the project from all Federal funding  
2 sources, for all project activities, facilities,  
3 and equipment, plus reasonable interest  
4 and penalty charges allowable by law or es-  
5 tablished by the Secretary in the early sys-  
6 tems work agreement.

7 “(vi) CREDITING OF FUNDS RE-  
8 CEIVED.—Any funds received by the Gov-  
9 ernment under this paragraph, other than  
10 interest and penalty charges, shall be cred-  
11 ited to the appropriation account from  
12 which the funds were originally derived.

13 “(4) LIMITATION ON AMOUNTS.—

14 “(A) IN GENERAL.—The Secretary may  
15 enter into full funding grant agreements under  
16 this subsection for new fixed guideway capital  
17 projects and core capacity improvement projects  
18 that contain contingent commitments to incur  
19 obligations in such amounts as the Secretary  
20 determines are appropriate.

21 “(B) APPROPRIATION REQUIRED.—An ob-  
22 ligation may be made under this subsection only  
23 when amounts are appropriated for the obliga-  
24 tion.

1           “(5) NOTIFICATION TO CONGRESS.—At least 30  
2           days before issuing a letter of intent, entering into  
3           a full funding grant agreement, or entering into an  
4           early systems work agreement under this section, the  
5           Secretary shall notify, in writing, the Committee on  
6           Banking, Housing, and Urban Affairs and the Com-  
7           mittee on Appropriations of the Senate and the  
8           Committee on Transportation and Infrastructure  
9           and the Committee on Appropriations of the House  
10          of Representatives of the proposed letter or agree-  
11          ment. The Secretary shall include with the notifica-  
12          tion a copy of the proposed letter or agreement as  
13          well as the evaluations and ratings for the project.

14          “(k) GOVERNMENT SHARE OF NET CAPITAL  
15          PROJECT COST.—

16                 “(1) IN GENERAL.—Based on engineering stud-  
17                 ies, studies of economic feasibility, and information  
18                 on the expected use of equipment or facilities, the  
19                 Secretary shall estimate the net capital project cost.  
20                 A grant for the project shall not exceed 80 percent  
21                 of the net capital project cost.

22                 “(2) ADJUSTMENT FOR COMPLETION UNDER  
23                 BUDGET.—The Secretary may adjust the final net  
24                 capital project cost of a new fixed guideway capital  
25                 project or core capacity improvement project evalu-

1       ated under subsection (d), (e), or (h) to include the  
2       cost of eligible activities not included in the origi-  
3       nally defined project if the Secretary determines that  
4       the originally defined project has been completed at  
5       a cost that is significantly below the original esti-  
6       mate.

7           “(3) MAXIMUM GOVERNMENT SHARE.—The  
8       Secretary may provide a higher grant percentage  
9       than requested by the grant recipient if—

10           “(A) the Secretary determines that the net  
11       capital project cost of the project is not more  
12       than 10 percent higher than the net capital  
13       project cost estimated at the time the project  
14       was approved for advancement into the engi-  
15       neering phase; and

16           “(B) the ridership estimated for the  
17       project is not less than 90 percent of the rider-  
18       ship estimated for the project at the time the  
19       project was approved for advancement into the  
20       engineering phase.

21           “(4) REMAINDER OF NET CAPITAL PROJECT  
22       COST.—The remainder of the net capital project cost  
23       shall be provided from an undistributed cash sur-  
24       plus, a replacement or depreciation cash fund or re-  
25       serve, or new capital.



1           “(5) LIMITATION ON STATUTORY CONSTRUC-  
2           TION.—Nothing in this section shall be construed as  
3           authorizing the Secretary to require a non-Federal  
4           financial commitment for a project that is more than  
5           20 percent of the net capital project cost.

6           “(6) SPECIAL RULE FOR ROLLING STOCK  
7           COSTS.—In addition to amounts allowed pursuant to  
8           paragraph (1), a planned extension to a fixed guide-  
9           way system may include the cost of rolling stock pre-  
10          viously purchased if the applicant satisfies the Sec-  
11          retary that only amounts other than amounts pro-  
12          vided by the Government were used and that the  
13          purchase was made for use on the extension. A re-  
14          fund or reduction of the remainder may be made  
15          only if a refund of a proportional amount of the  
16          grant of the Government is made at the same time.

17          “(7) LIMITATION ON APPLICABILITY.—This  
18          subsection shall not apply to projects for which the  
19          Secretary entered into a full funding grant agree-  
20          ment before the date of enactment of the Federal  
21          Public Transportation Act of 2012.

22          “(1) UNDERTAKING PROJECTS IN ADVANCE.—

23                 “(1) IN GENERAL.—The Secretary may pay the  
24                 Government share of the net capital project cost to  
25                 a State or local governmental authority that carries

1 out any part of a project described in this section  
2 without the aid of amounts of the Government and  
3 according to all applicable procedures and require-  
4 ments if—

5 “(A) the State or local governmental au-  
6 thority applies for the payment;

7 “(B) the Secretary approves the payment;  
8 and

9 “(C) before the State or local govern-  
10 mental authority carries out the part of the  
11 project, the Secretary approves the plans and  
12 specifications for the part in the same way as  
13 other projects under this section.

14 “(2) FINANCING COSTS.—

15 “(A) IN GENERAL.—The cost of carrying  
16 out part of a project includes the amount of in-  
17 terest earned and payable on bonds issued by  
18 the State or local governmental authority to the  
19 extent proceeds of the bonds are expended in  
20 carrying out the part.

21 “(B) LIMITATION ON AMOUNT OF INTER-  
22 EST.—The amount of interest under this para-  
23 graph may not be more than the most favorable  
24 interest terms reasonably available for the  
25 project at the time of borrowing.

1           “(C) CERTIFICATION.—The applicant shall  
2           certify, in a manner satisfactory to the Sec-  
3           retary, that the applicant has shown reasonable  
4           diligence in seeking the most favorable financ-  
5           ing terms.

6           “(m) AVAILABILITY OF AMOUNTS.—

7           “(1) IN GENERAL.—An amount made available  
8           or appropriated for a new fixed guideway capital  
9           project or core capacity improvement project shall  
10          remain available to that project for 5 fiscal years, in-  
11          cluding the fiscal year in which the amount is made  
12          available or appropriated. Any amounts that are un-  
13          obligated to the project at the end of the 5-fiscal-  
14          year period may be used by the Secretary for any  
15          purpose under this section.

16          “(2) USE OF DEOBLIGATED AMOUNTS.—An  
17          amount available under this section that is  
18          deobligated may be used for any purpose under this  
19          section.

20          “(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE  
21          CAPACITY IMPROVEMENT PROJECTS.—

22          “(1) ANNUAL REPORT ON FUNDING REC-  
23          COMMENDATIONS.—Not later than the first Monday  
24          in February of each year, the Secretary shall submit  
25          to the Committee on Banking, Housing, and Urban

1       Affairs and the Committee on Appropriations of the  
2       Senate and the Committee on Transportation and  
3       Infrastructure and the Committee on Appropriations  
4       of the House of Representatives a report that in-  
5       cludes—

6               “(A) a proposal of allocations of amounts  
7               to be available to finance grants for projects  
8               under this section among applicants for these  
9               amounts;

10              “(B) evaluations and ratings, as required  
11              under subsections (d), (e), and (h), for each  
12              such project that is in project development, en-  
13              gineering, or has received a full funding grant  
14              agreement; and

15              “(C) recommendations of such projects for  
16              funding based on the evaluations and ratings  
17              and on existing commitments and anticipated  
18              funding levels for the next 3 fiscal years based  
19              on information currently available to the Sec-  
20              retary.

21              “(2) REPORTS ON BEFORE AND AFTER STUD-  
22              IES.—Not later than the first Monday in August of  
23              each year, the Secretary shall submit to the commit-  
24              tees described in paragraph (1) a report containing

1 a summary of the results of any studies conducted  
2 under subsection (j)(2)(E).

3 “(3) ANNUAL GAO REVIEW.—The Comptroller  
4 General of the United States shall—

5 “(A) conduct an annual review of—

6 “(i) the processes and procedures for  
7 evaluating, rating, and recommending new  
8 fixed guideway capital projects and core  
9 capacity improvement projects; and

10 “(ii) the Secretary’s implementation  
11 of such processes and procedures; and

12 “(B) report to Congress on the results of  
13 such review by May 31 of each year.”.

14 (b) PILOT PROGRAM FOR EXPEDITED PROJECT DE-  
15 LIVERY.—

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

18 (A) ELIGIBLE PROJECT.—The term “eligi-  
19 ble project” means a new fixed guideway capital  
20 project or a core capacity improvement project,  
21 as those terms are defined in section 5309 of  
22 title 49, United States Code, as amended by  
23 this section, that has not entered into a full  
24 funding grant agreement with the Federal  
25 Transit Administration before the date of en-

1 actment of the Federal Public Transportation  
2 Act of 2012.

3 (B) PROGRAM.—The term “program”  
4 means the pilot program for expedited project  
5 delivery established under this subsection.

6 (C) RECIPIENT.—The term “recipient”  
7 means a recipient of funding under chapter 53  
8 of title 49, United States Code.

9 (D) SECRETARY.—The term “Secretary”  
10 means the Secretary of Transportation.

11 (2) ESTABLISHMENT.—The Secretary shall es-  
12 tablish and implement a pilot program to dem-  
13 onstrate whether innovative project development and  
14 delivery methods or innovative financing arrange-  
15 ments can expedite project delivery for certain meri-  
16 torious new fixed guideway capital projects and core  
17 capacity improvement projects.

18 (3) LIMITATION ON NUMBER OF PROJECTS.—  
19 The Secretary shall select 3 eligible projects to par-  
20 ticipate in the program, of which—

21 (A) at least 1 shall be an eligible project  
22 requesting more than \$100,000,000 in Federal  
23 financial assistance under section 5309 of title  
24 49, United States Code; and

1 (B) at least 1 shall be an eligible project  
2 requesting less than \$100,000,000 in Federal  
3 financial assistance under section 5309 of title  
4 49, United States Code.

5 (4) GOVERNMENT SHARE.—The Government  
6 share of the total cost of an eligible project that par-  
7 ticipates in the program may not exceed 50 percent.

8 (5) ELIGIBILITY.—A recipient that desires to  
9 participate in the program shall submit to the Sec-  
10 retary an application that contains, at a minimum—

11 (A) identification of an eligible project;

12 (B) a schedule and finance plan for the  
13 construction and operation of the eligible  
14 project;

15 (C) an analysis of the efficiencies of the  
16 proposed project development and delivery  
17 methods or innovative financing arrangement  
18 for the eligible project; and

19 (D) a certification that the recipient's ex-  
20 isting public transportation system is in a state  
21 of good repair.

22 (6) SELECTION CRITERIA.—The Secretary may  
23 award a full funding grant agreement under this  
24 subsection if the Secretary determines that—

1 (A) the recipient has completed planning  
2 and the activities required under the National  
3 Environmental Policy Act of 1969 (42 U.S.C.  
4 4321 et seq.); and

5 (B) the recipient has the necessary legal,  
6 financial, and technical capacity to carry out  
7 the eligible project.

8 (7) BEFORE AND AFTER STUDY AND RE-  
9 PORT.—

10 (A) STUDY REQUIRED.—A full funding  
11 grant agreement under this paragraph shall re-  
12 quire a recipient to conduct a study that—

13 (i) describes and analyzes the impacts  
14 of the eligible project on public transpor-  
15 tation services and public transportation  
16 ridership;

17 (ii) describes and analyzes the consist-  
18 ency of predicted and actual benefits and  
19 costs of the innovative project development  
20 and delivery methods or innovative financ-  
21 ing for the eligible project; and

22 (iii) identifies reasons for any dif-  
23 ferences between predicted and actual out-  
24 comes for the eligible project.



1 (B) SUBMISSION OF REPORT.—Not later  
2 than 9 months after an eligible project selected  
3 to participate in the program begins revenue  
4 operations, the recipient shall submit to the  
5 Secretary a report on the results of the study  
6 under subparagraph (A).

7 **SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBIL-**  
8 **ITY OF SENIORS AND INDIVIDUALS WITH DIS-**  
9 **ABILITIES.**

10 Section 5310 of title 49, United States Code, is  
11 amended to read as follows:

12 **“§ 5310. Formula grants for the enhanced mobility of**  
13 **seniors and individuals with disabilities**

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

16 “(1) RECIPIENT.—The term ‘recipient’ means a  
17 designated recipient or a State that receives a grant  
18 under this section directly.

19 “(2) SUBRECIPIENT.—The term ‘subrecipient’  
20 means a State or local governmental authority, non-  
21 profit organization, or operator of public transpor-  
22 tation that receives a grant under this section indi-  
23 rectly through a recipient.

24 “(b) GENERAL AUTHORITY.—

1           “(1) GRANTS.—The Secretary may make  
2 grants under this section to recipients for—

3           “(A) public transportation capital projects  
4 planned, designed, and carried out to meet the  
5 special needs of seniors and individuals with  
6 disabilities when public transportation is insuf-  
7 ficient, inappropriate, or unavailable;

8           “(B) public transportation projects that  
9 exceed the requirements of the Americans with  
10 Disabilities Act of 1990 (42 U.S.C. 12101 et  
11 seq.);

12           “(C) public transportation projects that  
13 improve access to fixed route service and de-  
14 crease reliance by individuals with disabilities  
15 on complementary paratransit; and

16           “(D) alternatives to public transportation  
17 that assist seniors and individuals with disabil-  
18 ities with transportation.

19           “(2) LIMITATIONS FOR CAPITAL PROJECTS.—

20           “(A) AMOUNT AVAILABLE.—The amount  
21 available for capital projects under paragraph  
22 (1)(A) shall be not less than 55 percent of the  
23 funds apportioned to the recipient under this  
24 section.

1           “(B) ALLOCATION TO SUBRECIPIENTS.—A  
2 recipient of a grant under paragraph (1)(A)  
3 may allocate the amounts provided under the  
4 grant to—

5                   “(i) a nonprofit organization; or

6                   “(ii) a State or local governmental au-  
7 thority that—

8                           “(I) is approved by a State to co-  
9 ordinate services for seniors and indi-  
10 viduals with disabilities; or

11                           “(II) certifies that there are no  
12 nonprofit organizations readily avail-  
13 able in the area to provide the services  
14 described in paragraph (1)(A).

15           “(3) ADMINISTRATIVE EXPENSES.—

16                   “(A) IN GENERAL.—A recipient may use  
17 not more than 10 percent of the amounts ap-  
18 portioned to the recipient under this section to  
19 administer, plan, and provide technical assist-  
20 ance for a project funded under this section.

21                   “(B) GOVERNMENT SHARE OF COSTS.—  
22 The Government share of the costs of admin-  
23 istering a program carried out using funds  
24 under this section shall be 100 percent.

1           “(4) ELIGIBLE CAPITAL EXPENSES.—The ac-  
2           quisition of public transportation services is an eligi-  
3           ble capital expense under this section.

4           “(5) COORDINATION.—

5                   “(A) DEPARTMENT OF TRANSPOR-  
6                   TATION.—To the maximum extent feasible, the  
7                   Secretary shall coordinate activities under this  
8                   section with related activities under other Fed-  
9                   eral departments and agencies.

10                   “(B) OTHER FEDERAL AGENCIES AND  
11                   NONPROFIT ORGANIZATIONS.—A State or local  
12                   governmental authority or nonprofit organiza-  
13                   tion that receives assistance from Government  
14                   sources (other than the Department of Trans-  
15                   portation) for nonemergency transportation  
16                   services shall—

17                           “(i) participate and coordinate with  
18                           recipients of assistance under this chapter  
19                           in the design and delivery of transportation  
20                           services; and

21                           “(ii) participate in the planning for  
22                           the transportation services described in  
23                           clause (i).

24           “(6) PROGRAM OF PROJECTS.—

1           “(A) IN GENERAL.—Amounts made avail-  
2           able to carry out this section may be used for  
3           transportation projects to assist in providing  
4           transportation services for seniors and individ-  
5           uals with disabilities, if such transportation  
6           projects are included in a program of projects.

7           “(B) SUBMISSION.—A recipient shall an-  
8           nually submit a program of projects to the Sec-  
9           retary.

10          “(C) ASSURANCE.—The program of  
11          projects submitted under subparagraph (B)  
12          shall contain an assurance that the program  
13          provides for the maximum feasible coordination  
14          of transportation services assisted under this  
15          section with transportation services assisted by  
16          other Government sources.

17          “(7) MEAL DELIVERY FOR HOMEBOUND INDI-  
18          VIDUALS.—A public transportation service provider  
19          that receives assistance under this section or section  
20          5311(e) may coordinate and assist in regularly pro-  
21          viding meal delivery service for homebound individ-  
22          uals, if the delivery service does not conflict with  
23          providing public transportation service or reduce  
24          service to public transportation passengers.

25          “(c) APPORTIONMENT AND TRANSFERS.—

1           “(1) FORMULA.—The Secretary shall apportion  
2 amounts made available to carry out this section as  
3 follows:

4           “(A) LARGE URBANIZED AREAS.—Sixty  
5 percent of the funds shall be apportioned  
6 among designated recipients for urbanized  
7 areas with a population of 200,000 or more in-  
8 dividuals, as determined by the Bureau of the  
9 Census, in the ratio that—

10           “(i) the number of seniors and indi-  
11 viduals with disabilities in each such ur-  
12 banized area; bears to

13           “(ii) the number of seniors and indi-  
14 viduals with disabilities in all such urban-  
15 ized areas.

16           “(B) SMALL URBANIZED AREAS.—Twenty  
17 percent of the funds shall be apportioned  
18 among the States in the ratio that—

19           “(i) the number of seniors and indi-  
20 viduals with disabilities in urbanized areas  
21 with a population of fewer than 200,000  
22 individuals, as determined by the Bureau  
23 of the Census, in each State; bears to

24           “(ii) the number of seniors and indi-  
25 viduals with disabilities in urbanized areas

1 with a population of fewer than 200,000  
2 individuals, as determined by the Bureau  
3 of the Census, in all States.

4 “(C) OTHER THAN URBANIZED AREAS.—  
5 Twenty percent of the funds shall be appor-  
6 tioned among the States in the ratio that—

7 “(i) the number of seniors and indi-  
8 viduals with disabilities in other than ur-  
9 banized areas in each State; bears to

10 “(ii) the number of seniors and indi-  
11 viduals with disabilities in other than ur-  
12 banized areas in all States.

13 “(2) AREAS SERVED BY PROJECTS.—

14 “(A) IN GENERAL.—Except as provided in  
15 subparagraph (B)—

16 “(i) funds apportioned under para-  
17 graph (1)(A) shall be used for projects  
18 serving urbanized areas with a population  
19 of 200,000 or more individuals, as deter-  
20 mined by the Bureau of the Census;

21 “(ii) funds apportioned under para-  
22 graph (1)(B) shall be used for projects  
23 serving urbanized areas with a population  
24 of fewer than 200,000 individuals, as de-  
25 termined by the Bureau of the Census; and

1           “(iii) funds apportioned under para-  
2           graph (1)(C) shall be used for projects  
3           serving other than urbanized areas.

4           “(B) EXCEPTIONS.—A State may use  
5           funds apportioned to the State under subpara-  
6           graph (B) or (C) of paragraph (1)—

7           “(i) for a project serving an area  
8           other than an area specified in subpara-  
9           graph (A)(ii) or (A)(iii), as the case may  
10          be, if the Governor of the State certifies  
11          that all of the objectives of this section are  
12          being met in the area specified in subpara-  
13          graph (A)(ii) or (A)(iii); or

14          “(ii) for a project anywhere in the  
15          State, if the State has established a state-  
16          wide program for meeting the objectives of  
17          this section.

18          “(C) LIMITED TO ELIGIBLE PROJECTS.—  
19          Any funds transferred pursuant to subpara-  
20          graph (B) shall be made available only for eligi-  
21          ble projects selected under this section.

22          “(D) CONSULTATION.—A recipient may  
23          transfer an amount under subparagraph (B)  
24          only after consulting with responsible local offi-  
25          cials, publicly owned operators of public trans-



1 portation, and nonprofit providers in the area  
2 for which the amount was originally appor-  
3 tioned.

4 “(d) GOVERNMENT SHARE OF COSTS.—

5 “(1) CAPITAL PROJECTS.—A grant for a capital  
6 project under this section shall be in an amount  
7 equal to 80 percent of the net capital costs of the  
8 project, as determined by the Secretary.

9 “(2) OPERATING ASSISTANCE.—A grant made  
10 under this section for operating assistance may not  
11 exceed an amount equal to 50 percent of the net op-  
12 erating costs of the project, as determined by the  
13 Secretary.

14 “(3) REMAINDER OF NET COSTS.—The remain-  
15 der of the net costs of a project carried out under  
16 this section—

17 “(A) may be provided from an undistrib-  
18 uted cash surplus, a replacement or deprecia-  
19 tion cash fund or reserve, a service agreement  
20 with a State or local social service agency or a  
21 private social service organization, or new cap-  
22 ital; and

23 “(B) may be derived from amounts appro-  
24 priated or otherwise made available—

1                   “(i) to a department or agency of the  
2                   Government (other than the Department of  
3                   Transportation) that are eligible to be ex-  
4                   pended for transportation; or

5                   “(ii) to carry out the Federal lands  
6                   highways program under section 204 of  
7                   title 23, United States Code.

8                   “(4) USE OF CERTAIN FUNDS.—For purposes  
9                   of paragraph (3)(B)(i), the prohibition under section  
10                  403(a)(5)(C)(vii) of the Social Security Act (42  
11                  U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds  
12                  for matching requirements shall not apply to Fed-  
13                  eral or State funds to be used for transportation  
14                  purposes.

15                  “(e) GRANT REQUIREMENTS.—

16                  “(1) IN GENERAL.—A grant under this section  
17                  shall be subject to the same requirements as a grant  
18                  under section 5307, to the extent the Secretary de-  
19                  termines appropriate.

20                  “(2) CERTIFICATION REQUIREMENTS.—

21                  “(A) PROJECT SELECTION AND PLAN DE-  
22                  VELOPMENT.—Before receiving a grant under  
23                  this section, each recipient shall certify that—

24                          “(i) the projects selected by the recipi-  
25                          ent are included in a locally developed, co-

1           ordinated public transit-human services  
2           transportation plan;

3           “(ii) the plan described in clause (i)  
4           was developed and approved through a  
5           process that included participation by sen-  
6           iors, individuals with disabilities, represent-  
7           atives of public, private, and nonprofit  
8           transportation and human services pro-  
9           viders, and other members of the public;  
10          and

11          “(iii) to the maximum extent feasible,  
12          the services funded under this section will  
13          be coordinated with transportation services  
14          assisted by other Federal departments and  
15          agencies.

16          “(B) ALLOCATIONS TO SUBRECIPIENTS.—  
17          If a recipient allocates funds received under this  
18          section to subrecipients, the recipient shall cer-  
19          tify that the funds are allocated on a fair and  
20          equitable basis.

21          “(f) COMPETITIVE PROCESS FOR GRANTS TO SUB-  
22          RECIPIENTS.—

23          “(1) AREAWIDE SOLICITATIONS.—A recipient of  
24          funds apportioned under subsection (c)(1)(A) may  
25          conduct, in cooperation with the appropriate metro-

1       politan planning organization, an areawide solicita-  
2       tion for applications for grants under this section.

3               “(2) STATEWIDE SOLICITATIONS.—A recipient  
4       of funds apportioned under subparagraph (B) or (C)  
5       of subsection (c)(1) may conduct a statewide solici-  
6       tation for applications for grants under this section.

7               “(3) APPLICATION.—If the recipient elects to  
8       engage in a competitive process, a recipient or sub-  
9       recipient seeking to receive a grant from funds ap-  
10      portioned under subsection (c) shall submit to the  
11      recipient making the election an application in such  
12      form and in accordance with such requirements as  
13      the recipient making the election shall establish.

14              “(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—  
15      A recipient may transfer a facility or equipment acquired  
16      using a grant under this section to any other recipient eli-  
17      gible to receive assistance under this chapter, if—

18              “(1) the recipient in possession of the facility or  
19      equipment consents to the transfer; and

20              “(2) the facility or equipment will continue to  
21      be used as required under this section.

22              “(h) PERFORMANCE MEASURES.—

23              “(1) IN GENERAL.—Not later than 1 year after  
24      the date of enactment of the Federal Public Trans-  
25      portation Act of 2012, the Secretary shall issue a

1 final rule to establish performance measures for  
2 grants under this section.

3 “(2) TARGETS.—Not later than 3 months after  
4 the date on which the Secretary issues a final rule  
5 under paragraph (1), and each fiscal year thereafter,  
6 each recipient that receives Federal financial assist-  
7 ance under this section shall establish performance  
8 targets in relation to the performance measures es-  
9 tablished by the Secretary.

10 “(3) REPORTS.—Each recipient of Federal fi-  
11 nancial assistance under this section shall submit to  
12 the Secretary an annual report that describes—

13 “(A) the progress of the recipient toward  
14 meeting the performance targets established  
15 under paragraph (2) for that fiscal year; and

16 “(B) the performance targets established  
17 by the recipient for the subsequent fiscal year.”.

18 **SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBAN-**  
19 **IZED AREAS.**

20 Section 5311 of title 49, United States Code, is  
21 amended to read as follows:

22 **“§ 5311. Formula grants for other than urbanized**  
23 **areas**

24 “(a) DEFINITIONS.—As used in this section, the fol-  
25 lowing definitions shall apply:

1           “(1) RECIPIENT.—The term ‘recipient’ means a  
2 State or Indian tribe that receives a Federal transit  
3 program grant directly from the Government.

4           “(2) SUBRECIPIENT.—The term ‘subrecipient’  
5 means a State or local governmental authority, a  
6 nonprofit organization, or an operator of public  
7 transportation or intercity bus service that receives  
8 Federal transit program grant funds indirectly  
9 through a recipient.

10          “(b) GENERAL AUTHORITY.—

11           “(1) GRANTS AUTHORIZED.—Except as pro-  
12 vided by paragraph (2), the Secretary may award  
13 grants under this section to recipients located in  
14 areas other than urbanized areas for—

15           “(A) planning, provided that a grant under  
16 this section for planning activities shall be in  
17 addition to funding awarded to a State under  
18 section 5305 for planning activities that are di-  
19 rected specifically at the needs of other than ur-  
20 banized areas in the State;

21           “(B) public transportation capital projects;

22           “(C) operating costs of equipment and fa-  
23 cilities for use in public transportation; and

24           “(D) the acquisition of public transpor-  
25 tation services, including service agreements

1 with private providers of public transportation  
2 service.

3 “(2) STATE PROGRAM.—

4 “(A) IN GENERAL.—A project eligible for a  
5 grant under this section shall be included in a  
6 State program for public transportation service  
7 projects, including agreements with private pro-  
8 viders of public transportation service.

9 “(B) SUBMISSION TO SECRETARY.—Each  
10 State shall submit to the Secretary annually the  
11 program described in subparagraph (A).

12 “(C) APPROVAL.—The Secretary may not  
13 approve the program unless the Secretary de-  
14 termines that—

15 “(i) the program provides a fair dis-  
16 tribution of amounts in the State, includ-  
17 ing Indian reservations; and

18 “(ii) the program provides the max-  
19 imum feasible coordination of public trans-  
20 portation service assisted under this sec-  
21 tion with transportation service assisted by  
22 other Federal sources.

23 “(3) RURAL TRANSPORTATION ASSISTANCE  
24 PROGRAM.—

1           “(A) IN GENERAL.—The Secretary shall  
2 carry out a rural transportation assistance pro-  
3 gram in other than urbanized areas.

4           “(B) GRANTS AND CONTRACTS.—In car-  
5 rying out this paragraph, the Secretary may use  
6 not more than 2 percent of the amount made  
7 available under section 5338(a)(2)(F) to make  
8 grants and contracts for transportation re-  
9 search, technical assistance, training, and re-  
10 lated support services in other than urbanized  
11 areas.

12           “(C) PROJECTS OF A NATIONAL SCOPE.—  
13 Not more than 15 percent of the amounts avail-  
14 able under subparagraph (B) may be used by  
15 the Secretary to carry out projects of a national  
16 scope, with the remaining balance provided to  
17 the States.

18           “(4) DATA COLLECTION.—Each recipient under  
19 this section shall submit an annual report to the  
20 Secretary containing information on capital invest-  
21 ment, operations, and service provided with funds  
22 received under this section, including—

23           “(A) total annual revenue;

24           “(B) sources of revenue;

25           “(C) total annual operating costs;



1 “(D) total annual capital costs;

2 “(E) fleet size and type, and related facili-  
3 ties;

4 “(F) vehicle revenue miles; and

5 “(G) ridership.

6 “(c) APPORTIONMENTS.—

7 “(1) PUBLIC TRANSPORTATION ON INDIAN RES-  
8 ERVATIONS.—Of the amounts made available or ap-  
9 propriated for each fiscal year pursuant to section  
10 5338(a)(2)(F) to carry out this paragraph, the fol-  
11 lowing amounts shall be apportioned each fiscal year  
12 for grants to Indian tribes for any purpose eligible  
13 under this section, under such terms and conditions  
14 as may be established by the Secretary:

15 “(A) \$10,000,000 shall be distributed on a  
16 competitive basis by the Secretary.

17 “(B) \$20,000,000 shall be apportioned as  
18 formula grants, as provided in subsection (k).

19 “(2) APPALACHIAN DEVELOPMENT PUBLIC  
20 TRANSPORTATION ASSISTANCE PROGRAM.—

21 “(A) DEFINITIONS.—In this paragraph—

22 “(i) the term ‘Appalachian region’ has  
23 the same meaning as in section 14102 of  
24 title 40; and

1                   “(ii) the term ‘eligible recipient’  
2                   means a State that participates in a pro-  
3                   gram established under subtitle IV of title  
4                   40.

5                   “(B) IN GENERAL.—The Secretary shall  
6                   carry out a public transportation assistance  
7                   program in the Appalachian region.

8                   “(C) APPORTIONMENT.—Of amounts made  
9                   available or appropriated for each fiscal year  
10                  under section 5338(a)(2)(F) to carry out this  
11                  paragraph, the Secretary shall apportion funds  
12                  to eligible recipients for any purpose eligible  
13                  under this section, based on the guidelines es-  
14                  tablished under section 9.5(b) of the Appa-  
15                  lachian Regional Commission Code.

16                  “(D) SPECIAL RULE.—An eligible recipient  
17                  may use amounts that cannot be used for oper-  
18                  ating expenses under this paragraph for a high-  
19                  way project if—

20                         “(i) that use is approved, in writing,  
21                         by the eligible recipient after appropriate  
22                         notice and an opportunity for comment  
23                         and appeal are provided to affected public  
24                         transportation providers; and

1                   “(ii) the eligible recipient, in approv-  
2                   ing the use of amounts under this subpara-  
3                   graph, determines that the local transit  
4                   needs are being addressed.

5                   “(3) REMAINING AMOUNTS.—

6                   “(A) IN GENERAL.—The amounts made  
7                   available or appropriated for each fiscal year  
8                   pursuant to section 5338(a)(2)(F) that are not  
9                   apportioned under paragraph (1) or (2) shall be  
10                  apportioned in accordance with this paragraph.

11                  “(B) APPORTIONMENT BASED ON LAND  
12                  AREA AND POPULATION IN NONURBANIZED  
13                  AREAS.—

14                  “(i) IN GENERAL.—83.15 percent of  
15                  the amount described in subparagraph (A)  
16                  shall be apportioned to the States in ac-  
17                  cordance with this subparagraph.

18                  “(ii) LAND AREA.—

19                  “(I) IN GENERAL.—Subject to  
20                  subclause (II), each State shall receive  
21                  an amount that is equal to 20 percent  
22                  of the amount apportioned under  
23                  clause (i), multiplied by the ratio of  
24                  the land area in areas other than ur-  
25                  banized areas in that State and di-

1                   vided by the land area in all areas  
2                   other than urbanized areas in the  
3                   United States, as shown by the most  
4                   recent decennial census of population.

5                   “(II) MAXIMUM APPORTION-  
6                   MENT.—No State shall receive more  
7                   than 5 percent of the amount appor-  
8                   tioned under subclause (I).

9                   “(iii) POPULATION.—Each State shall  
10                  receive an amount equal to 80 percent of  
11                  the amount apportioned under clause (i),  
12                  multiplied by the ratio of the population of  
13                  areas other than urbanized areas in that  
14                  State and divided by the population of all  
15                  areas other than urbanized areas in the  
16                  United States, as shown by the most re-  
17                  cent decennial census of population.

18                  “(C) APPORTIONMENT BASED ON LAND  
19                  AREA, VEHICLE REVENUE MILES, AND LOW-IN-  
20                  COME INDIVIDUALS IN NONURBANIZED  
21                  AREAS.—

22                  “(i) IN GENERAL.—16.85 percent of  
23                  the amount described in subparagraph (A)  
24                  shall be apportioned to the States in ac-  
25                  cordance with this subparagraph.

1                   “(ii) LAND AREA.—Subject to clause  
2                   (v), each State shall receive an amount  
3                   that is equal to 29.68 percent of the  
4                   amount apportioned under clause (i), mul-  
5                   tiplied by the ratio of the land area in  
6                   areas other than urbanized areas in that  
7                   State and divided by the land area in all  
8                   areas other than urbanized areas in the  
9                   United States, as shown by the most re-  
10                  cent decennial census of population.

11                  “(iii) VEHICLE REVENUE MILES.—  
12                  Subject to clause (v), each State shall re-  
13                  ceive an amount that is equal to 29.68 per-  
14                  cent of the amount apportioned under  
15                  clause (i), multiplied by the ratio of vehicle  
16                  revenue miles in areas other than urban-  
17                  ized areas in that State and divided by the  
18                  vehicle revenue miles in all areas other  
19                  than urbanized areas in the United States,  
20                  as determined by national transit database  
21                  reporting.

22                  “(iv) LOW-INCOME INDIVIDUALS.—  
23                  Each State shall receive an amount that is  
24                  equal to 40.64 percent of the amount ap-  
25                  portioned under clause (i), multiplied by

1           the ratio of low-income individuals in areas  
2           other than urbanized areas in that State  
3           and divided by the number of low-income  
4           individuals in all areas other than urban-  
5           ized areas in the United States, as shown  
6           by the Bureau of the Census.

7                   “(v) MAXIMUM APPORTIONMENT.—No  
8           State shall receive—

9                           “(I) more than 5 percent of the  
10                           amount apportioned under clause (ii);  
11                           or

12                           “(II) more than 5 percent of the  
13                           amount apportioned under clause (iii).

14           “(d) USE FOR LOCAL TRANSPORTATION SERVICE.—  
15   A State may use an amount apportioned under this sec-  
16   tion for a project included in a program under subsection  
17   (b) of this section and eligible for assistance under this  
18   chapter if the project will provide local transportation  
19   service, as defined by the Secretary of Transportation, in  
20   an area other than an urbanized area.

21           “(e) USE FOR ADMINISTRATION, PLANNING, AND  
22   TECHNICAL ASSISTANCE.—The Secretary may allow a  
23   State to use not more than 15 percent of the amount ap-  
24   portioned under this section to administer this section and  
25   provide technical assistance to a subrecipient, including

1 project planning, program and management development,  
2 coordination of public transportation programs, and re-  
3 search the State considers appropriate to promote effec-  
4 tive delivery of public transportation to an area other than  
5 an urbanized area.

6 “(f) INTERCITY BUS TRANSPORTATION.—

7 “(1) IN GENERAL.—A State shall expend at  
8 least 15 percent of the amount made available in  
9 each fiscal year to carry out a program to develop  
10 and support intercity bus transportation. Eligible ac-  
11 tivities under the program include—

12 “(A) planning and marketing for intercity  
13 bus transportation;

14 “(B) capital grants for intercity bus shel-  
15 ters;

16 “(C) joint-use stops and depots;

17 “(D) operating grants through purchase-  
18 of-service agreements, user-side subsidies, and  
19 demonstration projects; and

20 “(E) coordinating rural connections be-  
21 tween small public transportation operations  
22 and intercity bus carriers.

23 “(2) CERTIFICATION.—A State does not have  
24 to comply with paragraph (1) of this subsection in  
25 a fiscal year in which the Governor of the State cer-

1       tifies to the Secretary, after consultation with af-  
2       fected intercity bus service providers, that the inter-  
3       city bus service needs of the State are being met  
4       adequately.

5       “(g) ACCESS TO JOBS PROJECTS.—

6               “(1) IN GENERAL.—Amounts made available  
7       under section 5338(a)(2)(F) may be used to carry  
8       out a program to develop and maintain job access  
9       projects. Eligible projects may include—

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

15               “(i) public transportation projects to  
16       finance planning, capital, and operating  
17       costs of providing access to jobs under this  
18       chapter;

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

23               “(iii) promoting the use of transit  
24       vouchers for welfare recipients and eligible  
25       low-income individuals; and



1                   “(iv) promoting the use of employer-  
2                   provided transportation, including the  
3                   transit pass benefit program under section  
4                   132 of the Internal Revenue Code of 1986;  
5                   and

6                   “(B) transportation projects designed to  
7                   support the use of public transportation includ-  
8                   ing—

9                   “(i) enhancements to existing public  
10                  transportation service for workers with  
11                  non-traditional hours or reverse commutes;

12                  “(ii) guaranteed ride home programs;

13                  “(iii) bicycle storage facilities; and

14                  “(iv) projects that otherwise facilitate  
15                  the provision of public transportation serv-  
16                  ices to employment opportunities.

17                  “(2) PROJECT SELECTION AND PLAN DEVELOP-  
18                  MENT.—Each grant recipient under this subsection  
19                  shall certify that—

20                  “(A) the projects selected were included in  
21                  a locally developed, coordinated public transit-  
22                  human services transportation plan;

23                  “(B) the plan was developed and approved  
24                  through a process that included participation by  
25                  low-income individuals, representatives of pub-

1           lic, private, and nonprofit transportation and  
2           human services providers, and the public;

3           “(C) to the maximum extent feasible, serv-  
4           ices funded under this subsection are coordi-  
5           nated with transportation services funded by  
6           other Federal departments and agencies; and

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

10          “(3) COMPETITIVE PROCESS FOR GRANTS TO  
11          SUBRECIPIENTS.—

12           “(A) STATEWIDE SOLICITATIONS.—A  
13          State may conduct a statewide solicitation for  
14          applications for grants to recipients and sub-  
15          recipients under this subsection.

16           “(B) APPLICATION.—If the State elects to  
17          engage in a competitive process, recipients and  
18          subrecipients seeking to receive a grant from  
19          apportioned funds shall submit to the State an  
20          application in the form and in accordance with  
21          such requirements as the State shall establish.

22          “(h) GOVERNMENT SHARE OF COSTS.—

23           “(1) CAPITAL PROJECTS.—

24           “(A) IN GENERAL.—Except as provided by  
25          subparagraph (B), a grant awarded under this

1 section for a capital project or project adminis-  
2 trative expenses shall be for 80 percent of the  
3 net costs of the project, as determined by the  
4 Secretary.

5 “(B) EXCEPTION.—A State described in  
6 section 120(b) of title 23 shall receive a Gov-  
7 ernment share of the net costs in accordance  
8 with the formula under that section.

9 “(2) OPERATING ASSISTANCE.—

10 “(A) IN GENERAL.—Except as provided by  
11 subparagraph (B), a grant made under this sec-  
12 tion for operating assistance may not exceed 50  
13 percent of the net operating costs of the  
14 project, as determined by the Secretary.

15 “(B) EXCEPTION.—A State described in  
16 section 120(b) of title 23 shall receive a Gov-  
17 ernment share of the net operating costs equal  
18 to 62.5 percent of the Government share pro-  
19 vided for under paragraph (1)(B).

20 “(3) REMAINDER.—The remainder of net  
21 project costs—

22 “(A) may be provided from an undistrib-  
23 uted cash surplus, a replacement or deprecia-  
24 tion cash fund or reserve, a service agreement  
25 with a State or local social service agency or a

1 private social service organization, or new cap-  
2 ital;

3 “(B) may be derived from amounts appro-  
4 priated or otherwise made available to a depart-  
5 ment or agency of the Government (other than  
6 the Department of Transportation) that are eli-  
7 gible to be expended for transportation; and

8 “(C) notwithstanding subparagraph (B),  
9 may be derived from amounts made available to  
10 carry out the Federal lands highway program  
11 established by section 204 of title 23.

12 “(4) USE OF CERTAIN FUNDS.—For purposes  
13 of paragraph (3)(B), the prohibitions on the use of  
14 funds for matching requirements under section  
15 403(a)(5)(C)(vii) of the Social Security Act (42  
16 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal  
17 or State funds to be used for transportation pur-  
18 poses.

19 “(5) LIMITATION ON OPERATING ASSIST-  
20 ANCE.—A State carrying out a program of operating  
21 assistance under this section may not limit the level  
22 or extent of use of the Government grant for the  
23 payment of operating expenses.

24 “(i) TRANSFER OF FACILITIES AND EQUIPMENT.—  
25 With the consent of the recipient currently having a facil-

1 ity or equipment acquired with assistance under this sec-  
2 tion, a State may transfer the facility or equipment to any  
3 recipient eligible to receive assistance under this chapter  
4 if the facility or equipment will continue to be used as  
5 required under this section.

6 “(j) RELATIONSHIP TO OTHER LAWS.—

7 “(1) IN GENERAL.—Section 5333(b) applies to  
8 this section if the Secretary of Labor utilizes a spe-  
9 cial warranty that provides a fair and equitable ar-  
10 rangement to protect the interests of employees.

11 “(2) RULE OF CONSTRUCTION.—This sub-  
12 section does not affect or discharge a responsibility  
13 of the Secretary of Transportation under a law of  
14 the United States.

15 “(k) FORMULA GRANTS FOR PUBLIC TRANSPOR-  
16 TATION ON INDIAN RESERVATIONS.—

17 “(1) APPORTIONMENT.—

18 “(A) IN GENERAL.—Of the amounts de-  
19 scribed in subsection (c)(1)(B)—

20 “(i) 50 percent of the total amount  
21 shall be apportioned so that each Indian  
22 tribe providing public transportation serv-  
23 ice shall receive an amount equal to the  
24 total amount apportioned under this clause  
25 multiplied by the ratio of the number of

1 vehicle revenue miles provided by an In-  
2 dian tribe divided by the total number of  
3 vehicle revenue miles provided by all In-  
4 dian tribes, as reported to the Secretary;

5 “(ii) 25 percent of the total amount  
6 shall be apportioned equally among each  
7 Indian tribe providing at least 200,000 ve-  
8 hicle revenue miles of public transportation  
9 service annually, as reported to the Sec-  
10 retary; and

11 “(iii) 25 percent of the total amount  
12 shall be apportioned among each Indian  
13 tribe providing public transportation on  
14 tribal lands on which more than 1,000 low-  
15 income individuals reside (as determined  
16 by the Bureau of the Census) so that each  
17 Indian tribe shall receive an amount equal  
18 to the total amount apportioned under this  
19 clause multiplied by the ratio of the num-  
20 ber of low-income individuals residing on  
21 an Indian tribe’s lands divided by the total  
22 number of low-income individuals on tribal  
23 lands on which more than 1,000 low-in-  
24 come individuals reside.

1           “(B) LIMITATION.—No recipient shall re-  
2           ceive more than \$300,000 of the amounts ap-  
3           portioned under subparagraph (A)(iii) in a fis-  
4           cal year.

5           “(C) REMAINING AMOUNTS.—Of the  
6           amounts made available under subparagraph  
7           (A)(iii), any amounts not apportioned under  
8           that subparagraph shall be allocated among In-  
9           dian tribes receiving less than \$300,000 in a  
10          fiscal year according to the formula specified in  
11          that clause.

12          “(D) LOW-INCOME INDIVIDUALS.—For  
13          purposes of subparagraph (A)(iii), the term  
14          ‘low-income individual’ means an individual  
15          whose family income is at or below 100 percent  
16          of the poverty line, as that term is defined in  
17          section 673(2) of the Community Services  
18          Block Grant Act (42 U.S.C. 9902(2)), including  
19          any revision required by that section, for a fam-  
20          ily of the size involved.

21          “(2) NON-TRIBAL SERVICE PROVIDERS.—A re-  
22          cipient that is an Indian tribe may use funds appor-  
23          tioned under this subsection to finance public trans-  
24          portation services provided by a non-tribal provider  
25          of public transportation that connects residents of

1 tribal lands with surrounding communities, improves  
2 access to employment or healthcare, or otherwise ad-  
3 dresses the mobility needs of tribal members.”.

4 **SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**  
5 **AND DEPLOYMENT PROJECTS.**

6 Section 5312 of title 49, United States Code, is  
7 amended to read as follows:

8 **“§ 5312. Research, development, demonstration, and**  
9 **deployment projects**

10 “(a) RESEARCH, DEVELOPMENT, DEMONSTRATION,  
11 AND DEPLOYMENT PROJECTS.—

12 “(1) IN GENERAL.—The Secretary may make  
13 grants and enter into contracts, cooperative agree-  
14 ments, and other agreements for research, develop-  
15 ment, demonstration, and deployment projects, and  
16 evaluation of research and technology of national  
17 significance to public transportation, that the Sec-  
18 retary determines will improve public transportation.

19 “(2) AGREEMENTS.—In order to carry out  
20 paragraph (1), the Secretary may make grants to  
21 and enter into contracts, cooperative agreements,  
22 and other agreements with—

23 “(A) departments, agencies, and instru-  
24 mentalities of the Government;

25 “(B) State and local governmental entities;



- 1 “(C) providers of public transportation;  
2 “(D) private or non-profit organizations;  
3 “(E) institutions of higher education; and  
4 “(F) technical and community colleges.

5 “(3) APPLICATION.—

6 “(A) IN GENERAL.—To receive a grant,  
7 contract, cooperative agreement, or other agree-  
8 ment under this section, an entity described in  
9 paragraph (2) shall submit an application to  
10 the Secretary.

11 “(B) FORM AND CONTENTS.—An applica-  
12 tion under subparagraph (A) shall be in such  
13 form and contain such information as the Sec-  
14 retary may require, including—

15 “(i) a statement of purpose detailing  
16 the need being addressed;

17 “(ii) the short- and long-term goals of  
18 the project, including opportunities for fu-  
19 ture innovation and development, the po-  
20 tential for deployment, and benefits to rid-  
21 ers and public transportation; and

22 “(iii) the short- and long-term funding  
23 requirements to complete the project and  
24 any future objectives of the project.

25 “(b) RESEARCH.—

1           “(1) IN GENERAL.—The Secretary may make a  
2           grant to or enter into a contract, cooperative agree-  
3           ment, or other agreement under this section with an  
4           entity described in subsection (a)(2) to carry out a  
5           public transportation research project that has as its  
6           ultimate goal the development and deployment of  
7           new and innovative ideas, practices, and approaches.

8           “(2) PROJECT ELIGIBILITY.—A public trans-  
9           portation research project that receives assistance  
10          under paragraph (1) shall focus on—

11           “(A) providing more effective and efficient  
12          public transportation service, including services  
13          to—

14                   “(i) seniors;

15                   “(ii) individuals with disabilities; and

16                   “(iii) low-income individuals;

17           “(B) mobility management and improve-  
18          ments and travel management systems;

19           “(C) data and communication system ad-  
20          vancements;

21           “(D) system capacity, including—

22                   “(i) train control;

23                   “(ii) capacity improvements; and

24                   “(iii) performance management;

25           “(E) capital and operating efficiencies;

1                   “(F) planning and forecasting modeling  
2                   and simulation;

3                   “(G) advanced vehicle design;

4                   “(H) advancements in vehicle technology;

5                   “(I) asset maintenance and repair systems  
6                   advancement;

7                   “(J) construction and project management;

8                   “(K) alternative fuels;

9                   “(L) the environment and energy effi-  
10                  ciency;

11                  “(M) safety improvements; or

12                  “(N) any other area that the Secretary de-  
13                  termines is important to advance the interests  
14                  of public transportation.

15                  “(c) INNOVATION AND DEVELOPMENT.—

16                  “(1) IN GENERAL.—The Secretary may make a  
17                  grant to or enter into a contract, cooperative agree-  
18                  ment, or other agreement under this section with an  
19                  entity described in subsection (a)(2) to carry out a  
20                  public transportation innovation and development  
21                  project that seeks to improve public transportation  
22                  systems nationwide in order to provide more efficient  
23                  and effective delivery of public transportation serv-  
24                  ices, including through technology and technological  
25                  capacity improvements.

1           “(2) PROJECT ELIGIBILITY.—A public trans-  
2           portation innovation and development project that  
3           receives assistance under paragraph (1) shall focus  
4           on—

5                   “(A) the development of public transpor-  
6                   tation research projects that received assistance  
7                   under subsection (b) that the Secretary deter-  
8                   mines were successful;

9                   “(B) planning and forecasting modeling  
10                  and simulation;

11                  “(C) capital and operating efficiencies;

12                  “(D) advanced vehicle design;

13                  “(E) advancements in vehicle technology;

14                  “(F) the environment and energy effi-  
15                  ciency;

16                  “(G) system capacity, including train con-  
17                  trol and capacity improvements; or

18                  “(H) any other area that the Secretary de-  
19                  termines is important to advance the interests  
20                  of public transportation.

21           “(d) DEMONSTRATION, DEPLOYMENT, AND EVALUA-  
22           TION.—

23                   “(1) IN GENERAL.—The Secretary may, under  
24                   terms and conditions that the Secretary prescribes,  
25                   make a grant to or enter into a contract, cooperative

1 agreement, or other agreement with an entity de-  
2 scribed in paragraph (2) to promote the early de-  
3 ployment and demonstration of innovation in public  
4 transportation that has broad applicability.

5 “(2) PARTICIPANTS.—An entity described in  
6 this paragraph is—

7 “(A) an entity described in subsection  
8 (a)(2); or

9 “(B) a consortium of entities described in  
10 subsection (a)(2), including a provider of public  
11 transportation, that will share the costs, risks,  
12 and rewards of early deployment and dem-  
13 onstration of innovation.

14 “(3) PROJECT ELIGIBILITY.—A project that re-  
15 ceives assistance under paragraph (1) shall seek to  
16 build on successful research, innovation, and devel-  
17 opment efforts to facilitate—

18 “(A) the deployment of research and tech-  
19 nology development resulting from private ef-  
20 forts or federally funded efforts; and

21 “(B) the implementation of research and  
22 technology development to advance the interests  
23 of public transportation.

24 “(4) EVALUATION.—Not later than 2 years  
25 after the date on which a project receives assistance

1 under paragraph (1), the Secretary shall conduct a  
2 comprehensive evaluation of the success or failure of  
3 the projects funded under this subsection and any  
4 plan for broad-based implementation of the innova-  
5 tion promoted by successful projects.

6 “(e) ANNUAL REPORT ON RESEARCH.—Not later  
7 than the first Monday in February of each year, the Sec-  
8 retary shall submit to the Committee on Banking, Hous-  
9 ing, and Urban Affairs and the Committee on Appropria-  
10 tions of the Senate and the Committee on Transportation  
11 and Infrastructure and the Committee on Appropriations  
12 of the House of Representatives a report that includes—

13 “(1) a description of each project that received  
14 assistance under this section during the preceding  
15 fiscal year;

16 “(2) an evaluation of each project described in  
17 paragraph (1), including any evaluation conducted  
18 under subsection (d)(4) for the preceding fiscal year;  
19 and

20 “(3) a proposal for allocations of amounts for  
21 assistance under this section for the subsequent fis-  
22 cal year.

23 “(f) GOVERNMENT SHARE OF COSTS.—

1           “(1) IN GENERAL.—The Government share of  
2           the cost of a project carried out under this section  
3           shall not exceed 80 percent.

4           “(2) NON-GOVERNMENT SHARE.—The non-Gov-  
5           ernment share of the cost of a project carried out  
6           under this section may be derived from in-kind con-  
7           tributions.

8           “(3) FINANCIAL BENEFIT.—If the Secretary  
9           determines that there would be a clear and direct fi-  
10          nancial benefit to an entity under a grant, contract,  
11          cooperative agreement, or other agreement under  
12          this section, the Secretary shall establish a Govern-  
13          ment share of the costs of the project to be carried  
14          out under the grant, contract, cooperative agree-  
15          ment, or other agreement that is consistent with the  
16          benefit.”.

17 **SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DE-**  
18 **VELOPMENT.**

19          Section 5314 of title 49, United States Code, is  
20          amended to read as follows:

21 **“§ 5314. Technical assistance and standards develop-**  
22 **ment**

23          “(a) TECHNICAL ASSISTANCE AND STANDARDS DE-  
24          VELOPMENT.—

1           “(1) IN GENERAL.—The Secretary may make  
2 grants and enter into contracts, cooperative agree-  
3 ments, and other agreements (including agreements  
4 with departments, agencies, and instrumentalities of  
5 the Government) to carry out activities that the Sec-  
6 retary determines will assist recipients of assistance  
7 under this chapter to—

8           “(A) more effectively and efficiently pro-  
9 vide public transportation service;

10           “(B) administer funds received under this  
11 chapter in compliance with Federal law; and

12           “(C) improve public transportation.

13           “(2) ELIGIBLE ACTIVITIES.—The activities car-  
14 ried out under paragraph (1) may include—

15           “(A) technical assistance; and

16           “(B) the development of standards and  
17 best practices by the public transportation in-  
18 dustry.

19           “(b) TECHNICAL ASSISTANCE CENTERS.—

20           “(1) DEFINITION.—In this subsection, the term  
21 ‘eligible entity’ means a nonprofit organization, an  
22 institution of higher education, or a technical or  
23 community college.

24           “(2) IN GENERAL.—The Secretary may make  
25 grants to and enter into contracts, cooperative



1 agreements, and other agreements with eligible enti-  
2 ties to administer centers to provide technical assist-  
3 ance, including—

4 “(A) the development of tools and guid-  
5 ance; and

6 “(B) the dissemination of best practices.

7 “(3) COMPETITIVE PROCESS.—The Secretary  
8 may make grants and enter into contracts, coopera-  
9 tive agreements, and other agreements under para-  
10 graph (2) through a competitive process on a bien-  
11 nial basis for technical assistance in each of the fol-  
12 lowing categories:

13 “(A) Human services transportation co-  
14 ordination, including—

15 “(i) transportation for seniors;

16 “(ii) transportation for individuals  
17 with disabilities; and

18 “(iii) coordination of local resources  
19 and programs to assist low-income individ-  
20 uals and veterans in gaining access to  
21 training and employment opportunities.

22 “(B) Transit-oriented development.

23 “(C) Transportation equity with regard to  
24 the impact that transportation planning, invest-

1           ment, and operations have on low-income and  
2           minority individuals.

3           “(D) Financing mechanisms, including—  
4                   “(i) public-private partnerships;  
5                   “(ii) bonding; and  
6                   “(iii) State and local capacity build-  
7           ing.

8           “(E) Any other activity that the Secretary  
9           determines is important to advance the inter-  
10          ests of public transportation.

11          “(4) EXPERTISE OF TECHNICAL ASSISTANCE  
12          CENTERS.—In selecting an eligible entity to admin-  
13          ister a center under this subsection, the Secretary  
14          shall consider—

15               “(A) the demonstrated subject matter ex-  
16               pertise of the eligible entity; and

17               “(B) the capacity of the eligible entity to  
18               deliver technical assistance on a regional or na-  
19               tionwide basis.

20          “(5) PARTNERSHIPS.—An eligible entity may  
21          partner with another eligible entity to provide tech-  
22          nical assistance under this subsection.

23          “(c) GOVERNMENT SHARE OF COSTS.—

1           “(1) IN GENERAL.—The Government share of  
2           the cost of an activity under this section may not ex-  
3           ceed 80 percent.

4           “(2) NON-GOVERNMENT SHARE.—The non-Gov-  
5           ernment share of the cost of an activity under this  
6           section may be derived from in-kind contributions.”.

7   **SEC. 20015. BUS TESTING FACILITIES.**

8           Section 5318 of title 49, United States Code, is  
9           amended to read as follows:

10   **“§ 5318. Bus testing facilities**

11           “(a) FACILITIES.—The Secretary shall certify not  
12           more than 4 comprehensive facilities for testing new bus  
13           models for maintainability, reliability, safety, performance  
14           (including braking performance), structural integrity, fuel  
15           economy, emissions, and noise.

16           “(b) COOPERATIVE AGREEMENT.—The Secretary  
17           shall enter into a cooperative agreement with not more  
18           than 4 qualified entities to test public transportation vehi-  
19           cles under subsection (a).

20           “(c) FEES.—An entity that operates and maintains  
21           a facility certified under subsection (a) shall establish and  
22           collect reasonable fees for the testing of vehicles at the  
23           facility. The Secretary must approve the fees.

24           “(d) AVAILABILITY OF AMOUNTS TO PAY FOR TEST-  
25           ING.—

1           “(1) IN GENERAL.—The Secretary shall enter  
2           into a cooperative agreement with an entity that op-  
3           erates and maintains a facility certified under sub-  
4           section (a), under which 80 percent of the fee for  
5           testing a vehicle at the facility may be available from  
6           amounts apportioned to a recipient under section  
7           5336 or from amounts appropriated to carry out  
8           this section.

9           “(2) PROHIBITION.—An entity that operates  
10          and maintains a facility described in subsection (a)  
11          shall not have a financial interest in the outcome of  
12          the testing carried out at the facility.

13          “(e) ACQUIRING NEW BUS MODELS.—Amounts ap-  
14          propriated or made available under this chapter may be  
15          obligated or expended to acquire a new bus model only  
16          if—

17                 “(1) a bus of that model has been tested at a  
18                 facility described in subsection (a); and

19                 “(2) the bus tested under paragraph (1) met—

20                         “(A) performance standards for maintain-  
21                         ability, reliability, performance (including brak-  
22                         ing performance), structural integrity, fuel  
23                         economy, emissions, and noise, as established  
24                         by the Secretary by rule; and

1           “(B) the minimum safety performance  
2           standards established by the Secretary pursuant  
3           to section 5329(b).”.

4 **SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DE-**  
5 **VELOPMENT AND HUMAN RESOURCE PRO-**  
6 **GRAMS.**

7           Section 5322 of title 49, United States Code, is  
8           amended to read as follows:

9 **“§ 5322. Public transportation workforce develop-**  
10 **ment and human resource programs**

11           “(a) IN GENERAL.—The Secretary may undertake,  
12           or make grants or enter into contracts for, activities that  
13           address human resource needs as the needs apply to public  
14           transportation activities, including activities that—

15           “(1) educate and train employees;

16           “(2) develop the public transportation work-  
17           force through career outreach and preparation;

18           “(3) develop a curriculum for workforce devel-  
19           opment;

20           “(4) conduct outreach programs to increase mi-  
21           nority and female employment in public transpor-  
22           tation;

23           “(5) conduct research on public transportation  
24           personnel and training needs;

1           “(6) provide training and assistance for minor-  
2           ity business opportunities;

3           “(7) advance training relating to maintenance  
4           of alternative energy, energy efficiency, or zero emis-  
5           sion vehicles and facilities used in public transpor-  
6           tation; and

7           “(8) address a current or projected workforce  
8           shortage in an area that requires technical expertise.

9           “(b) FUNDING.—

10           “(1) URBANIZED AREA FORMULA GRANTS.—A  
11           recipient or subrecipient of funding under section  
12           5307 shall expend not less than 0.5 percent of such  
13           funding for activities consistent with subsection (a).

14           “(2) WAIVER.—The Secretary may waive the  
15           requirement under paragraph (1) with respect to a  
16           recipient or subrecipient if the Secretary determines  
17           that the recipient or subrecipient—

18                   “(A) has an adequate workforce develop-  
19                   ment program; or

20                   “(B) has partnered with a local edu-  
21                   cational institution in a manner that suffi-  
22                   ciently promotes or addresses workforce devel-  
23                   opment and human resource needs.

24           “(c) INNOVATIVE PUBLIC TRANSPORTATION WORK-  
25           FORCE DEVELOPMENT PROGRAM.—

1           “(1) PROGRAM ESTABLISHED.—The Secretary  
2 shall establish a competitive grant program to assist  
3 the development of innovative activities eligible for  
4 assistance under subsection (a).

5           “(2) SELECTION OF RECIPIENTS.—To the max-  
6 imum extent feasible, the Secretary shall select re-  
7 cipients that—

8                   “(A) are geographically diverse;

9                   “(B) address the workforce and human re-  
10 sources needs of large public transportation  
11 providers;

12                   “(C) address the workforce and human re-  
13 sources needs of small public transportation  
14 providers;

15                   “(D) address the workforce and human re-  
16 sources needs of urban public transportation  
17 providers;

18                   “(E) address the workforce and human re-  
19 sources needs of rural public transportation  
20 providers;

21                   “(F) advance training related to mainte-  
22 nance of alternative energy, energy efficiency,  
23 or zero emission vehicles and facilities used in  
24 public transportation;

1           “(G) target areas with high rates of unem-  
2           ployment; and

3           “(H) address current or projected work-  
4           force shortages in areas that require technical  
5           expertise.

6           “(d) GOVERNMENT’S SHARE OF COSTS.—The Gov-  
7           ernment share of the cost of a project carried out using  
8           a grant under this section shall be 50 percent.

9           “(e) REPORT.—Not later than 2 years after the date  
10          of enactment of the Federal Public Transportation Act of  
11          2012, the Secretary shall submit to the Committee on  
12          Banking, Housing, and Urban Affairs of the Senate and  
13          the Committee on Transportation and Infrastructure of  
14          the House of Representatives a report concerning the  
15          measurable outcomes and impacts of the programs funded  
16          under this section.”.

17       **SEC. 20017. GENERAL PROVISIONS.**

18          Section 5323 of title 49, United States Code, is  
19          amended to read as follows:

20       **“§ 5323. General provisions**

21          “(a) INTERESTS IN PROPERTY.—

22               “(1) IN GENERAL.—Financial assistance pro-  
23               vided under this chapter to a State or a local gov-  
24               ernmental authority may be used to acquire an in-  
25               terest in, or to buy property of, a private company



1 engaged in public transportation, for a capital  
2 project for property acquired from a private com-  
3 pany engaged in public transportation after July 9,  
4 1964, or to operate a public transportation facility  
5 or equipment in competition with, or in addition to,  
6 transportation service provided by an existing public  
7 transportation company, only if—

8 “(A) the Secretary determines that such fi-  
9 nancial assistance is essential to a program of  
10 projects required under sections 5303 and  
11 5304;

12 “(B) the Secretary determines that the  
13 program provides for the participation of pri-  
14 vate companies engaged in public transpor-  
15 tation to the maximum extent feasible; and

16 “(C) just compensation under State or  
17 local law will be paid to the company for its  
18 franchise or property.

19 “(2) LIMITATION.—A governmental authority  
20 may not use financial assistance of the United  
21 States Government to acquire land, equipment, or a  
22 facility used in public transportation from another  
23 governmental authority in the same geographic area.

24 “(b) RELOCATION AND REAL PROPERTY REQUIRE-  
25 MENTS.—The Uniform Relocation Assistance and Real

1 Property Acquisition Policies Act of 1970 (42 U.S.C. 4601  
2 et seq.) shall apply to financial assistance for capital  
3 projects under this chapter.

4 “(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND  
5 ENVIRONMENTAL INTERESTS.—

6 “(1) COOPERATION AND CONSULTATION.—In  
7 carrying out the goal described in section  
8 5301(c)(2), the Secretary shall cooperate and con-  
9 sult with the Secretary of the Interior and the Ad-  
10 ministrator of the Environmental Protection Agency  
11 on each project that may have a substantial impact  
12 on the environment.

13 “(2) COMPLIANCE WITH NEPA.—The National  
14 Environmental Policy Act of 1969 (42 U.S.C. 4321  
15 et seq.) shall apply to financial assistance for capital  
16 projects under this chapter.

17 “(d) CORRIDOR PRESERVATION.—

18 “(1) IN GENERAL.—The Secretary may assist a  
19 recipient in acquiring right-of-way before the com-  
20 pletion of the environmental reviews for any project  
21 that may use the right-of-way if the acquisition is  
22 otherwise permitted under Federal law. The Sec-  
23 retary may establish restrictions on such an acquisi-  
24 tion as the Secretary determines to be necessary and  
25 appropriate.

1           “(2) ENVIRONMENTAL REVIEWS.—Right-of-way  
2           acquired under this subsection may not be developed  
3           in anticipation of the project until all required envi-  
4           ronmental reviews for the project have been com-  
5           pleted.

6           “(e) CONDITION ON CHARTER BUS TRANSPOR-  
7           TATION SERVICE.—

8           “(1) AGREEMENTS.—Financial assistance  
9           under this chapter may be used to buy or operate  
10          a bus only if the applicant, governmental authority,  
11          or publicly owned operator that receives the assist-  
12          ance agrees that, except as provided in the agree-  
13          ment, the governmental authority or an operator of  
14          public transportation for the governmental authority  
15          will not provide charter bus transportation service  
16          outside the urban area in which it provides regularly  
17          scheduled public transportation service. An agree-  
18          ment shall provide for a fair arrangement the Sec-  
19          retary of Transportation considers appropriate to  
20          ensure that the assistance will not enable a govern-  
21          mental authority or an operator for a governmental  
22          authority to foreclose a private operator from pro-  
23          viding intercity charter bus service if the private op-  
24          erator can provide the service.

25          “(2) VIOLATIONS.—

1           “(A) INVESTIGATIONS.—On receiving a  
2           complaint about a violation of the agreement  
3           required under paragraph (1), the Secretary  
4           shall investigate and decide whether a violation  
5           has occurred.

6           “(B) ENFORCEMENT OF AGREEMENTS.—If  
7           the Secretary decides that a violation has oc-  
8           curred, the Secretary shall correct the violation  
9           under terms of the agreement.

10           “(C) ADDITIONAL REMEDIES.—In addition  
11           to any remedy specified in the agreement, the  
12           Secretary shall bar a recipient or an operator  
13           from receiving Federal transit assistance in an  
14           amount the Secretary considers appropriate if  
15           the Secretary finds a pattern of violations of  
16           the agreement.

17           “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL  
18           SHARE.—

19           “(1) USE AS LOCAL MATCHING FUNDS.—Not-  
20           withstanding any other provision of law, a recipient  
21           of assistance under section 5307, 5309, or 5337  
22           may use the proceeds from the issuance of revenue  
23           bonds as part of the local matching funds for a cap-  
24           ital project.

1           “(2) MAINTENANCE OF EFFORT.—The Sec-  
2           retary shall approve of the use of the proceeds from  
3           the issuance of revenue bonds for the remainder of  
4           the net project cost only if the Secretary finds that  
5           the aggregate amount of financial support for public  
6           transportation in the urbanized area provided by the  
7           State and affected local governmental authorities  
8           during the next 3 fiscal years, as programmed in the  
9           State transportation improvement program under  
10          section 5304, is not less than the aggregate amount  
11          provided by the State and affected local govern-  
12          mental authorities in the urbanized area during the  
13          preceding 3 fiscal years.

14          “(3) DEBT SERVICE RESERVE.—The Secretary  
15          may reimburse an eligible recipient for deposits of  
16          bond proceeds in a debt service reserve that the re-  
17          cipient establishes pursuant to section 5302(3)(J)  
18          from amounts made available to the recipient under  
19          section 5309.

20          “(g) SCHOOLBUS TRANSPORTATION.—

21          “(1) AGREEMENTS.—Financial assistance  
22          under this chapter may be used for a capital project,  
23          or to operate public transportation equipment or a  
24          public transportation facility, only if the applicant  
25          agrees not to provide schoolbus transportation that

1 exclusively transports students and school personnel  
2 in competition with a private schoolbus operator.

3 This subsection does not apply—

4 “(A) to an applicant that operates a school  
5 system in the area to be served and a separate  
6 and exclusive schoolbus program for the school  
7 system; and

8 “(B) unless a private schoolbus operator  
9 can provide adequate transportation that com-  
10 plies with applicable safety standards at reason-  
11 able rates.

12 “(2) VIOLATIONS.—If the Secretary finds that  
13 an applicant, governmental authority, or publicly  
14 owned operator has violated the agreement required  
15 under paragraph (1), the Secretary shall bar a re-  
16 cipient or an operator from receiving Federal transit  
17 assistance in an amount the Secretary considers ap-  
18 propriate.

19 “(h) BUYING BUSES UNDER OTHER LAWS.—Sub-  
20 sections (e) and (g) of this section apply to financial as-  
21 sistance to buy a bus under sections 133 and 142 of title  
22 23.

23 “(i) GRANT AND LOAN PROHIBITIONS.—A grant or  
24 loan may not be used to—

1           “(1) pay ordinary governmental or nonproject  
2           operating expenses; or

3           “(2) support a procurement that uses an exclu-  
4           sionary or discriminatory specification.

5           “(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN  
6 PROJECTS.—A grant for a project to be assisted under  
7 this chapter that involves acquiring vehicle-related equip-  
8 ment or facilities required by the Americans with Disabil-  
9 ities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-  
10 related equipment or facilities (including clean fuel or al-  
11 ternative fuel vehicle-related equipment or facilities) for  
12 purposes of complying with or maintaining compliance  
13 with the Clean Air Act, is for 90 percent of the net project  
14 cost of such equipment or facilities attributable to compli-  
15 ance with those Acts. The Secretary shall have discretion  
16 to determine, through practicable administrative proce-  
17 dures, the costs of such equipment or facilities attributable  
18 to compliance with those Acts.

19           “(k) BUY AMERICA.—

20           “(1) IN GENERAL.—The Secretary may obligate  
21           an amount that may be appropriated to carry out  
22           this chapter for a project only if the steel, iron, and  
23           manufactured goods used in the project are pro-  
24           duced in the United States.

1           “(2) WAIVER.—The Secretary may waive para-  
2 graph (1) of this subsection if the Secretary finds  
3 that—

4                   “(A) applying paragraph (1) would be in-  
5 consistent with the public interest;

6                   “(B) the steel, iron, and goods produced in  
7 the United States are not produced in a suffi-  
8 cient and reasonably available amount or are  
9 not of a satisfactory quality;

10                   “(C) when procuring rolling stock (includ-  
11 ing train control, communication, and traction  
12 power equipment) under this chapter—

13                           “(i) the cost of components and sub-  
14 components produced in the United States  
15 is more than 60 percent of the cost of all  
16 components of the rolling stock; and

17                           “(ii) final assembly of the rolling  
18 stock has occurred in the United States; or

19                   “(D) including domestic material will in-  
20 crease the cost of the overall project by more  
21 than 25 percent.

22           “(3) WRITTEN WAIVER DETERMINATION AND  
23 ANNUAL REPORT.—



1           “(A) WRITTEN DETERMINATION.—Before  
2           issuing a waiver under paragraph (2), the Sec-  
3           retary shall—

4                   “(i) publish in the Federal Register  
5                   and make publicly available in an easily  
6                   identifiable location on the website of the  
7                   Department of Transportation a detailed  
8                   written explanation of the waiver deter-  
9                   mination; and

10                   “(ii) provide the public with a reason-  
11                   able period of time for notice and com-  
12                   ment.

13           “(B) ANNUAL REPORT.—Not later than 1  
14           year after the date of enactment of the Federal  
15           Public Transportation Act of 2012, and annu-  
16           ally thereafter, the Secretary shall submit to  
17           the Committee on Banking, Housing, and  
18           Urban Affairs of the Senate and the Committee  
19           on Transportation and Infrastructure of the  
20           House of Representatives a report listing any  
21           waiver issued under paragraph (2) during the  
22           preceding year.

23           “(4) LABOR COSTS FOR FINAL ASSEMBLY.—In  
24           this subsection, labor costs involved in final assembly

1 are not included in calculating the cost of compo-  
2 nents.

3 “(5) WAIVER PROHIBITED.—The Secretary may  
4 not make a waiver under paragraph (2) of this sub-  
5 section for goods produced in a foreign country if  
6 the Secretary, in consultation with the United States  
7 Trade Representative, decides that the government  
8 of that foreign country—

9 “(A) has an agreement with the United  
10 States Government under which the Secretary  
11 has waived the requirement of this subsection;  
12 and

13 “(B) has violated the agreement by dis-  
14 criminating against goods to which this sub-  
15 section applies that are produced in the United  
16 States and to which the agreement applies.

17 “(6) PENALTY FOR MISLABELING AND MIS-  
18 REPRESENTATION.—A person is ineligible under  
19 subpart 9.4 of the Federal Acquisition Regulation,  
20 or any successor thereto, to receive a contract or  
21 subcontract made with amounts authorized under  
22 the Federal Public Transportation Act of 2012 if a  
23 court or department, agency, or instrumentality of  
24 the Government decides the person intentionally—

1           “(A) affixed a ‘Made in America’ label, or  
2           a label with an inscription having the same  
3           meaning, to goods sold in or shipped to the  
4           United States that are used in a project to  
5           which this subsection applies but not produced  
6           in the United States; or

7           “(B) represented that goods described in  
8           subparagraph (A) of this paragraph were pro-  
9           duced in the United States.

10          “(7) STATE REQUIREMENTS.—The Secretary  
11          may not impose any limitation on assistance pro-  
12          vided under this chapter that restricts a State from  
13          imposing more stringent requirements than this sub-  
14          section on the use of articles, materials, and supplies  
15          mined, produced, or manufactured in foreign coun-  
16          tries in projects carried out with that assistance or  
17          restricts a recipient of that assistance from com-  
18          plying with those State-imposed requirements.

19          “(8) OPPORTUNITY TO CORRECT INADVERTENT  
20          ERROR.—The Secretary may allow a manufacturer  
21          or supplier of steel, iron, or manufactured goods to  
22          correct after bid opening any certification of non-  
23          compliance or failure to properly complete the cer-  
24          tification (but not including failure to sign the cer-  
25          tification) under this subsection if such manufac-

1 turer or supplier attests under penalty of perjury  
2 that such manufacturer or supplier submitted an in-  
3 correct certification as a result of an inadvertent or  
4 clerical error. The burden of establishing inadvertent  
5 or clerical error is on the manufacturer or supplier.

6 “(9) ADMINISTRATIVE REVIEW.—A party ad-  
7 versely affected by an agency action under this sub-  
8 section shall have the right to seek review under sec-  
9 tion 702 of title 5.

10 “(1) PARTICIPATION OF GOVERNMENTAL AGENCIES  
11 IN DESIGN AND DELIVERY OF TRANSPORTATION SERV-  
12 ICES.—Governmental agencies and nonprofit organiza-  
13 tions that receive assistance from Government sources  
14 (other than the Department of Transportation) for non-  
15 emergency transportation services shall—

16 “(1) participate and coordinate with recipients  
17 of assistance under this chapter in the design and  
18 delivery of transportation services; and

19 “(2) be included in the planning for those serv-  
20 ices.

21 “(m) RELATIONSHIP TO OTHER LAWS.—

22 “(1) FRAUD AND FALSE STATEMENTS.—Sec-  
23 tion 1001 of title 18 applies to a certificate, submis-  
24 sion, or statement provided under this chapter. The  
25 Secretary may terminate financial assistance under

1       this chapter and seek reimbursement directly, or by  
2       offsetting amounts, available under this chapter if  
3       the Secretary determines that a recipient of such fi-  
4       nancial assistance has made a false or fraudulent  
5       statement or related act in connection with a Fed-  
6       eral public transportation program.

7           “(2)   POLITICAL   ACTIVITIES   OF   NON-  
8       SUPERVISORY EMPLOYEES.—The provision of assist-  
9       ance under this chapter shall not be construed to re-  
10      quire the application of chapter 15 of title 5 to any  
11      nonsupervisory employee of a public transportation  
12      system (or any other agency or entity performing re-  
13      lated functions) to whom such chapter does not oth-  
14      erwise apply.

15          “(n)   PREAWARD AND POSTDELIVERY REVIEW OF  
16      ROLLING STOCK PURCHASES.—The Secretary shall pre-  
17      scribe regulations requiring a preaward and postdelivery  
18      review of a grant under this chapter to buy rolling stock  
19      to ensure compliance with Government motor vehicle safe-  
20      ty requirements, subsection (k) of this section, and bid  
21      specifications requirements of grant recipients under this  
22      chapter. Under this subsection, independent inspections  
23      and review are required, and a manufacturer certification  
24      is not sufficient. Rolling stock procurements of 20 vehicles  
25      or fewer made for the purpose of serving other than ur-

1 banized areas and urbanized areas with populations of  
2 200,000 or fewer shall be subject to the same require-  
3 ments as established for procurements of 10 or fewer  
4 buses under the post-delivery purchaser's requirements  
5 certification process under section 663.37(e) of title 49,  
6 Code of Federal Regulations.

7       “(o) SUBMISSION OF CERTIFICATIONS.—A certifi-  
8 cation required under this chapter and any additional cer-  
9 tification or assurance required by law or regulation to  
10 be submitted to the Secretary may be consolidated into  
11 a single document to be submitted annually as part of a  
12 grant application under this chapter. The Secretary shall  
13 publish annually a list of all certifications required under  
14 this chapter with the publication required under section  
15 5336(d)(2).

16       “(p) GRANT REQUIREMENTS.—The grant require-  
17 ments under sections 5307, 5309, and 5337 apply to any  
18 project under this chapter that receives any assistance or  
19 other financing under chapter 6 (other than section 609)  
20 of title 23.

21       “(q) ALTERNATIVE FUELING FACILITIES.—A recipi-  
22 ent of assistance under this chapter may allow the inci-  
23 dental use of federally funded alternative fueling facilities  
24 and equipment by nontransit public entities and private  
25 entities if—

1           “(1) the incidental use does not interfere with  
2 the recipient’s public transportation operations;

3           “(2) all costs related to the incidental use are  
4 fully recaptured by the recipient from the nontransit  
5 public entity or private entity;

6           “(3) the recipient uses revenues received from  
7 the incidental use in excess of costs for planning,  
8 capital, and operating expenses that are incurred in  
9 providing public transportation; and

10           “(4) private entities pay all applicable excise  
11 taxes on fuel.

12           “(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

13           “(1) STUDY.—Not later than 6 months after  
14 the date of enactment of the Federal Public Trans-  
15 portation Act of 2012, the Secretary shall conduct a  
16 study to determine the feasibility of providing a cat-  
17 egorical exclusion for streetcar, bus rapid transit,  
18 and light rail projects located within an existing  
19 transportation right-of-way from the requirements of  
20 the National Environmental Policy Act of 1969 (42  
21 U.S.C. 4321 et seq.) in accordance with the Council  
22 on Environmental Quality implementing regulations  
23 under parts 1500 through 1508 of title 40, Code of  
24 Federal Regulations, or any successor thereto.

1           “(2) FINDINGS AND RULES.—Not later than 1  
2           year after the date of enactment of the Federal Pub-  
3           lic Transportation Act of 2012, the Secretary shall  
4           issue findings and, if appropriate, issue rules to pro-  
5           vide categorical exclusions for suitable categories of  
6           projects.”.

7   **SEC. 20018. CONTRACT REQUIREMENTS.**

8           Section 5325 of title 49, United States Code, is  
9   amended—

10           (1) in subsection (h), by striking “Federal Pub-  
11           lic Transportation Act of 2005” and inserting “Fed-  
12           eral Public Transportation Act of 2012”;

13           (2) in subsection (j)(2)(C), by striking “, in-  
14           cluding the performance reported in the Contractor  
15           Performance Assessment Reports required under  
16           section 5309(l)(2)”;

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

18           “(k) VETERANS EMPLOYMENT.—Recipients and sub-  
19           recipients of Federal financial assistance under this chap-  
20           ter shall ensure that contractors working on a capital  
21           project funded using such assistance give a hiring pref-  
22           erence to veterans, as defined in section 2108 of title 5,  
23           who have the requisite skills and abilities to perform the  
24           construction work required under the contract.”.



1 **SEC. 20019. TRANSIT ASSET MANAGEMENT.**

2 Section 5326 of title 49, United States Code, is  
3 amended to read as follows:

4 **“§ 5326. Transit asset management**

5 “(a) DEFINITIONS.—In this section the following  
6 definitions shall apply:

7 “(1) CAPITAL ASSET.—The term ‘capital asset’  
8 includes equipment, rolling stock, infrastructure, and  
9 facilities for use in public transportation and owned  
10 or leased by a recipient or subrecipient of Federal fi-  
11 nancial assistance under this chapter.

12 “(2) TRANSIT ASSET MANAGEMENT PLAN.—  
13 The term ‘transit asset management plan’ means a  
14 plan developed by a recipient of funding under this  
15 chapter that—

16 “(A) includes, at a minimum, capital asset  
17 inventories and condition assessments, decision  
18 support tools, and investment prioritization;  
19 and

20 “(B) the recipient certifies complies with  
21 the rule issued under this section.

22 “(3) TRANSIT ASSET MANAGEMENT SYSTEM.—  
23 The term ‘transit asset management system’ means  
24 a strategic and systematic process of operating,  
25 maintaining, and improving public transportation

1 capital assets effectively throughout the life cycle of  
2 such assets.

3 “(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The  
4 Secretary shall establish and implement a national transit  
5 asset management system, which shall include—

6 “(1) a definition of the term ‘state of good re-  
7 pair’ that includes objective standards for measuring  
8 the condition of capital assets of recipients, includ-  
9 ing equipment, rolling stock, infrastructure, and fa-  
10 cilities;

11 “(2) a requirement that recipients and sub-  
12 recipients of Federal financial assistance under this  
13 chapter develop a transit asset management plan;

14 “(3) a requirement that each recipient of Fed-  
15 eral financial assistance under this chapter report on  
16 the condition of the system of the recipient and pro-  
17 vide a description of any change in condition since  
18 the last report;

19 “(4) an analytical process or decision support  
20 tool for use by public transportation systems that—

21 “(A) allows for the estimation of capital  
22 investment needs of such systems over time;  
23 and

24 “(B) assists with asset investment  
25 prioritization by such systems; and

1           “(5) technical assistance to recipients of Fed-  
2           eral financial assistance under this chapter.

3           “(c) PERFORMANCE MEASURES AND TARGETS.—

4           “(1) IN GENERAL.—Not later than 1 year after  
5           the date of enactment of the Federal Public Trans-  
6           portation Act of 2012, the Secretary shall issue a  
7           final rule to establish performance measures based  
8           on the state of good repair standards established  
9           under subsection (b)(1).

10          “(2) TARGETS.—Not later than 3 months after  
11          the date on which the Secretary issues a final rule  
12          under paragraph (1), and each fiscal year thereafter,  
13          each recipient of Federal financial assistance under  
14          this chapter shall establish performance targets in  
15          relation to the performance measures established by  
16          the Secretary.

17          “(3) REPORTS.—Each recipient of Federal fi-  
18          nancial assistance under this chapter shall submit to  
19          the Secretary an annual report that describes—

20                 “(A) the progress of the recipient during  
21                 the fiscal year to which the report relates to-  
22                 ward meeting the performance targets estab-  
23                 lished under paragraph (2) for that fiscal year;  
24                 and

1           “(B) the performance targets established  
2           by the recipient for the subsequent fiscal year.

3           “(d) RULEMAKING.—Not later than 1 year after the  
4 date of enactment of the Federal Public Transportation  
5 Act of 2012, the Secretary shall issue a final rule to imple-  
6 ment the transit asset management system described in  
7 subsection (b).”.

8 **SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.**

9           Section 5327 of title 49, United States Code, is  
10 amended—

11           (1) in subsection (a)—

12           (A) in the matter preceding paragraph (1),  
13 by striking “United States” and all that follows  
14 through “Secretary of Transportation” and in-  
15 serting the following: “Federal financial assist-  
16 ance for a major capital project for public  
17 transportation under this chapter or any other  
18 provision of Federal law, a recipient must pre-  
19 pare a project management plan approved by  
20 the Secretary and carry out the project in ac-  
21 cordance with the project management plan”;  
22 and

23           (B) in paragraph (12), by striking “each  
24 month” and inserting “quarterly”;

25           (2) by striking subsections (c), (d), and (f);

1           (3) by inserting after subsection (b) the fol-  
2           lowing:

3           “(c) ACCESS TO SITES AND RECORDS.—Each recipi-  
4           ent of Federal financial assistance for public transpor-  
5           tation under this chapter or any other provision of Federal  
6           law shall provide the Secretary and a contractor the Sec-  
7           retary chooses under section 5338(g) with access to the  
8           construction sites and records of the recipient when rea-  
9           sonably necessary.”;

10           (4) by redesignating subsection (e) as sub-  
11           section (d); and

12           (5) in subsection (d), as so redesignated—

13           (A) in paragraph (1), by striking “sub-  
14           section (c) of this section” and inserting “sec-  
15           tion 5338(g)”; and

16           (B) in paragraph (2)—

17           (i) by striking “preliminary engineer-  
18           ing stage” and inserting “project develop-  
19           ment phase”; and

20           (ii) by striking “another stage” and  
21           inserting “another phase”.

22 **SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

23           (a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—  
24           Section 5329 of title 49, United States Code, is amended  
25           to read as follows:

1 **“§ 5329. Public transportation safety program**

2 “(a) DEFINITION.—In this section, the term ‘recipi-  
3 ent’ means a State or local governmental authority, or any  
4 other operator of a public transportation system, that re-  
5 ceives financial assistance under this chapter.

6 “(b) NATIONAL PUBLIC TRANSPORTATION SAFETY  
7 PLAN.—

8 “(1) IN GENERAL.—The Secretary shall create  
9 and implement a national public transportation safe-  
10 ty plan to improve the safety of all public transpor-  
11 tation systems that receive funding under this chap-  
12 ter.

13 “(2) CONTENTS OF PLAN.—The national public  
14 transportation safety plan under paragraph (1) shall  
15 include—

16 “(A) safety performance criteria for all  
17 modes of public transportation;

18 “(B) the definition of the term ‘state of  
19 good repair’ established under section 5326(b);

20 “(C) minimum safety performance stand-  
21 ards for public transportation vehicles used in  
22 revenue operations that—

23 “(i) do not apply to rolling stock oth-  
24 erwise regulated by the Secretary or any  
25 other Federal agency; and

1                   “(ii) to the extent practicable, take  
2                   into consideration—

3                   “(I) relevant recommendations of  
4                   the National Transportation Safety  
5                   Board; and

6                   “(II) recommendations of, and  
7                   best practices standards developed by,  
8                   the public transportation industry;  
9                   and

10                  “(D) a public transportation safety certifi-  
11                  cation training program, as described in sub-  
12                  section (c).

13                  “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-  
14                  CATION TRAINING PROGRAM.—

15                  “(1) IN GENERAL.—The Secretary shall estab-  
16                  lish a public transportation safety certification train-  
17                  ing program for Federal and State employees, or  
18                  other designated personnel, who conduct safety au-  
19                  dits and examinations of public transportation sys-  
20                  tems and employees of public transportation agen-  
21                  cies directly responsible for safety oversight.

22                  “(2) INTERIM PROVISIONS.—Not later than 90  
23                  days after the date of enactment of the Federal  
24                  Public Transportation Act of 2012, the Secretary  
25                  shall establish interim provisions for the certification

1 and training of the personnel described in paragraph  
2 (1), which shall be in effect until the effective date  
3 of the final rule issued by the Secretary to imple-  
4 ment this subsection.

5 “(d) PUBLIC TRANSPORTATION AGENCY SAFETY  
6 PLAN.—

7 “(1) IN GENERAL.—Effective 1 year after the  
8 effective date of a final rule issued by the Secretary  
9 to carry out this subsection, each recipient shall cer-  
10 tify that the recipient has established a comprehen-  
11 sive agency safety plan that includes, at a min-  
12 imum—

13 “(A) a requirement that the board of di-  
14 rectors (or equivalent entity) of the recipient  
15 approve the agency safety plan and any updates  
16 to the agency safety plan;

17 “(B) methods for identifying and evalu-  
18 ating safety risks throughout all elements of the  
19 public transportation system of the recipient;

20 “(C) strategies to minimize the exposure of  
21 the public, personnel, and property to hazards  
22 and unsafe conditions;

23 “(D) a process and timeline for conducting  
24 an annual review and update of the safety plan  
25 of the recipient;



1           “(E) performance targets based on the  
2           safety performance criteria and state of good  
3           repair standards established under subpara-  
4           graphs (A) and (B), respectively, of subsection  
5           (b)(2);

6           “(F) assignment of an adequately trained  
7           safety officer who reports directly to the general  
8           manager, president, or equivalent officer of the  
9           recipient; and

10           “(G) a comprehensive staff training pro-  
11           gram for the operations personnel and per-  
12           sonnel directly responsible for safety of the re-  
13           cipient that includes—

14                   “(i) the completion of a safety train-  
15                   ing program; and

16                   “(ii) continuing safety education and  
17                   training.

18           “(2) INTERIM AGENCY SAFETY PLAN.—A sys-  
19           tem safety plan developed pursuant to part 659 of  
20           title 49, Code of Federal Regulations, as in effect on  
21           the date of enactment of the Federal Public Trans-  
22           portation Act of 2012, shall remain in effect until  
23           such time as this subsection takes effect.

24           “(e) STATE SAFETY OVERSIGHT PROGRAM.—

1           “(1) APPLICABILITY.—This subsection applies  
2 only to eligible States.

3           “(2) DEFINITION.—In this subsection, the term  
4 ‘eligible State’ means a State that has—

5               “(A) a rail fixed guideway public transpor-  
6 tation system within the jurisdiction of the  
7 State that is not subject to regulation by the  
8 Federal Railroad Administration; or

9               “(B) a rail fixed guideway public transpor-  
10 tation system in the engineering or construction  
11 phase of development within the jurisdiction of  
12 the State that will not be subject to regulation  
13 by the Federal Railroad Administration.

14           “(3) IN GENERAL.—In order to obligate funds  
15 apportioned under section 5338 to carry out this  
16 chapter, effective 3 years after the date on which a  
17 final rule under this subsection becomes effective, an  
18 eligible State shall have in effect a State safety over-  
19 sight program approved by the Secretary under  
20 which the State—

21               “(A) assumes responsibility for overseeing  
22 rail fixed guideway public transportation safety;

23               “(B) adopts and enforces Federal law on  
24 rail fixed guideway public transportation safety;

1           “(C) establishes a State safety oversight  
2 agency;

3           “(D) determines, in consultation with the  
4 Secretary, an appropriate staffing level for the  
5 State safety oversight agency that is commensu-  
6 rate with the number, size, and complexity of  
7 the rail fixed guideway public transportation  
8 systems in the eligible State;

9           “(E) requires that employees and other  
10 designated personnel of the eligible State safety  
11 oversight agency who are responsible for rail  
12 fixed guideway public transportation safety  
13 oversight are qualified to perform such func-  
14 tions through appropriate training, including  
15 successful completion of the public transpor-  
16 tation safety certification training program es-  
17 tablished under subsection (c); and

18           “(F) prohibits any public transportation  
19 agency from providing funds to the State safety  
20 oversight agency or an entity designated by the  
21 eligible State as the State safety oversight  
22 agency under paragraph (4).

23           “(4) STATE SAFETY OVERSIGHT AGENCY.—

1           “(A) IN GENERAL.—Each State safety  
2 oversight program shall establish a State safety  
3 oversight agency that—

4           “(i) is an independent legal entity re-  
5 sponsible for the safety of rail fixed guide-  
6 way public transportation systems;

7           “(ii) is financially and legally inde-  
8 pendent from any public transportation en-  
9 tity that the State safety oversight agency  
10 oversees;

11           “(iii) does not fund, promote, or pro-  
12 vide public transportation services;

13           “(iv) does not employ any individual  
14 who is also responsible for the administra-  
15 tion of public transportation programs;

16           “(v) has the authority to review, ap-  
17 prove, oversee, and enforce the implemen-  
18 tation by the rail fixed guideway public  
19 transportation agency of the public trans-  
20 portation agency safety plan required  
21 under subsection (d);

22           “(vi) has investigative and enforce-  
23 ment authority with respect to the safety  
24 of rail fixed guideway public transportation  
25 systems of the eligible State;

1           “(vii) audits, at least once triennially,  
2           the compliance of the rail fixed guideway  
3           public transportation systems in the eligi-  
4           ble State subject to this subsection with  
5           the public transportation agency safety  
6           plan required under subsection (d); and

7           “(viii) provides, at least once annu-  
8           ally, a status report on the safety of the  
9           rail fixed guideway public transportation  
10          systems the State safety oversight agency  
11          oversees to—

12                   “(I) the Federal Transit Admin-  
13                   istration;

14                   “(II) the Governor of the eligible  
15                   State; and

16                   “(III) the board of directors, or  
17                   equivalent entity, of any rail fixed  
18                   guideway public transportation system  
19                   that the State safety oversight agency  
20                   oversees.

21           “(B) WAIVER.—At the request of an eligi-  
22           ble State, the Secretary may waive clauses (i)  
23           and (iii) of subparagraph (A) for eligible States  
24           with 1 or more rail fixed guideway systems in

1 revenue operations, design, or construction,  
2 that—

3 “(i) have fewer than 1,000,000 com-  
4 bined actual and projected rail fixed guide-  
5 way revenue miles per year; or

6 “(ii) provide fewer than 10,000,000  
7 combined actual and projected unlinked  
8 passenger trips per year.

9 “(5) ENFORCEMENT.—Each State safety over-  
10 sight agency shall have the authority to request that  
11 the Secretary take enforcement actions available  
12 under subsection (g) against a rail fixed guideway  
13 public transportation system that is not in compli-  
14 ance with Federal safety laws.

15 “(6) PROGRAMS FOR MULTI-STATE RAIL FIXED  
16 GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An  
17 eligible State that has within the jurisdiction of the  
18 eligible State a rail fixed guideway public transpor-  
19 tation system that operates in more than 1 eligible  
20 State shall—

21 “(A) jointly with all other eligible States in  
22 which the rail fixed guideway public transpor-  
23 tation system operates, ensure uniform safety  
24 standards and enforcement procedures that  
25 shall be in compliance with this section, and es-

1           tablish and implement a State safety oversight  
2           program approved by the Secretary; or

3           “(B) jointly with all other eligible States in  
4           which the rail fixed guideway public transpor-  
5           tation system operates, designate an entity hav-  
6           ing characteristics consistent with the charac-  
7           teristics described in paragraph (3) to carry out  
8           the State safety oversight program approved by  
9           the Secretary.

10          “(7) GRANTS.—

11           “(A) IN GENERAL.—The Secretary may  
12           make a grant to an eligible State to develop or  
13           carry out a State safety oversight program, if  
14           the eligible State submits—

15           “(i) a proposal for the establishment  
16           of a State safety oversight program to the  
17           Secretary for review and written approval  
18           before implementing a State safety over-  
19           sight program; and

20           “(ii) any amendment to the State  
21           safety oversight program of the eligible  
22           State to the Secretary for review not later  
23           than 60 days before the effective date of  
24           the amendment.

25          “(B) DETERMINATION BY SECRETARY.—

1                   “(i) IN GENERAL.—The Secretary  
2                   shall transmit written approval to an eligi-  
3                   ble State that submits a State safety over-  
4                   sight program, if the Secretary determines  
5                   the State safety oversight program meets  
6                   the requirements of this subsection and the  
7                   State safety oversight program is adequate  
8                   to promote the purposes of this section.

9                   “(ii) AMENDMENT.—The Secretary  
10                  shall transmit to an eligible State that sub-  
11                  mits an amendment under subparagraph  
12                  (A)(ii) a written determination with re-  
13                  spect to the amendment.

14                  “(iii) NO WRITTEN DECISION.—If an  
15                  eligible State does not receive a written de-  
16                  cision from the Secretary with respect to  
17                  an amendment submitted under subpara-  
18                  graph (A)(ii) before the end of the 60-day  
19                  period beginning on the date on which the  
20                  eligible State submits the amendment, the  
21                  amendment shall be deemed to be ap-  
22                  proved.

23                  “(iv) DISAPPROVAL.—If the Secretary  
24                  determines that a State safety oversight  
25                  program does not meet the requirements of





1                   “(III) any revenues earned by a  
2                   public transportation agency.

3                   “(iv) SAFETY TRAINING PROGRAM.—  
4                   The Secretary may reimburse an eligible  
5                   State or a recipient for the full costs of  
6                   participation in the public transportation  
7                   safety certification training program estab-  
8                   lished under subsection (c) by an employee  
9                   of a State safety oversight agency or a re-  
10                  cipient who is directly responsible for safe-  
11                  ty oversight.

12                  “(8) CONTINUAL EVALUATION OF PROGRAM.—  
13                  The Secretary shall continually evaluate the imple-  
14                  mentation of a State safety oversight program by a  
15                  State safety oversight agency, on the basis of—

16                         “(A) reports submitted by the State safety  
17                         oversight agency under paragraph (4)(A)(viii);  
18                         and

19                         “(B) audits carried out by the Secretary.

20                  “(9) INADEQUATE PROGRAM.—

21                         “(A) IN GENERAL.—If the Secretary finds  
22                         that a State safety oversight program approved  
23                         by the Secretary is not being carried out in ac-  
24                         cordance with this section or has become inad-

1 equate to ensure the enforcement of Federal  
2 safety regulations, the Secretary shall—

3 “(i) transmit to the eligible State a  
4 written explanation of the reason the pro-  
5 gram has become inadequate and inform  
6 the State of the intention to withhold  
7 funds, including the amount of funds pro-  
8 posed to be withheld under this section, or  
9 withdraw approval of the State safety over-  
10 sight program; and

11 “(ii) allow the eligible State a reason-  
12 able period of time to modify the State  
13 safety oversight program or implementa-  
14 tion of the program and submit an up-  
15 dated proposal for the State safety over-  
16 sight program to the Secretary for ap-  
17 proval.

18 “(B) FAILURE TO CORRECT.—If the Sec-  
19 retary determines that a modification by an eli-  
20 gible State of the State safety oversight pro-  
21 gram is not sufficient to ensure the enforcement  
22 of Federal safety regulations, the Secretary  
23 may—

1                   “(i) withhold funds available under  
2                   this section in an amount determined by  
3                   the Secretary; or

4                   “(ii) provide written notice of with-  
5                   drawal of State safety oversight program  
6                   approval.

7                   “(C) TEMPORARY OVERSIGHT.—In the  
8                   event the Secretary takes action under subpara-  
9                   graph (B)(ii), the Secretary shall provide over-  
10                  sight of the rail fixed guideway systems in an  
11                  eligible State until the State submits a State  
12                  safety oversight program approved by the Sec-  
13                  retary.

14                  “(D) RESTORATION.—

15                  “(i) CORRECTION.—The eligible State  
16                  shall address any inadequacy to the satis-  
17                  faction of the Secretary prior to the Sec-  
18                  retary restoring funds withheld under this  
19                  paragraph.

20                  “(ii) AVAILABILITY AND REALLOCA-  
21                  TION.—Any funds withheld under this  
22                  paragraph shall remain available for res-  
23                  toration to the eligible State until the end  
24                  of the first fiscal year after the fiscal year  
25                  in which the funds were withheld, after

1           which time the funds shall be available to  
2           the Secretary for allocation to other eligi-  
3           ble States under this section.

4           “(10) FEDERAL OVERSIGHT.—The Secretary  
5           shall—

6           “(A) oversee the implementation of each  
7           State safety oversight program under this sub-  
8           section;

9           “(B) audit the operations of each State  
10          safety oversight agency at least once triennially;  
11          and

12          “(C) issue rules to carry out this sub-  
13          section.

14          “(f) AUTHORITY OF SECRETARY.—In carrying out  
15          this section, the Secretary may—

16          “(1) conduct inspections, investigations, audits,  
17          examinations, and testing of the equipment, facili-  
18          ties, rolling stock, and operations of the public  
19          transportation system of a recipient;

20          “(2) make reports and issue directives with re-  
21          spect to the safety of the public transportation sys-  
22          tem of a recipient;

23          “(3) in conjunction with an accident investiga-  
24          tion or an investigation into a pattern or practice of  
25          conduct that negatively affects public safety, issue a

1 subpoena to, and take the deposition of, any em-  
2 ployee of a recipient or a State safety oversight  
3 agency, if—

4 “(A) before the issuance of the subpoena,  
5 the Secretary requests a determination by the  
6 Attorney General of the United States as to  
7 whether the subpoena will interfere with an on-  
8 going criminal investigation; and

9 “(B) the Attorney General—

10 “(i) determines that the subpoena will  
11 not interfere with an ongoing criminal in-  
12 vestigation; or

13 “(ii) fails to make a determination  
14 under clause (i) before the date that is 30  
15 days after the date on which the Secretary  
16 makes a request under subparagraph (A);

17 “(4) require the production of documents by,  
18 and prescribe recordkeeping and reporting require-  
19 ments for, a recipient or a State safety oversight  
20 agency;

21 “(5) investigate public transportation accidents  
22 and incidents and provide guidance to recipients re-  
23 garding prevention of accidents and incidents;

24 “(6) at reasonable times and in a reasonable  
25 manner, enter and inspect equipment, facilities, roll-

1       ing stock, operations, and relevant records of the  
2       public transportation system of a recipient; and

3               “(7) issue rules to carry out this section.

4       “(g) ENFORCEMENT ACTIONS.—

5               “(1) TYPES OF ENFORCEMENT ACTIONS.—The  
6       Secretary may take enforcement action against a re-  
7       cipient that does not comply with Federal law with  
8       respect to the safety of the public transportation  
9       system, including—

10               “(A) issuing directives;

11               “(B) requiring more frequent oversight of  
12       the recipient by a State safety oversight agency  
13       or the Secretary;

14               “(C) imposing more frequent reporting re-  
15       quirements;

16               “(D) requiring that any Federal financial  
17       assistance provided under this chapter be spent  
18       on correcting safety deficiencies identified by  
19       the Secretary or the State safety oversight  
20       agency before such funds are spent on other  
21       projects;

22               “(E) subject to paragraph (2), withholding  
23       Federal financial assistance, in an amount to be  
24       determined by the Secretary, from the recipient,

1           until such time as the recipient comes into com-  
2           pliance with this section; and

3           “(F) subject to paragraph (3), imposing a  
4           civil penalty, in an amount to be determined by  
5           the Secretary.

6           “(2) USE OR WITHHOLDING OF FUNDS.—

7           “(A) IN GENERAL.—The Secretary may re-  
8           quire the use of funds in accordance with para-  
9           graph (1)(D), or withhold funds under para-  
10          graph (1)(E), only if the Secretary finds that a  
11          recipient is engaged in a pattern or practice of  
12          serious safety violations or has otherwise re-  
13          fused to comply with Federal law relating to the  
14          safety of the public transportation system.

15          “(B) NOTICE.—Before withholding funds  
16          from a recipient under paragraph (1)(E), the  
17          Secretary shall provide to the recipient—

18                  “(i) written notice of a violation and  
19                  the amount proposed to be withheld; and

20                  “(ii) a reasonable period of time with-  
21                  in which the recipient may address the vio-  
22                  lation or propose and initiate an alter-  
23                  native means of compliance that the Sec-  
24                  retary determines is acceptable.



1           “(C) FAILURE TO ADDRESS.—If the recipi-  
2           ent does not address the violation or propose an  
3           alternative means of compliance that the Sec-  
4           retary determines is acceptable within the pe-  
5           riod of time specified in the written notice, the  
6           Secretary may withhold funds under paragraph  
7           (1)(E).

8           “(D) RESTORATION.—

9           “(i) CORRECTION.—The recipient  
10          shall address any violation to the satisfac-  
11          tion of the Secretary prior to the Secretary  
12          restoring funds withheld under paragraph  
13          (1)(E).

14          “(ii) AVAILABILITY AND REALLOCA-  
15          TION.—Any funds withheld under para-  
16          graph (1)(E) shall remain available for res-  
17          toration to the recipient until the end of  
18          the first fiscal year after the fiscal year in  
19          which the funds were withheld, after which  
20          time the funds shall be available to the  
21          Secretary for allocation to other eligible re-  
22          cipients.

23          “(E) NOTIFICATION.—Not later than 3  
24          days before taking any action under subpara-  
25          graph (C), the Secretary shall notify the Com-

1           mittee on Banking, Housing, and Urban Affairs  
2           of the Senate and the Committee on Transpor-  
3           tation and Infrastructure of the House of Rep-  
4           resentatives of such action.

5           “(3) CIVIL PENALTIES.—

6                 “(A) IMPOSITION OF CIVIL PENALTIES.—

7                     “(i) IN GENERAL.—The Secretary  
8                     may impose a civil penalty under para-  
9                     graph (1)(F) only if—

10                         “(I) the Secretary has exhausted  
11                         the enforcement actions available  
12                         under subparagraphs (A) through (E)  
13                         of paragraph (1); and

14                         “(II) the recipient continues to  
15                         be in violation of Federal safety law.

16                     “(ii) EXCEPTION.—The Secretary  
17                     may waive the requirement under clause  
18                     (i)(I) if the Secretary determines that such  
19                     a waiver is in the public interest.

20                 “(B) NOTICE.—Before imposing a civil  
21                 penalty on a recipient under paragraph (1)(F),  
22                 the Secretary shall provide to the recipient—

23                     “(i) written notice of any violation  
24                     and the penalty proposed to be imposed;  
25                     and

1                   “(ii) a reasonable period of time with-  
2                   in which the recipient may address the vio-  
3                   lation or propose and initiate an alter-  
4                   native means of compliance that the Sec-  
5                   retary determines is acceptable.

6                   “(C) FAILURE TO ADDRESS.—If the recipi-  
7                   ent does not address the violation or propose an  
8                   alternative means of compliance that the Sec-  
9                   retary determines is acceptable within the pe-  
10                  riod of time specified in the written notice, the  
11                  Secretary may impose a civil penalty under  
12                  paragraph (1)(F).

13                  “(D) NOTIFICATION.—Not later than 3  
14                  days before taking any action under subpara-  
15                  graph (C), the Secretary shall notify the Com-  
16                  mittee on Banking, Housing, and Urban Affairs  
17                  of the Senate and the Committee on Transpor-  
18                  tation and Infrastructure of the House of Rep-  
19                  resentatives of such action.

20                  “(E) DEPOSIT OF CIVIL PENALTIES.—Any  
21                  amounts collected by the Secretary under this  
22                  paragraph shall be deposited into the Mass  
23                  Transit Account of the Highway Trust Fund.

1           “(4) ENFORCEMENT BY THE ATTORNEY GEN-  
2 ERAL.—At the request of the Secretary, the Attor-  
3 ney General may bring a civil action—

4                   “(A) for appropriate injunctive relief to en-  
5 sure compliance with this section;

6                   “(B) to collect a civil penalty imposed  
7 under paragraph (1)(F); and

8                   “(C) to enforce a subpoena, request for ad-  
9 missions, request for production of documents  
10 or other tangible things, or request for testi-  
11 mony by deposition issued by the Secretary  
12 under this section.

13           “(h) COST-BENEFIT ANALYSIS.—

14                   “(1) ANALYSIS REQUIRED.—In carrying out  
15 this section, the Secretary shall take into consider-  
16 ation the costs and benefits of each action the Sec-  
17 retary proposes to take under this section.

18                   “(2) WAIVER.—The Secretary may waive the  
19 requirement under this subsection if the Secretary  
20 determines that such a waiver is in the public inter-  
21 est.

22           “(i) CONSULTATION BY THE SECRETARY OF HOME-  
23 LAND SECURITY.—The Secretary of Homeland Security  
24 shall consult with the Secretary of Transportation before  
25 the Secretary of Homeland Security issues a rule or order

1 that the Secretary of Transportation determines affects  
2 the safety of public transportation design, construction, or  
3 operations.

4 “(j) PREEMPTION OF STATE LAW.—

5 “(1) NATIONAL UNIFORMITY OF REGULA-  
6 TION.—Laws, regulations, and orders related to pub-  
7 lic transportation safety shall be nationally uniform  
8 to the extent practicable.

9 “(2) IN GENERAL.—A State may adopt or con-  
10 tinue in force a law, regulation, or order related to  
11 the safety of public transportation until the Sec-  
12 retary issues a rule or order covering the subject  
13 matter of the State requirement.

14 “(3) MORE STRINGENT LAW.—A State may  
15 adopt or continue in force a law, regulation, or order  
16 related to the safety of public transportation that is  
17 consistent with, in addition to, or more stringent  
18 than a regulation or order of the Secretary if the  
19 Secretary determines that the law, regulation, or  
20 order—

21 “(A) has a safety benefit;

22 “(B) is not incompatible with a law, regu-  
23 lation, or order, or the terms and conditions of  
24 a financial assistance agreement of the United  
25 States Government; and

1           “(C) does not unreasonably burden inter-  
2 state commerce.

3           “(4) ACTIONS UNDER STATE LAW.—

4           “(A) RULE OF CONSTRUCTION.—Nothing  
5 in this section shall be construed to preempt an  
6 action under State law seeking damages for  
7 personal injury, death, or property damage al-  
8 leging that a party has failed to comply with—

9           “(i) a Federal standard of care estab-  
10 lished by a regulation or order issued by  
11 the Secretary under this section;

12           “(ii) its own program, rule, or stand-  
13 ard that it created pursuant to a rule or  
14 order issued by the Secretary; or

15           “(iii) a State law, regulation, or order  
16 that is not incompatible with paragraph  
17 (2).

18           “(B) EFFECTIVE DATE.—This paragraph  
19 shall apply to any cause of action under State  
20 law arising from an event or activity occurring  
21 on or after the date of enactment of the Fed-  
22 eral Public Transportation Act of 2012.

23           “(5) JURISDICTION.—Nothing in this section  
24 shall be construed to create a cause of action under  
25 Federal law on behalf of an injured party or confer

1 Federal question jurisdiction for a State law cause  
2 of action.

3 “(k) ANNUAL REPORT.—The Secretary shall submit  
4 to the Committee on Banking, Housing, and Urban Af-  
5 fairs of the Senate and the Committee on Transportation  
6 and Infrastructure of the House of Representatives an an-  
7 nual report that—

8 “(1) analyzes public transportation safety  
9 trends among the States and documents the most ef-  
10 fective safety programs implemented using grants  
11 under this section; and

12 “(2) describes the effect on public transpor-  
13 tation safety of activities carried out using grants  
14 under this section.”.

15 (b) BUS SAFETY STUDY.—

16 (1) DEFINITION.—In this subsection, the term  
17 “highway route” means a route where 50 percent or  
18 more of the route is on roads having a speed limit  
19 of more than 45 miles per hour.

20 (2) STUDY.—Not later than 180 days after the  
21 date of enactment of this Act, the Secretary of  
22 Transportation shall submit to the Committee on  
23 Banking, Housing, and Urban Affairs of the Senate  
24 and the Committee on Transportation and Infra-

1 structure of the House of Representatives a report  
2 that—

3 (A) examines the safety of public transpor-  
4 tation buses that travel on highway routes;

5 (B) examines laws and regulations that  
6 apply to commercial over-the-road buses; and

7 (C) makes recommendations as to whether  
8 additional safety measures should be required  
9 for public transportation buses that travel on  
10 highway routes.

11 **SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES**  
12 **TESTING.**

13 Section 5331(b)(2) of title 49, United States Code,  
14 is amended—

15 (1) by redesignating subparagraphs (A) and  
16 (B) as subparagraphs (B) and (C), respectively; and

17 (2) by inserting before subparagraph (B), as so  
18 redesignated, the following:

19 “(A) shall establish and implement an enforce-  
20 ment program that includes the imposition of pen-  
21 alties for failure to comply with this section;”.

22 **SEC. 20023. NONDISCRIMINATION.**

23 (a) AMENDMENTS.—Section 5332 of title 49, United  
24 States Code, is amended—

25 (1) in subsection (b)—



1 (A) by striking “creed” and inserting “reli-  
2 gion”; and

3 (B) by inserting “disability,” after “sex,”;  
4 and

5 (2) in subsection (d)(3), by striking “and” and  
6 inserting “or”.

7 (b) EVALUATION AND REPORT.—

8 (1) EVALUATION.—The Comptroller General of  
9 the United States shall evaluate the progress and ef-  
10 fectiveness of the Federal Transit Administration in  
11 assisting recipients of assistance under chapter 53 of  
12 title 49, United States Code, to comply with section  
13 5332(b) of title 49, including—

14 (A) by reviewing discrimination complaints,  
15 reports, and other relevant information collected  
16 or prepared by the Federal Transit Administra-  
17 tion or recipients of assistance from the Federal  
18 Transit Administration pursuant to any appli-  
19 cable civil rights statute, regulation, or other re-  
20 quirement; and

21 (B) by reviewing the process that the Fed-  
22 eral Transit Administration uses to resolve dis-  
23 crimination complaints filed by members of the  
24 public.

1           (2) REPORT.—Not later than 1 year after the  
2           date of enactment of this Act, the Comptroller Gen-  
3           eral shall submit to the Committee on Banking,  
4           Housing, and Urban Affairs of the Senate and the  
5           Committee on Transportation and Infrastructure of  
6           the House of Representatives a report concerning  
7           the evaluation under paragraph (1) that includes—

8                   (A) a description of the ability of the Fed-  
9                   eral Transit Administration to address discrimi-  
10                  nation and foster equal opportunities in feder-  
11                  ally funded public transportation projects, pro-  
12                  grams, and activities;

13                  (B) recommendations for improvements if  
14                  the Comptroller General determines that im-  
15                  provements are necessary; and

16                  (C) information upon which the evaluation  
17                  under paragraph (1) is based.

18 **SEC. 20024. LABOR STANDARDS.**

19           Section 5333(b) of title 49, United States Code, is  
20           amended—

21                   (1) in paragraph (1), by striking “sections  
22                   5307-5312, 5316, 5318, 5323(a)(1), 5323(b),  
23                   5323(d), 5328, 5337, and 5338(b)” each place that  
24                   term appears and inserting “sections 5307, 5308,  
25                   5309, 5311, and 5337”; and

1           (2) in paragraph (5), by inserting “of Labor”  
2           after “Secretary”.

3 **SEC. 20025. ADMINISTRATIVE PROVISIONS.**

4           Section 5334 of title 49, United States Code, is  
5 amended—

6           (1) in subsection (a)(1), by striking “under sec-  
7           tions 5307 and 5309-5311 of this title” and insert-  
8           ing “that receives Federal financial assistance under  
9           this chapter”;

10          (2) in subsection (b)(1)—

11                 (A) by inserting after “emergency,” the  
12                 following: “or for purposes of establishing and  
13                 enforcing a program to improve the safety of  
14                 public transportation systems in the United  
15                 States,”; and

16                 (B) by striking “chapter, nor may the Sec-  
17                 retary” and inserting “chapter. The Secretary  
18                 may not”;

19           (3) in subsection (c)(4), by striking “section  
20           (except subsection (i)) and sections 5318(e),  
21           5323(a)(2), 5325(a), 5325(b), and 5325(f)” and in-  
22           serting “subsection”;

23           (4) in subsection (h)(3), by striking “another”  
24           and inserting “any other”;

1 (5) in subsection (i)(1), by striking “title 23  
2 shall” and inserting “title 23 may”;

3 (6) by striking subsection (j); and

4 (7) by redesignating subsections (k) and (l) as  
5 subsections (j) and (k), respectively.

6 **SEC. 20026. NATIONAL TRANSIT DATABASE.**

7 Section 5335 of title 49, United States Code, is  
8 amended by adding at the end the following:

9 “(c) DATA REQUIRED TO BE REPORTED.—The re-  
10 cipient of a grant under this chapter shall report to the  
11 Secretary, for inclusion in the National Transit Database,  
12 any information relating to—

13 “(1) the causes of a reportable incident, as de-  
14 fined by the Secretary; and

15 “(2) a transit asset inventory or condition as-  
16 sessment conducted by the recipient.”.

17 **SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR**  
18 **FORMULA GRANTS.**

19 Section 5336 of title 49, United States Code, is  
20 amended to read as follows:

21 **“§ 5336. Apportionment of appropriations for formula**  
22 **grants**

23 “(a) BASED ON URBANIZED AREA POPULATION.—  
24 Of the amount apportioned under subsection (h)(4) to  
25 carry out section 5307—

1           “(1) 9.32 percent shall be apportioned each fis-  
2 cal year only in urbanized areas with a population  
3 of less than 200,000 so that each of those areas is  
4 entitled to receive an amount equal to—

5           “(A) 50 percent of the total amount appor-  
6 tioned multiplied by a ratio equal to the popu-  
7 lation of the area divided by the total popu-  
8 lation of all urbanized areas with populations of  
9 less than 200,000 as shown in the most recent  
10 decennial census; and

11           “(B) 50 percent of the total amount appor-  
12 tioned multiplied by a ratio for the area based  
13 on population weighted by a factor, established  
14 by the Secretary, of the number of inhabitants  
15 in each square mile; and

16           “(2) 90.68 percent shall be apportioned each  
17 fiscal year only in urbanized areas with populations  
18 of at least 200,000 as provided in subsections (b)  
19 and (c) of this section.

20           “(b) BASED ON FIXED GUIDEWAY VEHICLE REV-  
21 ENUE MILES, DIRECTIONAL ROUTE MILES, AND PAS-  
22 Senger Miles.—(1) In this subsection, ‘fixed guideway  
23 vehicle revenue miles’ and ‘fixed guideway directional  
24 route miles’ include passenger ferry operations directly or  
25 under contract by the designated recipient.

1       “(2) Of the amount apportioned under subsection  
2 (a)(2) of this section, 33.29 percent shall be apportioned  
3 as follows:

4           “(A) 95.61 percent of the total amount appor-  
5 tioned under this subsection shall be apportioned so  
6 that each urbanized area with a population of at  
7 least 200,000 is entitled to receive an amount equal  
8 to—

9           “(i) 60 percent of the 95.61 percent appor-  
10 tioned under this subparagraph multiplied by a  
11 ratio equal to the number of fixed guideway ve-  
12 hicle revenue miles attributable to the area, as  
13 established by the Secretary, divided by the  
14 total number of all fixed guideway vehicle rev-  
15 enue miles attributable to all areas; and

16           “(ii) 40 percent of the 95.61 percent ap-  
17 portioned under this subparagraph multiplied  
18 by a ratio equal to the number of fixed guide-  
19 way directional route miles attributable to the  
20 area, established by the Secretary, divided by  
21 the total number of all fixed guideway direc-  
22 tional route miles attributable to all areas.

23       An urbanized area with a population of at least  
24       750,000 in which commuter rail transportation is

1 provided shall receive at least .75 percent of the  
2 total amount apportioned under this subparagraph.

3 “(B) 4.39 percent of the total amount appor-  
4 tioned under this subsection shall be apportioned so  
5 that each urbanized area with a population of at  
6 least 200,000 is entitled to receive an amount equal  
7 to—

8 “(i) the number of fixed guideway vehicle  
9 passenger miles traveled multiplied by the num-  
10 ber of fixed guideway vehicle passenger miles  
11 traveled for each dollar of operating cost in an  
12 area; divided by

13 “(ii) the total number of fixed guideway  
14 vehicle passenger miles traveled multiplied by  
15 the total number of fixed guideway vehicle pas-  
16 senger miles traveled for each dollar of oper-  
17 ating cost in all areas.

18 An urbanized area with a population of at least  
19 750,000 in which commuter rail transportation is  
20 provided shall receive at least .75 percent of the  
21 total amount apportioned under this subparagraph.

22 “(C) Under subparagraph (A) of this para-  
23 graph, fixed guideway vehicle revenue or directional  
24 route miles, and passengers served on those miles, in  
25 an urbanized area with a population of less than

1       200,000, where the miles and passengers served oth-  
2       erwise would be attributable to an urbanized area  
3       with a population of at least 1,000,000 in an adja-  
4       cent State, are attributable to the governmental au-  
5       thority in the State in which the urbanized area with  
6       a population of less than 200,000 is located. The au-  
7       thority is deemed an urbanized area with a popu-  
8       lation of at least 200,000 if the authority makes a  
9       contract for the service.

10           “(D) A recipient’s apportionment under sub-  
11       paragraph (A)(i) of this paragraph may not be re-  
12       duced if the recipient, after satisfying the Secretary  
13       that energy or operating efficiencies would be  
14       achieved, reduces vehicle revenue miles but provides  
15       the same frequency of revenue service to the same  
16       number of riders.

17       “(c) BASED ON BUS VEHICLE REVENUE MILES AND  
18       PASSENGER MILES.—Of the amount apportioned under  
19       subsection (a)(2) of this section, 66.71 percent shall be  
20       apportioned as follows:

21           “(1) 90.8 percent of the total amount appor-  
22       tioned under this subsection shall be apportioned as  
23       follows:

24           “(A) 73.39 percent of the 90.8 percent ap-  
25       portioned under this paragraph shall be appor-



1           tioned so that each urbanized area with a popu-  
2           lation of at least 1,000,000 is entitled to receive  
3           an amount equal to—

4                   “(i) 50 percent of the 73.39 percent  
5                   apportioned under this subparagraph mul-  
6                   tiplied by a ratio equal to the total bus ve-  
7                   hicle revenue miles operated in or directly  
8                   serving the urbanized area divided by the  
9                   total bus vehicle revenue miles attributable  
10                  to all areas;

11                   “(ii) 25 percent of the 73.39 percent  
12                   apportioned under this subparagraph mul-  
13                   tiplied by a ratio equal to the population of  
14                   the area divided by the total population of  
15                   all areas, as shown in the most recent de-  
16                   cennial census; and

17                   “(iii) 25 percent of the 73.39 percent  
18                   apportioned under this subparagraph mul-  
19                   tiplied by a ratio for the area based on  
20                   population weighted by a factor, estab-  
21                   lished by the Secretary, of the number of  
22                   inhabitants in each square mile.

23                   “(B) 26.61 percent of the 90.8 percent ap-  
24                   portioned under this paragraph shall be appor-  
25                   tioned so that each urbanized area with a popu-

1           lation of at least 200,000 but not more than  
2           999,999 is entitled to receive an amount equal  
3           to—

4                   “(i) 50 percent of the 26.61 percent  
5                   apportioned under this subparagraph mul-  
6                   tiplied by a ratio equal to the total bus ve-  
7                   hicle revenue miles operated in or directly  
8                   serving the urbanized area divided by the  
9                   total bus vehicle revenue miles attributable  
10                  to all areas;

11                   “(ii) 25 percent of the 26.61 percent  
12                   apportioned under this subparagraph mul-  
13                   tiplied by a ratio equal to the population of  
14                   the area divided by the total population of  
15                   all areas, as shown by the most recent de-  
16                   cennial census; and

17                   “(iii) 25 percent of the 26.61 percent  
18                   apportioned under this subparagraph mul-  
19                   tiplied by a ratio for the area based on  
20                   population weighted by a factor, estab-  
21                   lished by the Secretary, of the number of  
22                   inhabitants in each square mile.

23                   “(2) 9.2 percent of the total amount appor-  
24                   tioned under this subsection shall be apportioned so  
25                   that each urbanized area with a population of at

1       least 200,000 is entitled to receive an amount equal  
2       to—

3               “(A) the number of bus passenger miles  
4               traveled multiplied by the number of bus pas-  
5               senger miles traveled for each dollar of oper-  
6               ating cost in an area; divided by

7               “(B) the total number of bus passenger  
8               miles traveled multiplied by the total number of  
9               bus passenger miles traveled for each dollar of  
10              operating cost in all areas.

11       “(d) DATE OF APPORTIONMENT.—The Secretary  
12 shall—

13              “(1) apportion amounts appropriated under sec-  
14              tion 5338(a)(2)(C) of this title to carry out section  
15              5307 of this title not later than the 10th day after  
16              the date the amounts are appropriated or October 1  
17              of the fiscal year for which the amounts are appro-  
18              priated, whichever is later; and

19              “(2) publish apportionments of the amounts, in-  
20              cluding amounts attributable to each urbanized area  
21              with a population of more than 50,000 and amounts  
22              attributable to each State of a multistate urbanized  
23              area, on the apportionment date.

24       “(e) AMOUNTS NOT APPORTIONED TO DESIGNATED  
25 RECIPIENTS.—The Governor of a State may expend in an

1 urbanized area with a population of less than 200,000 an  
2 amount apportioned under this section that is not appor-  
3 tioned to a designated recipient, as defined in section  
4 5302(4).

5 “(f) TRANSFERS OF APPORTIONMENTS.—(1) The  
6 Governor of a State may transfer any part of the State’s  
7 apportionment under subsection (a)(1) of this section to  
8 supplement amounts apportioned to the State under sec-  
9 tion 5311(c)(3). The Governor may make a transfer only  
10 after consulting with responsible local officials and pub-  
11 licly owned operators of public transportation in each area  
12 for which the amount originally was apportioned under  
13 this section.

14 “(2) The Governor of a State may transfer any part  
15 of the State’s apportionment under section 5311(c)(3) to  
16 supplement amounts apportioned to the State under sub-  
17 section (a)(1) of this section.

18 “(3) The Governor of a State may use throughout  
19 the State amounts of a State’s apportionment remaining  
20 available for obligation at the beginning of the 90-day pe-  
21 riod before the period of the availability of the amounts  
22 expires.

23 “(4) A designated recipient for an urbanized area  
24 with a population of at least 200,000 may transfer a part  
25 of its apportionment under this section to the Governor

1 of a State. The Governor shall distribute the transferred  
2 amounts to urbanized areas under this section.

3 “(5) Capital and operating assistance limitations ap-  
4 plicable to the original apportionment apply to amounts  
5 transferred under this subsection.

6 “(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An  
7 amount apportioned under this section may be obligated  
8 by the recipient for 5 years after the fiscal year in which  
9 the amount is apportioned. Not later than 30 days after  
10 the end of the 5-year period, an amount that is not obli-  
11 gated at the end of that period shall be added to the  
12 amount that may be apportioned under this section in the  
13 next fiscal year.

14 “(h) APPORTIONMENTS.—Of the amounts made  
15 available for each fiscal year under section  
16 5338(a)(2)(C)—

17 “(1) \$35,000,000 shall be set aside to carry out  
18 section 5307(i);

19 “(2) 3.07 percent shall be apportioned to ur-  
20 banized areas in accordance with subsection (j);

21 “(3) of amounts not apportioned under para-  
22 graphs (1) and (2), 1 percent shall be apportioned  
23 to urbanized areas with populations of less than  
24 200,000 in accordance with subsection (i); and



1                   “(v) Passenger miles traveled per cap-  
2                   ita.

3                   “(vi) Passengers per capita.

4                   “(2) APPORTIONMENT.—

5                   “(A) APPORTIONMENT FORMULA.—The  
6                   amount to be apportioned under subsection  
7                   (h)(3) shall be apportioned among eligible areas  
8                   in the ratio that—

9                   “(i) the number of performance cat-  
10                  egories for which each eligible area meets  
11                  or exceeds the industry average in urban-  
12                  ized areas with a population of at least  
13                  200,000 but not more than 999,999; bears  
14                  to

15                  “(ii) the aggregate number of per-  
16                  formance categories for which all eligible  
17                  areas meet or exceed the industry average  
18                  in urbanized areas with a population of at  
19                  least 200,000 but not more than 999,999.

20                  “(B) DATA USED IN FORMULA.—The Sec-  
21                  retary shall calculate apportionments under this  
22                  subsection for a fiscal year using data from the  
23                  national transit database used to calculate ap-  
24                  portionments for that fiscal year under this sec-  
25                  tion.

1           “(j) APPORTIONMENT FORMULA.—The amounts ap-  
2 portioned under subsection (h)(2) shall be apportioned  
3 among urbanized areas as follows:

4           “(1) 75 percent of the funds shall be appor-  
5 tioned among designated recipients for urbanized  
6 areas with a population of 200,000 or more in the  
7 ratio that—

8           “(A) the number of eligible low-income in-  
9 dividuals in each such urbanized area; bears to

10           “(B) the number of eligible low-income in-  
11 dividuals in all such urbanized areas.

12           “(2) 25 percent of the funds shall be appor-  
13 tioned among designated recipients for urbanized  
14 areas with a population of less than 200,000 in the  
15 ratio that—

16           “(A) the number of eligible low-income in-  
17 dividuals in each such urbanized area; bears to

18           “(B) the number of eligible low-income in-  
19 dividuals in all such urbanized areas.”.

20 **SEC. 20028. STATE OF GOOD REPAIR GRANTS.**

21           Section 5337 of title 49, United States Code, is  
22 amended to read as follows:

23 **“§ 5337. State of good repair grants**

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



1           “(1) FIXED GUIDEWAY.—The term ‘fixed  
2           guideway’ means a public transportation facility—

3                   “(A) using and occupying a separate right-  
4                   of-way for the exclusive use of public transpor-  
5                   tation;

6                   “(B) using rail;

7                   “(C) using a fixed catenary system;

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

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

10           “(2) STATE.—The term ‘State’ means the 50  
11           States, the District of Columbia, and Puerto Rico.

12           “(3) STATE OF GOOD REPAIR.—The term ‘state  
13           of good repair’ has the meaning given that term by  
14           the Secretary, by rule, under section 5326(b).

15           “(4) TRANSIT ASSET MANAGEMENT PLAN.—  
16           The term ‘transit asset management plan’ means a  
17           plan developed by a recipient of funding under this  
18           chapter that—

19                   “(A) includes, at a minimum, capital asset  
20                   inventories and condition assessments, decision  
21                   support tools, and investment prioritization;  
22                   and

23                   “(B) the recipient certifies that the recipi-  
24                   ent complies with the rule issued under section  
25                   5326(d).

1 “(b) GENERAL AUTHORITY.—

2 “(1) ELIGIBLE PROJECTS.—The Secretary may  
3 make grants under this section to assist State and  
4 local governmental authorities in financing capital  
5 projects to maintain public transportation systems in  
6 a state of good repair, including projects to replace  
7 and rehabilitate—

8 “(A) rolling stock;

9 “(B) track;

10 “(C) line equipment and structures;

11 “(D) signals and communications;

12 “(E) power equipment and substations;

13 “(F) passenger stations and terminals;

14 “(G) security equipment and systems;

15 “(H) maintenance facilities and equipment;

16 “(I) operational support equipment, includ-  
17 ing computer hardware and software;

18 “(J) development and implementation of a  
19 transit asset management plan; and

20 “(K) other replacement and rehabilitation  
21 projects the Secretary determines appropriate.

22 “(2) INCLUSION IN PLAN.—A recipient shall in-  
23 clude a project carried out under paragraph (1) in  
24 the transit asset management plan of the recipient  
25 upon completion of the plan.

1       “(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF  
2 GOOD REPAIR FORMULA.—

3           “(1) IN GENERAL.—Of the amount authorized  
4 or made available under section 5338(a)(2)(M),  
5 \$1,874,763,500 shall be apportioned to recipients in  
6 accordance with this subsection.

7           “(2) AREA SHARE.—

8           “(A) IN GENERAL.—50 percent of the  
9 amount described in paragraph (1) shall be ap-  
10 portioned for fixed guideway systems in accord-  
11 ance with this paragraph.

12           “(B) SHARE.—A recipient shall receive an  
13 amount equal to the amount described in sub-  
14 paragraph (A), multiplied by the amount the  
15 recipient would have received under this section,  
16 as in effect for fiscal year 2011, if the amount  
17 had been calculated in accordance with section  
18 5336(b)(1) and using the definition of the term  
19 ‘fixed guideway’ under subsection (a) of this  
20 section, as such sections are in effect on the  
21 day after the date of enactment of the Federal  
22 Public Transportation Act of 2012, and divided  
23 by the total amount apportioned for all areas  
24 under this section for fiscal year 2011.

1           “(C) RECIPIENT.—For purposes of this  
2 paragraph, the term ‘recipient’ means an entity  
3 that received funding under this section, as in  
4 effect for fiscal year 2011.

5           “(3) VEHICLE REVENUE MILES AND DIREC-  
6 TIONAL ROUTE MILES.—

7           “(A) IN GENERAL.—50 percent of the  
8 amount described in paragraph (1) shall be ap-  
9 portioned to recipients in accordance with this  
10 paragraph.

11           “(B) VEHICLE REVENUE MILES.—A recipi-  
12 ent in an urbanized area shall receive an  
13 amount equal to 60 percent of the amount de-  
14 scribed in subparagraph (A), multiplied by the  
15 number of fixed guideway vehicle revenue miles  
16 attributable to the urbanized area, as estab-  
17 lished by the Secretary, divided by the total  
18 number of all fixed guideway vehicle revenue  
19 miles attributable to all urbanized areas.

20           “(C) DIRECTIONAL ROUTE MILES.—A re-  
21 cipient in an urbanized area shall receive an  
22 amount equal to 40 percent of the amount de-  
23 scribed in subparagraph (A), multiplied by the  
24 number of fixed guideway directional route  
25 miles attributable to the urbanized area, as es-

1            established by the Secretary, divided by the total  
2            number of all fixed guideway directional route  
3            miles attributable to all urbanized areas.

4            “(4) LIMITATION.—

5                  “(A) IN GENERAL.—Except as provided in  
6            subparagraph (B), the share of the total  
7            amount apportioned under this section that is  
8            apportioned to an area under this subsection  
9            shall not decrease by more than 0.25 percent-  
10            age points compared to the share apportioned  
11            to the area under this subsection in the pre-  
12            vious fiscal year.

13                  “(B) SPECIAL RULE FOR FISCAL YEAR  
14            2012.—In fiscal year 2012, the share of the  
15            total amount apportioned under this section  
16            that is apportioned to an area under this sub-  
17            section shall not decrease by more than 0.25  
18            percentage points compared to the share that  
19            would have been apportioned to the area under  
20            this section, as in effect for fiscal year 2011, if  
21            the share had been calculated using the defini-  
22            tion of the term ‘fixed guideway’ under sub-  
23            section (a) of this section, as in effect on the  
24            day after the date of enactment of the Federal  
25            Public Transportation Act of 2012.

1           “(5) USE OF FUNDS.—Amounts made available  
2           under this subsection shall be available for the exclu-  
3           sive use of fixed guideway projects.

4           “(6) RECEIVING APPORTIONMENT.—

5                   “(A) IN GENERAL.—Except as provided in  
6                   subparagraph (B), for an area with a fixed  
7                   guideway system, the amounts provided under  
8                   this section shall be apportioned to the des-  
9                   ignated recipient for the urbanized area in  
10                  which the system operates.

11                   “(B) EXCEPTION.—An area described in  
12                   the amendment made by section 3028(a) of the  
13                   Transportation Equity Act for the 21st Century  
14                   (Public Law 105–178; 112 Stat. 366) shall re-  
15                   ceive an individual apportionment under this  
16                   subsection.

17           “(7) APPORTIONMENT REQUIREMENTS.—For  
18           purposes of determining the number of fixed guide-  
19           way vehicle revenue miles or fixed guideway direc-  
20           tional route miles attributable to an urbanized area  
21           for a fiscal year under this subsection, only segments  
22           of fixed guideway systems placed in revenue service  
23           not later than 7 years before the first day of the fis-  
24           cal year shall be deemed to be attributable to an ur-  
25           banized area.

1           “(d) FIXED GUIDEWAY STATE OF GOOD REPAIR  
2 GRANT PROGRAM.—

3           “(1) IN GENERAL.—The Secretary may make  
4 grants under this section to assist State and local  
5 governmental authorities in financing fixed guideway  
6 capital projects to maintain public transportation  
7 systems in a state of good repair.

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

11           “(3) PRIORITY CONSIDERATION.—In making  
12 grants under this subsection, the Secretary shall give  
13 priority to grant applications received from recipi-  
14 ents receiving an amount under this section that is  
15 not less than 2 percent less than the amount the re-  
16 cipient would have received under this section, as in  
17 effect for fiscal year 2011, if the amount had been  
18 calculated using the definition of the term ‘fixed  
19 guideway’ under subsection (a) of this section, as in  
20 effect on the day after the date of enactment of the  
21 Federal Public Transportation Act of 2012.

22           “(e) HIGH INTENSITY MOTORBUS STATE OF GOOD  
23 REPAIR.—

24           “(1) DEFINITION.—For purposes of this sub-  
25 section, the term ‘fixed guideway motorbus’ means

1 public transportation that is provided on a facility  
2 with access for other high-occupancy vehicles.

3 “(2) APPORTIONMENT.—Of the amount author-  
4 ized or made available under section 5338(a)(2)(M),  
5 \$112,500,000 shall be apportioned to urbanized  
6 areas for high intensity motorbus state of good re-  
7 pair in accordance with this subsection.

8 “(3) VEHICLE REVENUE MILES AND DIREC-  
9 TIONAL ROUTE MILES.—

10 “(A) IN GENERAL.—\$60,000,000 of the  
11 amount described in paragraph (2) shall be ap-  
12 portioned to each area in accordance with this  
13 paragraph.

14 “(B) VEHICLE REVENUE MILES.—Each  
15 area shall receive an amount equal to 60 per-  
16 cent of the amount described in subparagraph  
17 (A), multiplied by the number of fixed guideway  
18 motorbus vehicle revenue miles attributable to  
19 the area, as established by the Secretary, di-  
20 vided by the total number of all fixed guideway  
21 motorbus vehicle revenue miles attributable to  
22 all areas.

23 “(C) DIRECTIONAL ROUTE MILES.—Each  
24 area shall receive an amount equal to 40 per-  
25 cent of the amount described in subparagraph



1 (A), multiplied by the number of fixed guideway  
2 motorbus directional route miles attributable to  
3 the area, as established by the Secretary, di-  
4 vided by the total number of all fixed guideway  
5 motorbus directional route miles attributable to  
6 all areas.

7 “(4) SPECIAL RULE FOR FIXED GUIDEWAY  
8 MOTORBUS.—

9 “(A) IN GENERAL.—\$52,500,000 of the  
10 amount described in paragraph (2) shall be ap-  
11 portioned—

12 “(i) in accordance with this para-  
13 graph; and

14 “(ii) among urbanized areas within a  
15 State in the same proportion as funds are  
16 apportioned within a State under section  
17 5336, except subsection (b), and shall be  
18 added to such amounts.

19 “(B) TERRITORIES.—Of the amount de-  
20 scribed in subparagraph (A), \$500,000 shall be  
21 distributed among the territories, as determined  
22 by the Secretary.

23 “(C) STATES.—Of the amount described in  
24 subparagraph (A), each State shall receive  
25 \$1,000,000.

1           “(5) USE OF FUNDS.—A recipient may transfer  
2 any part of the apportionment under this subsection  
3 for use under subsection (c).

4           “(6) APPORTIONMENT REQUIREMENTS.—For  
5 purposes of determining the number of fixed guide-  
6 way motorbus vehicle revenue miles or fixed guide-  
7 way motorbus directional route miles attributable to  
8 an urbanized area for a fiscal year under this sub-  
9 section, only segments of fixed guideway motorbus  
10 systems placed in revenue service not later than 7  
11 years before the first day of the fiscal year shall be  
12 deemed to be attributable to an urbanized area.”.

13 **SEC. 20029. AUTHORIZATIONS.**

14       Section 5338 of title 49, United States Code, is  
15 amended to read as follows:

16 **“§ 5338. Authorizations**

17       “(a) FORMULA GRANTS.—

18           “(1) IN GENERAL.—There shall be available  
19 from the Mass Transit Account of the Highway  
20 Trust Fund to carry out sections 5305, 5307, 5308,  
21 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335,  
22 and 5340, subsections (c) and (e) of section 5337,  
23 and section 20005(b) of the Federal Public Trans-  
24 portation Act of 2012, \$8,360,565,000 for each of  
25 fiscal years 2012 and 2013.

1           “(2) ALLOCATION OF FUNDS.—Of the amounts  
2           made available under paragraph (1)—

3                   “(A) \$124,850,000 for each of fiscal years  
4                   2012 and 2013 shall be available to carry out  
5                   section 5305;

6                   “(B) \$20,000,000 for each of fiscal years  
7                   2012 and 2013 shall be available to carry out  
8                   section 20005(b) of the Federal Public Trans-  
9                   portation Act of 2012;

10                   “(C) \$4,756,161,500 for each of fiscal  
11                   years 2012 and 2013 shall be allocated in ac-  
12                   cordance with section 5336 to provide financial  
13                   assistance for urbanized areas under section  
14                   5307;

15                   “(D) \$65,150,000 for each of fiscal years  
16                   2012 and 2013 shall be available to carry out  
17                   section 5308, of which not less than \$8,500,000  
18                   shall be used to carry out activities under sec-  
19                   tion 5312;

20                   “(E) \$248,600,000 for each of fiscal years  
21                   2012 and 2013 shall be available to provide fi-  
22                   nancial assistance for services for the enhanced  
23                   mobility of seniors and individuals with disabil-  
24                   ities under section 5310;

1           “(F) \$591,190,000 for each of fiscal years  
2           2012 and 2013 shall be available to provide fi-  
3           nancial assistance for other than urbanized  
4           areas under section 5311, of which not less  
5           than \$30,000,000 shall be available to carry out  
6           section 5311(c)(1) and \$20,000,000 shall be  
7           available to carry out section 5311(c)(2);

8           “(G) \$34,000,000 for each of fiscal years  
9           2012 and 2013 shall be available to carry out  
10          research, development, demonstration, and de-  
11          ployment projects under section 5312;

12          “(H) \$6,500,000 for each of fiscal years  
13          2012 and 2013 shall be available to carry out  
14          a transit cooperative research program under  
15          section 5313;

16          “(I) \$4,500,000 for each of fiscal years  
17          2012 and 2013 shall be available for technical  
18          assistance and standards development under  
19          section 5314;

20          “(J) \$5,000,000 for each of fiscal years  
21          2012 and 2013 shall be available for the Na-  
22          tional Transit Institute under section 5315;

23          “(K) \$2,000,000 for each of fiscal years  
24          2012 and 2013 shall be available for workforce

1 development and human resource grants under  
2 section 5322;

3 “(L) \$3,850,000 for each of fiscal years  
4 2012 and 2013 shall be available to carry out  
5 section 5335;

6 “(M) \$1,987,263,500 for each of fiscal  
7 years 2012 and 2013 shall be available to carry  
8 out subsections (c) and (e) of section 5337; and

9 “(N) \$511,500,000 for each of fiscal years  
10 2012 and 2013 shall be allocated in accordance  
11 with section 5340 to provide financial assist-  
12 ance for urbanized areas under section 5307  
13 and other than urbanized areas under section  
14 5311.

15 “(b) EMERGENCY RELIEF PROGRAM.—There are au-  
16 thorized to be appropriated such sums as are necessary  
17 to carry out section 5306.

18 “(c) CAPITAL INVESTMENT GRANTS.—There are au-  
19 thorized to be appropriated to carry out section 5309,  
20 \$1,955,000,000 for each of fiscal years 2012 and 2013.

21 “(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—  
22 There are authorized to be appropriated to carry out sec-  
23 tion 5320, \$26,900,000 for each of fiscal years 2012 and  
24 2013.

1       “(e) FIXED GUIDEWAY STATE OF GOOD REPAIR  
2 GRANT PROGRAM.—There are authorized to be appro-  
3 priated to carry out section 5337(d), \$7,463,000 for each  
4 of fiscal years 2012 and 2013.

5       “(f) ADMINISTRATION.—

6           “(1) IN GENERAL.—There are authorized to be  
7 appropriated to carry out section 5334,  
8 \$108,350,000 for each of fiscal years 2012 and  
9 2013.

10          “(2) SECTION 5329.—Of the amounts author-  
11 ized to be appropriated under paragraph (1), not  
12 less than \$10,000,000 shall be available to carry out  
13 section 5329.

14          “(3) SECTION 5326.—Of the amounts made  
15 available under paragraph (2), not less than  
16 \$1,000,000 shall be available to carry out section  
17 5326.

18       “(g) OVERSIGHT.—

19           “(1) IN GENERAL.—Of the amounts made  
20 available to carry out this chapter for a fiscal year,  
21 the Secretary may use not more than the following  
22 amounts for the activities described in paragraph  
23 (2):

24           “(A) 0.5 percent of amounts made avail-  
25 able to carry out section 5305.

1           “(B) 0.75 percent of amounts made avail-  
2           able to carry out section 5307.

3           “(C) 1 percent of amounts made available  
4           to carry out section 5309.

5           “(D) 1 percent of amounts made available  
6           to carry out section 601 of the Passenger Rail  
7           Investment and Improvement Act of 2008  
8           (Public Law 110–432; 126 Stat. 4968).

9           “(E) 0.5 percent of amounts made avail-  
10          able to carry out section 5310.

11          “(F) 0.5 percent of amounts made avail-  
12          able to carry out section 5311.

13          “(G) 0.5 percent of amounts made avail-  
14          able to carry out section 5320.

15          “(H) 0.75 percent of amounts made avail-  
16          able to carry out section 5337(c).

17          “(2) ACTIVITIES.—The activities described in  
18          this paragraph are as follows:

19               “(A) Activities to oversee the construction  
20               of a major capital project.

21               “(B) Activities to review and audit the  
22               safety and security, procurement, management,  
23               and financial compliance of a recipient or sub-  
24               recipient of funds under this chapter.

1           “(C) Activities to provide technical assist-  
2           ance generally, and to provide technical assist-  
3           ance to correct deficiencies identified in compli-  
4           ance reviews and audits carried out under this  
5           section.

6           “(3) GOVERNMENT SHARE OF COSTS.—The  
7           Government shall pay the entire cost of carrying out  
8           a contract under this subsection.

9           “(4) AVAILABILITY OF CERTAIN FUNDS.—  
10          Funds made available under paragraph (1)(C) shall  
11          be made available to the Secretary before allocating  
12          the funds appropriated to carry out any project  
13          under a full funding grant agreement.

14          “(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

15                 “(1) GRANTS FINANCED FROM HIGHWAY TRUST  
16                 FUND.—A grant or contract that is approved by the  
17                 Secretary and financed with amounts made available  
18                 from the Mass Transit Account of the Highway  
19                 Trust Fund pursuant to this section is a contractual  
20                 obligation of the Government to pay the Government  
21                 share of the cost of the project.

22                 “(2) GRANTS FINANCED FROM GENERAL  
23                 FUND.—A grant or contract that is approved by the  
24                 Secretary and financed with amounts appropriated  
25                 in advance from the General Fund of the Treasury



1       pursuant to this section is a contractual obligation  
2       of the Government to pay the Government share of  
3       the cost of the project only to the extent that  
4       amounts are appropriated for such purpose by an  
5       Act of Congress.

6       “(i) AVAILABILITY OF AMOUNTS.—Amounts made  
7       available by or appropriated under this section shall re-  
8       main available until expended.”.

9       **SEC. 20030. APPORTIONMENTS BASED ON GROWING**  
10                   **STATES AND HIGH DENSITY STATES FOR-**  
11                   **MULA FACTORS.**

12       Section 5340 of title 49, United States Code, is  
13       amended to read as follows:

14       **“§ 5340. Apportionments based on growing States and**  
15                   **high density States formula factors**

16       “(a) DEFINITION.—In this section, the term ‘State’  
17       shall mean each of the 50 States of the United States.

18       “(b) ALLOCATION.—Of the amounts made available  
19       for each fiscal year under section 5338(a)(2)(N), the Sec-  
20       retary shall apportion—

21               “(1) 50 percent to States and urbanized areas  
22               in accordance with subsection (c); and

23               “(2) 50 percent to States and urbanized areas  
24               in accordance with subsection (d).

25       “(c) GROWING STATE APPORTIONMENTS.—

1           “(1) APPORTIONMENT AMONG STATES.—The  
2           amounts apportioned under subsection (b)(1) shall  
3           provide each State with an amount equal to the total  
4           amount apportioned multiplied by a ratio equal to  
5           the population of that State forecast for the year  
6           that is 15 years after the most recent decennial cen-  
7           sus, divided by the total population of all States  
8           forecast for the year that is 15 years after the most  
9           recent decennial census. Such forecast shall be based  
10          on the population trend for each State between the  
11          most recent decennial census and the most recent  
12          estimate of population made by the Secretary of  
13          Commerce.

14           “(2) APPORTIONMENTS BETWEEN URBANIZED  
15          AREAS AND OTHER THAN URBANIZED AREAS IN  
16          EACH STATE.—

17           “(A) IN GENERAL.—The Secretary shall  
18          apportion amounts to each State under para-  
19          graph (1) so that urbanized areas in that State  
20          receive an amount equal to the amount appor-  
21          tioned to that State multiplied by a ratio equal  
22          to the sum of the forecast population of all ur-  
23          banized areas in that State divided by the total  
24          forecast population of that State. In making the  
25          apportionment under this subparagraph, the

1 Secretary shall utilize any available forecasts  
2 made by the State. If no forecasts are available,  
3 the Secretary shall utilize data on urbanized  
4 areas and total population from the most recent  
5 decennial census.

6 “(B) REMAINING AMOUNTS.—Amounts re-  
7 maining for each State after apportionment  
8 under subparagraph (A) shall be apportioned to  
9 that State and added to the amount made avail-  
10 able for grants under section 5311.

11 “(3) APPORTIONMENTS AMONG URBANIZED  
12 AREAS IN EACH STATE.—The Secretary shall appor-  
13 tion amounts made available to urbanized areas in  
14 each State under paragraph (2)(A) so that each ur-  
15 banized area receives an amount equal to the  
16 amount apportioned under paragraph (2)(A) multi-  
17 plied by a ratio equal to the population of each ur-  
18 banized area divided by the sum of populations of all  
19 urbanized areas in the State. Amounts apportioned  
20 to each urbanized area shall be added to amounts  
21 apportioned to that urbanized area under section  
22 5336, and made available for grants under section  
23 5307.

1       “(d) HIGH DENSITY STATE APPORTIONMENTS.—  
2 Amounts to be apportioned under subsection (b)(2) shall  
3 be apportioned as follows:

4           “(1) ELIGIBLE STATES.—The Secretary shall  
5 designate as eligible for an apportionment under this  
6 subsection all States with a population density in ex-  
7 cess of 370 persons per square mile.

8           “(2) STATE URBANIZED LAND FACTOR.—For  
9 each State qualifying for an apportionment under  
10 paragraph (1), the Secretary shall calculate an  
11 amount equal to—

12           “(A) the total land area of the State (in  
13 square miles); multiplied by

14           “(B) 370; multiplied by

15           “(C)(i) the population of the State in ur-  
16 banized areas; divided by

17           “(ii) the total population of the State.

18           “(3) STATE APPORTIONMENT FACTOR.—For  
19 each State qualifying for an apportionment under  
20 paragraph (1), the Secretary shall calculate an  
21 amount equal to the difference between the total  
22 population of the State less the amount calculated in  
23 paragraph (2).

24           “(4) STATE APPORTIONMENT.—Each State  
25 qualifying for an apportionment under paragraph

1 (1) shall receive an amount equal to the amount to  
2 be apportioned under this subsection multiplied by  
3 the amount calculated for the State under paragraph  
4 (3) divided by the sum of the amounts calculated  
5 under paragraph (3) for all States qualifying for an  
6 apportionment under paragraph (1).

7 “(5) APPORTIONMENTS AMONG URBANIZED  
8 AREAS IN EACH STATE.—The Secretary shall appor-  
9 tion amounts made available to each State under  
10 paragraph (4) so that each urbanized area receives  
11 an amount equal to the amount apportioned under  
12 paragraph (4) multiplied by a ratio equal to the pop-  
13 ulation of each urbanized area divided by the sum  
14 of populations of all urbanized areas in the State.  
15 For multistate urbanized areas, the Secretary shall  
16 suballocate funds made available under paragraph  
17 (4) to each State’s part of the multistate urbanized  
18 area in proportion to the State’s share of population  
19 of the multistate urbanized area. Amounts appor-  
20 tioned to each urbanized area shall be made avail-  
21 able for grants under section 5307.”.

22 **SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

23 (a) SECTION 5305.—Section 5305 of title 49, United  
24 States Code, is amended—

1           (1) in subsection (c), by striking “sections  
2           5303, 5304, and 5306” and inserting “sections  
3           5303 and 5304”;

4           (2) in subsection (d), by striking “sections 5303  
5           and 5306” each place that term appears and insert-  
6           ing “section 5303”;

7           (3) in subsection (e)(1)(A), by striking “sec-  
8           tions 5304, 5306, 5315, and 5322” and inserting  
9           “section 5304”;

10          (4) in subsection (f)—

11                 (A) in the heading, by striking “GOVERN-  
12                 MENT’S” and inserting “GOVERNMENT”; and

13                 (B) by striking “Government’s” and in-  
14                 serting “Government”; and

15           (5) in subsection (g), by striking “section  
16           5338(e) for fiscal years 2005 through 2011 and for  
17           the period beginning on October 1, 2011, and ending  
18           on March 31, 2012” and inserting “section  
19           5338(a)(2)(A) for a fiscal year”.

20          (b) SECTION 5313.—Section 5313(a) of title 49,  
21          United States Code, is amended—

22                 (1) in the first sentence, by striking “sub-  
23                 sections (a)(5)(C)(iii) and (d)(1) of section 5338”  
24                 and inserting section “5338(a)(2)(H)”; and

1           (2) in the second sentence, by striking “of  
2           Transportation”.

3           (c) SECTION 5319.—Section 5319 of title 49, United  
4           States Code, is amended, in the second sentence—

5           (1) by striking “sections 5307(e), 5309(h), and  
6           5311(g) of this title” and inserting “sections  
7           5307(e), 5309(k), and 5311(h)”; and

8           (2) by striking “of the United States” and in-  
9           serting “made by the”.

10          (d) SECTION 5325.—Section 5325 of title 49, United  
11          States Code, is amended—

12          (1) in subsection (b)(2)(A), by striking “title  
13          48, Code of Federal Regulations (commonly known  
14          as the Federal Acquisition Regulation)” and insert-  
15          ing “the Federal Acquisition Regulation, or any suc-  
16          cessor thereto”; and

17          (2) in subsection (e), by striking “Government  
18          financial assistance” and inserting “Federal finan-  
19          cial assistance”.

20          (e) SECTION 5330.—Effective 3 years after the effec-  
21          tive date of the final rules issued by the Secretary of  
22          Transportation under section 5329(e) of title 49, United  
23          States Code, as amended by this division, section 5330  
24          of title 49, United States Code, is repealed.

1           (f) SECTION 5331.—Section 5331 of title 49, United  
2 States Code, is amended by striking “Secretary of Trans-  
3 portation” each place that term appears and inserting  
4 “Secretary”.

5           (g) SECTION 5332.—Section 5332(c)(1) of title 49,  
6 United States Code, is amended by striking “of Transpor-  
7 tation”.

8           (h) SECTION 5333.—Section 5333(a) of title 49,  
9 United States Code, is amended by striking “sections  
10 3141-3144” and inserting “sections 3141 through 3144”.

11          (i) SECTION 5334.—Section 5334 of title 49, United  
12 States Code, is amended—

13           (1) in subsection (c)—

14                   (A) by striking “Secretary of Transpor-  
15 tation” each place that term appears and in-  
16 serting “Secretary”; and

17                   (B) in paragraph (1), by striking “Com-  
18 mittees on Transportation and Infrastructure  
19 and Appropriations of the House of Representa-  
20 tives and the Committees on Banking, Housing,  
21 and Urban Affairs and Appropriations of the  
22 Senate” and inserting “Committee on Banking,  
23 Housing, and Urban Affairs and the Committee  
24 on Appropriations of the Senate and the Com-  
25 mittee on Transportation and Infrastructure



1           and the Committee on Appropriations of the  
2           House of Representatives”;

3           (2) in subsection (d), by striking “of Transpor-  
4           tation”;

5           (3) in subsection (e), by striking “of Transpor-  
6           tation”;

7           (4) in subsection (f), by striking “of Transpor-  
8           tation”;

9           (5) in subsection (g), in the matter preceding  
10          paragraph (1)—

11                 (A) by striking “of Transportation”; and

12                 (B) by striking “subsection (a)(3) or (4) of  
13                 this section” and inserting “paragraph (3) or  
14                 (4) of subsection (a)”;

15           (6) in subsection (h)—

16                 (A) in paragraph (1), in the matter pre-  
17                 ceding subparagraph (A), by striking “of  
18                 Transportation”; and

19                 (B) in paragraph (2), by striking “of this  
20                 section”;

21           (7) in subsection (i)(1), by striking “of Trans-  
22           portation”; and

23           (8) in subsection (j), as so redesignated by sec-  
24           tion 20025 of this division, by striking “Committees  
25           on Banking, Housing, and Urban Affairs and Ap-

1       propriations of the Senate and Committees on  
2       Transportation and Infrastructure and Appropria-  
3       tions of the House of Representatives” and inserting  
4       “Committee on Banking, Housing, and Urban Af-  
5       fairs and the Committee on Appropriations of the  
6       Senate and the Committee on Transportation and  
7       Infrastructure and the Committee on Appropriations  
8       of the House of Representatives”.

9       (j) SECTION 5335.—Section 5335(a) of title 49,  
10      United States Code, is amended by striking “of Transpor-  
11      tation”.

12      (k) TABLE OF SECTIONS.—The table of sections for  
13      chapter 53 of title 49, United States Code, is amended  
14      to read as follows:

“Sec.

“5301. Policies, purposes, and goals.

“5302. Definitions.

“5303. Metropolitan transportation planning.

“5304. Statewide and nonmetropolitan transportation planning.

“5305. Planning programs.

“5306. Public transportation emergency relief program.

“5307. Urbanized area formula grants.

“5308. Clean fuel grant program.

“5309. Fixed guideway capital investment grants.

“5310. Formula grants for the enhanced mobility of seniors and individuals with  
disabilities.

“5311. Formula grants for other than urbanized areas.

“5312. Research, development, demonstration, and deployment projects.

“5313. Transit cooperative research program.

“5314. Technical assistance and standards development.

“5315. National Transit Institute.

“[5316. Repealed.]

“[5317. Repealed.]

“5318. Bus testing facilities.

“5319. Bicycle facilities.

“5320. Alternative transportation in parks and public lands.

“[5321. Repealed.]

“5322. Public transportation workforce development and human resource pro-  
grams.

- “5323. General provisions.  
 “[5324. Repealed.]  
 “5325. Contract requirements.  
 “5326. Transit asset management.  
 “5327. Project management oversight.  
 “[5328. Repealed.]  
 “5329. Public transportation safety program.  
 “5330. State safety oversight.  
 “5331. Alcohol and controlled substances testing.  
 “5332. Nondiscrimination.  
 “5333. Labor standards.  
 “5334. Administrative provisions.  
 “5335. National transit database.  
 “5336. Apportionment of appropriations for formula grants.  
 “5337. State of good repair grants.  
 “5338. Authorizations.  
 “[5339. Repealed.]  
 “5340. Apportionments based on growing States and high density States formula factors.”.

1 **DIVISION C—TRANSPORTATION**  
 2 **SAFETY AND SURFACE**  
 3 **TRANSPORTATION POLICY**  
 4 **TITLE I—MOTOR VEHICLE AND**  
 5 **HIGHWAY SAFETY**  
 6 **IMPROVEMENT ACT OF 2012**

7 **SEC. 31001. SHORT TITLE.**

8 (a) **SHORT TITLE.**—This title may be cited as the  
 9 “Motor Vehicle and Highway Safety Improvement Act of  
 10 2012” or “Mariah’s Act”.

11 (b) **TABLE OF CONTENTS.**—The table of contents for  
 12 this division is as follows:

DIVISION C—TRANSPORTATION SAFETY AND SURFACE  
 TRANSPORTATION POLICY

TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY  
 IMPROVEMENT ACT OF 2012

Sec. 31001. Short title.

Sec. 31002. Definition.

Subtitle A—Highway Safety

## 324

- Sec. 31101. Authorization of appropriations.
- Sec. 31102. Highway safety programs.
- Sec. 31103. Highway safety research and development.
- Sec. 31104. National driver register.
- Sec. 31105. Combined occupant protection grants.
- Sec. 31106. State traffic safety information system improvements.
- Sec. 31107. Impaired driving countermeasures.
- Sec. 31108. Distracted driving grants.
- Sec. 31109. High visibility enforcement program.
- Sec. 31110. Motorcyclist safety.
- Sec. 31111. Driver alcohol detection system for safety research.
- Sec. 31112. State graduated driver licensing laws.
- Sec. 31113. Agency accountability.
- Sec. 31114. Emergency medical services.

Subtitle B—Enhanced Safety Authorities

- Sec. 31201. Definition of motor vehicle equipment.
- Sec. 31202. Permit reminder system for non-use of safety belts.
- Sec. 31203. Civil penalties.
- Sec. 31204. Motor vehicle safety research and development.
- Sec. 31205. Odometer requirements definition.
- Sec. 31206. Electronic disclosures of odometer information.
- Sec. 31207. Increased penalties and damages for odometer fraud.
- Sec. 31208. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.
- Sec. 31209. Financial responsibility requirements for importers.
- Sec. 31210. Conditions on importation of vehicles and equipment.
- Sec. 31211. Port inspections; samples for examination or testing.

Subtitle C—Transparency and Accountability

- Sec. 31301. Improved National Highway Traffic Safety Administration vehicle safety database.
- Sec. 31302. National Highway Traffic Safety Administration hotline for manufacturer, dealer, and mechanic personnel.
- Sec. 31303. Consumer notice of software updates and other communications with dealers.
- Sec. 31304. Public availability of early warning data.
- Sec. 31305. Corporate responsibility for National Highway Traffic Safety Administration reports.
- Sec. 31306. Passenger motor vehicle information program.
- Sec. 31307. Promotion of vehicle defect reporting.
- Sec. 31308. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.
- Sec. 31309. Anti-revolving door.
- Sec. 31310. Study of crash data collection.
- Sec. 31311. Update means of providing notification; improving efficacy of recalls.
- Sec. 31312. Expanding choices of remedy available to manufacturers of replacement equipment.
- Sec. 31313. Recall obligations and bankruptcy of manufacturer.
- Sec. 31314. Repeal of insurance reports and information provision.
- Sec. 31315. Monroney sticker to permit additional safety rating categories.

Subtitle D—Vehicle Electronics and Safety Standards

## 325

- Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.
- Sec. 31402. Vehicle stopping distance and brake override standard.
- Sec. 31403. Pedal placement standard.
- Sec. 31404. Electronic systems performance standard.
- Sec. 31405. Pushbutton ignition systems standard.
- Sec. 31406. Vehicle event data recorders.
- Sec. 31407. Prohibition on electronic visual entertainment in driver's view.
- Sec. 31408. Commercial motor vehicle rollover prevention and crash mitigation.

Subtitle E—Child Safety Standards

- Sec. 31501. Child safety seats.
- Sec. 31502. Child restraint anchorage systems.
- Sec. 31503. Rear seat belt reminders.
- Sec. 31504. Unattended passenger reminders.
- Sec. 31505. New deadline.

Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

- Sec. 31601. Rulemaking on visibility of agricultural equipment.

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY  
ENHANCEMENT ACT OF 2012

- Sec. 32001. Short title.
- Sec. 32002. References to title 49, United States Code.

Subtitle A—Commercial Motor Vehicle Registration

- Sec. 32101. Registration of motor carriers.
- Sec. 32102. Safety fitness of new operators.
- Sec. 32103. Reincarnated carriers.
- Sec. 32104. Financial responsibility requirements.
- Sec. 32105. USDOT number registration requirement.
- Sec. 32106. Registration fee system.
- Sec. 32107. Registration update.
- Sec. 32108. Increased penalties for operating without registration.
- Sec. 32109. Revocation of registration for imminent hazard.
- Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.
- Sec. 32111. Fleetwide out of service order for operating without required registration.
- Sec. 32112. Motor carrier and officer patterns of safety violations.
- Sec. 32113. Federal successor standard.

Subtitle B—Commercial Motor Vehicle Safety

- Sec. 32201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.
- Sec. 32202. Bus rentals and definition of employer.
- Sec. 32203. Crashworthiness standards.
- Sec. 32204. Canadian safety rating reciprocity.
- Sec. 32205. State reporting of foreign commercial driver convictions.
- Sec. 32206. Authority to disqualify foreign commercial drivers.

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- Sec. 32207. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.

## Subtitle C—Driver Safety

- Sec. 32301. Electronic on-board recording devices.  
Sec. 32302. Safety fitness.  
Sec. 32303. Driver medical qualifications.  
Sec. 32304. Commercial driver's license notification system.  
Sec. 32305. Commercial motor vehicle operator training.  
Sec. 32306. Commercial driver's license program.  
Sec. 32307. Commercial driver's license requirements.  
Sec. 32308. Commercial motor vehicle driver information systems.  
Sec. 32309. Disqualifications based on non-commercial motor vehicle operations.  
Sec. 32310. Federal driver disqualifications.  
Sec. 32311. Employer responsibilities.

## Subtitle D—Safe Roads Act of 2012

- Sec. 32401. Short title.  
Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.  
Sec. 32403. Drug and alcohol violation sanctions.  
Sec. 32404. Authorization of appropriations.

## Subtitle E—Enforcement

- Sec. 32501. Inspection demand and display of credentials.  
Sec. 32502. Out of service penalty for denial of access to records.  
Sec. 32503. Penalties for violation of operation out of service orders.  
Sec. 32504. Minimum prohibition on operation for unfit carriers.  
Sec. 32505. Minimum out of service penalties.  
Sec. 32506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.  
Sec. 32507. Increased penalties for evasion of regulations.  
Sec. 32508. Failure to pay civil penalty as a disqualifying offense.  
Sec. 32509. Violations relating to commercial motor vehicle safety regulation and operators.  
Sec. 32510. Emergency disqualification for imminent hazard.  
Sec. 32511. Intrastate operations of interstate motor carriers.  
Sec. 32512. Enforcement of safety laws and regulations.  
Sec. 32513. Disclosure to State and local law enforcement agencies.

## Subtitle F—Compliance, Safety, Accountability

- Sec. 32601. Compliance, safety, accountability.  
Sec. 32602. Performance and registration information systems management program.  
Sec. 32603. Commercial motor vehicle defined.  
Sec. 32604. Driver safety fitness ratings.  
Sec. 32605. Uniform electronic clearance for commercial motor vehicle inspections.  
Sec. 32606. Authorization of appropriations.  
Sec. 32607. High risk carrier reviews.  
Sec. 32608. Data and technology grants.  
Sec. 32609. Driver safety grants.

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Sec. 32610. Commercial vehicle information systems and networks.

Subtitle G—Motorcoach Enhanced Safety Act of 2012

Sec. 32701. Short title.

Sec. 32702. Definitions.

Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.

Sec. 32704. Standards for improved fire safety.

Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.

Sec. 32706. Motorcoach registration.

Sec. 32707. Improved oversight of motorcoach service providers.

Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.

Sec. 32709. Report on driver's license requirements for 9- to 15-passenger vans.

Sec. 32710. Event data recorders.

Sec. 32711. Safety inspection program for commercial motor vehicles of passengers.

Sec. 32712. Distracted driving.

Sec. 32713. Regulations.

Subtitle H—Safe Highways and Infrastructure Preservation

Sec. 32801. Comprehensive truck size and weight limits study.

Sec. 32802. Compilation of existing State truck size and weight limit laws.

Subtitle I—Miscellaneous

PART I—MISCELLANEOUS

Sec. 32911. Detention time study.

Sec. 32912. Prohibition of coercion.

Sec. 32913. Motor carrier safety advisory committee.

Sec. 32914. Waivers, exemptions, and pilot programs.

Sec. 32915. Registration requirements.

Sec. 32916. Additional motor carrier registration requirements.

Sec. 32917. Registration of freight forwarders and brokers.

Sec. 32918. Effective periods of registration.

Sec. 32919. Financial security of brokers and freight forwarders.

Sec. 32920. Unlawful brokerage activities.

PART II—HOUSEHOLD GOODS TRANSPORTATION

Sec. 32921. Additional registration requirements for household goods motor carriers.

Sec. 32922. Failure to give up possession of household goods.

Sec. 32923. Settlement authority.

Sec. 32924. Household goods transportation assistance program.

Sec. 32925. Household goods consumer education program.

PART III—TECHNICAL AMENDMENTS

Sec. 32931. Update of obsolete text.

Sec. 32932. Correction of interstate commerce commission references.

Sec. 32933. Technical and conforming amendments.

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TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY  
ACT OF 2012

- Sec. 33001. Short title.
- Sec. 33002. Establishment of a national surface transportation and freight policy.
- Sec. 33003. Surface transportation and freight strategic plan.
- Sec. 33004. Transportation investment data and planning tools.
- Sec. 33005. Port infrastructure development initiative.
- Sec. 33006. Safety for motorized and nonmotorized users.

TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY  
IMPROVEMENT ACT OF 2012

- Sec. 34001. Short title.
- Sec. 34002. Definition.
- Sec. 34003. References to title 49, United States Code.
- Sec. 34004. Training for emergency responders.
- Sec. 34005. Paperless Hazard Communications Pilot Program.
- Sec. 34006. Improving data collection, analysis, and reporting.
- Sec. 34007. Loading and unloading of hazardous materials.
- Sec. 34008. Hazardous material technical assessment, research and development, and analysis program.
- Sec. 34009. Hazardous Material Enforcement Training Program.
- Sec. 34010. Inspections.
- Sec. 34011. Civil penalties.
- Sec. 34012. Reporting of fees.
- Sec. 34013. Special permits, approvals, and exclusions.
- Sec. 34014. Highway routing disclosures.
- Sec. 34015. Authorization of appropriations.

TITLE V—RESEARCH AND INNOVATIVE TECHNOLOGY  
ADMINISTRATION REAUTHORIZATION ACT OF 2012

- Sec. 35001. Short title.
- Sec. 35002. National Cooperative Freight Research Program.
- Sec. 35003. Bureau of Transportation Statistics.
- Sec. 35004. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.
- Sec. 35005. Administrative authority.
- Sec. 35006. Prize authority.
- Sec. 35007. Transportation research and development.
- Sec. 35008. Use of funds for intelligent transportation systems activities.
- Sec. 35009. Authorization of appropriations.

TITLE VI—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION,  
AND DEVELOPMENT ACT OF 2012

- Sec. 36001. Short title.
- Sec. 36002. References to title 49, United States Code.

## Subtitle A—Federal and State Roles in Rail Planning and Development Tools

- Sec. 36101. Rail plans.
- Sec. 36102. Improved data on delay.
- Sec. 36103. Data and modeling.
- Sec. 36104. Shared-use corridor study.



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- Sec. 36105. Cooperative equipment pool.
- Sec. 36106. Project management oversight and planning.
- Sec. 36107. Improvements to the Capital Assistance Programs.
- Sec. 36108. Liability.
- Sec. 36109. Disadvantaged business enterprises.
- Sec. 36110. Workforce development.
- Sec. 36111. Veterans employment.

## Subtitle B—Amtrak

- Sec. 36201. State-supported routes.
- Sec. 36202. Northeast corridor infrastructure and operations advisory commission.
- Sec. 36203. Northeast corridor high-speed rail improvement plan.
- Sec. 36204. Northeast corridor environmental review process.
- Sec. 36205. Delegation authority.
- Sec. 36206. Amtrak inspector general.
- Sec. 36207. Compensation for private-sector use of Federally-funded assets.
- Sec. 36208. On-time performance.
- Sec. 36209. Board of directors.

## Subtitle C—Rail Safety Improvements

- Sec. 36301. Positive train control.
- Sec. 36302. Additional eligibility for Railroad rehabilitation and improvement financing.
- Sec. 36303. FCC study of spectrum availability.

## Subtitle D—Freight Rail

- Sec. 36401. Rail line relocation.
- Sec. 36402. Compilation of complaints.
- Sec. 36403. Maximum relief in certain rate cases.
- Sec. 36404. Rate review timelines.
- Sec. 36405. Revenue adequacy study.
- Sec. 36406. Quarterly reports.
- Sec. 36407. Workforce review.
- Sec. 36408. Railroad rehabilitation and improvement financing.

## Subtitle E—Technical Corrections

- Sec. 36501. Technical corrections.
- Sec. 36502. Condemnation authority.

## Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

- Sec. 36601. Certification of passenger rail carriers.

## TITLE VII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012

- Sec. 37001. Short title.
- Sec. 37002. Amendment of Federal Aid in Sport Fish Restoration Act.
- Sec. 37003. Amendment of trust fund code.

1 **SEC. 31002. DEFINITION.**

2 In this title, the term “Secretary” means the Sec-  
3 retary of Transportation.

4 **Subtitle A—Highway Safety**

5 **SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.**

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

9 (1) HIGHWAY SAFETY PROGRAMS.—For car-  
10 rying out section 402 of title 23, United States  
11 Code—

12 (A) \$243,000,000 for fiscal year 2012; and

13 (B) \$243,000,000 for fiscal year 2013.

14 (2) HIGHWAY SAFETY RESEARCH AND DEVEL-  
15 OPMENT.—For carrying out section 403 of title 23,  
16 United States Code—

17 (A) \$130,000,000 for fiscal year 2012; and

18 (B) \$139,000,000 for fiscal year 2013.

19 (3) COMBINED OCCUPANT PROTECTION  
20 GRANTS.—For carrying out section 405 of title 23,  
21 United States Code—

22 (A) \$44,000,000 for fiscal year 2012; and

23 (B) \$44,000,000 for fiscal year 2013.

24 (4) STATE TRAFFIC SAFETY INFORMATION SYS-  
25 TEM IMPROVEMENTS.—For carrying out section 408  
26 of title 23, United States Code—

1 (A) \$44,000,000 for fiscal year 2012; and

2 (B) \$44,000,000 for fiscal year 2013.

3 (5) IMPAIRED DRIVING COUNTERMEASURES.—

4 For carrying out section 410 of title 23, United  
5 States Code—

6 (A) \$139,000,000 for fiscal year 2012; and

7 (B) \$139,000,000 for fiscal year 2013.

8 (6) DISTRACTED DRIVING GRANTS.—For car-

9 rying out section 411 of title 23, United States  
10 Code—

11 (A) \$39,000,000 for fiscal year 2012; and

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

13 (7) NATIONAL DRIVER REGISTER.—For the Na-

14 tional Highway Traffic Safety Administration to

15 carry out chapter 303 of title 49, United States

16 Code—

17 (A) \$5,000,000 for fiscal year 2012; and

18 (B) \$5,000,000 for fiscal year 2013.

19 (8) HIGH VISIBILITY ENFORCEMENT PRO-

20 GRAM.—For carrying out section 2009 of

21 SAFETEA-LU (23 U.S.C. 402 note)—

22 (A) \$37,000,000 for fiscal year 2012; and

23 (B) \$37,000,000 for fiscal year 2013.

1           (9) MOTORCYCLIST SAFETY.—For carrying out  
2 section 2010 of SAFETEA-LU (23 U.S.C. 402  
3 note)—

4                   (A) \$6,000,000 for fiscal year 2012; and

5                   (B) \$6,000,000 for fiscal year 2013.

6           (10) ADMINISTRATIVE EXPENSES.—For admin-  
7 istrative and related operating expenses of the Na-  
8 tional Highway Traffic Safety Administration in car-  
9 rying out chapter 4 of title 23, United States Code,  
10 and this subtitle—

11                   (A) \$25,581,280 for fiscal year 2012; and

12                   (B) \$25,862,674 for fiscal year 2013.

13           (11) DRIVER ALCOHOL DETECTION SYSTEM  
14 FOR SAFETY RESEARCH.—For carrying out section  
15 413 of title 23, United States Code—

16                   (A) \$12,000,000 for fiscal year 2012; and

17                   (B) \$12,000,000 for fiscal year 2013.

18           (12) STATE GRADUATED DRIVER LICENSING  
19 LAWS.—For carrying out section 414 of title 23,  
20 United States Code—

21                   (A) \$22,000,000 for fiscal year 2012; and

22                   (B) \$22,000,000 for fiscal year 2013.

23           (b) PROHIBITION ON OTHER USES.—Except as oth-  
24 erwise provided in chapter 4 of title 23, United States  
25 Code, in this subtitle, and in the amendments made by

1 this subtitle, the amounts made available from the High-  
2 way Trust Fund (other than the Mass Transit Account)  
3 for a program under such chapter—

4 (1) shall only be used to carry out such pro-  
5 gram; and

6 (2) may not be used by a States or local gov-  
7 ernments for construction purposes.

8 (c) **APPLICABILITY OF SUBTITLE 23.**—Except as  
9 otherwise provided in chapter 4 of title 23, United States  
10 Code, and in this subtitle, amounts made available under  
11 subsection (a) for fiscal years 2012 and 2013 shall be  
12 available for obligation in the same manner as if such  
13 funds were apportioned under chapter 1 of title 23, United  
14 States Code.

15 (d) **REGULATORY AUTHORITY.**—Grants awarded  
16 under this subtitle shall be in accordance with regulations  
17 issued by the Secretary.

18 (e) **STATE MATCHING REQUIREMENTS.**—If a grant  
19 awarded under this subtitle requires a State to share in  
20 the cost, the aggregate of all expenditures for highway  
21 safety activities made during any fiscal year by the State  
22 and its political subdivisions (exclusive of Federal funds)  
23 for carrying out the grant (other than planning and ad-  
24 ministration) shall be available for the purpose of crediting  
25 the State during such fiscal year for the non-Federal share

1 of the cost of any project under this subtitle (other than  
2 planning or administration) without regard to whether  
3 such expenditures were actually made in connection with  
4 such project.

5 (f) MAINTENANCE OF EFFORT.—

6 (1) REQUIREMENT.—No grant may be made to  
7 a State under section 405, 408, or 410 of title 23,  
8 United States Code, in any fiscal year unless the  
9 State enters into such agreements with the Sec-  
10 retary as the Secretary may require to ensure that  
11 the State will maintain its aggregate expenditures  
12 from all State and local sources for programs de-  
13 scribed in such sections at or above the average level  
14 of such expenditures in its 2 fiscal years preceding  
15 the date of enactment of this Act.

16 (2) WAIVER.—Upon the request of a State, the  
17 Secretary may waive or modify the requirements  
18 under paragraph (1) for not more than 1 fiscal year  
19 if the Secretary determines that such a waiver would  
20 be equitable due to exceptional or uncontrollable cir-  
21 cumstances.

22 (g) TRANSFERS.—In each fiscal year, the Secretary  
23 may transfer any amounts remaining available under  
24 paragraphs (3), (4), (5), (6), (9), (11), and (12) of sub-  
25 section (a) to the amounts made available under para-

1 graph (1) or any other of such paragraphs in order to  
2 ensure, to the maximum extent possible, that all funds are  
3 obligated.

4 (h) GRANT APPLICATION AND DEADLINE.—To re-  
5 ceive a grant under this subtitle, a State shall submit an  
6 application, and the Secretary shall establish a single  
7 deadline for such applications to enable the award of  
8 grants early in the next fiscal year.

9 (i) ALLOCATION TO SUPPORT STATE DISTRACTED  
10 DRIVING LAWS.—Of the amounts available under sub-  
11 section (a)(6) for distracted driving grants, the Secretary  
12 may expend, in each fiscal year, up to \$5,000,000 for the  
13 development and placement of broadcast media to support  
14 the enforcement of State distracted driving laws.

15 **SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

16 (a) PROGRAMS INCLUDED.—Section 402(a) of title  
17 23, United States Code, is amended to read as follows:

18 “(a) PROGRAM REQUIRED.—

19 “(1) IN GENERAL.—Each State shall have a  
20 highway safety program, approved by the Secretary,  
21 that is designed to reduce traffic accidents and the  
22 resulting deaths, injuries, and property damage.

23 “(2) UNIFORM GUIDELINES.—Programs re-  
24 quired under paragraph (1) shall comply with uni-

1 form guidelines, promulgated by the Secretary and  
2 expressed in terms of performance criteria, that—

3 “(A) include programs—

4 “(i) to reduce injuries and deaths re-  
5 sulting from motor vehicles being driven in  
6 excess of posted speed limits;

7 “(ii) to encourage the proper use of  
8 occupant protection devices (including the  
9 use of safety belts and child restraint sys-  
10 tems) by occupants of motor vehicles;

11 “(iii) to reduce injuries and deaths re-  
12 sulting from persons driving motor vehicles  
13 while impaired by alcohol or a controlled  
14 substance;

15 “(iv) to prevent accidents and reduce  
16 injuries and deaths resulting from acci-  
17 dents involving motor vehicles and motor-  
18 cycles;

19 “(v) to reduce injuries and deaths re-  
20 sulting from accidents involving school  
21 buses;

22 “(vi) to reduce accidents resulting  
23 from unsafe driving behavior (including ag-  
24 gressive or fatigued driving and distracted



1 driving arising from the use of electronic  
2 devices in vehicles); and

3 “(vii) to improve law enforcement  
4 services in motor vehicle accident preven-  
5 tion, traffic supervision, and post-accident  
6 procedures;

7 “(B) improve driver performance, includ-  
8 ing—

9 “(i) driver education;

10 “(ii) driver testing to determine pro-  
11 ficiency to operate motor vehicles; and

12 “(iii) driver examinations (physical,  
13 mental, and driver licensing);

14 “(C) improve pedestrian performance and  
15 bicycle safety;

16 “(D) include provisions for—

17 “(i) an effective record system of acci-  
18 dents (including resulting injuries and  
19 deaths);

20 “(ii) accident investigations to deter-  
21 mine the probable causes of accidents, in-  
22 juries, and deaths;

23 “(iii) vehicle registration, operation,  
24 and inspection; and

25 “(iv) emergency services; and

1           “(E) to the extent determined appropriate  
2           by the Secretary, are applicable to federally ad-  
3           ministered areas where a Federal department  
4           or agency controls the highways or supervises  
5           traffic operations.”.

6           (b) ADMINISTRATION OF STATE PROGRAMS.—Sec-  
7           tion 402(b)(1) of title 23, United States Code, is amend-  
8           ed—

9           (1) in subparagraph (D), by striking “and” at  
10          the end;

11          (2) by redesignating subparagraph (E) as sub-  
12          paragraph (F);

13          (3) by inserting after subparagraph (D) the fol-  
14          lowing:

15                 “(E) beginning on October 1, 2012, pro-  
16                 vide for a robust, data-driven traffic safety en-  
17                 forcement program to prevent traffic violations,  
18                 crashes, and crash fatalities and injuries in  
19                 areas most at risk for such incidents, to the  
20                 satisfaction of the Secretary;”;

21          (4) in subparagraph (F), as redesignated—

22                 (A) in clause (i), by inserting “and high-  
23                 visibility law enforcement mobilizations coordi-  
24                 nated by the Secretary” after “mobilizations”;

1 (B) in clause (iii), by striking “and” at the  
2 end;

3 (C) in clause (iv), by striking the period at  
4 the end and inserting “; and”; and

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

6 “(v) ensuring that the State will co-  
7 ordinate its highway safety plan, data col-  
8 lection, and information systems with the  
9 State strategic highway safety plan (as de-  
10 fined in section 148(a)).”

11 (c) APPROVED HIGHWAY SAFETY PROGRAMS.—Sec-  
12 tion 402(c) of title 23, United States Code, is amended—

13 (1) by striking “(c) Funds authorized” and in-  
14 serting the following:

15 “(c) USE OF FUNDS.—

16 “(1) IN GENERAL.—Funds authorized”;

17 (2) by striking “Such funds” and inserting the  
18 following:

19 “(2) APPORTIONMENT.—Except for amounts  
20 identified in subsection (1) and section 403(e), funds  
21 described in paragraph (1)”;

22 (3) by striking “The Secretary shall not” and  
23 all that follows through “subsection, a highway safe-  
24 ty program” and inserting “A highway safety pro-  
25 gram”;

1           (4) by inserting “A State may use the funds  
2           apportioned under this section, in cooperation with  
3           neighboring States, for highway safety programs or  
4           related projects that may confer benefits on such  
5           neighboring States.” after “in every State.”;

6           (5) by striking “50 per centum” and inserting  
7           “20 percent”; and

8           (6) by striking “The Secretary shall promptly”  
9           and all that follows and inserting the following:

10           “(3) REAPPORTIONMENT.—The Secretary shall  
11           promptly apportion the funds withheld from a  
12           State’s apportionment to the State if the Secretary  
13           approves the State’s highway safety program or de-  
14           termines that the State has begun implementing an  
15           approved program, as appropriate, not later than  
16           July 31st of the fiscal year for which the funds were  
17           withheld. If the Secretary determines that the State  
18           did not correct its failure within such period, the  
19           Secretary shall reapportion the withheld funds to the  
20           other States in accordance with the formula speci-  
21           fied in paragraph (2) not later than the last day of  
22           the fiscal year.”.

23           (d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—  
24           Section 402(g) of title 23, United States Code, is amended  
25           to read as follows:

1 “(g) SAVINGS PROVISION.—

2 “(1) IN GENERAL.—Except as provided under  
3 paragraph (2), nothing in this section may be con-  
4 strued to authorize the appropriation or expenditure  
5 of funds for—

6 “(A) highway construction, maintenance,  
7 or design (other than design of safety features  
8 of highways to be incorporated into guidelines);  
9 or

10 “(B) any purpose for which funds are au-  
11 thorized by section 403.

12 “(2) DEMONSTRATION PROJECTS.—A State  
13 may use funds made available to carry out this sec-  
14 tion to assist in demonstration projects carried out  
15 by the Secretary under section 403.”.

16 (e) IN GENERAL.—Section 402 of title 23, United  
17 States Code, is amended—

18 (1) by striking subsections (k) and (m);

19 (2) by redesignating subsections (i) and (j) as  
20 subsections (h) and (i), respectively; and

21 (3) by redesignating subsection (l) as subsection  
22 (j).

23 (f) HIGHWAY SAFETY PLAN AND REPORTING RE-  
24 QUIREMENTS.—Section 402 of title 23, United States

1 Code, as amended by this section, is further amended by  
2 adding at the end the following:

3 “(k) HIGHWAY SAFETY PLAN AND REPORTING RE-  
4 QUIREMENTS.—

5 “(1) IN GENERAL.—The Secretary shall require  
6 each State to develop and submit to the Secretary  
7 a highway safety plan that complies with the re-  
8 quirements under this subsection not later than July  
9 1, 2012, and annually thereafter.

10 “(2) CONTENTS.—State highway safety plans  
11 submitted under paragraph (1) shall include—

12 “(A) performance measures required by  
13 the Secretary or otherwise necessary to support  
14 additional State safety goals, including—

15 “(i) documentation of current safety  
16 levels for each performance measure;

17 “(ii) quantifiable annual performance  
18 targets for each performance measure; and

19 “(iii) a justification for each perform-  
20 ance target;

21 “(B) a strategy for programming funds ap-  
22 portioned to the State under this section on  
23 projects and activities that will allow the State  
24 to meet the performance targets described in  
25 subparagraph (A);

1           “(C) data and data analysis supporting the  
2 effectiveness of proposed countermeasures;

3           “(D) a description of any Federal, State,  
4 local, or private funds that the State plans to  
5 use, in addition to funds apportioned to the  
6 State under this section, to carry out the strat-  
7 egy described in subparagraph (B);

8           “(E) beginning with the plan submitted by  
9 July 1, 2013, a report on the State’s success in  
10 meeting State safety goals set forth in the pre-  
11 vious year’s highway safety plan; and

12           “(F) an application for any additional  
13 grants available to the State under this chapter.

14           “(3) PERFORMANCE MEASURES.—For the first  
15 highway safety plan submitted under this subsection,  
16 the performance measures required by the Secretary  
17 under paragraph (2)(A) shall be limited to those de-  
18 veloped by the National Highway Traffic Safety Ad-  
19 ministration and the Governor’s Highway Safety As-  
20 sociation and described in the report, ‘Traffic Safety  
21 Performance Measures for States and Federal Agen-  
22 cies’ (DOT HS 811 025). For subsequent highway  
23 safety plans, the Secretary shall consult with the  
24 Governor’s Highway Safety Association and safety

1 experts if the Secretary makes revisions to the set  
2 of required performance measures.

3 “(4) REVIEW OF HIGHWAY SAFETY PLANS.—

4 “(A) IN GENERAL.—Not later than 60  
5 days after the date on which a State’s highway  
6 safety plan is received by the Secretary, the  
7 Secretary shall review and approve or dis-  
8 approve the plan.

9 “(B) APPROVALS AND DISAPPROVALS.—

10 “(i) APPROVALS.—The Secretary shall  
11 approve a State’s highway safety plan if  
12 the Secretary determines that—

13 “(I) the plan is evidence-based  
14 and supported by data;

15 “(II) the performance targets are  
16 adequate; and

17 “(III) the plan, once imple-  
18 mented, will allow the State to meet  
19 such targets.

20 “(ii) DISAPPROVALS.—The Secretary  
21 shall disapprove a State’s highway safety  
22 plan if the Secretary determines that the  
23 plan does not—

24 “(I) set appropriate performance  
25 targets; or



1                   “(II) provide for evidence-based  
2                   programming of funding in a manner  
3                   sufficient to allow the State to meet  
4                   such targets.

5                   “(C) ACTIONS UPON DISAPPROVAL.—If the  
6                   Secretary disapproves a State’s highway safety  
7                   plan, the Secretary shall—

8                   “(i) inform the State of the reasons  
9                   for such disapproval; and

10                   “(ii) require the State to resubmit the  
11                   plan with any modifications that the Sec-  
12                   retary determines to be necessary.

13                   “(D) REVIEW OF RESUBMITTED PLANS.—  
14                   If the Secretary requires a State to resubmit a  
15                   highway safety plan, with modifications, the  
16                   Secretary shall review and approve or dis-  
17                   approve the modified plan not later than 30  
18                   days after the date on which the Secretary re-  
19                   ceives such plan.

20                   “(E) REPROGRAMMING AUTHORITY.—If  
21                   the Secretary determines that the modifications  
22                   contained in a State’s resubmitted highway  
23                   safety plan do not provide for the programming  
24                   of funding in a manner sufficient to meet the  
25                   State’s performance goals, the Secretary, in

1           consultation with the State, shall take such ac-  
2           tion as may be necessary to bring the State's  
3           plan into compliance with the performance tar-  
4           gets.

5                   “(F) PUBLIC NOTICE.—A State shall make  
6           the State's highway safety plan, and decisions  
7           of the Secretary concerning approval or dis-  
8           approval of a revised plan, available to the pub-  
9           lic.”.

10          (g) COOPERATIVE RESEARCH AND EVALUATION.—  
11          Section 402 of title 23, United States Code, as amended  
12          by this section, is further amended by adding at the end  
13          the following:

14                   “(1) COOPERATIVE RESEARCH AND EVALUATION.—

15                           “(1) ESTABLISHMENT AND FUNDING.—Not-  
16           withstanding the apportionment formula set forth in  
17           subsection (c)(2), \$2,500,000 of the total amount  
18           available for apportionment to the States for high-  
19           way safety programs under subsection (c) in each  
20           fiscal year shall be available for expenditure by the  
21           Secretary, acting through the Administrator of the  
22           National Highway Traffic Safety Administration, for  
23           a cooperative research and evaluation program to re-  
24           search and evaluate priority highway safety counter-  
25           measures.

1           “(2) ADMINISTRATION.—The program estab-  
2           lished under paragraph (1)—

3                   “(A) shall be administered by the Adminis-  
4                   trator of the National Highway Traffic Safety  
5                   Administration; and

6                   “(B) shall be jointly managed by the Gov-  
7                   ernors Highway Safety Association and the Na-  
8                   tional Highway Traffic Safety Administration.”.

9           (h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402  
10           of title 23, United States Code, as amended by this sec-  
11           tion, is further amended by adding at the end the fol-  
12           lowing:

13           “(m) TEEN TRAFFIC SAFETY PROGRAM.—

14                   “(1) PROGRAM AUTHORIZED.—Subject to the  
15                   requirements of a State’s highway safety plan, as  
16                   approved by the Secretary under subsection (k), a  
17                   State may use a portion of the amounts received  
18                   under this section to implement a statewide teen  
19                   traffic safety program to improve traffic safety for  
20                   teen drivers.

21                   “(2) STRATEGIES.—The program implemented  
22                   under paragraph (1)—

23                           “(A) shall include peer-to-peer education  
24                           and prevention strategies in schools and com-  
25                           munities designed to—

- 1 “(i) increase safety belt use;
- 2 “(ii) reduce speeding;
- 3 “(iii) reduce impaired and distracted
- 4 driving;
- 5 “(iv) reduce underage drinking; and
- 6 “(v) reduce other behaviors by teen
- 7 drivers that lead to injuries and fatalities;
- 8 and
- 9 “(B) may include—
- 10 “(i) working with student-led groups
- 11 and school advisors to plan and implement
- 12 teen traffic safety programs;
- 13 “(ii) providing subgrants to schools
- 14 throughout the State to support the estab-
- 15 lishment and expansion of student groups
- 16 focused on teen traffic safety;
- 17 “(iii) providing support, training, and
- 18 technical assistance to establish and ex-
- 19 pand school and community safety pro-
- 20 grams for teen drivers;
- 21 “(iv) creating statewide or regional
- 22 websites to publicize and circulate informa-
- 23 tion on teen safety programs;
- 24 “(v) conducting outreach and pro-
- 25 viding educational resources for parents;

1 “(vi) establishing State or regional  
2 advisory councils comprised of teen drivers  
3 to provide input and recommendations to  
4 the governor and the governor’s safety rep-  
5 resentative on issues related to the safety  
6 of teen drivers;

7 “(vii) collaborating with law enforce-  
8 ment;

9 “(viii) organizing and hosting State  
10 and regional conferences for teen drivers;

11 “(ix) establishing partnerships and  
12 promoting coordination among community  
13 stakeholders, including public, not-for-prof-  
14 it, and for profit entities; and

15 “(x) funding a coordinator position  
16 for the teen safety program in the State or  
17 region.”.

18 **SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOP-**  
19 **MENT.**

20 Section 403 of title 23, United States Code, is  
21 amended to read as follows:

22 **“§ 403. Highway safety research and development**

23 “(a) DEFINED TERM.—In this section, the term  
24 ‘Federal laboratory’ includes—

1           “(1) a government-owned, government-operated  
2           laboratory; and

3           “(2) a government-owned, contractor-operated  
4           laboratory.

5           “(b) GENERAL AUTHORITY.—

6           “(1) RESEARCH AND DEVELOPMENT ACTIVI-  
7           TIES.—The Secretary may conduct research and de-  
8           velopment activities, including demonstration  
9           projects and the collection and analysis of highway  
10          and motor vehicle safety data and related informa-  
11          tion needed to carry out this section, with respect  
12          to—

13                   “(A) all aspects of highway and traffic  
14                   safety systems and conditions relating to—

15                           “(i) vehicle, highway, driver, pas-  
16                           senger, motorcyclist, bicyclist, and pedes-  
17                           trian characteristics;

18                           “(ii) accident causation and investiga-  
19                           tions;

20                           “(iii) communications;

21                           “(iv) emergency medical services; and

22                           “(v) transportation of the injured;

23                   “(B) human behavioral factors and their  
24                   effect on highway and traffic safety, includ-  
25                   ing—

1 “(i) driver education;

2 “(ii) impaired driving;

3 “(iii) distracted driving; and

4 “(iv) new technologies installed in, or  
5 brought into, vehicles;

6 “(C) an evaluation of the effectiveness of  
7 countermeasures to increase highway and traf-  
8 fic safety, including occupant protection and  
9 alcohol- and drug-impaired driving technologies  
10 and initiatives; and

11 “(D) the effect of State laws on any as-  
12 pects, activities, or programs described in sub-  
13 paragraphs (A) through (C).

14 “(2) COOPERATION, GRANTS, AND CON-  
15 TRACTS.—The Secretary may carry out this sec-  
16 tion—

17 “(A) independently;

18 “(B) in cooperation with other Federal de-  
19 partments, agencies, and instrumentalities and  
20 Federal laboratories;

21 “(C) by entering into contracts, coopera-  
22 tive agreements, and other transactions with  
23 the National Academy of Sciences, any Federal  
24 laboratory, State or local agency, authority, as-

1           society, institution, foreign country, or person  
2           (as defined in chapter 1 of title 1); or

3           “(D) by making grants to the National  
4           Academy of Sciences, any Federal laboratory,  
5           State or local agency, authority, association, in-  
6           stitution, or person (as defined in chapter 1 of  
7           title 1).

8           “(c) COLLABORATIVE RESEARCH AND DEVELOP-  
9           MENT.—

10           “(1) IN GENERAL.—To encourage innovative  
11           solutions to highway safety problems, stimulate vol-  
12           untary improvements in highway safety, and stimu-  
13           late the marketing of new highway safety related  
14           technology by private industry, the Secretary is au-  
15           thorized to carry out, on a cost-shared basis, collabo-  
16           rative research and development with—

17           “(A) non-Federal entities, including State  
18           and local governments, foreign countries, col-  
19           leges, universities, corporations, partnerships,  
20           sole proprietorships, organizations serving the  
21           interests of children, people with disabilities,  
22           low-income populations, and older adults, and  
23           trade associations that are incorporated or es-  
24           tablished under the laws of any State or the  
25           United States; and



1                   “(B) Federal laboratories.

2                   “(2) AGREEMENTS.—In carrying out this sub-  
3                   section, the Secretary may enter into cooperative re-  
4                   search and development agreements (as defined in  
5                   section 12 of the Stevenson-Wydler Technology In-  
6                   novation Act of 1980 (15 U.S.C. 3710a)) in which  
7                   the Secretary provides not more than 50 percent of  
8                   the cost of any research or development project  
9                   under this subsection.

10                  “(3) USE OF TECHNOLOGY.—The research, de-  
11                  velopment, or use of any technology pursuant to an  
12                  agreement under this subsection, including the terms  
13                  under which technology may be licensed and the re-  
14                  sulting royalties may be distributed, shall be subject  
15                  to the provisions of the Stevenson-Wydler Tech-  
16                  nology Innovation Act of 1980 (15 U.S.C. 3701 et  
17                  seq.).

18                  “(d) TITLE TO EQUIPMENT.—In furtherance of the  
19                  purposes set forth in section 402, the Secretary may vest  
20                  title to equipment purchased for demonstration projects  
21                  with funds authorized under this section to State or local  
22                  agencies on such terms and conditions as the Secretary  
23                  determines to be appropriate.

24                  “(e) TRAINING.—Notwithstanding the apportionment  
25                  formula set forth in section 402(c)(2), 1 percent of the

1 total amount available for apportionment to the States for  
2 highway safety programs under section 402(c) in each fis-  
3 cal year shall be available, through the end of the suc-  
4 ceeding fiscal year, to the Secretary, acting through the  
5 Administrator of the National Highway Traffic Safety Ad-  
6 ministration—

7           “(1) to provide training, conducted or developed  
8           by Federal or non-Federal entity or personnel, to  
9           Federal, State, and local highway safety personnel;  
10          and

11           “(2) to pay for any travel, administrative, and  
12          other expenses related to such training.

13          “(f) DRIVER LICENSING AND FITNESS TO DRIVE  
14 CLEARINGHOUSE.—From amounts made available under  
15 this section, the Secretary, acting through the Adminis-  
16 trator of the National Highway Traffic Safety Administra-  
17 tion, is authorized to expend \$1,280,000 between the date  
18 of enactment of the Motor Vehicle and Highway Safety  
19 Improvement Act of 2012 and September 30, 2013, to es-  
20 tablish an electronic clearinghouse and technical assist-  
21 ance service to collect and disseminate research and anal-  
22 ysis of medical and technical information and best prac-  
23 tices concerning drivers with medical issues that may be  
24 used by State driver licensing agencies in making licensing  
25 qualification decisions.

1           “(g) INTERNATIONAL HIGHWAY SAFETY INFORMA-  
2 TION AND COOPERATION.—

3           “(1) ESTABLISHMENT.—The Secretary, acting  
4 through the Administrator of the National Highway  
5 Traffic Safety Administration, may establish an  
6 international highway safety information and co-  
7 operation program to—

8           “(A) inform the United States highway  
9 safety community of laws, projects, programs,  
10 data, and technology in foreign countries that  
11 could be used to enhance highway safety in the  
12 United States;

13           “(B) permit the exchange of information  
14 with foreign countries about laws, projects, pro-  
15 grams, data, and technology that could be used  
16 to enhance highway safety; and

17           “(C) allow the Secretary, represented by  
18 the Administrator, to participate and cooperate  
19 in international activities to enhance highway  
20 safety.

21           “(2) COOPERATION.—The Secretary may carry  
22 out this subsection in cooperation with any appro-  
23 priate Federal agency, State or local agency or au-  
24 thority, foreign government, or multinational institu-  
25 tion.

1           “(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any  
2 report of the National Highway Traffic Safety Adminis-  
3 tration, or of any officer, employee, or contractor of the  
4 National Highway Traffic Safety Administration, relating  
5 to any highway traffic accident or the investigation of such  
6 accident conducted pursuant to this chapter or chapter  
7 301 shall be made available to the public in a manner that  
8 does not identify individuals.

9           “(i) MODEL SPECIFICATIONS FOR DEVICES.—The  
10 Secretary, acting through the Administrator of the Na-  
11 tional Highway Traffic Safety Administration, may—

12                   “(1) develop model specifications and testing  
13 procedures for devices, including devices designed to  
14 measure the concentration of alcohol in the body;

15                   “(2) conduct periodic tests of such devices;

16                   “(3) publish a Conforming Products List of  
17 such devices that have met the model specifications;  
18 and

19                   “(4) may require that any necessary tests of  
20 such devices are conducted by a Federal laboratory  
21 and paid for by the device manufacturers.”.

22 **SEC. 31104. NATIONAL DRIVER REGISTER.**

23           Section 30302(b) of title 49, United States Code, is  
24 amended by adding at the end the following: “The Sec-

1 retary shall make continual improvements to modernize  
2 the Register’s data processing system.”.

3 **SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.**

4 (a) IN GENERAL.—Section 405 of title 23, United  
5 States Code, is amended to read as follows:

6 **“§ 405. Combined occupant protection grants**

7 “(a) GENERAL AUTHORITY.—Subject to the require-  
8 ments of this section, the Secretary of Transportation  
9 shall award grants to States that adopt and implement  
10 effective occupant protection programs to reduce highway  
11 deaths and injuries resulting from individuals riding unre-  
12 strained or improperly restrained in motor vehicles.

13 “(b) FEDERAL SHARE.—The Federal share of the  
14 costs of activities funded using amounts from grants  
15 awarded under this section may not exceed 80 percent for  
16 each fiscal year for which a State receives a grant.

17 “(c) ELIGIBILITY.—

18 “(1) HIGH SEAT BELT USE RATE.—A State  
19 with an observed seat belt use rate of 90 percent or  
20 higher, based on the most recent data from a survey  
21 that conforms with national criteria established by  
22 the National Highway Traffic Safety Administra-  
23 tion, shall be eligible for a grant in a fiscal year if  
24 the State—

1           “(A) submits an occupant protection plan  
2 during the first fiscal year;

3           “(B) participates in the Click It or Ticket  
4 national mobilization;

5           “(C) has an active network of child re-  
6 straint inspection stations; and

7           “(D) has a plan to recruit, train, and  
8 maintain a sufficient number of child passenger  
9 safety technicians.

10          “(2) LOWER SEAT BELT USE RATE.—A State  
11 with an observed seat belt use rate below 90 percent,  
12 based on the most recent data from a survey that  
13 conforms with national criteria established by the  
14 National Highway Traffic Safety Administration,  
15 shall be eligible for a grant in a fiscal year if—

16           “(A) the State meets all of the require-  
17 ments under subparagraphs (A) through (D) of  
18 paragraph (1); and

19           “(B) the Secretary determines that the  
20 State meets at least 3 of the following criteria:

21           “(i) The State conducts sustained (on-  
22 going and periodic) seat belt enforcement  
23 at a defined level of participation during  
24 the year.

1           “(ii) The State has enacted and en-  
2 forces a primary enforcement seat belt use  
3 law.

4           “(iii) The State has implemented  
5 countermeasure programs for high-risk  
6 populations, such as drivers on rural road-  
7 ways, unrestrained nighttime drivers, or  
8 teenage drivers.

9           “(iv) The State has enacted and en-  
10 forces occupant protection laws requiring  
11 front and rear occupant protection use by  
12 all occupants in an age-appropriate re-  
13 straint.

14           “(v) The State has implemented a  
15 comprehensive occupant protection pro-  
16 gram in which the State has—

17                   “(I) conducted a program assess-  
18 ment;

19                   “(II) developed a statewide stra-  
20 tegic plan;

21                   “(III) designated an occupant  
22 protection coordinator; and

23                   “(IV) established a statewide oc-  
24 cupant protection task force.

25           “(vi) The State—

1                   “(I) completed an assessment of  
2                   its occupant protection program dur-  
3                   ing the 3-year period preceding the  
4                   grant year; or

5                   “(II) will conduct such an assess-  
6                   ment during the first year of the  
7                   grant.

8           “(d) USE OF GRANT AMOUNTS.—Grant funds re-  
9           ceived pursuant to this section may be used to—

10                   “(1) carry out a program to support high-visi-  
11                   bility enforcement mobilizations, including paid  
12                   media that emphasizes publicity for the program,  
13                   and law enforcement;

14                   “(2) carry out a program to train occupant pro-  
15                   tection safety professionals, police officers, fire and  
16                   emergency medical personnel, educators, and parents  
17                   concerning all aspects of the use of child restraints  
18                   and occupant protection;

19                   “(3) carry out a program to educate the public  
20                   concerning the proper use and installation of child  
21                   restraints, including related equipment and informa-  
22                   tion systems;

23                   “(4) carry out a program to provide community  
24                   child passenger safety services, including programs



1 about proper seating positions for children and how  
2 to reduce the improper use of child restraints;

3 “(5) purchase and distribute child restraints to  
4 low-income families if not more than 5 percent of  
5 the funds received in a fiscal year are used for this  
6 purpose;

7 “(6) establish and maintain information sys-  
8 tems containing data concerning occupant protec-  
9 tion, including the collection and administration of  
10 child passenger safety and occupant protection sur-  
11 veys; and

12 “(7) carry out a program to educate the public  
13 concerning the dangers of leaving children unat-  
14 tended in vehicles.

15 “(e) GRANT AMOUNT.—The allocation of grant funds  
16 under this section to a State for a fiscal year shall be in  
17 proportion to the State’s apportionment under section 402  
18 for fiscal year 2009.

19 “(f) REPORT.—A State that receives a grant under  
20 this section shall submit a report to the Secretary that  
21 documents the manner in which the grant amounts were  
22 obligated and expended and identifies the specific pro-  
23 grams carried out with the grant funds. The report shall  
24 be in a form prescribed by the Secretary and may be com-

1 bined with other State grant reporting requirements under  
2 chapter 4 of title 23, United States Code.

3 “(g) DEFINITIONS.—In this section:

4 “(1) CHILD RESTRAINT.—The term ‘child re-  
5 straint’ means any device (including child safety  
6 seat, booster seat, harness, and excepting seat belts)  
7 designed for use in a motor vehicle to restrain, seat,  
8 or position children who weigh 65 pounds (30 kilo-  
9 grams) or less, and certified to the Federal motor  
10 vehicle safety standard prescribed by the National  
11 Highway Traffic Safety Administration for child re-  
12 straints.

13 “(2) SEAT BELT.—The term ‘seat belt’  
14 means—

15 “(A) with respect to open-body motor vehi-  
16 cles, including convertibles, an occupant re-  
17 straint system consisting of a lap belt or a lap  
18 belt and a detachable shoulder belt; and

19 “(B) with respect to other motor vehicles,  
20 an occupant restraint system consisting of inte-  
21 grated lap and shoulder belts.”.

22 (b) CONFORMING AMENDMENT.—The analysis for  
23 chapter 4 of title 23, United States Code, is amended by  
24 striking the item relating to section 405 and inserting the  
25 following:

“405. Combined occupant protection grants.”.

1 **SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM**  
2 **IMPROVEMENTS.**

3 Section 408 of title 23, United States Code, is  
4 amended to read as follows:

5 **“§ 408. State traffic safety information system im-**  
6 **provements**

7 “(a) GENERAL AUTHORITY.—Subject to the require-  
8 ments of this section, the Secretary of Transportation  
9 shall award grants to States to support the development  
10 and implementation of effective State programs that—

11 “(1) improve the timeliness, accuracy, complete-  
12 ness, uniformity, integration, and accessibility of the  
13 State safety data that is needed to identify priorities  
14 for Federal, State, and local highway and traffic  
15 safety programs;

16 “(2) evaluate the effectiveness of efforts to  
17 make such improvements;

18 “(3) link the State data systems, including traf-  
19 fic records, with other data systems within the  
20 State, such as systems that contain medical, road-  
21 way, and economic data;

22 “(4) improve the compatibility and interoper-  
23 ability of the data systems of the State with national  
24 data systems and data systems of other States; and

1           “(5) enhance the ability of the Secretary to ob-  
2           serve and analyze national trends in crash occur-  
3           rences, rates, outcomes, and circumstances.

4           “(b) FEDERAL SHARE.—The Federal share of the  
5           cost of adopting and implementing in a fiscal year a State  
6           program described in this section may not exceed 80 per-  
7           cent.

8           “(c) ELIGIBILITY.—A State is not eligible for a grant  
9           under this section in a fiscal year unless the State dem-  
10          onstrates, to the satisfaction of the Secretary, that the  
11          State—

12           “(1) has a functioning traffic records coordi-  
13          nating committee (referred to in this subsection as  
14          ‘TRCC’) that meets at least 3 times a year;

15           “(2) has designated a TRCC coordinator;

16           “(3) has established a State traffic record stra-  
17          tegic plan that has been approved by the TRCC and  
18          describes specific quantifiable and measurable im-  
19          provements anticipated in the State’s core safety  
20          databases, including crash, citation or adjudication,  
21          driver, emergency medical services or injury surveil-  
22          lance system, roadway, and vehicle databases;

23           “(4) has demonstrated quantitative progress in  
24          relation to the significant data program attribute  
25          of—

1           “(A) accuracy;  
2           “(B) completeness;  
3           “(C) timeliness;  
4           “(D) uniformity;  
5           “(E) accessibility; or  
6           “(F) integration of a core highway safety  
7           database; and

8           “(5) has certified to the Secretary that an as-  
9           sessment of the State’s highway safety data and  
10          traffic records system was conducted or updated  
11          during the preceding 5 years.

12          “(d) USE OF GRANT AMOUNTS.—Grant funds re-  
13          ceived by a State under this section shall be used for mak-  
14          ing data program improvements to core highway safety  
15          databases related to quantifiable, measurable progress in  
16          any of the 6 significant data program attributes set forth  
17          in subsection (c)(4).

18          “(e) GRANT AMOUNT.—The allocation of grant funds  
19          under this section to a State for a fiscal year shall be in  
20          proportion to the State’s apportionment under section 402  
21          for fiscal year 2009.”.

22          **SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

23          (a) IN GENERAL.—Section 410 of title 23, United  
24          States Code, is amended to read as follows:

1 **“§ 410. Impaired driving countermeasures**

2 “(a) GRANTS AUTHORIZED.—Subject to the require-  
3 ments of this section, the Secretary of Transportation  
4 shall award grants to States that adopt and implement—

5 “(1) effective programs to reduce driving under  
6 the influence of alcohol, drugs, or the combination of  
7 alcohol and drugs; or

8 “(2) alcohol-ignition interlock laws.

9 “(b) FEDERAL SHARE.—The Federal share of the  
10 costs of activities funded using amounts from grants  
11 under this section may not exceed 80 percent in any fiscal  
12 year in which the State receives a grant.

13 “(c) ELIGIBILITY.—

14 “(1) LOW-RANGE STATES.—Low-range States  
15 shall be eligible for a grant under this section.

16 “(2) MID-RANGE STATES.—A mid-range State  
17 shall be eligible for a grant under this section if—

18 “(A) a statewide impaired driving task  
19 force in the State developed a statewide plan  
20 during the most recent 3 calendar years to ad-  
21 dress the problem of impaired driving; or

22 “(B) the State will convene a statewide im-  
23 paired driving task force to develop such a plan  
24 during the first year of the grant.

1           “(3) HIGH-RANGE STATES.—A high-range  
2 State shall be eligible for a grant under this section  
3 if the State—

4           “(A)(i) conducted an assessment of the  
5 State’s impaired driving program during the  
6 most recent 3 calendar years; or

7           “(ii) will conduct such an assessment dur-  
8 ing the first year of the grant;

9           “(B) convenes, during the first year of the  
10 grant, a statewide impaired driving task force  
11 to develop a statewide plan that—

12           “(i) addresses any recommendations  
13 from the assessment conducted under sub-  
14 paragraph (A);

15           “(ii) includes a detailed plan for  
16 spending any grant funds provided under  
17 this section; and

18           “(iii) describes how such spending  
19 supports the statewide program;

20           “(C)(i) submits the statewide plan to the  
21 National Highway Traffic Safety Administra-  
22 tion during the first year of the grant for the  
23 agency’s review and approval;

24           “(ii) annually updates the statewide plan  
25 in each subsequent year of the grant; and

1           “(iii) submits each updated statewide plan  
2           for the agency’s review and comment; and

3           “(D) appoints a full or part-time impaired  
4           driving coordinator—

5                   “(i) to coordinate the State’s activities  
6                   to address enforcement and adjudication of  
7                   laws to address driving while impaired by  
8                   alcohol; and

9                   “(ii) to oversee the implementation of  
10                  the statewide plan.

11          “(d) USE OF GRANT AMOUNTS.—

12                  “(1)     REQUIRED     PROGRAMS.—High-range  
13          States shall use grant funds for—

14                   “(A) high visibility enforcement efforts;  
15          and

16                   “(B) any of the activities described in  
17          paragraph (2) if—

18                           “(i) the activity is described in the  
19                           statewide plan; and

20                           “(ii) the Secretary approves the use of  
21                           funding for such activity.

22                  “(2)     AUTHORIZED     PROGRAMS.—Medium-range  
23          and low-range States may use grant funds for—

24                   “(A) any of the purposes described in  
25          paragraph (1);



1           “(B) paid and earned media in support of  
2 high visibility enforcement efforts;

3           “(C) hiring a full-time or part-time im-  
4 paired driving coordinator of the State’s activi-  
5 ties to address the enforcement and adjudica-  
6 tion of laws regarding driving while impaired by  
7 alcohol;

8           “(D) court support of high visibility en-  
9 forcement efforts;

10           “(E) alcohol ignition interlock programs;

11           “(F) improving blood-alcohol concentration  
12 testing and reporting;

13           “(G) establishing driving while intoxicated  
14 courts;

15           “(H) conducting—

16           “(i) standardized field sobriety train-  
17 ing;

18           “(ii) advanced roadside impaired driv-  
19 ing evaluation training; and

20           “(iii) drug recognition expert training  
21 for law enforcement;

22           “(I) training and education of criminal jus-  
23 tice professionals (including law enforcement,  
24 prosecutors, judges and probation officers) to

1 assist such professionals in handling impaired  
2 driving cases;

3 “(J) traffic safety resource prosecutors;

4 “(K) judicial outreach liaisons;

5 “(L) equipment and related expenditures  
6 used in connection with impaired driving en-  
7 forcement in accordance with criteria estab-  
8 lished by the National Highway Traffic Safety  
9 Administration;

10 “(M) training on the use of alcohol screen-  
11 ing and brief intervention;

12 “(N) developing impaired driving informa-  
13 tion systems; and

14 “(O) costs associated with a ‘24-7 sobriety  
15 program’.

16 “(3) OTHER PROGRAMS.—Low-range States  
17 may use grant funds for any expenditure designed to  
18 reduce impaired driving based on problem identifica-  
19 tion. Medium and high-range States may use funds  
20 for such expenditures upon approval by the Sec-  
21 retary.

22 “(e) GRANT AMOUNT.—Subject to subsection (f), the  
23 allocation of grant funds to a State under this section for  
24 a fiscal year shall be in proportion to the State’s appor-  
25 tionment under section 402(c) for fiscal year 2009.

1           “(f) GRANTS TO STATES THAT ADOPT AND EN-  
2 FORCE MANDATORY ALCOHOL-IGNITION INTERLOCK  
3 LAWS.—

4           “(1) IN GENERAL.—The Secretary shall make a  
5 separate grant under this section to each State that  
6 adopts and is enforcing a mandatory alcohol-ignition  
7 interlock law for all individuals convicted of driving  
8 under the influence of alcohol or of driving while in-  
9 toxicated.

10           “(2) USE OF FUNDS.—Such grants may be  
11 used by recipient States only for costs associated  
12 with the State’s alcohol-ignition interlock program,  
13 including screening, assessment, and program and  
14 offender oversight.

15           “(3) ALLOCATION.—Funds made available  
16 under this subsection shall be allocated among  
17 States described in paragraph (1) on the basis of the  
18 apportionment formula under section 402(c).

19           “(4) FUNDING.—Not more than 15 percent of  
20 the amounts made available to carry out this section  
21 in a fiscal year shall be made available by the Sec-  
22 retary for making grants under this subsection.

23           “(g) DEFINITIONS.—In this section:

24           “(1) 24-7 SOBRIETY PROGRAM.—The term ‘24-  
25 7 sobriety program’ means a State law or program

1 that authorizes a State court or a State agency, as  
2 a condition of sentence, probation, parole, or work  
3 permit, to—

4 “(A) require an individual who plead guilty  
5 or was convicted of driving under the influence  
6 of alcohol or drugs to totally abstain from alco-  
7 hol or drugs for a period of time; and

8 “(B) require the individual to be subject to  
9 testing for alcohol or drugs—

10 “(i) at least twice a day;

11 “(ii) by continuous transdermal alco-  
12 hol monitoring via an electronic monitoring  
13 device; or

14 “(iii) by an alternate method with the  
15 concurrence of the Secretary.

16 “(2) AVERAGE IMPAIRED DRIVING FATALITY  
17 RATE.—The term ‘average impaired driving fatality  
18 rate’ means the number of fatalities in motor vehicle  
19 crashes involving a driver with a blood alcohol con-  
20 centration of at least 0.08 for every 100,000,000 ve-  
21 hicle miles traveled, based on the most recently re-  
22 ported 3 calendar years of final data from the Fatal-  
23 ity Analysis Reporting System, as calculated in ac-  
24 cordance with regulations prescribed by the Adminis-

1       trator of the National Highway Traffic Safety Ad-  
2       ministration.

3           “(3) HIGH-RANGE STATE.—The term ‘high-  
4       range State’ means a State that has an average im-  
5       paired driving fatality rate of 0.60 or higher.

6           “(4) LOW-RANGE STATE.—The term ‘low-range  
7       State’ means a State that has an average impaired  
8       driving fatality rate of 0.30 or lower.

9           “(5) MID-RANGE STATE.—The term ‘mid-range  
10      State’ means a State that has an average impaired  
11      driving fatality rate that is higher than 0.30 and  
12      lower than 0.60.”.

13       (b) CONFORMING AMENDMENT.—The analysis for  
14      chapter 4 of title 23, United States Code, is amended by  
15      striking the item relating to section 410 and inserting the  
16      following:

      “410. Impaired driving countermeasures.”.

17      **SEC. 31108. DISTRACTED DRIVING GRANTS.**

18       (a) IN GENERAL.—Section 411 of title 23, United  
19      States Code, is amended to read as follows:

20      **“§ 411. Distracted driving grants**

21       “(a) IN GENERAL.—The Secretary shall award a  
22      grant under this section to any State that enacts and en-  
23      forces a statute that meets the requirements set forth in  
24      subsections (b) and (c).

1       “(b) PROHIBITION ON TEXTING WHILE DRIVING.—  
2 A State statute meets the requirements set forth in this  
3 subsection if the statute—

4           “(1) prohibits drivers from texting through a  
5 personal wireless communications device while driv-  
6 ing;

7           “(2) makes violation of the statute a primary  
8 offense;

9           “(3) establishes—

10           “(A) a minimum fine for a first violation  
11 of the statute; and

12           “(B) increased fines for repeat violations;  
13 and

14           “(4) provides increased civil and criminal pen-  
15 alties than would otherwise apply if a vehicle acci-  
16 dent is caused by a driver who is using such a device  
17 in violation of the statute.

18       “(c) PROHIBITION ON YOUTH CELL PHONE USE  
19 WHILE DRIVING.—A State statute meets the require-  
20 ments set forth in this subsection if the statute—

21           “(1) prohibits a driver who is younger than 18  
22 years of age from using a personal wireless commu-  
23 nications device while driving;

24           “(2) makes violation of the statute a primary  
25 offense;

1           “(3) requires distracted driving issues to be  
2 tested as part of the State driver’s license examina-  
3 tion;

4           “(4) establishes—

5               “(A) a minimum fine for a first violation  
6 of the statute; and

7               “(B) increased fines for repeat violations;  
8 and

9           “(5) provides increased civil and criminal pen-  
10 alties than would otherwise apply if a vehicle acci-  
11 dent is caused by a driver who is using such a device  
12 in violation of the statute.

13          “(d) PERMITTED EXCEPTIONS.—A statute that  
14 meets the requirements set forth in subsections (b) and  
15 (c) may provide exceptions for—

16               “(1) a driver who uses a personal wireless com-  
17 munications device to contact emergency services;

18               “(2) emergency services personnel who use a  
19 personal wireless communications device while—

20                   “(A) operating an emergency services vehi-  
21 cle; and

22                   “(B) engaged in the performance of their  
23 duties as emergency services personnel; and

24               “(3) an individual employed as a commercial  
25 motor vehicle driver or a school bus driver who uses

1 a personal wireless communications device within the  
2 scope of such individual's employment if such use is  
3 permitted under the regulations promulgated pursu-  
4 ant to section 31152 of title 49.

5 “(e) USE OF GRANT FUNDS.—Of the grant funds re-  
6 ceived by a State under this section—

7 “(1) at least 50 percent shall be used—

8 “(A) to educate the public through adver-  
9 tising containing information about the dangers  
10 of texting or using a cell phone while driving;

11 “(B) for traffic signs that notify drivers  
12 about the distracted driving law of the State; or

13 “(C) for law enforcement costs related to  
14 the enforcement of the distracted driving law;  
15 and

16 “(2) up to 50 percent may be used for other  
17 projects that—

18 “(A) improve traffic safety; and

19 “(B) are consistent with the criteria set  
20 forth in section 402(a).

21 “(f) ADDITIONAL GRANTS.—In fiscal year 2012, the  
22 Secretary may use up to 25 percent of the funding avail-  
23 able for grants under this section to award grants to  
24 States that—



1           “(1) enacted statutes before July 1, 2011,  
2           which meet the requirements under paragraphs (1)  
3           and (2) of subsection (b); and

4           “(2) are otherwise ineligible for a grant under  
5           this section.

6           “(g) DISTRACTED DRIVING STUDY.—

7           “(1) IN GENERAL.—The Secretary shall con-  
8           duct a study of all forms of distracted driving.

9           “(2) COMPONENTS.—The study conducted  
10          under paragraph (1) shall—

11           “(A) examine the effect of distractions  
12           other than the use of personal wireless commu-  
13           nications on motor vehicle safety;

14           “(B) identify metrics to determine the na-  
15           ture and scope of the distracted driving prob-  
16           lem;

17           “(C) identify the most effective methods to  
18           enhance education and awareness; and

19           “(D) identify the most effective method of  
20           reducing deaths and injuries caused by all  
21           forms of distracted driving.

22           “(3) REPORT.—Not later than 1 year after the  
23           date of enactment of the Motor Vehicle and High-  
24           way Safety Improvement Act of 2012, the Secretary

1 shall submit a report containing the results of the  
2 study conducted under this subsection to—

3 “(A) the Committee on Commerce,  
4 Science, and Transportation of the Senate; and

5 “(B) the Committee on Transportation  
6 and Infrastructure of the House of Representa-  
7 tives.

8 “(h) DEFINITIONS.—In this section:

9 “(1) DRIVING.—The term ‘driving’—

10 “(A) means operating a motor vehicle on a  
11 public road, including operation while tempo-  
12 rarily stationary because of traffic, a traffic  
13 light or stop sign, or otherwise; and

14 “(B) does not include operating a motor  
15 vehicle when the vehicle has pulled over to the  
16 side of, or off, an active roadway and has  
17 stopped in a location where it can safely remain  
18 stationary.

19 “(2) PERSONAL WIRELESS COMMUNICATIONS  
20 DEVICE.—The term ‘personal wireless communica-  
21 tions device’—

22 “(A) means a device through which per-  
23 sonal wireless services (as defined in section  
24 332(c)(7)(C)(i) of the Communications Act of

1           1934 (47 U.S.C. 332(c)(7)(C)(i)) are trans-  
2           mitted; and

3           “(B) does not include a global navigation  
4           satellite system receiver used for positioning,  
5           emergency notification, or navigation purposes.

6           “(3) PRIMARY OFFENSE.—The term ‘primary  
7           offense’ means an offense for which a law enforce-  
8           ment officer may stop a vehicle solely for the pur-  
9           pose of issuing a citation in the absence of evidence  
10          of another offense.

11          “(4) PUBLIC ROAD.—The term ‘public road’  
12          has the meaning given that term in section 402(c).

13          “(5) TEXTING.—The term ‘texting’ means  
14          reading from or manually entering data into a per-  
15          sonal wireless communications device, including  
16          doing so for the purpose of SMS texting, e-mailing,  
17          instant messaging, or engaging in any other form of  
18          electronic data retrieval or electronic data commu-  
19          nication.”.

20          (b) CONFORMING AMENDMENT.—The analysis for  
21          chapter 4 of title 23, United States Code, is amended by  
22          striking the item relating to section 411 and inserting the  
23          following:

“411. Distracted driving grants.”.

1 **SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

2 Section 2009 of SAFETEA-LU (23 U.S.C. 402  
3 note) is amended—

4 (1) in subsection (a)—

5 (A) by striking “at least 2” and inserting  
6 “at least 3”; and

7 (B) by striking “years 2006 through  
8 2012.” and inserting “fiscal years 2012 and  
9 2013. The Administrator may also initiate and  
10 support additional campaigns in each of fiscal  
11 years 2012 and 2013 for the purposes specified  
12 in subsection (b).”;

13 (2) in subsection (b) by striking “either or  
14 both” and inserting “outcomes related to at least  
15 1”;

16 (3) in subsection (c), by inserting “and Inter-  
17 net-based outreach” after “print media advertising”;

18 (4) in subsection (e), by striking “subsections  
19 (a), (c), and (f)” and inserting “subsection (c)”;

20 (5) by striking subsection (f); and

21 (6) by redesignating subsection (g) as sub-  
22 section (f).

23 **SEC. 31110. MOTORCYCLIST SAFETY.**

24 Section 2010 of SAFETEA-LU (23 U.S.C. 402  
25 note) is amended—

26 (1) by striking subsections (b) and (g);

1           (2) by redesignating subsections (c), (d), (e),  
2           and (f) as subsections (b), (c), (d), and (e), respec-  
3           tively; and

4           (3) in subsection (c)(1), as redesignated, by  
5           striking “to the satisfaction of the Secretary—” and  
6           all that follows and inserting “, to the satisfaction  
7           of the Secretary, at least 2 of the 6 criteria listed  
8           in paragraph (2).”.

9   **SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR**  
10                                   **SAFETY RESEARCH.**

11           (a) IN GENERAL.—Chapter 4 of title 23, United  
12           States Code, is amended by adding at the end the fol-  
13           lowing:

14   **“§ 413. In-vehicle alcohol detection device research**

15           “(a) IN GENERAL.—The Administrator of the Na-  
16           tional Highway Traffic Safety Administration shall carry  
17           out a collaborative research effort under chapter 301 of  
18           title 49, United States Code, to continue to explore the  
19           feasibility and the potential benefits of, and the public pol-  
20           icy challenges associated with, more widespread deploy-  
21           ment of in-vehicle technology to prevent alcohol-impaired  
22           driving.

23           “(b) REPORTS.—The Administrator shall submit a  
24           report annually to the Senate Committee on Commerce,

1 Science, and Transportation and the House of Represent-  
2 atives Committee on Transportation and Infrastructure—

3 “(1) describing progress in carrying out the col-  
4 laborative research effort; and

5 “(2) including an accounting for the use of  
6 Federal funds obligated or expended in carrying out  
7 that effort.

8 “(c) DEFINITIONS.—In this title:

9 “(1) ALCOHOL-IMPAIRED DRIVING.—The term  
10 ‘alcohol-impaired driving’ means operation of a  
11 motor vehicle (as defined in section 30102(a)(6) of  
12 title 49, United States Code) by an individual whose  
13 blood alcohol content is at or above the legal limit.

14 “(2) LEGAL LIMIT.—The term ‘legal limit’  
15 means a blood alcohol concentration of 0.08 percent  
16 or greater (as specified by chapter 163 of title 23,  
17 United States Code) or such other percentage limita-  
18 tion as may be established by applicable Federal,  
19 State, or local law.”.

20 (b) CLERICAL AMENDMENT.—The analysis for chap-  
21 ter 4 of title 23, United States Code, is amended by insert-  
22 ing after the item relating to section 412 the following:

“413. In-vehicle alcohol detection device research.”.

1 **SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.**

2 (a) IN GENERAL.—Chapter 4 of title 23, United  
3 States Code, as amended by this title, is further amended  
4 by adding at the end the following:

5 **“§ 414. State Graduated Driver Licensing Incentive**  
6 **Grant**

7 “(a) GRANTS AUTHORIZED.—Subject to the require-  
8 ments of this section, the Secretary shall award grants to  
9 States that adopt and implement graduated driver licens-  
10 ing laws in accordance with the requirements set forth in  
11 subsection (b).

12 “(b) MINIMUM REQUIREMENTS.—

13 “(1) IN GENERAL.—A State meets the require-  
14 ments set forth in this subsection if the State has  
15 a graduated driver licensing law that requires novice  
16 drivers younger than 21 years of age to comply with  
17 the 2-stage licensing process described in paragraph  
18 (2) before receiving an unrestricted driver’s license.

19 “(2) LICENSING PROCESS.—A State is in com-  
20 pliance with the 2-stage licensing process described  
21 in this paragraph if the State’s driver’s license laws  
22 include—

23 “(A) a learner’s permit stage that—

24 “(i) is at least 6 months in duration;





1           “(C) any other requirement prescribed by  
2           the Secretary of Transportation, including—

3                   “(i) in the learner’s permit stage—

4                           “(I) at least 40 hours of behind-  
5                           the-wheel training with a licensed  
6                           driver who is at least 21 years of age;

7                           “(II) a driver training course;  
8                           and

9                           “(III) a requirement that the  
10                           driver be accompanied and supervised  
11                           by a licensed driver, who is at least 21  
12                           years of age, at all times while such  
13                           driver is operating a motor vehicle;  
14                           and

15                   “(ii) in the learner’s permit or inter-  
16                   mediate stage, a requirement, in addition  
17                   to any other penalties imposed by State  
18                   law, that the grant of an unrestricted driv-  
19                   er’s license be automatically delayed for  
20                   any individual who, during the learner’s  
21                   permit or intermediate stage, is convicted  
22                   of a driving-related offense, including—

23                           “(I) driving while intoxicated;

24                           “(II) misrepresentation of his or  
25                           her true age;

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1                   “(III) reckless driving;  
2                   “(IV) driving without wearing a  
3                   seat belt;  
4                   “(V) speeding; or  
5                   “(VI) any other driving-related  
6                   offense, as determined by the Sec-  
7                   retary.

8           “(c) RULEMAKING.—

9                   “(1) IN GENERAL.—The Secretary shall pro-  
10                   mulgate regulations necessary to implement the re-  
11                   quirements under subsection (b), in accordance with  
12                   the notice and comment provisions under section  
13                   553 of title 5, United States Code.

14                   “(2) EXCEPTION.—A State that otherwise  
15                   meets the minimum requirements set forth in sub-  
16                   section (b) shall be deemed by the Secretary to be  
17                   in compliance with the requirement set forth in sub-  
18                   section (b) if the State enacted a law before January  
19                   1, 2011, establishing a class of license that permits  
20                   licensees or applicants younger than 18 years of age  
21                   to drive a motor vehicle—

22                   “(A) in connection with work performed  
23                   on, or for the operation of, a farm owned by  
24                   family members who are directly related to the  
25                   applicant or licensee; or

1           “(B) if demonstrable hardship would result  
2           from the denial of a license to the licensees or  
3           applicants.

4           “(d) ALLOCATION.—Grant funds allocated to a State  
5           under this section for a fiscal year shall be in proportion  
6           to a State’s apportionment under section 402 for such fis-  
7           cal year.

8           “(e) USE OF FUNDS.—Grant funds received by a  
9           State under this section may be used for—

10           “(1) enforcing a 2-stage licensing process that  
11           complies with subsection (b)(2);

12           “(2) training for law enforcement personnel and  
13           other relevant State agency personnel relating to the  
14           enforcement described in paragraph (1);

15           “(3) publishing relevant educational materials  
16           that pertain directly or indirectly to the State grad-  
17           uated driver licensing law;

18           “(4) carrying out other administrative activities  
19           that the Secretary considers relevant to the State’s  
20           2-stage licensing process; and

21           “(5) carrying out a teen traffic safety program  
22           described in section 402(m).”.

23 **SEC. 31113. AGENCY ACCOUNTABILITY.**

24           Section 412 of title 23, United States Code, is  
25           amended—

1           (1) by amending subsection (a) to read as fol-  
2           lows:

3           “(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

4           “(1) IN GENERAL.—Except as provided under  
5           paragraph (2), the Secretary shall conduct a review  
6           of each State highway safety program at least once  
7           every 3 years.

8           “(2) EXCEPTIONS.—The Secretary may con-  
9           duct reviews of the highway safety programs of the  
10          United States Virgin Islands, Guam, American  
11          Samoa, and the Commonwealth of the Northern  
12          Mariana Islands as often as the Secretary deter-  
13          mines to be appropriate.

14          “(3) COMPONENTS.—Reviews under this sub-  
15          section shall include—

16                 “(A) a management evaluation of all grant  
17                 programs funded under this chapter;

18                 “(B) an assessment of State data collec-  
19                 tion and evaluation relating to performance  
20                 measures established by the Secretary;

21                 “(C) a comparison of State efforts under  
22                 subparagraphs (A) and (B) to best practices  
23                 and programs that have been evaluated for ef-  
24                 fectiveness; and

1           “(D) the development of recommendations  
2           on how each State could—

3                   “(i) improve the management and  
4                   oversight of its grant activities; and

5                   “(ii) provide a management and over-  
6                   sight plan for such grant programs.”; and

7           (2) by striking subsection (f).

8   **SEC. 31114. EMERGENCY MEDICAL SERVICES.**

9           Section 10202 of Public Law 109–59 (42 U.S.C.  
10   300d–4), is amended by adding at the end the following:

11           “(b) NATIONAL EMERGENCY MEDICAL SERVICES  
12   ADVISORY COUNCIL.—

13                   “(1) ESTABLISHMENT.—The Secretary of  
14           Transportation, in coordination with the Secretary  
15           of Health and Human Services and the Secretary of  
16           Homeland Security, shall establish a National Emer-  
17           gency Medical Services Advisory Council (referred to  
18           in this subsection as the ‘Advisory Council’).

19                   “(2) MEMBERSHIP.—The Advisory Council  
20           shall be composed of 25 members, who—

21                           “(A) shall be appointed by the Secretary of  
22           Transportation; and

23                           “(B) shall collectively be representative of  
24           all sectors of the emergency medical services  
25           community.

1           “(3) PURPOSES.—The purposes of the Advisory  
2 Council are to advise and consult with—

3           “(A) the Federal Interagency Committee  
4 on Emergency Medical Services on matters re-  
5 lating to emergency medical services issues; and

6           “(B) the Secretary of Transportation on  
7 matters relating to emergency medical services  
8 issues affecting the Department of Transpor-  
9 tation.

10          “(4) ADMINISTRATION.—The Administrator of  
11 the National Highway Traffic Safety Administration  
12 shall provide administrative support to the Advisory  
13 Council, including scheduling meetings, setting agen-  
14 das, keeping minutes and records, and producing re-  
15 ports.

16          “(5) LEADERSHIP.—The members of the Advi-  
17 sory Council shall annually select a chairperson of  
18 the Council.

19          “(6) MEETINGS.—The Advisory Council shall  
20 meet as frequently as is determined necessary by the  
21 chairperson of the Council.

22          “(7) ANNUAL REPORTS.—The Advisory Council  
23 shall prepare an annual report to the Secretary of  
24 Transportation regarding the Council’s actions and  
25 recommendations.”.

1           **Subtitle B—Enhanced Safety**  
2                           **Authorities**

3   **SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.**

4           Section 30102(a)(7)(C) of title 49, United States  
5 Code, is amended to read as follows:

6                           “(C) any device or an article or apparel,  
7                           including a motorcycle helmet and excluding  
8                           medicine or eyeglasses prescribed by a licensed  
9                           practitioner, that—

10   “(i) is not a system, part, or compo-  
11   nent of a motor vehicle; and

12   “(ii) is manufactured, sold, delivered,  
13   or offered to be sold for use on public  
14   streets, roads, and highways with the ap-  
15   parent purpose of safeguarding motor vehi-  
16   cles and highway users against risk of acci-  
17   dent, injury, or death.”.

18   **SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF**  
19                           **SAFETY BELTS.**

20           (a) IN GENERAL.—Chapter 301 of title 49, United  
21 States Code, is amended—

22                           (1) in section 30122, by striking subsection (d);

23                           and

24                           (2) by amending section 30124 to read as fol-  
25                           lows:

1 **“§ 30124. Nonuse of safety belts**

2 “A motor vehicle safety standard prescribed under  
3 this chapter may not require a manufacturer to comply  
4 with the standard by using a safety belt interlock designed  
5 to prevent starting or operating a motor vehicle if an occu-  
6 pant is not using a safety belt.”.

7 (b) CONFORMING AMENDMENT.—The analysis for  
8 chapter 301 of title 49, United States Code, is amended  
9 by striking the item relating to section 30124 and insert-  
10 ing the following:

“Sec. 30124. Nonuse of safety belts.”.

11 **SEC. 31203. CIVIL PENALTIES.**

12 (a) IN GENERAL.—Section 30165 of title 49, United  
13 States Code, is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) by striking “30123(d)” and insert-  
17 ing “30123(a)”; and

18 (ii) by striking “\$15,000,000” and in-  
19 serting “\$250,000,000”; and

20 (B) in paragraph (3), by striking  
21 “\$15,000,000” and inserting “\$250,000,000”;  
22 and

23 (2) by amending subsection (c) to read as fol-  
24 lows:



1           “(c) RELEVANT FACTORS IN DETERMINING AMOUNT  
2 OF PENALTY OR COMPROMISE.—In determining the  
3 amount of a civil penalty or compromise under this sec-  
4 tion, the Secretary of Transportation shall consider the  
5 nature, circumstances, extent, and gravity of the violation.  
6 Such determination shall include, as appropriate—

7           “(1) the nature of the defect or noncompliance;

8           “(2) knowledge by the person charged of its ob-  
9 ligation to recall or notify the public;

10           “(3) the severity of the risk of injury;

11           “(4) the occurrence or absence of injury;

12           “(5) the number of motor vehicles or items of  
13 motor vehicle equipment distributed with the defect  
14 or noncompliance;

15           “(6) the existence of an imminent hazard;

16           “(7) actions taken by the person charged to  
17 identify, investigate, or mitigate the condition;

18           “(8) the appropriateness of such penalty in re-  
19 lation to the size of the business of the person  
20 charged, including the potential for undue adverse  
21 economic impacts;

22           “(9) whether the person has previously been as-  
23 sessed civil penalties under this section during the  
24 most recent 5 years; and

25           “(10) other appropriate factors.”.

1 (b) CIVIL PENALTY CRITERIA.—Not later than 1  
2 year after the date of the enactment of this Act, the Sec-  
3 retary shall issue a final rule, in accordance with the pro-  
4 cedures of section 553 of title 5, United States Code,  
5 which provides an interpretation of the penalty factors de-  
6 scribed in section 30165(c) of title 49, United States  
7 Code.

8 (c) CONSTRUCTION.—Nothing in this section may be  
9 construed as preventing the imposition of penalties under  
10 section 30165 of title 49, United States Code, before the  
11 issuance of a final rule under subsection (b).

12 **SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DE-**  
13 **VELOPMENT.**

14 (a) IN GENERAL.—Chapter 301 of title 49, United  
15 States Code, is amended by adding at the end the fol-  
16 lowing:

17 “SUBCHAPTER V—MOTOR VEHICLE SAFETY  
18 RESEARCH AND DEVELOPMENT

19 “§ 30181. Policy

20 “The Secretary of Transportation shall conduct re-  
21 search, development, and testing on any area or aspect  
22 of motor vehicle safety necessary to carry out this chapter.

23 “§ 30182. Powers and duties

24 “(a) IN GENERAL.—The Secretary of Transportation  
25 shall—

1           “(1) conduct motor vehicle safety research, de-  
2           velopment, and testing programs and activities, in-  
3           cluding new and emerging technologies that impact  
4           or may impact motor vehicle safety;

5           “(2) collect and analyze all types of motor vehi-  
6           cle and highway safety data and related information  
7           to determine the relationship between motor vehicle  
8           or motor vehicle equipment performance characteris-  
9           tics and—

10           “(A) accidents involving motor vehicles;

11           and

12           “(B) deaths or personal injuries resulting  
13           from those accidents;

14           “(3) promote, support, and advance the edu-  
15           cation and training of motor vehicle safety staff of  
16           the National Highway Traffic Safety Administra-  
17           tion, including using program funds for—

18           “(A) planning, implementing, conducting,  
19           and presenting results of program activities;

20           and

21           “(B) travel and related expenses;

22           “(4) obtain experimental and other motor vehi-  
23           cles and motor vehicle equipment for research or  
24           testing;

1           “(5)(A) use any test motor vehicles and motor  
2           vehicle equipment suitable for continued use, as de-  
3           termined by the Secretary to assist in carrying out  
4           this chapter or any other chapter of this title; or

5           “(B) sell or otherwise dispose of test motor ve-  
6           hicles and motor vehicle equipment and use the re-  
7           sulting proceeds to carry out this chapter;

8           “(6) award grants to States and local govern-  
9           ments, interstate authorities, and nonprofit institu-  
10          tions; and

11          “(7) enter into cooperative agreements, collabor-  
12          ative research, or contracts with Federal agencies,  
13          interstate authorities, State and local governments,  
14          other public entities, private organizations and per-  
15          sons, nonprofit institutions, colleges and universities,  
16          consumer advocacy groups, corporations, partner-  
17          ships, sole proprietorships, trade associations, Fed-  
18          eral laboratories (including government-owned, gov-  
19          ernment-operated laboratories and government-  
20          owned, contractor-operated laboratories), and foreign  
21          governments and research organizations.

22          “(b) USE OF PUBLIC AGENCIES.—In carrying out  
23          this subchapter, the Secretary shall avoid duplication by  
24          using the services, research, and testing facilities of public  
25          agencies, as appropriate.

1           “(c) FACILITIES.—The Secretary may plan, design,  
2 and build a new facility or modify an existing facility to  
3 conduct research, development, and testing in traffic safe-  
4 ty, highway safety, and motor vehicle safety.

5           “(d) AVAILABILITY OF INFORMATION, PATENTS, AND  
6 DEVELOPMENTS.—When the United States Government  
7 makes more than a minimal contribution to a research or  
8 development activity under this chapter, the Secretary  
9 shall include in the arrangement for the activity a provi-  
10 sion to ensure that all information, patents, and develop-  
11 ments related to the activity are available to the public  
12 without charge. The owner of a background patent may  
13 not be deprived of a right under the patent.

14 **“§ 30183. Prohibition on certain disclosures.**

15           “Any report of the National Highway Traffic Safety  
16 Administration, or of any officer, employee, or contractor  
17 of the National Highway Traffic Safety Administration,  
18 relating to any highway traffic accident or the investiga-  
19 tion of such accident conducted pursuant to this chapter  
20 or section 403 of title 23, shall be made available to the  
21 public in a manner that does not identify individuals.”.

22           (b) CONFORMING AMENDMENTS.—

23           (1) AMENDMENT OF CHAPTER ANALYSIS.—The  
24 chapter analysis for chapter 301 of title 49, United

1 States Code, is amended by adding at the end the  
2 following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

3 (2) DELETION OF REDUNDANT MATERIAL.—  
4 Chapter 301 of title 49, United States Code, is  
5 amended—

6 (A) in the chapter analysis, by striking the  
7 item relating to section 30168; and

8 (B) by striking section 30168.

9 **SEC. 31205. ODOMETER REQUIREMENTS DEFINITION.**

10 Section 32702(5) of title 49, United States Code, is  
11 amended by inserting “or system of components” after  
12 “instrument”.

13 **SEC. 31206. ELECTRONIC DISCLOSURES OF ODOMETER IN-**  
14 **FORMATION.**

15 Section 32705 of title 49, United States Code, is  
16 amended by adding at the end the following:

17 “(g) ELECTRONIC DISCLOSURES.—Not later than 18  
18 months after the date of enactment of the Motor Vehicle  
19 and Highway Safety Improvement Act of 2012, in car-  
20 rying out this section, the Secretary shall prescribe regula-  
21 tions permitting any written disclosures or notices and re-  
22 lated matters to be provided electronically.”.

1 **SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR**  
2 **ODOMETER FRAUD.**

3 Chapter 327 of title 49, United States Code, is  
4 amended—

5 (1) in section 32709(a)(1)—

6 (A) by striking “\$2,000” and inserting  
7 “\$10,000”; and

8 (B) by striking “\$100,000” and inserting  
9 “\$1,000,000”; and

10 (2) in section 32710(a), by striking “\$1,500”  
11 and inserting “\$10,000”.

12 **SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NON-**  
13 **COMPLIANT VEHICLES AND EQUIPMENT TO**  
14 **DEFECTIVE VEHICLES AND EQUIPMENT.**

15 Section 30112 of title 49, United States Code, is  
16 amended—

17 (1) in subsection (a), by adding at the end the  
18 following:

19 “(3) Except as provided in this section, section  
20 30114, subsections (i) and (j) of section 30120, and sub-  
21 chapter III, a person may not sell, offer for sale, introduce  
22 or deliver for introduction in interstate commerce, or im-  
23 port into the United States any motor vehicle or motor  
24 vehicle equipment if the vehicle or equipment contains a  
25 defect related to motor vehicle safety about which notice  
26 was given under section 30118(c) or an order was issued

1 under section 30118(b). Nothing in this paragraph may  
2 be construed to prohibit the importation of a new motor  
3 vehicle that receives a required recall remedy before being  
4 sold to a consumer in the United States.”; and

5 (2) in subsection (b)(2)—

6 (A) in subparagraph (A), by striking “or”  
7 at the end;

8 (B) in subparagraph (B), by adding “or”  
9 at the end; and

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

11 “(C) having no reason to know, despite ex-  
12 ercising reasonable care, that a motor vehicle or  
13 motor vehicle equipment contains a defect re-  
14 lated to motor vehicle safety about which notice  
15 was given under section 30118(c) or an order  
16 was issued under section 30118(b);”.

17 **SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS**  
18 **FOR IMPORTERS.**

19 Chapter 301 of title 49, United States Code, is  
20 amended—

21 (1) in the chapter analysis, by striking the item  
22 relating to subchapter III and inserting the fol-  
23 lowing:

“SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT”;

24 (2) in the heading for subchapter III, by strik-  
25 ing “NONCOMPLYING”; and



1           (3) in section 30147, by amending subsection  
2           (b) to read as follows:

3           “(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—

4           “(1) RULEMAKING.—The Secretary of Trans-  
5           portation may issue regulations requiring each per-  
6           son that imports a motor vehicle or motor vehicle  
7           equipment into the customs territory of the United  
8           States, including a registered importer (or any suc-  
9           cessor in interest), provide and maintain evidence,  
10          satisfactory to the Secretary, of sufficient financial  
11          responsibility to meet its obligations under section  
12          30117(b), sections 30118 through 30121, and sec-  
13          tion 30166(f). In making a determination of suffi-  
14          cient financial responsibility under this Rule, the  
15          Secretary, to avoid duplicative requirements, shall  
16          first, to the extent practicable, rely on existing re-  
17          porting and recordkeeping requirements and other  
18          information available to the Secretary, and shall co-  
19          ordinate with other Federal agencies, including the  
20          Securities and Exchange Commission, to access in-  
21          formation collected and made publicly available  
22          under existing reporting and recordkeeping require-  
23          ments.

24          “(2) REFUSAL OF ADMISSION.—If the Sec-  
25          retary of Transportation believes that a person de-

1       scribed in paragraph (1) has not provided and main-  
2       tained evidence of sufficient financial responsibility  
3       to meet the obligations referred to in paragraph (1),  
4       the Secretary of Homeland Security shall first offer  
5       the person an opportunity to remedy the deficiency  
6       within 30 days, and if not remedied thereafter may  
7       refuse the admission into the customs territory of  
8       the United States of any motor vehicle or motor ve-  
9       hicle equipment imported by the person.

10       “(3) EXCEPTION.—This subsection shall not  
11       apply to original manufacturers (or wholly owned  
12       subsidiaries) of motor vehicles that, prior to the date  
13       of enactment of the —

14               “(A) have imported motor vehicles into the  
15       United States that are certified to comply with  
16       all applicable Federal motor vehicle safety  
17       standards;

18               “(B) have submitted to the Secretary ap-  
19       propriate manufacturer identification informa-  
20       tion under part 566 of title 49, Code of Federal  
21       Regulations; and

22               “(C) if applicable, have identified a current  
23       agent for service of process in accordance with  
24       part 551 of title 49, Code of Federal Regula-  
25       tions.”.

1 **SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES**  
2 **AND EQUIPMENT.**

3 Chapter 301 of title 49, United States Code, is  
4 amended—

5 (1) in the chapter analysis, by striking the item  
6 relating to section 30164 and inserting the fol-  
7 lowing:

“30164. Service of process; conditions on importation of vehicles and equip-  
ment.”;

8 and

9 (2) in section 30164—

10 (A) in the section heading, by adding “;  
11 **CONDITIONS ON IMPORTATION OF VEHI-**  
12 **CLES AND EQUIPMENT**” at the end; and

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

14 “(c) IDENTIFYING INFORMATION.—A manufacturer  
15 (including an importer) offering a motor vehicle or motor  
16 vehicle equipment for import shall provide such informa-  
17 tion as the Secretary may, by rule, request including—

18 “(1) the product by name and the manufactur-  
19 er’s address; and

20 “(2) each retailer or distributor to which the  
21 manufacturer directly supplied motor vehicles or  
22 motor vehicle equipment over which the Secretary  
23 has jurisdiction under this chapter.

1           “(d) RULEMAKING.—In issuing a rulemaking, the  
2 Secretary shall seek to reduce duplicative requirements by  
3 coordinating with Department of Homeland Security. The  
4 Secretary may issue regulations that—

5           “(1) condition the import of a motor vehicle or  
6 motor vehicle equipment on the manufacturer’s com-  
7 pliance with—

8           “(A) the requirements under this section;

9           “(B) any rules issued with respect to such  
10 requirements; or

11           “(C) any other requirements under this  
12 chapter or rules issued with respect to such re-  
13 quirements;

14           “(2) provide an opportunity for the manufac-  
15 turer to present information before the Secretary’s  
16 determination as to whether the manufacturer’s im-  
17 ports should be restricted; and

18           “(3) establish a process by which a manufac-  
19 turer may petition for reinstatement of its ability to  
20 import motor vehicles or motor vehicle equipment.

21           “(e) EXCEPTION.—The requirements of subsections  
22 (c) and (d) shall not apply to original manufacturers (or  
23 wholly owned subsidiaries) of motor vehicles that, prior to  
24 the date of enactment of the —

1           “(1) have imported motor vehicles into the  
2 United States that are certified to comply with all  
3 applicable Federal motor vehicle safety standards,

4           “(2) have submitted to the Secretary appro-  
5 priate manufacturer identification information under  
6 part 566 of title 49, Code of Federal Regulations;  
7 and

8           “(3) if applicable, have identified a current  
9 agent for service of process in accordance with part  
10 551 of title 49, Code of Federal Regulations.”.

11 **SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINA-**  
12 **TION OR TESTING.**

13 Section 30166(c) of title 49, United States Code, is  
14 amended—

15           (1) in paragraph (2), by striking “and” at the  
16 end;

17           (2) in paragraph (3)—

18                 (A) in subparagraph (A), by inserting “(in-  
19 cluding at United States ports of entry)” after  
20 “held for introduction in interstate commerce”;  
21 and

22                 (B) in subparagraph (D), by striking the  
23 period at the end and inserting a semicolon;  
24 and

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

1           “(4) shall enter into a memorandum of under-  
2           standing with the Secretary of Homeland Security  
3           for inspections and sampling of motor vehicle equip-  
4           ment being offered for import to determine compli-  
5           ance with this chapter or a regulation or order  
6           issued under this chapter.”.

## 7           **Subtitle C—Transparency and** 8           **Accountability**

### 9           **SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFE-** 10           **TY ADMINISTRATION VEHICLE SAFETY DATA-** 11           **BASE.**

12           (a) IN GENERAL.—Not later than 2 years after the  
13           date of enactment of this Act, the Secretary shall improve  
14           public accessibility to information on the National High-  
15           way Traffic Safety Administration’s publicly accessible ve-  
16           hicle safety databases by—

17           (1) improving organization and functionality,  
18           including modern web design features, and allowing  
19           for data to be searched, aggregated, and  
20           downloaded;

21           (2) providing greater consistency in presen-  
22           tation of vehicle safety issues; and

23           (3) improving searchability about specific vehi-  
24           cles and issues through standardization of commonly  
25           used search terms.

1 (b) VEHICLE RECALL INFORMATION.—

2 (1) IN GENERAL.—Not later than 1 year after  
3 the date of enactment of this Act, the Secretary  
4 shall require that motor vehicle safety recall infor-  
5 mation—

6 (A) is available to the public on the Inter-  
7 net;

8 (B) is searchable by vehicle make and  
9 model and vehicle identification number;

10 (C) is in a format that preserves consumer  
11 privacy; and

12 (D) includes information about each recall  
13 that has not been completed for each vehicle.

14 (2) RULEMAKING.—The Secretary may initiate  
15 a rulemaking proceeding to require each manufac-  
16 turer to provide the information described in para-  
17 graph (1), with respect to that manufacturer's motor  
18 vehicles, at no cost on a publicly accessible Internet  
19 website.

20 (3) DATABASE AWARENESS PROMOTION ACTIVI-  
21 TIES.—The Secretary, in consultation with the heads  
22 of other relevant agencies, shall promote consumer  
23 awareness of the information made available to the  
24 public pursuant to this subsection.

1 **SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**  
2 **TRATION HOTLINE FOR MANUFACTURER,**  
3 **DEALER, AND MECHANIC PERSONNEL.**

4 The Secretary shall—

5 (1) establish a means by which mechanics, pas-  
6 senger motor vehicle dealership personnel, and pas-  
7 senger motor vehicle manufacturer personnel may  
8 directly and confidentially contact the National  
9 Highway Traffic Safety Administration to report po-  
10 tential passenger motor vehicle safety defects; and

11 (2) publicize the means for contacting the Na-  
12 tional Highway Traffic Safety Administration in a  
13 manner that targets mechanics, passenger motor ve-  
14 hicle dealership personnel, and manufacturer per-  
15 sonnel.

16 **SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES**  
17 **AND OTHER COMMUNICATIONS WITH DEAL-**  
18 **ERS.**

19 (a) INTERNET ACCESSIBILITY.—Section 30166(f) of  
20 title 49, United States Code, is amended—

21 (1) by striking “A manufacturer shall give the  
22 Secretary of Transportation” and inserting the fol-  
23 lowing:

24 “(1) IN GENERAL.—A manufacturer shall give  
25 the Secretary of Transportation, and make available  
26 on a publicly accessible Internet website,”; and



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

2           “(2) NOTICES.—Communications required to be  
3           submitted to the Secretary and made available on a  
4           publicly accessible Internet website under this sub-  
5           section shall include all notices to dealerships of  
6           software upgrades and modifications recommended  
7           by a manufacturer for all previously sold vehicles.  
8           Notice is required even if the software upgrade or  
9           modification is not related to a safety defect or non-  
10          compliance with a motor vehicle safety standard.  
11          The notice shall include a plain language description  
12          of the purpose of the update and that description  
13          shall be prominently placed at the beginning of the  
14          notice.

15          “(3) INDEX.—Communications required to be  
16          submitted to the Secretary under this subsection  
17          shall be accompanied by an index to each commu-  
18          nication, which—

19                 “(A) identifies the make, model, and model  
20                 year of the affected vehicles;

21                 “(B) includes a concise summary of the  
22                 subject matter of the communication; and

23                 “(C) shall be made available by the Sec-  
24                 retary to the public on the Internet in a search-  
25                 able format.”.

1 **SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING**  
2 **DATA.**

3 Section 30166(m) of title 49, United States Code, is  
4 amended in paragraph (4), by amending subparagraph (C)  
5 to read as follows:

6 “(C) DISCLOSURE.—

7 “(i) IN GENERAL.—The information  
8 provided to the Secretary pursuant to this  
9 subsection shall be disclosed publicly unless  
10 exempt from disclosure under section  
11 552(b) of title 5.

12 “(ii) PRESUMPTION.—In admin-  
13 istering this subparagraph, the Secretary  
14 shall presume in favor of maximum public  
15 availability of information.”.

16 **SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL**  
17 **HIGHWAY TRAFFIC SAFETY ADMINISTRATION**  
18 **REPORTS.**

19 (a) IN GENERAL.—Section 30166 of title 49, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:

22 “(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

23 “(1) IN GENERAL.—The Secretary shall require  
24 a senior official responsible for safety in each com-  
25 pany submitting information to the Secretary in re-  
26 sponse to a request for information in a safety de-

1       fect or compliance investigation under this chapter  
2       to certify that—

3               “(A) the signing official has reviewed the  
4               submission; and

5               “(B) based on the official’s knowledge, the  
6               submission does not—

7                       “(i) contain any untrue statement of a  
8                       material fact; or

9                       “(ii) omit to state a material fact nec-  
10                      essary in order to make the statements  
11                      made not misleading, in light of the cir-  
12                      cumstances under which such statements  
13                      were made.

14               “(2) NOTICE.—The certification requirements  
15               of this section shall be clearly stated on any request  
16               for information under paragraph (1).”.

17       (b) CIVIL PENALTY.—Section 30165(a) of title 49,  
18       United States Code, is amended—

19               (1) in paragraph (3), by striking “A person”  
20               and inserting “Except as provided in paragraph (4),  
21               a person”; and

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

23                       “(4) FALSE, MISLEADING, OR INCOMPLETE RE-  
24                      PORTS.—A person who knowingly and willfully sub-  
25                      mits materially false, misleading, or incomplete in-

1 formation to the Secretary, after certifying the same  
2 information as accurate and complete under the cer-  
3 tification process established pursuant to section  
4 30166(o), shall be subject to a civil penalty of not  
5 more than \$5,000 per day. The maximum penalty  
6 under this paragraph for a related series of daily  
7 violations is \$5,000,000.”.

8 **SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION**  
9 **PROGRAM.**

10 (a) DEFINITION.—Section 32301 of title 49, United  
11 States Code, is amended—

12 (1) by redesignating paragraphs (1) and (2) as  
13 paragraphs (2) and (3), respectively;

14 (2) by inserting before paragraph (2), as redesi-  
15 gnated, the following:

16 “(1) ‘crash avoidance’ means preventing or  
17 mitigating a crash;” and

18 (3) in paragraph (2), as redesignated, by strik-  
19 ing the period at the end and inserting “; and”.

20 (b) INFORMATION INCLUDED.—Section 32302(a) of  
21 title 49, United States Code, is amended—

22 (1) in paragraph (2), by inserting “, crash  
23 avoidance, and any other areas the Secretary deter-  
24 mines will improve the safety of passenger motor ve-  
25 hicles” after “crashworthiness”; and

1 (2) by striking paragraph (4).

2 **SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

3 Section 32302 of title 49, United States Code, is  
4 amended by adding at the end the following:

5 “(d) MOTOR VEHICLE DEFECT REPORTING INFOR-  
6 MATION.—

7 “(1) RULEMAKING REQUIRED.—Not later than  
8 1 year after the date of the enactment of the , the  
9 Secretary shall prescribe regulations that require  
10 passenger motor vehicle manufacturers—

11 “(A) to affix, in the glove compartment or  
12 in another readily accessible location on the ve-  
13 hicle, a sticker, decal, or other device that pro-  
14 vides, in simple and understandable language,  
15 information about how to submit a safety-re-  
16 lated motor vehicle defect complaint to the Na-  
17 tional Highway Traffic Safety Administration;

18 “(B) to prominently print the information  
19 described in subparagraph (A) on a separate  
20 page within the owner’s manual; and

21 “(C) to not place such information on the  
22 label required under section 3 of the Auto-  
23 mobile Information Disclosure Act (15 U.S.C.  
24 1232).

1           “(2) APPLICATION.—The requirements under  
2           paragraph (1) shall apply to passenger motor vehi-  
3           cles manufactured in any model year beginning more  
4           than 1 year after the date on which a final rule is  
5           published under paragraph (1).”.

6 **SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR**  
7                   **VEHICLE MANUFACTURERS, PART SUP-**  
8                   **PLIERS, AND DEALERSHIP EMPLOYEES.**

9           (a) IN GENERAL.—Subchapter IV of chapter 301 of  
10 title 49, United States Code, is amended by adding at the  
11 end the following:

12 **“§ 30171. Protection of employees providing motor ve-**  
13                   **hicle safety information**

14           “(a) DISCRIMINATION AGAINST EMPLOYEES OF  
15 MANUFACTURERS, PART SUPPLIERS, AND DEALER-  
16 SHIPS.—No motor vehicle manufacturer, part supplier, or  
17 dealership may discharge an employee or otherwise dis-  
18 criminate against an employee with respect to compensa-  
19 tion, terms, conditions, or privileges of employment be-  
20 cause the employee (or any person acting pursuant to a  
21 request of the employee)—

22           “(1) provided, caused to be provided, or is  
23           about to provide (with any knowledge of the em-  
24           ployer) or cause to be provided to the employer or  
25           the Secretary of Transportation information relating

1 to any motor vehicle defect, noncompliance, or any  
2 violation or alleged violation of any notification or  
3 reporting requirement of this chapter;

4 “(2) has filed, caused to be filed, or is about to  
5 file (with any knowledge of the employer) or cause  
6 to be filed a proceeding relating to any violation or  
7 alleged violation of any motor vehicle defect, non-  
8 compliance, or any violation or alleged violation of  
9 any notification or reporting requirement of this  
10 chapter;

11 “(3) testified or is about to testify in such a  
12 proceeding;

13 “(4) assisted or participated or is about to as-  
14 sist or participate in such a proceeding; or

15 “(5) objected to, or refused to participate in,  
16 any activity that the employee reasonably believed to  
17 be in violation of any provision of any Act enforced  
18 by the Secretary of Transportation, or any order,  
19 rule, regulation, standard, or ban under any such  
20 Act.

21 “(b) COMPLAINT PROCEDURE.—

22 “(1) FILING AND NOTIFICATION.—A person  
23 who believes that he or she has been discharged or  
24 otherwise discriminated against by any person in  
25 violation of subsection (a) may, not later than 180

1 days after the date on which such violation occurs,  
2 file (or have any person file on his or her behalf) a  
3 complaint with the Secretary of Labor (hereinafter  
4 in this section referred to as the ‘Secretary’) alleging  
5 such discharge or discrimination. Upon receipt of  
6 such a complaint, the Secretary shall notify, in writ-  
7 ing, the person named in the complaint of the filing  
8 of the complaint, of the allegations contained in the  
9 complaint, of the substance of evidence supporting  
10 the complaint, and of the opportunities that will be  
11 afforded to such person under paragraph (2).

12 “(2) INVESTIGATION; PRELIMINARY ORDER.—

13 “(A) IN GENERAL.—Not later than 60  
14 days after the date of receipt of a complaint  
15 filed under paragraph (1) and after affording  
16 the person named in the complaint an oppor-  
17 tunity to submit to the Secretary a written re-  
18 sponse to the complaint and an opportunity to  
19 meet with a representative of the Secretary to  
20 present statements from witnesses, the Sec-  
21 retary shall conduct an investigation and deter-  
22 mine whether there is reasonable cause to be-  
23 lieve that the complaint has merit and notify, in  
24 writing, the complainant and the person alleged  
25 to have committed a violation of subsection (a)



1 of the Secretary's findings. If the Secretary  
2 concludes that there is a reasonable cause to  
3 believe that a violation of subsection (a) has oc-  
4 curred, the Secretary shall accompany the Sec-  
5 retary's findings with a preliminary order pro-  
6 viding the relief prescribed by paragraph  
7 (3)(B). Not later than 30 days after the date  
8 of notification of findings under this paragraph,  
9 either the person alleged to have committed the  
10 violation or the complainant may file objections  
11 to the findings or preliminary order, or both,  
12 and request a hearing on the record. The filing  
13 of such objections shall not operate to stay any  
14 reinstatement remedy contained in the prelimi-  
15 nary order. Such hearings shall be conducted  
16 expeditiously. If a hearing is not requested in  
17 such 30-day period, the preliminary order shall  
18 be deemed a final order that is not subject to  
19 judicial review.

20 “(B) REQUIREMENTS.—

21 “(i) REQUIRED SHOWING BY COM-  
22 PLAINANT.—The Secretary shall dismiss a  
23 complaint filed under this subsection and  
24 shall not conduct an investigation other-  
25 wise required under subparagraph (A) un-

1 less the complainant makes a prima facie  
2 showing that any behavior described in  
3 paragraphs (1) through (5) of subsection  
4 (a) was a contributing factor in the unfa-  
5 vorable personnel action alleged in the  
6 complaint.

7 “(ii) SHOWING BY EMPLOYER.—Not-  
8 withstanding a finding by the Secretary  
9 that the complainant has made the show-  
10 ing required under clause (i), no investiga-  
11 tion otherwise required under subpara-  
12 graph (A) shall be conducted if the em-  
13 ployer demonstrates, by clear and con-  
14 vincing evidence, that the employer would  
15 have taken the same unfavorable personnel  
16 action in the absence of that behavior.

17 “(iii) CRITERIA FOR DETERMINATION  
18 BY SECRETARY.—The Secretary may de-  
19 termine that a violation of subsection (a)  
20 has occurred only if the complainant dem-  
21 onstrates that any behavior described in  
22 paragraphs (1) through (5) of subsection  
23 (a) was a contributing factor in the unfa-  
24 vorable personnel action alleged in the  
25 complaint.

1                   “(iv) PROHIBITION.—Relief may not  
2                   be ordered under subparagraph (A) if the  
3                   employer demonstrates, by clear and con-  
4                   vincing evidence, that the employer would  
5                   have taken the same unfavorable personnel  
6                   action in the absence of that behavior.

7                   “(3) FINAL ORDER.—

8                   “(A) DEADLINE FOR ISSUANCE; SETTLE-  
9                   MENT AGREEMENTS.—Not later than 120 days  
10                  after the date of conclusion of a hearing under  
11                  paragraph (2), the Secretary shall issue a final  
12                  order providing the relief prescribed by this  
13                  paragraph or denying the complaint. At any  
14                  time before issuance of a final order, a pro-  
15                  ceeding under this subsection may be termi-  
16                  nated on the basis of a settlement agreement  
17                  entered into by the Secretary, the complainant,  
18                  and the person alleged to have committed the  
19                  violation.

20                  “(B) REMEDY.—If, in response to a com-  
21                  plaint filed under paragraph (1), the Secretary  
22                  determines that a violation of subsection (a)  
23                  has occurred, the Secretary shall order the per-  
24                  son who committed such violation—

1                   “(i) to take affirmative action to  
2                   abate the violation;

3                   “(ii) to reinstate the complainant to  
4                   his or her former position together with  
5                   the compensation (including back pay) and  
6                   restore the terms, conditions, and privi-  
7                   leges associated with his or her employ-  
8                   ment; and

9                   “(iii) to provide compensatory dam-  
10                  ages to the complainant.

11                  “(C) ATTORNEYS’ FEES.—If such an order  
12                  is issued under this paragraph, the Secretary,  
13                  at the request of the complainant, shall assess  
14                  against the person against whom the order is  
15                  issued a sum equal to the aggregate amount of  
16                  all costs and expenses (including attorneys’ and  
17                  expert witness fees) reasonably incurred, as de-  
18                  termined by the Secretary, by the complainant  
19                  for, or in connection with, bringing the com-  
20                  plaint upon which the order was issued.

21                  “(D) FRIVOLOUS COMPLAINTS.—If the  
22                  Secretary determines that a complaint under  
23                  paragraph (1) is frivolous or has been brought  
24                  in bad faith, the Secretary may award to the

1 prevailing employer a reasonable attorney's fee  
2 not exceeding \$1,000.

3 “(E) DE NOVO REVIEW.—With respect to  
4 a complaint under paragraph (1), if the Sec-  
5 retary of Labor has not issued a final decision  
6 within 210 days after the filing of the com-  
7 plaint and if the delay is not due to the bad  
8 faith of the employee, the employee may bring  
9 an original action at law or equity for de novo  
10 review in the appropriate district court of the  
11 United States, which shall have jurisdiction  
12 over such an action without regard to the  
13 amount in controversy, and which action shall,  
14 at the request of either party to the action, be  
15 tried by the court with a jury. The action shall  
16 be governed by the same legal burdens of proof  
17 specified in paragraph (2)(B) for review by the  
18 Secretary of Labor.

19 “(4) REVIEW.—

20 “(A) APPEAL TO COURT OF APPEALS.—  
21 Any person adversely affected or aggrieved by  
22 an order issued under paragraph (3) may ob-  
23 tain review of the order in the United States  
24 Court of Appeals for the circuit in which the  
25 violation, with respect to which the order was

1 issued, allegedly occurred or the circuit in which  
2 the complainant resided on the date of such vio-  
3 lation. The petition for review shall be filed not  
4 later than 60 days after the date of the  
5 issuance of the final order of the Secretary. Re-  
6 view shall conform to chapter 7 of title 5. The  
7 commencement of proceedings under this sub-  
8 paragraph shall not, unless ordered by the  
9 court, operate as a stay of the order.

10 “(B) LIMITATION ON COLLATERAL AT-  
11 TACK.—An order of the Secretary with respect  
12 to which review could have been obtained under  
13 subparagraph (A) shall not be subject to judi-  
14 cial review in any criminal or other civil pro-  
15 ceeding.

16 “(5) ENFORCEMENT OF ORDER BY SEC-  
17 RETARY.—Whenever any person fails to comply with  
18 an order issued under paragraph (3), the Secretary  
19 may file a civil action in the United States district  
20 court for the district in which the violation was  
21 found to occur to enforce such order. In actions  
22 brought under this paragraph, the district courts  
23 shall have jurisdiction to grant all appropriate relief,  
24 including injunctive relief and compensatory dam-  
25 ages.

1           “(6) ENFORCEMENT OF ORDER BY PARTIES.—

2           “(A) COMMENCEMENT OF ACTION.—A per-  
3           son on whose behalf an order was issued under  
4           paragraph (3) may commence a civil action  
5           against the person to whom such order was  
6           issued to require compliance with such order.  
7           The appropriate United States district court  
8           shall have jurisdiction, without regard to the  
9           amount in controversy or the citizenship of the  
10          parties, to enforce such order.

11          “(B) ATTORNEY FEES.—The court, in  
12          issuing any final order under this paragraph,  
13          may award costs of litigation (including reason-  
14          able attorney and expert witness fees) to any  
15          party whenever the court determines such  
16          award is appropriate.

17          “(c) MANDAMUS.—Any nondiscretionary duty im-  
18          posed under this section shall be enforceable in a man-  
19          damus proceeding brought under section 1361 of title 28.

20          “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-  
21          TIONS.—Subsection (a) shall not apply with respect to an  
22          employee of a motor vehicle manufacturer, part supplier,  
23          or dealership who, acting without direction from such  
24          motor vehicle manufacturer, part supplier, or dealership  
25          (or such person’s agent), deliberately causes a violation

1 of any requirement relating to motor vehicle safety under  
2 this chapter.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-  
4 tions for chapter 301 of title 49, United States Code, is  
5 amended by inserting after the item relating to section  
6 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

7 **SEC. 31309. ANTI-REVOLVING DOOR.**

8 (a) AMENDMENT.—Subchapter I of chapter 301 of  
9 title 49, United States Code, is amended by adding at the  
10 end the following:

11 **“§ 30107. Restriction on covered motor vehicle safety**  
12 **officials**

13 “(a) IN GENERAL.—During the 2-year period after  
14 the termination of his or her service or employment, a cov-  
15 ered vehicle safety official may not knowingly make, with  
16 the intent to influence, any communication to or appear-  
17 ance before any officer or employee of the National High-  
18 way Traffic Safety Administration on behalf of any manu-  
19 facturer subject to regulation under this chapter in con-  
20 nection with any matter involving motor vehicle safety on  
21 which such person seeks official action by any officer or  
22 employee of the National Highway Traffic Safety Admin-  
23 istration.

24 “(b) MANUFACTURERS.—It is unlawful for any man-  
25 ufacturer or other person subject to regulation under this



1 chapter to employ or contract for the services of an indi-  
2 vidual to whom subsection (a) applies during the 2-year  
3 period commencing on the individual's termination of em-  
4 ployment with the National Highway Traffic Safety Ad-  
5 ministration in a capacity in which the individual is pro-  
6 hibited from serving during that period.

7       “(c) SPECIAL RULE FOR DETAILEES.—For purposes  
8 of this section, a person who is detailed from 1 depart-  
9 ment, agency, or other entity to another department,  
10 agency, or other entity shall, during the period such per-  
11 son is detailed, be deemed to be an officer or employee  
12 of both departments, agencies, or such entities.

13       “(d) SAVINGS PROVISION.—Nothing in this section  
14 may be construed to expand, contract, or otherwise affect  
15 the application of any waiver or criminal penalties under  
16 section 207 of title 18.

17       “(e) EXCEPTION FOR TESTIMONY.—Nothing in this  
18 section may be construed to prevent an individual from  
19 giving testimony under oath, or from making statements  
20 required to be made under penalty of perjury.

21       “(f) DEFINED TERM.—In this section, the term ‘cov-  
22 ered vehicle safety official’ means any officer or employee  
23 of the National Highway Traffic Safety Administration—

24               “(1) who, during the final 12 months of his or  
25 her service or employment with the agency, serves or

1 served in a technical or legal capacity, and whose job  
2 responsibilities include or included vehicle safety de-  
3 fect investigation, vehicle safety compliance, vehicle  
4 safety rulemaking, or vehicle safety research; and

5 “(2) who serves in a supervisory or manage-  
6 ment capacity over an officer or employee described  
7 in paragraph (1).

8 “(g) EFFECTIVE DATE.—This section shall apply to  
9 covered vehicle safety officials who terminate service or  
10 employment with the National Highway Traffic Safety  
11 Administration after the date of enactment of the .”.

12 (b) CIVIL PENALTY.—Section 30165(a) of title 49,  
13 United States Code, as amended by this subtitle, is further  
14 amended by adding at the end the following:

15 “(5) IMPROPER INFLUENCE.—An individual  
16 who violates section 30107(a) is liable to the United  
17 States Government for a civil penalty, as determined  
18 under section 216(b) of title 18, for an offense  
19 under section 207 of that title. A manufacturer or  
20 other person subject to regulation under this chapter  
21 who violates section 30107(b) is liable to the United  
22 States Government for a civil penalty equal to the  
23 sum of—

24 “(A) an amount equal to not less than  
25 \$100,000; and

1                   “(B) an amount equal to 90 percent of the  
2                   annual compensation or fee paid or payable to  
3                   the individual with respect to whom the viola-  
4                   tion occurred.”.

5           (c) STUDY OF DEPARTMENT OF TRANSPORTATION  
6 POLICIES ON OFFICIAL COMMUNICATION WITH FORMER  
7 MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later  
8 than 1 year after the date of the enactment of this Act,  
9 the Inspector General of the Department of Transpor-  
10 tation shall—

11           (1) review the Department of Transportation’s  
12 policies and procedures applicable to official commu-  
13 nication with former employees concerning motor ve-  
14 hicle safety compliance matters for which they had  
15 responsibility during the last 12 months of their ten-  
16 ure at the Department, including any limitations on  
17 the ability of such employees to submit comments, or  
18 otherwise communicate directly with the Depart-  
19 ment, on motor vehicle safety issues; and

20           (2) submit a report to the Committee on Com-  
21 merce, Science, and Transportation of the Senate  
22 and the Committee on Energy and Commerce of the  
23 House of Representatives that contains the Inspec-  
24 tor General’s findings, conclusions, and rec-  
25 ommendations for strengthening those policies and

1 procedures to minimize the risk of undue influence  
2 without compromising the ability of the Department  
3 to employ and retain highly qualified individuals for  
4 such responsibilities.

5 (d) POST-EMPLOYMENT POLICY STUDY.—

6 (1) IN GENERAL.—The Inspector General of  
7 the Department of Transportation shall conduct a  
8 study of the Department’s policies relating to post-  
9 employment restrictions on employees who perform  
10 functions related to transportation safety.

11 (2) REPORT.—Not later than 1 year after the  
12 date of enactment of this Act, the Inspector General  
13 shall submit a report containing the results of the  
14 study conducted under paragraph (1) to—

15 (A) the Committee on Commerce, Science,  
16 and Transportation of the Senate;

17 (B) the Committee on Energy and Com-  
18 merce of the House of Representatives; and

19 (C) the Secretary of Transportation.

20 (3) USE OF RESULTS.—The Secretary of  
21 Transportation shall review the results of the study  
22 conducted under paragraph (1) and take whatever  
23 action the Secretary determines to be appropriate.

24 (e) CONFORMING AMENDMENT.—The table of con-  
25 tents for chapter 301 of title 49, United States Code, is

1 amended by inserting after the item relating to section  
2 30106 the following:

“30107. Restriction on covered motor vehicle safety officials.”.

3 **SEC. 31310. STUDY OF CRASH DATA COLLECTION.**

4 (a) IN GENERAL.—Not later than 1 year after the  
5 date of enactment of this Act, the Secretary shall submit  
6 a report to the Committee on Commerce, Science, and  
7 Transportation of the Senate the Committee on Energy  
8 and Commerce of the House of Representatives regarding  
9 the quality of data collected through the National Auto-  
10 motive Sampling System, including the Special Crash In-  
11 vestigations Program.

12 (b) REVIEW.—The Administrator of the National  
13 Highway Traffic Safety Administration (referred to in this  
14 section as the “Administration”) shall conduct a com-  
15 prehensive review of the data elements collected from each  
16 crash to determine if additional data should be collected.  
17 The review under this subsection shall include input from  
18 interested parties, including suppliers, automakers, safety  
19 advocates, the medical community, and research organiza-  
20 tions.

21 (c) CONTENTS.—The report issued under this section  
22 shall include—

23 (1) the analysis and conclusions the Adminis-  
24 tration can reach from the amount of motor vehicle  
25 crash data collected in a given year;

1           (2) the additional analysis and conclusions the  
2 Administration could reach if more crash investiga-  
3 tions were conducted each year;

4           (3) the number of investigations per year that  
5 would allow for optimal data analysis and crash in-  
6 formation;

7           (4) the results of the comprehensive review con-  
8 ducted pursuant to subsection (b);

9           (5) recommendations for improvements to the  
10 Administration's data collection program; and

11           (6) the resources needed by the Administration  
12 to implement such recommendations.

13 **SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION;**

14 **IMPROVING EFFICACY OF RECALLS.**

15           (a) UPDATE OF MEANS OF PROVIDING NOTIFICA-  
16 TION.—Section 30119(d) of title 49, United States Code,  
17 is amended—

18           (1) by striking, in paragraph (1), “by first class  
19 mail” and inserting “in the manner prescribed by  
20 the Secretary, by regulation”;

21           (2) in paragraph (2)—

22           (A) by striking “(except a tire) shall be  
23 sent by first class mail” and inserting “shall be  
24 sent in the manner prescribed by the Secretary,  
25 by regulation,”; and

1 (B) by striking the second sentence;

2 (3) in paragraph (3)—

3 (A) by striking the first sentence;

4 (B) by inserting “to the notification re-  
5 quired under paragraphs (1) and (2)” after  
6 “addition”; and

7 (C) by inserting “by the manufacturer”  
8 after “given”; and

9 (4) in paragraph (4), by striking “by certified  
10 mail or quicker means if available” and inserting “in  
11 the manner prescribed by the Secretary, by regula-  
12 tion”.

13 (b) IMPROVING EFFICACY OF RECALLS.—Section  
14 30119(e) of title 49, United States Code, is amended—

15 (1) in the subsection heading, by striking “SEC-  
16 OND” and inserting “ADDITIONAL”;

17 (2) by striking “If the Secretary” and inserting  
18 the following:

19 “(1) SECOND NOTIFICATION.—If the Sec-  
20 retary”; and

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

22 “(2) ADDITIONAL NOTIFICATIONS.—If the Sec-  
23 retary determines, after considering the severity of  
24 the defect or noncompliance, that the second notifi-  
25 cation by a manufacturer does not result in an ade-

1       quate number of motor vehicles or items of replace-  
2       ment equipment being returned for remedy, the Sec-  
3       retary may order the manufacturer—

4               “(A) to send additional notifications in the  
5       manner prescribed by the Secretary, by regula-  
6       tion;

7               “(B) to take additional steps to locate and  
8       notify each person registered under State law  
9       as the owner or lessee or the most recent pur-  
10      chaser or lessee, as appropriate; and

11              “(C) to emphasize the magnitude of the  
12      safety risk caused by the defect or noncompli-  
13      ance in such notification.”.

14 **SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE**  
15                   **TO MANUFACTURERS OF REPLACEMENT**  
16                   **EQUIPMENT.**

17      Section 30120 of title 49, United States Code, is  
18      amended—

19              (1) in subsection (a)(1), by amending subpara-  
20      graph (B) to read as follows:

21                   “(B) if replacement equipment, by repair-  
22      ing the equipment, replacing the equipment  
23      with identical or reasonably equivalent equip-  
24      ment, or by refunding the purchase price.”;



1           (2) in the heading of subsection (i), by adding  
2           “OF NEW VEHICLES OR EQUIPMENT” at the end;  
3           and  
4           (3) in the heading of subsection (j), by striking  
5           “REPLACED” and inserting “REPLACEMENT”.

6   **SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF**  
7                           **MANUFACTURER.**

8           (a) IN GENERAL.—Chapter 301 of title 49, United  
9 States Code, is amended by inserting the following after  
10 section 30120:

11   **“SEC. 30120A. RECALL OBLIGATIONS AND BANKRUPTCY OF**  
12                           **A MANUFACTURER.**

13           “A manufacturer’s filing of a petition in bankruptcy  
14 under chapter 11 of title 11, does not negate the manufac-  
15 turer’s duty to comply with section 30112 or sections  
16 30115 through 30120 of this title. In any bankruptcy pro-  
17 ceeding, the manufacturer’s obligations under such sec-  
18 tions shall be treated as a claim of the United States Gov-  
19 ernment against such manufacturer, subject to subchapter  
20 II of chapter 37 of title 31, United States Code, and given  
21 priority pursuant to section 3713(a)(1)(A) of such chap-  
22 ter, notwithstanding section 3713(a)(2), to ensure that  
23 consumers are adequately protected from any safety defect  
24 or noncompliance determined to exist in the manufactur-  
25 er’s products. This section shall apply equally to actions

1 of a manufacturer taken before or after the filing of a  
2 petition in bankruptcy.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-  
4 ysis of chapter 301 of title 49, United States Code, is  
5 amended by inserting after the item relating to section  
6 30120 the following:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

7 **SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFOR-**  
8 **MATION PROVISION.**

9 Chapter 331 of title 49, United States Code, is  
10 amended—

11 (1) in the chapter analysis, by striking the item  
12 relating to section 33112; and

13 (2) by striking section 33112.

14 **SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL**  
15 **SAFETY RATING CATEGORIES.**

16 Section 3(g)(2) of the Automobile Information Dis-  
17 closure Act (15 U.S.C. 1232(g)(2)), is amended by insert-  
18 ing “safety rating categories that may include” after “re-  
19 fers to”.

1       **Subtitle D—Vehicle Electronics**  
2                   **and Safety Standards**

3       **SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**  
4                   **TRATION ELECTRONICS, SOFTWARE, AND EN-**  
5                   **GINEERING EXPERTISE.**

6           (a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE  
7       SOFTWARE, AND EMERGING TECHNOLOGIES.—

8           (1) IN GENERAL.—The Secretary shall estab-  
9       lish, within the National Highway Traffic Safety Ad-  
10      ministration, a Council for Vehicle Electronics, Vehi-  
11      cle Software, and Emerging Technologies (referred  
12      to in this section as the “Council”) to build, inte-  
13      grate, and aggregate the Administration’s expertise  
14      in passenger motor vehicle electronics and other new  
15      and emerging technologies.

16          (2) IMPLEMENTATION OF ROADMAP.—The  
17      Council shall research the inclusion of emerging  
18      lightweight plastic and composite technologies in  
19      motor vehicles to increase fuel efficiency, lower emis-  
20      sions, meet fuel economy standards, and enhance  
21      passenger motor vehicle safety through continued  
22      utilization of the Administration’s Plastic and Com-  
23      posite Intensive Vehicle Safety Roadmap (Report  
24      No. DOT HS 810 863).

1           (3) INTRA-AGENCY COORDINATION.—The Coun-  
2           cil shall coordinate with all components of the Ad-  
3           ministration responsible for vehicle safety, including  
4           research and development, rulemaking, and defects  
5           investigation.

6           (b) HONORS RECRUITMENT PROGRAM.—

7           (1) ESTABLISHMENT.—The Secretary shall es-  
8           tablish, within the National Highway Traffic Safety  
9           Administration, an honors program for engineering  
10          students, computer science students, and other stu-  
11          dents interested in vehicle safety that will enable  
12          such students to train with engineers and other safe-  
13          ty officials for a career in vehicle safety.

14          (2) STIPEND.—The Secretary is authorized to  
15          provide a stipend to students during their participa-  
16          tion in the program established pursuant to para-  
17          graph (1).

18          (c) ASSESSMENT.—The Council, in consultation with  
19          affected stakeholders, shall assess the implications of  
20          emerging safety technologies in passenger motor vehicles,  
21          including the effect of such technologies on consumers,  
22          product availability, and cost.

1 **SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE**  
2 **OVERRIDE STANDARD.**

3 Not later than 1 year after the date of enactment  
4 of this Act, the Secretary shall prescribe a Federal motor  
5 vehicle safety standard that—

6 (1) mitigates unintended acceleration in pas-  
7 senger motor vehicles;

8 (2) establishes performance requirements, based  
9 on the speed, size, and weight of the vehicle, that en-  
10 able a driver to bring a passenger motor vehicle  
11 safely to a full stop by normal braking application  
12 even if the vehicle is simultaneously receiving accel-  
13 erator input signals, including a full-throttle input  
14 signal;

15 (3) may permit compliance through a system  
16 that requires brake pedal application, after a period  
17 of time determined by the Secretary, to override an  
18 accelerator pedal input signal in order to stop the  
19 vehicle;

20 (4) requires that redundant circuits or other  
21 mechanisms be built into accelerator control sys-  
22 tems, including systems controlled by electronic  
23 throttle, to maintain vehicle control in the event of  
24 failure of the primary circuit or mechanism; and

25 (5) may permit vehicles to incorporate a means  
26 to temporarily disengage the function required under

1 paragraph (2) to facilitate operations, such as ma-  
2 neuvering trailers or climbing steep hills, which may  
3 require the simultaneous operation of brake and ac-  
4 celerator.

5 **SEC. 31403. PEDAL PLACEMENT STANDARD.**

6 (a) IN GENERAL.—The Secretary shall initiate a  
7 rulemaking proceeding to consider a Federal motor vehicle  
8 safety standard that would mitigate potential obstruction  
9 of pedal movement in passenger motor vehicles, after tak-  
10 ing into account—

11 (1) various pedal mounting configurations; and

12 (2) minimum clearances for passenger motor  
13 vehicle foot pedals with respect to other pedals, the  
14 vehicle floor (including aftermarket floor coverings),  
15 and any other potential obstructions to pedal move-  
16 ment that the Secretary determines to be relevant.

17 (b) DEADLINE.—

18 (1) IN GENERAL.—Except as provided under  
19 paragraph (2), the Secretary shall issue a final rule  
20 to implement the safety standard described in sub-  
21 section (a) not later than 3 years after the date of  
22 the enactment of this Act.

23 (2) REPORT.—If the Secretary determines that  
24 a pedal placement standard does not meet the re-  
25 quirements and considerations set forth in sub-

1 sections (a) and (b) of section 30111 of title 49,  
2 United States Code, the Secretary shall submit a re-  
3 port describing the reasons for not prescribing such  
4 standard to—

5 (A) the Committee on Commerce, Science,  
6 and Transportation of the Senate; and

7 (B) the Committee on Energy and Com-  
8 merce of the House of Representatives.

9 (c) **COMBINED RULEMAKING.**—The Secretary may  
10 combine the rulemaking proceeding required under sub-  
11 section (a) with the rulemaking proceeding required under  
12 section 31402.

13 **SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STAND-**  
14 **ARD.**

15 (a) **IN GENERAL.**—Not later than 2 years after the  
16 date of enactment of this Act, the Secretary shall initiate  
17 a rulemaking proceeding to consider prescribing or amend-  
18 ing a Federal motor vehicle safety standard that—

19 (1) requires electronic systems in passenger  
20 motor vehicles to meet minimum performance re-  
21 quirements; and

22 (2) may include requirements for—

23 (A) electronic components;

24 (B) the interaction of electronic compo-  
25 nents;

1 (C) security needs for those electronic sys-  
2 tems to prevent unauthorized access; or

3 (D) the effect of surrounding environments  
4 on those electronic systems.

5 (b) DEADLINE.—

6 (1) IN GENERAL.—Except as provided under  
7 paragraph (2), the Secretary shall issue a final rule  
8 to implement the safety standard described in sub-  
9 section (a) not later than 4 years after the date of  
10 enactment of this Act.

11 (2) REPORT.—If the Secretary determines that  
12 such a standard does not meet the requirements and  
13 considerations set forth in subsections (a) and (b) of  
14 section 30111 of title 49, United States Code, the  
15 Secretary shall submit a report describing the rea-  
16 sons for not prescribing such standard to—

17 (A) the Committee on Commerce, Science,  
18 and Transportation of the Senate; and

19 (B) the Committee on Energy and Com-  
20 merce of the House of Representatives.

21 (c) NATIONAL ACADEMY OF SCIENCES.—In con-  
22 ducting the rulemaking under subsection (a), the Sec-  
23 retary shall consider the findings and recommendations of  
24 the National Academy of Sciences, if any, pursuant to its  
25 study of electronic vehicle controls.



1 **SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.**

2 (a) PUSHBUTTON IGNITION STANDARD.—

3 (1) IN GENERAL.—The Secretary shall initiate  
4 a rulemaking proceeding to consider a Federal  
5 motor vehicle safety standard for passenger motor  
6 vehicles with pushbutton ignition systems that estab-  
7 lishes a standardized operation of such systems  
8 when used by drivers, including drivers who may be  
9 unfamiliar with such systems, in an emergency situ-  
10 ation when the vehicle is in motion.

11 (2) OTHER IGNITION SYSTEMS.—In the rule-  
12 making proceeding initiated under paragraph (1),  
13 the Secretary may include any other ignition-start-  
14 ing mechanism that the Secretary determines should  
15 be considered.

16 (b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The  
17 term “pushbutton ignition system” means a mechanism,  
18 such as the push of a button, for starting a passenger  
19 motor vehicle that does not involve the physical insertion  
20 and turning of a tangible key.

21 (c) DEADLINE.—

22 (1) IN GENERAL.—Except as provided under  
23 paragraph (2), the Secretary shall issue a final rule  
24 to implement the standard described in subsection  
25 (a) not later than 2 years after the date of the en-  
26 actment of this Act.

1           (2) REPORT.—If the Secretary determines that  
2 a standard does not meet the requirements and con-  
3 siderations set forth in subsections (a) and (b) of  
4 section 30111 of title 49, United States Code, the  
5 Secretary shall submit a report describing the rea-  
6 sons for not prescribing such standard to—

7                   (A) the Committee on Commerce, Science,  
8 and Transportation of the Senate; and

9                   (B) the Committee on Energy and Com-  
10 merce of the House of Representatives.

11 **SEC. 31406. VEHICLE EVENT DATA RECORDERS.**

12 (a) MANDATORY EVENT DATA RECORDERS.—

13           (1) IN GENERAL.—Not later than 180 days  
14 after the date of enactment of this Act, the Sec-  
15 retary shall revise part 563 of title 49, Code of Fed-  
16 eral Regulations, to require, beginning with model  
17 year 2015, that new passenger motor vehicles sold in  
18 the United States be equipped with an event data  
19 recorder that meets the requirements under that  
20 part.

21           (2) PENALTY.—The violation of any provision  
22 under part 563 of title 49, Code of Federal Regula-  
23 tions—

24                   (A) shall be deemed to be a violation of  
25 section 30112 of title 49, United States Code;

1 (B) shall be subject to civil penalties under  
2 section 30165(a) of that title; and

3 (C) shall not subject a manufacturer (as  
4 defined in section 30102(a)(5) of that title) to  
5 the requirements under section 30120 of that  
6 title.

7 (b) LIMITATIONS ON INFORMATION RETRIEVAL.—

8 (1) OWNERSHIP OF DATA.—Any data in an  
9 event data recorder required under part 563 of title  
10 49, Code of Federal Regulations, regardless of when  
11 the passenger motor vehicle in which it is installed  
12 was manufactured, is the property of the owner, or  
13 in the case of a leased vehicle, the lessee of the pas-  
14 senger motor vehicle in which the data recorder is  
15 installed.

16 (2) PRIVACY.—Data recorded or transmitted by  
17 such a data recorder may not be retrieved by a per-  
18 son other than the owner or lessee of the motor vehi-  
19 cle in which the recorder is installed unless—

20 (A) a court authorizes retrieval of the in-  
21 formation in furtherance of a legal proceeding;

22 (B) the owner or lessee consents to the re-  
23 trieval of the information for any purpose, in-  
24 cluding the purpose of diagnosing, servicing, or  
25 repairing the motor vehicle;

1           (C) the information is retrieved pursuant  
2           to an investigation or inspection authorized  
3           under section 1131(a) or 30166 of title 49,  
4           United States Code, and the personally identifi-  
5           able information of the owner, lessee, or driver  
6           of the vehicle and the vehicle identification  
7           number is not disclosed in connection with the  
8           retrieved information; or

9           (D) the information is retrieved for the  
10          purpose of determining the need for, or facili-  
11          tating, emergency medical response in response  
12          to a motor vehicle crash.

13          (c) REPORT TO CONGRESS.—Two years after the  
14          date of implementation of subsection (a), the Secretary  
15          shall study the safety impact and the impact on individual  
16          privacy of event data recorders in passenger motor vehicles  
17          and report its findings to the Committee on Commerce,  
18          Science, and Transportation of the Senate and the Com-  
19          mittee on Energy and Commerce of the House of Rep-  
20          resentatives. The report shall include—

21               (1) the safety benefits gained from installation  
22               of event data recorders;

23               (2) the recommendations on what, if any, addi-  
24               tional data the event data recorder should be modi-  
25               fied to record;

1           (3) the additional safety benefit such informa-  
2           tion would yield;

3           (4) the estimated cost to manufacturers to im-  
4           plement the new enhancements;

5           (5) an analysis of how the information proposed  
6           to be recorded by an event data recorder conforms  
7           to applicable legal, regulatory, and policy require-  
8           ments regarding privacy;

9           (6) a determination of the risks and effects of  
10          collecting and maintaining the information proposed  
11          to be recorded by an event data recorder;

12          (7) an examination and evaluation of the pro-  
13          tections and alternative processes for handling infor-  
14          mation recorded by an event data recorder to miti-  
15          gate potential privacy risks.

16          (d) REVISED REQUIREMENTS FOR EVENT DATA RE-  
17          CORDERS.—Based on the findings of the study under sub-  
18          section (c), the Secretary shall initiate a rulemaking pro-  
19          ceeding to revise part 563 of title 49, Code of Federal  
20          Regulations. The rule—

21                 (1) shall require event data recorders to capture  
22                 and store data related to motor vehicle safety cov-  
23                 ering a reasonable time period before, during, and  
24                 after a motor vehicle crash or airbag deployment, in-  
25                 cluding a rollover;

1           (2) shall require that data stored on such event  
2           data recorders be accessible, regardless of vehicle  
3           manufacturer or model, with commercially available  
4           equipment in a specified data format;

5           (3) shall establish requirements for preventing  
6           unauthorized access to the data stored on an event  
7           data recorder in order to protect the security, integ-  
8           rity, and authenticity of the data; and

9           (4) may require an interoperable data access  
10          port to facilitate universal accessibility and analysis.

11          (e) DISCLOSURE OF EXISTENCE AND PURPOSE OF  
12          EVENT DATA RECORDER.—The rule issued under sub-  
13          section (d) shall require that any owner’s manual or simi-  
14          lar documentation provided to the first purchaser of a pas-  
15          senger motor vehicle for purposes other than resale—

16                 (1) disclose that the vehicle is equipped with  
17                 such a data recorder; and

18                 (2) explain the purpose of the data recorder.

19          (f) ACCESS TO EVENT DATA RECORDERS IN AGENCY  
20          INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49,  
21          United States Code, is amended by inserting “, including  
22          any electronic data contained within the vehicle’s diag-  
23          nostic system or event data recorder” after “equipment.”

1 (g) DEADLINE FOR RULEMAKING.—The Secretary  
2 shall issue a final rule under subsection (d) not later than  
3 4 years after the date of enactment of this Act.

4 **SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.**  
5

6 (a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S  
7 VIEW.—Not later than 2 years after the date of enactment  
8 of this Act, the Secretary of Transportation shall issue a  
9 final rule that prescribes a Federal motor vehicle safety  
10 standard prohibiting electronic screens from displaying  
11 broadcast television, movies, video games, and other forms  
12 of similar visual entertainment that is visible to the driver  
13 while driving.

14 (b) EXCEPTIONS.—The standard prescribed under  
15 subsection (a) shall allow electronic screens that display  
16 information or images regarding operation of the vehicle,  
17 vehicle surroundings, and telematic functions, such as the  
18 vehicles navigation and communications system, weather,  
19 time, or the vehicle's audio system.

20 **SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.**  
21

22 (a) RULEMAKING.—Not later than 3 months after  
23 the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding pursuant  
24 to section 30111 of title 49, United States Code, to pre-  
25

1 scribe or amend a Federal motor vehicle safety standard  
2 to reduce commercial motor vehicle rollover and loss of  
3 control crashes and mitigate deaths and injuries associ-  
4 ated with such crashes for air-braked truck tractors and  
5 motorcoaches with a gross vehicle weight rating of more  
6 than 26,000 pounds.

7 (b) REQUIRED PERFORMANCE STANDARDS.—The  
8 rulemaking proceeding initiated under subsection (a) shall  
9 establish standards to reduce the occurrence of rollovers  
10 and loss of control crashes consistent with stability en-  
11 hancing technologies, such as electronic stability control  
12 systems.

13 (c) DEADLINE.—Not later than 18 months after the  
14 date of enactment of this Act, the Secretary shall issue  
15 a final rule under subsection (a).

## 16 **Subtitle E—Child Safety Standards**

### 17 **SEC. 31501. CHILD SAFETY SEATS.**

18 (a) PROTECTION FOR LARGER CHILDREN.—Not  
19 later than 1 year after the date of enactment of this Act,  
20 the Secretary shall issue a final rule amending Federal  
21 Motor Vehicle Safety Standard Number 213 to establish  
22 frontal crash protection requirements for child restraint  
23 systems for children weighing more than 65 pounds.

24 (b) SIDE IMPACT CRASHES.—Not later than 2 years  
25 after the date of enactment of this Act, the Secretary shall



1 issue a final rule amending Federal Motor Vehicle Safety  
2 Standard Number 213 to improve the protection of chil-  
3 dren seated in child restraint systems during side impact  
4 crashes.

5 (c) **FRONTAL IMPACT TEST PARAMETERS.**—

6 (1) **COMMENCEMENT.**—Not later than 2 years  
7 after the date of enactment of this Act, the Sec-  
8 retary shall commence a rulemaking proceeding to  
9 amend test parameters under Federal Motor Vehicle  
10 Safety Standard Number 213 to better replicate real  
11 world conditions.

12 (2) **FINAL RULE.**—Not later than 4 years after  
13 the date of enactment of this Act, the Secretary  
14 shall issue a final rule pursuant to paragraph (1).

15 **SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

16 (a) **INITIATION OF RULEMAKING PROCEEDING.**—Not  
17 later than 1 year after the date of enactment of this Act,  
18 the Secretary shall initiate a rulemaking proceeding to—

19 (1) amend Federal Motor Vehicle Safety Stand-  
20 ard Number 225 (relating to child restraint anchor-  
21 age systems) to improve the visibility of, accessibility  
22 to, and ease of use for lower anchorages and tethers  
23 in all rear seat seating positions if such anchorages  
24 and tethers are feasible; and



1 (B) the Committee on Energy and Com-  
2 merce of the House of Representatives.

3 **SEC. 31503. REAR SEAT BELT REMINDERS.**

4 (a) INITIATION OF RULEMAKING PROCEEDING.—Not  
5 later than 2 years after the date of enactment of this Act,  
6 the Secretary shall initiate a rulemaking proceeding to  
7 amend Federal Motor Vehicle Safety Standard Number  
8 208 (relating to occupant crash protection) to provide a  
9 safety belt use warning system for designated seating posi-  
10 tions in the rear seat.

11 (b) FINAL RULE.—

12 (1) IN GENERAL.—Except as provided under  
13 paragraph (2), the Secretary shall issue a final rule  
14 under subsection (a) not later than 3 years after the  
15 date of enactment of this Act.

16 (2) REPORT.—If the Secretary determines that  
17 an amendment to the standard referred to in sub-  
18 section (a) does not meet the requirements and con-  
19 siderations set forth in subsections (a) and (b) of  
20 section 30111 of title 49, United States Code, the  
21 Secretary shall submit a report describing the rea-  
22 sons for not prescribing such a standard to—

23 (A) the Committee on Commerce, Science,  
24 and Transportation of the Senate; and

1 (B) the Committee on Energy and Com-  
2 merce of the House of Representatives.

3 **SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

4 (a) SAFETY RESEARCH INITIATIVE.—Not later than  
5 2 years after the date of enactment of this Act, the Sec-  
6 retary shall complete research into the development of per-  
7 formance requirements to warn drivers that a child or  
8 other unattended passenger remains in a rear seating posi-  
9 tion after the vehicle motor is disengaged.

10 (b) SPECIFICATIONS.—In carrying out subsection (a),  
11 the Secretary shall consider performance requirements  
12 that—

13 (1) sense weight, the presence of a buckled seat  
14 belt, or other indications of the presence of a child  
15 or other passenger; and

16 (2) provide an alert to prevent hyperthermia  
17 and hypothermia that can result in death or severe  
18 injuries.

19 (c) RULEMAKING OR REPORT.—

20 (1) RULEMAKING.—Not later than 1 year after  
21 the completion of each research and testing initiative  
22 required under subsection (a), the Secretary shall  
23 initiate a rulemaking proceeding to issue a Federal  
24 motor vehicle safety standard if the Secretary deter-  
25 mines that such a standard meets the requirements

1 and considerations set forth in subsections (a) and  
2 (b) of section 30111 of title 49, United States Code.

3 (2) REPORT.—If the Secretary determines that  
4 the standard described in subsection (a) does not  
5 meet the requirements and considerations set forth  
6 in subsections (a) and (b) of section 30111 of title  
7 49, United States Code, the Secretary shall submit  
8 a report describing the reasons for not prescribing  
9 such a standard to—

10 (A) the Committee on Commerce, Science,  
11 and Transportation of the Senate; and

12 (B) the Committee on Energy and Com-  
13 merce of the House of Representatives.

14 **SEC. 31505. NEW DEADLINE.**

15 If the Secretary determines that any deadline for  
16 issuing a final rule under this Act cannot be met, the Sec-  
17 retary shall—

18 (1) provide the Committee on Commerce,  
19 Science, and Transportation of the Senate and the  
20 Committee on Energy and Commerce of the House  
21 of Representatives with an explanation for why such  
22 deadline cannot be met; and

23 (2) establish a new deadline for that rule.

1 **Subtitle F—Improved Daytime and**  
2 **Nighttime Visibility of Agricul-**  
3 **tural Equipment**

4 **SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICUL-**  
5 **TURAL EQUIPMENT.**

6 (a) DEFINITIONS.—In this section:

7 (1) AGRICULTURAL EQUIPMENT.—The term  
8 “agricultural equipment” has the meaning given the  
9 term “agricultural field equipment” in ASABE  
10 Standard 390.4, entitled “Definitions and Classifica-  
11 tions of Agricultural Field Equipment”, which was  
12 published in January 2005 by the American Society  
13 of Agriculture and Biological Engineers, or any suc-  
14 cessor standard.

15 (2) PUBLIC ROAD.—The term “public road”  
16 has the meaning given the term in section  
17 101(a)(27) of title 23, United States Code.

18 (b) RULEMAKING.—

19 (1) IN GENERAL.—Not later than 2 years after  
20 the date of enactment of this Act, the Secretary of  
21 Transportation, after consultation with representa-  
22 tives of the American Society of Agricultural and Bi-  
23 ological Engineers and appropriate Federal agencies,  
24 and with other appropriate persons, shall promul-  
25 gate a rule to improve the daytime and nighttime

1 visibility of agricultural equipment that may be oper-  
2 ated on a public road.

3 (2) MINIMUM STANDARDS.—The rule promul-  
4 gated pursuant to this subsection shall—

5 (A) establish minimum lighting and mark-  
6 ing standards for applicable agricultural equip-  
7 ment manufactured at least 1 year after the  
8 date on which such rule is promulgated; and

9 (B) provide for the methods, materials,  
10 specifications, and equipment to be employed to  
11 comply with such standards, which shall be  
12 equivalent to ASABE Standard 279.14, entitled  
13 “Lighting and Marking of Agricultural Equip-  
14 ment on Highways”, which was published in  
15 July 2008 by the American Society of Agricul-  
16 tural and Biological Engineers, or any successor  
17 standard.

18 (c) REVIEW.—Not less frequently than once every 5  
19 years, the Secretary of Transportation shall—

20 (1) review the standards established pursuant  
21 to subsection (b); and

22 (2) revise such standards to reflect the revision  
23 of ASABE Standard 279 that is in effect at the  
24 time of such review.

25 (d) LIMITATIONS.—

1           (1) COMPLIANCE WITH SUCCESSOR STAND-  
2           ARDS.—Any rule promulgated pursuant to this sec-  
3           tion may not prohibit the operation on public roads  
4           of agricultural equipment that is equipped in accord-  
5           ance with any adopted revision of ASABE Standard  
6           279 that is later than the revision of such standard  
7           that was referenced during the promulgation of the  
8           rule.

9           (2) NO RETROFITTING REQUIRED.—Any rule  
10          promulgated pursuant to this section may not re-  
11          quire the retrofitting of agricultural equipment that  
12          was manufactured before the date on which the  
13          lighting and marking standards are enforceable  
14          under subsection (b)(2)(A).

15          (3) NO EFFECT ON ADDITIONAL MATERIALS  
16          AND EQUIPMENT.—Any rule promulgated pursuant  
17          to this section may not prohibit the operation on  
18          public roads of agricultural equipment that is  
19          equipped with materials or equipment that are in  
20          addition to the minimum materials and equipment  
21          specified in the standard upon which such rule is  
22          based.



1 **TITLE II—COMMERCIAL MOTOR**  
2 **VEHICLE SAFETY ENHANCE-**  
3 **MENT ACT OF 2012**

4 **SEC. 32001. SHORT TITLE.**

5 This title may be cited as the “Commercial Motor Ve-  
6 hicle Safety Enhancement Act of 2012”.

7 **SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES**  
8 **CODE.**

9 Except as otherwise expressly provided, whenever in  
10 this title an amendment or repeal is expressed in terms  
11 of an amendment to, or a repeal of, a section or other  
12 provision, the reference shall be considered to be made to  
13 a section or other provision of title 49, United States  
14 Code.

15 **Subtitle A—Commercial Motor**  
16 **Vehicle Registration**

17 **SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

18 (a) REGISTRATION REQUIREMENTS.—Section  
19 13902(a)(1) is amended to read as follows:

20 “(1) IN GENERAL.—Except as otherwise pro-  
21 vided in this section, the Secretary of Transportation  
22 may not register a person to provide transportation  
23 subject to jurisdiction under subchapter I of chapter  
24 135 as a motor carrier unless the Secretary deter-  
25 mines that the person—

1 “(A) is willing and able to comply with—

2 “(i) this part and the applicable regu-  
3 lations of the Secretary and the Board;

4 “(ii) any safety regulations imposed  
5 by the Secretary;

6 “(iii) the duties of employers and em-  
7 ployees established by the Secretary under  
8 section 31135;

9 “(iv) the safety fitness requirements  
10 established by the Secretary under section  
11 31144;

12 “(v) the accessibility requirements es-  
13 tablished by the Secretary under subpart  
14 H of part 37 of title 49, Code of Federal  
15 Regulations (or successor regulations), for  
16 transportation provided by an over-the-  
17 road bus; and

18 “(vi) the minimum financial responsi-  
19 bility requirements established by the Sec-  
20 retary under sections 13906, 31138, and  
21 31139;

22 “(B) has submitted a comprehensive man-  
23 agement plan documenting that the person has  
24 management systems in place to ensure compli-

1           ance with safety regulations imposed by the  
2           Secretary;

3           “(C) has disclosed any relationship involv-  
4           ing common ownership, common management,  
5           common control, or common familial relation-  
6           ship between that person and any other motor  
7           carrier, freight forwarder, or broker, or any  
8           other applicant for motor carrier, freight for-  
9           warder, or broker registration, or a successor  
10          (as that term is defined under section 31153),  
11          if the relationship occurred in the 5-year period  
12          preceding the date of the filing of the applica-  
13          tion for registration; and

14          “(D) after the Secretary establishes a writ-  
15          ten proficiency examination pursuant to section  
16          32101(b) of the Commercial Motor Vehicle  
17          Safety Enhancement Act of 2012, has passed  
18          the written proficiency examination.”.

19          (b) WRITTEN PROFICIENCY EXAMINATION.—

20                 (1) ESTABLISHMENT.—Not later than 18  
21                 months after the date of enactment of this Act, the  
22                 Secretary shall establish a written proficiency exam-  
23                 ination for applicant motor carriers pursuant to sec-  
24                 tion 13902(a)(1)(D) of title 49, United States Code.  
25                 The written proficiency examination shall test a per-

1 son's knowledge of applicable safety regulations,  
2 standards, and orders of the Federal government  
3 and State government.

4 (2) ADDITIONAL FEE.—The Secretary may as-  
5 sess a fee to cover the expenses incurred by the De-  
6 partment of Transportation in—

7 (A) developing and administering the writ-  
8 ten proficiency examination; and

9 (B) reviewing the comprehensive manage-  
10 ment plan required under section  
11 13902(a)(1)(B) of title 49, United States Code.

12 (c) CONFORMING AMENDMENT.—Section 210(b) of  
13 the Motor Carrier Safety Improvement Act of 1999 (49  
14 U.S.C. 31144 note) is amended—

15 (1) by inserting “, commercial regulations, and  
16 provisions of subpart H of part 37 of title 49, Code  
17 of Federal Regulations, or successor regulations”  
18 after “applicable safety regulations”; and

19 (2) by striking “consider the establishment of”  
20 and inserting “establish”.

21 **SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

22 (a) SAFETY REVIEWS OF NEW OPERATORS.—Section  
23 31144(g)(1) is amended to read as follows:

24 “(1) SAFETY REVIEW.—

1           “(A) IN GENERAL.—The Secretary shall  
2           require, by regulation, each owner and each op-  
3           erator granted new registration under section  
4           13902 or 31134 to undergo a safety review not  
5           later than 12 months after the owner or oper-  
6           ator, as the case may be, begins operations  
7           under such registration.

8           “(B) PROVIDERS OF MOTORCOACH SERV-  
9           ICES.—The Secretary may register a person to  
10          provide motorcoach services under section  
11          13902 or 31134 after the person undergoes a  
12          pre-authorization safety audit, including  
13          verification, in a manner sufficient to dem-  
14          onstrate the ability to comply with Federal  
15          rules and regulations, as described in section  
16          13902. The Secretary shall continue to monitor  
17          the safety performance of each owner and each  
18          operator subject to this section for 12 months  
19          after the owner or operator is granted registra-  
20          tion under section 13902 or 31134. The reg-  
21          istration of each owner and each operator sub-  
22          ject to this section shall become permanent  
23          after the motorcoach service provider is granted  
24          registration following a pre-authorization safety

1           audit and the expiration of the 12 month moni-  
2           toring period.

3           “(C)     PRE-AUTHORIZATION     SAFETY  
4           AUDIT.—The Secretary may require, by regula-  
5           tion, that the pre-authorization safety audit  
6           under subparagraph (B) be completed on-site  
7           not later than 90 days after the submission of  
8           an application for operating authority.”.

9           (b) EFFECTIVE DATE.—The amendments made by  
10          subsection (a) shall take effect 1 year after the date of  
11          enactment of this Act.

12   **SEC. 32103. REINCARNATED CARRIERS.**

13          (a) EFFECTIVE PERIODS OF REGISTRATION.—

14               (1) SUSPENSIONS, AMENDMENTS, AND REVOCA-  
15          TIONS.—Section 13905(d) is amended—

16                   (A) by redesignating paragraph (2) as  
17                   paragraph (4);

18                   (B) by striking paragraph (1) and insert-  
19                   ing the following:

20                   “(1) APPLICATIONS.—On application of the  
21                   registrant, the Secretary may amend or revoke a  
22                   registration.

23                   “(2) COMPLAINTS AND ACTIONS ON SEC-  
24                   RETARY’S OWN INITIATIVE.—On complaint or on the

1 Secretary's own initiative and after notice and an  
2 opportunity for a proceeding, the Secretary may—

3 “(A) suspend, amend, or revoke any part  
4 of the registration of a motor carrier, broker, or  
5 freight forwarder for willful failure to comply  
6 with—

7 “(i) this part;

8 “(ii) an applicable regulation or order  
9 of the Secretary or the Board, including  
10 the accessibility requirements established  
11 by the Secretary under subpart H of part  
12 37 of title 49, Code of Federal Regulations  
13 (or successor regulations), for transpor-  
14 tation provided by an over-the-road bus; or

15 “(iii) a condition of its registration;

16 “(B) withhold, suspend, amend, or revoke  
17 any part of the registration of a motor carrier,  
18 broker, or freight forwarder for failure—

19 “(i) to pay a civil penalty imposed  
20 under chapter 5, 51, 149, or 311;

21 “(ii) to arrange and abide by an ac-  
22 ceptable payment plan for such civil pen-  
23 alty, not later than 90 days after the date  
24 specified by order of the Secretary for the  
25 payment of such penalty; or

1                   “(iii) for failure to obey a subpoena  
2                   issued by the Secretary;

3                   “(C) withhold, suspend, amend, or revoke  
4                   any part of a registration of a motor carrier,  
5                   broker, or freight forwarder following a deter-  
6                   mination by the Secretary that the motor car-  
7                   rier, broker, or freight forwarder failed to dis-  
8                   close, in its application for registration, a mate-  
9                   rial fact relevant to its willingness and ability to  
10                  comply with—

11                  “(i) this part;

12                  “(ii) an applicable regulation or order  
13                  of the Secretary or the Board; or

14                  “(iii) a condition of its registration; or

15                  “(D) withhold, suspend, amend, or revoke  
16                  any part of a registration of a motor carrier,  
17                  broker, or freight forwarder if the Secretary  
18                  finds that—

19                  “(i) the motor carrier, broker, or  
20                  freight forwarder is or was related through  
21                  common ownership, common management,  
22                  common control, or common familial rela-  
23                  tionship to any other motor carrier, broker,  
24                  or freight forwarder, or any other appli-  
25                  cant for motor carrier, broker, or freight



1 forwarder registration that the Secretary  
2 determines is or was unwilling or unable to  
3 comply with the relevant requirements list-  
4 ed in section 13902, 13903, or 13904; or

5 “(ii) the person is the successor, as  
6 defined in section 31153, to a person who  
7 is or was unwilling or unable to comply  
8 with the relevant requirements of section  
9 13902, 13903, or 13904.

10 “(3) LIMITATION.—Paragraph (2)(B) shall not  
11 apply to a person who is unable to pay a civil pen-  
12 alty because the person is a debtor in a case under  
13 chapter 11 of title 11.”; and

14 (C) in paragraph (4), as redesignated by  
15 section 32103(a)(1)(A) of this Act, by striking  
16 “paragraph (1)(B)” and inserting “paragraph  
17 (2)(B)”.

18 (2) PROCEDURE.—Section 13905(e) is amended  
19 by inserting “or if the Secretary determines that the  
20 registrant failed to disclose a material fact in an ap-  
21 plication for registration in accordance with sub-  
22 section (d)(2)(C),” after “registrant,”.

23 (b) INFORMATION SYSTEMS.—Section 31106(a)(3) is  
24 amended—

1 (1) in subparagraph (F), by striking “and” at  
2 the end;

3 (2) in subparagraph (G), by striking the period  
4 at the end and inserting “; and”; and

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

6 “(H) determine whether a person or em-  
7 ployer is or was related, through common own-  
8 ership, common management, common control,  
9 or common familial relationship, to any other  
10 person, employer, or any other applicant for  
11 registration under section 13902 or 31134.”.

12 **SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

13 (a) REPORT.—Not later than 6 months after the date  
14 of enactment of this Act, the Secretary shall—

15 (1) issue a report on the appropriateness of—

16 (A) the current minimum financial respon-  
17 sibility requirements under sections 31138 and  
18 31139 of title 49, United States Code; and

19 (B) the current bond and insurance re-  
20 quirements under section 13904(f) of title 49,  
21 United States Code; and

22 (2) submit the report issued under paragraph  
23 (1) to the Committee on Commerce, Science, and  
24 Transportation of the Senate and the Committee on

1       Transportation and Infrastructure of the House of  
2       Representatives.

3       (b) RULEMAKING.—Not later than 6 months after  
4 the publication of the report under subsection (a), the Sec-  
5 retary shall initiate a rulemaking—

6           (1) to revise the minimum financial responsi-  
7       bility requirements under sections 31138 and 31139  
8       of title 49, United States Code and

9           (2) to revise the bond and insurance require-  
10       ments under section 13904(f) of such title, as appro-  
11       priate, based on the findings of the report submitted  
12       under subsection (a).

13       (c) DEADLINE.—Not later than 1 year after the start  
14 of the rulemaking under subsection (b), the Secretary  
15 shall—

16           (1) issue a final rule; or

17           (2) if the Secretary determines that a rule-  
18       making is not required following the Secretary's  
19       analysis, submit a report stating the reason for not  
20       increasing the minimum financial responsibility re-  
21       quirements to the Committee on Commerce, Science,  
22       and Transportation of the Senate and the Com-  
23       mittee on Transportation and Infrastructure of the  
24       House of Representatives.

1 (d) BIENNIAL REVIEWS.—Not less than once every  
2 2 years, the Secretary shall review the requirements pre-  
3 scribed under subsection (b) and revise the requirements,  
4 as appropriate.

5 **SEC. 32105. USDOT NUMBER REGISTRATION REQUIRE-**  
6 **MENT.**

7 (a) IN GENERAL.—Chapter 311 is amended by in-  
8 serting after section 31133 the following:

9 **“§ 31134. Requirement for registration and USDOT**  
10 **number**

11 “(a) IN GENERAL.—Upon application, and subject to  
12 subsections (b) and (c), the Secretary shall register an em-  
13 ployer or person subject to the safety jurisdiction of this  
14 subchapter. An employer or person may operate a com-  
15 mercial motor vehicle in interstate commerce only if the  
16 employer or person is registered by the Secretary under  
17 this section and receives a USDOT number. Nothing in  
18 this section shall preclude registration by the Secretary  
19 of an employer or person not engaged in interstate com-  
20 merce. An employer or person subject to jurisdiction under  
21 subchapter I of chapter 135 of this title shall apply for  
22 commercial registration under section 13902 of this title.

23 “(b) WITHHOLDING REGISTRATION.—The Secretary  
24 may withhold registration under subsection (a), after no-

1 tice and an opportunity for a proceeding, if the Secretary  
2 determines that—

3           “(1) the employer or person seeking registra-  
4 tion is unwilling or unable to comply with the re-  
5 quirements of this subchapter and the regulations  
6 prescribed thereunder and chapter 51 and the regu-  
7 lations prescribed thereunder;

8           “(2) the employer or person is or was related  
9 through common ownership, common management,  
10 common control, or common familial relationship to  
11 any other person or applicant for registration sub-  
12 ject to this subchapter who is or was unfit, unwill-  
13 ing, or unable to comply with the requirements listed  
14 in subsection (b)(1); or

15           “(3) the person is the successor, as defined in  
16 section 31153, to a person who is or was unfit, un-  
17 willing, or unable to comply with the requirements  
18 listed in subsection (b)(1).

19           “(c) REVOCATION OR SUSPENSION OF REGISTRA-  
20 TION.—The Secretary shall revoke the registration of an  
21 employer or person under subsection (a) after notice and  
22 an opportunity for a proceeding, or suspend the registra-  
23 tion after giving notice of the suspension to the employer  
24 or person, if the Secretary determines that—

1           “(1) the employer’s or person’s authority to op-  
2           erate pursuant to chapter 139 of this title would be  
3           subject to revocation or suspension under sections  
4           13905(d)(1) or 13905(f) of this title;

5           “(2) the employer or person is or was related  
6           through common ownership, common management,  
7           common control, or common familial relationship to  
8           any other person or applicant for registration sub-  
9           ject to this subchapter that the Secretary determines  
10          is or was unfit, unwilling, or unable to comply with  
11          the requirements listed in subsection (b)(1);

12          “(3) the person is the successor, as defined in  
13          section 31153, to a person the Secretary determines  
14          is or was unfit, unwilling, or unable to comply with  
15          the requirements listed in subsection (b)(1); or

16          “(4) the employer or person failed or refused to  
17          submit to the safety review required by section  
18          31144(g) of this title.

19          “(d) PERIODIC REGISTRATION UPDATE.—The Sec-  
20          retary may require an employer to update a registration  
21          under this section periodically or not later than 30 days  
22          after a change in the employer’s address, other contact  
23          information, officers, process agent, or other essential in-  
24          formation, as determined by the Secretary.”.

1 (b) CONFORMING AMENDMENT.—The analysis of  
2 chapter 311 is amended by inserting after the item relat-  
3 ing to section 31133 the following:

“31134. Requirement for registration and USDOT number.”.

4 **SEC. 32106. REGISTRATION FEE SYSTEM.**

5 Section 13908(d)(1) is amended by striking “but  
6 shall not exceed \$300”.

7 **SEC. 32107. REGISTRATION UPDATE.**

8 (a) PERIODIC MOTOR CARRIER UPDATE.—Section  
9 13902 is amended by adding at the end the following:

10 “(h) UPDATE OF REGISTRATION.—The Secretary  
11 may require a registrant to update its registration under  
12 this section periodically or not later than 30 days after  
13 a change in the registrant’s address, other contact infor-  
14 mation, officers, process agent, or other essential informa-  
15 tion, as determined by the Secretary.”.

16 (b) PERIODIC FREIGHT FORWARDER UPDATE.—Sec-  
17 tion 13903 is amended by adding at the end the following:

18 “(c) UPDATE OF REGISTRATION.—The Secretary  
19 may require a freight forwarder to update its registration  
20 under this section periodically or not later than 30 days  
21 after a change in the freight forwarder’s address, other  
22 contact information, officers, process agent, or other es-  
23 sential information, as determined by the Secretary.”.

24 (c) PERIODIC BROKER UPDATE.—Section 13904 is  
25 amended by adding at the end the following:

1       “(e) UPDATE OF REGISTRATION.—The Secretary  
2 may require a broker to update its registration under this  
3 section periodically or not later than 30 days after a  
4 change in the broker’s address, other contact information,  
5 officers, process agent, or other essential information, as  
6 determined by the Secretary.”.

7 **SEC. 32108. INCREASED PENALTIES FOR OPERATING WITH-**  
8 **OUT REGISTRATION.**

9       (a) PENALTIES.—Section 14901(a) is amended—

10           (1) by striking “\$500” and inserting “\$1,000”;

11           (2) by striking “who is not registered under  
12 this part to provide transportation of passengers,”;

13           (3) by striking “with respect to providing trans-  
14 portation of passengers,” and inserting “or section  
15 13902(c) of this title,”; and

16           (4) by striking “\$2,000 for each violation and  
17 each additional day the violation continues” and in-  
18 serting “\$10,000 for each violation, or \$25,000 for  
19 each violation relating to providing transportation of  
20 passengers”.

21       (b) TRANSPORTATION OF HAZARDOUS WASTES.—  
22 Section 14901(b) is amended by striking “not to exceed  
23 \$20,000” and inserting “not less than \$25,000”.



1 **SEC. 32109. REVOCATION OF REGISTRATION FOR IMMI-**  
2 **NENT HAZARD.**

3 Section 13905(f)(2) is amended to read as follows:

4 “(2) IMMINENT HAZARD TO PUBLIC HEALTH.—  
5 Notwithstanding subchapter II of chapter 5 of title  
6 5, the Secretary shall revoke the registration of a  
7 motor carrier if the Secretary finds that the carrier  
8 is or was conducting unsafe operations that are or  
9 were an imminent hazard to public health or prop-  
10 erty.”.

11 **SEC. 32110. REVOCATION OF REGISTRATION AND OTHER**  
12 **PENALTIES FOR FAILURE TO RESPOND TO**  
13 **SUBPOENA.**

14 Section 525 is amended—

15 (1) by striking “subpenas” in the section head-  
16 ing and inserting “subpoenas”;

17 (2) by striking “subpena” and inserting “sub-  
18 poena”;

19 (3) by striking “\$100” and inserting “\$1,000”;

20 (4) by striking “\$5,000” and inserting  
21 “\$10,000”; and

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

23 “The Secretary may withhold, suspend, amend, or re-  
24 voke any part of the registration of a person required to  
25 register under chapter 139 for failing to obey a subpoena

1 or requirement of the Secretary under this chapter to ap-  
2 pear and testify or produce records.”.

3 **SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OP-**  
4 **ERATING WITHOUT REQUIRED REGISTRA-**  
5 **TION.**

6 Section 13902(e)(1) is amended—

7 (1) by striking “motor vehicle” and inserting  
8 “motor carrier” after “the Secretary determines that  
9 a”; and

10 (2) by striking “order the vehicle” and inserting  
11 “order the motor carrier operations” after “the Sec-  
12 retary may”.

13 **SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF**  
14 **SAFETY VIOLATIONS.**

15 Section 31135 is amended—

16 (1) by striking subsection (b) and inserting the  
17 following:

18 “(b) NONCOMPLIANCE.—

19 “(1) MOTOR CARRIERS.—Two or more motor  
20 carriers, employers, or persons shall not use common  
21 ownership, common management, common control,  
22 or common familial relationship to enable any or all  
23 such motor carriers, employers, or persons to avoid  
24 compliance, or mask or otherwise conceal non-com-  
25 pliance, or a history of non-compliance, with regula-

1 tions prescribed under this subchapter or an order  
2 of the Secretary issued under this subchapter.

3 “(2) PATTERN.—If the Secretary finds that a  
4 motor carrier, employer, or person engaged in a pat-  
5 tern or practice of avoiding compliance, or masking  
6 or otherwise concealing noncompliance, with regula-  
7 tions prescribed under this subchapter, the Sec-  
8 retary—

9 “(A) may withhold, suspend, amend, or re-  
10 voke any part of the motor carrier’s, employ-  
11 er’s, or person’s registration in accordance with  
12 section 13905 or 31134; and

13 “(B) shall take into account such non-com-  
14 pliance for purposes of determining civil penalty  
15 amounts under section 521(b)(2)(D).

16 “(3) OFFICERS.—If the Secretary finds, after  
17 notice and an opportunity for proceeding, that an of-  
18 ficer of a motor carrier, employer, or owner or oper-  
19 ator engaged in a pattern or practice of violating  
20 regulations prescribed under this subchapter, or as-  
21 sisted a motor carrier, employer, or owner or oper-  
22 ator in avoiding compliance, or masking or otherwise  
23 concealing noncompliance, the Secretary may impose  
24 appropriate sanctions, subject to the limitations in  
25 paragraph (4), including—

1           “(A) suspension or revocation of registra-  
2           tion granted to the officer individually under  
3           section 13902 or 31134;

4           “(B) temporary or permanent suspension  
5           or bar from association with any motor carrier,  
6           employer, or owner or operator registered under  
7           section 13902 or 31134; or

8           “(C) any appropriate sanction approved by  
9           the Secretary.

10          “(4) LIMITATIONS.—The sanctions described in  
11          subparagraphs (A) through (C) of subsection (b)(3)  
12          shall apply to—

13               “(A) intentional or knowing conduct, in-  
14               cluding reckless conduct that violates applicable  
15               laws (including regulations); and

16               “(B) repeated instances of negligent con-  
17               duct that violates applicable laws (including  
18               regulations).”; and

19          (2) by striking subsection (c) and inserting the  
20          following:

21          “(c) AVOIDING COMPLIANCE.—For purposes of this  
22          section, ‘avoiding compliance’ or ‘masking or otherwise  
23          concealing noncompliance’ includes serving as an officer  
24          or otherwise exercising controlling influence over 2 or  
25          more motor carriers where—

1           “(1) one of the carriers was placed out of serv-  
2           ice, or received notice from the Secretary that it will  
3           be placed out of service, following—

4                   “(A) a determination of unfitness under  
5                   section 31144(b);

6                   “(B) a suspension or revocation of reg-  
7                   istration under section 13902, 13905, or  
8                   31144(g);

9                   “(C) issuance of an imminent hazard out  
10                  of service order under section 521(b)(5) or sec-  
11                  tion 5121(d); or

12                  “(D) notice of failure to pay a civil penalty  
13                  or abide by a penalty payment plan; and

14                  “(2) one or more of the carriers is the ‘suc-  
15                  cessor,’ as that term is defined in section 31153, to  
16                  the carrier that is the subject of the action in para-  
17                  graph (1).”.

18 **SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

19           (a) IN GENERAL.—Chapter 311 is amended by add-  
20           ing after section 31152, as added by section 32508 of this  
21           Act, the following:

22 **“§ 31153. Federal successor standard**

23           “(a) FEDERAL SUCCESSOR STANDARD.—Notwith-  
24           standing any other provision of Federal or State law, the  
25           Secretary may take an action authorized under chapters

1 5, 51, 131 through 149, subchapter III of chapter 311  
2 (except sections 31138 and 31139), or sections 31302,  
3 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of  
4 this title, or a regulation issued under any of those provi-  
5 sions, against a successor of a motor carrier (as defined  
6 in section 13102), a successor of an employer (as defined  
7 in section 31132), or a successor of an owner or operator  
8 (as that term is used in subchapter III of chapter 311),  
9 to the same extent and on the same basis as the Secretary  
10 may take the action against the motor carrier, employer,  
11 or owner or operator.

12 “(b) SUCCESSOR DEFINED.—For purposes of this  
13 section, the term ‘successor’ means a motor carrier, em-  
14 ployer, or owner or operator that the Secretary deter-  
15 mines, after notice and an opportunity for a proceeding,  
16 has 1 or more features that correspond closely with the  
17 features of another existing or former motor carrier, em-  
18 ployer, or owner or operator, such as—

19 “(1) consideration paid for assets purchased or  
20 transferred;

21 “(2) dates of corporate creation and dissolution  
22 or termination of operations;

23 “(3) commonality of ownership;

24 “(4) commonality of officers and management  
25 personnel and their functions;

1           “(5) commonality of drivers and other employ-  
2           ees;

3           “(6) identity of physical or mailing addresses,  
4           telephone, fax numbers, or e-mail addresses;

5           “(7) identity of motor vehicle equipment;

6           “(8) continuity of liability insurance policies;

7           “(9) commonality of coverage under liability in-  
8           surance policies;

9           “(10) continuation of carrier facilities and other  
10          physical assets;

11          “(11) continuity of the nature and scope of op-  
12          erations, including customers;

13          “(12) commonality of the nature and scope of  
14          operations, including customers;

15          “(13) advertising, corporate name, or other acts  
16          through which the motor carrier, employer, or owner  
17          or operator holds itself out to the public;

18          “(14) history of safety violations and pending  
19          orders or enforcement actions of the Secretary; and

20          “(15) additional factors that the Secretary con-  
21          siders appropriate.

22          “(c) EFFECTIVE DATE.—Notwithstanding any other  
23          provision of law, this section shall apply to any action com-  
24          menced on or after the date of enactment of the Commer-  
25          cial Motor Vehicle Safety Enhancement Act of 2012 with-

1 out regard to whether the violation that is the subject of  
2 the action, or the conduct that caused the violation, oc-  
3 curred before the date of enactment.

4 “(d) RIGHTS NOT AFFECTED.—Nothing in this sec-  
5 tion shall affect the rights, functions, or responsibilities  
6 under law of any other Department, Agency, or instru-  
7 mentality of the United States, the laws of any State, or  
8 any rights between a private party and a motor carrier,  
9 employer, or owner or operator.”.

10 (b) CONFORMING AMENDMENT.—The analysis of  
11 chapter 311 is amended by inserting after the item related  
12 to section 31152, as added by section 32508 of this Act,  
13 the following:

“31153. Federal successor standard.”.

## 14 **Subtitle B—Commercial Motor** 15 **Vehicle Safety**

### 16 **SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EX-** 17 **CEPTION FOR BROKERS OF MOTOR CAR-** 18 **RIERS OF PASSENGERS.**

19 (a) IN GENERAL.—Section 13506(a) is amended—

20 (1) by inserting “or” at the end of paragraph  
21 (13);

22 (2) by striking paragraph (14); and

23 (3) by redesignating paragraph (15) as para-  
24 graph (14).



1 (b) CONFORMING AMENDMENT.—Section 13904(a)  
2 is amended by striking “of property” in the first sentence.

3 **SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.**

4 Paragraph (3) of section 31132 is amended to read  
5 as follows:

6 “(3) ‘employer’—

7 “(A) means a person engaged in a business  
8 affecting interstate commerce that—

9 “(i) owns or leases a commercial  
10 motor vehicle in connection with that busi-  
11 ness, or assigns an employee to operate the  
12 commercial motor vehicle; or

13 “(ii) offers for rent or lease a motor  
14 vehicle designed or used to transport more  
15 than 8 passengers, including the driver,  
16 and from the same location or as part of  
17 the same business provides names or con-  
18 tact information of drivers, or holds itself  
19 out to the public as a charter bus com-  
20 pany; but

21 “(B) does not include the Government, a  
22 State, or a political subdivision of a State.”.

23 **SEC. 32203. CRASHWORTHINESS STANDARDS.**

24 (a) IN GENERAL.—Not later than 18 months after  
25 the date of enactment of this Act, the Secretary shall con-

1 duct a comprehensive analysis on the need for crash-  
2 worthiness standards on property-carrying commercial  
3 motor vehicles with a gross vehicle weight rating or gross  
4 vehicle weight of at least 26,001 pounds involved in inter-  
5 state commerce, including an evaluation of the need for  
6 roof strength, pillar strength, air bags, and frontal and  
7 back wall standards.

8 (b) REPORT.—Not later than 90 days after com-  
9 pleting the comprehensive analysis under subsection (a),  
10 the Secretary shall report the results of the analysis and  
11 any recommendations to the Committee on Commerce,  
12 Science, and Transportation of the Senate and the Com-  
13 mittee on Transportation and Infrastructure of the House  
14 of Representatives.

15 **SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

16 Section 31144 is amended by adding at the end the  
17 following:

18 “(h) RECOGNITION OF CANADIAN MOTOR CARRIER  
19 SAFETY FITNESS DETERMINATIONS.—

20 “(1) If an authorized agency of the Canadian  
21 federal government or a Canadian Territorial or  
22 Provincial government determines, by applying the  
23 procedure and standards prescribed by the Secretary  
24 under subsection (b) or pursuant to an agreement  
25 under paragraph (2), that a Canadian employer is

1       unfit and prohibits the employer from operating a  
2       commercial motor vehicle in Canada or any Cana-  
3       dian Province, the Secretary may prohibit the em-  
4       ployer from operating such vehicle in interstate and  
5       foreign commerce until the authorized Canadian  
6       agency determines that the employer is fit.

7               “(2) The Secretary may consult and participate  
8       in negotiations with authorized officials of the Cana-  
9       dian federal government or a Canadian Territorial  
10      or Provincial government, as necessary, to provide  
11      reciprocal recognition of each country’s motor car-  
12      rier safety fitness determinations. An agreement  
13      shall provide, to the maximum extent practicable,  
14      that each country will follow the procedure and  
15      standards prescribed by the Secretary under sub-  
16      section (b) in making motor carrier safety fitness de-  
17      terminations.”.

18   **SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL**

19                   **DRIVER CONVICTIONS.**

20       (a) DEFINITION OF FOREIGN COMMERCIAL DRIV-  
21   ER.—Section 31301 is amended—

22               (1) by redesignating paragraphs (10) through  
23       (14) as paragraphs (11) through (15), respectively;  
24       and

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

3           “(10) ‘foreign commercial driver’ means an in-  
4           dividual licensed to operate a commercial motor ve-  
5           hicle by an authority outside the United States, or  
6           a citizen of a foreign country who operates a com-  
7           mercial motor vehicle in the United States.”.

8           (b) STATE REPORTING OF CONVICTIONS.—Section  
9           31311(a) is amended by adding after paragraph (21) the  
10          following:

11          “(22) The State shall report a conviction of a  
12          foreign commercial driver by that State to the Fed-  
13          eral Convictions and Withdrawal Database, or an-  
14          other information system designated by the Sec-  
15          retary to record the convictions. A report shall in-  
16          clude—

17                 “(A) for a driver holding a foreign com-  
18                 mercial driver’s license—

19                         “(i) each conviction relating to the op-  
20                         eration of a commercial motor vehicle; and

21                         “(ii) a non-commercial motor vehicle;

22                         and

23                         “(B) for an unlicensed driver or a driver  
24                         holding a foreign non-commercial driver’s li-

1           cense, each conviction for operating a commer-  
2           cial motor vehicle.”.

3 **SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMER-**  
4           **CIAL DRIVERS.**

5           Section 31310 is amended by adding at the end the  
6 following:

7           “(k) FOREIGN COMMERCIAL DRIVERS.—A foreign  
8 commercial driver shall be subject to disqualification  
9 under this section.”.

10 **SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OP-**  
11           **ERATING AUTHORITY FOR FAILURE TO PAY**  
12           **CIVIL PENALTIES.**

13           Section 13905(d)(2), as amended by section  
14 32103(a) of this Act, is amended by inserting “foreign  
15 motor carrier, foreign motor private carrier,” after “reg-  
16 istration of a motor carrier,” each place it appears.

17           **Subtitle C—Driver Safety**

18 **SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.**

19           (a) GENERAL AUTHORITY.—Section 31137 is amend-  
20 ed—

21           (1) by amending the section heading to read as  
22 follows:

1 **“§ 31137. Electronic on-board recording devices and**  
2 **brake maintenance regulations”;**

3 (2) by redesignating subsection (b) as sub-  
4 section (e); and

5 (3) by amending (a) to read as follows:

6 “(a) ELECTRONIC ON-BOARD RECORDING DE-  
7 VICES.—Not later than 1 year after the date of enactment  
8 of the Commercial Motor Vehicle Safety Enhancement Act  
9 of 2012, the Secretary of Transportation shall prescribe  
10 regulations—

11 “(1) requiring a commercial motor vehicle in-  
12 volved in interstate commerce and operated by a  
13 driver subject to the hours of service and the record  
14 of duty status requirements under part 395 of title  
15 49, Code of Federal Regulations, be equipped with  
16 an electronic on-board recording device to improve  
17 compliance by an operator of a vehicle with hours of  
18 service regulations prescribed by the Secretary; and

19 “(2) ensuring that an electronic on-board re-  
20 cording device is not used to harass a vehicle oper-  
21 ator.

22 “(b) ELECTRONIC ON-BOARD RECORDING DEVICE  
23 REQUIREMENTS.—

24 “(1) IN GENERAL.—The regulations prescribed  
25 under subsection (a) shall—

1           “(A) require an electronic on-board record-  
2           ing device—

3                   “(i) to accurately record commercial  
4                   driver hours of service;

5                   “(ii) to record the location of a com-  
6                   mercial motor vehicle;

7                   “(iii) to be tamper resistant; and

8                   “(iv) to be integrally synchronized  
9                   with an engine’s control module;

10           “(B) allow law enforcement to access the  
11           data contained in the device during a roadside  
12           inspection; and

13           “(C) apply to a commercial motor vehicle  
14           beginning on the date that is 2 years after the  
15           date that the regulations are published as a  
16           final rule.

17           “(2) PERFORMANCE AND DESIGN STAND-  
18           ARDS.—The regulations prescribed under subsection  
19           (a) shall establish performance standards—

20                   “(A) defining a standardized user interface  
21                   to aid vehicle operator compliance and law en-  
22                   forcement review;

23                   “(B) establishing a secure process for  
24                   standardized—

1                   “(i) and unique vehicle operator iden-  
2                   tification;

3                   “(ii) data access;

4                   “(iii) data transfer for vehicle opera-  
5                   tors between motor vehicles;

6                   “(iv) data storage for a motor carrier;

7                   and

8                   “(v) data transfer and transportability  
9                   for law enforcement officials;

10                  “(C) establishing a standard security level  
11                  for an electronic on-board recording device and  
12                  related components to be tamper resistant by  
13                  using a methodology endorsed by a nationally  
14                  recognized standards organization; and

15                  “(D) identifying each driver subject to the  
16                  hours of service and record of duty status re-  
17                  quirements under part 395 of title 49, Code of  
18                  Federal Regulations.

19                  “(c) CERTIFICATION CRITERIA.—

20                  “(1) IN GENERAL.—The regulations prescribed  
21                  by the Secretary under this section shall establish  
22                  the criteria and a process for the certification of an  
23                  electronic on-board recording device to ensure that  
24                  the device meets the performance requirements  
25                  under this section.



1           “(2) EFFECT OF NONCERTIFICATION.—An elec-  
2           tronic on-board recording device that is not certified  
3           in accordance with the certification process referred  
4           to in paragraph (1) shall not be acceptable evidence  
5           of hours of service and record of duty status require-  
6           ments under part 395 of title 49, Code of Federal  
7           Regulations.

8           “(d) ELECTRONIC ON-BOARD RECORDING DEVICE  
9           DEFINED.—In this section, the term ‘electronic on-board  
10          recording device’ means an electronic device that—

11           “(1) is capable of recording a driver’s hours of  
12          service and duty status accurately and automatically;  
13          and

14           “(2) meets the requirements established by the  
15          Secretary through regulation.”.

16          (b) CIVIL PENALTIES.—Section 30165(a)(1) is  
17          amended by striking “or 30141 through 30147” and in-  
18          serting “30141 through 30147, or 31137”.

19          (c) CONFORMING AMENDMENT.—The analysis for  
20          chapter 311 is amended by striking the item relating to  
21          section 31137 and inserting the following:

          “31137. Electronic on-board recording devices and brake maintenance regula-  
          tions.”.

22       **SEC. 32302. SAFETY FITNESS.**

23          (a) SAFETY FITNESS RATING METHODOLOGY.—The  
24          Secretary shall—

1           (1) incorporate into its Compliance, Safety, Ac-  
2           countability program a safety fitness rating method-  
3           ology that assigns sufficient weight to adverse vehi-  
4           cle and driver performance based-data that elevate  
5           crash risks to warrant an unsatisfactory rating for  
6           a carrier; and

7           (2) ensure that the data to support such assess-  
8           ments is accurate.

9           (b) INTERIM MEASURES.—Not later than March 31,  
10          2012, the Secretary shall take interim measures to imple-  
11          ment a similar safety fitness rating methodology in its cur-  
12          rent safety rating system if the Compliance, Safety, Ac-  
13          countability program is not fully implemented.

14          **SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.**

15          (a) DEADLINE FOR ESTABLISHMENT OF NATIONAL  
16          REGISTRY OF MEDICAL EXAMINERS.—Not later than 1  
17          year after the date of enactment of this Act, the Secretary  
18          shall establish a national registry of medical examiners in  
19          accordance with section 31149(d)(1) of title 49, United  
20          States Code.

21          (b) EXAMINATION REQUIREMENT FOR NATIONAL  
22          REGISTRY OF MEDICAL EXAMINERS.—Section  
23          31149(c)(1)(D) is amended to read as follows:

24                                 “(D) not later than 1 year after enactment  
25                                 of the Commercial Motor Vehicle Safety En-

1           hancement Act of 2012, develop requirements  
2           for a medical examiner to be listed in the na-  
3           tional registry under this section, including—

4                   “(i) the completion of specific courses  
5                   and materials;

6                   “(ii) certification, including self-cer-  
7                   tification, if the Secretary determines that  
8                   self-certification is necessary for sufficient  
9                   participation in the national registry, to  
10                  verify that a medical examiner completed  
11                  specific training, including refresher  
12                  courses, that the Secretary determines nec-  
13                  essary to be listed in the national registry;

14                  “(iii) an examination that requires a  
15                  passing grade; and

16                  “(iv) demonstration of a medical ex-  
17                  aminer’s willingness to meet the reporting  
18                  requirements established by the Sec-  
19                  retary;”.

20           (c) ADDITIONAL OVERSIGHT OF LICENSING AU-  
21           THORITIES.—

22                   (1) IN GENERAL.—Section 31149(c)(1) is  
23                   amended—

24                           (A) in subparagraph (E), by striking  
25                           “and” after the semicolon;

1 (B) in subparagraph (F), by striking the  
2 period at the end and inserting “; and”; and

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

4 “(G) annually review the implementation  
5 of commercial driver’s license requirements by  
6 not fewer than 10 States to assess the accu-  
7 racy, validity, and timeliness of—

8 “(i) the submission of physical exam-  
9 ination reports and medical certificates to  
10 State licensing agencies; and

11 “(ii) the processing of the submissions  
12 by State licensing agencies.”.

13 (2) INTERNAL OVERSIGHT POLICY.—

14 (A) IN GENERAL.—Not later than 2 years  
15 after the date of enactment of this Act, the Sec-  
16 retary shall establish an oversight policy and  
17 procedure to carry out section 31149(c)(1)(G)  
18 of title 49, United States Code, as added by  
19 section 32303(c)(1) of this Act.

20 (B) EFFECTIVE DATE.—The amendments  
21 made by section 32303(c)(1) of this Act shall  
22 take effect on the date the oversight policies  
23 and procedures are established pursuant to sub-  
24 paragraph (A).

1 (d) ELECTRONIC FILING OF MEDICAL EXAMINATION  
2 CERTIFICATES.—Section 31311(a), as amended by sec-  
3 tions 32205(b) and 32306(b) of this Act, is amended by  
4 adding at the end the following:

5 “(24) Not later than 1 year after the date of  
6 enactment of the Commercial Motor Vehicle Safety  
7 Enhancement Act of 2012, the State shall establish  
8 and maintain, as part of its driver information sys-  
9 tem, the capability to receive an electronic copy of  
10 a medical examiner’s certificate, from a certified  
11 medical examiner, for each holder of a commercial  
12 driver’s license issued by the State who operates or  
13 intends to operate in interstate commerce.”.

14 (e) FUNDING.—

15 (1) AUTHORIZATION OF APPROPRIATIONS.—Of  
16 the funds provided for Data and Technology Grants  
17 under section 31104(a) of title 49, United States  
18 Code, there are authorized to be appropriated from  
19 the Highway Trust Fund (other than the Mass  
20 Transit Account) for the Secretary to make grants  
21 to States or an organization representing agencies  
22 and officials of the States to support development  
23 costs of the information technology needed to carry  
24 out section 31311(a)(24) of title 49, United States

1 Code, up to \$1 million for fiscal year 2012 and up  
2 to \$1 million for fiscal year 2013.

3 (2) PERIOD OF AVAILABILITY.—The amounts  
4 made available under this subsection shall remain  
5 available until expended.

6 **SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICA-**  
7 **TION SYSTEM.**

8 (a) IN GENERAL.—Section 31304 is amended—

9 (1) by striking “An employer” and inserting the  
10 following:

11 “(a) IN GENERAL.—An employer”; and

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

13 “(b) DRIVER VIOLATION RECORDS.—

14 “(1) PERIODIC REVIEW.—Except as provided in  
15 paragraph (3), an employer shall ascertain the driv-  
16 ing record of each driver it employs—

17 “(A) by making an inquiry at least once  
18 every 12 months to the appropriate State agen-  
19 cy in which the driver held or holds a commer-  
20 cial driver's license or permit during such time  
21 period;

22 “(B) by receiving occurrence-based reports  
23 of changes in the status of a driver's record  
24 from 1 or more driver record notification sys-

1           tems that meet minimum standards issued by  
2           the Secretary; or

3           “(C) by a combination of inquiries to  
4           States and reports from driver record notifica-  
5           tion systems.

6           “(2) RECORD KEEPING.—A copy of the reports  
7           received under paragraph (1) shall be maintained in  
8           the driver’s qualification file.

9           “(3) EXCEPTIONS TO RECORD REVIEW RE-  
10          QUIREMENT.—Paragraph (1) shall not apply to a  
11          driver employed by an employer who, in any 7-day  
12          period, is employed or used as a driver by more than  
13          1 employer—

14                 “(A) if the employer obtains the driver’s  
15                 identification number, type, and issuing State  
16                 of the driver’s commercial motor vehicle license;  
17                 or

18                 “(B) if the information described in sub-  
19                 paragraph (A) is furnished by another employer  
20                 and the employer that regularly employs the  
21                 driver meets the other requirements under this  
22                 section.

23           “(4) DRIVER RECORD NOTIFICATION SYSTEM  
24          DEFINED.—In this section, the term ‘driver record  
25          notification system’ means a system that automati-

1 cally furnishes an employer with a report, generated  
2 by the appropriate agency of a State, on the change  
3 in the status of an employee's driver's license due to  
4 a conviction for a moving violation, a failure to ap-  
5 pear, an accident, driver's license suspension, driv-  
6 er's license revocation, or any other action taken  
7 against the driving privilege.”.

8 (b) STANDARDS FOR DRIVER RECORD NOTIFICATION  
9 SYSTEMS.—Not later than 1 year after the date of enact-  
10 ment of this Act, the Secretary shall issue minimum  
11 standards for driver notification systems, including stand-  
12 ards for the accuracy, consistency, and completeness of the  
13 information provided.

14 (c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

15 (1) DEVELOPMENT.—Not later than 2 years  
16 after the date of enactment of this Act, the Sec-  
17 retary shall develop recommendations and a plan for  
18 the development and implementation of a national  
19 driver record notification system, including—

20 (A) an assessment of the merits of achiev-  
21 ing a national system by expanding the Com-  
22 mercial Driver's License Information System;  
23 and



1 (B) an estimate of the fees that an em-  
2 ployer will be charged to offset the operating  
3 costs of the national system.

4 (2) SUBMISSION TO CONGRESS.—Not later than  
5 90 days after the recommendations and plan are de-  
6 veloped under paragraph (1), the Secretary shall  
7 submit a report on the recommendations and plan to  
8 the Committee on Commerce, Science, and Trans-  
9 portation of the Senate and the Committee on  
10 Transportation and Infrastructure of the House of  
11 Representatives.

12 **SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR**  
13 **TRAINING.**

14 (a) IN GENERAL.—Section 31305 is amended by  
15 adding at the end the following:

16 “(c) STANDARDS FOR TRAINING.—Not later than 6  
17 months after the date of enactment of the Commercial  
18 Motor Vehicle Safety Enhancement Act of 2012, the Sec-  
19 retary shall issue final regulations establishing minimum  
20 entry-level training requirements for an individual oper-  
21 ating a commercial motor vehicle—

22 “(1) addressing the knowledge and skills that—

23 “(A) are necessary for an individual oper-  
24 ating a commercial motor vehicle to safely oper-  
25 ate a commercial motor vehicle; and

1           “(B) must be acquired before obtaining a  
2           commercial driver’s license for the first time or  
3           upgrading from one class of commercial driver’s  
4           license to another class;

5           “(2) addressing the specific training needs of a  
6           commercial motor vehicle operator seeking passenger  
7           or hazardous materials endorsements, including for  
8           an operator seeking a passenger endorsement train-  
9           ing—

10                   “(A) to suppress motorcoach fires; and

11                   “(B) to evacuate passengers from  
12           motorcoaches safely;

13           “(3) requiring effective instruction to acquire  
14           the knowledge, skills, and training referred to in  
15           paragraphs (1) and (2), including classroom and be-  
16           hind-the-wheel instruction;

17           “(4) requiring certification that an individual  
18           operating a commercial motor vehicle meets the re-  
19           quirements established by the Secretary; and

20           “(5) requiring a training provider (including a  
21           public or private driving school, motor carrier, or  
22           owner or operator of a commercial motor vehicle)  
23           that offers training that results in the issuance of a  
24           certification to an individual under paragraph (4) to  
25           demonstrate that the training meets the require-

1       ments of the regulations, through a process estab-  
2       lished by the Secretary.”.

3       (b) COMMERCIAL DRIVER’S LICENSE UNIFORM  
4 STANDARDS.—Section 31308(1) is amended to read as  
5 follows:

6               “(1) an individual issued a commercial driver’s  
7       license—

8               “(A) pass written and driving tests for the  
9       operation of a commercial motor vehicle that  
10       comply with the minimum standards prescribed  
11       by the Secretary under section 31305(a); and

12               “(B) present certification of completion of  
13       driver training that meets the requirements es-  
14       tablished by the Secretary under section  
15       31305(c);”.

16       (c) CONFORMING AMENDMENT.—The section head-  
17       ing for section 31305 is amended to read as follows:

18       **“§ 31305. General driver fitness, testing, and train-  
19               ing”.**

20       (d) CONFORMING AMENDMENT.—The analysis for  
21       chapter 313 is amended by striking the item relating to  
22       section 31305 and inserting the following:

      “31305. General driver fitness, testing, and training.”.

23       **SEC. 32306. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

24       (a) IN GENERAL.—Section 31309 is amended—



1           “(23) Not later than 1 year after the date of  
2           enactment of the Commercial Motor Vehicle Safety  
3           Enhancement Act of 2012, the State shall imple-  
4           ment a system and practices for the exclusive elec-  
5           tronic exchange of driver history record information  
6           on the system the Secretary maintains under section  
7           31309, including the posting of convictions, with-  
8           drawals, and disqualifications.”; and

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

10          “(d) CRITICAL REQUIREMENTS.—

11           “(1) IDENTIFICATION OF CRITICAL REQUIRE-  
12           MENTS.—After reviewing the requirements under  
13           subsection (a), including the regulations issued pur-  
14           suant to subsection (a) and section 31309(e)(4), the  
15           Secretary shall identify the requirements that are  
16           critical to an effective State commercial driver’s li-  
17           cense program.

18           “(2) GUIDANCE.—Not later than 180 days  
19           after the date of enactment of the Commercial  
20           Motor Vehicle Safety Enhancement Act of 2012, the  
21           Secretary shall issue guidance to assist States in  
22           complying with the critical requirements identified  
23           under paragraph (1). The guidance shall include a  
24           description of the actions that each State must take

1 to collect and share accurate and complete data in  
2 a timely manner.

3 “(e) STATE COMMERCIAL DRIVER’S LICENSE PRO-  
4 GRAM PLAN.—

5 “(1) IN GENERAL.—Not later than 180 days  
6 after the Secretary issues guidance under subsection  
7 (d)(2), a State shall submit a plan to the Secretary  
8 for complying with the requirements under this sec-  
9 tion during the period beginning on the date the  
10 plan is submitted and ending on September 30,  
11 2016.

12 “(2) CONTENTS.—A plan submitted by a State  
13 under paragraph (1) shall identify—

14 “(A) the actions that the State will take to  
15 comply with the critical requirements identified  
16 under subsection (d)(1);

17 “(B) the actions that the State will take to  
18 address any deficiencies in the State’s commer-  
19 cial driver’s license program, as identified by  
20 the Secretary in the most recent audit of the  
21 program; and

22 “(C) other actions that the State will take  
23 to comply with the requirements under sub-  
24 section (a).

25 “(3) PRIORITY.—

1           “(A) IMPLEMENTATION SCHEDULE.—A  
2 plan submitted by a State under paragraph (1)  
3 shall include a schedule for the implementation  
4 of the actions identified under paragraph (2).  
5 In establishing the schedule, the State shall  
6 prioritize the actions identified under para-  
7 graphs (2)(A) and (2)(B).

8           “(B) DEADLINE FOR COMPLIANCE WITH  
9 CRITICAL REQUIREMENTS.—A plan submitted  
10 by a State under paragraph (1) shall include  
11 assurances that the State will take the nec-  
12 essary actions to comply with the critical re-  
13 quirements pursuant to subsection (d) not later  
14 than September 30, 2015.

15           “(4) APPROVAL AND DISAPPROVAL.—The Sec-  
16 retary shall—

17           “(A) review each plan submitted under  
18 paragraph (1);

19           “(B) approve a plan that the Secretary de-  
20 termines meets the requirements under this  
21 subsection and promotes the goals of this chap-  
22 ter; and

23           “(C) disapprove a plan that the Secretary  
24 determines does not meet the requirements or  
25 does not promote the goals.

1           “(5) MODIFICATION OF DISAPPROVED PLANS.—

2           If the Secretary disapproves a plan under paragraph  
3           (4)(C), the Secretary shall—

4                   “(A) provide a written explanation of the  
5                   disapproval to the State; and

6                   “(B) allow the State to modify the plan  
7                   and resubmit it for approval.

8           “(6) PLAN UPDATES.—The Secretary may re-  
9           quire a State to review and update a plan, as appro-  
10          priate.

11          “(f) ANNUAL COMPARISON OF STATE LEVELS OF  
12          COMPLIANCE.—The Secretary shall annually—

13                   “(1) compare the relative levels of compliance  
14                   by States with the requirements under subsection  
15                   (a); and

16                   “(2) make the results of the comparison avail-  
17                   able to the public.”.

18          “(c) DECERTIFICATION AUTHORITY.—Section 31312  
19          is amended—

20                   (1) by redesignating subsections (b) and (c) as  
21                   subsections (c) and (d), respectively; and

22                   (2) by inserting after subsection (a) the fol-  
23                   lowing:

24                   “(b) DEADLINE FOR COMPLIANCE WITH CRITICAL  
25          REQUIREMENTS.—Beginning on October 1, 2016, in mak-



1 ing a determination under subsection (a), the Secretary  
2 shall consider a State to be in substantial noncompliance  
3 with this chapter if the Secretary determines that—

4 “(1) the State is not complying with a critical  
5 requirement under section 31311(d)(1); and

6 “(2) sufficient grant funding was made avail-  
7 able to the State under section 31313(a) to comply  
8 with the requirement.”.

9 **SEC. 32307. COMMERCIAL DRIVER’S LICENSE REQUIRE-**  
10 **MENTS.**

11 (a) LICENSING STANDARDS.—Section 31305(a)(7) is  
12 amended by inserting “would not be subject to a disquali-  
13 fication under section 31310(g) of this title and” after  
14 “taking the tests”.

15 (b) DISQUALIFICATIONS.—Section 31310(g)(1) is  
16 amended by deleting “who holds a commercial driver’s li-  
17 cense and”.

18 **SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFOR-**  
19 **MATION SYSTEMS.**

20 Section 31106(c) is amended—

21 (1) by striking the subsection heading and in-  
22 serting “(1) IN GENERAL.—”;

23 (2) by redesignating paragraphs (1) through  
24 (4) as subparagraphs (A) through (D); and

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

1           “(2) ACCESS TO RECORDS.—The Secretary may  
2           require a State, as a condition of an award of grant  
3           money under this section, to provide the Secretary  
4           access to all State licensing status and driver history  
5           records via an electronic information system, subject  
6           to section 2721 of title 18.”.

7   **SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMER-**  
8                           **CIAL MOTOR VEHICLE OPERATIONS.**

9           (a) FIRST OFFENSE.—Section 31310(b)(1)(D) is  
10          amended by deleting “commercial” after “revoked, sus-  
11          pended, or canceled based on the individual’s operation of  
12          a,” and before “motor vehicle”.

13          (b) SECOND OFFENSE.—Section 31310(c)(1)(D) is  
14          amended by deleting “commercial” after “revoked, sus-  
15          pended, or canceled based on the individual’s operation of  
16          a,” and before “motor vehicle”.

17   **SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.**

18          (a) DISQUALIFICATION DEFINED.—Section 31301,  
19          as amended by section 32205 of this Act, is amended—

20                 (1) by redesignating paragraphs (6) through  
21                 (15) as paragraphs (7) through (16), respectively;  
22                 and

23                 (2) by inserting after paragraph (5) the fol-  
24                 lowing:

25                 “(6) ‘Disqualification’ means—

1           “(A) the suspension, revocation, or can-  
2           cellation of a commercial driver’s license by the  
3           State of issuance;

4           “(B) a withdrawal of an individual’s privi-  
5           lege to drive a commercial motor vehicle by a  
6           State or other jurisdiction as the result of a vio-  
7           lation of State or local law relating to motor ve-  
8           hicle traffic control, except for a parking, vehi-  
9           cle weight, or vehicle defect violation;

10           “(C) a determination by the Secretary that  
11           an individual is not qualified to operate a com-  
12           mercial motor vehicle; or

13           “(D) a determination by the Secretary that  
14           a commercial motor vehicle driver is unfit under  
15           section 31144(g).”.

16           (b) COMMERCIAL DRIVER’S LICENSE INFORMATION  
17           SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended  
18           by inserting after “disqualified” the following: “by the  
19           State that issued the individual a commercial driver’s li-  
20           cense, or by the Secretary,”.

21           (c) STATE ACTION ON FEDERAL DISQUALIFICA-  
22           TION.—Section 31310(h) is amended by inserting after  
23           the first sentence the following:

24           “If the State has not disqualified the individual from  
25           operating a commercial vehicle under subsections (b)

1 through (g), the State shall disqualify the individual if the  
2 Secretary determines under section 31144(g) that the in-  
3 dividual is disqualified from operating a commercial motor  
4 vehicle.”.

5 **SEC. 32311. EMPLOYER RESPONSIBILITIES.**

6 Section 31304, as amended by section 32304 of this  
7 Act, is amended in subsection (a)—

8 (1) by striking “knowingly”; and

9 (2) by striking “in which” and inserting “that  
10 the employer knows or should reasonably know  
11 that”.

12 **Subtitle D—Safe Roads Act of 2012**

13 **SEC. 32401. SHORT TITLE.**

14 This subtitle may be cited as the “Safe Roads Act  
15 of 2012”.

16 **SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED**  
17 **SUBSTANCE AND ALCOHOL TEST RESULTS OF**  
18 **COMMERCIAL MOTOR VEHICLE OPERATORS.**

19 (a) IN GENERAL.—Chapter 313 is amended—

20 (1) in section 31306(a), by inserting “and sec-  
21 tion 31306a” after “this section”; and

22 (2) by inserting after section 31306 the fol-  
23 lowing:

1 **“§ 31306a. National clearinghouse for controlled sub-**  
2 **stance and alcohol test results of com-**  
3 **mercial motor vehicle operators**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—Not later than 2 years  
6 after the date of enactment of the Safe Roads Act  
7 of 2012, the Secretary of Transportation shall estab-  
8 lish a national clearinghouse for records relating to  
9 alcohol and controlled substances testing of commer-  
10 cial motor vehicle operators.

11 “(2) PURPOSES.—The purposes of the clearing-  
12 house shall be—

13 “(A) to improve compliance with the De-  
14 partment of Transportation’s alcohol and con-  
15 trolled substances testing program applicable to  
16 commercial motor vehicle operators;

17 “(B) to facilitate access to information  
18 about an individual before employing the indi-  
19 vidual as a commercial motor vehicle operator;

20 “(C) to enhance the safety of our United  
21 States roadways by reducing accident fatalities  
22 involving commercial motor vehicles; and

23 “(D) to reduce the number of impaired  
24 commercial motor vehicle operators.

25 “(3) CONTENTS.—The clearinghouse shall func-  
26 tion as a repository for records relating to the posi-

1       tive test results and test refusals of commercial  
2       motor vehicle operators and violations by such oper-  
3       ators of prohibitions set forth in subpart B of part  
4       382 of title 49, Code of Federal Regulations (or any  
5       subsequent corresponding regulations).

6               “(4) ELECTRONIC EXCHANGE OF RECORDS.—  
7       The Secretary shall ensure that records can be elec-  
8       tronically submitted to, and requested from, the  
9       clearinghouse by authorized users.

10              “(5) AUTHORIZED OPERATOR.—The Secretary  
11       may authorize a qualified and experienced private  
12       entity to operate and maintain the clearinghouse and  
13       to collect fees on behalf of the Secretary under sub-  
14       section (e). The entity shall establish, operate, main-  
15       tain and expand the clearinghouse and permit access  
16       to driver information and records from the clearing-  
17       house in accordance with this section.

18              “(b) DESIGN OF CLEARINGHOUSE.—

19              “(1) USE OF FEDERAL MOTOR CARRIER SAFETY  
20       ADMINISTRATION RECOMMENDATIONS.—In estab-  
21       lishing the clearinghouse, the Secretary shall con-  
22       sider—

23              “(A) the findings and recommendations  
24       contained in the Federal Motor Carrier Safety  
25       Administration’s March 2004 report to Con-

1           gress required under section 226 of the Motor  
2           Carrier Safety Improvement Act of 1999 (49  
3           U.S.C. 31306 note); and

4           “(B) the findings and recommendations  
5           contained in the Government Accountability Of-  
6           fice’s May 2008 report to Congress entitled  
7           ‘Motor Carrier Safety: Improvements to Drug  
8           Testing Programs Could Better Identify Illegal  
9           Drug Users and Keep Them off the Road.’.

10          “(2) DEVELOPMENT OF SECURE PROCESSES.—

11          In establishing the clearinghouse, the Secretary shall  
12          develop a secure process for—

13                 “(A) administering and managing the  
14                 clearinghouse in compliance with applicable  
15                 Federal security standards;

16                 “(B) registering and authenticating au-  
17                 thorized users of the clearinghouse;

18                 “(C) registering and authenticating per-  
19                 sons required to report to the clearinghouse  
20                 under subsection (g);

21                 “(D) preventing the unauthorized access of  
22                 information from the clearinghouse;

23                 “(E) storing and transmitting data;

24                 “(F) persons required to report to the  
25                 clearinghouse under subsection (g) to timely

1 and accurately submit electronic data to the  
2 clearinghouse;

3 “(G) generating timely and accurate re-  
4 ports from the clearinghouse in response to re-  
5 quests for information by authorized users; and

6 “(H) updating an individual’s record upon  
7 completion of the return-to-duty process de-  
8 scribed in title 49, Code of Federal Regulations.

9 “(3) EMPLOYER ALERT OF POSITIVE TEST RE-  
10 SULT.—In establishing the clearinghouse, the Sec-  
11 retary shall develop a secure method for electroni-  
12 cally notifying an employer of each additional posi-  
13 tive test result or other noncompliance—

14 “(A) for an employee, that is entered into  
15 the clearinghouse during the 7-day period im-  
16 mediately following an employer’s inquiry about  
17 the employee; and

18 “(B) for an employee who is listed as hav-  
19 ing multiple employers.

20 “(4) ARCHIVE CAPABILITY.—In establishing the  
21 clearinghouse, the Secretary shall develop a process  
22 for archiving all clearinghouse records, including the  
23 depositing of personal records, records relating to  
24 each individual in the database, and access requests  
25 for personal records, for the purposes of—



1           “(A) auditing and evaluating the timeli-  
2           ness, accuracy, and completeness of data in the  
3           clearinghouse; and

4           “(B) auditing to monitor compliance and  
5           enforce penalties for noncompliance.

6           “(5) FUTURE NEEDS.—

7           “(A) INTEROPERABILITY WITH OTHER  
8           DATA SYSTEMS.—In establishing the clearing-  
9           house, the Secretary shall consider—

10           “(i) the existing data systems con-  
11           taining regulatory and safety data for com-  
12           mercial motor vehicle operators;

13           “(ii) the efficacy of using or com-  
14           bining clearinghouse data with 1 or more  
15           of such systems; and

16           “(iii) the potential interoperability of  
17           the clearinghouse with such systems.

18           “(B) SPECIFIC CONSIDERATIONS.—In car-  
19           rying out subparagraph (A), the Secretary shall  
20           determine—

21           “(i) the clearinghouse’s capability for  
22           interoperability with—

23           “(I) the National Driver Register  
24           established under section 30302;

1                   “(II) the Commercial Driver’s Li-  
2                   cense Information System established  
3                   under section 31309;

4                   “(III) the Motor Carrier Manage-  
5                   ment Information System for pre-  
6                   employment screening services under  
7                   section 31150; and

8                   “(IV) other data systems, as ap-  
9                   propriate; and

10                  “(ii) any change to the administration  
11                  of the current testing program, such as  
12                  forms, that is necessary to collect data for  
13                  the clearinghouse.

14                  “(c) STANDARD FORMATS.—The Secretary shall de-  
15                  velop standard formats to be used—

16                  “(1) by an authorized user of the clearinghouse  
17                  to—

18                  “(A) request a record from the clearing-  
19                  house; and

20                  “(B) obtain the consent of an individual  
21                  who is the subject of a request from the clear-  
22                  inghouse, if applicable; and

23                  “(2) to notify an individual that a positive alco-  
24                  hol or controlled substances test result, refusing to  
25                  test, and a violation of any of the prohibitions under

1       subpart B of part 382 of title 49, Code of Federal  
2       Regulations (or any subsequent corresponding regu-  
3       lations), will be reported to the clearinghouse.

4       “(d) PRIVACY.—A release of information from the  
5 clearinghouse shall—

6           “(1) comply with applicable Federal privacy  
7 laws, including the fair information practices under  
8 the Privacy Act of 1974 (5 U.S.C. 552a);

9           “(2) comply with applicable sections of the Fair  
10 Credit Reporting Act (15 U.S.C. 1681 et seq.); and

11          “(3) not be made to any person or entity unless  
12 expressly authorized or required by law.

13       “(e) FEES.—

14           “(1) AUTHORITY TO COLLECT FEES.—Except  
15 as provided under paragraph (3), the Secretary may  
16 collect a reasonable, customary, and nominal fee  
17 from an authorized user of the clearinghouse for a  
18 request for information from the clearinghouse.

19           “(2) USE OF FEES.—Fees collected under this  
20 subsection shall be used for the operation and main-  
21 tenance of the clearinghouse.

22           “(3) LIMITATION.—The Secretary may not col-  
23 lect a fee from an individual requesting information  
24 from the clearinghouse that pertains to the record of  
25 that individual.

1 “(f) EMPLOYER REQUIREMENTS.—

2 “(1) DETERMINATION CONCERNING USE OF  
3 CLEARINGHOUSE.—The Secretary shall determine if  
4 an employer is authorized to use the clearinghouse  
5 to meet the alcohol and controlled substances testing  
6 requirements under title 49, Code of Federal Regu-  
7 lations.

8 “(2) APPLICABILITY OF EXISTING REQUIRE-  
9 MENTS.—Each employer and service agent shall  
10 comply with the alcohol and controlled substances  
11 testing requirements under title 49, Code of Federal  
12 Regulations.

13 “(3) EMPLOYMENT PROHIBITIONS.—Beginning  
14 30 days after the date that the clearinghouse is es-  
15 tablished under subsection (a), an employer shall not  
16 hire an individual to operate a commercial motor ve-  
17 hicle unless the employer determines that the indi-  
18 vidual, during the preceding 3-year period—

19 “(A) if tested for the use of alcohol and  
20 controlled substances, as required under title  
21 49, Code of Federal Regulations—

22 “(i) did not test positive for the use of  
23 alcohol or controlled substances in violation  
24 of the regulations; or

1           “(ii) tested positive for the use of al-  
2           cohol or controlled substances and com-  
3           pleted the required return-to-duty process  
4           under title 49, Code of Federal Regula-  
5           tions;

6           “(B)(i) did not refuse to take an alcohol or  
7           controlled substance test under title 49, Code of  
8           Federal Regulations; or

9           “(ii) refused to take an alcohol or con-  
10          trolled substance test and completed the  
11          required return-to-duty process under title  
12          49, Code of Federal Regulations; and

13          “(C) did not violate any other provision of  
14          subpart B of part 382 of title 49, Code of Fed-  
15          eral Regulations (or any subsequent cor-  
16          responding regulations).

17          “(4) ANNUAL REVIEW.—Beginning 30 days  
18          after the date that the clearinghouse is established  
19          under subsection (a), an employer shall request and  
20          review a commercial motor vehicle operator’s record  
21          from the clearinghouse annually for as long as the  
22          commercial motor vehicle operator is under the em-  
23          ploy of the employer.

24          “(g) REPORTING OF RECORDS.—

1           “(1) IN GENERAL.—Beginning 30 days after  
2           the date that the clearinghouse is established under  
3           subsection (a), a medical review officer, employer,  
4           service agent, and other appropriate person, as de-  
5           termined by the Secretary, shall promptly submit to  
6           the Secretary any record generated after the clear-  
7           inghouse is initiated of an individual who—

8                   “(A) refuses to take an alcohol or con-  
9                   trolled substances test required under title 49,  
10                  Code of Federal Regulations;

11                  “(B) tests positive for alcohol or a con-  
12                  trolled substance in violation of the regulations;  
13                  or

14                  “(C) violates any other provision of sub-  
15                  part B of part 382 of title 49, Code of Federal  
16                  Regulations (or any subsequent corresponding  
17                  regulations).

18           “(2) INCLUSION OF RECORDS IN CLEARING-  
19           HOUSE.—The Secretary shall include in the clearing-  
20           house the records of positive test results and test re-  
21           fusals received under paragraph (1).

22           “(3) MODIFICATIONS AND DELETIONS.—If the  
23           Secretary determines that a record contained in the  
24           clearinghouse is not accurate, the Secretary shall  
25           modify or delete the record, as appropriate.

1           “(4) NOTIFICATION.—The Secretary shall expe-  
2           ditiously notify an individual, unless such notifica-  
3           tion would be duplicative, when—

4                   “(A) a record relating to the individual is  
5           received by the clearinghouse;

6                   “(B) a record in the clearinghouse relating  
7           to the individual is modified or deleted, and in-  
8           clude in the notification the reason for the  
9           modification or deletion; or

10                   “(C) a record in the clearinghouse relating  
11           to the individual is released to an employer and  
12           specify the reason for the release.

13           “(5) DATA QUALITY AND SECURITY STANDARDS  
14           FOR REPORTING AND RELEASING.—The Secretary  
15           may establish additional requirements, as appro-  
16           priate, to ensure that—

17                   “(A) the submission of records to the  
18           clearinghouse is timely and accurate;

19                   “(B) the release of data from the clear-  
20           inghouse is timely, accurate, and released to the  
21           appropriate authorized user under this section;  
22           and

23                   “(C) an individual with a record in the  
24           clearinghouse has a cause of action for any in-

1 appropriate use of information included in the  
2 clearinghouse.

3 “(6) RETENTION OF RECORDS.—The Secretary  
4 shall—

5 “(A) retain a record submitted to the  
6 clearinghouse for a 5-year period beginning on  
7 the date the record is submitted;

8 “(B) remove the record from the clearing-  
9 house at the end of the 5-year period, unless  
10 the individual fails to meet a return-to-duty or  
11 follow-up requirement under title 49, Code of  
12 Federal Regulations; and

13 “(C) retain a record after the end of the  
14 5-year period in a separate location for  
15 archiving and auditing purposes.

16 “(h) AUTHORIZED USERS.—

17 “(1) EMPLOYERS.—The Secretary shall estab-  
18 lish a process for an employer to request and receive  
19 an individual’s record from the clearinghouse.

20 “(A) CONSENT.—An employer may not ac-  
21 cess an individual’s record from the clearing-  
22 house unless the employer—

23 “(i) obtains the prior written or elec-  
24 tronic consent of the individual for access  
25 to the record; and



1                   “(ii) submits proof of the individual’s  
2                   consent to the Secretary.

3                   “(B) ACCESS TO RECORDS.—After receiv-  
4                   ing a request from an employer for an individ-  
5                   ual’s record under subparagraph (A), the Sec-  
6                   retary shall grant access to the individual’s  
7                   record to the employer as expeditiously as prac-  
8                   ticable.

9                   “(C) RETENTION OF RECORD RE-  
10                  QUESTS.—The Secretary shall require an em-  
11                  ployer to retain for a 3-year period—

12                   “(i) a record of each request made by  
13                   the employer for records from the clearing-  
14                   house; and

15                   “(ii) the information received pursu-  
16                   ant to the request.

17                   “(D) USE OF RECORDS.—An employer  
18                   may use an individual’s record received from  
19                   the clearinghouse only to assess and evaluate  
20                   the qualifications of the individual to operate a  
21                   commercial motor vehicle for the employer.

22                   “(E) PROTECTION OF PRIVACY OF INDI-  
23                   VIDUALS.—An employer that receives an indi-  
24                   vidual’s record from the clearinghouse under  
25                   subparagraph (B) shall—

1                   “(i) protect the privacy of the indi-  
2                   vidual and the confidentiality of the record;  
3                   and

4                   “(ii) ensure that information con-  
5                   tained in the record is not divulged to a  
6                   person or entity that is not directly in-  
7                   volved in assessing and evaluating the  
8                   qualifications of the individual to operate a  
9                   commercial motor vehicle for the employer.

10                  “(2) STATE LICENSING AUTHORITIES.—The  
11                  Secretary shall establish a process for the chief com-  
12                  mercial driver’s licensing official of a State to re-  
13                  quest and receive an individual’s record from the  
14                  clearinghouse if the individual is applying for a com-  
15                  mercial driver’s license from the State.

16                  “(A) CONSENT.—The Secretary may grant  
17                  access to an individual’s record in the clearing-  
18                  house under this paragraph without the prior  
19                  written or electronic consent of the individual.  
20                  An individual who holds a commercial driver’s  
21                  license shall be deemed to consent to such ac-  
22                  cess by obtaining a commercial driver’s license.

23                  “(B) PROTECTION OF PRIVACY OF INDI-  
24                  VIDUALS.—A chief commercial driver’s licensing  
25                  official of a State that receives an individual’s

1 record from the clearinghouse under this para-  
2 graph shall—

3 “(i) protect the privacy of the indi-  
4 vidual and the confidentiality of the record;  
5 and

6 “(ii) ensure that the information in  
7 the record is not divulged to any person  
8 that is not directly involved in assessing  
9 and evaluating the qualifications of the in-  
10 dividual to operate a commercial motor ve-  
11 hicle.

12 “(3) NATIONAL TRANSPORTATION SAFETY  
13 BOARD.—The Secretary shall establish a process for  
14 the National Transportation Safety Board to request  
15 and receive an individual’s record from the clearing-  
16 house if the individual is involved in an accident that  
17 is under investigation by the National Transpor-  
18 tation Safety Board.

19 “(A) CONSENT.—The Secretary may grant  
20 access to an individual’s record in the clearing-  
21 house under this paragraph without the prior  
22 written or electronic consent of the individual.  
23 An individual who holds a commercial driver’s  
24 license shall be deemed to consent to such ac-  
25 cess by obtaining a commercial driver’s license.

1           “(B) PROTECTION OF PRIVACY OF INDI-  
2           VIDUALS.—An official of the National Trans-  
3           portation Safety Board that receives an individ-  
4           ual’s record from the clearinghouse under this  
5           paragraph shall—

6                   “(i) protect the privacy of the indi-  
7                   vidual and the confidentiality of the record;  
8                   and

9                   “(ii) unless the official determines  
10                  that the information in the individual’s  
11                  record should be reported under section  
12                  1131(e), ensure that the information in the  
13                  record is not divulged to any person that  
14                  is not directly involved with investigating  
15                  the accident.

16           “(4) ADDITIONAL AUTHORIZED USERS.—The  
17           Secretary shall consider whether to grant access to  
18           the clearinghouse to additional users. The Secretary  
19           may authorize access to an individual’s record from  
20           the clearinghouse to an additional user if the Sec-  
21           retary determines that granting access will further  
22           the purposes under subsection (a)(2). In determining  
23           whether the access will further the purposes under  
24           subsection (a)(2), the Secretary shall consider,  
25           among other things—

1           “(A) what use the additional user will  
2           make of the individual’s record;

3           “(B) the costs and benefits of the use; and

4           “(C) how to protect the privacy of the indi-  
5           vidual and the confidentiality of the record.

6           “(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

7           “(1) IN GENERAL.—The Secretary shall estab-  
8           lish a process for an individual to request and re-  
9           ceive information from the clearinghouse—

10           “(A) to determine whether the clearing-  
11           house contains a record pertaining to the indi-  
12           vidual;

13           “(B) to verify the accuracy of a record;

14           “(C) to update an individual’s record, in-  
15           cluding completing the return-to-duty process  
16           described in title 49, Code of Federal Regula-  
17           tions; and

18           “(D) to determine whether the clearing-  
19           house received requests for the individual’s in-  
20           formation.

21           “(2) DISPUTE PROCEDURE.—The Secretary  
22           shall establish a procedure, including an appeal  
23           process, for an individual to dispute and remedy an  
24           administrative error in the individual’s record.

25           “(j) PENALTIES.—

1           “(1) IN GENERAL.—An employer, employee,  
2           medical review officer, or service agent who violates  
3           any provision of this section shall be subject to civil  
4           penalties under section 521(b)(2)(C) and criminal  
5           penalties under section 521(b)(6)(B), and any other  
6           applicable civil and criminal penalties, as determined  
7           by the Secretary.

8           “(2) VIOLATION OF PRIVACY.—The Secretary  
9           shall establish civil and criminal penalties, consistent  
10          with paragraph (1), for an authorized user who vio-  
11          lates paragraph (2)(B) or (3)(B) of subsection (h).

12          “(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

13           “(1) PREEMPTION.—Except as provided under  
14           paragraph (2), any law, regulation, order, or other  
15           requirement of a State, political subdivision of a  
16           State, or Indian tribe related to a commercial driv-  
17           er’s license holder subject to alcohol or controlled  
18           substance testing under title 49, Code of Federal  
19           Regulations, that is inconsistent with this section or  
20           a regulation issued pursuant to this section is pre-  
21           empted.

22           “(2) APPLICABILITY.—The preemption under  
23           paragraph (1) shall include—

24                   “(A) the reporting of valid positive results  
25                   from alcohol screening tests and drug tests;

1           “(B) the refusal to provide a specimen for  
2           an alcohol screening test or drug test; and

3           “(C) other violations of subpart B of part  
4           382 of title 49, Code of Federal Regulations (or  
5           any subsequent corresponding regulations).

6           “(3) EXCEPTION.—A law, regulation, order, or  
7           other requirement of a State, political subdivision of  
8           a State, or Indian tribe shall not be preempted  
9           under this subsection to the extent it relates to an  
10          action taken with respect to a commercial motor ve-  
11          hicle operator’s commercial driver’s license or driv-  
12          ing record as a result of the driver’s—

13                 “(A) verified positive alcohol or drug test  
14                 result;

15                 “(B) refusal to provide a specimen for the  
16                 test; or

17                 “(C) other violations of subpart B of part  
18                 382 of title 49, Code of Federal Regulations (or  
19                 any subsequent corresponding regulations).

20          “(1) DEFINITIONS.—In this section—

21                 “(1) AUTHORIZED USER.—The term ‘author-  
22                 ized user’ means an employer, State licensing au-  
23                 thority, National Transportation Safety Board, or  
24                 other person granted access to the clearinghouse  
25                 under subsection (h).

1           “(2) CHIEF COMMERCIAL DRIVER’S LICENSING  
2 OFFICIAL.—The term ‘chief commercial driver’s li-  
3 censing official’ means the official in a State who is  
4 authorized to—

5                   “(A) maintain a record about commercial  
6 driver’s licenses issued by the State; and

7                   “(B) take action on commercial driver’s li-  
8 censes issued by the State.

9           “(3) CLEARINGHOUSE.—The term ‘clearing-  
10 house’ means the clearinghouse established under  
11 subsection (a).

12           “(4) COMMERCIAL MOTOR VEHICLE OPER-  
13 ATOR.—The term ‘commercial motor vehicle oper-  
14 ator’ means an individual who—

15                   “(A) possesses a valid commercial driver’s  
16 license issued in accordance with section 31308;  
17 and

18                   “(B) is subject to controlled substances  
19 and alcohol testing under title 49, Code of Fed-  
20 eral Regulations.

21           “(5) EMPLOYER.—The term ‘employer’ means  
22 a person or entity employing, or seeking to employ,  
23 1 or more employees (including an individual who is  
24 self-employed) to be commercial motor vehicle opera-  
25 tors.



1           “(6) MEDICAL REVIEW OFFICER.—The term  
2           ‘medical review officer’ means a licensed physician  
3           who is responsible for—

4                   “(A) receiving and reviewing a laboratory  
5                   result generated under the testing program;

6                   “(B) evaluating a medical explanation for  
7                   a controlled substances test under title 49,  
8                   Code of Federal Regulations; and

9                   “(C) interpreting the results of a con-  
10                  trolled substances test.

11           “(7) SECRETARY.—The term ‘Secretary’ means  
12           the Secretary of Transportation.

13           “(8) SERVICE AGENT.—The term ‘service  
14           agent’ means a person or entity, other than an em-  
15           ployee of the employer, who provides services to em-  
16           ployers or employees under the testing program.

17           “(9) TESTING PROGRAM.—The term ‘testing  
18           program’ means the alcohol and controlled sub-  
19           stances testing program required under title 49,  
20           Code of Federal Regulations.”.

21           (b) CONFORMING AMENDMENT.—The analysis for  
22           chapter 313 is amended by inserting after the item relat-  
23           ing to section 31306 the following:

          “31306a. National clearinghouse for positive controlled substance and alcohol  
          test results of commercial motor vehicle operators.”.

1 **SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.**

2 Chapter 313 is amended—

3 (1) by redesignating section 31306(f) as  
4 31306(f)(1); and

5 (2) by inserting after section 31306(f)(1) the  
6 following:

7 “(2) **ADDITIONAL SANCTIONS.**—The Secretary  
8 may require a State to revoke, suspend, or cancel  
9 the commercial driver’s license of a commercial  
10 motor vehicle operator who is found, based on a test  
11 conducted and confirmed under this section, to have  
12 used alcohol or a controlled substance in violation of  
13 law until the commercial motor vehicle operator  
14 completes the rehabilitation process under subsection  
15 (e).”; and

16 (3) by amending section 31310(d) to read as  
17 follows:

18 “(d) **CONTROLLED SUBSTANCE VIOLATIONS.**—The  
19 Secretary may permanently disqualify an individual from  
20 operating a commercial vehicle if the individual—

21 “(1) uses a commercial motor vehicle in the  
22 commission of a felony involving manufacturing, dis-  
23 tributing, or dispensing a controlled substance, or  
24 possession with intent to manufacture, distribute, or  
25 dispense a controlled substance; or

1           “(2) uses alcohol or a controlled substance, in  
2           violation of section 31306, 3 or more times.”.

3   **SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

4           From the funds authorized to be appropriated under  
5           section 31104(h) of title 49, United States Code, up to  
6           \$5,000,000 is authorized to be appropriated from the  
7           Highway Trust Fund (other than the Mass Transit Ac-  
8           count) for the Secretary of Transportation to develop, de-  
9           sign, and implement the national clearinghouse required  
10          by section 32402 of this Act.

11                   **Subtitle E—Enforcement**

12   **SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CRE-**  
13                   **DENTIALS.**

14          (a) SAFETY INVESTIGATIONS.—Section 504(c) is  
15          amended—

16                  (1) by inserting “, or an employee of the recipi-  
17                  ent of a grant issued under section 31102 of this  
18                  title” after “a contractor”; and

19                  (2) by inserting “, in person or in writing”  
20                  after “proper credentials”.

21          (b) CIVIL PENALTY.—Section 521(b)(2)(E) is  
22          amended—

23                  (1) by redesignating subparagraph (E) as sub-  
24                  paragraph (E)(i); and

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



1 **SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION**  
2 **OUT OF SERVICE ORDERS.**

3 Section 521(b)(2) is amended by adding at the end  
4 the following:

5 “(F) PENALTY FOR VIOLATIONS RELATING  
6 TO OUT OF SERVICE ORDERS.—A motor carrier  
7 or employer (as defined in section 31132) that  
8 operates a commercial motor vehicle in com-  
9 merce in violation of a prohibition on transpor-  
10 tation under section 31144(c) of this title or an  
11 imminent hazard out of service order issued  
12 under subsection (b)(5) of this section or sec-  
13 tion 5121(d) of this title shall be liable for a  
14 civil penalty not to exceed \$25,000.”.

15 **SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR**  
16 **UNFIT CARRIERS.**

17 (a) IN GENERAL.—Section 31144(c)(1) is amended  
18 by inserting “, and such period shall be for not less than  
19 10 days” after “operator is fit”.

20 (b) OWNERS OR OPERATORS TRANSPORTING PAS-  
21 SENGERS.—Section 31144(c)(2) is amended by inserting  
22 “, and such period shall be for not less than 10 days”  
23 after “operator is fit”.

24 (c) OWNERS OR OPERATORS TRANSPORTING HAZ-  
25 ARDOUS MATERIAL.—Section 31144(c)(3) is amended by  
26 inserting before the period at the end of the first sentence

1 the following: “, and such period shall be for not less than  
2 10 days”.

3 **SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

4 Section 521(b)(7) is amended by adding at the end  
5 the following:

6 “The penalties may include a minimum duration for  
7 any out of service period, not to exceed 90 days.”.

8 **SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COM-**  
9 **MERCIAL MOTOR VEHICLES FOR IMMINENT**  
10 **HAZARD.**

11 Section 521(b) is amended by adding at the end the  
12 following:

13 “(15) IMPOUNDMENT OF COMMERCIAL MOTOR  
14 VEHICLES.—

15 “(A) ENFORCEMENT OF IMMINENT HAZ-  
16 ARD OUT-OF-SERVICE ORDERS.—

17 “(i) The Secretary, or an authorized  
18 State official carrying out motor carrier  
19 safety enforcement activities under section  
20 31102, may enforce an imminent hazard  
21 out-of-service order issued under chapters  
22 5, 51, 131 through 149, 311, 313, or 315  
23 of this title, or a regulation promulgated  
24 thereunder, by towing and impounding a

1 commercial motor vehicle until the order is  
2 rescinded.

3 “(ii) Enforcement shall not unreason-  
4 ably interfere with the ability of a shipper,  
5 carrier, broker, or other party to arrange  
6 for the alternative transportation of any  
7 cargo or passenger being transported at  
8 the time the commercial motor vehicle is  
9 immobilized. In the case of a commercial  
10 motor vehicle transporting passengers, the  
11 Secretary or authorized State official shall  
12 provide reasonable, temporary, and secure  
13 shelter and accommodations for passengers  
14 in transit.

15 “(iii) The Secretary’s designee or an  
16 authorized State official carrying out  
17 motor carrier safety enforcement activities  
18 under section 31102, shall immediately no-  
19 tify the owner of a commercial motor vehi-  
20 cle of the impoundment and the oppor-  
21 tunity for review of the impoundment. A  
22 review shall be provided in accordance with  
23 section 554 of title 5, except that the re-  
24 view shall occur not later than 10 days  
25 after the impoundment.

1           “(B) ISSUANCE OF REGULATIONS.—The  
2           Secretary shall promulgate regulations on the  
3           use of impoundment or immobilization of com-  
4           mercial motor vehicles as a means of enforcing  
5           additional out-of-service orders issued under  
6           chapters 5, 51, 131 through 149, 311, 313, or  
7           315 of this title, or a regulation promulgated  
8           thereunder. Regulations promulgated under this  
9           subparagraph shall include consideration of  
10          public safety, the protection of passengers and  
11          cargo, inconvenience to passengers, and the se-  
12          curity of the commercial motor vehicle.

13           “(C) DEFINITION.—In this paragraph, the  
14          term ‘impoundment’ or ‘impounding’ means the  
15          seizing and taking into custody of a commercial  
16          motor vehicle or the immobilizing of a commer-  
17          cial motor vehicle through the attachment of a  
18          locking device or other mechanical or electronic  
19          means.”.

20   **SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGU-**  
21           **LATIONS.**

22          (a) PENALTIES.—Section 524 is amended—

23                  (1) by striking “knowingly and willfully”;

24                  (2) by inserting after “this chapter” the fol-  
25          lowing: “, chapter 51, subchapter III of chapter 311



1 (except sections 31138 and 31139) or section  
2 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or  
3 31502 of this title, or a regulation issued under any  
4 of those provisions,”;

5 (3) by striking “\$200 but not more than \$500”  
6 and inserting “\$2,000 but not more than \$5,000”;  
7 and

8 (4) by striking “\$250 but not more than  
9 \$2,000” and inserting “\$2,500 but not more than  
10 \$7,500”.

11 (b) EVASION OF REGULATION.—Section 14906 is  
12 amended—

13 (1) by striking “\$200” and inserting “at least  
14 \$2,000”;

15 (2) by striking “\$250” and inserting “\$5,000”;  
16 and

17 (3) by inserting after “a subsequent violation”  
18 the following:

19 “, and may be subject to criminal penalties”.

20 **SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DIS-**  
21 **QUALIFYING OFFENSE.**

22 (a) IN GENERAL.—Chapter 311 is amended by in-  
23 serting after section 31151 the following:

1 **“§ 31152. Disqualification for failure to pay**

2 “An individual assessed a civil penalty under this  
3 chapter, or chapters 5, 51, or 149 of this title, or a regula-  
4 tion issued under any of those provisions, who fails to pay  
5 the penalty or fails to comply with the terms of a settle-  
6 ment with the Secretary, shall be disqualified from oper-  
7 ating a commercial motor vehicle after the individual is  
8 notified in writing and is given an opportunity to respond.  
9 A disqualification shall continue until the penalty is paid,  
10 or the individual complies with the terms of the settle-  
11 ment, unless the nonpayment is because the individual is  
12 a debtor in a case under chapter 11 of title 11, United  
13 States Code.”.

14 (b) TECHNICAL AMENDMENTS.—Section 31310, as  
15 amended by sections 32206 and 32310 of this Act, is  
16 amended—

17 (1) by redesignating subsections (h) through (k)  
18 as subsections (i) through (l), respectively; and

19 (2) by inserting after subsection (g) the fol-  
20 lowing:

21 “(h) DISQUALIFICATION FOR FAILURE TO PAY.—  
22 The Secretary shall disqualify from operating a commer-  
23 cial motor vehicle any individual who fails to pay a civil  
24 penalty within the prescribed period, or fails to conform  
25 to the terms of a settlement with the Secretary. A disquali-  
26 fication shall continue until the penalty is paid, or the in-

1 individual conforms to the terms of the settlement, unless  
2 the nonpayment is because the individual is a debtor in  
3 a case under chapter 11 of title 11, United States Code.”;  
4 and

5 (3) in subsection (i), as redesignated, by strik-  
6 ing “Notwithstanding subsections (b) through (g)”  
7 and inserting “Notwithstanding subsections (b)  
8 through (h)”.

9 (c) CONFORMING AMENDMENT.—The analysis of  
10 chapter 311 is amended by inserting after the item relat-  
11 ing to section 31151 the following:

“31152. Disqualification for failure to pay.”.

12 **SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL**  
13 **MOTOR VEHICLE SAFETY REGULATION AND**  
14 **OPERATORS.**

15 Section 521(b)(2)(D) is amended by striking “ability  
16 to pay,”.

17 **SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMI-**  
18 **NENT HAZARD.**

19 Section 31310(f) is amended—

20 (1) in paragraph (1) by inserting “section 521  
21 or” before “section 5102”; and

22 (2) in paragraph (2) by inserting “section 521  
23 or” before “section 5102”.

1 **SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE**  
2 **MOTOR CARRIERS.**

3 (a) **PROHIBITED TRANSPORTATION.**—Section  
4 521(b)(5) is amended by inserting after subparagraph (B)  
5 the following:

6 “(C) If an employee, vehicle, or all or part  
7 of an employer’s commercial motor vehicle oper-  
8 ations is ordered out of service under paragraph  
9 (5)(A), the commercial motor vehicle operations  
10 of the employee, vehicle, or employer that affect  
11 interstate commerce are also prohibited.”.

12 (b) **PROHIBITION ON OPERATION IN INTERSTATE**  
13 **COMMERCE AFTER NONPAYMENT OF PENALTIES.**—Sec-  
14 tion 521(b)(8) is amended—

15 (1) by redesignating subparagraph (B) as sub-  
16 paragraph (C); and

17 (2) by inserting after subparagraph (A) the fol-  
18 lowing:

19 “(B) **ADDITIONAL PROHIBITION.**—A per-  
20 son prohibited from operating in interstate com-  
21 merce under paragraph (8)(A) may not operate  
22 any commercial motor vehicle where the oper-  
23 ation affects interstate commerce.”.

1 **SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULA-**  
2 **TIONS.**

3 (a) ENFORCEMENT OF SAFETY LAWS AND REGULA-  
4 TIONS.—Chapter 311, as amended by sections 32113 and  
5 32508 of this Act, is amended by adding after section  
6 31153 the following:

7 **“§ 31154. Enforcement of safety laws and regulations**

8 “(a) IN GENERAL.—The Secretary may bring a civil  
9 action to enforce this part, or a regulation or order of the  
10 Secretary under this part, when violated by an employer,  
11 employee, or other person providing transportation or  
12 service under this subchapter or subchapter I.

13 “(b) VENUE.—In a civil action under subsection  
14 (a)—

15 “(1) trial shall be in the judicial district in  
16 which the employer, employee, or other person oper-  
17 ates;

18 “(2) process may be served without regard to  
19 the territorial limits of the district or of the State  
20 in which the action is instituted; and

21 “(3) a person participating with a carrier or  
22 broker in a violation may be joined in the civil action  
23 without regard to the residence of the person.”.

1 (b) CONFORMING AMENDMENT.—The analysis of  
2 chapter 311 is amended by inserting after the item relat-  
3 ing to section 31153 the following:

“31154. Enforcement of safety laws and regulations.”.

4 **SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW EN-**  
5 **FORCEMENT AGENCIES.**

6 Section 31106(e) is amended—

7 (1) by redesignating subsection (e) as sub-  
8 section (e)(1); and

9 (2) by inserting at the end the following:

10 “(2) IN GENERAL.—Notwithstanding any prohi-  
11 bition on disclosure of information in section  
12 31105(h) or 31143(b) of this title or section 552a  
13 of title 5, the Secretary may disclose information  
14 maintained by the Secretary pursuant to chapters  
15 51, 135, 311, or 313 of this title to appropriate per-  
16 sonnel of a State agency or instrumentality author-  
17 ized to carry out State commercial motor vehicle  
18 safety activities and commercial driver’s license laws,  
19 or appropriate personnel of a local law enforcement  
20 agency, in accordance with standards, conditions,  
21 and procedures as determined by the Secretary. Dis-  
22 closure under this section shall not operate as a  
23 waiver by the Secretary of any applicable privilege  
24 against disclosure under common law or as a basis

1 for compelling disclosure under section 552 of title  
2 5.”.

3 **Subtitle F—Compliance, Safety,**  
4 **Accountability**

5 **SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

6 (a) IN GENERAL.—Section 31102 is amended—

7 (1) by amending the section heading to read:

8 **“§ 31102. Compliance, safety, and accountability**  
9 **grants”;**

10 (2) by amending subsection (a) to read as fol-  
11 lows:

12 “(a) GENERAL AUTHORITY.—Subject to this section,  
13 the Secretary of Transportation shall make and admin-  
14 ister a compliance, safety, and accountability grant pro-  
15 gram to assist States, local governments, and other enti-  
16 ties and persons with motor carrier safety and enforce-  
17 ment on highways and other public roads, new entrant  
18 safety audits, border enforcement, hazardous materials  
19 safety and security, consumer protection and household  
20 goods enforcement, and other programs and activities re-  
21 quired to improve the safety of motor carriers as deter-  
22 mined by the Secretary. The Secretary shall allocate fund-  
23 ing in accordance with section 31104 of this title.”;

24 (3) in subsection (b)—

1 (A) by amending the heading to read as  
2 follows:

3 “(b) MOTOR CARRIER SAFETY ASSISTANCE PRO-  
4 GRAM.—”;

5 (B) by redesignating paragraphs (1)  
6 through (3) as (2) through (4), respectively;

7 (C) by inserting before paragraph (2), as  
8 redesignated, the following:

9 “(1) PROGRAM GOAL.—The goal of the Motor  
10 Carrier Safety Assistance Program is to ensure that  
11 the Secretary, States, local government agencies,  
12 and other political jurisdictions work in partnership  
13 to establish programs to improve motor carrier, com-  
14 mercial motor vehicle, and driver safety to support  
15 a safe and efficient surface transportation system  
16 by—

17 “(A) making targeted investments to pro-  
18 mote safe commercial motor vehicle transpor-  
19 tation, including transportation of passengers  
20 and hazardous materials;

21 “(B) investing in activities likely to gen-  
22 erate maximum reductions in the number and  
23 severity of commercial motor vehicle crashes  
24 and fatalities resulting from such crashes;



1           “(C) adopting and enforcing effective  
2 motor carrier, commercial motor vehicle, and  
3 driver safety regulations and practices con-  
4 sistent with Federal requirements; and

5           “(D) assessing and improving statewide  
6 performance by setting program goals and  
7 meeting performance standards, measures, and  
8 benchmarks.”;

9           (D) in paragraph (2), as redesignated—

10           (i) by striking “make a declaration  
11 of” in subparagraph (I) and inserting  
12 “demonstrate”;

13           (ii) by amending subparagraph (M) to  
14 read as follows:

15           “(M) ensures participation in appropriate  
16 Federal Motor Carrier Safety Administration  
17 systems and other information systems by all  
18 appropriate jurisdictions receiving Motor Car-  
19 rier Safety Assistance Program funding.”;

20           (iii) in subparagraph (Q), by inserting  
21 “and dedicated sufficient resources to” be-  
22 tween “established” and “a program”;

23           (iv) in subparagraph (W), by striking  
24 “and” after the semicolon;

1 (v) by amending subparagraph (X) to  
2 read as follows:

3 “(X) except in the case of an imminent or  
4 obvious safety hazard, ensures that an inspec-  
5 tion of a vehicle transporting passengers for a  
6 motor carrier of passengers is conducted at a  
7 station, terminal, border crossing, maintenance  
8 facility, destination, weigh station, rest stop,  
9 turnpike service area, or a location where ade-  
10 quate food, shelter, and sanitation facilities are  
11 available for passengers, and reasonable accom-  
12 modation is available for passengers with dis-  
13 abilities; and”;

14 (vi) by adding after subparagraph (X)  
15 the following:

16 “(Y) ensures that the State will transmit  
17 to its roadside inspectors the notice of each  
18 Federal exemption granted pursuant to section  
19 31315(b) and provided to the State by the Sec-  
20 retary, including the name of the person grant-  
21 ed the exemption and any terms and conditions  
22 that apply to the exemption.”;

23 (E) by amending paragraph (4), as reded-  
24 icated, to read as follows:

25 “(4) MAINTENANCE OF EFFORT.—

1           “(A) IN GENERAL.—A plan submitted by a  
2           State under paragraph (2) shall provide that  
3           the total expenditure of amounts of the lead  
4           State agency responsible for implementing the  
5           plan will be maintained at a level at least equal  
6           to the average level of that expenditure for fis-  
7           cal years 2004 and 2005.

8           “(B) AVERAGE LEVEL OF STATE EXPENDI-  
9           TURES.—In estimating the average level of  
10          State expenditure under subparagraph (A), the  
11          Secretary—

12                 “(i) may allow the State to exclude  
13                 State expenditures for Government-spon-  
14                 sored demonstration or pilot programs;  
15                 and

16                 “(ii) shall require the State to exclude  
17                 State matching amounts used to receive  
18                 Government financing under this sub-  
19                 section.

20          “(C) WAIVER.—Upon the request of a  
21          State, the Secretary may waive or modify the  
22          requirements of this paragraph for 1 fiscal  
23          year, if the Secretary determines that a waiver  
24          is equitable due to exceptional or uncontrollable  
25          circumstances, such as a natural disaster or a

1           serious decline in the financial resources of the  
2           State motor carrier safety assistance program  
3           agency.”;

4           (4) by redesignating subsection (e) as sub-  
5           section (h); and

6           (5) by inserting after subsection (d) the fol-  
7           lowing:

8           “(e) NEW ENTRANT SAFETY ASSURANCE PRO-  
9           GRAM.—

10           “(1) PROGRAM GOAL.—The Secretary may  
11           make grants to States and local governments for  
12           pre-authorization safety audits and new entrant  
13           motor carrier audits as described in section  
14           31144(g).

15           “(2) RECIPIENTS.—Grants made in support of  
16           this program may be provided to States and local  
17           governments.

18           “(3) FEDERAL SHARE.—The Federal share of a  
19           grant made under this program is 100 percent.

20           “(4) ELIGIBLE ACTIVITIES.—Eligible activities  
21           will be in accordance with criteria developed by the  
22           Secretary and posted in the Federal Register in ad-  
23           vance of the grant application period.

24           “(5) DETERMINATION.—If the Secretary deter-  
25           mines that a State or local government is unable to

1       conduct a new entrant motor carrier audit, the Sec-  
2       retary may use the funds to conduct the audit.

3       “(f) BORDER ENFORCEMENT.—

4             “(1) PROGRAM GOAL.—The Secretary of Trans-  
5       portation may make a grant for carrying out border  
6       commercial motor vehicle safety programs and re-  
7       lated enforcement activities and projects.

8             “(2) RECIPIENTS.—The Secretary of Transpor-  
9       tation may make a grant to an entity, State, or  
10      other person for carrying out border commercial  
11      motor vehicle safety programs and related enforce-  
12      ment activities and projects.

13            “(3) FEDERAL SHARE.—The Secretary shall re-  
14      imburse a grantee at least 100 percent of the costs  
15      incurred in a fiscal year for carrying out border  
16      commercial motor vehicle safety programs and re-  
17      lated enforcement activities and projects.

18            “(4) ELIGIBLE ACTIVITIES.—An eligible activity  
19      will be in accordance with criteria developed by the  
20      Secretary and posted in the Federal Register in ad-  
21      vance of the grant application period.

22      “(g) HIGH PRIORITY INITIATIVES.—

23            “(1) PROGRAM GOAL.—The Secretary may  
24      make grants to carry out high priority activities and  
25      projects that improve commercial motor vehicle safe-

1 ty and compliance with commercial motor vehicle  
2 safety regulations, including activities and projects  
3 that—

4 “(A) are national in scope;

5 “(B) increase public awareness and edu-  
6 cation;

7 “(C) target unsafe driving of commercial  
8 motor vehicles and non-commercial motor vehi-  
9 cles in areas identified as high risk crash cor-  
10 ridors;

11 “(D) improve consumer protection and en-  
12 forcement of household goods regulations;

13 “(E) improve the movement of hazardous  
14 materials safely and securely, including activi-  
15 ties related to the establishment of uniform  
16 forms and application procedures that improve  
17 the accuracy, timeliness, and completeness of  
18 commercial motor vehicle safety data reported  
19 to the Secretary; or

20 “(F) demonstrate new technologies to im-  
21 prove commercial motor vehicle safety.

22 “(2) RECIPIENTS.—The Secretary may allocate  
23 amounts to award grants to State agencies, local  
24 governments, and other persons for carrying out  
25 high priority activities and projects that improve

1 commercial motor vehicle safety and compliance with  
2 commercial motor vehicle safety regulations in ac-  
3 cordance with the program goals specified in para-  
4 graph (1).

5 “(3) FEDERAL SHARE.—The Secretary shall re-  
6 imburse a grantee at least 80 percent of the costs  
7 incurred in a fiscal year for carrying out the high  
8 priority activities or projects.

9 “(4) ELIGIBLE ACTIVITIES.—An eligible activity  
10 will be in accordance with criteria that is—

11 “(A) developed by the Secretary; and

12 “(B) posted in the Federal Register in ad-  
13 vance of the grant application period.”.

14 (b) CONFORMING AMENDMENT.—The analysis of  
15 chapter 311 is amended by striking the item relating to  
16 section 31102 and inserting the following:

“31102. Compliance, safety, and accountability grants.”.

17 **SEC. 32602. PERFORMANCE AND REGISTRATION INFORMA-**  
18 **TION SYSTEMS MANAGEMENT PROGRAM.**

19 Section 31106(b) is amended—

20 (1) by amending paragraph (3)(C) to read as  
21 follows—

22 “(C) establish and implement a process—

23 “(i) to cancel the motor vehicle reg-  
24 istration and seize the registration plates  
25 of a vehicle when an employer is found lia-

1           ble under section 31310(j)(2)(C) for know-  
2           ingly allowing or requiring an employee to  
3           operate such a commercial motor vehicle in  
4           violation of an out-of-service order; and

5                   “(ii) to reinstate the vehicle registra-  
6           tion or return the registration plates of the  
7           commercial motor vehicle, subject to sanc-  
8           tions under clause (i), if the Secretary per-  
9           mits such carrier to resume operations  
10          after the date of issuance of such order.”;  
11          and

12                   (2) by striking paragraph (4).

13 **SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

14          Section 31101(1) is amended to read as follows:

15                   “(1) ‘commercial motor vehicle’ means (except  
16          under section 31106) a self-propelled or towed vehi-  
17          cle used on the highways in commerce to transport  
18          passengers or property, if the vehicle—

19                           “(A) has a gross vehicle weight rating or  
20                           gross vehicle weight of at least 10,001 pounds,  
21                           whichever is greater;

22                           “(B) is designed or used to transport more  
23                           than 8 passengers, including the driver, for  
24                           compensation;



1           “(C) is designed or used to transport more  
2           than 15 passengers, including the driver, and is  
3           not used to transport passengers for compensa-  
4           tion; or

5           “(D) is used in transporting material  
6           found by the Secretary of Transportation to be  
7           hazardous under section 5103 and transported  
8           in a quantity requiring placarding under regula-  
9           tions prescribed by the Secretary under section  
10          5103.”.

11 **SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

12          Section 31144, as amended by section 32204 of this  
13 Act, is amended by adding at the end the following:

14          “(i) **COMMERCIAL MOTOR VEHICLE DRIVERS.**—The  
15 Secretary may maintain by regulation a procedure for de-  
16 termining the safety fitness of a commercial motor vehicle  
17 driver and for prohibiting the driver from operating in  
18 interstate commerce. The procedure and prohibition shall  
19 include the following:

20                 “(1) Specific initial and continuing require-  
21                 ments that a driver must comply with to dem-  
22                 onstrate safety fitness.

23                 “(2) The methodology and continually updated  
24                 safety performance data that the Secretary will use  
25                 to determine whether a driver is fit, including in-

1       spection results, serious traffic offenses, and crash  
2       involvement data.

3           “(3) Specific time frames within which the Sec-  
4       retary will determine whether a driver is fit.

5           “(4) A prohibition period or periods, not to ex-  
6       ceed 1 year, that a driver that the Secretary deter-  
7       mines is not fit will be prohibited from operating a  
8       commercial motor vehicle in interstate commerce.  
9       The period or periods shall begin on the 46th day  
10      after the date of the fitness determination and con-  
11      tinue until the Secretary determines the driver is fit  
12      or until the prohibition period expires.

13          “(5) A review by the Secretary, not later than  
14      30 days after an unfit driver requests a review, of  
15      the driver’s compliance with the requirements the  
16      driver failed to comply with and that resulted in the  
17      Secretary determining that the driver was not fit.  
18      The burden of proof shall be on the driver to dem-  
19      onstrate fitness.

20          “(6) The eligibility criteria for reinstatement,  
21      including the remedial measures the unfit driver  
22      must take for reinstatement.”.

1 **SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COM-**  
2 **MERCIAL MOTOR VEHICLE INSPECTIONS.**

3 (a) IN GENERAL.—Chapter 311 is amended by add-  
4 ing after section 31109 the following:

5 **“§ 31110. Withholding amounts for State noncompli-**  
6 **ance**

7 “(a) FIRST FISCAL YEAR.—Subject to criteria estab-  
8 lished by the Secretary of Transportation, the Secretary  
9 may withhold up to 50 percent of the amount a State is  
10 otherwise eligible to receive under section 31102(b) on the  
11 first day of the fiscal year after the first fiscal year fol-  
12 lowing the date of enactment of the Commercial Motor  
13 Vehicle Safety Enhancement Act of 2012 in which the  
14 State uses for at least 180 days an electronic commercial  
15 motor vehicle inspection selection system that does not  
16 employ a selection methodology approved by the Secretary.

17 “(b) SECOND FISCAL YEAR.—The Secretary shall  
18 withhold up to 75 percent of the amount a State is other-  
19 wise eligible to receive under section 31102(b) on the first  
20 day of the fiscal year after the second fiscal year following  
21 the date of enactment of the Commercial Motor Vehicle  
22 Safety Enhancement Act of 2012 in which the State uses  
23 for at least 180 days an electronic commercial motor vehi-  
24 cle inspection selection system that does not employ a se-  
25 lection methodology approved by the Secretary.

1       “(c) SUBSEQUENT AVAILABILITY OF WITHHELD  
2 FUNDS.—The Secretary may make the amounts withheld  
3 under subsection (a) or subsection (b) available to the  
4 State if the Secretary determines that the State has sub-  
5 stantially complied with the requirement described under  
6 subsection (a) or subsection (b) not later than 180 days  
7 after the beginning of the fiscal year in which amounts  
8 were withheld.”.

9       (b) CONFORMING AMENDMENT.—The analysis of  
10 chapter 311 is amended by inserting after the item relat-  
11 ing to section 31109 the following:

“31110. Withholding amounts for State noncompliance.”.

12 **SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

13       Section 31104 is amended to read as follows:

14 **“§ 31104. Availability of amounts**

15       “(a) IN GENERAL.—There are authorized to be ap-  
16 propriated from Highway Trust Fund (other than the  
17 Mass Transit Account) for Federal Motor Carrier Safety  
18 Administration programs the following:

19               “(1) COMPLIANCE, SAFETY, AND ACCOUNT-  
20 ABILITY GRANTS UNDER SECTION 31102.—

21                       “(A) \$249,717,000 for fiscal year 2012,  
22                       provided that the Secretary shall set aside not  
23                       less than \$168,388,000 to carry out the motor  
24                       carrier safety assistance program under section  
25                       31102(b); and

1           “(B) \$253,814,000 for fiscal year 2013,  
2           provided that the Secretary shall set aside not  
3           less than \$171,813,000 to carry out the motor  
4           carrier safety assistance program under section  
5           31102(b).

6           “(2) DATA AND TECHNOLOGY GRANTS UNDER  
7           SECTION 31109.—

8           “(A) \$30,000,000 for fiscal year 2012; and

9           “(B) \$30,000,000 for fiscal year 2013.

10          “(3) DRIVER SAFETY GRANTS UNDER SECTION  
11          31313.—

12          “(A) \$31,000,000 for fiscal year 2012; and

13          “(B) \$31,000,000 for fiscal year 2013.

14          “(4) CRITERIA.—The Secretary shall develop  
15          criteria to allocate the remaining funds under para-  
16          graphs (1), (2), and (3) for fiscal year 2013 and for  
17          each fiscal year thereafter not later than April 1 of  
18          the prior fiscal year.

19          “(b) AVAILABILITY AND REALLOCATION OF  
20          AMOUNTS.—

21          “(1) ALLOCATIONS AND REALLOCATIONS.—

22          Amounts made available under subsection (a)(1) re-  
23          main available until expended. Allocations to a State  
24          remain available for expenditure in the State for the  
25          fiscal year in which they are allocated and for the

1 next fiscal year. Amounts not expended by a State  
2 during those 2 fiscal years are released to the Sec-  
3 retary for reallocation.

4 “(2) REDISTRIBUTION OF AMOUNTS.—The Sec-  
5 retary may, after August 1 of each fiscal year, upon  
6 a determination that a State does not qualify for  
7 funding under section 31102(b) or that the State  
8 will not expend all of its existing funding, reallocate  
9 the State’s funding. In revising the allocation and  
10 redistributing the amounts, the Secretary shall give  
11 preference to those States that require additional  
12 funding to meet program goals under section  
13 31102(b).

14 “(3) PERIOD OF AVAILABILITY FOR DATA AND  
15 TECHNOLOGY GRANTS.—Amounts made available  
16 under subsection (a)(2) remain available for obliga-  
17 tion for the fiscal year and the next 2 years in which  
18 they are appropriated. Allocations remain available  
19 for expenditure in the State for 5 fiscal years after  
20 they were obligated. Amounts not expended by a  
21 State during those 3 fiscal years are released to the  
22 Secretary for reallocation.

23 “(4) PERIOD OF AVAILABILITY FOR DRIVER  
24 SAFETY GRANTS.—Amounts made available under  
25 subsection (a)(3) of this section remain available for

1 obligation for the fiscal year and the next fiscal year  
2 in which they are appropriated. Allocations to a  
3 State remain available for expenditure in the State  
4 for the fiscal year in which they are allocated and  
5 for the following 2 fiscal years. Amounts not ex-  
6 pended by a State during those 3 fiscal years are re-  
7 leased to the Secretary for reallocation.

8 “(5) REALLOCATION.—The Secretary, upon a  
9 request by a State, may reallocate grant funds pre-  
10 viously awarded to the State under a grant program  
11 authorized by section 31102, 31109, or 31313 to an-  
12 other grant program authorized by those sections  
13 upon a showing by the State that it is unable to ex-  
14 pend the funds within the 12 months prior to their  
15 expiration provided that the State agrees to expend  
16 the funds within the remaining period of expendi-  
17 ture.

18 “(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-  
19 proval by the Secretary of a grant under sections 31102,  
20 31109, and 31313 is a contractual obligation of the Gov-  
21 ernment for payment of the Government’s share of costs  
22 incurred in developing and implementing programs to im-  
23 prove commercial motor vehicle safety and enforce com-  
24 mercial driver’s license regulations, standards, and orders.

1       “(d) DEDUCTION FOR ADMINISTRATIVE EX-  
2 PENSES.—

3           “(1) IN GENERAL.—On October 1 of each fiscal  
4 year or as soon after that as practicable, the Sec-  
5 retary may deduct, from amounts made available  
6 under—

7           “(A) subsection (a)(1) for that fiscal year,  
8 not more than 1.5 percent of those amounts for  
9 administrative expenses incurred in carrying  
10 out section 31102 in that fiscal year;

11           “(B) subsection (a)(2) for that fiscal year,  
12 not more than 1.4 percent of those amounts for  
13 administrative expenses incurred in carrying  
14 out section 31109 in that fiscal year; and

15           “(C) subsection (a)(3) for that fiscal year,  
16 not more than 1.4 percent of those amounts for  
17 administrative expenses incurred in carrying  
18 out section 31313 in that fiscal year.

19           “(2) TRAINING.—The Secretary may use at  
20 least 50 percent of the amounts deducted from the  
21 amounts made available under sections (a)(1) and  
22 (a)(3) to train non-Government employees and to de-  
23 velop related training materials to carry out sections  
24 31102, 31311, and 31313 of this title.



1           “(3) CONTRACTS.—The Secretary may use  
2 amounts deducted under paragraph (1) to enter into  
3 contracts and cooperative agreements with States,  
4 local governments, associations, institutions, cor-  
5 porations, and other persons, if the Secretary deter-  
6 mines the contracts and cooperative agreements are  
7 cost-effective, benefit multiple jurisdictions of the  
8 United States, and enhance safety programs and re-  
9 lated enforcement activities.

10           “(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

11           “(1) On October 1 of each fiscal year or as  
12 soon as practicable after that date after making the  
13 deduction under subsection (d)(1)(A), the Secretary  
14 shall allocate amounts made available to carry out  
15 section 31102(b) for such fiscal year among the  
16 States with plans approved under that section. Allo-  
17 cation shall be made under the criteria prescribed by  
18 the Secretary.

19           “(2) On October 1 of each fiscal year or as  
20 soon as practicable after that date and after making  
21 the deduction under subsection (d)(1)(B) or  
22 (d)(1)(C), the Secretary shall allocate amounts made  
23 available to carry out sections 31109(a) and  
24 31313(b)(1).

1           “(f) INTRASTATE COMPATIBILITY.—The Secretary  
2 shall prescribe regulations specifying tolerance guidelines  
3 and standards for ensuring compatibility of intrastate  
4 commercial motor vehicle safety laws and regulations with  
5 Government motor carrier safety regulations to be en-  
6 forced under section 31102(b). To the extent practicable,  
7 the guidelines and standards shall allow for maximum  
8 flexibility while ensuring a degree of uniformity that will  
9 not diminish transportation safety. In reviewing State  
10 plans and allocating amounts or making grants under sec-  
11 tion 153 of title 23, United States Code, the Secretary  
12 shall ensure that the guidelines and standards are applied  
13 uniformly.

14           “(g) WITHHOLDING AMOUNTS FOR STATE NON-  
15 COMPLIANCE.—

16           “(1) IN GENERAL.—Subject to criteria estab-  
17 lished by the Secretary, the Secretary may withhold  
18 up to 100 percent of the amounts a State is other-  
19 wise eligible to receive under section 31102(b) on  
20 October 1 of each fiscal year beginning after the  
21 date of enactment of the Commercial Motor Vehicle  
22 Safety Enhancement Act of 2012 and continuing for  
23 the period that the State does not comply substan-  
24 tially with a requirement under section 31109(b).

1           “(2) SUBSEQUENT AVAILABILITY OF WITHHELD  
2 FUNDS.—The Secretary may make the amounts  
3 withheld in accordance with paragraph (1) available  
4 to a State if the Secretary determines that the State  
5 has substantially complied with a requirement under  
6 section 31109(b) not later than 180 days after the  
7 beginning of the fiscal year in which the amounts  
8 are withheld.

9           “(h) ADMINISTRATIVE EXPENSES.—

10           “(1) AUTHORIZATION OF APPROPRIATIONS.—  
11 There are authorized to be appropriated from the  
12 Highway Trust Fund (other than the Mass Transit  
13 Account) for the Secretary to pay administrative ex-  
14 penses of the Federal Motor Carrier Safety Adminis-  
15 tration—

16           “(A) \$250,819,000 for fiscal year 2012;

17           and

18           “(B) \$248,523,000 for fiscal year 2013.

19           “(2) USE OF FUNDS.—The funds authorized by  
20 this subsection shall be used for personnel costs, ad-  
21 ministrative infrastructure, rent, information tech-  
22 nology, programs for research and technology, infor-  
23 mation management, regulatory development, the  
24 administration of the performance and registration  
25 information system management, outreach and edu-

1 cation, other operating expenses, and such other ex-  
2 penses as may from time to time be necessary to im-  
3 plement statutory mandates of the Administration  
4 not funded from other sources.

5 “(i) AVAILABILITY OF FUNDS.—

6 “(1) PERIOD OF AVAILABILITY.—The amounts  
7 made available under this section shall remain avail-  
8 able until expended.

9 “(2) INITIAL DATE OF AVAILABILITY.—Author-  
10 izations from the Highway Trust Fund (other than  
11 the Mass Transit Account) for this section shall be  
12 available for obligation on the date of their appor-  
13 tionment or allocation or on October 1 of the fiscal  
14 year for which they are authorized, whichever occurs  
15 first.”.

16 **SEC. 32607. HIGH RISK CARRIER REVIEWS.**

17 (a) HIGH RISK CARRIER REVIEWS.—Section  
18 31104(h), as amended by section 32606 of this Act, is  
19 amended by adding at the end of paragraph (2) the fol-  
20 lowing:

21 “From the funds authorized by this subsection, the  
22 Secretary shall ensure that a review is completed on each  
23 motor carrier that demonstrates through performance  
24 data that it poses the highest safety risk. At a minimum,  
25 a review shall be conducted whenever a motor carrier is

1 among the highest risk carriers for 2 consecutive  
2 months.”.

3 (b) CONFORMING AMENDMENT.—Section 4138 of the  
4 Safe, Accountable, Flexible, Efficient Transportation Eq-  
5 uity Act: A Legacy for Users (49 U.S.C. 31144 note) is  
6 repealed.

7 **SEC. 32608. DATA AND TECHNOLOGY GRANTS.**

8 (a) IN GENERAL.—Section 31109 is amended to read  
9 as follows:

10 **“§ 31109. Data and technology grants**

11 “(a) GENERAL AUTHORITY.—The Secretary of  
12 Transportation shall establish and administer a data and  
13 technology grant program to assist the States with the im-  
14 plementation and maintenance of data systems. The Sec-  
15 retary shall allocate the funds in accordance with section  
16 31104.

17 “(b) PERFORMANCE GOALS.—The Secretary may  
18 make a grant to a State to implement the performance  
19 and registration information system management require-  
20 ments of section 31106(b) to develop, implement, and  
21 maintain commercial vehicle information systems and net-  
22 works, and other innovative technologies that the Sec-  
23 retary determines improve commercial motor vehicle safe-  
24 ty.

1           “(c) ELIGIBILITY.—To be eligible for a grant to im-  
2 plement the requirements of section 31106(b), the State  
3 shall design a program that—

4           “(1) links Federal motor carrier safety informa-  
5 tion systems with the State’s motor carrier informa-  
6 tion systems;

7           “(2) determines the safety fitness of a motor  
8 carrier or registrant when licensing or registering  
9 the registrant or motor carrier or while the license  
10 or registration is in effect; and

11           “(3) denies, suspends, or revokes the commer-  
12 cial motor vehicle registrations of a motor carrier or  
13 registrant that was issued an operations out-of-serv-  
14 ice order by the Secretary.

15           “(d) REQUIRED PARTICIPATION.—The Secretary  
16 shall require States that participate in the program under  
17 section 31106 to—

18           “(1) comply with the uniform policies, proce-  
19 dures, and technical and operational standards pre-  
20 scribed by the Secretary under section 31106(b);

21           “(2) possess or seek the authority to possess for  
22 a time period not longer than determined reasonable  
23 by the Secretary, to impose sanctions relating to  
24 commercial motor vehicle registration on the basis of  
25 a Federal safety fitness determination; and

1           “(3) establish and implement a process to can-  
2           cel the motor vehicle registration and seize the reg-  
3           istration plates of a vehicle when an employer is  
4           found liable under section 31310(j)(2)(C) for know-  
5           ingly allowing or requiring an employee to operate  
6           such a commercial motor vehicle in violation of an  
7           out of service order.

8           “(e) FEDERAL SHARE.—The total Federal share of  
9           the cost of a project payable from all eligible Federal  
10          sources shall be at least 80 percent.”.

11          (b) CONFORMING AMENDMENT.—The analysis of  
12          chapter 311 is amended by striking the item relating to  
13          section 31109 and inserting the following:

          “31109. Data and technology grants.”.

14          **SEC. 32609. DRIVER SAFETY GRANTS.**

15          (a) DRIVER FOCUSED GRANT PROGRAM.—Section  
16          31313 is amended to read as follows:

17          **“§ 31313. Driver safety grants**

18          “(a) GENERAL AUTHORITY.—The Secretary shall  
19          make and administer a driver focused grant program to  
20          assist the States, local governments, entities, and other  
21          persons with commercial driver’s license systems, pro-  
22          grams, training, fraud detection, reporting of violations  
23          and other programs required to improve the safety of driv-  
24          ers as the Federal Motor Carrier Safety Administration

1 deems critical. The Secretary shall allocate the funds for  
2 the program in accordance with section 31104.

3 “(b) COMMERCIAL DRIVER’S LICENSE PROGRAM IM-  
4 PROVEDMENT GRANTS.—

5 “(1) PROGRAM GOAL.—The Secretary of Trans-  
6 portation may make a grant to a State in a fiscal  
7 year—

8 “(A) to comply with the requirements of  
9 section 31311;

10 “(B) in the case of a State that is making  
11 a good faith effort toward substantial compli-  
12 ance with the requirements of this section and  
13 section 31311, to improve its implementation of  
14 its commercial driver’s license program;

15 “(C) for research, development demonstra-  
16 tion projects, public education, and other spe-  
17 cial activities and projects relating to commer-  
18 cial driver licensing and motor vehicle safety  
19 that are of benefit to all jurisdictions of the  
20 United States or are designed to address na-  
21 tional safety concerns and circumstances;

22 “(D) for commercial driver’s license pro-  
23 gram coordinators;

24 “(E) to implement or maintain a system to  
25 notify an employer of an operator of a commer-



1           cial motor vehicle of the suspension or revoca-  
2           tion of the operator’s commercial driver’s li-  
3           cense consistent with the standards developed  
4           under section 32304(b) of the Commercial  
5           Motor Vehicle Safety Enhancement Act of  
6           2012; or

7           “(F) to train operators of commercial  
8           motor vehicles, as defined under section 31301,  
9           and to train operators and future operators in  
10          the safe use of such vehicles. Funding priority  
11          for this discretionary grant program shall be to  
12          regional or multi-state educational or nonprofit  
13          associations serving economically distressed re-  
14          gions of the United States.

15          “(2) PRIORITY.—The Secretary shall give pri-  
16          ority, in making grants under paragraph (1)(B), to  
17          a State that will use the grants to achieve compli-  
18          ance with the requirements of the Motor Carrier  
19          Safety Improvement Act of 1999 (113 Stat. 1748),  
20          including the amendments made by the Commercial  
21          Motor Vehicle Safety Enhancement Act of 2012.

22          “(3) RECIPIENTS.—The Secretary may allocate  
23          grants to State agencies, local governments, and  
24          other persons for carrying out activities and projects  
25          that improve commercial driver’s license safety and

1 compliance with commercial driver's license and  
2 commercial motor vehicle safety regulations in ac-  
3 cordance with the program goals under paragraph  
4 (1) and that train operators on commercial motor  
5 vehicles. The Secretary may make a grant to a State  
6 to comply with section 31311 for commercial driver's  
7 license program coordinators and for notification  
8 systems.

9 “(4) FEDERAL SHARE.—The Federal share of a  
10 grant made under this program shall be at least 80  
11 percent, except that the Federal share of grants for  
12 commercial driver license program coordinators and  
13 training commercial motor vehicle operators shall be  
14 100 percent.”.

15 (b) CONFORMING AMENDMENT.—The analysis of  
16 chapter 313 is amended by striking the item relating to  
17 section 31313 and inserting the following:

“31313. Driver safety grants.”.

18 **SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYS-**  
19 **TEMS AND NETWORKS.**

20 Not later than 6 months after the date of enactment  
21 of this Act, the Secretary shall submit a report to the  
22 Committee on Commerce, Science, and Transportation of  
23 the Senate and the Committee on Transportation and In-  
24 frastructure of the House of Representatives that in-  
25 cludes—

1 (1) established time frames and milestones for  
2 resuming the Commercial Vehicle Information Sys-  
3 tems and Networks Program; and

4 (2) a strategic workforce plan for its grants  
5 management office to ensure that it has determined  
6 the skills and competencies that are critical to  
7 achieving its mission goals.

8 **Subtitle G—Motorcoach Enhanced**  
9 **Safety Act of 2012**

10 **SEC. 32701. SHORT TITLE.**

11 This subtitle may be cited as the “Motorcoach En-  
12 hanced Safety Act of 2012”.

13 **SEC. 32702. DEFINITIONS.**

14 In this subtitle:

15 (1) **ADVANCED GLAZING.**—The term “advanced  
16 glazing” means glazing installed in a portal on the  
17 side or the roof of a motorcoach that is designed to  
18 be highly resistant to partial or complete occupant  
19 ejection in all types of motor vehicle crashes.

20 (2) **BUS.**—The term “bus” has the meaning  
21 given the term in section 571.3(b) of title 49, Code  
22 of Federal Regulations (as in effect on the day be-  
23 fore the date of enactment of this Act).

24 (3) **COMMERCIAL MOTOR VEHICLE.**—Except as  
25 otherwise specified, the term “commercial motor ve-

1        hicle” has the meaning given the term in section  
2        31132(1) of title 49, United States Code.

3            (4) DIRECT TIRE PRESSURE MONITORING SYS-  
4        TEM.—The term “direct tire pressure monitoring  
5        system” means a tire pressure monitoring system  
6        that is capable of directly detecting when the air  
7        pressure level in any tire is significantly under-in-  
8        flated and providing the driver a low tire pressure  
9        warning as to which specific tire is significantly  
10       under-inflated.

11           (5) ELECTRONIC ON-BOARD RECORDER.—The  
12        term “electronic on-board recorder” means an elec-  
13        tronic device that acquires and stores data showing  
14        the record of duty status of the vehicle operator and  
15        performs the functions required of an automatic on-  
16        board recording device in section 395.15(b) of title  
17        49, Code of Federal Regulations.

18           (6) EVENT DATA RECORDER.—The term “event  
19        data recorder” has the meaning given that term in  
20        section 563.5 of title 49, Code of Federal Regula-  
21        tions.

22           (7) MOTOR CARRIER.—The term “motor car-  
23        rier” means—

24                (A) a motor carrier (as defined in section  
25        13102(14) of title 49, United States Code); or

1 (B) a motor private carrier (as defined in  
2 section 13102(15) of that title).

3 (8) MOTORCOACH.—The term “motorcoach”  
4 has the meaning given the term “over-the-road bus”  
5 in section 3038(a)(3) of the Transportation Equity  
6 Act for the 21st Century (49 U.S.C. 5310 note), but  
7 does not include—

8 (A) a bus used in public transportation  
9 provided by, or on behalf of, a public transpor-  
10 tation agency; or

11 (B) a school bus, including a multifunction  
12 school activity bus.

13 (9) MOTORCOACH SERVICES.—The term “mo-  
14 torcoach services” means passenger transportation  
15 by motorcoach for compensation.

16 (10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—  
17 The term “multifunction school activity bus” has the  
18 meaning given the term in section 571.3(b) of title  
19 49, Code of Federal Regulations (as in effect on the  
20 day before the date of enactment of this Act).

21 (11) PORTAL.—The term “portal” means any  
22 opening on the front, side, rear, or roof of a motor-  
23 coach that could, in the event of a crash involving  
24 the motorcoach, permit the partial or complete ejection

1       tion of any occupant from the motorcoach, including  
2       a young child.

3           (12) PROVIDER OF MOTORCOACH SERVICES.—

4       The term “provider of motorcoach services” means  
5       a motor carrier that provides passenger transpor-  
6       tation services with a motorcoach, including per-trip  
7       compensation and contracted or chartered com-  
8       pensation.

9           (13) PUBLIC TRANSPORTATION.—The term  
10       “public transportation” has the meaning given the  
11       term in section 5302 of title 49, United States Code.

12           (14) SAFETY BELT.—The term “safety belt”  
13       has the meaning given the term in section  
14       153(i)(4)(B) of title 23, United States Code.

15           (15) SECRETARY.—The term “Secretary”  
16       means the Secretary of Transportation.

17 **SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PRO-**  
18 **TECTION, PASSENGER EVACUATION, AND**  
19 **CRASH AVOIDANCE.**

20       (a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not  
21 later than 1 year after the date of enactment of this Act,  
22 the Secretary shall prescribe regulations requiring safety  
23 belts to be installed in motorcoaches at each designated  
24 seating position.

1 (b) REGULATIONS REQUIRED WITHIN 2 YEARS.—

2 Not later than 2 years after the date of enactment of this  
3 Act, the Secretary shall prescribe the following commercial  
4 motor vehicle regulations:

5 (1) ROOF STRENGTH AND CRUSH RESIST-  
6 ANCE.—The Secretary shall establish improved roof  
7 and roof support standards for motorcoaches that  
8 substantially improve the resistance of motorcoach  
9 roofs to deformation and intrusion to prevent serious  
10 occupant injury in rollover crashes involving  
11 motorcoaches.

12 (2) ANTI-EJECTION SAFETY COUNTER-  
13 MEASURES.—The Secretary shall require advanced  
14 glazing to be installed in each motorcoach portal and  
15 shall consider other portal improvements to prevent  
16 partial and complete ejection of motorcoach pas-  
17 sengers, including children. In prescribing such  
18 standards, the Secretary shall consider the impact of  
19 such standards on the use of motorcoach portals as  
20 a means of emergency egress.

21 (3) ROLLOVER CRASH AVOIDANCE.—The Sec-  
22 retary shall require motorcoaches to be equipped  
23 with stability enhancing technology, such as elec-  
24 tronic stability control and torque vectoring, to re-

1       duce the number and frequency of rollover crashes  
2       among motorcoaches.

3       (c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE  
4 MONITORING SYSTEMS.—Not later than 3 years after the  
5 date of enactment of this Act, the Secretary shall prescribe  
6 the following commercial vehicle regulation:

7           (1) IN GENERAL.—The Secretary shall require  
8 motorcoaches to be equipped with direct tire pres-  
9 sure monitoring systems that warn the operator of  
10 a commercial motor vehicle when any tire exhibits a  
11 level of air pressure that is below a specified level of  
12 air pressure established by the Secretary.

13           (2) PERFORMANCE REQUIREMENTS.—The regu-  
14 lation prescribed by the Secretary under this sub-  
15 section shall include performance requirements to  
16 ensure that direct tire pressure monitoring systems  
17 are capable of—

18           (A) providing a warning to the driver when  
19 1 or more tires are underinflated;

20           (B) activating in a specified time period  
21 after the underinflation is detected; and

22           (C) operating at different vehicle speeds.

23 (d) APPLICATION OF REGULATIONS.—

24           (1) NEW MOTORCOACHES.—Any regulation pre-  
25 scribed in accordance with subsection (a), (b), or (c)



1 shall apply to all motorcoaches manufactured more  
2 than 2 years after the date on which the regulation  
3 is published as a final rule.

4 (2) RETROFIT REQUIREMENTS FOR EXISTING  
5 MOTORCOACHES.—

6 (A) IN GENERAL.—The Secretary may, by  
7 regulation, provide for the application of any re-  
8 quirement established under subsection (a) or  
9 (b)(2) to motorcoaches manufactured before the  
10 date on which the requirement applies to new  
11 motorcoaches under paragraph (1) based on an  
12 assessment of the feasibility, benefits, and costs  
13 of retrofitting the older motorcoaches.

14 (B) ASSESSMENT.—The Secretary shall  
15 complete an assessment with respect to safety  
16 belt retrofits not later than 1 year after the  
17 date of enactment of this Act and with respect  
18 to anti-ejection countermeasure retrofits not  
19 later than 2 years after the date of enactment  
20 of this Act.

21 (e) FAILURE TO MEET DEADLINE.—If the Secretary  
22 determines that a final rule cannot be issued before the  
23 deadline established under this section, the Secretary  
24 shall—

1           (1) submit a report to the Committee on Com-  
2           merce, Science, and Transportation of the Senate  
3           and the Committee on Energy and Commerce of the  
4           House of Representatives that explains why the  
5           deadline cannot be met; and

6           (2) establish a new deadline for the issuance of  
7           the final rule.

8   **SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

9           (a) EVALUATIONS.—Not later than 18 months after  
10          the date of enactment of this Act, the Secretary shall ini-  
11          tiate the following rulemaking proceedings:

12           (1) FLAMMABILITY STANDARD FOR EXTERIOR  
13          COMPONENTS.—The Secretary shall establish re-  
14          quirements for fire hardening or fire resistance of  
15          motorcoach exterior components to prevent fire and  
16          smoke inhalation injuries to occupants.

17           (2) SMOKE SUPPRESSION.—The Secretary shall  
18          update Federal Motor Vehicle Safety Standard  
19          Number 302 (49 C.F.R. 571.302; relating to flam-  
20          mability of interior materials) to improve the resist-  
21          ance of motorcoach interiors and components to  
22          burning and permit sufficient time for the safe evac-  
23          uation of passengers from motorcoaches.

1           (3) PREVENTION OF, AND RESISTANCE TO,  
2 WHEEL WELL FIRES.—The Secretary shall establish  
3 requirements—

4           (A) to prevent and mitigate the propaga-  
5 tion of wheel well fires into the passenger com-  
6 partment; and

7           (B) to substantially reduce occupant  
8 deaths and injuries from such fires.

9           (4) AUTOMATIC FIRE SUPPRESSION.—The Sec-  
10 retary shall establish requirements for motorcoaches  
11 to be equipped with highly effective fire suppression  
12 systems that automatically respond to and suppress  
13 all fires in such motorcoaches.

14           (5) PASSENGER EVACUATION.—The Secretary  
15 shall establish requirements for motorcoaches to be  
16 equipped with—

17           (A) improved emergency exit window, door,  
18 roof hatch, and wheelchair lift door designs to  
19 expedite access and use by passengers of  
20 motorcoaches under all emergency cir-  
21 cumstances, including crashes and fires; and

22           (B) emergency interior lighting systems,  
23 including luminescent or retroreflectorized de-  
24 lineation of evacuation paths and exits, which  
25 are triggered by a crash or other emergency in-

1           eident to accomplish more rapid and effective  
2           evacuation of passengers.

3           (6) CAUSATION AND PREVENTION OF MOTOR-  
4           COACH FIRES.—The Secretary shall examine the  
5           principle causes of motorcoach fires and vehicle de-  
6           sign changes intended to reduce the number of mo-  
7           torcoach fires resulting from those principle causes.

8           (b) DEADLINE.—Not later than 42 months after the  
9           date of enactment of this Act, the Secretary shall—

10           (1) issue final rules in accordance with sub-  
11           section (a); or

12           (2) if the Secretary determines that any stand-  
13           ard is not warranted based on the requirements and  
14           considerations set forth in subsection (a) and (b) of  
15           section 30111 of title 49, United States Code, sub-  
16           mit a report that describes the reasons for not pre-  
17           scribing such a standard to—

18                   (A) the Committee on Commerce, Science,  
19                   and Transportation of the Senate; and

20                   (B) the Committee on Energy and Com-  
21                   merce of the House of Representatives.

22           (c) TIRE PERFORMANCE STANDARD.—Not later than  
23           3 years after the date of enactment of this Act, the Sec-  
24           retary shall—

1           (1) issue a final rule upgrading performance  
2 standards for tires used on motorcoaches, including  
3 an enhanced endurance test and a new high-speed  
4 performance test; or

5           (2) if the Secretary determines that a standard  
6 is not warranted based on the requirements and con-  
7 siderations set forth in subsections (a) and (b) of  
8 section 30111 of title 49, United States Code, sub-  
9 mit a report that describes the reasons for not pre-  
10 scribing such a standard to—

11                   (A) the Committee on Commerce, Science,  
12 and Transportation of the Senate; and

13                   (B) the Committee on Energy and Com-  
14 merce of the House of Representatives.

15 **SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOID-**  
16 **ANCE, FIRE CAUSATION, AND FIRE EXTIN-**  
17 **GUISHER RESEARCH AND TESTING.**

18           (a) SAFETY RESEARCH INITIATIVES.—Not later than  
19 2 years after the date of enactment of this Act, the Sec-  
20 retary shall complete the following research and testing:

21           (1) IMPROVED FIRE EXTINGUISHERS.—The  
22 Secretary shall research and test the need to install  
23 improved fire extinguishers or other readily available  
24 firefighting equipment in motorcoaches to effectively

1       extinguish fires in motorcoaches and prevent pas-  
2       senger deaths and injuries.

3               (2) INTERIOR IMPACT PROTECTION.—The Sec-  
4       retary shall research and test enhanced occupant im-  
5       pact protection standards for motorcoach interiors to  
6       reduce substantially serious injuries for all pas-  
7       sengers of motorcoaches.

8               (3) COMPARTMENTALIZATION SAFETY COUN-  
9       TERMEASURES.—The Secretary shall require en-  
10      hanced compartmentalization safety counter-  
11      measures for motorcoaches, including enhanced seat-  
12      ing designs, to substantially reduce the risk of pas-  
13      sengers being thrown from their seats and colliding  
14      with other passengers, interior surfaces, and compo-  
15      nents in the event of a crash involving a motorcoach.

16              (4) COLLISION AVOIDANCE SYSTEMS.—The Sec-  
17      retary shall research and test forward and lateral  
18      crash warning systems applications for  
19      motorcoaches.

20              (b) RULEMAKING.—Not later than 2 years after the  
21      completion of each research and testing initiative required  
22      under subsection (a), the Secretary shall issue final motor  
23      vehicle safety standards if the Secretary determines that  
24      such standards are warranted based on the requirements

1 and considerations set forth in subsections (a) and (b) of  
2 section 30111 of title 49, United States Code.

3 **SEC. 32706. MOTORCOACH REGISTRATION.**

4 (a) REGISTRATION REQUIREMENTS.—Section  
5 13902(b) is amended—

6 (1) by redesignating paragraphs (1) through  
7 (8) as paragraphs (4) through (11), respectively;  
8 and

9 (2) by inserting before paragraph (4), as reded-  
10 igned, the following:

11 “(1) ADDITIONAL REGISTRATION REQUIRE-  
12 MENTS FOR PROVIDERS OR MOTORCOACH SERV-  
13 ICES.—In addition to meeting the requirements  
14 under subsection (a)(1), the Secretary may not reg-  
15 ister a person to provide motorcoach services until  
16 after the person—

17 “(A) undergoes a preauthorization safety  
18 audit, including verification, in a manner suffi-  
19 cient to demonstrate the ability to comply with  
20 Federal rules and regulations, of—

21 “(i) a drug and alcohol testing pro-  
22 gram under part 40 of title 49, Code of  
23 Federal Regulations;

1           “(ii) the carrier’s system of compli-  
2           ance with hours-of-service rules, including  
3           hours-of-service records;

4           “(iii) the ability to obtain required in-  
5           surance;

6           “(iv) driver qualifications, including  
7           the validity of the commercial driver’s li-  
8           cense of each driver who will be operating  
9           under such authority;

10          “(v) disclosure of common ownership,  
11          common control, common management,  
12          common familial relationship, or other cor-  
13          porate relationship with another motor car-  
14          rier or applicant for motor carrier author-  
15          ity during the past 3 years;

16          “(vi) records of the State inspections,  
17          or of a Level I or V Commercial Vehicle  
18          Safety Alliance Inspection, for all vehicles  
19          that will be operated by the carrier;

20          “(vii) safety management programs,  
21          including vehicle maintenance and repair  
22          programs; and

23          “(viii) the ability to comply with the  
24          Americans with Disabilities Act of 1990  
25          (42 U.S.C. 12101 et seq.), and the Over-



1 the-Road Bus Transportation Accessibility  
2 Act of 2007 (122 Stat. 2915);

3 “(B) has been interviewed to review safety  
4 management controls and the carrier’s written  
5 safety oversight policies and practices; and

6 “(C) through the successful completion of  
7 a written examination developed by the Sec-  
8 retary, has demonstrated proficiency to comply  
9 with and carry out the requirements and regu-  
10 lations described in subsection (a)(1).

11 “(2) PRE-AUTHORIZATION SAFETY AUDIT.—  
12 The pre-authorization safety audit required under  
13 paragraph (1)(A) shall be completed on-site not later  
14 than 90 days following the submission of an applica-  
15 tion for operating authority.

16 “(3) FEE.—The Secretary may establish, under  
17 section 9701 of title 31, a fee of not more than  
18 \$1,200 for new registrants that as nearly as possible  
19 covers the costs of performing a preauthorization  
20 safety audit. Amounts collected under this sub-  
21 section shall be deposited in the Highway Trust  
22 Fund (other than the Mass Transit Account).”.

23 (b) SAFETY REVIEWS OF NEW OPERATORS.—Section  
24 31144(g)(1) is amended by inserting “transporting prop-  
25 erty” after “each operator”.

1           (c)           CONFORMING           AMENDMENT.—Section  
2 24305(a)(3)(A)(i) is amended by striking “section  
3 13902(b)(8)(A)” and inserting “section  
4 13902(b)(11)(A)”.

5           (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall take effect 1 year after the date of enact-  
7 ment of this Act.

8 **SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERV-**  
9 **ICE PROVIDERS.**

10           Section 31144, as amended by sections 32204 and  
11 32604 of this Act, is amended by adding at the end the  
12 following:

13           “(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF  
14 MOTORCOACH SERVICES.—

15                   “(1) SAFETY REVIEW.—

16                           “(A) IN GENERAL.—The Secretary shall—

17                                   “(i) determine the safety fitness of all  
18 providers of motorcoach services registered  
19 with the Federal Motor Carrier Safety Ad-  
20 ministration; and

21                                   “(ii) assign a safety fitness rating to  
22 each such provider.

23                           “(B) APPLICABILITY.—Subparagraph (A)  
24 shall apply—

1           “(i) to any provider of motorcoach  
2 services registered with the Administration  
3 after the date of enactment of the Motor-  
4 coach Enhanced Safety Act of 2012 begin-  
5 ning not later than 2 years after the date  
6 of such registration; and

7           “(ii) to any provider of motorcoach  
8 services registered with the Administration  
9 on or before the date of enactment of that  
10 Act beginning not later than 3 years after  
11 the date of enactment of that Act.

12           “(2) PERIODIC REVIEW.—The Secretary shall  
13 establish, by regulation, a process for monitoring the  
14 safety performance of each provider of motorcoach  
15 services on a regular basis following the assignment  
16 of a safety fitness rating, including progressive inter-  
17 vention to correct unsafe practices.

18           “(3) ENFORCEMENT STRIKE FORCES.—In addi-  
19 tion to the enhanced monitoring and enforcement ac-  
20 tions required under paragraph (2), the Secretary  
21 may organize special enforcement strike forces tar-  
22 geting providers of motorcoach services.

23           “(4) PERIODIC UPDATE OF SAFETY FITNESS  
24 RATING.—In conducting the safety reviews required  
25 under this subsection, the Secretary shall reassess

1 the safety fitness rating of each provider not less  
2 frequently than once every 3 years.

3 “(5) MOTORCOACH SERVICES DEFINED.—In  
4 this subsection, the term ‘provider of motorcoach  
5 services’ has the meaning given such term in section  
6 32702 of the Motorcoach Enhanced Safety Act of  
7 2012.”.

8 **SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND**  
9 **COSTS OF ESTABLISHING A SYSTEM OF CER-**  
10 **TIFICATION OF TRAINING PROGRAMS.**

11 Not later than 2 years after the date of the enact-  
12 ment of this Act, the Secretary shall submit a report to  
13 the Committee on Commerce, Science, and Transportation  
14 of the Senate and the Committee on Transportation and  
15 Infrastructure of the House of Representatives that de-  
16 scribes the feasibility, benefits, and costs of establishing  
17 a system of certification of public and private schools and  
18 of motor carriers and motorcoach operators that provide  
19 motorcoach driver training.

20 **SEC. 32709. REPORT ON DRIVER’S LICENSE REQUIREMENTS**  
21 **FOR 9- TO 15-PASSENGER VANS.**

22 (a) IN GENERAL.—Not later than 18 months after  
23 the date of enactment of this Act, the Secretary shall sub-  
24 mit a report to the Committee on Commerce, Science, and  
25 Transportation of the Senate and the Committee on

1 Transportation and Infrastructure of the House of Rep-  
2 resentatives that examines requiring all or certain classes  
3 of drivers operating a vehicle, which is designed or used  
4 to transport not fewer than 9 and not more than 15 pas-  
5 sengers (including a driver) in interstate commerce, to  
6 have a commercial driver's license passenger-carrying en-  
7 dorsement and be tested in accordance with a drug and  
8 alcohol testing program under part 40 of title 49, Code  
9 of Federal Regulations.

10 (b) CONSIDERATIONS.—In developing the report  
11 under subsection (a), the Secretary shall consider—

12 (1) the safety benefits of the requirement de-  
13 scribed in subsection (a);

14 (2) the scope of the population that would be  
15 impacted by such requirement;

16 (3) the cost to the Federal Government and  
17 State governments to meet such requirement; and

18 (4) the impact on safety benefits and cost from  
19 limiting the application of such requirement to cer-  
20 tain drivers of such vehicles, such as drivers who are  
21 compensated for driving.

22 **SEC. 32710. EVENT DATA RECORDERS.**

23 (a) EVALUATION.—Not later than 1 year after the  
24 date of enactment of this Act, the Secretary, after consid-  
25 ering the performance requirements for event data record-

1 ers for passenger vehicles under part 563 of title 49, Code  
2 of Federal Regulations, shall complete an evaluation of  
3 event data recorders, including requirements regarding  
4 specific types of vehicle operations, events and incidents,  
5 and systems information to be recorded, for event data  
6 recorders to be used on motorcoaches used by motor car-  
7 riers in interstate commerce.

8 (b) STANDARDS AND REGULATIONS.—Not later than  
9 2 years after completing the evaluation required under  
10 subsection (a), the Secretary shall issue standards and  
11 regulations based on the results of that evaluation.

12 **SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMER-**  
13 **CIAL MOTOR VEHICLES OF PASSENGERS.**

14 Not later than 3 years after the date of enactment  
15 of this Act, the Secretary shall complete a rulemaking pro-  
16 ceeding to consider requiring States to conduct annual in-  
17 spections of commercial motor vehicles designed or used  
18 to transport passengers, including an assessment of—

19 (1) the risks associated with improperly main-  
20 tained or inspected commercial motor vehicles de-  
21 signed or used to transport passengers;

22 (2) the effectiveness of existing Federal stand-  
23 ards for the inspection of such vehicles in—

24 (A) mitigating the risks described in para-  
25 graph (1); and

1 (B) ensuring the safe and proper operation  
2 condition of such vehicles; and  
3 (3) the costs and benefits of a mandatory State  
4 inspection program.

5 **SEC. 32712. DISTRACTED DRIVING.**

6 (a) IN GENERAL.—Chapter 311, as amended by sec-  
7 tions 32113, 32508, and 32512 of this Act, is amended  
8 by adding after section 31154 the following:

9 **“§ 31155. Regulation of the use of distracting devices**  
10 **in motorcoaches**

11 “(a) IN GENERAL.—Not later than 1 year after the  
12 date of enactment of the Motorcoach Enhanced Safety Act  
13 of 2012, the Secretary of Transportation shall prescribe  
14 regulations on the use of electronic or wireless devices, in-  
15 cluding cell phones and other distracting devices, by an  
16 individual employed as the operator of a motorcoach (as  
17 defined in section 32702 of that Act).

18 “(b) BASIS FOR REGULATIONS.—The Secretary shall  
19 base the regulations prescribed under subsection (a) on  
20 accident data analysis, the results of ongoing research,  
21 and other information, as appropriate.

22 “(c) PROHIBITED USE.—Except as provided under  
23 subsection (d), the Secretary shall prohibit the use of the  
24 devices described in subsection (a) in circumstances in

1 which the Secretary determines that their use interferes  
2 with a driver's safe operation of a motorcoach.

3 “(d) PERMITTED USE.—The Secretary may permit  
4 the use of a device that is otherwise prohibited under sub-  
5 section (c) if the Secretary determines that such use is  
6 necessary for the safety of the driver or the public in emer-  
7 gency circumstances.”.

8 (b) CONFORMING AMENDMENT.—The analysis for  
9 chapter 311 is amended by inserting after the item relat-  
10 ing to section 31154 the following:

“31155. Regulation of the use of distracting devices in motorcoaches.”.

11 **SEC. 32713. REGULATIONS.**

12 Any standard or regulation prescribed or modified  
13 pursuant to the Motorcoach Enhanced Safety Act of 2012  
14 shall be prescribed or modified in accordance with section  
15 553 of title 5, United States Code.

16 **Subtitle H—Safe Highways and**  
17 **Infrastructure Preservation**

18 **SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT**  
19 **LIMITS STUDY.**

20 (a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not  
21 later than 90 days after the date of enactment of this Act,  
22 the Secretary, in consultation with each relevant State and  
23 other applicable Federal agencies, shall commence a com-  
24 prehensive truck size and weight limits study. The study  
25 shall—



1           (1) provide data on accident frequency and fac-  
2           tors related to accident risk of each route of the Na-  
3           tional Highway System in each State that allows a  
4           vehicle to operate with size and weight limits that  
5           are in excess of the Federal law and regulations and  
6           its correlation to truck size and weight limits;

7           (2) evaluate the impacts to the infrastructure of  
8           each route of the National Highway System in each  
9           State that allows a vehicle to operate with size and  
10          weight limits that are in excess of the Federal law  
11          and regulations, including—

12                   (A) an analysis that quantifies the cost  
13                   and benefits of the impacts in dollars;

14                   (B) an analysis of the percentage of trucks  
15                   operating in excess of the Federal size and  
16                   weight limits; and

17                   (C) an analysis that examines the ability of  
18                   each State to recover the cost for the impacts,  
19                   or the benefits incurred;

20          (3) evaluate the impacts and frequency of viola-  
21          tions in excess of the Federal size and weight law  
22          and regulations to determine the cost of the enforce-  
23          ment of the law and regulations, and the effective-  
24          ness of the enforcement methods;

1           (4) examine the relationship between truck per-  
2           formance and crash involvement and its correlation  
3           to Federal size and weight limits, including the im-  
4           pacts on crashes;

5           (5) assess the impacts that truck size and  
6           weight limits in excess of the Federal law and regu-  
7           lations have in the risk of bridge failure contributing  
8           to the structural deficiencies of bridges or in the  
9           useful life of a bridge, including the impacts result-  
10          ing from the number of bridge loadings;

11          (6) analyze the impacts on safety and infra-  
12          structure in each State that allows a truck to oper-  
13          ate in excess of Federal size and weight limitations  
14          in truck-only lanes;

15          (7) compare and contrast the safety and infra-  
16          structure impacts of the Federal limits regarding  
17          truck size and weight limits in relation to—

18                 (A) six-axle and other alternative configu-  
19                 rations of tractor-trailers; and

20                 (B) safety records of foreign nations with  
21                 truck size and weight limits and tractor-trailer  
22                 configurations that differ from the Federal law  
23                 and regulations; and

24          (8) estimate—

1 (A) the extent to which freight would be  
2 diverted from other surface transportation  
3 modes to principal arterial routes and National  
4 Highway System intermodal connectors if each  
5 covered truck configuration is allowed to oper-  
6 ate and the effect that any such diversion would  
7 have on other modes of transportation;

8 (B) the effect that any such diversion  
9 would have on public safety, infrastructure, cost  
10 responsibilities, fuel efficiency, and the environ-  
11 ment;

12 (C) the effect on the transportation net-  
13 work of the United States that allowing each  
14 covered truck configuration to operate would  
15 have; and

16 (D) whether allowing each covered truck  
17 configuration to operate would result in an in-  
18 crease or decrease in the total number of trucks  
19 operating on principal arterial routes and Na-  
20 tional Highway System intermodal connectors;  
21 and

22 (9) identify all Federal rules and regulations  
23 impacted by changes in truck size and weight limits.

24 (b) REPORT.—Not later than 2 years after the date  
25 that the study is commenced under subsection (a), the

1 Secretary shall submit a final report on the study, includ-  
2 ing all findings and recommendations, to the Committee  
3 on Commerce, Science, and Transportation and the Com-  
4 mittee on Environment and Public Works of the Senate  
5 and the Committee on Transportation and Infrastructure  
6 of the House of Representatives.

7 **SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE**  
8 **AND WEIGHT LIMIT LAWS.**

9 (a) IN GENERAL.—Not later than 90 days after the  
10 date of enactment of this Act, the Secretary, in consulta-  
11 tion with the States, shall begin to compile—

12 (1) a list for each State, as applicable, that de-  
13 scribes each route of the National Highway System  
14 that allows a vehicle to operate in excess of the Fed-  
15 eral truck size and weight limits that—

16 (A) was authorized under State law on or  
17 before the date of enactment of this Act; and

18 (B) was in actual and lawful operation on  
19 a regular or periodic basis (including seasonal  
20 operations) on or before the date of enactment  
21 of this Act;

22 (2) a list for each State, as applicable, that de-  
23 scribes—

24 (A) the size and weight limitations applica-  
25 ble to each segment of the National Highway

1 System in that State as listed under paragraph  
2 (1);

3 (B) each combination that exceeds the  
4 Interstate weight limit, but that the Depart-  
5 ment of Transportation, other Federal agency,  
6 or a State agency has determined on or before  
7 the date of enactment of this Act, could be or  
8 could have been lawfully operated in the State;  
9 and

10 (C) each combination that exceeds the  
11 Interstate weight limit, but that the Secretary  
12 determines could have been lawfully operated on  
13 a non-Interstate segment of the National High-  
14 way System in the State on or before the date  
15 of enactment of this Act; and

16 (3) a list of each State law that designates or  
17 allows designation of size and weight limitations in  
18 excess of Federal law and regulations on routes of  
19 the National Highway System, including nondivisible  
20 loads.

21 (b) SPECIFICATIONS.—The Secretary, in consultation  
22 with the States, shall specify whether the determinations  
23 under paragraphs (1) and (2) of subsection (a) were made  
24 by the Department of Transportation, other Federal agen-  
25 cy, or a State agency.

1 (c) REPORT.—Not later than 2 years after the date  
2 of enactment of this Act, the Secretary shall submit a final  
3 report of the compilation under subsection (a) to the Com-  
4 mittee on Commerce, Science, and Transportation and the  
5 Committee on Environment and Public Works of the Sen-  
6 ate and the Committee on Transportation and Infrastruc-  
7 ture of the House of Representatives.

## 8 **Subtitle I—Miscellaneous**

### 9 **PART I—MISCELLANEOUS**

#### 10 **SEC. 32911. DETENTION TIME STUDY.**

11 (a) STUDY.—Not later than 30 days after the date  
12 of enactment of this Act, the Secretary shall task the  
13 Motor Carrier Safety Advisory Committee to study the ex-  
14 tent to which detention time contributes to drivers vio-  
15 lating hours of service requirements and driver fatigue. In  
16 conducting this study, the Committee shall—

17 (1) examine data collected from driver and vehi-  
18 cle inspections;

19 (2) consult with—

20 (A) motor carriers and drivers, shippers,  
21 and representatives of ports and other facilities  
22 where goods are loaded and unloaded;

23 (B) government officials; and

24 (C) other parties as appropriate; and

1           (3) provide recommendations to the Secretary  
2           for addressing issues identified in the study.

3           (b) REPORT.—Not later than 18 months after the  
4           date of enactment of this Act, the Secretary shall provide  
5           a report to the Committee on Commerce, Science, and  
6           Transportation of the Senate and the Committee on  
7           Transportation and Infrastructure of the House of Rep-  
8           resentatives that includes recommendations for legislation  
9           and for addressing the results of the study.

10 **SEC. 32912. PROHIBITION OF COERCION.**

11           Section 31136(a) is amended by—

12           (1) striking “and” at the end of paragraph (3);

13           (2) striking the period at the end of paragraph

14           (4) and inserting “; and”; and

15           (3) adding after subsection (4) the following:

16           “(5) an operator of a commercial motor vehicle  
17           is not coerced by a motor carrier, shipper, receiver,  
18           or transportation intermediary to operate a commer-  
19           cial motor vehicle in violation of a regulation pro-  
20           mulgated under this section, or chapter 51 or chap-  
21           ter 313 of this title.”.

22 **SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COM-**  
23 **MITTEE.**

24           (a) MEMBERSHIP.—Section 4144(b)(1) of the Safe,  
25           Accountable, Flexible, Efficient Transportation Equity

1 Act: A Legacy for Users (49 U.S.C. 31100 note), is  
2 amended by inserting “nonprofit employee labor organiza-  
3 tions representing commercial motor vehicle drivers,”  
4 after “industry.”

5 (b) **TERMINATION DATE.**—Section 4144(d) of the  
6 Safe, Accountable, Flexible, Efficient Transportation Eq-  
7 uity Act: A Legacy for Users (49 U.S.C. 31100 note), is  
8 amended by striking “March 31, 2012” and inserting  
9 “September 30, 2013”.

10 **SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

11 (a) **WAIVER STANDARDS.**—Section 31315(a) is  
12 amended—

13 (1) by inserting “and” at the end of paragraph

14 (2);

15 (2) by striking paragraph (3); and

16 (3) redesignating paragraph (4) as paragraph

17 (3).

18 (b) **EXEMPTION STANDARDS.**—Section 31315(b)(4)

19 is amended—

20 (1) in subparagraph (A), by inserting “(or, in

21 the case of a request for an exemption from the

22 physical qualification standards for commercial

23 motor vehicle drivers, post on a web site established

24 by the Secretary to implement the requirements of

25 section 31149)” after “Federal Register”;



1           (2) by amending subparagraph (B) to read as  
2 follows:

3                   “(B) UPON GRANTING A REQUEST.—Upon  
4 granting a request and before the effective date  
5 of the exemption, the Secretary shall publish in  
6 the Federal Register (or, in the case of an ex-  
7 emption from the physical qualification stand-  
8 ards for commercial motor vehicle drivers, post  
9 on a web site established by the Secretary to  
10 implement the requirements of section 31149)  
11 the name of the person granted the exemption,  
12 the provisions from which the person is exempt,  
13 the effective period, and the terms and condi-  
14 tions of the exemption.”; and

15           (3) in subparagraph (C), by inserting “(or, in  
16 the case of a request for an exemption from the  
17 physical qualification standards for commercial  
18 motor vehicle drivers, post on a web site established  
19 by the Secretary to implement the requirements of  
20 section 31149)” after “Federal Register”.

21           (c) PROVIDING NOTICE OF EXEMPTIONS TO STATE  
22 PERSONNEL.—Section 31315(b)(7) is amended to read as  
23 follows:

24                   “(7) NOTIFICATION OF STATE COMPLIANCE  
25 AND ENFORCEMENT PERSONNEL.—Before the effec-

1       tive date of an exemption, the Secretary shall notify  
2       a State safety compliance and enforcement agency,  
3       and require the agency pursuant to section  
4       31102(b)(1)(Y) to notify the State’s roadside inspec-  
5       tors, that a person will be operating pursuant to an  
6       exemption and the terms and conditions that apply  
7       to the exemption.”.

8       (d) PILOT PROGRAMS.—Section 31315(c)(1) is  
9       amended by striking “in the Federal Register”.

10       (e) REPORT TO CONGRESS.—Section 31315 is  
11       amended by adding after subsection (d) the following:

12       “(e) REPORT TO CONGRESS.—The Secretary shall  
13       submit an annual report to the Committee on Commerce,  
14       Science, and Transportation of the Senate and the Com-  
15       mittee on Transportation and Infrastructure of the House  
16       of Representatives listing the waivers, exemptions, and  
17       pilot programs granted under this section, and any im-  
18       pacts on safety.

19       “(f) WEB SITE.—The Secretary shall ensure that the  
20       Federal Motor Carrier Safety Administration web site in-  
21       cludes a link to the web site established by the Secretary  
22       to implement the requirements under sections 31149 and  
23       31315. The link shall be in a clear and conspicuous loca-  
24       tion on the home page of the Federal Motor Carrier Safety

1 Administration web site and be easily accessible to the  
2 public.”.

3 **SEC. 32915. REGISTRATION REQUIREMENTS.**

4 (a) REQUIREMENTS FOR REGISTRATION.—Section  
5 13901 is amended to read as follows:

6 **“§ 13901. Requirements for registration**

7 “(a) IN GENERAL.—A person may not provide trans-  
8 portation as a motor carrier subject to jurisdiction under  
9 subchapter I of chapter 135 or service as a freight for-  
10 warder subject to jurisdiction under subchapter III of such  
11 chapter, or be a broker for transportation subject to juris-  
12 diction under subchapter I of such chapter unless the per-  
13 son is registered under this chapter to provide such trans-  
14 portation or service.

15 “(b) REGISTRATION NUMBERS.—

16 “(1) IN GENERAL.—If the Secretary registers a  
17 person under this chapter to provide transportation  
18 or service, including as a motor carrier, freight for-  
19 warder, or broker, the Secretary shall issue a dis-  
20 tinctive registration number to the person for each  
21 such authority to provide transportation or service  
22 for which the person is registered.

23 “(2) TRANSPORTATION OR SERVICE TYPE INDI-  
24 CATOR.—A number issued under paragraph (1) shall  
25 include an indicator of the type of transportation or

1 service for which the registration number is issued,  
2 including whether the registration number is issued  
3 for registration of a motor carrier, freight forwarder,  
4 or broker.

5 “(c) SPECIFICATION OF AUTHORITY.—For each  
6 agreement to provide transportation or service for which  
7 registration is required under this chapter, the registrant  
8 shall specify, in writing, the authority under which the  
9 person is providing such transportation or service.”.

10 (b) AVAILABILITY OF INFORMATION.—

11 (1) IN GENERAL.—Chapter 139 is amended by  
12 adding at the end the following:

13 **“§ 13909. Availability of information**

14 “The Secretary shall make information relating to  
15 registration and financial security required by this chapter  
16 publicly available on the Internet, including—

17 “(1) the names and business addresses of the  
18 principals of each entity holding such registration;  
19 and

20 “(2) the electronic address of the entity’s surety  
21 provider for the submission of claims.”.

22 (2) CONFORMING AMENDMENT.—The analysis  
23 for chapter 139 is amended by adding at the end the  
24 following:

“13909. Availability of information.”.

1 **SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION**  
2 **REQUIREMENTS.**

3 Section 13902, as amended by sections 32101 and  
4 32107(a) of this Act, is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting “using  
7 self-propelled vehicles the motor carrier owns or  
8 leases” after “motor carrier”; and

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

10 “(6) SEPARATE REGISTRATION REQUIRED.—A  
11 motor carrier may not broker transportation services  
12 unless the motor carrier has registered as a broker  
13 under this chapter.”; and

14 (2) by inserting after subsection (h) the fol-  
15 lowing:

16 “(i) REGISTRATION AS FREIGHT FORWARDER OR  
17 BROKER REQUIRED.—A motor carrier registered under  
18 this chapter—

19 “(1) may only provide transportation of prop-  
20 erty with self-propelled motor vehicles owned or  
21 leased by the motor carrier or interchanges under  
22 regulations issued by the Secretary if the originating  
23 carrier—

24 “(A) physically transports the cargo at  
25 some point; and

1           “(B) retains liability for the cargo and for  
2           payment of interchanged carriers; and

3           “(2) may not arrange transportation described  
4           in paragraph (1) unless the motor carrier has ob-  
5           tained a separate registration as a freight forwarder  
6           or broker for transportation under section 13903 or  
7           13904, as applicable.”.

8   **SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND**  
9           **BROKERS.**

10       (a) REGISTRATION OF FREIGHT FORWARDERS.—  
11       Section 13903, as amended by section 32107(b) of this  
12       Act, is amended—

13           (1) in subsection (a)—

14                (A) by striking “finds that the person is  
15                fit” and inserting the following: “determines  
16                that the person—

17                “(1) has sufficient experience to qualify the per-  
18                son to act as a freight forwarder; and

19                “(2) is fit”; and

20                (B) by striking “and the Board”;

21                (2) by redesignating subsections (b) and (c) as  
22                subsection (d) and (e), respectively;

23                (3) by inserting after subsection (a) the fol-  
24                lowing:

1           “(b) DURATION.—A registration issued under sub-  
2 section (a) shall only remain in effect while the freight  
3 forwarder is in compliance with section 13906(e).

4           “(c) EXPERIENCE OR TRAINING REQUIREMENT.—  
5 Each freight forwarder shall employ, as an officer, an indi-  
6 vidual who—

7                   “(1) has at least 3 years of relevant experience;  
8           or

9                   “(2) provides the Secretary with satisfactory  
10 evidence of the individual’s knowledge of related  
11 rules, regulations, and industry practices.”; and

12                   (4) by amending subsection (d), as redesign-  
13 nated, to read as follows:

14           “(d) REGISTRATION AS MOTOR CARRIER RE-  
15 QUIRED.—A freight forwarder may not provide transpor-  
16 tation as a motor carrier unless the freight forwarder has  
17 registered separately under this chapter to provide trans-  
18 portation as a motor carrier.”.

19           (b) REGISTRATION OF BROKERS.—Section 13904, as  
20 amended by section 32107(e) of this Act, is amended—

21                   (1) in subsection (a), by striking “finds that the  
22 person is fit” and inserting the following: “deter-  
23 mines that the person—

24                   “(1) has sufficient experience to qualify the per-  
25 son to act as a broker for transportation; and

1 “(2) is fit”;

2 (2) by redesignating subsections (b), (c), (d),  
3 and (e) as subsections (d), (e), (f), and (g) respec-  
4 tively;

5 (3) by inserting after subsection (a) the fol-  
6 lowing:

7 “(b) DURATION.—A registration issued under sub-  
8 section (a) shall only remain in effect while the broker for  
9 transportation is in compliance with section 13906(b).

10 “(c) EXPERIENCE OR TRAINING REQUIREMENTS.—  
11 Each broker shall employ, as an officer, an individual  
12 who—

13 “(1) has at least 3 years of relevant experience;  
14 or

15 “(2) provides the Secretary with satisfactory  
16 evidence of the individual’s knowledge of related  
17 rules, regulations, and industry practices.”; and

18 (4) by amending subsection (d), as redesign-  
19 nated, to read as follows:

20 “(d) REGISTRATION AS MOTOR CARRIER RE-  
21 QUIRED.—A broker for transportation may not provide  
22 transportation as a motor carrier unless the broker has  
23 registered separately under this chapter to provide trans-  
24 portation as a motor carrier.”.



1 **SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.**

2 Section 13905(c) is amended to read as follows:

3 “(c) EFFECTIVE PERIOD.—

4 “(1) IN GENERAL.—Except as otherwise pro-  
5 vided in this part, each registration issued under  
6 section 13902, 13903, or 13904—

7 “(A) shall be effective beginning on the  
8 date specified by the Secretary; and

9 “(B) shall remain in effect for such period  
10 as the Secretary determines appropriate by reg-  
11 ulation.

12 “(2) REISSUANCE OF REGISTRATION.—

13 “(A) REQUIREMENT.—Not later than 4  
14 years after the date of the enactment of the  
15 Commercial Motor Vehicle Safety Enhancement  
16 Act of 2012, the Secretary shall require a  
17 freight forwarder or broker to renew its reg-  
18 istration issued under this chapter.

19 “(B) EFFECTIVE PERIOD.—Each registra-  
20 tion renewal under subparagraph (A)—

21 “(i) shall expire not later than 5 years  
22 after the date of such renewal; and

23 “(ii) may be further renewed as pro-  
24 vided under this chapter.

25 “(3) REGISTRATION UPDATE.—The Secretary  
26 shall require a motor carrier, freight forwarder, or

1 broker to update its registration under this chapter  
2 periodically or not later than 30 days after any  
3 change in address, other contact information, offi-  
4 cers, process agent, or other essential information,  
5 as determined by the Secretary and published in the  
6 Federal Register.”.

7 **SEC. 32919. FINANCIAL SECURITY OF BROKERS AND**  
8 **FREIGHT FORWARDERS.**

9 (a) IN GENERAL.—Section 13906 is amended by  
10 striking subsections (b) and (c) and inserting the fol-  
11 lowing:

12 “(b) BROKER FINANCIAL SECURITY REQUIRE-  
13 MENTS.—

14 “(1) REQUIREMENTS.—

15 “(A) IN GENERAL.—The Secretary may  
16 register a person as a broker under section  
17 13904 only if the person files with the Sec-  
18 retary a surety bond, proof of trust fund, or  
19 other financial security, or a combination there-  
20 of, in a form and amount, and from a provider,  
21 determined by the Secretary to be adequate to  
22 ensure financial responsibility.

23 “(B) USE OF A GROUP SURETY BOND,  
24 TRUST FUND, OR OTHER SURETY.—In imple-  
25 menting the standards established by subpara-

1 graph (A), the Secretary may authorize the use  
2 of a group surety bond, trust fund, or other fi-  
3 nancial security, or a combination thereof, that  
4 meets the requirements of this subsection.

5 “(C) SURETY BONDS.—A surety bond ob-  
6 tained under this section may only be obtained  
7 from a bonding company that has been ap-  
8 proved by the Secretary of the Treasury.

9 “(D) PROOF OF TRUST OR OTHER FINAN-  
10 CIAL SECURITY.—For purposes of subpara-  
11 graph (A), a trust fund or other financial secu-  
12 rity may be acceptable to the Secretary only if  
13 the trust fund or other financial security con-  
14 sists of assets readily available to pay claims  
15 without resort to personal guarantees or collec-  
16 tion of pledged accounts receivable.

17 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

18 “(A) PAYMENT OF CLAIMS.—A surety  
19 bond, trust fund, or other financial security ob-  
20 tained under paragraph (1) shall be available to  
21 pay any claim against a broker arising from its  
22 failure to pay freight charges under its con-  
23 tracts, agreements, or arrangements for trans-  
24 portation subject to jurisdiction under chapter  
25 135 if—

1           “(i) subject to the review by the sur-  
2           ety provider, the broker consents to the  
3           payment;

4           “(ii) in any case in which the broker  
5           does not respond to adequate notice to ad-  
6           dress the validity of the claim, the surety  
7           provider determines that the claim is valid;  
8           or

9           “(iii) the claim is not resolved within  
10          a reasonable period of time following a rea-  
11          sonable attempt by the claimant to resolve  
12          the claim under clauses (i) and (ii), and  
13          the claim is reduced to a judgment against  
14          the broker.

15          “(B) RESPONSE OF SURETY PROVIDERS  
16          TO CLAIMS.—If a surety provider receives notice  
17          of a claim described in subparagraph (A), the  
18          surety provider shall—

19               “(i) respond to the claim on or before  
20               the 30th day following the date on which  
21               the notice was received; and

22               “(ii) in the case of a denial, set forth  
23               in writing for the claimant the grounds for  
24               the denial.

1           “(C) COSTS AND ATTORNEY’S FEES.—In  
2           any action against a surety provider to recover  
3           on a claim described in subparagraph (A), the  
4           prevailing party shall be entitled to recover its  
5           reasonable costs and attorney’s fees.

6           “(3) MINIMUM FINANCIAL SECURITY.—Each  
7           broker subject to the requirements of this section  
8           shall provide financial security of \$100,000 for pur-  
9           poses of this subsection, regardless of the number of  
10          branch offices or sales agents of the broker.

11          “(4) CANCELLATION NOTICE.—If a financial se-  
12          curity required under this subsection is canceled—

13                 “(A) the holder of the financial security  
14                 shall provide electronic notification to the Sec-  
15                 retary of the cancellation not later than 30 days  
16                 before the effective date of the cancellation; and

17                 “(B) the Secretary shall immediately post  
18                 such notification on the public Internet Website  
19                 of the Department of Transportation.

20          “(5) SUSPENSION.—The Secretary shall imme-  
21          diately suspend the registration of a broker issued  
22          under this chapter if the available financial security  
23          of that person falls below the amount required under  
24          this subsection.

1           “(6) PAYMENT OF CLAIMS IN CASES OF FINAN-  
2           CIAL FAILURE OR INSOLVENCY.—If a broker reg-  
3           istered under this chapter experiences financial fail-  
4           ure or insolvency, the surety provider of the broker  
5           shall—

6                   “(A) submit a notice to cancel the financial  
7           security to the Administrator in accordance  
8           with paragraph (4);

9                   “(B) publicly advertise for claims for 60  
10           days beginning on the date of publication by the  
11           Secretary of the notice to cancel the financial  
12           security; and

13                   “(C) pay, not later than 30 days after the  
14           expiration of the 60-day period for submission  
15           of claims—

16                           “(i) all uncontested claims received  
17                           during such period; or

18                           “(ii) a pro rata share of such claims  
19                           if the total amount of such claims exceeds  
20                           the financial security available.

21           “(7) PENALTIES.—

22                   “(A) CIVIL ACTIONS.—Either the Sec-  
23           retary or the Attorney General of the United  
24           States may bring a civil action in an appro-  
25           priate district court of the United States to en-

1 force the requirements of this subsection or a  
2 regulation prescribed or order issued under this  
3 subsection. The court may award appropriate  
4 relief, including injunctive relief.

5 “(B) CIVIL PENALTIES.—If the Secretary  
6 determines, after notice and opportunity for a  
7 hearing, that a surety provider of a broker reg-  
8 istered under this chapter has violated the re-  
9 quirements of this subsection or a regulation  
10 prescribed under this subsection, the surety  
11 provider shall be liable to the United States for  
12 a civil penalty in an amount not to exceed  
13 \$10,000.

14 “(C) ELIGIBILITY.—If the Secretary deter-  
15 mines, after notice and opportunity for a hear-  
16 ing, that a surety provider of a broker reg-  
17 istered under this chapter has violated the re-  
18 quirements of this subsection or a regulation  
19 prescribed under this subsection, the surety  
20 provider shall be ineligible to provider broker fi-  
21 nancial security for 3 years.

22 “(8) FINANCIAL SECURITY AMOUNT ASSESS-  
23 MENT.—Every 5 years, the Secretary shall review,  
24 with public notice and comment, the amount of the  
25 financial security required under this subsection to

1       determine whether such amounts are sufficient to  
2       provide adequate financial security, and shall be au-  
3       thorized to increase those amounts, if necessary,  
4       based upon that determination.

5       “(c) FREIGHT FORWARDER FINANCIAL SECURITY  
6 REQUIREMENTS.—

7               “(1) REQUIREMENTS.—

8                       “(A) IN GENERAL.—The Secretary may  
9                       register a person as a freight forwarder under  
10                      section 13903 only if the person files with the  
11                      Secretary a surety bond, proof of trust fund,  
12                      other financial security, or a combination of  
13                      such instruments, in a form and amount, and  
14                      from a provider, determined by the Secretary to  
15                      be adequate to ensure financial responsibility.

16                     “(B) USE OF A GROUP SURETY BOND,  
17                     TRUST FUND, OR OTHER FINANCIAL SECUR-  
18                     ITY.—In implementing the standards estab-  
19                     lished under subparagraph (A), the Secretary  
20                     may authorize the use of a group surety bond,  
21                     trust fund, other financial security, or a com-  
22                     bination of such instruments, that meets the re-  
23                     quirements 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 not be accepted by the Secretary un-  
7 less the trust fund or other financial security  
8 consists 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 freight forwarder aris-  
16 ing from its failure to pay freight charges under  
17 its contracts, agreements, or arrangements for  
18 transportation subject to jurisdiction under  
19 chapter 135 if—

20 “(i) subject to the review by the sur-  
21 ety provider, the freight forwarder con-  
22 sents to the payment;

23 “(ii) in the case the freight forwarder  
24 does not respond to adequate notice to ad-

1 dress the validity of the claim, the surety  
2 provider determines the claim is valid; or

3 “(iii) the claim—

4 “(I) is not resolved within a rea-  
5 sonable period of time following a rea-  
6 sonable attempt by the claimant to re-  
7 solve the claim under clauses (i) and  
8 (ii); and

9 “(II) is reduced to a judgment  
10 against the freight forwarder.

11 “(B) RESPONSE OF SURETY PROVIDERS  
12 TO CLAIMS.—If a surety provider receives notice  
13 of a claim described in subparagraph (A), the  
14 surety provider shall—

15 “(i) respond to the claim on or before  
16 the 30th day following receipt of the no-  
17 tice; and

18 “(ii) in the case of a denial, set forth  
19 in writing for the claimant the grounds for  
20 the denial.

21 “(C) COSTS AND ATTORNEY’S FEES.—In  
22 any action against a surety provider to recover  
23 on a claim described in subparagraph (A), the  
24 prevailing party shall be entitled to recover its  
25 reasonable costs and attorney’s fees.

1           “(3) FREIGHT FORWARDER INSURANCE.—

2                   “(A) IN GENERAL.—The Secretary may  
3 register a person as a freight forwarder under  
4 section 13903 only if the person files with the  
5 Secretary a surety bond, insurance policy, or  
6 other type of financial security that meets  
7 standards prescribed by the Secretary.

8                   “(B) LIABILITY INSURANCE.—A financial  
9 security filed by a freight forwarder under sub-  
10 paragraph (A) shall be sufficient to pay an  
11 amount, not to exceed the amount of the finan-  
12 cial security, for each final judgment against  
13 the freight forwarder for bodily injury to, or  
14 death of, an individual, or loss of, or damage to,  
15 property (other than property referred to in  
16 subparagraph (C)), resulting from the negligent  
17 operation, maintenance, or use of motor vehi-  
18 cles by, or under the direction and control of,  
19 the freight forwarder while providing transfer,  
20 collection, or delivery service under this part.

21                   “(C) CARGO INSURANCE.—The Secretary  
22 may require a registered freight forwarder to  
23 file with the Secretary a surety bond, insurance  
24 policy, or other type of financial security ap-  
25 proved by the Secretary, that will pay an

1 amount, not to exceed the amount of the finan-  
2 cial security, for loss of, or damage to, property  
3 for which the freight forwarder provides service.

4 “(4) MINIMUM FINANCIAL SECURITY.—Each  
5 freight forwarder subject to the requirements of this  
6 section shall provide financial security of \$100,000,  
7 regardless of the number of branch offices or sales  
8 agents of the freight forwarder.

9 “(5) CANCELLATION NOTICE.—If a financial se-  
10 curity required under this subsection is canceled—

11 “(A) the holder of the financial security  
12 shall provide electronic notification to the Sec-  
13 retary of the cancellation not later than 30 days  
14 before the effective date of the cancellation; and

15 “(B) the Secretary shall immediately post  
16 such notification on the public Internet web site  
17 of the Department of Transportation.

18 “(6) SUSPENSION.—The Secretary shall imme-  
19 diately suspend the registration of a freight for-  
20 warder issued under this chapter if its available fi-  
21 nancial security falls below the amount required  
22 under this subsection.

23 “(7) PAYMENT OF CLAIMS IN CASES OF FINAN-  
24 CIAL FAILURE OR INSOLVENCY.—If a freight for-  
25 warder registered under this chapter experiences fi-

1           nancial failure or insolvency, the surety provider of  
2           the freight forwarder shall—

3                   “(A) submit a notice to cancel the financial  
4                   security to the Administrator in accordance  
5                   with paragraph (5);

6                   “(B) publicly advertise for claims for 60  
7                   days beginning on the date of publication by the  
8                   Secretary of the notice to cancel the financial  
9                   security; and

10                   “(C) pay, not later than 30 days after the  
11                   expiration of the 60-day period for submission  
12                   of claims—

13                           “(i) all uncontested claims received  
14                           during such period; or

15                           “(ii) a pro rata share of such claims  
16                           if the total amount of such claims exceeds  
17                           the financial security available.

18           “(8) PENALTIES.—

19                   “(A) CIVIL ACTIONS.—Either the Sec-  
20                   retary or the Attorney General may bring a civil  
21                   action in an appropriate district court of the  
22                   United States to enforce the requirements of  
23                   this subsection or a regulation prescribed or  
24                   order issued under this subsection. The court

1           may award appropriate relief, including injunc-  
2           tive relief.

3           “(B) CIVIL PENALTIES.—If the Secretary  
4           determines, after notice and opportunity for a  
5           hearing, that a surety provider of a freight for-  
6           warder registered under this chapter has vio-  
7           lated the requirements of this subsection or a  
8           regulation prescribed under this subsection, the  
9           surety provider shall be liable to the United  
10          States for a civil penalty in an amount not to  
11          exceed \$10,000.

12          “(C) ELIGIBILITY.—If the Secretary deter-  
13          mines, after notice and opportunity for a hear-  
14          ing, that a surety provider of a freight for-  
15          warder registered under this chapter has vio-  
16          lated the requirements of this subsection or a  
17          regulation prescribed under this subsection, the  
18          surety provider shall be ineligible to provide  
19          freight forwarder financial security for 3 years.

20          “(9) FINANCIAL SECURITY AND INSURANCE  
21          AMOUNT ASSESSMENT.—Not less frequently than  
22          once every 5 years, the Secretary—

23                 “(A) shall review, with public notice and  
24                 comment, the amount of the financial security  
25                 and insurance required under this subsection to

1 determine whether such amounts are sufficient  
2 to provide adequate financial security; and

3 “(B) may increase such amounts, if nec-  
4 essary, based upon the determination under  
5 subparagraph (A).”.

6 (b) RULEMAKING.—Not later than 1 year after the  
7 date of enactment of this Act, the Secretary shall issue  
8 regulations to implement and enforce the requirements  
9 under subsections (b) and (c) of section 13906 of title 49,  
10 United States Code, as amended by subsection (a).

11 (c) EFFECTIVE DATE.—The amendments made by  
12 subsection (a) shall take effect on the date that is 1 year  
13 after the date of enactment of this Act.

14 **SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.**

15 (a) IN GENERAL.—Chapter 149 is amended by add-  
16 ing at the end the following:

17 **“§ 14916. Unlawful brokerage activities**

18 “(a) PROHIBITED ACTIVITIES.—Any person that acts  
19 as a broker, other than a non-vessel-operating common  
20 carrier (as defined in section 40102(16) of title 46) or an  
21 ocean freight forwarder providing brokerage as part of an  
22 international through movement involving ocean transpor-  
23 tation between the United States and a foreign port, is  
24 prohibited from providing interstate brokerage services as  
25 a broker unless that person—

1           “(1) is registered under, and in compliance  
2           with, section 13903; and

3           “(2) has satisfied the financial security require-  
4           ments under section 13904.

5           “(b) CIVIL PENALTIES AND PRIVATE CAUSE OF AC-  
6           TION.—Any person who knowingly authorizes, consents to,  
7           or permits, directly or indirectly, either alone or in con-  
8           junction with any other person, a violation of subsection  
9           (a) is liable—

10           “(1) to the United States Government for a  
11           civil penalty in an amount not to exceed \$10,000 for  
12           each violation; and

13           “(2) to the injured party for all valid claims in-  
14           curred without regard to amount.

15           “(c) LIABLE PARTIES.—The liability for civil pen-  
16           alties and for claims under this section for unauthorized  
17           brokering shall apply, jointly and severally—

18           “(1) to any corporate entity or partnership in-  
19           volved; and

20           “(2) to the individual officers, directors, and  
21           principals of such entities.”.

22           (b) CLERICAL AMENDMENT.—The analysis for chap-  
23           ter 149 is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.



1 **PART II—HOUSEHOLD GOODS TRANSPORTATION**

2 **SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS**

3 **FOR HOUSEHOLD GOODS MOTOR CARRIERS.**

4 (a) Section 13902(a)(2) is amended—

5 (1) in subparagraph (B), by striking “section  
6 13702(c);” and inserting “section 13702(c); and”;

7 (2) by amending subparagraph (C) to read as  
8 follows:

9 “(C) demonstrates, before being registered,  
10 through successful completion of a proficiency  
11 examination established by the Secretary,  
12 knowledge and intent to comply with applicable  
13 Federal laws relating to consumer protection,  
14 estimating, consumers’ rights and responsibil-  
15 ities, and options for limitations of liability for  
16 loss and damage.”; and

17 (3) by striking subparagraph (D).

18 (b) **COMPLIANCE REVIEWS OF NEW HOUSEHOLD**  
19 **GOODS MOTOR CARRIERS.**—Section 31144(g), as amend-  
20 ed by section 32102 of this Act, is amended by adding  
21 at the end the following:

22 “(6) **ADDITIONAL REQUIREMENTS FOR HOUSE-**  
23 **HOLD GOODS MOTOR CARRIERS.**—(A) In addition to  
24 the requirements of this subsection, the Secretary  
25 shall require, by regulation, each registered house-  
26 hold goods motor carrier to undergo a consumer pro-

1           tection standards review not later than 18 months  
2           after the household goods motor carrier begins oper-  
3           ations under such authority.

4                   “(B) ELEMENTS.—In the regulations  
5           issued pursuant to subparagraph (A), the Sec-  
6           retary shall establish the elements of the con-  
7           sumer protections standards review, including  
8           basic management controls. In establishing the  
9           elements, the Secretary shall consider the ef-  
10          fects on small businesses and shall consider es-  
11          tablishing alternate locations where such re-  
12          views may be conducted for the convenience of  
13          small businesses.”.

14          (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect 2 years after the date of en-  
16 actment of this Act.

17 **SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSE-**  
18 **HOLD GOODS.**

19          (a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is  
20 amended by striking “and 14103” and inserting “, 14103,  
21 and 14915(c)”.

22          (b) CIVIL PENALTIES.—Section 14915(a)(1) is  
23 amended by adding at the end the following:

24           “The United States may assign all or a portion of  
25 the civil penalty to an aggrieved shipper. The Secretary

1 of Transportation shall establish criteria upon which such  
2 assignments shall be made. The Secretary may order,  
3 after notice and an opportunity for a proceeding, that a  
4 person found holding a household goods shipment hostage  
5 return the goods to an aggrieved shipper.”.

6 **SEC. 32923. SETTLEMENT AUTHORITY.**

7 (a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—  
8 Section 14901 is amended by adding at the end the fol-  
9 lowing:

10 “(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL  
11 PENALTIES.—Nothing in this section shall be construed  
12 to prohibit the Secretary from accepting partial payment  
13 of a civil penalty as part of a settlement agreement in the  
14 public interest, or from holding imposition of any part of  
15 a civil penalty in abeyance.”.

16 (b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL  
17 PENALTIES.—Section 14915(a) is amended by adding at  
18 the end the following:

19 “(4) SETTLEMENT AUTHORITY.—Nothing in  
20 this section shall be construed as prohibiting the  
21 Secretary from accepting partial payment of a civil  
22 penalty as part of a settlement agreement in the  
23 public interest, or from holding imposition of any  
24 part of a civil penalty in abeyance.”.

1 **SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSIST-**  
2 **ANCE PROGRAM.**

3 (a) JOINT ASSISTANCE PROGRAM.—Not later than  
4 18 months after the date of enactment of this Act, the  
5 Secretary shall develop and implement a joint assistance  
6 program, through the Federal Motor Carrier Safety Ad-  
7 ministration—

8 (1) to educate consumers about the household  
9 goods motor carrier industry pursuant to the rec-  
10 ommendations of the task force established under  
11 section 32925 of this Act;

12 (2) to improve the Federal Motor Carrier Safe-  
13 ty Administration's implementation, monitoring, and  
14 coordination of Federal and State household goods  
15 enforcement activities;

16 (3) to assist a consumer with the timely resolu-  
17 tion of an interstate household goods hostage situa-  
18 tion, as appropriate; and

19 (4) to conduct other enforcement activities as  
20 designated by the Secretary.

21 (b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—  
22 The Secretary—

23 (1) may partner with 1 or more household  
24 goods motor carrier industry groups to implement  
25 the joint assistance program under subsection (a);  
26 and

1           (2) shall ensure that each participating house-  
2 hold goods motor carrier industry group—

3           (A) implements the joint assistance pro-  
4 gram in the best interest of the consumer;

5           (B) implements the joint assistance pro-  
6 gram in the public interest;

7           (C) accurately represents its financial in-  
8 terests in providing household goods mover  
9 services in the normal course of business and in  
10 assisting consumers resolving hostage situa-  
11 tions;

12           (D) does not hold itself out or misrepre-  
13 sent itself as an agent of the Federal govern-  
14 ment;

15           (E) abides by Federal regulations and  
16 guidelines for the provision of assistance and  
17 receipt of compensation for household goods  
18 mover services; and

19           (F) accurately represents the Federal and  
20 State remedies that are available to consumers  
21 for resolving interstate household goods hostage  
22 situations.

23       (c) REPORT.—The Secretary shall submit a report  
24 annually to the Committee on Commerce, Science, and  
25 Transportation of the Senate and the Committee on

1 Transportation and Infrastructure of the House of Rep-  
2 resentatives providing a detailed description of the joint  
3 assistance program under subsection (a).

4 (d) PROHIBITION.—The joint assistance program  
5 under subsection (a) may not include the provision of  
6 funds by the United States to a consumer for lost, stolen,  
7 or damaged items.

8 **SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION**  
9 **PROGRAM.**

10 (a) TASK FORCE.—The Secretary of Transportation  
11 shall establish a task force to develop recommendations  
12 to ensure that a consumer is informed of Federal law con-  
13 cerning the transportation of household goods by a motor  
14 carrier, including recommendations—

15 (1) on how to condense publication ESA 03005  
16 of the Federal Motor Carrier Safety Administration  
17 into a format that can be more easily used by a con-  
18 sumer; and

19 (2) on the use of state-of-the-art education  
20 techniques and technologies, including the use of the  
21 Internet as an educational tool.

22 (b) TASK FORCE MEMBERS.—The task force shall be  
23 comprised of—

24 (1) individuals with expertise in consumer af-  
25 fairs;

1           (2) educators with expertise in how people learn  
2           most effectively; and

3           (3) representatives of the household goods mov-  
4           ing industry.

5           (c) **RECOMMENDATIONS.**—Not later than 1 year after  
6 the date of enactment of this Act, the task force shall com-  
7 plete its recommendations under subsection (a). Not later  
8 than 1 year after the task force completes its rec-  
9 ommendations under subsection (a), the Secretary shall  
10 issue regulations implementing the recommendations, as  
11 appropriate.

12          (d) **FEDERAL ADVISORY COMMITTEE ACT EXEMP-**  
13 **TION.**—The Federal Advisory Committee Act (5 U.S.C.  
14 App.) shall not apply to the task force.

15          (e) **TERMINATION.**—The task force shall terminate 2  
16 years after the date of enactment of this Act.

17                   **PART III—TECHNICAL AMENDMENTS**

18           **SEC. 32931. UPDATE OF OBSOLETE TEXT.**

19           (a) Section 31137(e), as redesignated by section  
20 32301 of this Act, is amended by striking “Not later than  
21 December 1, 1990, the Secretary shall prescribe” and in-  
22 serting “The Secretary shall maintain”.

23           (b) Section 31151(a) is amended—

24                   (1) by amending paragraph (1) to read as fol-  
25           lows:

1           “(1) IN GENERAL.—The Secretary of Transpor-  
2           tation shall maintain a program to ensure that inter-  
3           modal equipment used to transport intermodal con-  
4           tainers is safe and systematically maintained.”; and

5           (2) by striking paragraph (4).

6           (c) Section 31307(b) is amended by striking “Not  
7           later than December 18, 1994, the Secretary shall pre-  
8           scribe” and inserting “The Secretary shall maintain”.

9           (d) Section 31310(g)(1) is amended by striking “Not  
10          later than 1 year after the date of enactment of this Act,  
11          the” and inserting “The”.

12          (e) Section 4123(f) of the Safe, Accountable, Flexi-  
13          ble, Efficient Transportation Equity Act: A Legacy for  
14          Users (119 Stat. 1736), is amended by striking “Not later  
15          than 1 year after the date of enactment of this Act, the”  
16          and inserting “The”.

17       **SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COM-**  
18                               **MISSION REFERENCES.**

19          (a) SAFETY INFORMATION AND INTERVENTION IN  
20          INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—  
21          Chapter 3 is amended—

22               (1) by repealing section 307;

23               (2) in the analysis, by striking the item relating  
24          to section 307;



1           (3) in section 333(d)(1)(C), by striking “Inter-  
2       state Commerce Commission” and inserting “Sur-  
3       face Transportation Board”; and

4           (4) in section 333(e)—

5               (A) by striking “Interstate Commerce  
6       Commission” and inserting “Surface Transpor-  
7       tation Board”; and

8               (B) by striking “Commission” and insert-  
9       ing “Board”.

10       (b) FILING AND PROCEDURE FOR APPLICATION TO  
11    ABANDON OR DISCONTINUE.—Section 10903(b)(2) is  
12    amended by striking “24706(c) of this title” and inserting  
13    “24706(c) of this title before May 31, 1998”.

14       (c) TECHNICAL AMENDMENTS TO PART C OF SUB-  
15    TITLE V.—

16           (1) Section 24307(b)(3) is amended by striking  
17       “Interstate Commerce Commission” and inserting  
18       “Surface Transportation Board”.

19           (2) Section 24311 is amended—

20               (A) by striking “Interstate Commerce  
21       Commission” and inserting “Surface Transpor-  
22       tation Board”;

23               (B) by striking “Commission” each place it  
24       appears and inserting “Board”; and

1 (C) by striking “Commission’s” and insert-  
2 ing “Board’s”.

3 (3) Section 24902 is amended—

4 (A) by striking “Interstate Commerce  
5 Commission” each place it appears and insert-  
6 ing “Surface Transportation Board”; and

7 (B) by striking “Commission” each place it  
8 appears and inserting “Board”.

9 (4) Section 24904 is amended—

10 (A) by striking “Interstate Commerce  
11 Commission” and inserting “Surface Transpor-  
12 tation Board”; and

13 (B) by striking “Commission” each place it  
14 appears and inserting “Board”.

15 **SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

16 (a) Section 13905(f)(1)(A) is amended by striking  
17 “section 13904(c)” and inserting “section 13904(e)”;

18 (b) Section 14504a(c)(1) is amended—

19 (1) in subparagraph (C), by striking “sections”  
20 and inserting “section”; and

21 (2) in subparagraph (D)(ii)(II) by striking the  
22 period at the end and inserting “; and”.

23 (c) Section 31103(a) is amended by striking “section  
24 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

1 (d) Section 31103(b) is amended by striking “author-  
2 ized by section 31104(f)(2)”.

3 (e) Section 31309(b)(2) is amended by striking  
4 “31308(2)” and inserting “31308(3)”.

5 **TITLE III—SURFACE TRANSPOR-**  
6 **TATION AND FREIGHT POL-**  
7 **ICY ACT OF 2012**

8 **SEC. 33001. SHORT TITLE.**

9 This title may be cited as the “Surface Transpor-  
10 tation and Freight Policy Act of 2012”.

11 **SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE**  
12 **TRANSPORTATION AND FREIGHT POLICY.**

13 (a) **IN GENERAL.**—Subchapter I of chapter 3 of title  
14 49, United States Code, as amended by section 32932 of  
15 the Commercial Motor Vehicle Safety Enhancement Act  
16 of 2012, is amended—

17 (1) by redesignating sections 304 through 306  
18 as sections 307 through 309, respectively;

19 (2) by redesignating sections 308 and 309 as  
20 sections 310 and 311, respectively;

21 (3) by redesignating sections 303 and 303a as  
22 sections 305 and 306, respectively; and

23 (4) by inserting after section 302 the following:

1 **“§ 303. National surface transportation policy**

2       “(a) POLICY.—It is the policy of the United States  
3 to develop a comprehensive national surface transpor-  
4 tation system that advances the national interest and de-  
5 fense, interstate and foreign commerce, the efficient and  
6 safe interstate mobility of people and goods, and the pro-  
7 tection of the environment. The system shall be built,  
8 maintained, managed, and operated as a partnership be-  
9 tween the Federal, State, and local governments and the  
10 private sector and shall be coordinated with the overall  
11 transportation system of the United States, including the  
12 Nation’s air, rail, pipeline, and water transportation sys-  
13 tems. The Secretary of Transportation shall be responsible  
14 for carrying out this policy.

15       “(b) OBJECTIVES.—The objectives of the policy shall  
16 be to facilitate and advance—

17               “(1) the improved accessibility and reduced  
18 travel times for persons and goods within and be-  
19 tween nations, regions, States, and metropolitan  
20 areas;

21               “(2) the safety of the public;

22               “(3) the security of the Nation and the public;

23               “(4) environmental protection;

24               “(5) energy conservation and security, including  
25 reducing transportation-related energy use;

1           “(6) international and interstate freight move-  
2           ment, trade enhancement, job creation, and eco-  
3           nomic development;

4           “(7) responsible planning to address population  
5           distribution and employment and sustainable devel-  
6           opment;

7           “(8) the preservation and adequate performance  
8           of system-critical transportation assets, as defined  
9           by the Secretary;

10          “(9) reasonable access to the national surface  
11          transportation system for all system users, including  
12          rural communities;

13          “(10) the sustainable and adequate financing of  
14          the national surface transportation system; and

15          “(11) innovation in transportation services, in-  
16          frastructure, and technology.

17          “(c) GOALS.—

18                 “(1) SPECIFIC GOALS.—The goals of the policy  
19                 shall be—

20                         “(A) to reduce average per capita peak pe-  
21                         riod travel times on an annual basis;

22                         “(B) to reduce national motor vehicle-re-  
23                         lated and truck-related fatalities by 50 percent  
24                         by 2030;

1           “(C) to reduce national surface transpor-  
2           tation delays per capita on an annual basis;

3           “(D) to improve the access to employment  
4           opportunities and other economic activities;

5           “(E) to increase the percentage of system-  
6           critical surface transportation assets, as defined  
7           by the Secretary, that are in a state of good re-  
8           pair by 20 percent by 2030;

9           “(F) to improve access to public transpor-  
10          tation, intercity passenger rail services, and  
11          non-motorized transportation where travel de-  
12          mand warrants;

13          “(G) to reduce passenger and freight  
14          transportation infrastructure-related delays en-  
15          tering into and out of international points of  
16          entry on an annual basis;

17          “(H) to increase travel time reliability on  
18          major freight corridors that connect major pop-  
19          ulation centers to freight generators and inter-  
20          national gateways on an annual basis;

21          “(I) to ensure adequate transportation of  
22          domestic energy supplies and promote energy  
23          security;

1           “(J) to maintain or reduce the percentage  
2           of gross domestic product consumed by trans-  
3           portation costs; and

4           “(K) to reduce transportation-related im-  
5           pacts on the environment and on communities.

6           “(2) BASELINES.—Not later than 2 years after  
7           the date of enactment of the Surface Transportation  
8           and Freight Policy Act of 2012, the Secretary shall  
9           develop baselines for the goals and shall determine  
10          appropriate methods of data collection to measure  
11          the attainment of the goals.”.

12          (b) FREIGHT POLICY.—Subchapter I of chapter 3 of  
13          title 49, United States Code, as amended by section  
14          33002(a) of this Act, is amended by adding at the end  
15          the following:

16          “**§ 312. National freight transportation policy.**

17          “(a) NATIONAL FREIGHT TRANSPORTATION POL-  
18          ICY.—It is the policy of the United States to improve the  
19          efficiency, operation, and security of the national trans-  
20          portation system to move freight by leveraging invest-  
21          ments and promoting partnerships that advance interstate  
22          and foreign commerce, promote economic competitiveness  
23          and job creation, improve the safe and efficient mobility  
24          of goods, and protect the public health and the environ-  
25          ment.

1       “(b) OBJECTIVES.—The objectives of the policy  
2 are—

3           “(1) to target investment in freight transpor-  
4 tation projects that strengthen the economic com-  
5 petitiveness of the United States with a focus on do-  
6 mestic industries and businesses and the creation  
7 and retention of high-value jobs;

8           “(2) to promote and advance energy conserva-  
9 tion and the environmental sustainability of freight  
10 movements;

11          “(3) to facilitate and advance the safety and  
12 health of the public, including communities adjacent  
13 to freight movements;

14          “(4) to provide for systematic and balanced in-  
15 vestment to improve the overall performance and re-  
16 liability of the national transportation system to  
17 move freight, including ensuring trade facilitation  
18 and transportation system improvements are mutu-  
19 ally supportive;

20          “(5) to promote partnerships between Federal,  
21 State, and local governments, the private sector, and  
22 other transportation stakeholders to leverage invest-  
23 ments in freight transportation projects; and

24          “(6) to encourage adoption of operational poli-  
25 cies, such as intelligent transportation systems, to



1 improve the efficiency of freight-related transpor-  
2 tation movements and infrastructure.”.

3 (c) CONFORMING AMENDMENTS.—The table of con-  
4 tents for chapter 3 of title 49, United States Code, is  
5 amended—

6 (1) by redesignating the items relating to sec-  
7 tions 304 through 306 as sections 307 through 309,  
8 respectively;

9 (2) by redesignating the items relating to sec-  
10 tions 308 and 309 as sections 310 and 311, respec-  
11 tively;

12 (3) by redesignating the items relating to sec-  
13 tions 303 and 303a as sections 305 and 306, respec-  
14 tively;

15 (4) by inserting after the item relating to sec-  
16 tion 302 the following:

“303. National surface transportation policy.”; and

17 (5) by inserting after the item relating to sec-  
18 tion 311 the following:

“312. National freight transportation policy.”.

19 **SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT**  
20 **STRATEGIC PLAN.**

21 (a) SURFACE TRANSPORTATION AND FREIGHT STRA-  
22 TEGIC PLAN.—Subchapter I of chapter 3 of title 49,  
23 United States Code, as amended by section 33002 of this

1 Act, is amended by inserting after section 303 the fol-  
2 lowing—

3 **“§ 304. National surface transportation and freight**  
4 **strategic performance plan.**

5 “(a) DEVELOPMENT.—Not later than 2 years after  
6 the date of enactment of the Surface Transportation and  
7 Freight Policy Act of 2012, the Secretary of Transpor-  
8 tation shall develop and implement a National Surface  
9 Transportation and Freight Performance Plan to achieve  
10 the policy, objectives, and goals set forth in sections 303  
11 and 312 .

12 “(b) CONTENTS.—The plan shall include—

13 “(1) an assessment of the current performance  
14 of the national surface transportation system and an  
15 analysis of the system’s ability to achieve the policy,  
16 objectives, and goals set forth in sections 303 and  
17 312;

18 “(2) an analysis of emerging and long-term pro-  
19 jected trends, including economic and national trade  
20 policies, that will impact the performance, needs,  
21 and uses of the national surface transportation sys-  
22 tem, including the system to move freight;

23 “(3) a description of the major challenges to ef-  
24 fectively meeting the policy, objectives, and goals set

1       forth in sections 303 and 312 and a plan to address  
2       such challenges;

3           “(4) a comprehensive strategy and investment  
4       plan to meet the policy, objectives, and goals set  
5       forth in sections 303 and 312, including a strategy  
6       to develop the coalitions, partnerships, and other col-  
7       laborative financing efforts necessary to ensure sta-  
8       ble, reliable funding and completion of freight cor-  
9       ridors and projects;

10          “(5) initiatives to improve transportation mod-  
11       eling, research, data collection, and analysis, includ-  
12       ing those to assess impacts on public health, and en-  
13       vironmental conditions;

14          “(6) guidelines to encourage the appropriate  
15       balance of means to finance the national transpor-  
16       tation system to move freight to implement the plan  
17       and the investment plan proposed under paragraph  
18       (4); and

19          “(7) a list of priority freight corridors and gate-  
20       ways to be improved and developed to meet the pol-  
21       icy, objectives, and goals set forth in section 312.

22       “(c) CONSULTATION.—In developing the plan re-  
23       quired by subsection (a), the Secretary shall—

24           “(1) consult with appropriate Federal agencies,  
25       local, State, and tribal governments, public and pri-

1 vate transportation stakeholders, non-profit organi-  
2 zations representing transportation employees, ap-  
3 propriate foreign governments, and other interested  
4 parties;

5 “(2) consider on-going Federal, State, and cor-  
6 ridor-wide transportation plans;

7 “(3) provide public notice and hearings and so-  
8 licit public comments on the plan, and

9 “(4) as appropriate, establish advisory commit-  
10 tees to assist with developing the plan.

11 “(d) SUBMITTAL AND PUBLICATION.—The Secretary  
12 shall—

13 “(1) submit the completed plan to the Com-  
14 mittee on Commerce, Science, and Transportation of  
15 the Senate and the Committee on Transportation  
16 and Infrastructure of the House of Representatives;  
17 and

18 “(2) post the completed plan on the Depart-  
19 ment of Transportation’s public web site.

20 “(e) PROGRESS REPORTS.—The Secretary shall sub-  
21 mit biennial progress reports on the implementation of the  
22 plan beginning 2 years after the date of submittal of the  
23 plan under subsection (d)(1). Each progress report shall—

24 “(1) describe progress made toward fully imple-  
25 menting the plan and achieving the policies, objec-

1 tives, and goals established under sections 303 and  
2 312;

3 “(2) describe challenges and obstacles to full  
4 implementation;

5 “(3) describe updates to the plan necessary to  
6 reflect changed circumstances or new developments;  
7 and

8 “(4) make policy and legislative recommenda-  
9 tions the Secretary believes are necessary and appro-  
10 priate to fully implement the plan.

11 “(f) DATA.—The Secretary shall have the authority  
12 to conduct studies, gather information, and require the  
13 production of data necessary to develop or update this  
14 plan, consistent with Federal privacy standards.

15 “(g) IMPLEMENTATION.—The Secretary shall—

16 “(1) develop appropriate performance criteria  
17 and data collections systems for each Federal sur-  
18 face transportation program consistent with this  
19 chapter and the Secretary’s statutory authority with-  
20 in these programs to evaluate:

21 “(A) whether such programs are consistent  
22 with the policy, objectives, and goals established  
23 by sections 303 and 312; and

24 “(B) how effective such programs are in  
25 contributing to the achievement of the policy,

1 objectives, and goals established by sections 303  
2 and 312;

3 “(2) using the criteria developed under para-  
4 graph (1), periodically evaluate each such program  
5 and provide the results to the public;

6 “(3) based on the evaluation performed under  
7 paragraph (2), make any necessary changes or im-  
8 provements to such programs to ensure such consist-  
9 ency and effectiveness consistent with the Sec-  
10 retary’s statutory authority within these programs ;

11 “(4) implement this section in a manner that is  
12 consistent with sections 302, 5301, 5503, 10101,  
13 and 13101 of this title and section 101 of title 23;

14 “(5) review all relevant surface transportation  
15 planning requirements to determine whether such re-  
16 gional, State, and local surface transportation plan-  
17 ning efforts funded with Federal funds are con-  
18 sistent with the policy, objectives, and goals estab-  
19 lished by this section; and

20 “(6) require States and metropolitan planning  
21 organizations to report on the use of Federal surface  
22 transportation funds, consistent with ongoing report-  
23 ing requirements, to provide the Secretary with suf-  
24 ficient information to determine—

1           “(A) which projects and priorities were  
2 funded with such funds;

3           “(B) the rationale and method employed  
4 for apportioning such funds to the projects and  
5 priorities; and

6           “(C) how the obligation of such funds is  
7 consistent with or advances the policy, objec-  
8 tives, and goals established by sections 303 and  
9 312 and the statutory sections referenced in  
10 paragraph (4).”.

11       (b) CONFORMING AMENDMENT.—The table of con-  
12 tents for chapter 3 of title 49, United States Code, is  
13 amended by inserting after the item relating to section  
14 303 the following:

“304. National surface transportation and freight strategic performance plan.”.

15 **SEC. 33004. TRANSPORTATION INVESTMENT DATA AND**  
16 **PLANNING TOOLS.**

17       (a) IN GENERAL.—Not later than 2 years after the  
18 date of enactment of this Act, the Secretary shall—

19           (1) develop new tools or improve existing tools  
20 to support an outcome-oriented, performance-based  
21 approach to evaluate proposed freight-related and  
22 other surface transportation projects. These new or  
23 improved tools shall include—

24           (A) a systematic cost-benefit analysis that  
25 supports a valuation of modal alternatives;

1 (B) an evaluation of external effects on  
2 congestion, pollution, the environment, and the  
3 public health; and

4 (C) other elements to assist in effective  
5 transportation planning; and

6 (2) facilitate the collection of transportation-re-  
7 lated data to support a broad range of evaluation  
8 methods and techniques such as demand forecasts,  
9 modal diversion forecasts, estimates of the effect of  
10 proposed investments on congestion, pollution, public  
11 health, and other factors, to assist in making trans-  
12 portation investment decisions. At a minimum, the  
13 Secretary, in consultation with other relevant Fed-  
14 eral agencies, shall consider any improvements to  
15 the Commodity Flow Survey that reduce identified  
16 freight data gaps and deficiencies and help evaluate  
17 forecasts of transportation demand.

18 (b) CONSULTATION.—To the extent practicable, the  
19 Secretary shall consult with Federal, State, and local  
20 transportation planners to develop, improve, and imple-  
21 ment the tools and collect the data under subsection (a).

22 (c) ESTABLISHMENT OF PILOT PROGRAM.—

23 (1) ESTABLISHMENT.—To assist in the develop-  
24 ment of tools under subsection (a) and to inform the  
25 National Surface Transportation and Freight Per-



1 performance Plan required by section 304 of title 49,  
2 United States Code, the Secretary shall establish a  
3 pilot program under which the Secretary shall con-  
4 duct case studies of States and metropolitan plan-  
5 ning organizations that are designed—

6 (A) to provide more detailed, in-depth  
7 analysis and data collection with respect to  
8 transportation programs; and

9 (B) to apply rigorous methods of meas-  
10 uring and addressing the effectiveness of pro-  
11 gram participants in achieving national trans-  
12 portation goals.

13 (2) PRELIMINARY REQUIREMENTS.—

14 (A) SOLICITATION.—The Secretary shall  
15 solicit applications to participate in the pilot  
16 program from States and metropolitan planning  
17 organizations.

18 (B) NOTIFICATION.—A State or metropoli-  
19 tan planning organization that desires to par-  
20 ticipate in the pilot program shall notify the  
21 Secretary of such desire before a date deter-  
22 mined by the Secretary.

23 (C) SELECTION.—

1 (i) NUMBER OF PROGRAM PARTICI-  
2 PANTS.—The Secretary shall select to par-  
3 ticipate in the pilot program—

4 (I) not fewer than 3, and not  
5 more than 5, States; and

6 (II) not fewer than 3, and not  
7 more than 5, metropolitan planning  
8 organizations.

9 (ii) TIMING.—The Secretary shall se-  
10 lect program participants not later than 3  
11 months after the date of enactment of this  
12 Act.

13 (iii) DIVERSITY OF PROGRAM PARTICI-  
14 PANTS.—The Secretary shall, to the extent  
15 practicable, select program participants  
16 that represent a broad range of geographic  
17 and demographic areas (including rural  
18 and urban areas) and types of transpor-  
19 tation programs.

20 (d) CASE STUDIES.—

21 (1) BASELINE REPORT.—Not later than 6  
22 months after the date of enactment of this Act, each  
23 program participant shall submit to the Secretary a  
24 baseline report that—

1 (A) describes the reporting and data collec-  
2 tion processes of the program participant for  
3 transportation investments that are in effect on  
4 the date of the report;

5 (B) assesses how effective the program  
6 participant is in achieving the national surface  
7 transportation goals in section 303 of title 49,  
8 United States Code;

9 (C) describes potential improvements to  
10 the methods and metrics used to measure the  
11 effectiveness of the program participant in  
12 achieving national surface transportation goals  
13 in section 303 of title 49, United States Code,  
14 and the challenges to implementing such im-  
15 provements; and

16 (D) includes an assessment of whether,  
17 and specific reasons why, the preparation and  
18 submission of the baseline report may be lim-  
19 ited, incomplete, or unduly burdensome, includ-  
20 ing any recommendations for facilitating the  
21 preparation and submission of similar reports  
22 in the future.

23 (2) EVALUATION.—Each program participant  
24 shall work cooperatively with the Secretary to evalu-  
25 ate the methods and metrics used to measure the ef-

1       fectiveness of the program participant in achieving  
2       national surface transportation goals in section 303  
3       of title 49, United States Code, including—

4               (A) by considering the degree to which  
5               such methods and metrics take into account—

6                       (i) the factors that influence the effec-  
7                       tiveness of the program participant in  
8                       achieving the national surface transpor-  
9                       tation goals;

10                      (ii) all modes of transportation; and

11                      (iii) the transportation program as a  
12                      whole, rather than individual projects with-  
13                      in the transportation program; and

14               (B) by identifying steps that could be used  
15               to implement the potential improvements identi-  
16               fied under paragraph (1)(C).

17       (3) FINAL REPORT.—Not later than 18 months  
18       after the date of enactment of this section, each pro-  
19       gram participant shall submit to the Secretary a  
20       comprehensive final report that—

21               (A) contains an updated assessment of the  
22               effectiveness of the program participant in  
23               achieving national surface transportation goals  
24               under section 303 of title 49, United States  
25               Code; and

1 (B) describes the ways in which the per-  
2 formance of the program participant in col-  
3 lecting and reporting data and carrying out the  
4 transportation program of the program partici-  
5 pant has improved or otherwise changed since  
6 the date of submission of the baseline report  
7 under subparagraph (A).

8 **SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INI-**  
9 **TIATIVE.**

10 Section 50302(c)(3)(C) of title 46, United States  
11 Code, is amended to read as follows:

12 “(C) TRANSFERS.—Amounts appropriated  
13 or otherwise made available for any fiscal year  
14 for a marine facility or intermodal facility that  
15 includes maritime transportation may be trans-  
16 ferred, at the option of the recipient of such  
17 amounts, to the Fund and administered by the  
18 Administrator as a component of a project  
19 under the program.”.

20 **SEC. 33006. SAFETY FOR MOTORIZED AND NONMOTORIZED**  
21 **USERS.**

22 (a) IN GENERAL.—Chapter 4 of title 23, United  
23 States Code, is amended by adding at the end the fol-  
24 lowing:

1 **“§ 413. Safety for motorized and nonmotorized users**

2       “(a) IN GENERAL.—Not later than 2 years after the  
3 date of enactment of the Surface Transportation and  
4 Freight Policy Act of 2012, subject to subsection (b), the  
5 Secretary shall establish standards to ensure that the de-  
6 sign of Federal surface transportation projects provides  
7 for the safe and adequate accommodation, in all phases  
8 of project planning, development, and operation, of all  
9 users of the transportation network, including motorized  
10 and nonmotorized users.

11       “(b) WAIVER FOR STATE LAW OR POLICY.—The Sec-  
12 retary may waive the application of standards established  
13 under subsection (a) to a State that has adopted a law  
14 or policy that provides for the safe and adequate accom-  
15 modation as certified by the State (or other grantee), in  
16 all phases of project planning and development, of users  
17 of the transportation network on federally funded surface  
18 transportation projects, as determined by the Secretary.

19       “(c) COMPLIANCE.—

20               “(1) IN GENERAL.—Each State department of  
21 transportation shall submit to the Secretary, at such  
22 time, in such manner, and containing such informa-  
23 tion as the Secretary shall require, a report describ-  
24 ing the implementation by the State of measures to  
25 achieve compliance with this section.

1           “(2) DETERMINATION BY SECRETARY.—On re-  
2           ceipt of a report under paragraph (1), the Secretary  
3           shall determine whether the applicable State has  
4           achieved compliance with this section.”.

5           (b) CONFORMING AMENDMENT.—The analysis for  
6           chapter 4 of title 23, United States Code, is amended by  
7           adding at the end the following:

          “413. Safety for motorized and nonmotorized users.”.

8           **TITLE IV—HAZARDOUS MATE-**  
9           **RIALS                   TRANSPORTATION**  
10           **SAFETY IMPROVEMENT ACT**  
11           **OF 2012**

12           **SEC. 34001. SHORT TITLE.**

13           This title may be cited as the “Hazardous Materials  
14           Transportation Safety Improvement Act of 2012”.

15           **SEC. 34002. DEFINITION.**

16           In this title, the term “Secretary” means the Sec-  
17           retary of Transportation.

18           **SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES**  
19           **CODE.**

20           Except as otherwise expressly provided, whenever in  
21           this title an amendment or repeal is expressed in terms  
22           of an amendment to, or repeal of, a section or other provi-  
23           sion, the reference shall be considered to be made to a  
24           section or other provision of title 49, United States Code.

1 **SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

2 (a) TRAINING CURRICULUM.—Section 5115 is  
3 amended—

4 (1) in subsection (b)(1)(B), by striking “basic”;

5 (2) in subsection (b)(2), by striking “basic”;

6 and

7 (3) in subsection (c), by striking “basic”.

8 (b) OPERATIONS LEVEL TRAINING.—Section 5116 is  
9 amended—

10 (1) in subsection (b)(1), by adding at the end  
11 the following: “To the extent that a grant is used to  
12 train emergency responders, the State or Indian  
13 tribe shall provide written certification to the Sec-  
14 retary that the emergency responders who receive  
15 training under the grant will have the ability to pro-  
16 tect nearby persons, property, and the environment  
17 from the effects of accidents or incidents involving  
18 the transportation of hazardous material in accord-  
19 ance with existing regulations or National Fire Pro-  
20 tection Association standards for competence of re-  
21 sponders to hazardous materials.”;

22 (2) in subsection (j)—

23 (A) by redesignating paragraph (5) as  
24 paragraph (7); and

25 (B) by inserting after paragraph (4) the  
26 following:



1           “(5) The Secretary may not award a grant to  
2           an organization under this subsection unless the or-  
3           ganization ensures that emergency responders who  
4           receive training under the grant will have the ability  
5           to protect nearby persons, property, and the environ-  
6           ment from the effects of accidents or incidents in-  
7           volving the transportation of hazardous material in  
8           accordance with existing regulations or National  
9           Fire Protection Association standards for com-  
10          petence of responders to hazardous materials.

11           “(6) Notwithstanding paragraphs (1) and (3),  
12          to the extent determined appropriate by the Sec-  
13          retary, a grant awarded by the Secretary to an orga-  
14          nization under this subsection to conduct hazardous  
15          material response training programs may be used to  
16          train individuals with responsibility to respond to ac-  
17          cidents and incidents involving hazardous material.”;  
18          and

19           (3) in subsection (k)—

20           (A) by striking “annually” and inserting  
21           “an annual report”;

22           (B) by inserting “the report” after “make  
23           available”;

1 (C) by striking “information” and insert-  
2 ing “. The report submitted under this sub-  
3 section shall include information”; and

4 (D) by striking “The report shall identify”  
5 and all that follows and inserting the following:  
6 “The report submitted under this subsection  
7 shall identify the ultimate recipients of such  
8 grants and include—

9 “(A) a detailed accounting and description  
10 of each grant expenditure by each grant recipi-  
11 ent, including the amount of, and purpose for,  
12 each expenditure;

13 “(B) the number of persons trained under  
14 the grant program, by training level;

15 “(C) an evaluation of the efficacy of such  
16 planning and training programs; and

17 “(D) any recommendations the Secretary  
18 may have for improving such grant programs.”.

19 **SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT**  
20 **PROGRAM.**

21 (a) IN GENERAL.—The Secretary may conduct pilot  
22 projects to evaluate the feasibility and effectiveness of  
23 using paperless hazard communications systems. At least  
24 1 of the pilot projects under this section shall take place  
25 in a rural area.

1 (b) REQUIREMENTS.—In conducting pilot projects  
2 under this section, the Secretary—

3 (1) may not waive the requirements under sec-  
4 tion 5110 of title 49, United States Code; and

5 (2) shall consult with organizations rep-  
6 resenting—

7 (A) fire services personnel;

8 (B) law enforcement and other appropriate  
9 enforcement personnel;

10 (C) other emergency response providers;

11 (D) persons who offer hazardous material  
12 for transportation;

13 (E) persons who transport hazardous ma-  
14 terial by air, highway, rail, and water; and

15 (F) employees of persons who transport or  
16 offer for transportation hazardous material by  
17 air, highway, rail, and water.

18 (c) REPORT.—Not later than 2 years after the date  
19 of the enactment of this Act, the Secretary shall—

20 (1) prepare a report on the results of the pilot  
21 projects carried out under this section, including—

22 (A) a detailed description of the pilot  
23 projects;

24 (B) an evaluation of each pilot project, in-  
25 cluding an evaluation of the performance of

1 each paperless hazard communications system  
2 in such project;

3 (C) an assessment of the safety and secu-  
4 rity impact of using paperless hazard commu-  
5 nications systems, including any impact on the  
6 public, emergency response, law enforcement,  
7 and the conduct of inspections and investiga-  
8 tions; and

9 (D) a recommendation on whether  
10 paperless hazard communications systems  
11 should be permanently incorporated into the  
12 Federal hazardous material transportation safe-  
13 ty program under chapter 51 of title 49, United  
14 States Code; and

15 (2) submit a final report to the Committee on  
16 Commerce, Science, and Transportation of the Sen-  
17 ate and the Committee on Transportation and Infra-  
18 structure of the House of Representatives that con-  
19 tains the results of the pilot projects carried out  
20 under this section, including the matters described  
21 in paragraph (1).

22 (d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM  
23 DEFINED.—In this section, the term “paperless hazard  
24 communications system” means the use of advanced com-  
25 munications methods, such as wireless communications

1 devices, to convey hazard information between all parties  
2 in the transportation chain, including emergency respond-  
3 ers and law enforcement personnel. The format of commu-  
4 nication may be equivalent to that used by the carrier.

5 **SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND**  
6 **REPORTING.**

7 (a) ASSESSMENT.—

8 (1) IN GENERAL.—Not later than 6 months  
9 after the date of the enactment of this Act, the Sec-  
10 retary, in coordination with the Secretary of Home-  
11 land Security, as appropriate, shall conduct an as-  
12 sessment to improve the collection, analysis, report-  
13 ing, and use of data related to accidents and inci-  
14 dents involving the transportation of hazardous ma-  
15 terial.

16 (2) REVIEW.—The assessment conducted under  
17 this subsection shall review the methods used by the  
18 Pipeline and Hazardous Materials Safety Adminis-  
19 tration (referred to in this section as the “Adminis-  
20 tration”) for collecting, analyzing, and reporting ac-  
21 cidents and incidents involving the transportation of  
22 hazardous material, including the adequacy of—

23 (A) information requested on the accident  
24 and incident reporting forms required to be  
25 submitted to the Administration;

1 (B) methods used by the Administration to  
2 verify that the information provided on such  
3 forms is accurate and complete;

4 (C) accident and incident reporting re-  
5 quirements, including whether such require-  
6 ments should be expanded to include shippers  
7 and consignees of hazardous materials;

8 (D) resources of the Administration related  
9 to data collection, analysis, and reporting, in-  
10 cluding staff and information technology; and

11 (E) the database used by the Administra-  
12 tion for recording and reporting such accidents  
13 and incidents, including the ability of users to  
14 adequately search the database and find infor-  
15 mation.

16 (b) DEVELOPMENT OF ACTION PLAN.—Not later  
17 than 9 months after the date of the enactment of this Act,  
18 the Secretary shall develop an action plan and timeline  
19 for improving the collection, analysis, reporting, and use  
20 of data by the Administration, including revising the data-  
21 base of the Administration, as appropriate.

22 (c) SUBMISSION TO CONGRESS.—Not later than 15  
23 days after the completion of the action plan and timeline  
24 under subsection (c), the Secretary shall submit the action  
25 plan and timeline to the Committee on Commerce,

1 Science, and Transportation of the Senate and the Com-  
2 mittee on Transportation and Infrastructure of the House  
3 of Representatives.

4 (d) REPORTING REQUIREMENTS.—Section  
5 5125(b)(1)(D) is amended by inserting “and other haz-  
6 ardous materials transportation incident reporting to the  
7 9–1–1 emergency system or involving State or local emer-  
8 gency responders in the initial response to the incident”  
9 before the period at the end.

10 **SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MA-**  
11 **TERIALS.**

12 (a) RULEMAKING.—Not later than 2 years after date  
13 of the enactment of this Act, the Secretary, after consulta-  
14 tion with the Department of Labor and the Environmental  
15 Protection Agency, as appropriate, and after providing no-  
16 tice and an opportunity for public comment shall prescribe  
17 regulations establishing uniform procedures among facili-  
18 ties for the safe loading and unloading of hazardous mate-  
19 rials on and off tank cars and cargo tank trucks.

20 (b) INCLUSION.—The regulations prescribed under  
21 subsection (a) may include procedures for equipment in-  
22 spection, personnel protection, and necessary safeguards.

23 (c) CONSIDERATION.—In prescribing regulations  
24 under subsection (a), the Secretary shall give due consid-

1 eration to carrier rules and procedures that produce an  
2 equivalent level of safety.

3 **SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESS-**  
4 **MENT, RESEARCH AND DEVELOPMENT, AND**  
5 **ANALYSIS PROGRAM.**

6 (a) IN GENERAL.—Chapter 51 is amended by insert-  
7 ing after section 5117 the following:

8 **“§ 5118. Hazardous material technical assessment, re-**  
9 **search and development, and analysis**  
10 **program**

11 “(a) RISK REDUCTION.—

12 “(1) PROGRAM AUTHORIZED.—The Secretary of  
13 Transportation may develop and implement a haz-  
14 ardous material technical assessment, research and  
15 development, and analysis program for the purpose  
16 of—

17 “(A) reducing the risks associated with the  
18 transportation of hazardous material; and

19 “(B) identifying and evaluating new tech-  
20 nologies to facilitate the safe, secure, and effi-  
21 cient transportation of hazardous material.

22 “(2) COORDINATION.—In developing the pro-  
23 gram under paragraph (1), the Secretary shall—



1           “(A) utilize information gathered from  
2           other modal administrations with similar pro-  
3           grams; and

4           “(B) coordinate with other modal adminis-  
5           trations, as appropriate.

6           “(b) COOPERATION.—In carrying out subsection (a),  
7 the Secretary may work cooperatively with regulated and  
8 other entities, including shippers, carriers, emergency re-  
9 sponders, State and local officials, and academic institu-  
10 tions.”.

11          (b) CONFORMING AMENDMENT.—The chapter anal-  
12 ysis for chapter 51 is amended by inserting after the item  
13 relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and  
analysis program.”.

14 **SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAIN-**  
15 **ING PROGRAM.**

16          (a) IN GENERAL.—The Secretary shall establish a  
17 multimodal hazardous material enforcement training pro-  
18 gram for government hazardous materials inspectors and  
19 investigators—

20           (1) to develop uniform performance standards  
21 for training hazardous material inspectors and inves-  
22 tigators; and

23           (2) to train hazardous material inspectors and  
24 investigators on—

1 (A) how to collect, analyze, and publish  
2 findings from inspections and investigations of  
3 accidents or incidents involving the transpor-  
4 tation of hazardous material; and

5 (B) how to identify noncompliance with  
6 regulations issued under chapter 51 of title 49,  
7 United States Code, and take appropriate en-  
8 forcement action.

9 (b) STANDARDS AND GUIDELINES.—Under the pro-  
10 gram established under this section, the Secretary may de-  
11 velop—

12 (1) guidelines for hazardous material inspector  
13 and investigator qualifications;

14 (2) best practices and standards for hazardous  
15 material inspector and investigator training pro-  
16 grams; and

17 (3) standard protocols to coordinate investiga-  
18 tion efforts among Federal, State, and local jurisdic-  
19 tions on accidents or incidents involving the trans-  
20 portation of hazardous material.

21 (c) AVAILABILITY.—The standards, protocols, and  
22 findings of the program established under this section—

23 (1) shall be mandatory for—

24 (A) the Department of Transportation's  
25 multimodal personnel conducting hazardous

1 material enforcement inspections or investiga-  
2 tions; and

3 (B) State employees who conduct federally  
4 funded compliance reviews, inspections, or in-  
5 vestigations; and

6 (2) shall be made available to Federal, State,  
7 and local hazardous materials safety enforcement  
8 personnel.

9 **SEC. 34010. INSPECTIONS.**

10 (a) NOTICE OF ENFORCEMENT MEASURES.—Section  
11 5121(c)(1) is amended—

12 (1) in subparagraph (E), by striking “and” at  
13 the end;

14 (2) in subparagraph (F), by striking the period  
15 at the end and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(G) shall provide to the affected offeror,  
18 carrier, packaging manufacturer or tester, or  
19 other person responsible for the package rea-  
20 sonable notice of—

21 “(i) his or her decision to exercise his  
22 or her authority under paragraph (1);

23 “(ii) any findings made; and

24 “(iii) any actions being taken as a re-  
25 sult of a finding of noncompliance.”.

1 (b) REGULATIONS.—Section 5121(e) is amended by  
2 adding at the end the following:

3 “(3) MATTERS TO BE ADDRESSED.—The regu-  
4 lations issued under this subsection shall address—

5 “(A) the safe and expeditious resumption  
6 of transportation of perishable hazardous mate-  
7 rial, including radiopharmaceuticals and other  
8 medical products, that may require timely deliv-  
9 ery due to life-threatening situations;

10 “(B) the means by which—

11 “(i) noncompliant packages that  
12 present an imminent hazard are placed  
13 out-of-service until the condition is cor-  
14 rected; and

15 “(ii) noncompliant packages that do  
16 not present a hazard are moved to their  
17 final destination;

18 “(C) appropriate training and equipment  
19 for inspectors; and

20 “(D) the proper closure of packaging in  
21 accordance with the hazardous material regula-  
22 tions.”.

23 (c) GRANTS AND COOPERATIVE AGREEMENTS.—Sec-  
24 tion 5121(g)(1) is amended by inserting “safety and” be-  
25 fore “security”.

1 **SEC. 34011. CIVIL PENALTIES.**

2 Section 5123 is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (1), by striking  
5 “\$50,000” and inserting “\$75,000”; and

6 (B) in paragraph (2), by striking  
7 “\$100,000” and inserting “\$175,000”; and

8 (2) by adding at the end the following:

9 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS  
10 AND INVESTIGATIONS.—The Secretary may impose a pen-  
11 alty on a person who obstructs or prevents the Secretary  
12 from carrying out inspections or investigations under sub-  
13 section (c) or (i) of section 5121.

14 “(i) PROHIBITION ON HAZARDOUS MATERIAL OPER-  
15 ATIONS AFTER NONPAYMENT OF PENALTIES.—

16 “(1) IN GENERAL.—Except as provided under  
17 paragraph (2), a person subject to the jurisdiction of  
18 the Secretary under this chapter who fails to pay a  
19 civil penalty assessed under this chapter, or fails to  
20 arrange and abide by an acceptable payment plan  
21 for such civil penalty, may not conduct any activity  
22 regulated under this chapter beginning on the 91st  
23 day after the date specified by order of the Secretary  
24 for payment of such penalty unless the person has  
25 filed a formal administrative or judicial appeal of the  
26 penalty.

1           “(2) EXCEPTION.—Paragraph (1) shall not  
2 apply to any person who is unable to pay a civil pen-  
3 alty because such person is a debtor in a case under  
4 chapter 11 of title 11.

5           “(3) RULEMAKING.—Not later than 2 years  
6 after the date of the enactment of this subsection,  
7 the Secretary, after providing notice and an oppor-  
8 tunity for public comment, shall issue regulations  
9 that—

10           “(A) set forth procedures to require a per-  
11 son who is delinquent in paying civil penalties  
12 to cease any activity regulated under this chap-  
13 ter until payment has been made or an accept-  
14 able payment plan has been arranged; and

15           “(B) ensures that the person described in  
16 subparagraph (A)—

17           “(i) is notified in writing; and

18           “(ii) is given an opportunity to re-  
19 spond before the person is required to  
20 cease the activity.”.

21 **SEC. 34012. REPORTING OF FEES.**

22           Section 5125(f)(2) is amended by striking “, upon  
23 the Secretary’s request,” and inserting “biennially”.

1 **SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLU-**  
2 **SIONS.**

3 (a) IN GENERAL.—Section 5117 is amended to read  
4 as follows:

5 **“§ 5117. Special permits, approvals, and exclusions**

6 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

7 “(1) CONDITIONS.—The Secretary of Transpor-  
8 tation may issue, modify, or terminate a special per-  
9 mit implementing new technologies or authorizing a  
10 variance from a provision under this chapter or a  
11 regulation prescribed under section 5103(b), 5104,  
12 5110, or 5112 to a person performing a function  
13 regulated by the Secretary under section 5103(b)(1)  
14 to achieve—

15 “(A) a safety level at least equal to the  
16 safety level required under this chapter; or

17 “(B) a safety level consistent with the pub-  
18 lic interest and this chapter, if a required safety  
19 level does not exist.

20 “(2) FINDINGS REQUIRED.—

21 “(A) IN GENERAL.—Before issuing, renew-  
22 ing, or modifying a special permit or granting  
23 party status to a special permit, the Secretary  
24 shall determine that the person is fit to conduct  
25 the activity authorized by such permit in a

1 manner that achieves the level of safety re-  
2 quired under paragraph (1).

3 “(B) CONSIDERATIONS.—In making the  
4 determination under subparagraph (A), the  
5 Secretary shall consider—

6 “(i) the person’s safety history (in-  
7 cluding prior compliance history);

8 “(ii) the person’s accident and inci-  
9 dent history; and

10 “(iii) any other information the Sec-  
11 retary considers appropriate to make such  
12 a determination.

13 “(3) EFFECTIVE PERIOD.—A special permit  
14 issued under this section—

15 “(A) shall be for an initial period of not  
16 more than 2 years;

17 “(B) may be renewed by the Secretary  
18 upon application—

19 “(i) for successive periods of not more  
20 than 4 years each; or

21 “(ii) in the case of a special permit re-  
22 lating to section 5112, for an additional  
23 period of not more than 2 years.

24 “(b) APPLICATIONS.—



1           “(1) REQUIRED DOCUMENTATION.—When ap-  
2           plying for a special permit or the renewal or modi-  
3           fication of a special permit or requesting party sta-  
4           tus to a special permit under this section, the Sec-  
5           retary shall require the person to submit an applica-  
6           tion that contains—

7                   “(A) a detailed description of the person’s  
8           request;

9                   “(B) a listing of the person’s current facili-  
10           ties and addresses where the special permit will  
11           be utilized;

12                   “(C) a safety analysis prescribed by the  
13           Secretary that justifies the special permit;

14                   “(D) documentation to support the safety  
15           analysis;

16                   “(E) a certification of safety fitness; and

17                   “(F) proof of registration, as required  
18           under section 5108.

19           “(2) PUBLIC NOTICE.—The Secretary shall—

20                   “(A) publish notice in the Federal Register  
21           that an application for a special permit has  
22           been filed; and

23                   “(B) provide the public an opportunity to  
24           inspect and comment on the application.

1           “(3) SAVINGS CLAUSE.—This subsection does  
2           not require the release of information protected by  
3           law from public disclosure.

4           “(c) COORDINATE AND COMMUNICATE WITH MODAL  
5           CONTACT OFFICIALS.—

6           “(1) IN GENERAL.—In evaluating applications  
7           under subsection (b), and making the findings and  
8           determinations under subsections (a), (e), and (h),  
9           the Administrator of the Pipeline and Hazardous  
10          Materials Safety Administration shall consult, co-  
11          ordinate, or notify the modal contact official respon-  
12          sible for the specified mode of transportation that  
13          will be utilized under a special permit or approval  
14          before—

15                 “(A) issuing, modifying, or renewing the  
16                 special permit;

17                 “(B) granting party status to the special  
18                 permit; or

19                 “(C) issuing or renewing the special permit  
20                 or approval.

21           “(2) MODAL CONTACT OFFICIAL DEFINED.—In  
22           this section, the term ‘modal contact official’  
23           means—

24                 “(A) the Administrator of the Federal  
25                 Aviation Administration;

1           “(B) the Administrator of the Federal  
2           Motor Carrier Safety;

3           “(C) the Administrator of the Federal  
4           Railroad Administration; and

5           “(D) the Commandant of the Coast Guard.

6           “(d) APPLICATIONS TO BE DEALT WITH PROMPT-  
7           LY.—The Secretary shall—

8           “(1) issue, modify, renew, or grant party status  
9           to a special permit or approval for which a request  
10          was filed under this section, or deny the issuance,  
11          modification, renewal, or grant, on or before the last  
12          day of the 180-day period beginning on the first day  
13          of the month following the date of the filing of the  
14          request; or

15          “(2) publish a statement in the Federal Reg-  
16          ister that—

17                  “(A) describes the reason for the delay of  
18                  the Secretary’s decision on the special permit or  
19                  approval; and

20                  “(B) includes an estimate of the additional  
21                  time necessary before the decision is made.

22          “(e) EMERGENCY PROCESSING OF SPECIAL PER-  
23          MITS.—

24                  “(1) FINDINGS REQUIRED.—The Secretary may  
25          not grant a request for emergency processing of a

1 special permit unless the Secretary determines  
2 that—

3 “(A) a special permit is necessary for na-  
4 tional security purposes;

5 “(B) processing on a routine basis under  
6 this section would result in significant injury to  
7 persons or property; or

8 “(C) a special permit is necessary to pre-  
9 vent significant economic loss or damage to the  
10 environment that could not be prevented if the  
11 application were processed on a routine basis.

12 “(2) WAIVER OF FITNESS TEST.—The Sec-  
13 retary may waive the requirement under subsection  
14 (a)(2) for a request for which the Secretary makes  
15 a determination under subparagraph (A) or (B) of  
16 paragraph (1).

17 “(3) NOTIFICATION.—Not later than 90 days  
18 after the date of issuance of a special permit under  
19 this subsection, the Secretary shall publish a notice  
20 in the Federal Register of the issuance that in-  
21 cludes—

22 “(A) a statement of the basis for the find-  
23 ing of emergency; and

24 “(B) the scope and duration of the special  
25 permit.

1           “(4) EFFECTIVE PERIOD.—A special permit  
2 issued under this subsection shall be effective for a  
3 period not to exceed 180 days.

4           “(f) EXCLUSIONS.—

5           “(1) IN GENERAL.—The Secretary shall ex-  
6 clude, in any part, from this chapter and regulations  
7 prescribed under this chapter—

8           “(A) a public vessel (as defined in section  
9 2101 of title 46);

10           “(B) a vessel exempted under section 3702  
11 of title 46 or from chapter 37 of title 46; and

12           “(C) a vessel to the extent it is regulated  
13 under the Ports and Waterways Safety Act of  
14 1972 (33 U.S.C. 1221, et seq.).

15           “(2) FIREARMS.—This chapter and regulations  
16 prescribed under this chapter do not prohibit—

17           “(A) or regulate transportation of a fire-  
18 arm (as defined in section 232 of title 18), or  
19 ammunition for a firearm, by an individual for  
20 personal use; or

21           “(B) transportation of a firearm or ammu-  
22 nition in commerce.

23           “(g) LIMITATION ON AUTHORITY.—Unless the Sec-  
24 retary decides that an emergency exists, a person subject  
25 to this chapter may only be granted a variance from this

1 chapter through a special permit or renewal granted under  
2 this section.

3 “(h) APPROVALS.—

4 “(1) FINDINGS REQUIRED.—

5 “(A) IN GENERAL.—The Secretary may  
6 not issue an approval or grant the renewal of  
7 an approval pursuant to part 107 of title 49,  
8 Code of Federal Regulations until the Secretary  
9 has determined that the person is fit, willing,  
10 and able to conduct the activity authorized by  
11 the approval in a manner that achieves the level  
12 of safety required under subsection (a)(1).

13 “(B) CONSIDERATIONS.—In making a de-  
14 termination under subparagraph (A), the Sec-  
15 retary shall consider—

16 “(i) the person’s safety history (in-  
17 cluding prior compliance history);

18 “(ii) the person’s accident and inci-  
19 dent history; and

20 “(iii) any other information the Sec-  
21 retary considers appropriate to make such  
22 a determination.

23 “(2) REQUIRED DOCUMENTATION.—When ap-  
24 plying for an approval or renewal or modification of  
25 an approval under this section, the Secretary shall

1       require the person to submit an application that con-  
2       tains—

3               “(A) a detailed description of the person’s  
4       request;

5               “(B) a listing of the persons current facili-  
6       ties and addresses where the approval will be  
7       utilized;

8               “(C) a safety analysis prescribed by the  
9       Secretary that justifies the approval;

10              “(D) documentation to support the safety  
11      analysis;

12              “(E) a certification of safety fitness; and

13              “(F) the verification of registration re-  
14      quired under section 5108.

15              “(3) SAVINGS PROVISION.—Nothing in this sub-  
16      section may be construed to require the release of  
17      information protected by law from public disclosure.

18              “(i) NONCOMPLIANCE.—The Secretary may modify,  
19      suspend, or terminate a special permit or approval if the  
20      Secretary determines that—

21              “(1) the person who was granted the special  
22      permit or approval has violated the special permit or  
23      approval or the regulations issued under this chapter  
24      in a manner that demonstrates that the person is

1 not fit to conduct the activity authorized by the spe-  
2 cial permit or approval; or

3 “(2) the special permit or approval is unsafe.

4 “(j) RULEMAKING.—Not later than 2 years after the  
5 date of the enactment of the Hazardous Materials Trans-  
6 portation Safety Improvement Act of 2012, the Secretary,  
7 after providing notice and an opportunity for public com-  
8 ment, shall issue regulations that establish—

9 “(1) standard operating procedures to support  
10 administration of the special permit and approval  
11 programs; and

12 “(2) objective criteria to support the evaluation  
13 of special permit and approval applications.

14 “(k) ANNUAL REVIEW OF CERTAIN SPECIAL PER-  
15 MITS.—

16 “(1) REVIEW.—The Secretary shall conduct an  
17 annual review and analysis of special permits—

18 “(A) to identify consistently used and long-  
19 standing special permits with an established  
20 safety record; and

21 “(B) to determine whether such permits  
22 may be converted into the hazardous materials  
23 regulations.



1           “(2) FACTORS.—In conducting the review and  
2           analysis under paragraph (1), the Secretary may  
3           consider—

4                   “(A) the safety record for hazardous mate-  
5                   rials transported under the special permit;

6                   “(B) the application of a special permit;

7                   “(C) the suitability of provisions in the  
8                   special permit for incorporation into the haz-  
9                   ardous materials regulations; and

10                   “(D) rulemaking activity in related areas.

11           “(3) RULEMAKING.—After completing the re-  
12           view and analysis under paragraph (1) and providing  
13           notice and opportunity for public comment, the Sec-  
14           retary shall issue regulations, as needed.”.

15           (b) CONFORMING AMENDMENT.—The analysis for  
16           chapter 51 is amended by striking the item relating to  
17           section 5117 and inserting the following:

          “5117. Special permits, approvals, and exclusions.”.

18   **SEC. 34014. HIGHWAY ROUTING DISCLOSURES.**

19           (a) LIST OF ROUTE DESIGNATIONS.—Section  
20           5112(c) is amended—

21                   (1) by striking “In coordination” and inserting  
22                   the following:

23                   “(1) IN GENERAL.—In coordination”; and

24                   (2) by adding at the end the following:

25                   “(2) STATE RESPONSIBILITIES.—

1           “(A) IN GENERAL.—Each State shall sub-  
2           mit to the Secretary, in a form and manner to  
3           be determined by the Secretary and in accord-  
4           ance with subparagraph (B)—

5                   “(i) the name of the State agency re-  
6                   sponsible for hazardous material highway  
7                   route designations; and

8                   “(ii) a list of the State’s currently ef-  
9                   fective hazardous material highway route  
10                  designations.

11           “(B) FREQUENCY.—Each State shall sub-  
12           mit the information described in subparagraph  
13           (A)(ii)—

14                   “(i) at least once every 2 years; and

15                   “(ii) not later than 60 days after a  
16                   hazardous material highway route designa-  
17                   tion is established, amended, or discon-  
18                   tinued.”.

19           (b) COMPLIANCE WITH SECTION 5112.—Section  
20           5125(c)(1) is amended by inserting “, and is published  
21           in the Department’s hazardous materials route registry  
22           under section 5112(c)” before the period at the end.

23   **SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.**

24           Section 5128 is amended to read as follows:

1 **“§ 5128. Authorization of appropriations**

2 “(a) IN GENERAL.—There are authorized to be ap-  
3 propriated to the Secretary to carry out this chapter (ex-  
4 cept sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and  
5 5119)—

6 “(1) \$42,338,000 for fiscal year 2012; and

7 “(2) \$42,762,000 for fiscal year 2013.

8 “(b) HAZARDOUS MATERIALS EMERGENCY PRE-  
9 PAREDNESS FUND.—From the Hazardous Materials  
10 Emergency Preparedness Fund established under section  
11 5116(i), the Secretary may expend, during each of fiscal  
12 years 2012 and 2013—

13 “(1) \$188,000 to carry out section 5115;

14 “(2) \$21,800,000 to carry out subsections (a)  
15 and (b) of section 5116, of which not less than  
16 \$13,650,000 shall be available to carry out section  
17 5116(b);

18 “(3) \$150,000 to carry out section 5116(f);

19 “(4) \$625,000 to publish and distribute the  
20 Emergency Response Guidebook under section  
21 5116(i)(3); and

22 “(5) \$1,000,000 to carry out section 5116(j).

23 “(c) HAZARDOUS MATERIALS TRAINING GRANTS.—  
24 From the Hazardous Materials Emergency Preparedness  
25 Fund established pursuant to section 5116(i), the Sec-

1 retary may expend \$4,000,000 for each of the fiscal years  
2 2012 and 2013 to carry out section 5107(e).

3 “(d) CREDITS TO APPROPRIATIONS.—

4 “(1) EXPENSES.—In addition to amounts oth-  
5 erwise made available to carry out this chapter, the  
6 Secretary may credit amounts received from a State,  
7 Indian tribe, or other public authority or private en-  
8 tity for expenses the Secretary incurs in providing  
9 training to the State, authority, or entity.

10 “(2) AVAILABILITY OF AMOUNTS.—Amounts  
11 made available under this section shall remain avail-  
12 able until expended.”.

13 **TITLE V—RESEARCH AND INNO-**  
14 **VATIVE TECHNOLOGY ADMIN-**  
15 **ISTRATION REAUTHORIZA-**  
16 **TION ACT OF 2012**

17 **SEC. 35001. SHORT TITLE.**

18 This title may be cited as the “Research and Innova-  
19 tive Technology Administration Reauthorization Act of  
20 2012”.

21 **SEC. 35002. NATIONAL COOPERATIVE FREIGHT RESEARCH**  
22 **PROGRAM.**

23 Section 509(d) of title 23, United States Code, is  
24 amended by adding at the end the following:

1           “(6) COORDINATION OF COOPERATIVE RE-  
2           SEARCH.—The National Academy of Sciences shall  
3           coordinate research agendas, research project selec-  
4           tions, and competitions across all transportation-re-  
5           lated cooperative research programs conducted by  
6           the National Academy of Sciences to ensure pro-  
7           gram efficiency, effectiveness, and sharing of re-  
8           search findings.”.

9   **SEC. 35003. BUREAU OF TRANSPORTATION STATISTICS.**

10          (a) IN GENERAL.—Subtitle III of title 49, United  
11 States Code, is amended by adding at the end the fol-  
12 lowing:

13                           **“CHAPTER 63—BUREAU OF**  
14                           **TRANSPORTATION STATISTICS**

                          “SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

“Sec.

“6301. Establishment.

“6302. Director.

“6303. Responsibilities.

“6304. National Transportation Library.

“6305. Advisory Council on Transportation Statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing information, data, or reports by Federal agencies.

“6308. Prohibition on certain disclosures.

“6309. Data access.

“6310. Proceeds of data product sales.

“6311. Information collection.

“6312. National transportation atlas database.

“6313. Limitations on statutory construction.

“6314. Research and development grants.

“6315. Transportation statistics annual report.

“6316. Mandatory response authority for data collections.

1                   “SUBCHAPTER I—BUREAU OF  
2                   TRANSPORTATION STATISTICS

3   **“§ 6301. Establishment**

4           “There is established, in the Research and Innovative  
5 Technology Administration, a Bureau of Transportation  
6 Statistics (referred to in this subchapter as the ‘Bureau’).

7   **“§ 6302. Director**

8           “(a) APPOINTMENT.—The Bureau shall be headed by  
9 a Director, who shall be appointed in the competitive serv-  
10 ice by the Secretary of Transportation.

11          “(b) QUALIFICATIONS.—The Director shall be ap-  
12 pointed from among individuals who are qualified to serve  
13 as the Director by virtue of their training and experience  
14 in the collection, analysis, and use of transportation statis-  
15 tics.

16   **“§ 6303. Responsibilities**

17          “(a) DUTIES OF THE DIRECTOR.—The Director, who  
18 shall serve as the Secretary of Transportation’s senior ad-  
19 visor on data and statistics, shall be responsible for car-  
20 rying out the following duties:

21               “(1) Ensuring that the statistics compiled  
22               under paragraph (6) are designed to support trans-  
23               portation decisionmaking by the Federal Govern-  
24               ment, State and local governments, metropolitan  
25               planning organizations, transportation-related asso-

1           ciations, the private sector (including the freight  
2           community), and the public.

3           “(2) Establishing a program, on behalf of the  
4           Secretary—

5                 “(A) to effectively integrate safety data  
6                 across modes; and

7                 “(B) to address gaps in existing safety  
8                 data programs of the Department of Transpor-  
9                 tation.

10           “(3) Working with the operating administra-  
11           tions of the Department of Transportation—

12                 “(A) to establish and implement the Bu-  
13                 reau’s data programs; and

14                 “(B) to improve the coordination of infor-  
15                 mation collection efforts with other Federal  
16                 agencies.

17           “(4) Continually improving surveys and data  
18           collection methods to improve the accuracy and util-  
19           ity of transportation statistics.

20           “(5) Encouraging the standardization of data,  
21           data collection methods, and data management and  
22           storage technologies for data collected by the Bu-  
23           reau, the operating administrations of the Depart-  
24           ment of Transportation, States, local governments,

1 metropolitan planning organizations, and private  
2 sector entities.

3 “(6) Collecting, compiling, analyzing, and pub-  
4 lishing a comprehensive set of transportation statis-  
5 tics on the performance and impacts of the national  
6 transportation system, including statistics on—

7 “(A) transportation safety across all modes  
8 and intermodally;

9 “(B) the state of good repair of United  
10 States transportation infrastructure.

11 “(C) the extent, connectivity, and condition  
12 of the transportation system, building on the  
13 national transportation atlas database devel-  
14 oped under section 6312;

15 “(D) economic efficiency throughout the  
16 entire transportation sector;

17 “(E) the effects of the transportation sys-  
18 tem on global and domestic economic competi-  
19 tiveness;

20 “(F) demographic, economic, and other  
21 variables influencing travel behavior, including  
22 choice of transportation mode and goods move-  
23 ment;



1           “(G) transportation-related variables that  
2           influence the domestic economy and global com-  
3           petitiveness;

4           “(H) the economic costs and impacts for  
5           passenger travel and freight movement;

6           “(I) intermodal and multimodal passenger  
7           movement;

8           “(J) intermodal and multimodal freight  
9           movement; and

10          “(K) the consequences of transportation  
11          for the human and natural environment, sus-  
12          tainable transportation, and livable commu-  
13          nities.

14          “(7) Building and disseminating the transpor-  
15          tation layer of the National Spatial Data Infrastruc-  
16          ture developed under Executive Order 12906, includ-  
17          ing—

18                 “(A) coordinating the development of  
19                 transportation geospatial data standards;

20                 “(B) compiling intermodal geospatial data;  
21                 and

22                 “(C) collecting geospatial data that is not  
23                 being collected by others.

24          “(8) Issuing guidelines for the collection of in-  
25          formation by the Department of Transportation that

1 is required for transportation statistics, modeling,  
2 economic assessment, and program assessment in  
3 order to ensure that such information is accurate,  
4 reliable, relevant, uniform and in a form that per-  
5 mits systematic analysis by the Department.

6 “(9) Reviewing and reporting to the Secretary  
7 of Transportation on the sources and reliability of—

8 “(A) the statistics proposed by the heads  
9 of the operating administrations of the Depart-  
10 ment of Transportation to measure outputs and  
11 outcomes, as required by the Government Per-  
12 formance and Results Act of 1993 (Public Law  
13 103–62; 107 Stat. 285); and

14 “(B) other data collected or statistical in-  
15 formation published by the heads of the oper-  
16 ating administrations of the Department.

17 “(10) Making the statistics published under  
18 this subsection readily accessible to the public, con-  
19 sistent with applicable security constraints and con-  
20 fidentiality interests.

21 “(b) ACCESS TO FEDERAL DATA.—In carrying out  
22 subsection (a)(2), the Director shall be provided access  
23 to—

24 “(1) all safety data held by any agency of the  
25 Department; and

1           “(2) all safety data held by any other Federal  
2           Government agency that is germane to carrying out  
3           subsection (a), upon written request and subject to  
4           any statutory or regulatory restrictions.

5           “(c) INTERMODAL TRANSPORTATION DATABASE.—

6           “(1) IN GENERAL.—In consultation with the  
7           Under Secretary for Policy, the Assistant Secre-  
8           taries, and the heads of the operating administra-  
9           tions of the Department of Transportation, the Di-  
10          rector shall establish and maintain a transportation  
11          database for all modes of transportation.

12          “(2) USE OF DATABASE.—The database estab-  
13          lished under this subsection shall be suitable for  
14          analyses carried out by the Federal Government, the  
15          States, and metropolitan planning organizations.

16          “(3) CONTENTS.—The database established  
17          under this section shall include—

18                 “(A) information on the volumes and pat-  
19                 terns of movement, including local, inter-  
20                 regional, and international movement—

21                         “(i) of goods by all modes of transpor-  
22                         tation and intermodal combinations, and  
23                         by relevant classification; and

24                         “(ii) of people by all modes of trans-  
25                         portation (including bicycle and pedestrian

1 modes) and intermodal combinations, and  
2 by relevant classification;

3 “(B) information on the location and  
4 connectivity of transportation facilities and  
5 services; and

6 “(C) a national accounting of expenditures  
7 and capital stocks on each mode of transpor-  
8 tation and intermodal combination.

9 **“§ 6304. National Transportation Library**

10 “(a) PURPOSE AND ESTABLISHMENT.—There is es-  
11 tablished, in the Bureau, a National Transportation Li-  
12 brary (referred to in this section as the ‘Library’), which  
13 shall—

14 “(1) support the information management and  
15 decisionmaking needs of transportation at Federal,  
16 State, and local levels;

17 “(2) be headed by an individual who is highly  
18 qualified in library and information science;

19 “(3) acquire, preserve, and manage transpor-  
20 tation information and information products and  
21 services for use of the Department of Transpor-  
22 tation, other Federal agencies, and the general pub-  
23 lic;

24 “(4) provide reference and research assistance;

1           “(5) serve as a central depository for research  
2 results and technical publications of the Department  
3 of Transportation;

4           “(6) provide a central clearinghouse for trans-  
5 portation data and information in the Federal Gov-  
6 ernment;

7           “(7) serve as coordinator and policy lead for  
8 transportation information access;

9           “(8) provide transportation information and in-  
10 formation products and services to the Department  
11 of Transportation, other agencies of the Federal  
12 Government, public and private organizations, and  
13 individuals, within the United States and inter-  
14 nationally;

15           “(9) coordinate efforts among, and cooperate  
16 with, transportation libraries, information providers,  
17 and technical assistance centers, in conjunction with  
18 private industry and other transportation library and  
19 information centers, toward the development of a  
20 comprehensive transportation information and  
21 knowledge network supporting activities described in  
22 subparagraphs (A) through (K) of section  
23 6303(a)(6); and

1           “(10) engage in such other activities as the Di-  
2           rector determines appropriate and as the Library’s  
3           resources permit.

4           “(b) ACCESS.—The Director shall publicize, facili-  
5           tate, and promote access to the information products and  
6           services described in subsection (a) to improve—

7           “(1) the ability of the transportation commu-  
8           nity to share information; and

9           “(2) the ability of the Director to make statis-  
10          tics and other information readily accessible under  
11          section 6303(a)(10).

12          “(c) AGREEMENTS.—

13          “(1) IN GENERAL.—The Director may enter  
14          into agreements with, award grants to, and receive  
15          funds from any State and other political subdivision,  
16          organization, business, or individual for the purpose  
17          of conducting activities under this section.

18          “(2) CONTRACTS, GRANTS, AND AGREE-  
19          MENTS.—The Library may initiate and support spe-  
20          cific information and data management, access, and  
21          exchange activities in connection with matters relat-  
22          ing to Department of Transportation’s strategic  
23          goals, knowledge networking, and national and inter-  
24          national cooperation by entering into contracts or  
25          awarding grants for the conduct of such activities.

1           “(3) FUNDS.—Amounts received under this  
2 subsection for payments for library products and  
3 services or other activities shall—

4                   “(A) be deposited in the Research and In-  
5 novative Technology Administration’s general  
6 fund account; and

7                   “(B) remain available to the Library until  
8 expended.

9   **“§ 6305. Advisory Council on Transportation Statis-**  
10                   **tics**

11           “(a) IN GENERAL.—The Director shall maintain an  
12 Advisory Council on Transportation Statistics (referred to  
13 in this section as the ‘Advisory Council’).

14           “(b) FUNCTION.—The Advisory Council shall advise  
15 the Director on—

16                   “(1) the quality, reliability, consistency, objec-  
17 tivity, and relevance of transportation statistics and  
18 analyses collected, supported, or disseminated by the  
19 Bureau and the Department of Transportation; and

20                   “(2) methods to encourage cooperation and  
21 interoperability of transportation data collected by  
22 the Bureau, the operating administrations of the De-  
23 partment, States, local governments, metropolitan  
24 planning organizations, and private sector entities.

25           “(c) MEMBERSHIP.—

1           “(1) IN GENERAL.—The Advisory Council shall  
2           be composed of not fewer than 9 members and not  
3           more than 11 members, who shall be appointed by  
4           the Director.

5           “(2) SELECTION.—In selecting members for the  
6           Advisory Council, the Director shall appoint individ-  
7           uals who—

8                   “(A) are not officers or employees of the  
9                   United States;

10                   “(B) possess expertise in—

11                           “(i) transportation data collection,  
12                           analysis, or application;

13                           “(ii) economics; or

14                           “(iii) transportation safety; and

15                   “(C) represent a cross section of transpor-  
16                   tation stakeholders, to the greatest extent pos-  
17                   sible.

18           “(3) TERMS OF APPOINTMENT.—

19                   “(A) IN GENERAL.—Except as provided in  
20                   subparagraph (B), members of the Advisory  
21                   Council—

22                           “(i) shall be appointed to staggered  
23                           terms not to exceed 3 years; and

24                           “(ii) may be renominated for 1 addi-  
25                           tional 3-year term.





1           “(3) confer and cooperate with foreign govern-  
2           ments, international organizations, States, munici-  
3           palities, and other local agencies;

4           “(4) request such information, data, and re-  
5           ports from any Federal agency as may be required  
6           to carry out the purposes of this section;

7           “(5) encourage replication, coordination, and  
8           sharing among transportation agencies regarding in-  
9           formation systems, information policy, and data; and

10          “(6) confer and cooperate with Federal statis-  
11          tical agencies as needed to carry out the purposes of  
12          this section, including by entering into cooperative  
13          data sharing agreements in conformity with all laws  
14          and regulations applicable to the disclosure and use  
15          of data.

16       **“§ 6307. Furnishing information, data, or reports by**  
17               **Federal agencies**

18          “Federal agencies requested to furnish information,  
19          data, or reports under section 6303(b) shall provide such  
20          information to the Bureau as is required to carry out the  
21          purposes of this section.

22       **“§ 6308. Prohibition on certain disclosures**

23          “(a) IN GENERAL.—An officer, employee, or con-  
24          tractor of the Bureau may not—

1           “(1) make any disclosure in which the data pro-  
2           vided by an individual or organization under section  
3           6303 can be identified;

4           “(2) use the information provided under section  
5           6303 for a nonstatistical purpose; or

6           “(3) permit anyone other than an individual au-  
7           thorized by the Director to examine any individual  
8           report provided under section 6303.

9           “(b) COPIES OF REPORTS.—

10           “(1) IN GENERAL.—A department, bureau,  
11           agency, officer, or employee of the United States  
12           (except the Director in carrying out this section)  
13           may not require, for any reason, a copy of any re-  
14           port that has been filed under section 6303 with the  
15           Bureau or retained by an individual respondent.

16           “(2) LIMITATION ON JUDICIAL PRO-  
17           CEEDINGS.—A copy of a report described in para-  
18           graph (1) that has been retained by an individual re-  
19           spondent or filed with the Bureau or any of its em-  
20           ployees, contractors, or agents—

21           “(A) shall be immune from legal process;

22           and

23           “(B) may not, without the consent of the  
24           individual concerned, be admitted as evidence or

1           used for any purpose in any action, suit, or  
2           other judicial or administrative proceedings.

3           “(3) APPLICABILITY.—This subsection shall  
4           only apply to reports that permit information con-  
5           cerning an individual or organization to be reason-  
6           ably determined by direct or indirect means.

7           “(c) INFORMING RESPONDENT OF USE OF DATA.—  
8           If the Bureau is authorized by statute to collect data or  
9           information for a nonstatistical purpose, the Director shall  
10          clearly distinguish the collection of such data or informa-  
11          tion, by rule and on the collection instrument, to inform  
12          a respondent who is requested or required to supply the  
13          data or information of the nonstatistical purpose.

14          “§ 6309. **Data access**

15          “The Director shall be provided access to transpor-  
16          tation and transportation-related information in the pos-  
17          session of any Federal agency, except—

18                 “(1) information that is expressly prohibited by  
19                 law from being disclosed to another Federal agency;  
20                 or

21                 “(2) information that the agency possessing the  
22                 information determines could not be disclosed with-  
23                 out significantly impairing the discharge of authori-  
24                 ties and responsibilities which have been delegated  
25                 to, or vested by law, in such agency.

1 **“§ 6310. Proceeds of data product sales**

2 “Notwithstanding section 3302 of title 31, amounts  
3 received by the Bureau from the sale of data products,  
4 for necessary expenses incurred, may be credited to the  
5 Highway Trust Fund (other than the Mass Transit Ac-  
6 count) for the purpose of reimbursing the Bureau for such  
7 expenses.

8 **“§ 6311. Information collection**

9 “As the head of an independent Federal statistical  
10 agency, the Director may consult directly with the Office  
11 of Management and Budget concerning any survey, ques-  
12 tionnaire, or interview that the Director considers nec-  
13 essary to carry out the statistical responsibilities under  
14 this subchapter.

15 **“§ 6312. National transportation atlas database**

16 “(a) IN GENERAL.—The Director shall develop and  
17 maintain a national transportation atlas database that is  
18 comprised of geospatial databases that depict—

19 “(1) transportation networks;

20 “(2) flows of people, goods, vehicles, and craft  
21 over the networks; and

22 “(3) social, economic, and environmental condi-  
23 tions that affect, or are affected by, the networks.

24 “(b) INTERMODAL NETWORK ANALYSIS.—The data-  
25 bases developed under subsection (a) shall be capable of  
26 supporting intermodal network analysis.

1 **“§ 6313. Limitations on statutory construction**

2 “Nothing in this subchapter may be construed—

3 “(1) to authorize the Bureau to require any  
4 other department or agency to collect data; or

5 “(2) to reduce the authority of any other officer  
6 of the Department to independently collect and dis-  
7 seminate data.

8 **“§ 6314. Research and development grants**

9 “The Secretary may award grants to, or enter into  
10 cooperative agreements or contracts with, public and non-  
11 profit private entities (including State transportation de-  
12 partments, metropolitan planning organizations, and insti-  
13 tutions of higher education) for—

14 “(1) investigation of the subjects specified in  
15 section 6303 and research and development of new  
16 methods of data collection, standardization, manage-  
17 ment, integration, dissemination, interpretation, and  
18 analysis;

19 “(2) demonstration programs by States, local  
20 governments, and metropolitan planning organiza-  
21 tions to coordinate data collection, reporting, man-  
22 agement, storage, and archiving to simplify data  
23 comparisons across jurisdictions;

24 “(3) development of electronic clearinghouses of  
25 transportation data and related information, as part

1 of the National Transportation Library under sec-  
2 tion 6304; and

3 “(4) development and improvement of methods  
4 for sharing geographic data, in support of the data-  
5 base under section 6303 and the National Spatial  
6 Data Infrastructure.

7 **“§ 6315. Transportation statistics annual report**

8 “The Director shall submit to the President and Con-  
9 gress a transportation statistics annual report, which shall  
10 include—

11 “(1) information on items referred to in section  
12 6303(a)(6);

13 “(2) documentation of methods used to obtain  
14 and ensure the quality of the statistics presented in  
15 the report; and

16 “(3) recommendations for improving transpor-  
17 tation statistical information.

18 **“§ 6316. Mandatory response authority for data col-  
19 lections**

20 “Any individual who, as the owner, official, agent,  
21 person in charge, or assistant to the person in charge of  
22 any corporation, company, business, institution, establish-  
23 ment, organization of any nature or the member of a  
24 household, neglects or refuses, after requested by the Di-  
25 rector or other authorized officer, employee, or contractor

1 of the Bureau, to answer completely and correctly to the  
2 best of the individual's knowledge all questions relating  
3 to the corporation, company, business, institution, estab-  
4 lishment, or other organization or household, or to make  
5 available records or statistics in the individual's official  
6 custody, contained in a data collection request prepared  
7 and submitted under section 6303(a)—

8           “(1) shall be fined not more than \$500, except  
9           as provided under paragraph (2); and

10           “(2) if the individual willfully gives a false an-  
11           swer to such a question, shall be fined not more  
12           than \$10,000.”.

13           (b) RULES OF CONSTRUCTION.—In transferring the  
14 provisions under section 111 of title 49, United States  
15 Code, to chapter 63 of title 49, as added by subsection  
16 (a), the following rules of construction shall apply:

17           (1) For purposes of determining whether 1 pro-  
18 vision of law supersedes another based on enactment  
19 later in time, a provision under chapter 63 of title  
20 49, United States Code, is deemed to have been en-  
21 acted on the date of the enactment of the cor-  
22 responding provision under section 111 of such title.

23           (2) A reference to a provision under such chap-  
24 ter 65 is deemed to refer to the corresponding provi-  
25 sion under such section 111.



1           (3) A reference to a provision under such sec-  
 2           tion 111, including a reference in a regulation,  
 3           order, or other law, is deemed to refer to the cor-  
 4           responding provision under such chapter 65.

5           (4) A regulation, order, or other administrative  
 6           action authorized by a provision under such section  
 7           111 continues to be authorized by the corresponding  
 8           provision under such chapter 65.

9           (5) An action taken or an offense committed  
 10          under a provision of such section 111 is deemed to  
 11          have been taken or committed under the cor-  
 12          responding provision of such chapter 65.

13          (c) CONFORMING AMENDMENTS.—

14           (1) REPEAL.—Chapter 1 of title 49, United  
 15          States Code, is amended—

16                   (A) by repealing section 111; and

17                   (B) by striking the item relating to section  
 18          111 in the chapter analysis.

19           (2) ANALYSIS OF SUBTITLE III.—The table of  
 20          chapters for subtitle III of title 49, United States  
 21          Code, is amended by inserting after the item for  
 22          chapter 61 the following:

23          “63. Bureau of Transportation Statistics . . . . .  
 24          . . . . . 6301”.

1 **SEC. 35004. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-**  
2 **INFRASTRUCTURE COMMUNICATIONS SYS-**  
3 **TEMS DEPLOYMENT.**

4 (a) IN GENERAL.—Subchapter I of chapter 55 of title  
5 49, United States Code, is amended by adding at the end  
6 the following:

7 **“§ 5507. GHz vehicle-to-vehicle and vehicle-to-infra-**  
8 **structure communications systems de-**  
9 **ployment**

10 “(a) IN GENERAL.—Not later than 3 years after the  
11 date of the enactment of this section, the Secretary shall  
12 submit a report to the Committee on Commerce, Science,  
13 and Transportation of the Senate, the Committee on  
14 Transportation and Infrastructure of the House of Rep-  
15 resentatives, and the Committee on Energy and Commerce  
16 of the House of Representatives that—

17 “(1) defines a recommended implementation  
18 path for Dedicated Short Range Communications  
19 (DSRC) technology and applications; and

20 “(2) includes guidance concerning the relation-  
21 ship of the proposed DSRC deployment to Intel-  
22 ligent Transportation System National Architecture  
23 and Standards.

24 “(b) REPORT REVIEW.—The Secretary shall enter  
25 into an agreement for the review of the report submitted

1 under subsection (a) by an independent third party with  
2 subject matter expertise.”.

3 (b) CONFORMING AMENDMENT.—The analysis of  
4 chapter 55 of title 49, United States Code, is amended  
5 by inserting after the item relating to section 5506, the  
6 following:

“5507. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

7 **SEC. 35005. ADMINISTRATIVE AUTHORITY.**

8 Section 112 of title 49, United States Code, is  
9 amended by inserting after subsection (e) the following:

10 “(f) PROGRAM EVALUATION AND OVERSIGHT.—The  
11 Administrator is authorized to expend not more than 1.5  
12 percent of the amounts authorized to be appropriated for  
13 each of the fiscal years 2012 and 2013, for necessary ex-  
14 penses for administration and operations of the Research  
15 and Innovative Technology Administration for the coordi-  
16 nation, evaluation, and oversight of the programs adminis-  
17 tered by the Administration.

18 “(g) COLLABORATIVE RESEARCH AND DEVELOP-  
19 MENT.—

20 “(1) IN GENERAL.—To encourage innovative  
21 solutions to multimodal transportation problems and  
22 stimulate the deployment of new technology, the Ad-  
23 ministrator may carry out, on a cost-shared basis,  
24 collaborative research and development with—

1           “(A) non-Federal entities, including State  
2           and local governments, foreign governments,  
3           colleges and universities, corporations, institu-  
4           tions, partnerships, sole proprietorships, and  
5           trade associations that are incorporated or es-  
6           tablished under the laws of any State;

7           “(B) Federal laboratories; and

8           “(C) other Federal agencies.

9           “(2) COOPERATION, GRANTS, CONTRACTS, AND  
10          AGREEMENTS.—Notwithstanding any other provision  
11          of law, the Administrator may directly initiate con-  
12          tracts, grants, other transactions, and cooperative  
13          research and development agreements (as defined in  
14          section 12 of the Stevenson-Wydler Technology In-  
15          novation Act of 1980 (15 U.S.C. 3710a)) to fund,  
16          and accept funds from, the Transportation Research  
17          Board of the National Research Council of the Na-  
18          tional Academy of Sciences, State departments of  
19          transportation, cities, counties, universities, associa-  
20          tions, and the agents of such entities to conduct  
21          joint transportation research and technology efforts.

22          “(3) FEDERAL SHARE.—

23                 “(A) IN GENERAL.—The Federal share of  
24                 the cost of activities carried out under a cooper-  
25                 ative research and development agreement en-

1           tered into under this subsection may not exceed  
2           50 percent unless the Secretary approves a  
3           greater Federal share due to substantial public  
4           interest or benefit.

5           “(B) NON-FEDERAL SHARE.—All costs di-  
6           rectly incurred by the non-Federal partners, in-  
7           cluding personnel, travel, facility, and hardware  
8           development costs, shall be credited toward the  
9           non-Federal share of the cost of the activities  
10          described in subparagraph (A).

11          “(4) USE OF TECHNOLOGY.—The research, de-  
12          velopment, or use of a technology under a coopera-  
13          tive research and development agreement entered  
14          into under this subsection, including the terms  
15          under which the technology may be licensed and the  
16          resulting royalties may be distributed, shall be sub-  
17          ject to the Stevenson-Wydler Technology Innovation  
18          Act of 1980 (15 U.S.C. 3701 et seq.).

19          “(5) WAIVER OF ADVERTISING REQUIRE-  
20          MENTS.—Section 6101 of title 41 shall not apply to  
21          a contract, grant, or other agreement entered into  
22          under this chapter.”.

1 **SEC. 35006. PRIZE AUTHORITY.**

2 (a) IN GENERAL.—Chapter 3 of title 49, United  
3 States Code, is amended by inserting before section 336  
4 the following:

5 **“SEC. 335. PRIZE AUTHORITY.**

6 “(a) IN GENERAL.—The Secretary of Transportation  
7 may carry out a program, in accordance with this section,  
8 to competitively award cash prizes to stimulate innovation  
9 in basic and applied research, technology development,  
10 and prototype demonstration that have the potential for  
11 application to the national transportation system.

12 “(b) TOPICS.—In selecting topics for prize competi-  
13 tions under this section, the Secretary shall—

14 “(1) consult with a wide variety of Government  
15 and nongovernment representatives; and

16 “(2) give consideration to prize goals that dem-  
17 onstrate innovative approaches and strategies to im-  
18 prove the safety, efficiency, and sustainability of the  
19 national transportation system.

20 “(c) ADVERTISING.—The Secretary shall encourage  
21 participation in the prize competitions through extensive  
22 advertising.

23 “(d) REQUIREMENTS AND REGISTRATION.—For each  
24 prize competition, the Secretary shall publish a notice on  
25 a public website that describes—

26 “(1) the subject of the competition;

1           “(2) the eligibility rules for participation in the  
2 competition;

3           “(3) the amount of the prize; and

4           “(4) the basis on which a winner will be se-  
5 lected.

6           “(e) ELIGIBILITY.—An individual or entity may not  
7 receive a prize under this section unless the individual or  
8 entity—

9           “(1) has registered to participate in the com-  
10 petition pursuant to any rules promulgated by the  
11 Secretary under this section;

12           “(2) has complied with all the requirements  
13 under this section;

14           “(3)(A) in the case of a private entity, is incor-  
15 porated in, and maintains a primary place of busi-  
16 ness in, the United States; or

17           “(B) in the case of an individual, whether par-  
18 ticipating singly or in a group, is a citizen or perma-  
19 nent resident of the United States; and

20           “(4) is not a Federal entity or Federal em-  
21 ployee acting within the scope of his or her employ-  
22 ment.

23           “(f) LIABILITY.—

24           “(1) ASSUMPTION OF RISK.—

1           “(A) IN GENERAL.—A registered partici-  
2           pant shall agree to assume any and all risks  
3           and waive claims against the Federal Govern-  
4           ment and its related entities, except in the case  
5           of willful misconduct, for any injury, death,  
6           damage, or loss of property, revenue, or profits,  
7           whether direct, indirect, or consequential, aris-  
8           ing from participation in a competition, whether  
9           such injury, death, damage, or loss arises  
10          through negligence or otherwise.

11          “(B) RELATED ENTITY.—In this para-  
12          graph, the term ‘related entity’ means a con-  
13          tractor, subcontractor (at any tier), supplier,  
14          user, customer, cooperating party, grantee, in-  
15          vestigator, or detailee.

16          “(2) FINANCIAL RESPONSIBILITY.—A partici-  
17          pant shall obtain liability insurance or demonstrate  
18          financial responsibility, in amounts determined by  
19          the Secretary, for claims by—

20                 “(A) a third party for death, bodily injury,  
21                 or property damage, or loss resulting from an  
22                 activity carried out in connection with participa-  
23                 tion in a competition, with the Federal Govern-  
24                 ment named as an additional insured under the  
25                 registered participant’s insurance policy and



1 registered participants agreeing to indemnify  
2 the Federal Government against third party  
3 claims for damages arising from or related to  
4 competition activities; and

5 “(B) the Federal Government for damage  
6 or loss to Government property resulting from  
7 such an activity.

8 “(g) JUDGES.—

9 “(1) SELECTION.—For each prize competition,  
10 the Secretary, either directly or through an agree-  
11 ment under subsection (h), shall assemble a panel of  
12 qualified judges to select the winner or winners of  
13 the prize competition on the basis described in sub-  
14 section (d). Judges for each competition shall in-  
15 clude individuals from outside the Administration,  
16 including the private sector.

17 “(2) LIMITATIONS.—A judge selected under  
18 this subsection may not—

19 “(A) have personal or financial interests  
20 in, or be an employee, officer, director, or agent  
21 of, any entity that is a registered participant in  
22 a prize competition under this section; or

23 “(B) have a familial or financial relation-  
24 ship with an individual who is a registered par-  
25 ticipant.

1           “(h) ADMINISTERING THE COMPETITION.—The Sec-  
2 retary may enter into an agreement with a private, non-  
3 profit entity to administer the prize competition, subject  
4 to the provisions of this section.

5           “(i) FUNDING.—

6                 “(1) PRIVATE SECTOR FUNDING.—A cash prize  
7 under this section may consist of funds appropriated  
8 by the Federal Government and funds provided by  
9 the private sector. The Secretary may accept funds  
10 from other Federal agencies, State and local govern-  
11 ments, and metropolitan planning organizations for  
12 the cash prizes. The Secretary may not give any spe-  
13 cial consideration to any private sector entity in re-  
14 turn for a donation under this paragraph.

15                 “(2) AVAILABILITY OF FUNDS.—Notwith-  
16 standing any other provision of law, amounts appro-  
17 priated for prize awards under this section—

18                         “(A) shall remain available until expended;

19                         and

20                         “(B) may not be transferred, repro-  
21 grammed, or expended for other purposes until  
22 after the expiration of the 10-year period begin-  
23 ning on the last day of the fiscal year for which  
24 the funds were originally appropriated.

1           “(3) SAVINGS PROVISION.—Nothing in this sub-  
2           section may be construed to permit the obligation or  
3           payment of funds in violation of the Anti-Deficiency  
4           Act (31 U.S.C. 1341).

5           “(4) PRIZE ANNOUNCEMENT.—A prize may not  
6           be announced under this section until all the funds  
7           needed to pay out the announced amount of the  
8           prize have been appropriated or committed in writ-  
9           ing by a private source.

10          “(5) PRIZE INCREASES.—The Secretary may  
11          increase the amount of a prize after the initial an-  
12          nouncement of the prize under this section if—

13                 “(A) notice of the increase is provided in  
14                 the same manner as the initial notice of the  
15                 prize; and

16                 “(B) the funds needed to pay out the an-  
17                 nounced amount of the increase have been ap-  
18                 propriated or committed in writing by a private  
19                 source.

20          “(6) CONGRESSIONAL NOTIFICATION.—A prize  
21          competition under this section may offer a prize in  
22          an amount greater than \$1,000,000 only after 30  
23          days have elapsed after written notice has been  
24          transmitted to the Committee on Commerce,  
25          Science, and Transportation of the Senate and the

1 Committee on Science, Space, and Technology of the  
2 House of Representatives.

3 “(7) AWARD LIMIT.—A prize competition under  
4 this section may not result in the award of more  
5 than \$25,000 in cash prizes without the approval of  
6 the Secretary.

7 “(j) USE OF DEPARTMENT NAME AND INSIGNIA.—  
8 A registered participant in a prize competition under this  
9 section may use the Department’s name, initials, or insig-  
10 nia only after prior review and written approval by the  
11 Secretary.

12 “(k) COMPLIANCE WITH EXISTING LAW.—The Fed-  
13 eral Government shall not, by virtue of offering or pro-  
14 viding a prize under this section, be responsible for compli-  
15 ance by registered participants in a prize competition with  
16 Federal law, including licensing, export control, and non-  
17 proliferation laws, and related regulations.”.

18 (b) CONFORMING AMENDMENT.—The analysis of  
19 chapter 3 of title 49, United States Code, is amended by  
20 inserting before the item relating to section 336 the fol-  
21 lowing:

“335. Prize authority.”.

22 **SEC. 35007. TRANSPORTATION RESEARCH AND DEVELOP-**  
23 **MENT.**

24 Section 508(a) of title 23, United States Code, is  
25 amended—

1 (1) in paragraph (1), by striking “SAFETEA-  
2 LU” and inserting “Research and Innovative Tech-  
3 nology Administration Reauthorization Act of  
4 2012”; and

5 (2) by amending paragraph (2)(A) to read as  
6 follows:

7 “(A) describe the primary purposes of the  
8 transportation research and development pro-  
9 gram, which shall include—

10 “(i) promoting safety;

11 “(ii) reducing congestion and improv-  
12 ing mobility;

13 “(iii) promoting security;

14 “(iv) protecting and enhancing the en-  
15 vironment;

16 “(v) preserving the existing transpor-  
17 tation system; and

18 “(vi) improving transportation infra-  
19 structure, in coordination with Department  
20 of Transportation strategic goals and plan-  
21 ning efforts;”.

22 **SEC. 35008. USE OF FUNDS FOR INTELLIGENT TRANSPOR-**  
23 **TATION SYSTEMS ACTIVITIES.**

24 Section 513 of title 23, United States Code, is  
25 amended to read as follows:

1 **“§ 513. Use of funds for ITS activities**

2 “(a) IN GENERAL.—The Secretary may use not more  
3 than \$500,000 of the amounts made available to the De-  
4 partment for each fiscal year to carry out the Intelligent  
5 Transportation Systems Program (referred to in this sec-  
6 tion as ‘ITS’) on intelligent transportation system out-  
7 reach, websites, public relations, displays, tours, and bro-  
8 chures.

9 “(b) PURPOSE.—Amounts authorized for use under  
10 subsection (a) are intended to develop, administer, com-  
11 municate, and promote the use of products of research,  
12 technology, and technology transfer programs under this  
13 section.

14 “(c) ITS DEPLOYMENT INCENTIVES.—

15 “(1) IN GENERAL.—The Secretary may develop  
16 and implement incentives to accelerate the deploy-  
17 ment of ITS technologies and services within all pro-  
18 grams receiving amounts appropriated pursuant to  
19 section 35009 of the Research and Innovative Tech-  
20 nology Administration Reauthorization Act of 2012.

21 “(2) COMPREHENSIVE PLAN.—The Secretary  
22 shall develop a detailed and comprehensive plan to  
23 carry out this subsection that addresses how incen-  
24 tives may be adopted, as appropriate, through the  
25 existing deployment activities carried out by surface  
26 transportation modal administrations.”.

1 **SEC. 35009. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-  
3 priated out of the Highway Trust Fund (other than the  
4 Mass Transit Account), under the conditions set forth in  
5 subsection (b)—

6 (1) \$27,297,000 for fiscal year 2012; and

7 (2) \$27,597,000 for fiscal year 2013.

8 (b) APPLICABILITY OF TITLE 23, UNITED STATES  
9 CODE.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), amounts appropriated pursuant to sub-  
12 section (a) shall be available for obligation in the  
13 same manner as if such funds were apportioned  
14 under chapter 1 of title 23, United States Code.

15 (2) FEDERAL SHARE.—The Federal share of  
16 the cost of a project or activity carried out with  
17 amounts appropriated pursuant to subsection (a)  
18 shall be 50 percent unless another percentage is—

19 (A) expressly provided under this Act or  
20 the amendments made by this Act; or

21 (B) determined by the Secretary.

22 (3) AVAILABILITY; TRANSFERABILITY.—  
23 Amounts appropriated pursuant to subsection (a)  
24 shall remain available until expended and shall not  
25 be transferable.

1 **TITLE VI—NATIONAL RAIL SYS-**  
2 **TEM PRESERVATION, EXPAN-**  
3 **SION, AND DEVELOPMENT**  
4 **ACT OF 2012**

5 **SEC. 36001. SHORT TITLE.**

6 This title may be cited as the “National Rail System  
7 Preservation, Expansion, and Development Act of 2012”.

8 **SEC. 36002. REFERENCES TO TITLE 49, UNITED STATES**  
9 **CODE.**

10 Except as otherwise expressly provided, whenever in  
11 this title an amendment or repeal is expressed in terms  
12 of an amendment to, or a repeal of, a section or other  
13 provision, the reference shall be considered to be made to  
14 a section or other provision of title 49, United States  
15 Code.

16 **Subtitle A—Federal and State**  
17 **Roles in Rail Planning and De-**  
18 **velopment Tools**

19 **SEC. 36101. RAIL PLANS.**

20 (a) LONG-RANGE NATIONAL RAIL PLAN.—Section  
21 103 is amended by amending subsection (j)(2) to read as  
22 follows:

23 “(2) in coordination with the Secretary of  
24 Transportation, develop and routinely update a long-  
25 range national rail plan pursuant to chapter 227;”.



1 (b) NATIONAL RAIL PLAN.—Chapter 227 is amended  
2 to read as follows:

3 **“§ 22701. National Rail Plan**

4 “(a) IN GENERAL.—The Secretary of Transportation  
5 shall—

6 “(1) not later than 1 year after the date of en-  
7 actment of the —

8 “(A) develop a long-range national rail  
9 plan—

10 “(i) in coordination with the Adminis-  
11 trator of the Federal Railroad Administra-  
12 tion and the Surface Transportation  
13 Board; and

14 “(ii) in consultation with Amtrak,  
15 freight railroads, nonprofit employee labor  
16 organizations, and other rail industry  
17 stakeholders; and

18 “(B) submit the national rail plan under  
19 subparagraph (A) to the Committee on Com-  
20 merce, Science, and Transportation of the Sen-  
21 ate and the Committee on Transportation and  
22 Infrastructure of the House of Representatives;

23 “(2) routinely update the national rail plan—

1           “(A) in coordination with the Adminis-  
2           trator of the Federal Railroad Administration  
3           and the Surface Transportation Board; and

4           “(B) in consultation with Amtrak, freight  
5           railroads, nonprofit employee labor organiza-  
6           tions, and other rail industry stakeholders; and

7           “(3) submit the updated national rail plan  
8           under paragraph (2) at the same time as the Presi-  
9           dent’s budget submission.

10          “(b) NATIONAL RAIL PLAN.—The national rail plan  
11 shall—

12           “(1) be subject to refinement by regional and  
13           State rail plans;

14           “(2) be consistent with the rail needs of the  
15           Nation and Federal surface transportation or multi-  
16           modal policies and plans, as determined by the Sec-  
17           retary;

18           “(3) promote an integrated, cohesive, safe, effi-  
19           cient, and optimized national rail system for the  
20           movement of goods and people and to support the  
21           national economy and other national needs; and

22           “(4) contain a specific national intercity pas-  
23           senger rail development plan and a freight rail plan  
24           that are consistent with other Federal strategy,  
25           planning, and investment efforts.

1           “(c) OBJECTIVES.—The objectives of the national rail  
2 plan are—

3           “(1) to implement a national policy and strat-  
4 egy to support, preserve, improve, and further de-  
5 velop existing and future high-speed and intercity  
6 passenger rail transportation and freight rail trans-  
7 portation; and

8           “(2) to provide a national framework to be re-  
9 fined and implemented by regional rail plans under  
10 section 22702 and State rail plans under 22703.

11          “(d) CONTENTS.—The national rail plan shall in-  
12 clude—

13           “(1) the conditions under which Federal invest-  
14 ments in intercity passenger rail and freight rail are  
15 justified, including consideration of—

16           “(A) population size and density;

17           “(B) projected population and economic  
18 growth and changing demographic characteris-  
19 tics;

20           “(C) connections to local rail and bus tran-  
21 sit, alternative transportation options, and  
22 multi-modal freight transportation nodes;

23           “(D) economic profile of specific markets;

24           “(E) congestion on existing transportation  
25 facilities and constraints on future capacity en-

1           hancements, in relation to efficient movement of  
2           both goods and people;

3           “(F) distances between markets;

4           “(G) geographic characteristics;

5           “(H) demand for present and future  
6           freight rail transportation services;

7           “(I) ability to serve underserved commu-  
8           nities and enhance intra-and inter-regional  
9           connectivity of mega-regions;

10          “(J) transportation safety data and anal-  
11          yses;

12          “(K) travel market size; and

13          “(L) availability and quality of service  
14          from other transportation modes within a mar-  
15          ket;

16          “(2) a national map with a prioritized designa-  
17          tion of existing and developing markets to be served  
18          by specific rail routes and services that meet the cri-  
19          teria described in paragraph (1);

20          “(3) defined corridor and service categories, in-  
21          cluding—

22                  “(A) services to be offered;

23                  “(B) peak or average speeds to be  
24                  achieved;

25                  “(C) frequencies to be offered; and

1                   “(D) populations to be served;

2                   “(4) a schedule and strategy for the phased im-  
3                   plementation of corridors and services identified in  
4                   the plan;

5                   “(5) a discussion of benefits and costs of poten-  
6                   tial investments in high-speed or intercity passenger  
7                   rail or freight rail that considers all system user and  
8                   public benefits and costs from a network perspective,  
9                   including factors such as potential ridership, travel  
10                  time reductions and improved reliability, benefits of  
11                  enhanced mobility of goods and people, environ-  
12                  mental benefits, economic development benefits, and  
13                  other public benefits;

14                  “(6) a strategy for investments in passenger  
15                  stations, including investment in intermodal stations  
16                  that are linked to local public transportation, other  
17                  intercity transportation modes, and non-motorized  
18                  transportation options, and that connect residential  
19                  areas, commercial areas, and other nearby transpor-  
20                  tation facilities that support intercity passenger rail  
21                  and high-speed rail service, and in freight-related fa-  
22                  cilities, that is consistent with other Federal strat-  
23                  egy, planning, and investment efforts;

1           “(7) performance standards for fiscal and oper-  
2           ational performance of new and enhanced high-speed  
3           and intercity passenger rail services;

4           “(8) analysis of the environmental impacts of  
5           the national rail plan;

6           “(9) recommendations for project financing,  
7           management and implementation for corridor devel-  
8           opment, station development, freight capacity devel-  
9           opment, and similar projects;

10          “(10) recommendations for the integration of  
11          freight and passenger service in a manner that pro-  
12          vides for mutual and complementary growth;

13          “(11) a plan for integrating any proposed new  
14          services with existing services;

15          “(12) service design and project execution pro-  
16          tocols, including design and construction standards,  
17          requirements needed to ensure interoperability, and  
18          any other protocols the Secretary deems appropriate;  
19          and

20          “(13) additional factors that the Secretary  
21          deems relevant.

22        **“§ 22702. Regional rail plans**

23          “(a) IN GENERAL.—The Secretary shall—

24                “(1) develop a regional rail plan for each re-  
25                gion, except the Northeast Corridor, that contains a

1 detailed plan for implementing the national rail plan,  
2 including any plans for public investment in projects  
3 that contribute to efficient movement and increased  
4 capacity for freight by—

5 “(A) regional rail authorities, as defined by  
6 the Secretary; or

7 “(B) any 2 or more States that have en-  
8 tered into interstate compacts, agreements, or  
9 organizations for the purpose of developing  
10 such plans; and

11 “(2) in developing each regional rail plan, co-  
12 ordinate with—

13 “(A) States;

14 “(B) local communities;

15 “(C) railroad infrastructure owners;

16 “(D) regional air quality planning agen-  
17 cies;

18 “(E) Amtrak;

19 “(F) passenger rail service operators;

20 “(G) freight railroad operators;

21 “(H) metropolitan planning organizations;

22 “(I) governing authorities for transit sys-  
23 tems or airports;

24 “(J) tribal governments;

1           “(K) the general public, including low-in-  
2           come and minority populations, people with dis-  
3           abilities, and older Americans; and

4           “(L) non-profit labor employee organiza-  
5           tions.

6           “(b) PURPOSES.—The purposes of a regional rail  
7           plan shall be to refine and advance the implementation  
8           of the national rail plan under section 22701.

9           “(c) CONTENTS.—A regional rail plan shall include—

10           “(1) a map—

11           “(A) that indicates detailed alignment al-  
12           ternatives for any new corridor identified in the  
13           national rail plan under section 22701; and

14           “(B) that identifies the location of each  
15           potential new station;

16           “(2) a phasing plan for developing or upgrading  
17           specific segments of the regional network;

18           “(3) the identification of any environmental im-  
19           pact analyses required under the National Environ-  
20           mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
21           or other laws (including regulations);

22           “(4) a full capital cost estimate for developing  
23           the regional network;

24           “(5) an analysis of operating financial fore-  
25           casts;



1           “(6) a benefit-cost analysis for the regional net-  
2           work that considers both user and public benefits  
3           and the costs from a network perspective, including  
4           factors such as ridership projections, travel time re-  
5           ductions, enhanced mobility benefits, environmental  
6           benefits, economic benefits, and other public bene-  
7           fits;

8           “(7) an analysis of potential land use policies  
9           and strategies for areas near high-speed and inter-  
10          city passenger rail stations;

11          “(8) potential non-Federal funding sources, in-  
12          cluding a detailed consideration of anticipated pri-  
13          vate sector participation;

14          “(9) a proposal for the institutional and govern-  
15          ance structures that will be necessary to develop the  
16          regional network;

17          “(10) other project implementation consider-  
18          ations, including an analysis of the readiness of spe-  
19          cific corridors to proceed for development;

20          “(11) an examination of multi-modal connec-  
21          tions that considers the most cost-effective means  
22          for achieving the region’s transportation goals and  
23          objectives;

24          “(12) identification of plans for cost-effective,  
25          public investment in intercity passenger rail projects

1 that contribute toward the efficient movement and  
2 increased capacity for freight rail operations;

3 “(13) a list of capital projects needed to imple-  
4 ment a region’s portion of the national rail plan;

5 “(14) a plan for coordinating service and cap-  
6 ital projects with adjacent regions;

7 “(15) a plan for crossing international borders,  
8 as appropriate;

9 “(16) a plan for integrating any proposed new  
10 services with existing service; and

11 “(17) a description of how the regional rail plan  
12 refines and advances the implementation of the na-  
13 tional rail plan.

14 “(d) UPDATES.—Not later than 1 year after the pub-  
15 lication of the national rail plan under section 22701 and  
16 periodically thereafter, the Secretary shall update each re-  
17 gional rail plan—

18 “(1) to reflect any material changes to the con-  
19 tents under subsection (c); and

20 “(2) to include any changes made to the na-  
21 tional rail plan under section 22701.

22 “(e) WAIVER.—The Secretary may waive a content  
23 requirement under subsection (c) as necessary to accom-  
24 modate a unique characteristic or situation in a region.

1 **“§ 22703. State rail plans**

2 “(a) IN GENERAL.—A State may prepare and main-  
3 tain a State rail plan. A State rail plan shall—

4 “(1) be consistent with the national rail plan  
5 under section 22701;

6 “(2) be consistent with the regional rail plans  
7 under section 22702;

8 “(3) coordinate with other State transportation  
9 planning goals and programs, including the state-  
10 wide transportation plans under section 135 of title  
11 23, and

12 “(4) set forth rail transportation’s role within  
13 the State’s transportation system.

14 “(b) PURPOSES.—The purposes of a State rail plan  
15 shall be to refine and advance the implementation of the  
16 national rail plan and relevant regional rail plan under  
17 sections 22701 and 22702.

18 “(c) OBJECTIVES.—The objectives of a State rail  
19 plan shall be—

20 “(1) to set forth the State’s policy on freight  
21 and intercity passenger rail transportation, including  
22 commuter rail operations, within the State;

23 “(2) to establish the time period covered by the  
24 State rail plan;

1           “(3) to present the priorities and strategies to  
2           enhance rail service within the State that benefits  
3           the public; and

4           “(4) to serve as the basis for Federal and State  
5           rail investments within the State.

6           “(d) REQUIREMENTS.—

7           “(1) ESTABLISHMENT.—The Secretary shall es-  
8           tablish minimum requirements, consistent with sec-  
9           tions 22701 and 22702, for the preparation and  
10          periodic revision of a State rail plan, including—

11           “(A) the establishment or designation of a  
12           State rail transportation authority to prepare,  
13           maintain, coordinate, and administer the State  
14           rail plan;

15           “(B) the establishment or designation of a  
16           State approval authority to approve the State  
17           rail plan;

18           “(C) the submission of the State’s ap-  
19           proved State rail plan to the Secretary for re-  
20           view and approval; and

21           “(D) the revision and resubmittal of a  
22           State-approved State rail plan for review and  
23           approval by the Secretary not less than once  
24           every 5 years.

1           “(2) REVIEW.—The Secretary shall prescribe  
2 procedures for a State to submit a State rail plan  
3 for review and approval, including standardized for-  
4 mat and data requirements.

5           “(3) COMPLIANCE.—The Secretary shall deem  
6 a State rail plan to be in compliance with this chap-  
7 ter if the State rail plan—

8           “(A) is completed before the date of enact-  
9 ment of the ; and

10           “(B) substantially meets the requirements  
11 of chapter 227 as in effect on the day before  
12 the date of enactment of .

13           “(4) UPDATES.—A State rail plan that is  
14 deemed in compliance under paragraph (3) shall be  
15 updated not later than 1 year after the date of en-  
16 actment of the .

17           “(e) CONTENTS.—A State rail plan shall include—

18           “(1) an inventory of the existing overall rail  
19 transportation system and rail services and facilities  
20 within the State;

21           “(2) an analysis of the role of rail transpor-  
22 tation within the State’s surface transportation sys-  
23 tem;

24           “(3) a review of all rail lines within the State,  
25 including any proposed high-speed rail corridors and

1 significant rail line segments not currently in serv-  
2 ice;

3 “(4) a statement of the State’s passenger rail  
4 service objectives, including minimum service levels,  
5 for rail transportation routes within the State;

6 “(5) a general analysis of rail’s transportation,  
7 economic, and environmental impacts within the  
8 State, including congestion mitigation, trade and  
9 economic development, air quality, land-use, energy-  
10 use, and community impacts;

11 “(6) a long-range rail service and investment  
12 program for current and future freight and intercity  
13 passenger infrastructure within the State that meets  
14 the requirements under subsection (f);

15 “(7) a statement of the public financing issues  
16 for rail projects or service within the State, includ-  
17 ing a list of current and prospective public capital  
18 and operating funding resources, public subsidies,  
19 State taxation, and other financial policies relating  
20 to rail infrastructure development;

21 “(8) the identification of rail infrastructure  
22 issues within the State, after consulting with rel-  
23 evant stakeholders;

1           “(9) a review of major passenger and freight  
2 intermodal rail connections and facilities within the  
3 State, including seaports;

4           “(10) a list of prioritized options to maximize  
5 service integration and efficiency between rail and  
6 other modes of transportation within the State;

7           “(11) a review of publicly funded projects with-  
8 in the State to improve rail transportation safety  
9 and security, including major projects funded under  
10 section 130 of title 23;

11           “(12) a performance evaluation of passenger  
12 rail services operating in the State, including pos-  
13 sible improvements to those services and a descrip-  
14 tion of strategies to achieve the improvements;

15           “(13) a compilation of studies and reports on  
16 high-speed rail corridor development within the  
17 State that were not included in a prior plan under  
18 this chapter;

19           “(14) a plan for funding any recommended de-  
20 velopment of a high-speed rail corridor within the  
21 State; and

22           “(15) a statement that the State is in compli-  
23 ance with the requirements of section 22102.

24           “(f) LONG-RANGE RAIL SERVICE AND INVESTMENT  
25 PROGRAM.—

1           “(1) CONTENTS.—A long-range rail service and  
2 investment program under subsection (e)(6) shall in-  
3 clude—

4           “(A) a prioritized list of any freight or  
5 intercity passenger rail capital projects expected  
6 to be commenced or supported in whole or in  
7 part by the State; and

8           “(B) a detailed capital and operating fund-  
9 ing plan for each rail capital project under sub-  
10 paragraph (A).

11           “(2) RAIL CAPITAL PROJECTS LIST.—

12           “(A) CONTENTS.—A list of rail capital  
13 projects under paragraph (1)(A) shall include—

14           “(i) a description of the anticipated  
15 public and private benefits of each rail cap-  
16 ital project; and

17           “(ii) a statement of the correlation be-  
18 tween—

19           “(I) public funding contributions  
20 for each rail capital project; and

21           “(II) the public benefits.

22           “(B) CONSIDERATIONS.—A State rail  
23 transportation authority shall consider, when  
24 preparing a list of rail capital projects under  
25 this subsection—



1                   “(i) contributions made by non-Fed-  
2                   eral and non-State sources through user  
3                   fees, matching funds, or other private cap-  
4                   ital involvement;

5                   “(ii) rail capacity and congestion ef-  
6                   fects;

7                   “(iii) effects on highway, aviation, and  
8                   maritime capacity, congestion, and safety;

9                   “(iv) regional balance;

10                  “(v) environmental impact;

11                  “(vi) economic and employment im-  
12                  pacts; and

13                  “(vii) projected ridership and other  
14                  service measures for passenger rail  
15                  projects.

16                  “(g) A State shall not be eligible to receive financial  
17                  assistance under chapter 244 or 261 unless the State com-  
18                  pletes a State rail plan pursuant to this section.

19                  **“§ 22704. Transparency and coordination**

20                  “(a) PREPARATION AND REVIEW.—

21                         “(1) FEDERAL TRANSPARENCY.—The Secretary  
22                         of Transportation shall provide adequate and rea-  
23                         sonable notice and an opportunity for comment to  
24                         the public, rail carriers, commuter and transit au-  
25                         thorities (operating in or affected by rail operations

1 within the region or State), units of local govern-  
2 ment, and other interested parties when the Sec-  
3 retary prepares or reviews the national rail plan  
4 under section 22701 or a regional rail plan under  
5 section 22702.

6 “(2) STATE TRANSPARENCY.—A State shall  
7 provide adequate and reasonable notice and an op-  
8 portunity for comment to the public, rail carriers,  
9 commuter and transit authorities (operating in or  
10 affected by rail operations within the region or the  
11 State), units of local government, and other inter-  
12 ested parties, when the State prepares or reviews a  
13 State rail plan under section 22703.

14 “(b) INTERGOVERNMENTAL COORDINATION.—A  
15 State shall—

16 “(1) review the freight and passenger rail serv-  
17 ice activities and initiatives by regional planning  
18 agencies, regional transportation authorities, and  
19 municipalities (within the State or within the region  
20 in which the State is located) when preparing a  
21 State rail plan; and

22 “(2) include any recommendations made by the  
23 regional planning agencies, regional transportation  
24 authorities, and municipalities (within the State or

1 within the region in which the State is located), as  
2 deemed appropriate by the State.

3 **“§ 22705. Definitions**

4 “In this chapter:

5 “(1) PRIVATE BENEFIT.—The term ‘private  
6 benefit’ means a benefit—

7 “(A) that is determined on a project-by-  
8 project basis, based upon an agreement between  
9 the parties;

10 “(B) that is accrued to a person or private  
11 entity, other than Amtrak, that directly im-  
12 proves the economic and competitive condition  
13 of the person or private entity through im-  
14 proved assets, cost reductions, service improve-  
15 ments, or other means as defined by the Sec-  
16 retary; or

17 “(C) that is defined by the Secretary, with  
18 advice from the States and rail carriers if the  
19 Secretary deems such advice necessary.

20 “(2) PUBLIC BENEFIT.—The term ‘public ben-  
21 efit’ means a benefit—

22 “(A) that is determined on a project-by-  
23 project basis, based upon an agreement between  
24 the parties;

1           “(B) that is accrued to the public, includ-  
2           ing Amtrak, in the form of enhanced mobility  
3           of people or goods, environmental protection or  
4           enhancement, congestion mitigation, enhanced  
5           trade and economic development, improved air  
6           quality or land use, more efficient energy use,  
7           enhanced public safety or security, reduction of  
8           public expenditures due to improved transpor-  
9           tation efficiency or infrastructure preservation,  
10          and any other positive community effects as de-  
11          fined by the Secretary; or

12           “(C) that is defined by the Secretary, with  
13          advice from the States and rail carriers if the  
14          Secretary deems such advice necessary.

15          “(3) STATE.—The term ‘State’ means any of  
16          the 50 States and the District of Columbia.

17          “(4) STATE RAIL TRANSPORTATION AUTHOR-  
18          ITY.—The term ‘State rail transportation authority’  
19          means the State agency or official responsible under  
20          the direction of the Governor of the State or a State  
21          law for the preparation, maintenance, coordination,  
22          and administration of the State rail plan.”.

23 **SEC. 36102. IMPROVED DATA ON DELAY.**

24          Not later than 1 year after the date of enactment  
25          of this Act, the Secretary of Transportation, in coordina-

1 tion with Amtrak, freight railroads, and other parties, as  
2 appropriate, shall develop guidance for developing im-  
3 proved, including automated, means of measuring on-time  
4 performance delays.

5 **SEC. 36103. DATA AND MODELING.**

6 (a) DATA.—Not later than 1 year after the date of  
7 enactment of this Act, the Secretary of Transportation  
8 shall conduct a data needs assessment, in consultation  
9 with the Surface Transportation Board, Amtrak, freight  
10 railroads, and State and local governments, to support the  
11 development of an efficient and effective intercity pas-  
12 senger rail network. The data needs assessment shall,  
13 among other things—

14 (1) identify the data needed to conduct cost-ef-  
15 fective modeling and analysis for high-speed and  
16 intercity passenger rail development programs;

17 (2) determine limitations to the data used for  
18 inputs and develop a strategy to address the limita-  
19 tions;

20 (3) identify barriers to accessing existing data;

21 (4) include recommendations regarding whether  
22 the authorization of additional data collection for  
23 intercity passenger rail travel is warranted; and

24 (5) determine which entities will be responsible  
25 for generating or collecting needed data.

1 (b) MODELING.—Not later than 1 year after the date  
2 of enactment of this Act, the Secretary of Transportation  
3 shall develop or improve modeling capabilities to support  
4 the development of an efficient and effective intercity pas-  
5 senger rail network, including service development, capac-  
6 ity expansion, cost-effectiveness, and ridership estimates.

7 (c) BENEFIT-COST ANALYSIS.—Not later than 1 year  
8 after the date of enactment of this Act, the Secretary of  
9 Transportation shall enhance the usefulness of assess-  
10 ments of benefits and costs, for both intercity passenger  
11 rail and freight rail projects by—

12 (1) providing ongoing guidance and training on  
13 developing benefit and cost information for rail  
14 projects;

15 (2) providing more direct and consistent re-  
16 quirements for assessing benefits and costs across  
17 transportation funding programs, including the ap-  
18 propriate use of discount rates;

19 (3) requiring an applicant to clearly commu-  
20 nicate the methodology that is used to calculate the  
21 project benefits and costs, including information on  
22 assumptions underlying calculations, strengths and  
23 limitations of data used, and the level of uncertainty  
24 in estimates of project benefits and costs; and

1           (4) ensuring that an applicant receives clear  
2           and consistent guidance on values to apply for key  
3           assumptions used to estimate potential project bene-  
4           fits and costs.

5           (d) CONFIDENTIAL DATA.—For the purposes of this  
6           section, the Secretary of Transportation shall protect any  
7           confidential data from public disclosure and such con-  
8           fidential data shall only be provided on the basis of a vol-  
9           untary agreement.

10 **SEC. 36104. SHARED-USE CORRIDOR STUDY.**

11           (a) IN GENERAL.—Not later than 2 years after the  
12           date of enactment of this Act, the Secretary shall complete  
13           a shared-use corridor study, in consultation with the Sur-  
14           face Transportation Board, Amtrak, freight railroads,  
15           States, non-profit employee labor organizations, and other  
16           users of the rail system, as appropriate, to evaluate the  
17           best means to enhance and support the further develop-  
18           ment of high-speed and intercity passenger rail service  
19           within United States shared-use corridors.

20           (b) CONTENTS.—In conducting the shared-use cor-  
21           ridor study, the Secretary shall—

22           (1) survey the access arrangements for high-  
23           speed and intercity passenger rail service for use of  
24           rail infrastructure, assets and facilities owned by  
25           freight railroads, commuter authorities, or other en-

1           tities, and standard processes for the resolution of  
2           disputes relating to such access;

3           (2) evaluate the roles and responsibilities of  
4           high-speed and intercity passenger rail, freight rail,  
5           and commuter rail service providers and infrastruc-  
6           ture owners in complying with Federal, State, and  
7           local applicable requirements within United States  
8           shared-use corridors;

9           (3) evaluate the roles and responsibilities of  
10          Federal, State, and local governments, infrastruc-  
11          ture owners, and high speed and intercity passenger  
12          rail, freight rail, and commuter rail service providers  
13          in supporting both the preservation and expansion of  
14          high-speed and intercity passenger rail service,  
15          freight transportation, and commuter transportation  
16          on shared infrastructure or rights-of-way;

17          (4) evaluate the roles and responsibilities of  
18          high-speed and intercity passenger rail, freight rail,  
19          and commuter rail service providers in achieving sat-  
20          isfactory on time performance for passenger and  
21          freight rail services in shared use corridors; and

22          (5) evaluate other issues identified by the Sec-  
23          retary.



1 (c) REPORT.—Not later than 90 days after the date  
2 the shared-use corridor study is completed under sub-  
3 section (a), the Secretary shall—

4 (1) report the results of the shared-use corridor  
5 study to the Senate Committee on Commerce,  
6 Science, and Transportation and the House of Rep-  
7 resentatives Committee on Transportation and In-  
8 frastructure; and

9 (2) make the shared-use corridor study avail-  
10 able to the public on the Department of Transpor-  
11 tation’s website.

12 **SEC. 36105. COOPERATIVE EQUIPMENT POOL.**

13 (a) IN GENERAL.—The Next Generation Corridor  
14 Equipment Pool Committee established under section 305  
15 of the Passenger Rail Investment and Improvement Act  
16 of 2008 (49 U.S.C. 24101 note) shall continue to imple-  
17 ment its authorized functions, as appropriate, and shall  
18 maintain and update, as needed, the specifications created  
19 by the Committee.

20 (b) EQUIPMENT POOLING ENTITY.—Section 305 of  
21 the Passenger Rail Investment and Improvement Act of  
22 2008 (49 U.S.C. 24101 note), is amended by adding at  
23 the end the following:

24 “(f) EQUIPMENT POOLING ENTITY.—

1           “(1) ESTABLISHMENT.—Not later than 1 year  
2 after the date of enactment of the , the Committee  
3 shall create an equipment pooling entity that in-  
4 cludes—

5                   “(A) Amtrak;

6                   “(B) States that purchase, with Federal  
7 funds, intercity passenger rail rolling stock and  
8 equipment that is built in accordance with the  
9 specifications created by the Next Generation  
10 Corridor Equipment Pool Committee; and

11                   “(C) other States and entities, as appro-  
12 priate.

13           “(2) IN GENERAL.—The equipment pooling en-  
14 tity—

15                   “(A) may—

16                           “(i) be a corporation or other coopera-  
17 tive entity; and

18                           “(ii) be owned or jointly-owned by  
19 Amtrak, a participating State, or other en-  
20 tity; and

21                   “(B) shall be authorized to—

22                           “(i) lease or acquire intercity pas-  
23 senger rail rolling stock and equipment  
24 used in State-supported corridor services  
25 on routes that are not more than 750

1 miles between end points, including by en-  
2 tering into agreements for the funding, fi-  
3 nancing, procurement, remanufacture,  
4 ownership, and disposal of the intercity  
5 passenger rail rolling stock and equipment;

6 “(ii) maintain, manage, and allocate  
7 intercity passenger rail rolling stock and  
8 equipment for use in State-supported cor-  
9 ridor services, including by charging appro-  
10 priate amounts for the use (including de-  
11 preciation and financing costs) of the  
12 intercity passenger rail rolling stock and  
13 equipment; and

14 “(iii) ensure adequate quantity and  
15 quality of appropriate intercity passenger  
16 rail rolling stock and equipment to support  
17 the State-supported corridor services’  
18 needs as identified in the national rail  
19 plan, regional rail plans, or State rail plans  
20 under chapter 227.

21 “(3) TRANSFER OF EQUIPMENT.—Amtrak,  
22 after consultation with the Secretary, may sell, lease,  
23 or otherwise transfer equipment currently owned or  
24 leased by Amtrak to the equipment pooling entity.  
25 The operation and utilization of any equipment

1 transferred to the equipment pooling entity shall be  
2 covered by section 24405(b).

3 “(4) TRANSFER REQUIREMENT.—A State shall  
4 sell, lease, or otherwise transfer equipment built in  
5 accordance with the specifications created by the  
6 Next Generation Corridor Equipment Pool Com-  
7 mittee and purchased with Federal funds to the  
8 equipment pooling entity unless the Secretary ex-  
9 empts a State from this requirement.

10 “(g) GRANT FUNDING.—A capital project to carry  
11 out this section shall be eligible for grants under chapter  
12 244. The equipment pooling entity shall be an eligible  
13 grant recipient under chapter 244.”.

14 **SEC. 36106. PROJECT MANAGEMENT OVERSIGHT AND**  
15 **PLANNING.**

16 Section 101(d) of the Passenger Rail Investment and  
17 Improvement Act of 2008 (122 Stat. 4908) is amended—

18 (1) by striking “ $\frac{1}{2}$  of”; and

19 (2) by inserting “and joint capital planning”  
20 after “oversight”.

21 **SEC. 36107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE**  
22 **PROGRAMS.**

23 (a) AMENDMENTS TO CHAPTER 244.—Chapter 244  
24 is amended—

25 (1) in section 24401(1)—

1 (A) by striking “or” the first place it ap-  
2 pears; and

3 (B) by striking “service.” and inserting  
4 “service, or Amtrak.”;

5 (2) by amending section 24402(b) to read as  
6 follows:

7 “(b) PROJECT AS PART OF THE NATIONAL RAIL  
8 PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.—

9 “(1) GRANT APPROVAL.—The Secretary may  
10 not approve a grant for a project under this section  
11 unless the Secretary finds that—

12 “(A) the project is part of the national rail  
13 plan, a regional rail plan, or a State rail plan  
14 under chapter 227; or

15 “(B) the project is part of the capital  
16 spending plan under section 211 of the Pas-  
17 senger Rail Investment and Improvement Act of  
18 2008 (49 U.S.C. 24902 note); and

19 “(C) the applicant or recipient has or will  
20 have directly or through appropriate agree-  
21 ments with other entities, as approved by the  
22 Secretary—

23 “(i) the legal, financial, and technical  
24 capacity to carry out the project;

1                   “(ii) satisfactory continuing control  
2                   over the use of the equipment or facilities;  
3                   and

4                   “(iii) the capability and willingness to  
5                   maintain the equipment or facilities.

6                   “(2) PROVISION OF INFORMATION.—An appli-  
7                   cant or recipient shall provide sufficient information  
8                   for the Secretary to make the required findings  
9                   under this subsection.

10                  “(3) JUSTIFICATION.—An applicant or recipi-  
11                  ent, except for Amtrak, that did not select the pro-  
12                  posed operator of its service competitively shall pro-  
13                  vide written justification to the Secretary substan-  
14                  tiating—

15                         “(A) why the proposed operator is the  
16                         best, taking into account price and other fac-  
17                         tors; and

18                         “(B) that the use of the proposed operator  
19                         will not unnecessarily increase the cost of the  
20                         project.”;

21                         (3) in section 24402(c)—

22                                 (A) by amending paragraph (1)(A) to read  
23                                 as follows:

24   “(1) that the project be part of the national rail  
25   plan, a regional rail plan, or a State rail plan under

1 chapter 227, or the capital spending plan under sec-  
2 tion 211 of the Passenger Rail Investment and Im-  
3 provement Act of 2008 (49 U.S.C. 24902 note);”;

4 (B) in paragraph (1)(D), by inserting “,  
5 except for Amtrak,” after “an applicant”;

6 (C) by amending paragraph (1)(F) to read  
7 as follows:

8 “(F) that each project be compatible with  
9 and operate in conformance with plans devel-  
10 oped pursuant to the requirements of section  
11 135 of title 23, United States Code;”;

12 (D) in paragraph (2)(C), by striking  
13 “and”;

14 (E) in paragraph (3)(B)(iii), by striking  
15 the period and inserting “; and”; and

16 (F) by adding at the end the following:

17 “(4) achieve the appropriate mix of projects se-  
18 lected for funding to ensure the advancement of the  
19 national rail plan, including both the development of  
20 new or expanded routes and services and the mainte-  
21 nance and improvement of the current rail system.”;

22 (4) by amending section 24402(d) to read as  
23 follows:

24 “(d) STATE RAIL PLANS.—State rail plans completed  
25 before the date of enactment of the Passenger Rail Invest-

1 ment and Improvement Act of 2008 (122 Stat. 4907) that  
2 substantially meet the requirements of chapter 227 as in  
3 effect on the day before the date of enactment of the ,  
4 shall be deemed by the Secretary to have met the require-  
5 ments of subsection (c)(1)(A) of this section.”;

6 (5) by amending section 24402(e) to read as  
7 follows:

8 “(e) PROJECT TRANSFERS.—The Secretary may per-  
9 mit a recipient under this section to enter into a coopera-  
10 tive agreement to transfer the grant and related respon-  
11 sibilities and requirements to Amtrak to expedite, en-  
12 hance, or otherwise facilitate the completion of the project  
13 and any such transfer shall be subject to the requirements  
14 of this chapter.”;

15 (6) in the heading of section 24402(f), by strik-  
16 ing “AND EARLY SYSTEMS WORK AGREEMENTS”;

17 (7) by amending section 24402(f)(1) to read as  
18 follows:

19 “(1) In implementing this section, the Secretary  
20 may issue a letter of intent to an applicant announce-  
21 ing an intention to obligate, for a major capital  
22 project under this section, an amount from future  
23 available budget authority specified in law that is  
24 not more than the amount stipulated as the financial  
25 participation of the Secretary in the project.”;



1 (8) in section 24402(g) by—

2 (A) amending paragraph (1)(B) to read as  
3 follows:

4 “(B) A grant—

5 “(i) for a project designated as part  
6 of a priority corridor or service by the na-  
7 tional rail plan and scheduled within the  
8 national rail plan to be implemented within  
9 a time frame consistent with the grant ap-  
10 plication shall not exceed 80 percent of the  
11 project net capital cost;

12 “(ii) for a project to implement a per-  
13 formance improvement plan under section  
14 24710 shall not exceed 100 percent of the  
15 net project capital cost; and

16 “(iii) for any other project shall not  
17 exceed 50 percent of the net project capital  
18 cost.”; and

19 (B) by adding at the end the following:

20 “(5) When Amtrak is an applicant under this  
21 chapter, it may use ticket and other revenues gen-  
22 erated from its operations and other sources to sat-  
23 isfy the non-Federal share requirements under this  
24 subsection, except that Amtrak may not use Federal  
25 funds authorized under subsections (a) or (c) of sec-

1       tion 101 of the Passenger Rail Investment and Im-  
2       provement Act of 2008 (122 Stat. 4908).”;

3           (9) in section 24402(h), by striking “2” each  
4       place it appears and inserting “3”;

5           (10) in section 24402(i)(1), by striking “A met-  
6       ropolitan planning organization, State transportation  
7       department, or other project sponsor” and inserting  
8       “An applicant”;

9           (11) by amending section 24402(k) to read as  
10      follows:

11      “(k) SMALL CAPITAL PROJECTS.—The Secretary  
12      shall make not less than 5 percent annually available from  
13      the amounts appropriated under section 24406 beginning  
14      in fiscal year 2009 for grants for capital projects eligible  
15      under this section not exceeding \$10,000,000, including  
16      costs eligible under section 209(d) of the Passenger Rail  
17      Investment and Improvement Act of 2008 (49 U.S.C.  
18      24101 note). For grants awarded under this subsection,  
19      the Secretary may waive one or more of the requirements  
20      of this section, including State rail plan requirements, or  
21      of section 24405(c)(1)(B), as appropriate.”;

22           (12) by amending section 24403(b) to read as  
23      follows:

24      “(b) SECRETARIAL OVERSIGHT AND PARTICIPA-  
25      TION.—

1           “(1) The Secretary may use not more than 1  
2           percent of amounts made available in a fiscal year  
3           for capital projects under this chapter to participate  
4           in the planning, management, and oversight of the  
5           development and implementation of any such  
6           projects.

7           “(2) The Secretary may use amounts available  
8           under paragraph (1) to directly undertake or make  
9           contracts for project planning and design participa-  
10          tion or safety, procurement, management, and finan-  
11          cial compliance reviews and audits of a recipient of  
12          grants awarded under this chapter.

13          “(3) The Federal Government shall pay the en-  
14          tire cost of carrying out a contract under this sub-  
15          section.”; and

16          (13) in section 24405 by adding “or between  
17          Amtrak and the railroad” after “railroad” in sub-  
18          section (c)(1).

19          (b) CHAPTER 244 GRANT PROCEDURES.—Not later  
20          than 180 days after the date of enactment of this Act,  
21          the Secretary of Transportation shall issue a final rule es-  
22          tablishing grant procedures, as required by section  
23          24402(a) of title 49, United States Code.

24          (c) AMENDMENTS TO CHAPTER 261.—Chapter 261  
25          is amended—

1 (1) in section 26106—

2 (A) by amending subsection (a) to read as  
3 follows:

4 “(a) IN GENERAL.—The Secretary of Transportation  
5 shall establish and implement a high-speed rail corridor  
6 program consistent with the national rail plan, regional  
7 rail plans, and State rail plans required by chapter 227  
8 of title 49, United States Code.”;

9 (B) by amending subsection (b)(2) to read  
10 as follows:

11 “(2) CORRIDOR.—The term ‘corridor’ means—

12 “(A) a corridor designated by the Sec-  
13 retary pursuant to section 104(d)(2) of title 23;  
14 or

15 “(B) a corridor expected to achieve high-  
16 speed service pursuant to section 22701 of title  
17 49.”;

18 (C) in subsection (e)(2)(A)—

19 (i) in clause (ii), by inserting “, di-  
20 rectly or through appropriate agreements  
21 with other entities,” after “have”;

22 (ii) in clause (v), by inserting “, ex-  
23 cept for Amtrak,” after “applicant”;

24 (iii) in clause (vi), by striking “; and”  
25 and inserting a semicolon;

1 (iv) in clause (vii)(II), by striking “(if  
2 it is available)”; and

3 (v) by adding at the end the following:

4 “(viii) that the project and the high-  
5 speed rail services it supports are coordi-  
6 nated and integrated with existing and  
7 planned conventional intercity passenger  
8 rail services;

9 “(ix) that the Secretary, and Amtrak  
10 at the Secretary’s request, are permitted to  
11 participate in the planning, design, man-  
12 agement, and delivery of the project, as  
13 necessary to ensure project success and  
14 promote interstate commerce; and

15 “(x) that the Federal government is  
16 accorded an appropriate participation,  
17 oversight, ownership, or control in the  
18 project commensurate with the level of  
19 Federal investment as determined by the  
20 Secretary;”; and

21 (D) in subsection (e)(4), by striking “pur-  
22 suant to section 22506 of this title”.

23 (d) CONGESTION GRANTS.—Section 24105 is amend-  
24 ed—

25 (1) in subsection (a)—

1 (A) by striking “in cooperation with  
2 States” and “high priority rail corridor”;

3 (B) by striking “congestion” and inserting  
4 “freight or commuter railroad congestion that  
5 impacts intercity passenger trains, enhance  
6 route performance, preserve service,”; and

7 (C) by striking the period and inserting  
8 “on routes defined under section  
9 24102(5)(C).”;  
10 (2) in subsection (b)—

11 (A) by inserting “or the Federal Railroad  
12 Administration” after “Amtrak”;

13 (B) by striking “congestion” and inserting  
14 “freight or commuter railroad congestion that  
15 impacts intercity passenger trains, enhance  
16 route performance, preserve service,”;

17 (C) by striking “; and” and inserting a pe-  
18 riod; and

19 (D) by striking paragraph (3);

20 (3) in subsection (c), by striking “80” and in-  
21 serting “100”; and

22 (4) in subsection (d), by inserting “, except that  
23 the Secretary may waive the requirements of section  
24 24405(c)(1)(B), as appropriate, for grants totaling  
25 less than \$10,000,000” after “title”.

1 (e) ADDITIONAL HIGH-SPEED RAIL PROJECTS.—  
2 The Passenger Rail Investment and Improvement Act of  
3 2008 (122 Stat. 4907) is amended by striking section 502.

4 **SEC. 36108. LIABILITY.**

5 (a) CLARIFICATION OF COMMUTER RAIL LIABIL-  
6 ITY.—Section 28103 is amended—

7 (1) in subsection (a)(2), by inserting, “, includ-  
8 ing commuter rail passengers,” after “rail pas-  
9 sengers,”;

10 (2) by amending subsection (b) to read as fol-  
11 lows:

12 “(b) CONTRACTUAL OBLIGATIONS.—A provider of  
13 rail passenger transportation may enter into contracts  
14 that allocate financial responsibility for claims. Such con-  
15 tracts shall be enforceable notwithstanding any other pro-  
16 vision of law, common law, or public policy, or the nature  
17 of the conduct giving rise to the damages or liability.”;  
18 and

19 (3) in subsection (e)—

20 (A) by striking “and” at the end of para-  
21 graph (2);

22 (B) by striking the period at the end of  
23 paragraph (3) and inserting “; and”; and

24 (C) by adding at the end the following:

1           “(4) the term ‘rail passenger transportation’ in-  
2           cludes commuter rail transportation.”.

3           (b) STUDY.—

4           (1) IN GENERAL.—Not later than 1 year after  
5           the date of enactment of this Act, the Secretary of  
6           Transportation shall conduct a study regarding op-  
7           tions for clarifying and improving passenger rail li-  
8           ability requirements and arrangements, including  
9           those related to environmental liability, necessary for  
10          supporting the continued development and improve-  
11          ment of the national passenger rail system and the  
12          furtherance of the national rail plan under chapter  
13          227 of title 49, United States Code. The study shall  
14          consider—

15                 (A) whether to expand statutory liability  
16                 limits to third parties; and

17                 (B) whether to revise the current statutory  
18                 liability limits based on inflation or other meth-  
19                 ods to improve the certainty of liability cov-  
20                 erage.

21          (2) REPORT.—Not later than 90 days after the  
22          date of completion of the study, the Secretary shall  
23          submit the results of the study and any associated  
24          recommendations to the Committee on Commerce,  
25          Science, and Transportation of the Senate and the



1 Committee on Transportation and Infrastructure of  
2 the House of Representatives.

3 **SEC. 36109. DISADVANTAGED BUSINESS ENTERPRISES.**

4 (a) DEFINITIONS.—In this section:

5 (1) SECRETARY.—The term “Secretary” means  
6 the Secretary of Transportation.

7 (2) SMALL BUSINESS CONCERN.—The term  
8 “small business concern” has the meaning given the  
9 term in section 3 of the Small Business Act (15  
10 U.S.C. 632), except the term does not include any  
11 concern or group of concerns that—

12 (A) are controlled by the same socially and  
13 economically disadvantaged individual or indi-  
14 viduals; and

15 (B) have average annual gross receipts  
16 over the preceding 3 fiscal years in excess of  
17 \$22,410,000, as adjusted annually by the Sec-  
18 retary for inflation.

19 (3) SOCIALLY AND ECONOMICALLY DISADVAN-  
20 TAGED INDIVIDUALS.—

21 (A) IN GENERAL.—

22 (i) SOCIALLY DISADVANTAGED INDI-  
23 VIDUALS.—The term “socially disadvan-  
24 tagged individuals” has the meaning given  
25 the term in section 8(a)(5) of the Small

1 Business Act (15 U.S.C. 637(a)(5)), and  
2 relevant subcontracting regulations issued  
3 pursuant to that Act.

4 (ii) ECONOMICALLY DISADVANTAGED  
5 INDIVIDUALS.—The term “economically  
6 disadvantaged individuals” has the mean-  
7 ing given the term in section 8(a)(6) of the  
8 Small Business Act (15 U.S.C. 637(a)(6)),  
9 and relevant subcontracting regulations  
10 issued pursuant to that Act.

11 (B) INCLUSIONS.—For purposes of this  
12 section, women shall be presumed to be socially  
13 and economically disadvantaged individuals.

14 (b) IN GENERAL.—Except to the extent that the Sec-  
15 retary determines otherwise, not less than 10 percent of  
16 the amounts made available for any program under chap-  
17 ter 244, section 24105, or section 26106 of title 49,  
18 United States Code, shall be expended through a small  
19 business concern owned and controlled by 1 or more so-  
20 cially and economically disadvantaged individuals.

21 (c) ANNUAL LISTING OF DISADVANTAGED SMALL  
22 BUSINESS CONCERNS.—Each State shall annually—

23 (1) survey each small business concern in the  
24 State;

1           (2) compile a list of all of the small business  
2           concerns in the State, including the location of each  
3           small business concern in the State; and

4           (3) notify the Secretary, in writing, of the per-  
5           centage of the small business concerns that—

6                   (A) are controlled by women;

7                   (B) are controlled by socially and economi-  
8                   cally disadvantaged individuals (except for  
9                   women); and

10                   (C) are controlled by individuals who are  
11                   women and who are socially and economically  
12                   disadvantaged individuals.

13           (d) UNIFORM CERTIFICATION.—The Secretary shall  
14           establish minimum uniform criteria for State governments  
15           to use in certifying whether a small business concern  
16           qualifies under this section. The minimum uniform criteria  
17           shall include—

18                   (1) an on-site visit;

19                   (2) a personal interview;

20                   (3) a license;

21                   (4) an analysis of stock ownership;

22                   (5) an analysis of bonding capacity;

23                   (6) the listing of equipment;

24                   (7) the listing of work completed; and

1           (8) a resume of each principal owner, the finan-  
2           cial capacity, and the type of work preferred.

3           (e) REPORTING.—The Secretary shall establish min-  
4           imum requirements for State governments to use in re-  
5           porting to the Secretary information concerning disadvan-  
6           taged business enterprise awards, commitments, and  
7           achievements, and such other information as the Secretary  
8           determines appropriate for the proper monitoring of the  
9           disadvantaged business enterprise program.

10          (f) COMPLIANCE WITH COURT ORDERS.—Nothing in  
11          this section shall limit the eligibility of a person to receive  
12          funds made available under chapter 244, section 24105,  
13          or section 26106 of title 49, United States Code, if the  
14          person is prevented, in whole or in part, from complying  
15          with subsection (b) because a Federal court issues a final  
16          order in which the court finds that the requirement of sub-  
17          section (b) or the program established under subsection  
18          (b) is unconstitutional.

19          **SEC. 36110. WORKFORCE DEVELOPMENT.**

20          Not later than 1 year after the date of enactment  
21          of this Act, the Secretary of Transportation shall, in con-  
22          sultation with the States, local governments, Amtrak,  
23          freight railroad, and non-profit employee labor organiza-  
24          tions—

1           (1) complete a study regarding workforce devel-  
2           opment needs in the passenger and freight rail in-  
3           dustry, including what knowledge and skill gaps in  
4           planning, financing, engineering, and operating pas-  
5           senger and freight rail systems exist, to assist in cre-  
6           ating programs to help improve the rail industry;

7           (2) make recommendations based on the results  
8           of the study; and

9           (3) report the findings and recommendations to  
10          the Committee on Commerce, Science, and Trans-  
11          portation of the Senate and the Committee on  
12          Transportation and Infrastructure of the House of  
13          Representatives.

14 **SEC. 36111. VETERANS EMPLOYMENT.**

15          Not later than 180 days after the date of enactment  
16          of this Act, the Secretary of Transportation shall—

17               (1) conduct a study to evaluate the best means  
18               for providing a preference to veterans in the award-  
19               ing of contracts and subcontracts using amounts  
20               made available under chapter 244, and sections  
21               24105 and 26104 of title 49, United States Code;

22               (2) make recommendations based on the results  
23               of the study; and

24               (3) report the findings and recommendations to  
25          the Committee on Commerce, Science, and Trans-

1 portation of the Senate and the Committee on  
2 Transportation and Infrastructure of the House of  
3 Representatives.

## 4 **Subtitle B—Amtrak**

### 5 **SEC. 36201. STATE-SUPPORTED ROUTES.**

6 (a) GRANT AVAILABILITY.—In addition to the uses  
7 permitted under section 209(d) of the Passenger Rail In-  
8 vestment and Improvement Act of 2008 (49 U.S.C. 24101  
9 note), a State may use funds provided under section  
10 24406 of title 49, United States Code, to temporarily pay  
11 Amtrak some or all of the operating costs for services  
12 identified under section 24102(5)(D) of title 49, United  
13 States Code, determined under the methodology estab-  
14 lished pursuant to section 209 of the Passenger Rail In-  
15 vestment and Improvement Act of 2008 (49 U.S.C. 24101  
16 note), that exceed—

17 (1) the operating costs (adjusted for inflation)  
18 that the State paid Amtrak for the same services in  
19 the year prior to the implementation of section 209  
20 of that Act; or

21 (2) if the services were not fully State-sup-  
22 ported in that year, the full cost the State would  
23 have paid Amtrak under the State-supported service  
24 costing methodology then in effect.

1 (b) TRANSITION ASSISTANCE GUIDANCE.—Not later  
2 than 180 days after the Surface Transportation Board de-  
3 termines the appropriate methodology pursuant to section  
4 209 of the Passenger Rail Investment and Improvement  
5 Act of 2008 (49 U.S.C. 24101 note), the Secretary shall  
6 develop a transition assistance guidance that includes—

7 (1) criteria for phasing-out the temporary oper-  
8 ating assistance under this section not later than  
9 October 1, 2017;

10 (2) a grant application process that permits—

11 (A) States to apply for such funds individ-  
12 ually or collectively; and

13 (B) Amtrak to be considered the grant re-  
14 cipient of such funds upon an agreement be-  
15 tween a State or States and Amtrak; and

16 (3) policies governing financial terms, repay-  
17 ment conditions, and other terms of financial assist-  
18 ance.

19 (c) ELIGIBILITY.—To be eligible for Federal transi-  
20 tion assistance, an intercity passenger rail service shall  
21 provide high-speed or intercity passenger rail revenue op-  
22 eration on routes that are subject to section 209 of the  
23 Passenger Rail Investment and Improvement Act of 2008  
24 (49 U.S.C. 24101 note).

1 (d) FEDERAL SHARE.—The Federal share of grants  
2 under this paragraph for eligible costs may be up to 100  
3 percent of the total costs under subsection (a).

4 **SEC. 36202. NORTHEAST CORRIDOR INFRASTRUCTURE AND**  
5 **OPERATIONS ADVISORY COMMISSION.**

6 (a) NORTHEAST CORRIDOR INFRASTRUCTURE AND  
7 OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.—  
8 Section 24905 is amended—

9 (1) by amending the section heading to read as  
10 follows:

11 **“SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE**  
12 **AND OPERATIONS ADVISORY COMMISSION**  
13 **IMPROVEMENTS.”;**

14 (2) by redesignating subsection (e) as sub-  
15 section (g);

16 (3) by striking subsections (a), (b), (c), (d), and  
17 (f) and inserting before subsection (g), as redesign-  
18 nated, the following:

19 **“(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND**  
20 **OPERATIONS ADVISORY COMMISSION.—**

21 **“(1) IN GENERAL.—**The Secretary of Transpor-  
22 tation shall establish a Northeast Corridor Infra-  
23 structure and Operations Advisory Commission (re-  
24 ferred to in this section as the ‘Commission’) to fos-  
25 ter the creation and implementation of a unified, re-



1 regional, long-term investment strategy for the North-  
2 east Corridor and to promote mutual cooperation  
3 and planning pertaining to the capital investment,  
4 rail operations and related activities of the North-  
5 east Corridor. The Commission shall be made up  
6 of—

7 “(A) members representing Amtrak;

8 “(B) members representing the Depart-  
9 ment of Transportation, including the Federal  
10 Railroad Administration and the Office of the  
11 Secretary;

12 “(C) 1 member from each of the States  
13 (including the District of Columbia) that con-  
14 stitute the Northeast Corridor as defined in sec-  
15 tion 24102, designated by, and serving at the  
16 pleasure of, the chief executive officer thereof;  
17 and

18 “(D) non-voting representatives of freight  
19 railroad carriers using the Northeast Corridor  
20 selected by the Secretary.

21 “(2) MEMBERSHIP.—The Secretary shall en-  
22 sure that the membership belonging to any of the  
23 groups enumerated under paragraph (1) shall not  
24 constitute a majority of the Commission’s member-  
25 ships.

1           “(3) MEETINGS.—The Commission shall—

2                   “(A) establish a schedule and location for  
3           convening meetings;

4                   “(B) meet not less than 4 times per fiscal  
5           year; and

6                   “(C) develop rules and procedures to gov-  
7           ern the Commission’s proceedings.

8           “(4) VACANCIES.—A vacancy in the Commis-  
9           sion shall be filled in the manner in which the origi-  
10          nal appointment was made.

11           “(5) TRAVEL EXPENSES.—Members shall serve  
12          without pay but shall receive travel expenses, includ-  
13          ing per diem in lieu of subsistence, in accordance  
14          with sections 5702 and 5703 of title 5.

15           “(6) CHAIRPERSON.—The Chairperson of the  
16          Commission shall be elected by the members.

17           “(7) PERSONNEL.—The Commission may ap-  
18          point and fix the pay of such personnel as the Com-  
19          mission considers appropriate.

20           “(8) DETAILEES.—Upon request of the Com-  
21          mission, the head of any department or agency of  
22          the United States may detail, on a reimbursable  
23          basis, any of the personnel of that department or  
24          agency to the Commission to assist it in carrying out  
25          its duties under this section.

1           “(9) ADMINISTRATIVE SUPPORT.—Upon the re-  
2           quest of the Commission, the Administrator of Gen-  
3           eral Services shall provide to the Commission, on a  
4           reimbursable basis, the administrative support serv-  
5           ices necessary for the Commission to carry out its  
6           responsibilities under this section.

7           “(10) CONSULTATION WITH OTHER ENTI-  
8           TIES.—The Commission shall consult with other en-  
9           tities as appropriate.

10          “(b) STATEMENT OF GOALS AND RECOMMENDA-  
11          TIONS.—

12           “(1) STATEMENT OF GOALS.—The Commission  
13           shall develop a statement of goals concerning the fu-  
14           ture of Northeast Corridor rail infrastructure and  
15           operations based on achieving expanded and im-  
16           proved intercity, commuter, and freight rail services  
17           operating with greater safety and reliability, reduced  
18           travel times, increased frequencies, and enhanced  
19           intermodal connections designed to address airport  
20           and highway congestion, reduce transportation en-  
21           ergy consumption, improve air quality, and increase  
22           economic development of the Northeast Corridor re-  
23           gion.

24           “(2) RECOMMENDATIONS.—The Commission  
25           shall develop recommendations based on the state-

1       ment of goals developed under this section address-  
2       ing, as appropriate—

3               “(A) short-term and long-term capital in-  
4               vestment needs beyond those specified in the  
5               state-of-good-repair plan under section 211 of  
6               the Passenger Rail Investment and Improve-  
7               ment Act of 2008 (49 U.S.C. 24902 note);

8               “(B) future funding requirements for cap-  
9               ital improvements and maintenance;

10              “(C) operational improvements of intercity  
11              passenger rail, commuter rail, and freight rail  
12              services;

13              “(D) opportunities for additional non-rail  
14              uses of the Northeast Corridor;

15              “(E) scheduling and dispatching;

16              “(F) safety and security enhancements;

17              “(G) equipment design;

18              “(H) marketing of rail services;

19              “(I) future capacity requirements; and

20              “(J) potential funding and financing mech-  
21              anisms for projects of corridor-wide signifi-  
22              cance.

23       “(c) NORTHEAST CORRIDOR HIGH SPEED AND  
24       INTERCITY SERVICE DEVELOPMENT PLAN.—

1           “(1) LONG-RANGE NORTHEAST CORRIDOR  
2 SERVICE DEVELOPMENT PLAN.—The Federal Rail-  
3 road Administration, in coordination with the Com-  
4 mission, Amtrak, the States, and other corridor  
5 users, shall complete a long-range Northeast Cor-  
6 ridor Service Development Plan not later than De-  
7 cember 31, 2014.

8           “(2) COLLABORATION AND COOPERATION.—  
9 The parties comprising the Commission, acting sepa-  
10 rately and collectively, shall collaborate and cooper-  
11 ate to the maximum extent permitted by law in—

12                   “(A) the preparation of the service devel-  
13 opment plan;

14                   “(B) the programmatic environmental re-  
15 view process; and

16                   “(C) the subsequent requirements required  
17 by the National Environmental Policy Act of  
18 1969 (42 U.S.C. 4321 et seq.), including the  
19 development of supporting documentation.

20           “(d) COMPREHENSIVE LONG-RANGE NORTHEAST  
21 CORRIDOR STRATEGY.—

22                   “(1) IN GENERAL.—Not later than 1 year after  
23 completion of the service development plan under  
24 subsection (c), the Commission shall develop a com-  
25 prehensive long-range strategy for the future high-

1 speed, intercity, commuter, and freight rail utiliza-  
2 tion of the Northeast Corridor that considers—

3 “(A) the statement of goals developed  
4 under subsection (b)(1);

5 “(B) the recommendations developed under  
6 subsection (b)(2);

7 “(C) the economic development report  
8 under subsection (h);

9 “(D) the service development plan and re-  
10 lated alternatives developed through the pro-  
11 grammatic environmental review for the North-  
12 east Corridor;

13 “(E) the capital and operating plans of all  
14 entities operating on the Northeast Corridor;

15 “(F) improvement programs and service  
16 initiatives planned by corridor owners and  
17 users;

18 “(G) relevant local, State, and Federal  
19 transportation plans; and

20 “(H) other plans, as appropriate.

21 “(2) STRATEGY COMPONENTS.—The com-  
22 prehensive long-range strategy shall include—

23 “(A) a comprehensive program containing  
24 a description and the planned phasing of all

1 Northeast Corridor improvement programs, in-  
2 vestments, and other anticipated changes;

3 “(B) the impacts of the comprehensive  
4 program on:

5 “(i) highway and aviation congestion;

6 “(ii) economic development;

7 “(iii) job creation; and

8 “(iv) the environment;

9 “(C) the potential financing sources for the  
10 comprehensive program, including Federal,  
11 State, local, and private sector sources;

12 “(D) new institutional or other structures  
13 necessary to implement the comprehensive pro-  
14 gram;

15 “(E) the types of collaboration, participa-  
16 tion, arrangements, and support between Am-  
17 trak and the Federal Government, the State  
18 and local governments in the Northeast Cor-  
19 ridor, the commuter rail authorities and freight  
20 railroads that utilize the Northeast Corridor,  
21 the private sector, and others, as appropriate,  
22 that are necessary to achieve the comprehensive  
23 program; and

1           “(F) any regulatory or statutory changes  
2           necessary to efficiently advance the comprehen-  
3           sive program.

4           “(e) ACCESS COSTS.—

5           “(1) DEVELOPMENT OF STANDARDIZED FOR-  
6           MULA.—Not later than September 30, 2013, the  
7           Commission shall—

8           “(A) develop a standardized formula for  
9           determining and allocating costs, revenues, and  
10          compensation for Northeast Corridor commuter  
11          rail passenger transportation (as defined in sec-  
12          tion 24102) on the Northeast Corridor main  
13          line between Boston, Massachusetts, and Wash-  
14          ington, District of Columbia, and the Northeast  
15          Corridor branch lines connecting to Harrisburg,  
16          Pennsylvania, Springfield, Massachusetts, and  
17          Spuyten Duyvil, New York, that use Amtrak fa-  
18          cilities or services or that provide such facilities  
19          or services to Amtrak that ensures that—

20                  “(i) there is no cross-subsidization of  
21                  commuter rail passenger, intercity rail pas-  
22                  senger, or freight rail transportation;

23                  “(ii) each service is assigned the costs  
24                  incurred only for the benefit of that serv-  
25                  ice, and a proportionate share, based upon



1 factors that reasonably reflect relative use,  
2 of costs incurred for the common benefit of  
3 more than 1 service; and

4 “(iii) all financial contributions made  
5 by an operator of a service that benefit an  
6 infrastructure owner other than the oper-  
7 ator are considered, including any capital  
8 infrastructure investments and in-kind  
9 services;

10 “(B) develop a proposed timetable for im-  
11 plementing the formula not later than Decem-  
12 ber 31, 2014;

13 “(C) transmit the proposed timetable to  
14 the Surface Transportation Board; and

15 “(D) at the request of a Commission mem-  
16 ber, petition the Surface Transportation Board  
17 to appoint a mediator to assist the Commission  
18 members through non-binding mediation to  
19 reach an agreement under this section.

20 “(2) IMPLEMENTATION.—Amtrak and public  
21 authorities providing commuter rail passenger trans-  
22 portation on the Northeast Corridor shall implement  
23 new agreements for usage of facilities or services  
24 based on the standardized formula under paragraph  
25 (1) in accordance with the timetable established

1       therein. If the entities fail to implement the new  
2       agreements in accordance with the timetable, the  
3       Commission shall petition the Surface Transpor-  
4       tation Board to determine the appropriate com-  
5       pensation amounts for such services under section  
6       24904(c). The Surface Transportation Board shall  
7       enforce its determination on the party or parties in-  
8       volved.

9           “(3) REVISIONS.—The Commission may make  
10       necessary revisions to the standardized formula de-  
11       veloped under paragraph (1), including revisions  
12       based on Amtrak’s financial accounting system de-  
13       veloped under section 203 of the Passenger Rail In-  
14       vestment and Improvement Act of 2008 (49 U.S.C.  
15       24101 note).

16       “(f) TRANSMISSION OF STATEMENT OF GOALS, REC-  
17       COMMENDATIONS, AND PLANS.—The Commission shall  
18       transmit to the Committee on Commerce, Science, and  
19       Transportation of the Senate and the Committee on  
20       Transportation and Infrastructure of the House of Rep-  
21       resentatives—

22           “(1) not later than 60 days after the date of  
23       enactment of the , the statement of goals under sub-  
24       section (b);

1           “(2) annually beginning on December 31, 2012,  
2           the recommendations under subsection (b)(2) and  
3           the standardized formula and timetable under sub-  
4           section (e)(1); and

5           “(3) the comprehensive long-range strategy  
6           under this section.”; and

7           (4) by inserting after subsection (g), as redesign-  
8           nated, the following

9           “(h) REPORT ON NORTHEAST CORRIDOR ECONOMIC  
10          DEVELOPMENT.—Not later than September 30, 2013, the  
11          Commission shall transmit a report to the Committee on  
12          Commerce, Science, and Transportation of the Senate and  
13          the Committee on Transportation and Infrastructure of  
14          the House of Representatives on the role of Amtrak’s  
15          Northeast Corridor service between Washington, District  
16          of Columbia, and Boston, Massachusetts, in the economic  
17          development of the Northeast Corridor region. The report  
18          shall examine how to enhance the utilization of the North-  
19          east Corridor for greater economic development, includ-  
20          ing—

21                 “(1) improving real estate utilization;

22                 “(2) improved intercity, commuter, and freight  
23          services; and

24                 “(3) improving optimum utility utilization.

25          “(i) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

1           “(1) IN GENERAL.—The Secretary shall estab-  
2           lish a Northeast Corridor Safety Committee com-  
3           posed of members appointed by the Secretary. The  
4           members shall be representatives of—

5                   “(A) the Department of Transportation,  
6                   including the Federal Railroad Administration;

7                   “(B) Amtrak;

8                   “(C) freight carriers operating more than  
9                   150,000 train miles a year on the main line of  
10                  the Northeast Corridor;

11                  “(D) commuter rail agencies;

12                  “(E) rail passengers;

13                  “(F) rail labor; and

14                  “(G) other individuals and organizations  
15                  the Secretary decides have a significant interest  
16                  in rail safety or security.

17           “(2) FUNCTION; MEETINGS.—The Secretary  
18           shall consult with the Committee about safety and  
19           security improvements on the Northeast Corridor  
20           main line. The Committee shall meet not less than  
21           2 times per year to consider safety and security mat-  
22           ters on the main line.

23           “(3) REPORT.—At the beginning of the first  
24           session of each Congress, the Secretary shall submit  
25           a report to the Commission and to the Committee on

1 Commerce, Science, and Transportation of the Sen-  
2 ate and the Committee on Transportation and Infra-  
3 structure of the House of Representatives on the  
4 status of efforts to improve safety and security on  
5 the Northeast Corridor main line. The report shall  
6 include the safety and security recommendations of  
7 the Committee and the comments of the Secretary  
8 on those recommendations.”.

9 (b) CONFORMING AMENDMENT.—The table of con-  
10 tents for chapter 249 is amended by striking the item re-  
11 lating to section 24905 and inserting the following:

“24905. Northeast corridor infrastructure and operations advisory commission  
improvements.”.

12 **SEC. 36203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IM-**  
13 **PROVEMENT PLAN.**

14 (a) PLANS.—Not later than 180 days after the date  
15 of enactment of this Act, Amtrak shall—

16 (1) complete a refined vision for an integrated  
17 program of improvements on the Northeast Corridor  
18 that will result in, by 2040—

19 (A) the development and operation of a  
20 new high-speed rail system capable of high ca-  
21 pacity, 200 mile-per-hour or greater operation  
22 between Washington, District of Columbia and  
23 Boston, Massachusetts;

1 (B) the completion of the improvements  
2 identified in the Northeast Corridor Infrastruc-  
3 ture Master Plan published by Amtrak on May  
4 19, 2010; and

5 (C) the continued operation of existing and  
6 currently planned intercity, commuter, and  
7 freight services utilizing the Northeast Corridor  
8 during the implementation of the program; and

9 (2) complete a business and financing plan to  
10 achieve the program under paragraph (1) that iden-  
11 tifies the estimated—

12 (A) benefits and costs of the program, in-  
13 cluding ridership, revenues, capital and oper-  
14 ating costs, and cash flow projections;

15 (B) implementation schedule, including the  
16 phasing of the program into achievable seg-  
17 ments that maximize the benefits and support  
18 the ultimate completion of the program;

19 (C) potential financing sources for the pro-  
20 gram, including Federal, State, local, and pri-  
21 vate sector sources; and

22 (D) organization changes, new institutional  
23 or corporate arrangements, partnerships, pro-  
24 curement techniques, and other structures nec-  
25 essary to implement the program.

1 (b) SUPPORT.—The Secretary of Transportation  
2 shall provide appropriate support, assistance, oversight,  
3 and guidance to Amtrak during the preparation of the  
4 plans under subsection (a).

5 (c) SUBMISSION.—Amtrak shall submit the refined  
6 vision and an appropriate elements of the business and  
7 financing plan to the Federal Railroad Administration and  
8 the Northeast Corridor Infrastructure and Operations Ad-  
9 visory Commission for use in the development of the  
10 Northeast Corridor High Speed and Intercity Service De-  
11 velopment Plan and the Comprehensive Long-Range  
12 Northeast Corridor Strategy.

13 **SEC. 36204. NORTHEAST CORRIDOR ENVIRONMENTAL RE-**  
14 **VIEW PROCESS.**

15 (a) NORTHEAST CORRIDOR.—Not later than 90 days  
16 after the date of enactment of this Act, the Secretary shall  
17 complete a plan and a schedule for the completion of the  
18 programmatic environmental review for the Northeast  
19 Corridor. The schedule shall require the completion of the  
20 programmatic environmental review for the Northeast  
21 Corridor not later than 3 years after the date of enactment  
22 of this Act.

23 (b) COORDINATION WITH THE NORTHEAST COR-  
24 RIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY  
25 COMMISSION.—The Federal Railroad Administration shall

1 closely coordinate the programmatic environmental review  
2 process with the Northeast Corridor Infrastructure and  
3 Operations Advisory Commission.

4 **SEC. 36205. DELEGATION AUTHORITY.**

5 (a) DELEGATION OF AUTHORITY.—In carrying out  
6 programmatic or project level environmental reviews for  
7 high speed and intercity passenger rail programs, projects,  
8 or services, the Secretary may delegate to Amtrak any or  
9 all of the Secretary's authority and responsibility under  
10 the National Environmental Policy Act of 1969 (42 U.S.C.  
11 4321 et seq.), section 106 of the National Historic Preser-  
12 vation Act of 1966 (16 U.S.C. 470f), section 4(f) of the  
13 Department of Transportation Act (80 Stat. 934), section  
14 404 of the Federal Water Pollution Control Act (33  
15 U.S.C. 1344), and section 7 of the Endangered Species  
16 Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak  
17 any related funding provided to the Secretary for such  
18 purposes as the Secretary deems necessary if—

19 (1) Amtrak agrees in writing to assume the del-  
20 egated authority and responsibility;

21 (2) Amtrak has or can obtain sufficient re-  
22 sources or the Secretary provides such resources to  
23 Amtrak to appropriately carry out such authority or  
24 responsibility; and



1           (3) delegating the authority and responsibility  
2           will improve the quality or timeliness of the environ-  
3           mental review.

4 **SEC. 36206. AMTRAK INSPECTOR GENERAL.**

5           (a) IN GENERAL.—Chapter 243 is amended by add-  
6           ing after section 24316 the following:

7 **“§ 24317. Inspector general**

8           “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated to the Office of the In-  
10          specter General of Amtrak the following amounts:

11                 “(1) For fiscal year 2009, \$20,000,000.

12                 “(2) For fiscal year 2010, \$21,000,000.

13                 “(3) For fiscal year 2011, \$22,000,000.

14                 “(4) For fiscal year 2012, \$22,000,000.

15                 “(5) For fiscal year 2013, \$23,000,000.

16          “(b) AUTHORITY.—The Inspector General of Amtrak  
17          shall have all necessary authority, in carrying out the du-  
18          ties specified in the Inspector General Act of 1978 (5  
19          U.S.C. App.), to investigate allegations of fraud, including  
20          false statements to the Government under section 1001  
21          of title 18, by any person or entity that is an employee  
22          or contractor of Amtrak.

23          “(c) SERVICES.—The Inspector General of Amtrak  
24          may obtain services under sections 502(a) and 602 of title  
25          40, from the Administrator of General Services. The Ad-

1   ministrator of General Services may provide services  
2   under sections 502(a) and 602 of title 40, to the Inspector  
3   General.”.

4       (b) MANAGEMENT ASSESSMENT.—Section 24310 is  
5   amended to read as follows:

6       “(a) IN GENERAL.—Not later than 3 years after the  
7   date of enactment of the Passenger Rail Investment and  
8   Improvement Act of 2008 (122 Stat. 4907) and 2 years  
9   thereafter—

10           “(1) the Inspector General of the Department  
11       of Transportation shall complete an overall assess-  
12       ment of the progress made by the Department of  
13       Transportation in implementing the provisions of  
14       that Act; and

15           “(2) the Inspector General of Amtrak shall  
16       complete an overall assessment of the progress made  
17       by Amtrak management in implementing the provi-  
18       sions of the Passenger Rail Investment and Im-  
19       provement Act of 2008 (122 Stat. 4907).

20       “(b) ASSESSMENT.—The management assessment by  
21   the Amtrak Inspector General may include a review of—

22           “(1) the effectiveness in improving annual fi-  
23       nancial planning;

24           “(2) the effectiveness in improving financial ac-  
25       counting;

1           “(3) Amtrak management’s efforts to imple-  
2           ment minimum train performance standards;

3           “(4) Amtrak management’s progress toward  
4           maximizing revenues, minimizing Federal subsidies,  
5           and improving financial results; and

6           “(5) any other aspect of Amtrak operations  
7           that the Amtrak Inspector General finds appro-  
8           priate.”.

9           (c) INSPECTOR GENERAL POLICIES AND PROCE-  
10          DURES.—The Amtrak Inspector General and Amtrak  
11          shall—

12           (1) continue to follow the policies and proce-  
13           dures for interacting with one another in a manner  
14           that is consistent with the Inspector General Act of  
15           1978 (5 U.S.C. App.), as approved by the Council  
16           of the Inspectors General on Integrity and Effi-  
17           ciency; and

18           (2) work toward establishing proper protocols  
19           and firewalls to maintain the Amtrak Inspector Gen-  
20           eral’s independence, as appropriate.

21          (d) IMPROVEMENTS.—The Amtrak Inspector General  
22          and Amtrak shall identify any funding needs and author-  
23          ity improvements necessary to effectuate the policies, pro-  
24          cedures, protocols, and firewalls under subsection (c) and

1 submit a report of the necessary funding and authority  
2 improvements as part of their annual budget requests.

3 (e) TECHNICAL AMENDMENT.—Section 101 of the  
4 Passenger Rail Investment and Improvement Act of 2008  
5 (122 Stat. 4907), is amended by striking subsection (b)  
6 and inserting the following:

7 “(b) **Reserved**.”.

8 (f) CLERICAL AMENDMENT.—The table of contents  
9 for chapter 243 is amended by adding at the end the fol-  
10 lowing:

“24317. Inspector General.”.

11 **SEC. 36207. COMPENSATION FOR PRIVATE-SECTOR USE OF**  
12 **FEDERALLY-FUNDED ASSETS.**

13 If capital assets that are owned by a public entity  
14 or Amtrak built or improved with Federal funds author-  
15 ized under subtitle V of title 49, United States Code, are  
16 made available for exclusive use by a for-profit entity, ex-  
17 cept for an entity owned or controlled by the Department  
18 of Transportation, for the purpose of providing intercity  
19 passenger rail service, the Secretary may require, as ap-  
20 propriate, that the for-profit entity provide adequate com-  
21 pensation, as determined by the Secretary, to the United  
22 States for the use of the capital assets in an amount that  
23 reflects the benefit of the Federal funding to the for-profit  
24 entity.

1 **SEC. 36208. ON-TIME PERFORMANCE.**

2 Where the on time performance of any intercity pas-  
3 senger train averages less than 80 percent for any 2 con-  
4 secutive calendar quarters and the failure to meet such  
5 performance levels is solely the responsibility of the host  
6 railroad, Amtrak shall not pay the host railroad any incen-  
7 tive payments for on time performance of the subject  
8 intercity passenger train during such calendar quarters.

9 **SEC. 36209. BOARD OF DIRECTORS.**

10 Section 24302(a)(3) is amended by striking “5” the  
11 second place it appears and inserting “4”.

12 **Subtitle C—Rail Safety**  
13 **Improvements**

14 **SEC. 36301. POSITIVE TRAIN CONTROL.**

15 (a) REVIEW AND APPROVAL.—Section 20157(e) is  
16 amended to read as follows:

17 “(c) REVIEW AND APPROVAL.—

18 “(1) REVIEW.—Not later than 90 days after  
19 the Secretary receives a proposed plan, the Secretary  
20 shall review and approve or disapprove it. If a pro-  
21 posed plan is not approved, the Secretary shall no-  
22 tify the affected railroad carrier or other entity as  
23 to the specific deficiencies in the proposed plan. The  
24 railroad carrier or other entity shall correct the defi-  
25 ciencies not later than 30 days after receipt of the  
26 written notice.

1           “(2) AMENDMENTS.—The Secretary shall re-  
2 view any amendments to a plan in the time frame  
3 required by section (1).

4           “(3) ANNUAL REVIEW.—The Secretary shall  
5 conduct an annual review to ensure that each rail-  
6 road carrier and entity is complying with its plan,  
7 including a railroad carrier or entity that elects to  
8 fully implement a positive train control system prior  
9 to the required deadline.”.

10          (b) REPORT CRITERIA.—Section 20157(d) is amend-  
11 ed to read as follows:

12          “(d) REPORT.—Not later than June 30, 2012, the  
13 Secretary shall submit a report to the Committee on Com-  
14 merce, Science, and Transportation of the Senate and the  
15 Committee on Transportation and Infrastructure of the  
16 House of Representatives on the progress of the railroad  
17 carriers in implementing the positive train control sys-  
18 tems, including—

19               “(1) the likelihood that each railroad will meet  
20 the December 31, 2015 deadline;

21               “(2) the obstacles to each railroad’s successful  
22 implementation, including the obstacles identified in  
23 the General Accountability Office’s report issued on  
24 December 15, 2010, and titled ‘Rail Safety: Federal  
25 Railroad Administration Should Report on Risks to

1 Successful Implementation of Mandated Safety  
2 Technology' (GAO-11-133); and

3 “(3) the actions that Congress, railroads, rel-  
4 evant Federal entities, and other stakeholders can  
5 take to mitigate obstacles to successful implementa-  
6 tion.”.

7 (c) EXTENSION AUTHORITY.—Section 20157 is  
8 amended—

9 (1) by redesignating subsections (h) and (i) as  
10 subsections (i) and (j), respectively; and

11 (2) by inserting after subsection (g), the fol-  
12 lowing:

13 “(h) EXTENSION.—

14 “(1) IN GENERAL.—After completing the report  
15 under subsection (d), the Secretary may extend in 1  
16 year increments, upon application, the implementa-  
17 tion deadline for an entity providing rail freight  
18 transportation or regularly scheduled intercity or  
19 commuter rail passenger transportation, if the Sec-  
20 retary determines that full implementation will likely  
21 be infeasible due to circumstances beyond the con-  
22 trol of the entity, including funding availability,  
23 spectrum acquisition, and interoperability standards.  
24 The Secretary may not extend the deadline for im-  
25 plementation beyond December 31, 2018.

1           “(2) APPLICATION REVIEW.—The Secretary  
2           shall review an application submitted pursuant to  
3           paragraph (1) and approve or disapprove the appli-  
4           cation not later than 10 days after the application  
5           is received.”

6           (d) APPLICABILITY.—Section 20157 is amended by  
7           striking “transported;” in subsection (a)(1)(B) and insert-  
8           ing “transported on or after December 31, 2015;”.

9   **SEC. 36302. ADDITIONAL ELIGIBILITY FOR RAILROAD RE-**  
10                   **HABILITATION AND IMPROVEMENT FINANC-**  
11                   **ING.**

12           (a) POSITIVE TRAIN CONTROL SYSTEMS.—Section  
13           502(b)(1) of the Railroad Revitalization and Regulatory  
14           Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

15                   (1) in subparagraph (B) by striking “or”;

16                   (2) in subparagraph (C) by striking “facilities.”  
17           and inserting “facilities; or”; and

18                   (3) by adding at the end the following:

19                           “(D) implement a positive train control  
20                           system, as required by section 20157 of title  
21                           49, United States Code.”.

22           (b) POSITIVE TRAIN CONTROL COLLATERAL.—Sec-  
23           tion 502(h)(2) of the Railroad Revitalization and Regu-  
24           latory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is  
25           amended by adding at the end the following:



1           “For purposes of making a finding under sub-  
2           section (g)(4) for a loan for positive train control,  
3           the total cost of the labor and materials associated  
4           with installing positive train control shall be deemed  
5           to be equal to the collateral value of that asset.”.

6   **SEC. 36303. FCC STUDY OF SPECTRUM AVAILABILITY.**

7           (a) SPECTRUM NEEDS ASSESSMENT.—Not later than  
8   120 days after the date of enactment of this Act, the Sec-  
9   retary of Transportation and the Chairman of the Federal  
10   Communications Commission shall coordinate to assess  
11   spectrum needs and availability for implementing positive  
12   train control systems, as defined in section 20157 of title  
13   49, United States Code. In conducting the spectrum needs  
14   assessment, the Secretary and the Chairman shall—

15           (1) evaluate the information provided in the  
16   Federal Communications Commission WT-11-79  
17   proceeding;

18           (2) evaluate the positive train control imple-  
19   mentations plans and any subsequent amendments  
20   or waivers to those plans provided to the Federal  
21   Railroad Administration; and

22           (3) evaluate individual railroad spectrum de-  
23   mand studies.

24           (b) RECOMMENDATIONS.—Not later than 90 days  
25   after the completion of the spectrum needs assessment

1 under subsection (a), the Secretary and the Chairman  
2 shall submit a plan to the Committee on Commerce,  
3 Science, and Transportation of the Senate and the Com-  
4 mittee on Transportation and Infrastructure of the House  
5 of Representatives, for approximate resolution to any  
6 issues that may prevent railroad carriers or entities from  
7 complying with the December 31, 2015, positive train con-  
8 trol implementation deadline.

## 9 **Subtitle D—Freight Rail**

### 10 **SEC. 36401. RAIL LINE RELOCATION.**

11 Section 20154 is amended—

12 (1) in subsection (b)—

13 (A) by striking “either”;

14 (B) by striking “or” at the end of para-  
15 graph (1);

16 (C) by striking the period at the end of  
17 paragraph (2) and inserting “; or”; and

18 (D) by adding at the end the following:

19 “(3) involves a lateral or vertical relocation of  
20 any portion of a road.”;

21 (2) in subsection (e)(1), by striking “10” and  
22 inserting “20”; and

23 (3) in subsection (h)(3), by inserting “a public  
24 agency,” after “of a State,”.

1 **SEC. 36402. COMPILATION OF COMPLAINTS.**

2 (a) IN GENERAL.—Section 704 is amended—

3 (1) by striking the section heading and insert-  
4 ing the following:

5 **“§ 704. Reports”;**

6 (2) by inserting “(a) ANNUAL REPORT.—” be-  
7 fore “The Board”; and

8 (3) by adding at the end the following:

9 “(b) COMPLAINTS.—

10 “(1) IN GENERAL.—The Board shall establish  
11 and maintain a database of complaints received by  
12 the Board.

13 “(2) QUARTERLY REPORT.—The Board shall  
14 post a quarterly report of formal and informal serv-  
15 ice complaints received by the Board during the pre-  
16 vious quarter that includes—

17 “(A) a list of the type of each complaint;

18 “(B) the geographic region of the com-  
19 plaint; and

20 “(C) the resolution of the complaint, if ap-  
21 propriate.

22 “(3) WRITTEN CONSENT.—The quarterly report  
23 may identify a complainant that submitted an infor-  
24 mal complaint only upon the written consent of the  
25 complainant.

1           “(4) WEBSITE POSTING.—The report shall be  
2           posted on the Board’s public website.”.

3           (b) CONFORMING AMENDMENT.—The table of con-  
4           tents for chapter 7 is amended by striking the item relat-  
5           ing to section 704 and inserting the following:

          “704. Reports.”.

6           **SEC. 36403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

7           (a) IN GENERAL.—The Surface Transportation  
8           Board shall revise the maximum amount of rate relief  
9           available to railroad shippers in cases brought pursuant  
10          to the method developed under section 10701(d)(3) of title  
11          49, United States Code, as that section existed as of the  
12          date of enactment of this Act, to be as follows:

13                 (1) \$1,500,000 in a rate case brought using the  
14                 Surface Transportation Board’s “three-benchmark”  
15                 procedure.

16                 (2) \$10,000,000 in a rate case brought using  
17                 the Surface Transportation Board’s “simplified  
18                 stand-alone cost” procedure.

19           (b) PERIODIC REVIEW.—The Board shall periodically  
20          review the amounts established by subsection (a) and re-  
21          vise the amounts, as appropriate.

22          **SEC. 36404. RATE REVIEW TIMELINES.**

23          In stand-alone cost rate challenges, the Surface  
24          Transportation Board shall comply with the following

1 timelines unless it extends them, after a request from any  
2 party or in the interest of due process:

3 (1) For discovery, 150 days after the date on  
4 which the challenge is initiated.

5 (2) For development of the evidentiary record,  
6 155 days after that date.

7 (3) For submission of parties' closing briefs, 60  
8 days after that date.

9 (4) For a final Board decision, 180 days after  
10 the date on which the parties submit closing briefs.

11 **SEC. 36405. REVENUE ADEQUACY STUDY.**

12 (a) REVENUE ADEQUACY STUDY.—

13 (1) IN GENERAL.—Not later than 180 days  
14 after the date of enactment of this Act, the Surface  
15 Transportation Board shall initiate a study to pro-  
16 vide further guidance on how it will apply its rev-  
17 enue adequacy constraint.

18 (2) CONSIDERATIONS.—In conducting the  
19 study, the Surface Transportation Board shall con-  
20 sider whether to apply the revenue adequacy con-  
21 strain using replacement costs to value the assets of  
22 rail facilities and equipment.

23 (b) PUBLIC NOTICE.—In conducting the study under  
24 subsection (a), the Surface Transportation Board shall—

25 (1) provide public notice;

- 1           (2) an opportunity for comment; and  
2           (3) conduct 1 or more public hearings.

3           (c) **REPORT.**—Not later than 60 days after the study  
4 under subsection (a) is complete, the Surface Transpor-  
5 tation Board shall submit the findings of the study to the  
6 Commerce, Science, and Transportation Committee of the  
7 Senate and the Transportation and Infrastructure Com-  
8 mittee of the House of Representatives.

9 **SEC. 36406. QUARTERLY REPORTS.**

10          Not later than 60 days after the date of enactment  
11 of this Act, the Surface Transportation Board shall pro-  
12 vide quarterly reports to the Commerce, Science, and  
13 Transportation Committee of the Senate and the Trans-  
14 portation and Infrastructure Committee of the House of  
15 Representatives on the Surface Transportation Board's  
16 progress toward addressing issues raised in unfinished  
17 regulatory proceedings, regardless of whether a proceeding  
18 is subject to a statutory or regulatory deadline.

19 **SEC. 36407. WORKFORCE REVIEW.**

20          (a) **IN GENERAL.**—Not later than 180 days after the  
21 date of enactment of this Act, the Chairman of the Sur-  
22 face Transportation Board, in consultation with the Direc-  
23 tor of the Office of Personnel Management, shall conduct  
24 a review of the Surface Transportation Board workforce

1 to assist in the development of a comprehensive, long-term  
2 human capital improvement plan.

3 (b) PLAN.—Not later than 180 days after the review  
4 under subsection (a) is complete, the Chairman shall de-  
5 velop a comprehensive, long-term human capital improve-  
6 ment plan for Surface Transportation Board personnel to  
7 identify—

8 (1) the optimal workforce size of the Surface  
9 Transportation Board to address its current and fu-  
10 ture program needs;

11 (2) the hiring, training, managing, and com-  
12 pensation needs to recruit and retain qualified per-  
13 sonnel, including experts to assess long-standing and  
14 emerging railroad industry trends;

15 (3) the means for improving the current organi-  
16 zational structure and workforce to most efficiently  
17 execute the Surface Transportation Board's mission;  
18 and

19 (4) any recommendations for potential coordi-  
20 nation with colleges, universities, or other non-profit  
21 organizations for training programs to support  
22 workforce development.

23 (c) REPORT.—The Chairman shall submit the plan  
24 to the Committee on Commerce, Science, and Transpor-

1 tation of the Senate and the Committee on Transportation  
2 and Infrastructure of the House of Representatives.

3 **SEC. 36408. RAILROAD REHABILITATION AND IMPROVE-**  
4 **MENT FINANCING.**

5 (a) CONDITIONS OF ASSISTANCE.—Section 502(h)(2)  
6 of the Railroad Revitalization and Regulatory Reform Act  
7 of 1976 (45 U.S.C. 822(h)(2)), as amended by section  
8 36302 of this Act, is amended by adding at the end the  
9 following:

10 “The Secretary shall accept, for the purpose of mak-  
11 ing a finding with regard to adequate collateral for a pub-  
12 lic entity, the net present value on a future stream of State  
13 or local subsidy income or a dedicated revenue as collateral  
14 offered to secure a loan.”.

15 (b) ELIGIBLE PURPOSES.—Section 502(b)(1) of the  
16 Railroad Revitalization and Regulatory Reform Act of  
17 1976 (45 U.S.C. 822(b)(1)), as amended by section 36302  
18 of this Act, is further amended—

19 (1) by striking “or” at the end of subparagraph  
20 (C);

21 (2) by striking the period at the end of sub-  
22 paragraph (D) and inserting “; or”; and

23 (3) by adding at the end the following:



1           “(E) conduct preliminary engineering, en-  
2           vironmental review, permitting, or other pre-  
3           construction activities.”.

4           (c) **STUDY.**—The Secretary shall submit a report to  
5 the Committee on Commerce, Science, and Transportation  
6 of the Senate and the Committee on Transportation and  
7 Infrastructure of the House of Representatives detailing  
8 recommendations for improving the Railroad Rehabilita-  
9 tion and Improvement Financing program administration,  
10 including timely processing of applications, expansion of  
11 eligibilities, and other issues that impede passenger and  
12 rail carriers from utilizing the program.

## 13   **Subtitle E—Technical Corrections**

### 14   **SEC. 36501. TECHNICAL CORRECTIONS.**

15           (a) **RAIL SAFETY IMPROVEMENT ACT OF 2008.**—

16           (1) The table of contents in section 1(b) of the  
17           Rail Safety Improvement Act of 2008 (122 Stat.  
18           4848) is amended—

19                   (A) by striking the item relating to section  
20                   201 and inserting the following:

“Sec. 201. Pedestrian safety at or near railroad passenger stations.”; and

21                   (B) by striking the item relating to section  
22                   403 and inserting the following:

“Sec. 403. Study and rulemaking on track inspection time; rulemaking on con-  
crete cross-ties.”.

1           (2) Section 2(a)(1) of the Rail Safety Improve-  
2           ment Act of 2008 (49 U.S.C. 20102 note), is  
3           amended by inserting a comma after “railroad  
4           tracks at grade”.

5           (3) Section 102(a) of the Rail Safety Improve-  
6           ment Act of 2008 (49 U.S.C. 20101 note), is  
7           amended—

8                   (A) by striking “, at a minimum,”;

9                   (B) in paragraph (1), by inserting a  
10           comma after “railroads”; and

11                   (C) by amending paragraph (6) to read as  
12           follows:

13                   “(6) Improving the safety of railroad bridges,  
14           tunnels, and related infrastructure to prevent acci-  
15           dents, incidents, injuries, and fatalities caused by  
16           catastrophic and other failures of such infrastruc-  
17           ture.”.

18           (4) Section 108(f)(1) of the Rail Safety Im-  
19           provement Act of 2008 (49 U.S.C. 21101 note), is  
20           amended by striking “requirements for record-  
21           keeping and reporting for Hours of Service of Rail-  
22           road Employees” and inserting “requirements for  
23           record keeping and reporting for hours of service of  
24           railroad employees”.

1           (5) Section 201 of the Rail Safety Improvement  
2 Act of 2008 (49 U.S.C. 20134 note), is amended—

3           (A) in the section heading, by striking  
4           “**PEDESTRIAN CROSSING SAFETY.**” and in-  
5           serting “**PEDESTRIAN SAFETY AT OR NEAR**  
6           **RAILROAD PASSENGER STATIONS.**”;

7           (B) by striking “strategies and methods to  
8           prevent pedestrian accidents, incidents, injuries,  
9           and fatalities at or near passenger stations, in-  
10          cluding” and inserting “strategies and methods  
11          to prevent train-related accidents, incidents, in-  
12          juries, and fatalities that involve a pedestrian at  
13          or near a railroad passenger station, including”;  
14          and

15          (C) in paragraph (1) by striking “at rail-  
16          road passenger stations”.

17          (6) Section 206(a) of the Rail Safety Improve-  
18          ment Act of 2008 (49 U.S.C. 22501 note), is  
19          amended by striking “Public Service Announce-  
20          ments” and inserting “public service announce-  
21          ments”.

22          (7) Section 403 of the Rail Safety Improvement  
23          Act of 2008 (49 U.S.C. 20142 note), is amended—

24          (A) in the section heading, by striking  
25          “**TRACK INSPECTION TIME STUDY.**” and in-

1           serting **“STUDY AND RULEMAKING ON**  
2           **TRACK INSPECTION TIME; RULEMAKING**  
3           **ON CONCRETE CROSSTIES.”**; and

4                   (B) in subsection (d)—

5                           (i) by striking “CROSS TIES” in the  
6                           subsection heading and inserting “CROSS-  
7                           TIES”;

8                           (ii) by striking “cross ties” and in-  
9                           serting “crossties”; and

10                           (iii) in paragraph (2), by striking  
11                           “cross tie” and inserting “crosstie”.

12           (8) Section 405 of the Rail Safety Improvement  
13           Act of 2008 (49 U.S.C. 20103 note), is amended—

14                   (A) in subsection (a), by striking “cell  
15                   phones” and inserting “cellular telephones”;

16                   and

17                           (B) in subsection (d)—

18                                   (i) by striking “of Transportation”;

19                                   and

20                                   (ii) by striking “cell phones” and in-  
21                                   serting “cellular telephones”.

22           (9) Section 411(a) of the Rail Safety Improve-  
23           ment Act of 2008 (49 U.S.C. 5103 note), is amend-  
24           ed—

1 (A) by striking “5101(a)” and inserting  
2 “5105(a)”;

3 (B) by striking “5101(b)” and inserting  
4 “5105(b)”.

5 (10) Section 412 of the Rail Safety Improve-  
6 ment Act of 2008 (49 U.S.C. 20140 note), is  
7 amended by striking “of Transportation”.

8 (11) Section 414(2) of the Rail Safety Improve-  
9 ment Act of 2008 (49 U.S.C. 20103 note), is  
10 amended—

11 (A) by striking “parts” and inserting “sec-  
12 tions”;

13 (B) by striking “part” and inserting “sec-  
14 tion”.

15 (12) Section 416 of the Rail Safety Improve-  
16 ment Act of 2008 (49 U.S.C. 20107 note), is  
17 amended—

18 (A) by striking “of Transportation”;

19 (B) in paragraphs (3) and (4), by striking  
20 “Federal Railroad Administration” and insert-  
21 ing “Secretary”;

22 (C) in paragraph (4), by striking “sub-  
23 section” and inserting “section”.

24 (13) Section 417(c) of the Rail Safety Improve-  
25 ment Act of 2008 (49 U.S.C. 20103 note), is

1 amended by striking “each railroad” and inserting  
2 “each railroad carrier”.

3 (14) Section 503 of the Rail Safety Improve-  
4 ment Act of 2008 (49 U.S.C. 1139 note), is amend-  
5 ed—

6 (A) in subsection (a), by striking “rail ac-  
7 cidents” and inserting “rail passenger acci-  
8 dents”;

9 (B) in subsection (b)—

10 (i) by striking “passenger rail acci-  
11 dents” and inserting “rail passenger acci-  
12 dents”; and

13 (ii) by striking “passenger rail acci-  
14 dent” each place it appears and inserting  
15 “rail passenger accidents”; and

16 (C) by adding at the end the following:

17 “(d) DEFINITIONS.—In this section, the terms ‘pas-  
18 senger’, ‘rail passenger accident’, and ‘rail passenger car-  
19 rier’ have the meanings given the terms in section 1139  
20 of title 49, United States Code.”

21 “(e) FUNDING.—Out of the funds appropriated pur-  
22 suant to section 20117(a)(1)(A) of title 49, United States  
23 Code, there shall be made available to the Secretary of  
24 Transportation \$500,000 for fiscal year 2009 to carry out

1 this section. Amounts made available pursuant to this sub-  
2 section shall remain available until expended.”.

3 (b) PASSENGER RAIL INVESTMENT AND IMPROVE-  
4 MENT ACT OF 2008.—

5 (1) Section 206(a) of the Passenger Rail In-  
6 vestment and Improvement Act of 2008 (49 U.S.C.  
7 24101 note), is amended by inserting “of this divi-  
8 sion” after “302”.

9 (2) Section 211 of the Passenger Rail Invest-  
10 ment and Improvement Act of 2008 (49 U.S.C.  
11 24902 note), is amended—

12 (A) in subsection (d), by inserting “of this  
13 division” after “101(c)”; and

14 (B) in subsection (e), by inserting “of this  
15 division” after “101(d)”.

16 (c) TITLE 49 OF THE UNITED STATE CODE.—

17 (1) Section 1139 is amended—

18 (A) in subsection (a)(1), by striking  
19 “phone number” and inserting “telephone num-  
20 ber”;

21 (B) in subsection (a)(2), by striking “post  
22 trauma” and inserting “post-trauma”;

23 (C) in subsections (h)(1)(A) and  
24 (h)(2)(A)—

25 (i) by striking “interstate”; and

- 1 (ii) by striking “such term is”;
- 2 (D) in subsection (g)(1), by striking  
3 “board” in the heading and inserting “BOARD”;
- 4 (E) in subsections (h)(1)(B) and  
5 (h)(2)(B)—
- 6 (i) by striking “interstate or intra-  
7 state”; and
- 8 (ii) by striking “such term is”;
- 9 (F) in subsection (j)(1)—
- 10 (i) by striking “(other than subsection  
11 (g))” and inserting “(except for sub-  
12 sections (g) and (k))”; and
- 13 (ii) by striking “railroad passenger ac-  
14 cident” and inserting “rail passenger acci-  
15 dent”; and
- 16 (G) in subsection (j)(2), by striking “rail-  
17 road passenger accident” and inserting “rail  
18 passenger accident”.
- 19 (2) Section 10909(b) is amended—
- 20 (A) by striking “Railroad” and inserting  
21 “Railroads”; and
- 22 (B) in paragraph (2), by inserting a  
23 comma after “comment”.
- 24 (3) Section 20109 is amended—



1 (A) in subsection (c)(1), by striking “the  
2 railroad shall promptly arrange” and inserting  
3 “the railroad carrier shall promptly arrange”;

4 (B) in subsection (d)(2)(A)(i), by striking  
5 “(d)” and inserting “paragraph” after “under”;

6 (C) in subsection (d)(2)(A)(iii), by insert-  
7 ing “section” after “set forth in”; and

8 (D) in subsection (d)(4)(i), by striking  
9 “must” and inserting “shall”.

10 (4) Section 20120(a) is amended—

11 (A) by striking “(a) IN GENERAL” and in-  
12 serting “Not”;

13 (B) in paragraph (2)(G), by inserting  
14 “and” after the semicolon;

15 (C) in paragraph (4), by striking “provide”  
16 and inserting “provides”;

17 (D) in paragraph (5)(B), by striking “Ad-  
18 ministrative Hearing Officer or Administrative  
19 Law Judge” and inserting “administrative  
20 hearing officer or administrative law judge”;  
21 and

22 (E) in paragraph (7), by striking “its” and  
23 inserting “the Secretary’s or the Federal Rail-  
24 road Administrator’s”.

1           (5) Section 20151(d)(1) is amended by striking  
2           “to drive around a grade crossing gate” and insert-  
3           ing “to drive through, around, or under a grade  
4           crossing gate”.

5           (6) Section 20152(b) is amended by striking  
6           “rail carriers” and inserting “railroad carriers”.

7           (7) Section 20156 is amended—

8                 (A) in subsection (c), by inserting a  
9                 comma after “In developing its railroad safety  
10                risk reduction program”; and

11               (B) in subsection (g)(1), by striking “non-  
12                profit” and inserting “nonprofit”.

13           (8) Section 20157(a)(1) is amended—

14               (A) by striking “Class I railroad carrier”  
15                and inserting “Class I railroad”; and

16               (B) by striking “parts” and inserting “sec-  
17                tions”.

18           (9) Section 20158(b)(3) is amended by striking  
19           “20156(e)(2)” and inserting “20156(e)”.

20           (10) Section 20159 is amended by inserting “of  
21           Transportation” after “the Secretary”.

22           (11) Section 20160 is amended—

23               (A) in subsection (a)(1), by striking “or  
24                with respect to” and inserting “with respect  
25                to”;

1 (B) in subsection (b)(1), by striking “On a  
2 periodic basis beginning not” and inserting  
3 “Not”; and

4 (C) in subsection (b)(1)(A), by striking “or  
5 with respect to” and inserting “with respect  
6 to”.

7 (12) Section 20162(a)(3) is amended by strik-  
8 ing “railroad compliance with Federal standards”  
9 and inserting “railroad carrier compliance with Fed-  
10 eral standards”.

11 (13) Section 20164(a) is amended by striking  
12 “Railroad Safety Enhancement Act of 2008” and in-  
13 serting “Rail Safety Improvement Act of 2008”.

14 (14) Section 21102(e)(4) is amended by redesi-  
15 gnating subparagraphs (C) and (D) as subpara-  
16 graphs (B) and (C), respectively.

17 (15) Section 22106(b) is amended by striking  
18 “interest thereof” and inserting “interest thereon”.

19 (16) Section 24101(b) is amended by striking  
20 “subsection (d)” and inserting “subsection (e)”.

21 (17) Section 24316 is amended by striking sub-  
22 section (g).

23 (18) The item relating to section 24316 in the  
24 table of contents for chapter 243 is amended by  
25 striking “assist” and inserting “address needs of”.

1           (19) Section 24702(a) is amended by striking  
2           “not included in the national rail passenger trans-  
3           portation system”.

4           (20) Section 24706 is amended—

5                 (A) in subsection (a)(1), by striking “a dis-  
6                 continuance under section 24704 or or”;

7                 (B) in subsection (a)(2), by striking “sec-  
8                 tion 24704 or”; and

9                 (C) in subsection (b), by striking “section  
10                24704 or”.

11           (21) Section 24709 is amended by striking  
12           “The Secretary of the Treasury and the Attorney  
13           General,” and inserting “The Secretary of Home-  
14           land Security,”.

15 **SEC. 36502. CONDEMNATION AUTHORITY.**

16           Section 24311(c) is amended—

17                 (1) in paragraph (1), by striking “Interstate  
18                 Commerce Commission” and inserting “Surface  
19                 Transportation Board”;

20                 (2) in paragraph (2), by striking “Commis-  
21                 sion’s” and inserting “Board’s”; and

22                 (3) by striking “Commission” each place it ap-  
23                 pears and inserting “Board”.

1 **Subtitle F—Licensing and Insur-**  
2 **ance Requirements for Pas-**  
3 **senger Rail Carriers**

4 **SEC. 36601. CERTIFICATION OF PASSENGER RAIL CAR-**  
5 **RIERS.**

6 (a) Section 10901 is amended by adding at the end  
7 the following:

8 “(e) Not later than 2 years after the date of enact-  
9 ment of the National Rail System Preservation, Expans-  
10 sion, and Development Act of 2012, the Board shall estab-  
11 lish a certification process to authorize a person to provide  
12 passenger rail transportation over a railroad line that is  
13 subject to the jurisdiction of the Board, except that such  
14 certification shall not be required for or apply to a freight  
15 railroad providing or hosting passenger rail transportation  
16 over its own railroad line.

17 “(f) After the certification process is established  
18 under subsection (e), no person may provide passenger rail  
19 transportation over a railroad line subject to the jurisdic-  
20 tion of the Board unless the person is granted a certificate  
21 under subsection (e).

22 “(g) The certification process under subsection (e)  
23 shall—

1           “(1) permit a person to initiate a proceeding for  
2           a certificate by filing an application with the Board;  
3           and

4           “(2) require the Board to provide reasonable  
5           public notice that a proceeding was initiated, includ-  
6           ing notice to the Governor of any affected State, not  
7           later than 30 days after receipt of the application  
8           under paragraph (1).

9           “(h) The Board may grant a certificate under sub-  
10          section (e) if the Board determines after consultation with  
11          the Secretary of Transportation or the Secretary of Home-  
12          land Security, as appropriate, that the applicant—

13           “(1) has or will have in effect a voluntary  
14           agreement with the infrastructure owner over which  
15           the passenger rail transportation will be provided or  
16           contractual or statutory authority that provides for  
17           access to such infrastructure;

18           “(2) demonstrates sufficient financial capacity  
19           and operating experience to provide passenger rail  
20           transportation;

21           “(3) meets all applicable safety and security re-  
22           quirements under the law;

23           “(4) maintains a total minimum liability cov-  
24           erage for claims through insurance and self-insur-

1           ance of not less than the amount required by section  
2           28103(a)(2) per accident or incident; and

3           “(5) complies with any additional requirements  
4           the Board determines are appropriate, including re-  
5           porting requirements to ensure continued compliance  
6           with this section.

7           “(i) A certificate granted under subsection (e) shall  
8           specify the person to provide or authorized to provide pas-  
9           senger rail transportation, if different from the applicant.

10          “(j) The Board may promulgate regulations—

11           “(1) for determining the adequacy of liability  
12           insurance coverage, including self-insurance; and

13           “(2) for suspending or canceling a certificate if  
14           the person to provide or authorized to provide pas-  
15           senger rail transportation fails to comply with sub-  
16           section (h).

17          “(k) This section shall not apply to tourist, historical,  
18           or excursion passenger rail transportation or other rail  
19           carrier that has already obtained construction or operating  
20           authority from the Board.”.

21          (b) Section 24301(c) is amended by adding  
22           “10901(e),” after “sections” in the first sentence.

23          (c) Section 10501(c)(3)(A) is amended—

24           (1) in clause (ii), by striking “and”;

1           (2) in clause (iii), by striking the period at the  
2           end and inserting “ ; and”; and

3           (3) by adding at the end the following:

4                           “(iv) section 10901(e).”.

5           (d) Section 14901 is amended—

6           (1) by redesignating subsections (f) and (g) as  
7           subsections (g) and (h), respectively;

8           (2) by inserting after subsection (e) the fol-  
9           lowing:

10          “(f) CERTIFICATION REQUIRED.—A person shall be  
11          subject to a penalty of \$300 for each passenger trans-  
12          ported if the person—

13                   “(1) provides passenger rail transportation sub-  
14          ject to jurisdiction under section 10501(a); and

15                   “(2) does not hold a certificate required under  
16          section 10901(e).”; and

17                   (3) in subsection (g), as redesignated, by strik-  
18          ing “through (e)” and inserting “through (f)”.

19          (e) Section 10502(g) is amended to read as follows:

20          “(g) The Board may not exercise its authority under  
21          this section to relieve a rail carrier of its obligation to pro-  
22          tect the interests of employees as required by this part,  
23          or of the requirements of section 10901(g).”.



1 **TITLE VII—SPORT FISH RES-**  
2 **TORATION AND REC-**  
3 **REATIONAL BOATING SAFETY**  
4 **ACT OF 2012**

5 **SEC. 37001. SHORT TITLE.**

6 This title may be cited as the “Sport Fish Restora-  
7 tion and Recreational Boating Safety Act of 2012”.

8 **SEC. 37002. AMENDMENT OF FEDERAL AID IN SPORT FISH**  
9 **RESTORATION ACT.**

10 Section 4 of the Federal Aid in Fish Restoration Act  
11 (16 U.S.C. 777c) is amended—

12 (1) in subsection (a), by striking “of fiscal  
13 years 2006 through 2011 and for the period begin-  
14 ning on October 1, 2011, and ending on March 31,  
15 2012,” and inserting “fiscal year through 2013,”;  
16 and

17 (2) in subsection (b)(1)(A), by striking “of fis-  
18 cal years 2006 through 2011 and for the period be-  
19 ginning on October 1, 2011, and ending on March  
20 31, 2012,” and inserting “fiscal year through  
21 2013,”.

22 **SEC. 37003. AMENDMENT OF TRUST FUND CODE.**

23 Section 9504(d)(2) of the Internal Revenue Code of  
24 1986 is amended by striking “April 1, 2012” and insert-  
25 ing “October 1, 2013”.

1 **DIVISION D—FINANCE**

2 **SEC. 40001. SHORT TITLE; TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This division may be cited as the  
 4 “Highway Investment, Job Creation, and Economic  
 5 Growth Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
 7 this division is as follows:

DIVISION D—FINANCE

Sec. 40001. Short title; table of contents.

TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE  
 AUTHORITY AND RELATED TAXES

Sec. 40101. Extension of trust fund expenditure authority.

Sec. 40102. Extension of highway-related taxes.

TITLE II—OTHER PROVISIONS

Sec. 40201. Temporary increase in small issuer exception to tax-exempt inter-  
 est expense allocation rules for financial institutions.

Sec. 40202. Temporary modification of alternative minimum tax limitations on  
 tax-exempt bonds.

Sec. 40203. Issuance of TRIP bonds by State infrastructure banks.

Sec. 40204. Extension of parity for exclusion from income for employer-pro-  
 vided mass transit and parking benefits.

Sec. 40205. Exempt-facility bonds for sewage and water supply facilities.

TITLE III—REVENUE PROVISIONS

Sec. 40301. Transfer from Leaking Underground Storage Tank Trust Fund to  
 Highway Trust Fund.

Sec. 40302. Portion of Leaking Underground Storage Tank Trust Fund financ-  
 ing rate transferred to Highway Trust Fund.

Sec. 40303. Transfer of gas guzzler taxes to Highway Trust Fund.

Sec. 40304. Revocation or denial of passport in case of certain unpaid taxes.

Sec. 40305. 100 percent continuous levy on payments to Medicare providers  
 and suppliers.

Sec. 40306. Transfer of amounts attributable to certain duties on imported ve-  
 hicles into the Highway Trust Fund.

Sec. 40307. Treatment of securities of a controlled corporation exchanged for  
 assets in certain reorganizations.

Sec. 40308. Internal Revenue Service levies and Thrift Savings Plan Accounts.

Sec. 40309. Depreciation and amortization rules for highway and related prop-  
 erty subject to long-term leases.

Sec. 40310. Extension for transfers of excess pension assets to retiree health  
 accounts.

Sec. 40311. Transfer of excess pension assets to retiree group term life insurance accounts.

Sec. 40312. Pension funding stabilization.

1 **TITLE I—EXTENSION OF HIGH-**  
2 **WAY TRUST FUND EXPENDI-**  
3 **TURE AUTHORITY AND RE-**  
4 **LATED TAXES**

5 **SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AU-**  
6 **THORITY.**

7 (a) HIGHWAY TRUST FUND.—Section 9503 of the  
8 Internal Revenue Code of 1986 is amended—

9 (1) by striking “April 1, 2012” in subsections  
10 (b)(6)(B), (c)(1), and (e)(3) and inserting “October  
11 1, 2013”; and

12 (2) by striking “Surface Transportation Exten-  
13 sion Act of 2011, Part II” in subsections (c)(1) and  
14 (e)(3) and inserting “Moving Ahead for Progress in  
15 the 21st Century Act”.

16 (b) SPORT FISH RESTORATION AND BOATING TRUST  
17 FUND.—Section 9504 of the Internal Revenue Code of  
18 1986 is amended—

19 (1) by striking “Surface Transportation Exten-  
20 sion Act of 2011, Part II” each place it appears in  
21 subsection (b)(2) and inserting “Moving Ahead for  
22 Progress in the 21st Century Act”; and

23 (2) by striking “April 1, 2012” in subsection  
24 (d)(2) and inserting “October 1, 2013”.

1           (c) LEAKING UNDERGROUND STORAGE TANK TRUST  
2 FUND.—Paragraph (2) of section 9508(e) of the Internal  
3 Revenue Code of 1986 is amended by striking “April 1,  
4 2012” and inserting “October 1, 2013”.

5           (d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Sec-  
6 tion 9503 of the Internal Revenue Code of 1986 is amend-  
7 ed by adding at the end the following new subsection:

8           “(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

9                   “(1) CREATION OF ACCOUNT.—There is estab-  
10 lished in the Highway Trust Fund a separate ac-  
11 count to be known as the ‘Solvency Account’ con-  
12 sisting of such amounts as may be transferred or  
13 credited to the Solvency Account as provided in this  
14 section or section 9602(b).

15                   “(2) TRANSFERS TO SOLVENCY ACCOUNT.—  
16 The Secretary of the Treasury shall transfer to the  
17 Solvency Account the excess of—

18                           “(A) any amount appropriated to the  
19 Highway Trust Fund before October 1, 2013,  
20 by reason of the provisions of, and amendments  
21 made by, the Highway Investment, Job Cre-  
22 ation, and Economic Growth Act of 2012, over

23                           “(B) the amount necessary to meet the re-  
24 quired expenditures from the Highway Trust

1 Fund under subsection (c) for the period ending  
2 before October 1, 2013.

3 “(3) EXPENDITURES FROM ACCOUNT.—  
4 Amounts in the Solvency Account shall be available  
5 for transfers to the Highway Account (as defined in  
6 subsection (e)(5)(B)) and the Mass Transit Account  
7 in such amounts as determined necessary by the  
8 Secretary to ensure that each account has a surplus  
9 balance of \$2,800,000,000 on September 30, 2013.

10 “(4) TERMINATION OF ACCOUNT.—The Sol-  
11 vency Account shall terminate on September 30,  
12 2013, and the Secretary shall transfer any remain-  
13 ing balance in the Account on such date to the  
14 Highway Trust Fund.”.

15 (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on April 1, 2012.

17 **SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

18 (a) IN GENERAL.—

19 (1) Each of the following provisions of the In-  
20 ternal Revenue Code of 1986 is amended by striking  
21 “March 31, 2012” and inserting “September 30,  
22 2015”:

23 (A) Section 4041(a)(1)(C)(iii)(I).

24 (B) Section 4041(m)(1)(B).

25 (C) Section 4081(d)(1).

1           (2) Each of the following provisions of such  
2 Code is amended by striking “April 1, 2012” and in-  
3 sserting “October 1, 2015”:

4           (A) Section 4041(m)(1)(A).

5           (B) Section 4051(e).

6           (C) Section 4071(d).

7           (D) Section 4081(d)(3).

8           (b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN  
9 HEAVY VEHICLES.—Each of the following provisions of  
10 the Internal Revenue Code of 1986 is amended by striking  
11 “2012” and inserting “2015”:

12           (1) Section 4481(f).

13           (2) Subsections (c)(4) and (d) of section 4482.

14           (c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1)  
15 of the Internal Revenue Code of 1986 is amended—

16           (1) by striking “April 1, 2012” each place it  
17 appears and inserting “October 1, 2015”;

18           (2) by striking “September 30, 2012” each  
19 place it appears and inserting “March 31, 2016”;  
20 and

21           (3) by striking “July 1, 2012” and inserting  
22 “January 1, 2016”.

23           (d) EXTENSION OF CERTAIN EXEMPTIONS.—Sec-  
24 tions 4221(a) and 4483(i) of the Internal Revenue Code

1 of 1986 are each amended by striking “April 1, 2012”  
2 and inserting “October 1, 2015”.

3 (e) EXTENSION OF TRANSFERS OF CERTAIN  
4 TAXES.—

5 (1) IN GENERAL.—Section 9503 of the Internal  
6 Revenue Code of 1986 is amended—

7 (A) in subsection (b)—

8 (i) by striking “April 1, 2012” each  
9 place it appears in paragraphs (1) and (2)  
10 and inserting “October 1, 2015”;

11 (ii) by striking “APRIL 1, 2012” in the  
12 heading of paragraph (2) and inserting  
13 “OCTOBER 1, 2015”;

14 (iii) by striking “March 31, 2012” in  
15 paragraph (2) and inserting “September  
16 30, 2015”; and

17 (iv) by striking “January 1, 2013” in  
18 paragraph (2) and inserting “July 1,  
19 2016”; and

20 (B) in subsection (c)(2), by striking “Jan-  
21 uary 1, 2013” and inserting “July 1, 2016”.

22 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX  
23 TRANSFERS.—

24 (A) IN GENERAL.—Paragraphs (3)(A)(i)  
25 and (4)(A) of section 9503(c) of such Code are

1           each amended by striking “April 1, 2012” and  
2           inserting “October 1, 2015”.

3                   (B) CONFORMING AMENDMENTS TO LAND  
4           AND WATER CONSERVATION FUND.—Section  
5           201(b) of the Land and Water Conservation  
6           Fund Act of 1965 (16 U.S.C. 460l–11(b)) is  
7           amended—

8                   (i) by striking “April 1, 2013” each  
9                   place it appears and inserting “October 1,  
10                  2016”; and

11                  (ii) by striking “April 1, 2012” and  
12                  inserting “October 1, 2015”.

13           (f) EFFECTIVE DATE.—

14                   (1) IN GENERAL.—Except as provided in para-  
15           graph (2), the amendments made by this section  
16           shall take effect on April 1, 2012.

17                   (2) SUBSECTION (b)(2).—The amendment  
18           made by subsection (b)(2) shall apply to periods be-  
19           ginning after September 30, 2012.



1     **TITLE II—OTHER PROVISIONS**

2     **SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EX-**  
3                   **CEPTION TO TAX-EXEMPT INTEREST EX-**  
4                   **PENSE ALLOCATION RULES FOR FINANCIAL**  
5                   **INSTITUTIONS.**

6           (a) **IN GENERAL.**—Subparagraph (G) of section  
7 265(b)(3) of the Internal Revenue Code of 1986 is amend-  
8 ed—

9                   (1) by striking “2009 or 2010” in clause (i)  
10                   and inserting “2009, 2010, or 2012”,

11                   (2) by striking “2009 or 2010” each place it  
12                   appears in clauses (ii) and (iii) and inserting “2009,  
13                   2010, or the period beginning after the date of the  
14                   enactment of the Highway Investment, Job Cre-  
15                   ation, and Economic Growth Act of 2012 and before  
16                   January 1, 2013”, and

17                   (3) by striking “2009 AND 2010” in the heading  
18                   and inserting “2009, 2010, AND 2012”.

19           (b) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall apply to obligations issued after the date  
21 of the enactment of this Act.

1 **SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE**  
2 **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**  
3 **BONDS.**

4 (a) INTEREST ON PRIVATE ACTIVITY BONDS NOT  
5 TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of  
6 section 57(a)(5)(C) of the Internal Revenue Code of 1986  
7 is amended—

8 (1) in subclause (I) by inserting “, or after the  
9 date of enactment of the Highway Investment, Job  
10 Creation, and Economic Growth Act of 2012 and be-  
11 fore January 1, 2013” after “January 1, 2011”;

12 (2) in subclause (III) by inserting “before Jan-  
13 uary 1, 2011” after “which is issued”; and

14 (3) by striking “AND 2010” in the heading and  
15 inserting “, 2010, AND PORTIONS OF 2012”.

16 (b) NO ADJUSTMENT TO ADJUSTED CURRENT  
17 EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the In-  
18 ternal Revenue Code of 1986 is amended—

19 (1) in subclause (I) by inserting “, or after the  
20 date of enactment of the Highway Investment, Job  
21 Creation, and Economic Growth Act of 2012 and be-  
22 fore January 1, 2013” after “January 1, 2011”;

23 (2) in subclause (III) by inserting “before Jan-  
24 uary 1, 2011” after “which is issued”; and

25 (3) by striking “AND 2010” in the heading and  
26 inserting “, 2010, AND PORTIONS OF 2012”.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued after the date  
3 of enactment of this Act.

4 **SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRA-**  
5 **STRUCTURE BANKS.**

6           Section 610(d) of title 23, United States Code, is  
7 amended—

8           (1) by redesignating paragraphs (4), (5), and  
9           (6) as paragraphs (5), (6), and (7), respectively,

10           (2) by inserting after paragraph (3) the fol-  
11           lowing new paragraph:

12           “(4) TRIP BOND ACCOUNT.—

13           “(A) IN GENERAL.—A State, through a  
14           State infrastructure bank, may issue TRIP  
15           bonds and deposit proceeds from such issuance  
16           into the TRIP bond account of the bank.

17           “(B) TRIP BOND.—For purposes of this  
18           section, the term ‘TRIP bond’ means any bond  
19           issued as part of an issue if—

20           “(i) 100 percent of the available  
21           project proceeds of such issue are to be  
22           used for expenditures incurred after the  
23           date of the enactment of this paragraph  
24           for 1 or more qualified projects pursuant  
25           to an allocation of such proceeds to such

1 project or projects by a State infrastruc-  
2 ture bank,

3 “(ii) the bond is issued by a State in-  
4 frastructure bank and is in registered form  
5 (within the meaning of section 149(a) of  
6 the Internal Revenue Code of 1986),

7 “(iii) the State infrastructure bank  
8 designates such bond for purposes of this  
9 section, and

10 “(iv) the term of each bond which is  
11 part of such issue does not exceed 30  
12 years.

13 “(C) QUALIFIED PROJECT.—For purposes  
14 of this subparagraph, the term ‘qualified  
15 project’ means the capital improvements to any  
16 transportation infrastructure project of any  
17 governmental unit or other person, including  
18 roads, bridges, rail and transit systems, ports,  
19 and inland waterways proposed and approved  
20 by a State infrastructure bank, but does not in-  
21 clude costs of operations or maintenance with  
22 respect to such project.”,

23 (3) by adding at the end of paragraph (5), as  
24 redesignated by paragraph (1), the following new  
25 subparagraph:

1           “(D) TRIP BOND ACCOUNT.—Funds de-  
2           posited into the TRIP bond account shall con-  
3           stitute for purposes of this section a capitaliza-  
4           tion grant for the TRIP bond account of the  
5           bank.”, and

6           (4) by adding at the end the following new  
7           paragraph:

8           “(8) SPECIAL RULES FOR TRIP BOND ACCOUNT  
9           FUNDS.—

10           “(A) IN GENERAL.—The State shall de-  
11           velop a transparent competitive process for the  
12           award of funds deposited into the TRIP bond  
13           account that considers the impact of qualified  
14           projects on the economy, the environment, state  
15           of good repair, and equity.

16           “(B) APPLICABILITY OF FEDERAL LAW.—  
17           The requirements of any Federal law, including  
18           this title and titles 40 and 49, which would oth-  
19           erwise apply to projects to which the United  
20           States is a party or to funds made available  
21           under such law and projects assisted with those  
22           funds shall apply to—

23           “(i) funds made available under the  
24           TRIP bond account for similar qualified  
25           projects, and

1                   “(ii) similar qualified projects assisted  
2                   through the use of such funds.”.

3 **SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM**  
4 **INCOME FOR EMPLOYER-PROVIDED MASS**  
5 **TRANSIT AND PARKING BENEFITS.**

6           (a) IN GENERAL.—Paragraph (2) of section 132(f)  
7 of the Internal Revenue Code of 1986 is amended by strik-  
8 ing “January 1, 2012” and inserting “January 1, 2013”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to months after December 31,  
11 2011.

12 **SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND**  
13 **WATER SUPPLY FACILITIES.**

14           (a) BONDS FOR WATER AND SEWAGE FACILITIES  
15 TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE  
16 ACTIVITY BONDS.—Subsection (g) of section 146 of the  
17 Internal Revenue Code of 1986 is amended—

18                   (1) by striking “and” at the end of paragraph

19                   (3),

20                   (2) by striking the period at the end of para-  
21 graph (4) and inserting “, and”, and

22                   (3) by inserting after paragraph (4) the fol-  
23 lowing new paragraph:

1           “(5) any exempt facility bonds issued before  
2           January 1, 2018, as part of an issue described in  
3           paragraph (4) or (5) of section 142(a).”.

4           (b) CONFORMING CHANGE.—Paragraphs (2) and  
5           (3)(B) of section 146(k) of the Internal Revenue Code of  
6           1986 are both amended by striking “paragraph (4), (5),  
7           (6), or (10) of section 142(a)” and inserting “paragraph  
8           (4) or (5) of section 142(a) with respect to bonds issued  
9           after December 31, 2017, or paragraph (6) or (10) of sec-  
10          tion 142(a)”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12          this section shall apply to obligations issued after the date  
13          of the enactment of this Act.

14                                   **TITLE III—REVENUE**  
15                                   **PROVISIONS**

16          **SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND**  
17                                   **STORAGE TANK TRUST FUND TO HIGHWAY**  
18                                   **TRUST FUND.**

19          (a) IN GENERAL.—Subsection (c) of section 9508 of  
20          the Internal Revenue Code of 1986 is amended—

21                                   (1) by striking “Amounts” and inserting:

22                                   “(1) IN GENERAL.—Except as provided in para-  
23                                   graph (2), amounts”, and

24                                   (2) by adding at the end the following new  
25                                   paragraph:

1           “(2) TRANSFER TO HIGHWAY TRUST FUND.—  
2           Out of amounts in the Leaking Underground Stor-  
3           age Tank Trust Fund there is hereby appropriated  
4           \$3,000,000,000 to be transferred under section  
5           9503(f)(3) to the Highway Trust Fund.”.

6           (b) TRANSFER TO HIGHWAY TRUST FUND.—

7           (1) IN GENERAL.—Subsection (f) of section  
8           9503 of the Internal Revenue Code of 1986 is  
9           amended by inserting after paragraph (2) the fol-  
10          lowing new paragraph:

11          “(3) INCREASE IN FUND BALANCE.—There is  
12          hereby transferred to the Highway Trust Fund  
13          amounts appropriated from the Leaking Under-  
14          ground Storage Tank Trust Fund under section  
15          9508(c)(2).”.

16          (2) CONFORMING AMENDMENTS.—Paragraph  
17          (4) of section 9503(f) of such Code is amended—

18                 (A) by inserting “or transferred” after  
19                 “appropriated”, and

20                 (B) by striking “APPROPRIATED” in the  
21                 heading thereof.



1 **SEC. 40302. PORTION OF LEAKING UNDERGROUND STOR-**  
2 **AGE TANK TRUST FUND FINANCING RATE**  
3 **TRANSFERRED TO HIGHWAY TRUST FUND.**

4 (a) IN GENERAL.—Subsection (b) of section 9503 of  
5 the Internal Revenue Code of 1986 is amended by insert-  
6 ing after paragraph (2) the following new paragraph:

7 “(3) PORTION OF LEAKING UNDERGROUND  
8 STORAGE TANK TRUST FUND FINANCING RATE.—  
9 There are hereby appropriated to the Highway Trust  
10 Fund amounts equivalent to one-third of the taxes  
11 received in the Treasury under—

12 “(A) section 4041(d) (relating to addi-  
13 tional taxes on motor fuels),

14 “(B) section 4081 (relating to tax on gaso-  
15 line, diesel fuel, and kerosene) to the extent at-  
16 tributable to the Leaking Underground Storage  
17 Tank Trust Fund financing rate under such  
18 section, and

19 “(C) section 4042 (relating to tax on fuel  
20 used in commercial transportation on inland  
21 waterways) to the extent attributable to the  
22 Leaking Underground Storage Tank Trust  
23 Fund financing rate under such section.

24 For purposes of this paragraph, there shall not be  
25 taken into account the taxes imposed by sections

1 4041 and 4081 on diesel fuel sold for use or used  
2 as fuel in a diesel-powered boat.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraphs (1), (2), and (3) of section  
5 9508(b) of the Internal Revenue Code of 1986 are  
6 each amended by inserting “two-thirds of the” be-  
7 fore “taxes”.

8 (2) Paragraph (4) of section 9503(b) of such  
9 Code is amended by striking subparagraphs (A) and  
10 (B) and by redesignating subparagraphs (C) and  
11 (D) as subparagraphs (A) and (B), respectively.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxes received after the date  
14 of the enactment of this Act.

15 **SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGH-**  
16 **WAY TRUST FUND.**

17 (a) IN GENERAL.—Paragraph (1) of section 9503(b)  
18 of the Internal Revenue Code of 1986 is amended by re-  
19 designating subparagraphs (C), (D), and (E) as subpara-  
20 graphs (D), (E), and (F), respectively, and by inserting  
21 after subparagraph (B) the following new subparagraph:

22 “(B) section 4064 (relating to gas guzzler  
23 tax),”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxes received after the date  
3 of the enactment of this Act.

4 **SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE**  
5 **OF CERTAIN UNPAID TAXES.**

6 (a) IN GENERAL.—Subchapter D of chapter 75 of the  
7 Internal Revenue Code of 1986 is amended by adding at  
8 the end the following new section:

9 **“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE**  
10 **OF CERTAIN TAX DELINQUENCIES.**

11 “(a) IN GENERAL.—If the Secretary receives certifi-  
12 cation by the Commissioner of Internal Revenue that any  
13 individual has a seriously delinquent tax debt in an  
14 amount in excess of \$50,000, the Secretary shall transmit  
15 such certification to the Secretary of State for action with  
16 respect to denial, revocation, or limitation of a passport  
17 pursuant to section 4 of the Act entitled ‘An Act to regu-  
18 late the issue and validity of passports, and for other pur-  
19 poses’, approved July 3, 1926 (22 U.S.C. 211a et seq.),  
20 commonly known as the ‘Passport Act of 1926’.

21 “(b) SERIOUSLY DELINQUENT TAX DEBT.—For pur-  
22 poses of this section, the term ‘seriously delinquent tax  
23 debt’ means an outstanding debt under this title for which  
24 a notice of lien has been filed in public records pursuant

1 to section 6323 or a notice of levy has been filed pursuant  
2 to section 6331, except that such term does not include—

3 “(1) a debt that is being paid in a timely man-  
4 ner pursuant to an agreement under section 6159 or  
5 7122, and

6 “(2) a debt with respect to which collection is  
7 suspended because a collection due process hearing  
8 under section 6330, or relief under subsection (b),  
9 (c), or (f) of section 6015, is requested or pending.

10 “(c) ADJUSTMENT FOR INFLATION.—In the case of  
11 a calendar year beginning after 2012, the dollar amount  
12 in subsection (a) shall be increased by an amount equal  
13 to—

14 “(1) such dollar amount, multiplied by

15 “(2) the cost-of-living adjustment determined  
16 under section 1(f)(3) for the calendar year, deter-  
17 mined by substituting ‘calendar year 2011’ for ‘cal-  
18 endar year 1992’ in subparagraph (B) thereof.

19 If any amount as adjusted under the preceding sentence  
20 is not a multiple of \$1,000, such amount shall be rounded  
21 to the next highest multiple of \$1,000.”.

22 (b) CLERICAL AMENDMENT.—The table of sections  
23 for subchapter D of chapter 75 of the Internal Revenue  
24 Code of 1986 is amended by adding at the end the fol-  
25 lowing new item:

“Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.”.

1 (c) AUTHORITY FOR INFORMATION SHARING.—

2 (1) IN GENERAL.—Subsection (1) of section  
3 6103 of the Internal Revenue Code of 1986 is  
4 amended by adding at the end the following new  
5 paragraph:

6 “(23) DISCLOSURE OF RETURN INFORMATION  
7 TO DEPARTMENT OF STATE FOR PURPOSES OF PASS-  
8 PORT REVOCATION UNDER SECTION 7345.—

9 “(A) IN GENERAL.—The Secretary shall,  
10 upon receiving a certification described in sec-  
11 tion 7345, disclose to the Secretary of State re-  
12 turn information with respect to a taxpayer who  
13 has a seriously delinquent tax debt described in  
14 such section. Such return information shall be  
15 limited to—

16 “(i) the taxpayer identity information  
17 with respect to such taxpayer, and

18 “(ii) the amount of such seriously de-  
19 linquent tax debt.

20 “(B) RESTRICTION ON DISCLOSURE.—Re-  
21 turn information disclosed under subparagraph  
22 (A) may be used by officers and employees of  
23 the Department of State for the purposes of,  
24 and to the extent necessary in, carrying out the

1 requirements of section 4 of the Act entitled  
2 ‘An Act to regulate the issue and validity of  
3 passports, and for other purposes’, approved  
4 July 3, 1926 (22 U.S.C. 211a et seq.), com-  
5 monly known as the ‘Passport Act of 1926’.”.

6 (2) CONFORMING AMENDMENT.—Paragraph (4)  
7 of section 6103(p) of such Code is amended by strik-  
8 ing “or (22)” each place it appears in subparagraph  
9 (F)(ii) and in the matter preceding subparagraph  
10 (A) and inserting “(22), or (23)”.

11 (d) REVOCATION AUTHORIZATION.—The Act entitled  
12 “An Act to regulate the issue and validity of passports,  
13 and for other purposes”, approved July 3, 1926 (22  
14 U.S.C. 211a et seq.), commonly known as the “Passport  
15 Act of 1926”, is amended by adding at the end the fol-  
16 lowing:

17 **“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

18 “(a) INELIGIBILITY.—

19 “(1) ISSUANCE.—Except as provided under  
20 subsection (b), upon receiving a certification de-  
21 scribed in section 7345 of the Internal Revenue  
22 Code of 1986 from the Secretary of the Treasury,  
23 the Secretary of State may not issue a passport or  
24 passport card to any individual who has a seriously  
25 delinquent tax debt described in such section.

1           “(2) REVOCATION.—The Secretary of State  
2 shall revoke a passport or passport card previously  
3 issued to any individual described in subparagraph  
4 (A).

5           “(b) EXCEPTIONS.—

6           “(1) EMERGENCY AND HUMANITARIAN SITUA-  
7 TIONS.—Notwithstanding subsection (a), the Sec-  
8 retary of State may issue a passport or passport  
9 card, in emergency circumstances or for humani-  
10 tarian reasons, to an individual described in sub-  
11 section (a)(1).

12           “(2) LIMITATION FOR RETURN TO UNITED  
13 STATES.—Notwithstanding subsection (a)(2), the  
14 Secretary of State, before revocation, may—

15           “(A) limit a previously issued passport or  
16 passport card only for return travel to the  
17 United States; or

18           “(B) issue a limited passport or passport  
19 card that only permits return travel to the  
20 United States.”.

21           “(e) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on January 1, 2013.

1 **SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS**  
2 **TO MEDICARE PROVIDERS AND SUPPLIERS.**

3 (a) **IN GENERAL.**—Paragraph (3) of section 6331(h)  
4 of the Internal Revenue Code of 1986 is amended by strik-  
5 ing the period at the end and inserting “, or to a Medicare  
6 provider or supplier under title XVIII of the Social Secu-  
7 rity Act.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall apply to payments made after the date  
10 of the enactment of this Act.

11 **SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO**  
12 **CERTAIN DUTIES ON IMPORTED VEHICLES**  
13 **INTO THE HIGHWAY TRUST FUND.**

14 Section 9503(b) of the Internal Revenue Code of  
15 1986, as amended by this Act, is amended by adding at  
16 the end the following new paragraph:

17 “(8) **CERTAIN DUTIES ON IMPORTED VEHI-**  
18 **CLES.**—There are hereby appropriated to the High-  
19 way Trust Fund amounts equivalent to the amounts  
20 received in the Treasury that are attributable to du-  
21 ties collected on or after October 1, 2011, and before  
22 October 1, 2016, on articles classified under sub-  
23 heading 8703.22.00 or 8703.24.00 of the Har-  
24 monized Tariff Schedule of the United States.”.



1 **SEC. 40307. TREATMENT OF SECURITIES OF A CON-**  
2 **TROLLED CORPORATION EXCHANGED FOR**  
3 **ASSETS IN CERTAIN REORGANIZATIONS.**

4 (a) IN GENERAL.—Section 361 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING  
8 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-  
9 nization described in section 368(a)(1)(D) with respect to  
10 which stock or securities of the corporation to which the  
11 assets are transferred are distributed in a transaction  
12 which qualifies under section 355—

13 “(1) this section shall be applied by substituting  
14 ‘stock other than nonqualified preferred stock (as  
15 defined in section 351(g)(2))’ for ‘stock or securities’  
16 in subsections (a) and (b)(1), and

17 “(2) the first sentence of subsection (b)(3) shall  
18 apply only to the extent that the sum of the money  
19 and the fair market value of the other property  
20 transferred to such creditors does not exceed the ad-  
21 justed bases of such assets transferred (reduced by  
22 the amount of the liabilities assumed (within the  
23 meaning of section 357(c))).”.

24 (b) CONFORMING AMENDMENT.—Paragraph (3) of  
25 section 361(b) is amended by striking the last sentence.

26 (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in para-  
2 graph (2), the amendments made by this section  
3 shall apply to exchanges after the date of the enact-  
4 ment of this Act.

5           (2) TRANSITION RULE.—The amendments  
6 made by this section shall not apply to any exchange  
7 pursuant to a transaction which is—

8                   (A) made pursuant to a written agreement  
9 which was binding on February 6, 2012, and at  
10 all times thereafter;

11                   (B) described in a ruling request submitted  
12 to the Internal Revenue Service on or before  
13 February 6, 2012; or

14                   (C) described on or before February 6,  
15 2012, in a public announcement or in a filing  
16 with the Securities and Exchange Commission.

17 **SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND**  
18 **THRIFT SAVINGS PLAN ACCOUNTS.**

19           Section 8437(e)(3) of title 5, United States Code, is  
20 amended by inserting “, the enforcement of a Federal tax  
21 levy as provided in section 6331 of the Internal Revenue  
22 Code of 1986,” after “(42 U.S.C. 659)”.

1 **SEC. 40309. DEPRECIATION AND AMORTIZATION RULES**  
2 **FOR HIGHWAY AND RELATED PROPERTY**  
3 **SUBJECT TO LONG-TERM LEASES.**

4 (a) ACCELERATED COST RECOVERY.—

5 (1) IN GENERAL.—Section 168(g)(1) of the In-  
6 ternal Revenue Code of 1986 is amended by striking  
7 “and” at the end of subparagraph (D), by redesignig-  
8 nating subparagraph (E) as subparagraph (F), and  
9 by inserting after subparagraph (D) the following  
10 new subparagraph:

11 “(E) any applicable leased highway prop-  
12 erty.”.

13 (2) RECOVERY PERIOD.—The table contained in  
14 subparagraph (C) of section 168(g)(2) of such Code  
15 is amended by redesignating clause (iv) as clause (v)  
16 and by inserting after clause (iii) the following new  
17 clause:

“(iv) Applicable leased highway property ..... 45 years.”.

18 (3) APPLICABLE LEASED HIGHWAY PROPERTY  
19 DEFINED.—

20 (A) IN GENERAL.—Section 168(g) of such  
21 Code is amended by redesignating paragraph  
22 (7) as paragraph (8) and by inserting after  
23 paragraph (6) the following new paragraph:



1                   lating to the operation of such high-  
2                   way.”.

3                   (B) CONFORMING AMENDMENT.—Subpara-  
4                   graph (F) of section 168(g)(1) (as redesignated  
5                   by subsection (a)(1)) is amended by striking  
6                   “paragraph (7)” and inserting “paragraph  
7                   (8)”.

8                   (b) AMORTIZATION OF INTANGIBLES.—Section  
9                   197(f) of the Internal Revenue Code of 1986 is amended  
10                  by adding at the end the following new paragraph:

11                  “(11) INTANGIBLES RELATING TO APPLICABLE  
12                  LEASED HIGHWAY PROPERTY.—In the case of any  
13                  amortizable section 197 intangible property which is  
14                  acquired in connection with an applicable lease (as  
15                  defined in section 168(g)(7)(B)), the amortization  
16                  period under this section shall not be less than the  
17                  term of the applicable lease. For purposes of the  
18                  preceding sentence, rules similar to the rules of sec-  
19                  tion 168(i)(3)(A) shall apply in determining the  
20                  term of the applicable lease.”.

21                  (c) NO PRIVATE ACTIVITY BOND FINANCING OF AP-  
22                  PLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e)  
23                  of the Internal Revenue Code of 1986 is amended by in-  
24                  serting “, or to finance any applicable leased highway

1 property (as defined in section 168(g)(7)(A))” after  
2 “premises”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), the amendments made by this section  
6 shall apply to leases entered into after the date of  
7 the enactment of this Act.

8 (2) NO PRIVATE ACTIVITY BOND FINANCING.—

9 The amendment made by subsection (c) shall apply  
10 to bonds issued after the date of the enactment of  
11 this Act.

12 **SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PEN-**  
13 **SION ASSETS TO RETIREE HEALTH AC-**  
14 **COUNTS.**

15 (a) IN GENERAL.—Paragraph (5) of section 420(b)  
16 of the Internal Revenue Code of 1986 is amended by strik-  
17 ing “December 31, 2013” and inserting “December 31,  
18 2021”.

19 (b) CONFORMING ERISA AMENDMENTS.—

20 (1) Sections 101(e)(3), 403(c)(1), and  
21 408(b)(13) of the Employee Retirement Income Se-  
22 curity Act of 1974 are each amended by striking  
23 “Pension Protection Act of 2006” and inserting  
24 “Highway Investment, Job Creation, and Economic  
25 Growth Act of 2012”.

1           (2) Section 408(b)(13) of such Act (29 U.S.C.  
2           1108(b)(13)) is amended by striking “January 1,  
3           2014” and inserting “January 1, 2022”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this Act shall take effect on the date of the enactment  
6 of this Act.

7   **SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RE-**  
8                           **TIREE GROUP TERM LIFE INSURANCE AC-**  
9                           **COUNTS.**

10          (a) IN GENERAL.—Subsection (a) of section 420 of  
11 the Internal Revenue Code of 1986 is amended by insert-  
12 ing “, or an applicable life insurance account,” after  
13 “health benefits account”.

14          (b) APPLICABLE LIFE INSURANCE ACCOUNT DE-  
15 FINED.—

16           (1) IN GENERAL.—Subsection (e) of section  
17 420 of the Internal Revenue Code of 1986 is amend-  
18 ed by redesignating paragraphs (4) and (5) as para-  
19 graphs (5) and (6), respectively, and by inserting  
20 after paragraph (3) the following new paragraph:

21           “(4) APPLICABLE LIFE INSURANCE AC-  
22 COUNT.—The term ‘applicable life insurance ac-  
23 count’ means a separate account established and  
24 maintained for amounts transferred under this sec-

1           tion for qualified current retiree liabilities based on  
2           premiums for applicable life insurance benefits.”.

3           (2) APPLICABLE LIFE INSURANCE BENEFITS  
4           DEFINED.—Paragraph (1) of section 420(e) of such  
5           Code is amended by redesignating subparagraph (D)  
6           as subparagraph (E) and by inserting after subpara-  
7           graph (C) the following new subparagraph:

8                   “(D) APPLICABLE LIFE INSURANCE BENE-  
9                   FITS.—The term ‘applicable life insurance bene-  
10                   fits’ means group-term life insurance coverage  
11                   provided to retired employees who, immediately  
12                   before the qualified transfer, are entitled to re-  
13                   ceive such coverage by reason of retirement and  
14                   who are entitled to pension benefits under the  
15                   plan, but only to the extent that such coverage  
16                   is provided under a policy for retired employees  
17                   and the cost of such coverage is excludable from  
18                   the retired employee’s gross income under sec-  
19                   tion 79.”.

20           (3) COLLECTIVELY BARGAINED LIFE INSUR-  
21           ANCE BENEFITS DEFINED.—

22                   (A) IN GENERAL.—Paragraph (6) of sec-  
23                   tion 420(f) of such Code is amended by redesign-  
24                   nating subparagraph (D) as subparagraph (E)



1 and by inserting after subparagraph (C) the fol-  
2 lowing new subparagraph:

3 “(D) COLLECTIVELY BARGAINED LIFE IN-  
4 SURANCE BENEFITS.—The term ‘collectively  
5 bargained life insurance benefits’ means, with  
6 respect to any collectively bargained transfer—

7 “(i) applicable life insurance benefits  
8 which are provided to retired employees  
9 who, immediately before the transfer, are  
10 entitled to receive such benefits by reason  
11 of retirement, and

12 “(ii) if specified by the provisions of  
13 the collective bargaining agreement gov-  
14 erning the transfer, applicable life insur-  
15 ance benefits which will be provided at re-  
16 tirement to employees who are not retired  
17 employees at the time of the transfer.”.

18 (B) CONFORMING AMENDMENTS.—

19 (i) Clause (i) of section 420(e)(1)(C)  
20 of such Code is amended by striking “upon  
21 retirement” and inserting “by reason of re-  
22 tirement”.

23 (ii) Subparagraph (C) of section  
24 420(f)(6) of such Code is amended—

1 (I) by striking “which are pro-  
2 vided to” in the matter preceding  
3 clause (i),

4 (II) by inserting “which are pro-  
5 vided to” before “retired employees”  
6 in clause (i),

7 (III) by striking “upon retire-  
8 ment” in clause (i) and inserting “by  
9 reason of retirement”, and

10 (IV) by striking “active employ-  
11 ees who, following their retirement,”  
12 and inserting “which will be provided  
13 at retirement to employees who are  
14 not retired employees at the time of  
15 the transfer and who”.

16 (c) MAINTENANCE OF EFFORT.—

17 (1) IN GENERAL.—Subparagraph (A) of section  
18 420(c)(3) of the Internal Revenue Code of 1986 is  
19 amended by inserting “, and each group-term life in-  
20 surance plan under which applicable life insurance  
21 benefits are provided,” after “health benefits are  
22 provided”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Subparagraph (B) of section 420(c)(3)  
25 of such Code is amended—

1 (i) by redesignating subclauses (I) and  
2 (II) of clause (i) as subclauses (II) and  
3 (III) of such clause, respectively, and by  
4 inserting before subclause (II) of such  
5 clause, as so redesignated, the following  
6 new subclause:

7 “(I) separately with respect to  
8 applicable health benefits and applica-  
9 ble life insurance benefits,” and

10 (ii) by striking “for applicable health  
11 benefits” and all that follows in clause (ii)  
12 and inserting “was provided during such  
13 taxable year for the benefits with respect  
14 to which the determination under clause (i)  
15 is made.”.

16 (B) Subparagraph (C) of section 420(c)(3)  
17 of such Code is amended—

18 (i) by inserting “for applicable health  
19 benefits” after “applied separately”, and

20 (ii) by inserting “, and separately for  
21 applicable life insurance benefits with re-  
22 spect to individuals age 65 or older at any  
23 time during the taxable year and with re-  
24 spect to individuals under age 65 during  
25 the taxable year” before the period.

1 (C) Subparagraph (E) of section 420(e)(3)  
2 of such Code is amended—

3 (i) in clause (i), by inserting “or re-  
4 tiree life insurance coverage, as the case  
5 may be,” after “retiree health coverage”,  
6 and

7 (ii) in clause (ii), by inserting “FOR  
8 RETIREE HEALTH COVERAGE” after “COST  
9 REDUCTIONS” in the heading thereof, and

10 (iii) in clause (ii)(II), by inserting  
11 “with respect to applicable health benefits”  
12 after “liabilities of the employer”.

13 (D) Paragraph (2) of section 420(f) of  
14 such Code is amended by striking “collectively  
15 bargained retiree health liabilities” each place it  
16 occurs and inserting “collectively bargained re-  
17 tiree liabilities”.

18 (E) Clause (i) of section 420(f)(2)(D) of  
19 such Code is amended—

20 (i) by inserting “, and each group-  
21 term life insurance plan or arrangement  
22 under which applicable life insurance bene-  
23 fits are provided,” in subclause (I) after  
24 “applicable health benefits are provided”,

1                   (ii) by inserting “or applicable life in-  
2                   surance benefits, as the case may be,” in  
3                   subclause (I) after “provides applicable  
4                   health benefits”,

5                   (iii) by striking “group health” in  
6                   subclause (II), and

7                   (iv) by inserting “or collectively bar-  
8                   gained life insurance benefits” in subclause  
9                   (II) after “collectively bargained health  
10                  benefits”.

11                  (F) Clause (ii) of section 420(f)(2)(D) of  
12                  such Code is amended—

13                   (i) by inserting “with respect to appli-  
14                   cable health benefits or applicable life in-  
15                   surance benefits” after “requirements of  
16                   subsection (c)(3)”, and

17                   (ii) by adding at the end the fol-  
18                   lowing: “Such election may be made sepa-  
19                   rately with respect to applicable health  
20                   benefits and applicable life insurance bene-  
21                   fits. In the case of an election with respect  
22                   to applicable life insurance benefits, the  
23                   first sentence of this clause shall be ap-  
24                   plied as if subsection (c)(3) as in effect be-

1           fore the amendments made by such Act  
2           applied to such benefits.”

3           (G) Clause (iii) of section 420(f)(2)(D) of  
4           such Code is amended—

5                 (i) by striking “retiree” each place it  
6                 occurs, and

7                 (ii) by inserting “, collectively bar-  
8                 gained life insurance benefits, or both, as  
9                 the case may be,” after “health benefits”  
10                each place it occurs.

11           (d) COORDINATION WITH SECTION 79.—Section 79  
12           of the Internal Revenue Code of 1986 is amended by add-  
13           ing at the end the following new subsection:

14               “(f) EXCEPTION FOR LIFE INSURANCE PURCHASED  
15               IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS  
16               PENSION ASSETS.—Subsection (b)(3) and section  
17               72(m)(3) shall not apply in the case of any cost paid  
18               (whether directly or indirectly) with assets held in an ap-  
19               plicable life insurance account (as defined in section  
20               420(e)(4)) under a defined benefit plan.”.

21           (e) CONFORMING AMENDMENTS.—

22               (1) Section 420 of the Internal Revenue Code  
23               of 1986 is amended by striking “qualified current  
24               retiree health liabilities” each place it appears and  
25               inserting “qualified current retiree liabilities”.

1           (2) Section 420 of such Code is amended by in-  
2           serting “, or an applicable life insurance account,”  
3           after “a health benefits account” each place it ap-  
4           pears in subsection (b)(1)(A), subparagraphs (A),  
5           (B)(i), and (C) of subsection (c)(1), subsection  
6           (d)(1)(A), and subsection (f)(2)(E)(ii).

7           (3) Section 420(b) of such Code is amended—

8                   (A) by adding the following at the end of  
9                   paragraph (2)(A): “If there is a transfer from  
10                   a defined benefit plan to both a health benefits  
11                   account and an applicable life insurance ac-  
12                   count during any taxable year, such transfers  
13                   shall be treated as 1 transfer for purposes of  
14                   this paragraph.”, and

15                   (B) by inserting “to an account” after  
16                   “may be transferred” in paragraph (3).

17           (4) The heading for section 420(c)(1)(B) of  
18           such Code is amended by inserting “OR LIFE INSUR-  
19           ANCE” after “HEALTH BENEFITS”.

20           (5) Paragraph (1) of section 420(e) of such  
21           Code is amended—

22                   (A) by inserting “and applicable life insur-  
23                   ance benefits” in subparagraph (A) after “ap-  
24                   plicable health benefits”, and

1 (B) by striking “HEALTH” in the heading  
2 thereof.

3 (6) Subparagraph (B) of section 420(e)(1) of  
4 such Code is amended—

5 (A) in the matter preceding clause (i), by  
6 inserting “(determined separately for applicable  
7 health benefits and applicable life insurance  
8 benefits)” after “shall be reduced by the  
9 amount”,

10 (B) in clause (i), by inserting “or applica-  
11 ble life insurance accounts” after “health ben-  
12 efit accounts”, and

13 (C) in clause (i), by striking “qualified cur-  
14 rent retiree health liability” and inserting  
15 “qualified current retiree liability”.

16 (7) The heading for subsection (f) of section  
17 420 of such Code is amended by striking “HEALTH”  
18 each place it occurs.

19 (8) Subclause (II) of section 420(f)(2)(B)(ii) of  
20 such Code is amended by inserting “or applicable  
21 life insurance account, as the case may be,” after  
22 “health benefits account”.

23 (9) Subclause (III) of section 420(f)(2)(E)(i) of  
24 such Code is amended—



1 (A) by inserting “defined benefit” before  
2 “plan maintained by an employer”, and

3 (B) by inserting “health” before “benefit  
4 plans maintained by the employer”.

5 (10) Paragraphs (4) and (6) of section 420(f)  
6 of such Code are each amended by striking “collec-  
7 tively bargained retiree health liabilities” each place  
8 it occurs and inserting “collectively bargained retiree  
9 liabilities”.

10 (11) Subparagraph (A) of section 420(f)(6) of  
11 such Code is amended—

12 (A) in clauses (i) and (ii), by inserting “,  
13 in the case of a transfer to a health benefits ac-  
14 count,” before “his covered spouse and depend-  
15 ents”, and

16 (B) in clause (ii), by striking “health plan”  
17 and inserting “plan”.

18 (12) Subparagraph (B) of section 420(f)(6) of  
19 such Code is amended—

20 (A) in clause (i), by inserting “, and collec-  
21 tively bargained life insurance benefits,” after  
22 “collectively bargained health benefits”,

23 (B) in clause (ii)—

24 (i) by adding at the end the following:

25 “The preceding sentence shall be applied

1                   separately for collectively bargained health  
2                   benefits and collectively bargained life in-  
3                   surance benefits.”, and

4                   (ii) by inserting “, applicable life in-  
5                   surance accounts,” after “health benefit  
6                   accounts”, and

7                   (C) by striking “HEALTH” in the heading  
8                   thereof.

9                   (13) Subparagraph (E) of section 420(f)(6) of  
10                  such Code, as redesignated by subsection (b), is  
11                  amended—

12                  (A) by striking “bargained health” and in-  
13                  serting “bargained”,

14                  (B) by inserting “, or a group-term life in-  
15                  surance plan or arrangement for retired em-  
16                  ployees,” after “dependents” , and

17                  (C) by striking “HEALTH” in the heading  
18                  thereof.

19                  (14) Section 101(e) of the Employee Retire-  
20                  ment Income Security Act of 1974 (29 U.S.C.  
21                  1021(e)) is amended—

22                  (A) in paragraphs (1) and (2), by inserting  
23                  “or applicable life insurance account” after  
24                  “health benefits account” each place it appears,  
25                  and

1 (B) in paragraph (1), by inserting “or ap-  
2 plicable life insurance benefit liabilities” after  
3 “health benefits liabilities”.

4 (f) TECHNICAL CORRECTION.—Clause (iii) of section  
5 420(f)(6)(B) is amended by striking “416(I)(1)” and in-  
6 serting “416(i)(1)”.

7 (g) REPEAL OF DEADWOOD.—

8 (1) Subparagraph (A) of section 420(b)(1) of  
9 the Internal Revenue Code of 1986 is amended by  
10 striking “in a taxable year beginning after December  
11 31, 1990”.

12 (2) Subsection (b) of section 420 of such Code  
13 is amended by striking paragraph (4) and by redesi-  
14 gnating paragraph (5), as amended by this Act, as  
15 paragraph (4).

16 (3) Paragraph (2) of section 420(b) of such  
17 Code, as amended by this section, is amended—

18 (A) by striking subparagraph (B), and

19 (B) by striking “PER YEAR.—” and all  
20 that follows through “No more than” and in-  
21 serting “PER YEAR.—No more than”.

22 (4) Paragraph (2) of section 420(c) of such  
23 Code is amended—

24 (A) by striking subparagraph (B),

1 (B) by moving subparagraph (A) two ems  
2 to the left, and

3 (C) by striking “BEFORE TRANSFER.—”  
4 and all that follows through “The requirements  
5 of this paragraph” and inserting the following:  
6 “BEFORE TRANSFER.—The requirements of this  
7 paragraph”.

8 (5) Paragraph (2) of section 420(d) of such  
9 Code is amended by striking “after December 31,  
10 1990”.

11 (h) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by  
13 this section shall apply to transfers made after the  
14 date of the enactment of this Act.

15 (2) CONFORMING AMENDMENTS RELATING TO  
16 PENSION PROTECTION ACT.—The amendments made  
17 by subsections (b)(3)(B) and (f) shall take effect as  
18 if included in the amendments made by section  
19 841(a) of the Pension Protection Act of 2006.

20 **SEC. 40312. PENSION FUNDING STABILIZATION.**

21 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF  
22 1986.—

23 (1) IN GENERAL.—Subparagraph (C) of section  
24 430(h)(2) of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new  
2 clause:

3 “(iv) SEGMENT RATE STABILIZA-  
4 TION.—If a segment rate described in  
5 clause (i), (ii), or (iii) with respect to any  
6 applicable month (determined without re-  
7 gard to this clause) is less than 85 percent,  
8 or more than 115 percent, of the average  
9 of the segment rates (determined on an an-  
10 nual basis by the Secretary) described in  
11 such clause for years in the 10-year period  
12 ending with September 30 of the calendar  
13 year preceding the calendar year in which  
14 the plan year begins, then the segment  
15 rate described in such clause with respect  
16 to the applicable month shall be equal to  
17 85 or 115 percent of such average, which-  
18 ever is closest.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Paragraph (6) of section 404(o) of  
21 such Code is amended by inserting “(deter-  
22 mined by not taking into account any adjust-  
23 ment under clause (iv) of subsection (h)(2)(C)  
24 thereof)” before the period.

1           (B) Subparagraph (F) of section 430(h)(2)  
2 of such Code is amended by inserting “and the  
3 averages determined under subparagraph  
4 (C)(iv)” after “subparagraph (C)”.

5           (C) Subparagraphs (C) and (D) of section  
6 417(e)(3) of such Code are each amended by  
7 striking “section 430(h)(2)(C)” and inserting  
8 “section 430(h)(2)(C) (determined by not tak-  
9 ing into account any adjustment under clause  
10 (iv) thereof)”.

11       (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
12 COME SECURITY ACT OF 1974.—

13           (1) IN GENERAL.—Subparagraph (C) of section  
14 303(h)(2) of the Employee Retirement Income Secu-  
15 rity Act of 1974 (29 U.S.C. 1083(h)(2)) is amended  
16 by adding at the end the following new clause:

17                   “(iv) SEGMENT RATE STABILIZA-  
18 TION.—If a segment rate described in  
19 clause (i), (ii), or (iii) with respect to any  
20 applicable month (determined without re-  
21 gard to this clause) is less than 85 percent,  
22 or more than 115 percent, of the average  
23 of the segment rates (determined on an an-  
24 nual basis by the Secretary of the Treas-  
25 ury) described in such clause for years in

1           the 10-year period ending with September  
2           30 of the calendar year preceding the cal-  
3           endar year in which the plan year begins,  
4           then the segment rate described in such  
5           clause with respect to the applicable month  
6           shall be equal to 85 or 115 percent of such  
7           average, whichever is closest.”.

8           (2) CONFORMING AMENDMENTS.—

9           (A) Subparagraph (F) of section 303(h)(2)  
10          of such Act (29 U.S.C. 1083(h)(2)) is amended  
11          by inserting “and the averages determined  
12          under subparagraph (C)(iv)” after “subpara-  
13          graph (C)”.

14          (B) Clauses (ii) and (iii) of section  
15          205(g)(3)(B) of such Act (29 U.S.C.  
16          1055(g)(3)(B)) are each amended by striking  
17          “section 303(h)(2)(C)” and inserting “section  
18          303(h)(2)(C) (determined by not taking into ac-  
19          count any adjustment under clause (iv) there-  
20          of)”.

21          (C) Clause (iv) of section 4006(a)(3)(E) of  
22          such Act (29 U.S.C. 1306(a)(3)(E)) is amended  
23          by striking “section 303(h)(2)(C)” and insert-  
24          ing “section 303(h)(2)(C) (notwithstanding any  
25          regulations issued by the corporation, deter-

1           mined by not taking into account any adjust-  
2           ment under clause (iv) thereof”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to plan years begin-  
5 ning after December 31, 2011.

6           (d) TRANSFER TO HIGHWAY TRUST FUND.—Sub-  
7 section (f) of section 9503 of the Internal Revenue Code  
8 of 1986, as amended by this Act, is amended by redesi-  
9 gnating paragraph (4) as paragraph (5) and by inserting  
10 after paragraph (3) the following new paragraph:

11           “(4) ADDITIONAL APPROPRIATION TO FUND.—  
12           Out of money in the Treasury not otherwise appro-  
13           priated, there is hereby appropriated \$1,588,000,000  
14           to the Highway Trust Fund.”.