

FEBRUARY 8, 2012

RULES COMMITTEE PRINT 112-14
TEXT OF H.R. 7, THE AMERICAN ENERGY AND
INFRASTRUCTURE JOBS ACT OF 2012

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

4 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. General definitions.
- Sec. 3. Effective date.

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

2 In titles I through XIII of this Act, the following defi-
 3 nitions apply:

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

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

1 **SEC. 3. EFFECTIVE DATE.**

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

5 **TITLE I—FEDERAL-AID**
6 **HIGHWAYS**

7 **SEC. 1001. AMENDMENTS TO TITLE 23, 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 23, United States
14 Code.

15 **Subtitle A—Authorization of**
16 **Programs**

17 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) HIGHWAY TRUST FUND.—The following sums
19 are authorized to be appropriated out of the Highway
20 Trust Fund (other than the Alternative Transportation
21 Account):

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

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

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

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

2 and

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

4 (2) SURFACE TRANSPORTATION PROGRAM.—

5 For the surface transportation program under sec-
6 tion 133 of title 23, United States Code—

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

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

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

10 and

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

12 (3) HIGHWAY SAFETY IMPROVEMENT PRO-

13 GRAM.—For the highway safety improvement pro-
14 gram under section 148 of title 23, United States
15 Code—

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

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

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

19 and

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

21 (4) TRIBAL TRANSPORTATION PROGRAM.—For

22 the tribal transportation program under section 202
23 of title 23, United States Code, \$465,000,000 for
24 each of fiscal years 2013 through 2016.

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

6 (6) RECREATIONAL TRAILS PROGRAM.—For the
7 recreational trails program under section 206 of title
8 23, United States Code, \$85,000,000 for each of fis-
9 cal years 2013 through 2016.

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

15 (b) ALTERNATIVE TRANSPORTATION ACCOUNT.—
16 The following sums are authorized to be appropriated out
17 of the Alternative Transportation Account of the Highway
18 Trust Fund:

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

1 (2) FERRY BOAT AND FERRY TERMINAL FACILI-
2 TIES PROGRAM.—For the ferry boat and ferry ter-
3 minal facilities program under section 147 of title
4 23, United States Code, \$67,000,000 for each of fis-
5 cal years 2013 through 2016.

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

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

14 (c) DISADVANTAGED BUSINESS ENTERPRISES.—

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

17 (A) SMALL BUSINESS CONCERN.—

18 (i) IN GENERAL.—The term “small
19 business concern” means a small business
20 concern (as the term is used in section 3
21 of the Small Business Act (15 U.S.C.
22 632)).

23 (ii) EXCLUSIONS.—The term “small
24 business concern” does not include any
25 concern or group of concerns controlled by

1 the same socially and economically dis-
2 advantaged individual or individuals that
3 have average annual gross receipts during
4 the preceding 3 fiscal years in excess of
5 \$22,410,000, as adjusted annually by the
6 Secretary for inflation.

7 (B) SOCIALLY AND ECONOMICALLY DIS-
8 ADVANTAGED INDIVIDUALS.—The term “so-
9 cially and economically disadvantaged individ-
10 uals” means—

11 (i) women; and

12 (ii) any other socially and economi-
13 cally disadvantaged individuals (as the
14 term is used in section 8(d) of the Small
15 Business Act (15 U.S.C. 637(d)) and rel-
16 evant subcontracting regulations promul-
17 gated pursuant to that Act).

18 (2) AMOUNTS FOR SMALL BUSINESS CON-
19 CERNS.—Except to the extent that the Secretary de-
20 termines otherwise, not less than 10 percent of the
21 amounts made available for any program under ti-
22 tles I, II, and VII of this Act and section 403(a) of
23 title 23, United States Code, shall be expended
24 through small business concerns owned and con-

1 trolled by socially and economically disadvantaged
2 individuals.

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

5 (A) survey and compile a list of the small
6 business concerns referred to in paragraph (2)
7 in the State, including the location of the small
8 business concerns in the State; and

9 (B) notify the Secretary, in writing, of the
10 percentage of the small business concerns that
11 are controlled by—

12 (i) women;

13 (ii) socially and economically dis-
14 advantaged individuals (other than
15 women); and

16 (iii) individuals who are women and
17 are otherwise socially and economically dis-
18 advantaged individuals.

19 (4) UNIFORM CERTIFICATION.—

20 (A) IN GENERAL.—The Secretary shall es-
21 tablish minimum uniform criteria for use by
22 State governments in certifying whether a con-
23 cern qualifies as a small business concern for
24 the purpose of this subsection.

1 (B) INCLUSIONS.—The minimum uniform
2 criteria established under subparagraph (A)
3 shall include, with respect to a potential small
4 business concern—

- 5 (i) on-site visits;
6 (ii) personal interviews with personnel;
7 (iii) issuance or inspection of licenses;
8 (iv) analyses of stock ownership;
9 (v) listings of equipment;
10 (vi) analyses of bonding capacity;
11 (vii) listings of work completed;
12 (viii) examination of the resumes of
13 principal owners;
14 (ix) analyses of financial capacity; and
15 (x) analyses of the type of work pre-
16 ferred.

17 (5) REPORTING.—The Secretary shall establish
18 minimum requirements for use by State govern-
19 ments in reporting to the Secretary—

20 (A) information concerning disadvantaged
21 business enterprise awards, commitments, and
22 achievements; and

23 (B) such other information as the Sec-
24 retary determines to be appropriate for the

1 proper monitoring of the disadvantaged busi-
2 ness enterprise program.

3 (6) COMPLIANCE WITH COURT ORDERS.—Noth-
4 ing in this subsection limits the eligibility of an indi-
5 vidual or entity to receive funds made available
6 under titles I, II, and VII of this Act and section
7 403(a) of title 23, United States Code, if the entity
8 or person is prevented, in whole or in part, from
9 complying with paragraph (2) because a Federal
10 court issues a final order in which the court finds
11 that a requirement or the implementation of para-
12 graph (2) is unconstitutional.

13 **SEC. 1102. HIGHWAY OBLIGATION CEILING.**

14 (a) GENERAL LIMITATION.—Subject to subsection
15 (f), and notwithstanding any other provision of law, the
16 obligations for Federal-aid highway and highway safety
17 construction programs authorized from the Highway
18 Trust Fund (other than the Alternative Transportation
19 Account) shall not exceed—

- 20 (1) \$37,366,000,000 for fiscal year 2013;
21 (2) \$37,621,000,000 for fiscal year 2014;
22 (3) \$37,676,000,000 for fiscal year 2015; and
23 (4) \$38,000,000,000 for fiscal year 2016.

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

1 (1) section 125 of title 23, United States Code;

2 (2) section 147 of the Surface Transportation
3 Assistance Act of 1978 (23 U.S.C. 144 note; 92
4 Stat. 2714);

5 (3) section 9 of the Federal-Aid Highway Act
6 of 1981 (Public Law 97-134; 95 Stat. 1701);

7 (4) subsections (b) and (j) of section 131 of the
8 Surface Transportation Assistance Act of 1982
9 (Public Law 97-424; 96 Stat. 2119);

10 (5) subsections (b) and (c) of section 149 of the
11 Surface Transportation and Uniform Relocation As-
12 sistance Act of 1987 (Public Law 100-17; 101 Stat.
13 198);

14 (6) sections 1103 through 1108 of the Inter-
15 modal Surface Transportation Efficiency Act of
16 1991 (Public Law 102-240; 105 Stat. 2027);

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

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

23 (9) Federal-aid highway programs for which ob-
24 ligation authority was made available under the
25 Transportation Equity Act for the 21st Century

1 (Public Law 105–178; 112 Stat. 107) or subsequent
2 public laws for multiple years or to remain available
3 until used, but only to the extent that the obligation
4 authority has not lapsed or been used;

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

9 (11) section 1603 of SAFETEA–LU (Public
10 Law 109–59; 119 Stat. 1248), to the extent that
11 funds obligated in accordance with that section were
12 not subject to a limitation on obligations at the time
13 at which the funds were initially made available for
14 obligation; and

15 (12) section 105 of title 23, United States Code
16 (as in effect for fiscal years 2013 through 2016, but
17 only in an amount equal to \$639,000,000 for each
18 of such fiscal years).

19 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—
20 For each of fiscal years 2013 through 2016, the Sec-
21 retary—

22 (1) shall not distribute obligation authority pro-
23 vided by subsection (a) for the fiscal year for
24 amounts authorized for administrative expenses and

1 programs by section 104(a) of title 23, United
2 States Code;

3 (2) shall not distribute an amount of obligation
4 authority provided by subsection (a) that is equal to
5 the unobligated balance of amounts made available
6 for Federal-aid highway and highway safety con-
7 struction programs for previous fiscal years the
8 funds for which are allocated by the Secretary;

9 (3) shall determine the ratio that—

10 (A) the obligation authority provided by
11 subsection (a) for the fiscal year, less the aggre-
12 gate of amounts not distributed under para-
13 graphs (1) and (2); bears to

14 (B) the total of the sums authorized to be
15 appropriated for Federal-aid highway and high-
16 way safety construction programs (other than
17 sums authorized to be appropriated for provi-
18 sions of law described in paragraphs (1)
19 through (11) of subsection (b) and sums au-
20 thorized to be appropriated for section 105 of
21 title 23, United States Code, equal to the
22 amount referred to in subsection (b)(12) for the
23 fiscal year), less the aggregate of amounts not
24 distributed under paragraphs (1) and (2);

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

8 (i) the ratio determined under paragraph
9 (3); by

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

12 (B) shall distribute \$2,000,000,000 for section
13 105 of title 23, United States Code;

14 (5) shall distribute among the States the obliga-
15 tion authority provided by subsection (a), less the
16 aggregate amounts not distributed under paragraphs
17 (1) and (2) and the amounts distributed under para-
18 graph (4), for each of the programs that are allo-
19 cated by the Secretary under this Act and title 23,
20 United States Code (other than to programs to
21 which paragraph (1) applies), by multiplying—

22 (A) the ratio determined under paragraph
23 (3); by

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

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

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

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

23 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
24 THORITY.—Notwithstanding subsection (c), the Secretary

1 shall, after August 1 of each of fiscal years 2013 through
2 2016—

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

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

15 (e) REDISTRIBUTION OF CERTAIN AUTHORIZED
16 FUNDS.—

17 (1) IN GENERAL.—Not later than 30 days after
18 the date of distribution of obligation authority under
19 subsection (c) for each of fiscal years 2013 through
20 2016, the Secretary shall distribute to the States
21 any funds that—

22 (A) are authorized to be appropriated for
23 the fiscal year for Federal-aid highway pro-
24 grams; and

1 (B) the Secretary determines will not be
2 allocated to the States, and will not be available
3 for obligation, in the fiscal year due to the im-
4 position of any obligation limitation for the fis-
5 cal year.

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

9 (3) AVAILABILITY.—Funds distributed under
10 paragraph (1) shall be available for any purpose de-
11 scribed in section 133(b) of title 23, United States
12 Code.

13 (f) SPECIAL LIMITATION CHARACTERISTICS.—Obli-
14 gation authority distributed for a fiscal year under sub-
15 section (c)(4) for the provision specified in subsection
16 (c)(4) shall—

17 (1) remain available until used for obligation of
18 funds for that provision; and

19 (2) be in addition to the amount of any limita-
20 tion imposed on obligations for Federal-aid highway
21 and highway safety construction programs for future
22 fiscal years.

1 **SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OB-**
2 **LIGATION CEILING.**

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

10 (b) AVAILABILITY OF FUNDS.—Section 118(a) is
11 amended—

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

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

22 **SEC. 1104. APPORTIONMENT.**

23 Section 104 is amended to read as follows:

24 **“§ 104. Apportionment**

25 **“(a) ADMINISTRATIVE EXPENSES.—**

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

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

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

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

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

22 “(b) APPORTIONMENTS.—On October 1 of each fiscal
23 year, the Secretary, after making the set-asides authorized
24 by subsection (f), subsections (b) and (c) of section 140,
25 and section 130(e), shall apportion the remainder of the

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

7 “(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

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

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

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

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

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

22 “(I) the total vehicle miles trav-
23 eled on lanes on principal arterial
24 routes (excluding Interstate System
25 routes) in each State; bears to

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

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

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

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

15 “(iv) 15 percent of the appor-
16 tionments in the ratio that—

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

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

23 “(v) 15 percent of the apportionments
24 in the ratio that—

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

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

7 “(vi) 35 percent of the apportion-
8 ments in the ratio that—

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

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

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

1 “(2) CONGESTION MITIGATION AND AIR QUAL-
2 ITY IMPROVEMENT PROGRAM.—

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

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

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

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

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

24 “(ii) 1.0 if, at the time of the appor-
25 tionment, the area is classified as a mar-

1 ginal ozone nonattainment area under sub-
2 part 2 of part D of title I of the Clean Air
3 Act (42 U.S.C. 7511 et seq.);

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

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

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

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

20 “(vii) 1.0 if, at the time of the appor-
21 tionment, the area is not a nonattainment
22 or maintenance area as described in sec-
23 tion 149(b) for ozone, but is classified
24 under subpart 3 of part D of title I of such
25 Act (42 U.S.C. 7512 et seq.) as a non-

1 attainment area described in section
2 149(b) for carbon monoxide; or

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

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

22 “(D) MINIMUM APPORTIONMENT.—Not-
23 withstanding any other provision of this para-
24 graph, each State shall receive a minimum of

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

3 “(E) DETERMINATIONS OF POPULATION.—

4 In determining population figures for the pur-
5 poses of this paragraph, the Secretary shall use
6 the latest available annual estimates prepared
7 by the Secretary of Commerce.

8 “(3) SURFACE TRANSPORTATION PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “[(4) Reserved.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(3) The Secretary shall determine—

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

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

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

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

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

3 “(d) CERTIFICATION OF APPORTIONMENTS.—

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

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

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

7 “(f) METROPOLITAN PLANNING.—

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

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

24 “(3) USE OF FUNDS.—

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

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

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

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

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

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

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

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

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

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

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

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

14 “(A) program;

15 “(B) funding category or subcategory;

16 “(C) type of improvement;

17 “(D) State; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(i) RECREATIONAL TRAILS PROGRAM.—

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

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

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

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

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

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

5 Section 103(b) is amended—

6 (1) in paragraph (1)—

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

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

15 (2) in paragraph (2)—

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

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

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

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

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

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

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

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

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

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

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

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

16 “(iv) A financial plan.

17 “(v) Investment strategies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(f) ENVIRONMENTAL MITIGATION.—

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

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

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

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

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

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

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

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

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

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

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

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

24 “(g) FEDERAL SHARE.—

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

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

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

“119. National Highway System program.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) ALLOCATION OF APPORTIONED FUNDS.—

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

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

10 (A) in subparagraph (A)—

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

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

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

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

1 (3) APPLICABILITY OF CERTAIN REQUIRE-
2 MENTS TO THIRD PARTY SELLERS.—Section
3 133(d)(5)(A) is amended by striking “funded from
4 the allocation required under paragraph (2)”.

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

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

12 (e) OBLIGATION AUTHORITY.—Section 133(f)(1) is
13 amended—

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

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

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

20 (1) SPECIAL RULE.—Notwithstanding section
21 133(c) of title 23, United States Code, and except
22 as provided in paragraph (2), up to 15 percent of
23 the amounts required to be obligated by a State
24 under section 133(d)(3)(B) of such title for each of

1 fiscal years 2013 through 2016 may be obligated on
2 roads functionally classified as minor collectors.

3 (2) SUSPENSION.—The Secretary may suspend
4 the application of paragraph (1) with respect to a
5 State if the Secretary determines that the authority
6 provided under paragraph (1) is being used exces-
7 sively by the State.

8 **SEC. 1108. CONGESTION MITIGATION AND AIR QUALITY IM-**
9 **PROVEMENT PROGRAM.**

10 (a) ELIGIBLE PROJECTS.—Section 149(b) is amend-
11 ed to read as follows:

12 “(b) ELIGIBLE PROJECTS.—

13 “(1) IN GENERAL.—

14 “(A) REQUIREMENTS FOR OBLIGATION OF
15 FUNDS.—A State may obligate funds appor-
16 tioned to the State under section 104(b)(2) for
17 a transportation project or program if the
18 project or program meets the requirements of
19 subparagraph (B) and (C).

20 “(B) AREA SERVED BY PROJECT OR PRO-
21 GRAM.—A project or program meets the re-
22 quirements of this subparagraph if the project
23 or program is for an area in the State that—

24 “(i) is or was designated as a non-
25 attainment area for ozone, carbon mon-

1 oxide, or particulate matter under section
2 107(d) of the Clean Air Act (42 U.S.C.
3 7407(d)) and classified pursuant to section
4 181(a), 186(a), 188(a), or 188(b) of the
5 Clean Air Act (42 U.S.C. 7511(a),
6 7512(a), 7513(a), or 7513(b));

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

10 “(iii) is required to prepare, and file
11 with the Administrator of the Environ-
12 mental Protection Agency, maintenance
13 plans under the Clean Air Act (42 U.S.C.
14 7505a).

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

18 “(i) the Secretary, after consultation
19 with the Administrator, determines that—

20 “(I) on the basis of information
21 published by the Environmental Pro-
22 tection Agency pursuant to section
23 108(f)(1)(A) of the Clean Air Act
24 (other than clause (xvi) of such sec-

1 tion), the project or program is likely
2 to contribute to—

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

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

10 “(II) the project or program is
11 part of a program, method, or strat-
12 egy described in such section
13 108(f)(1)(A);

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

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

1 traveled, or fuel consumption or through
2 other factors; or

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

6 “(2) SPECIAL RULES.—

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

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

1 “(C) ELECTRIC VEHICLE INFRASTRUC-
2 TURE.—A State may obligate funds apportioned
3 under section 104(b)(2) or 104(b)(3) for a
4 project or program to establish or support the
5 establishment of electric vehicle battery charg-
6 ing or changing facilities at any location in the
7 State. Such projects or programs may be car-
8 ried out by a State or local agency or through
9 a public-private partnership.”.

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

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

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

15 **SEC. 1109. EQUITY BONUS PROGRAM.**

16 Section 105 is amended to read as follows:

17 **“§ 105. Equity bonus program**

18 “(a) PROGRAM.—

19 “(1) IN GENERAL.—Subject to subsections (c),
20 (d), and (e), for fiscal year 2013 and each fiscal
21 year thereafter, the Secretary shall apportion among
22 the States amounts sufficient to ensure that no
23 State receives a percentage of the total apportion-
24 ments for the fiscal year for the programs specified

1 in paragraph (2) that is less than the percentage
2 calculated under subsection (b).

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

5 “(A) the metropolitan planning programs
6 under section 104(f);

7 “(B) the equity bonus program under this
8 section;

9 “(C) the National Highway System pro-
10 gram under section 119;

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

13 “(E) the surface transportation program
14 under section 133;

15 “(F) the highway safety improvement pro-
16 gram under section 148;

17 “(G) the recreational trails programs
18 under section 206;

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

21 “(I) the Appalachian development highway
22 system program under section 14501 of title
23 40.

24 “(b) STATE PERCENTAGE.—For each of fiscal years
25 2013 through 2016, the percentage referred to in sub-

1 section (a) for each State shall be 94 percent of the
2 quotient obtained by dividing—

3 “(1) the estimated tax payments attributable to
4 highway users in the State paid into the Highway
5 Trust Fund in the most recent fiscal year for which
6 data are available; by

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

10 “(c) MINIMUM AMOUNT.—

11 “(1) IN GENERAL.—For each fiscal year, before
12 making the apportionments under subsection (a)(1),
13 the Secretary shall apportion among the States
14 amounts sufficient to ensure that each State receives
15 a combined total apportionment for the programs
16 specified in subsection (a)(2) and the congestion
17 mitigation and air quality improvement program
18 under section 149 that equals or exceeds the com-
19 bined amount that the State was apportioned for fis-
20 cal year 2012 for the programs specified in section
21 105(a)(2) of this title (other than the high priority
22 projects program under subparagraph (H) of such
23 section), as in effect on the day before the date of
24 enactment of the American Energy and Infrastruc-
25 ture Jobs Act of 2012.

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

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

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

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

15 “(e) TREATMENT OF FUNDS.—

16 “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-
17 retary shall apportion the amounts made available
18 under this section that exceed \$2,639,000,000 so
19 that the amount apportioned to each State under
20 this section for each program referred to in subpara-
21 graphs (C) and (E) of subsection (a)(2) is equal to
22 the amount determined by multiplying the amount
23 to be apportioned to such State under this section
24 by the ratio that—

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

5 “(B) the total amount of funds appor-
6 tioned to such State for all such programs for
7 such fiscal year.

8 “(2) REMAINING DISTRIBUTION.—The Sec-
9 retary shall administer the remainder of funds made
10 available under this section to the States in accord-
11 ance with section 133, except that section 133(d)(3)
12 and section 1115(a) of the American Energy and In-
13 frastructure Jobs Act of 2012 shall not apply to the
14 amounts administered pursuant to this paragraph.

15 “(f) METROPOLITAN PLANNING SET-ASIDE.—Not-
16 withstanding section 104(f), no set aside provided for
17 under that section shall apply to funds allocated under this
18 section.

19 “(g) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) IN GENERAL.—Subject to paragraphs (2)
21 and (3), there is authorized to be appropriated from
22 the Highway Trust Fund (other than the Alternative
23 Transportation Account) to carry out this section
24 \$3,900,000,000 for each of fiscal years 2013
25 through 2016.

1 “(2) UPWARD ADJUSTMENT.—If the amount
2 authorized by paragraph (1) for a fiscal year is less
3 than the minimum amount required to ensure that
4 each State receives the minimum percentage of total
5 apportionments required under subsection (a)(1) and
6 the minimum amount required under subsection
7 (c)(1) for the fiscal year—

8 “(A) the amount authorized by paragraph
9 (1) for the fiscal year shall be increased by the
10 amount of the shortfall, so as to equal such
11 minimum amount; and

12 “(B) the amounts authorized by section
13 1101(a)(2) of the American Energy and Infra-
14 structure Jobs Act of 2012 for the surface
15 transportation program for the fiscal year shall
16 be decreased by the amount of the shortfall.

17 “(3) DOWNWARD ADJUSTMENT.—If the amount
18 authorized by paragraph (1) for a fiscal year is more
19 than the minimum amount required to ensure that
20 each State receives the minimum percentage of total
21 apportionments required under subsection (a)(1) and
22 the minimum amount required under subsection
23 (c)(1) for the fiscal year—

24 “(A) the amount authorized by paragraph
25 (1) for the fiscal year shall be decreased by the

1 amount of the excess, so as to equal such min-
2 imum amount; and

3 “(B) the amounts authorized by section
4 1101(a)(1) of the American Energy and Infra-
5 structure Jobs Act of 2012 for the National
6 Highway System program for the fiscal year
7 shall be increased by the amount of the ex-
8 cess.”.

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

10 (a) ASSUMPTION BY STATES OF RESPONSIBILITIES
11 OF THE SECRETARY.—Section 106(c)(1) is amended to
12 read as follows:

13 “(1) NHS PROJECTS.—For projects under this
14 title that are on the National Highway System, in-
15 cluding projects on the Interstate System, the State
16 may assume the responsibility of the Secretary
17 under this title for design, plans, specifications, esti-
18 mates, contract awards, and inspections with respect
19 to such projects unless the Secretary determines
20 that such assumption is not appropriate.”.

21 (b) VALUE ENGINEERING ANALYSIS.—Section
22 106(e) is amended—

23 (1) in paragraph (2)(A)—

1 (A) by striking “Federal-aid system” and
2 inserting “National Highway System receiving
3 Federal assistance”; and

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

6 (2) in paragraph (2)(B)—

7 (A) by inserting “on the National Highway
8 System receiving Federal assistance” after
9 “project”; and

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

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

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

17 (c) MAJOR PROJECTS.—Section 106(h)(3) is amend-
18 ed—

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

20 (2) in subparagraph (B) by striking the period
21 and inserting “; and”; and

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

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

1 (d) USE OF ADVANCED MODELING TECH-
2 NOLOGIES.—Section 106 is amended by adding at the end
3 the following:

4 “(j) USE OF ADVANCED MODELING TECH-
5 NOLOGIES.—

6 “(1) IN GENERAL.—With respect to transpor-
7 tation projects that receive Federal funding, the Sec-
8 retary shall encourage the use of advanced modeling
9 technologies during environmental, planning, finan-
10 cial management, design, simulation, and construc-
11 tion processes related to the projects.

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

14 “(A) compile information relating to ad-
15 vanced modeling technologies, including indus-
16 try best practices with respect to the use of the
17 technologies;

18 “(B) disseminate to States information re-
19 lating to advanced modeling technologies, in-
20 cluding industry best practices with respect to
21 the use of the technologies; and

22 “(C) promote the use of advanced mod-
23 eling technologies.

24 “(3) COMPREHENSIVE PLAN.—The Secretary
25 shall develop and publish on the Internet Web site

1 of the Department of Transportation a detailed and
2 comprehensive plan for the implementation of para-
3 graph (1).

4 “(4) ADVANCED MODELING TECHNOLOGY DE-
5 FINED.—The term ‘advanced modeling technology’
6 means an available or developing technology, includ-
7 ing 3-dimensional digital modeling, that can accel-
8 erate and improve the environmental review process,
9 increase effective public participation, enhance the
10 detail and accuracy of project designs, increase safe-
11 ty, accelerate construction and reduce construction
12 costs, or otherwise expedite project delivery with re-
13 spect to transportation projects that receive Federal
14 funding.”.

15 (e) REVIEW OF OVERSIGHT PROGRAM.—

16 (1) IN GENERAL.—The Secretary shall review
17 the oversight program established under section
18 106(g) of title 23, United States Code, to determine
19 the efficacy of the program in monitoring the effec-
20 tive and efficient use of funds authorized to carry
21 out title 23, United States Code.

22 (2) MINIMUM REQUIREMENTS FOR REVIEW.—
23 At a minimum, the review under paragraph (1) shall
24 assess the capability of the program to—

1 (A) identify projects funded under title 23,
2 United States Code, for which there are cost or
3 schedule overruns; and

4 (B) evaluate the extent of such overruns.

5 (3) REPORT TO CONGRESS.—Not later than 2
6 years after the date of enactment of this Act, the
7 Secretary shall transmit to the Committee on Trans-
8 portation and Infrastructure of the House of Rep-
9 resentatives and the Committee on Environment and
10 Public Works of the Senate a report on the results
11 of the review conducted under paragraph (1), which
12 shall include recommendations for legislative
13 changes to improve the oversight program estab-
14 lished under section 106(g) of title 23, United
15 States Code.

16 (f) TRANSPARENCY AND ACCOUNTABILITY.—

17 (1) DATA COLLECTION.—The Secretary shall
18 compile and make available to the public on the
19 Internet Web site of the Department the annual ex-
20 penditure data for funds made available under title
21 23 and chapter 53 of title 49, United States Code.

22 (2) REQUIREMENTS.—In carrying out para-
23 graph (1), the Secretary shall ensure that the data
24 made available on the Internet Web site of the De-
25 partment—

1 (A) is organized by project and State;

2 (B) to the maximum extent possible, is up-
3 dated regularly to reflect the current status of
4 obligations, expenditures, and Federal-aid
5 projects; and

6 (C) can be searched and downloaded by
7 users of the Web site.

8 (3) REPORT TO CONGRESS.—The Secretary
9 shall transmit, annually, to the Committee on Trans-
10 portation and Infrastructure of the House of Rep-
11 resentatives and the Committee on Environment and
12 Public Works and the Committee on Banking, Hous-
13 ing, and Urban Affairs of the Senate a report con-
14 taining a summary of the data described in para-
15 graph (1) for the 1-year period ending on the date
16 on which the report is submitted.

17 **SEC. 1111. EMERGENCY RELIEF.**

18 (a) ELIGIBILITY.—Section 125(d) is amended to read
19 as follows:

20 “(d) ELIGIBILITY.—

21 “(1) IN GENERAL.—Subject to the require-
22 ments of this subsection, the Secretary may expend
23 funds from the emergency fund authorized by this
24 section for the repair or reconstruction of Federal-

1 aid highways in accordance with the provisions of
2 this chapter.

3 “(2) MAXIMUM TOTAL PROJECT COSTS.—

4 “(A) IN GENERAL.—The total cost of a
5 project carried out under this section may not
6 exceed the cost of repair or reconstruction of a
7 comparable facility.

8 “(B) COMPARABLE FACILITY DEFINED.—

9 In this paragraph, the term ‘comparable facil-
10 ity’ means a facility that meets the current geo-
11 metric and construction standards required for
12 the types and volume of traffic that the facility
13 will carry over its design life.

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

17 “(A) an event not declared a major dis-
18 aster or emergency by the President under the
19 Robert T. Stafford Disaster Relief and Emer-
20 gency Assistance Act (42 U.S.C. 5121 et seq.);
21 or

22 “(B) an event declared a major disaster or
23 emergency by the President under that Act if
24 the debris removal is not eligible for assistance

1 pursuant to section 403, 407, or 502 of that
2 Act (42 U.S.C. 5170b, 5173, 5192).

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

8 “(5) TEMPORARY SUBSTITUTE HIGHWAY TRAF-
9 FIC SERVICE.—Notwithstanding any other provision
10 of this chapter, actual and necessary costs of main-
11 tenance and operation of ferryboats or additional
12 transit service providing temporary substitute high-
13 way traffic service, less the amount of fares charged,
14 may be expended from the emergency fund under
15 this section authorized for Federal-aid highways.

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

20 “(A) a declaration is made—

21 “(i) by the Governor of the State and
22 concurring in by the Secretary, that an
23 emergency exists; or

24 “(ii) by the President under the Rob-
25 ert T. Stafford Disaster Relief and Emer-

1 gency Assistance Act (42 U.S.C. 5121 et
2 seq.) that a major disaster or emergency
3 exists; and

4 “(B) not later than 2 years after a dec-
5 laration is made under subparagraph (A), the
6 Secretary has received an application for assist-
7 ance from the State transportation department
8 that includes a comprehensive list of potentially
9 eligible project sites and repair costs.”.

10 (b) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS,
11 AND PUBLIC ROADS ON FEDERAL LANDS.—Section
12 125(e) is amended to read as follows:

13 “(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS,
14 AND PUBLIC ROADS ON FEDERAL LANDS.—

15 “(1) USE OF EMERGENCY FUND.—Notwith-
16 standing subsection (d)(1), the Secretary may ex-
17 pend funds from the emergency fund authorized by
18 this section, either independently or in cooperation
19 with any other branch of the Government, a State
20 agency, tribal organization, organization, or person,
21 for the repair or reconstruction of tribal roads, Fed-
22 eral lands highways, and other federally owned roads
23 that are open to public travel, whether or not such
24 roads are Federal-aid highways.

1 “(2) REIMBURSEMENTS.—The Secretary may
2 reimburse Federal agencies, State (including polit-
3 ical subdivisions of the States) agencies, and Indian
4 tribal governments for expenditures made on
5 projects determined eligible under this section, in-
6 cluding expenditures for emergency repairs made be-
7 fore a determination of eligibility. Such reimburse-
8 ments to Federal agencies and Indian tribal govern-
9 ments shall be transferred to the account from
10 which the expenditure was made, or to a similar ac-
11 count that remains available for obligation, and the
12 budget authority associated with the expenditure
13 shall be restored to the agency from which it was de-
14 rived and shall be available for obligation until the
15 end of the fiscal year following the year in which the
16 transfer occurs.

17 “(3) OPEN TO PUBLIC TRAVEL DEFINED.—In
18 this subsection, the term ‘open to public travel’
19 means that, except during scheduled periods, ex-
20 treme weather conditions, or emergencies, the road
21 is open to the general public for use with a standard
22 passenger auto, without restrictive gates or prohibi-
23 tive signs or regulations, other than for general traf-
24 fic control or restrictions based on size, weight, or
25 class of registration.”.

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

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

9 (2) determine whether to raise the threshold for
10 an eligible event and raise such threshold if war-
11 ranted; and

12 (3) address such other matters as the Secretary
13 considers appropriate.

14 (d) IMPROVING PROGRAM IMPLEMENTATION.—The
15 Secretary shall take steps to—

16 (1) improve training for Federal and State offi-
17 cials on emergency relief requirements and proc-
18 esses;

19 (2) establish an Internet Web site containing
20 information on best practices for the implementation
21 of the emergency relief program;

22 (3) address program differences with the dis-
23 aster assistance program of the Federal Emergency
24 Management Agency; and

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

5 **SEC. 1112. UNIFORM TRANSFERABILITY OF FEDERAL-AID**
6 **HIGHWAY FUNDS.**

7 Section 126 is amended to read as follows:

8 **“§ 126. Uniform transferability of Federal-aid high-**
9 **way funds**

10 “(a) GENERAL RULE.—Notwithstanding any other
11 provision of law, but subject to subsection (b), a State may
12 transfer not to exceed 25 percent of the State’s appor-
13 tionment under paragraph (1), (3), or (5) of section 104(b)
14 for a fiscal year to any other apportionment of the State
15 under any of those paragraphs for that fiscal year.

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

19 **SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILI-**
20 **TIES.**

21 Section 147 is amended—

22 (1) in subsection (b) by striking “ferry boats,
23 ferry terminals, and ferry maintenance facilities”
24 and inserting “ferry boats and ferry terminals”;

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

3 “(c) APPORTIONMENT OF FUNDS.—The Secretary
4 shall apportion the sums authorized to be appropriated for
5 expenditure on the construction of ferry boats and ferry
6 terminal facilities for each fiscal year among eligible
7 States in the following manner:

8 “(1) 35 percent based on the total annual num-
9 ber of vehicles carried by ferry systems operating in
10 each eligible State.

11 “(2) 35 percent based on the total annual num-
12 ber of passengers (including passengers in vehicles)
13 carried by ferry systems operating in each eligible
14 State.

15 “(3) 30 percent based on the total nautical
16 route miles serviced by ferry systems operating in
17 each eligible State.

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

22 (3) by redesignating subsection (f) as sub-
23 section (e).

1 **SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-**
2 **VENTORY AND INSPECTION PROGRAM.**

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

5 **“§ 151. National highway bridge and tunnel inventory**
6 **and inspection program**

7 “(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-
8 VENTORY.—The Secretary, in consultation with the States
9 and Federal agencies with jurisdiction over highway
10 bridges and tunnels, shall—

11 “(1) inventory all bridges on public roads, on
12 and off Federal-aid highways, including tribally
13 owned and federally owned bridges, that are over
14 waterways, other topographical barriers, other high-
15 ways, and railroads;

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

19 “(3) identify each bridge or tunnel inventoried
20 under paragraph (1) or (2) that is structurally defi-
21 cient or functionally obsolete;

22 “(4) assign a risk-based priority for replace-
23 ment or rehabilitation of each structurally deficient
24 bridge or tunnel identified under paragraph (3) after
25 consideration of safety, serviceability, and essen-
26 tiality for public use, including the potential impacts

1 to emergency evacuation routes and to regional and
2 national freight and passenger mobility if the serv-
3 iceability of the bridge or tunnel is diminished; and

4 “(5) determine the cost of replacing each struc-
5 turally deficient bridge or tunnel identified under
6 paragraph (3) with a comparable facility or the cost
7 of rehabilitating the bridge or tunnel.

8 “(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL IN-
9 SPECTION STANDARDS.—

10 “(1) IN GENERAL.—The Secretary shall estab-
11 lish and maintain inspection standards for the prop-
12 er safety inspection and evaluation of all highway
13 bridges and tunnels described in subsections (a)(1)
14 and (a)(2). The standards shall be designed to en-
15 sure uniformity in the conduct of such inspections
16 and evaluations.

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

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

23 “(B) establish the maximum time period
24 between inspections;

1 “(C) establish the qualifications for those
2 charged with carrying out inspections;

3 “(D) require each State, Federal agency,
4 and tribal government to maintain and make
5 available to the Secretary upon request—

6 “(i) written reports on the results of
7 highway bridge and tunnel inspections, to-
8 gether with notations of any action taken
9 pursuant to the findings of such inspec-
10 tions; and

11 “(ii) inventory data for all highway
12 bridges and tunnels described in sub-
13 sections (a)(1) and (a)(2) under the juris-
14 diction of the State, Federal agency, or
15 tribal government that reflect the findings
16 of the most recent highway bridge and tun-
17 nel inspections;

18 “(E) establish a procedure for national
19 certification of highway bridge and tunnel in-
20 spectors;

21 “(F) establish, in consultation with the
22 States, Federal agencies, and interested and
23 knowledgeable private organizations and indi-
24 viduals, procedures for the Secretary to conduct
25 reviews of State and Federal agency compliance

1 with the standards established under this sub-
2 section; and

3 “(G) establish, in consultation with the
4 States, Federal agencies, and interested and
5 knowledgeable private organizations and indi-
6 viduals, procedures for the States to follow in
7 reporting to the Secretary—

8 “(i) critical findings relating to struc-
9 tural safety-related deficiencies of highway
10 bridges and tunnels; and

11 “(ii) monitoring activities and correc-
12 tive actions taken in response to a critical
13 finding described in clause (i).

14 “(3) COMPLIANCE REQUIREMENTS.—

15 “(A) REVIEWS OF STATE COMPLIANCE.—
16 The Secretary shall annually review State com-
17 pliance with the standards established under
18 this section.

19 “(B) FINDINGS OF NONCOMPLIANCE.—If
20 the Secretary identifies noncompliance by a
21 State in conducting an annual review under
22 subparagraph (A), the Secretary shall issue a
23 report detailing the noncompliance by December
24 31 of the calendar year in which the review is

1 conducted and shall provide the State an oppor-
2 tunity to address the noncompliance by—

3 “(i) developing a corrective action
4 plan to remedy the noncompliance; or

5 “(ii) resolving the noncompliance
6 within 45 days of receiving notification of
7 the noncompliance.

8 “(4) PENALTY FOR NONCOMPLIANCE.—

9 “(A) FUNDING REQUIREMENT.—If the
10 Secretary identifies noncompliance by a State in
11 conducting an annual review under paragraph
12 (3)(A) in a calendar year, and the State fails to
13 address the noncompliance in the manner de-
14 scribed in paragraph (3)(B) by August 1 of the
15 succeeding year, on October 1 of such suc-
16 ceeding year, and each year thereafter as nec-
17 essary, the Secretary shall require the State to
18 dedicate funds apportioned to the State under
19 sections 104(b)(1) and 104(b)(3) to correct the
20 noncompliance.

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

1 “(i) be determined by the State based
2 on an analysis of the actions needed to ad-
3 dress the noncompliance; and

4 “(ii) require approval by the Sec-
5 retary.

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

11 “(d) AVAILABILITY OF FUNDS.—In carrying out this
12 section—

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

15 “(2) a State may use amounts apportioned to
16 the State under sections 104(b)(1), 104(b)(3), and
17 104(b)(5);

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

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

22 (b) CLERICAL AMENDMENT.—The analysis for chap-
23 ter 1 is amended by striking the item relating to section
24 151 and inserting the following:

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

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

2 (a) MINIMUM INVESTMENT REQUIREMENTS.—

3 (1) NATIONAL HIGHWAY SYSTEM BRIDGES.—

4 Out of amounts apportioned to a State for a fiscal
5 year under each of sections 104(b)(1) and 104(b)(3)
6 of title 23, United States Code, an amount equal to
7 10 percent of such amounts shall be available to the
8 State only for eligible projects on highway bridges
9 on the National Highway System if the Secretary
10 determines under paragraph (3) for the fiscal year
11 that more than 10 percent of the total deck area of
12 highway bridges in the State on the National High-
13 way System is located on highway bridges that have
14 been classified as structurally deficient.

15 (2) BRIDGES NOT ON FEDERAL-AID HIGH-
16 WAYS.—Out of amounts apportioned to a State for
17 a fiscal year under section 104(b)(3) of title 23,
18 United States Code, an amount equal to 110 percent
19 of the amount that the State was required to expend
20 for fiscal year 2009 on projects under section
21 144(f)(2) of such title (as in effect on the day before
22 the date of enactment of this Act) shall be available
23 to the State only for eligible projects on highway
24 bridges not on Federal-aid highways if the Secretary
25 determines under paragraph (3) for the fiscal year
26 that—

1 (A) more than 15 percent of the total deck
2 area of highway bridges not on Federal-aid
3 highways in the State is located on highway
4 bridges not on Federal-aid highways that have
5 been classified as structurally deficient; or

6 (B) more than 2,000 highway bridges not
7 on Federal-aid highways in the State are classi-
8 fied as structurally deficient.

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

17 (4) APPLICABILITY.—This subsection shall
18 apply to amounts apportioned for each of fiscal
19 years 2013 through 2016.

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

22 (A) ELIGIBLE PROJECT.—The term “eligi-
23 ble project” means a project to replace (includ-
24 ing replacement with fill material), rehabilitate,
25 preserve, or protect (including through paint-

1 ing, scour countermeasures, seismic retrofits,
2 impact protection measures, security counter-
3 measures, and protection against extreme
4 events) a bridge or tunnel on a public road of
5 any functional classification.

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

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

18 **SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
19 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
20 **ING UNDER THE INFLUENCE.**

21 (a) DEFINITIONS.—Section 164(a) is amended—
22 (1) by striking paragraph (3);
23 (2) by redesignating paragraphs (4) and (5) as
24 paragraphs (3) and (4), respectively; and

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

4 “(A) receive—

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

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

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

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

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

23 “(a) **ALLOCATION OF FUNDS.**—On October 1 of each
24 fiscal year, the Secretary shall allocate the funds made
25 available for the fiscal year to carry out this section to

1 the Commonwealth of Puerto Rico to carry out a highway
2 program in the Commonwealth.

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

7 (b) CONFORMING AMENDMENT.—Section 165 is
8 amended—

9 (1) in subsection (c)(1) by striking “sections
10 104(b) and 144” and inserting “section 104(b)”;
11 and

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

14 **SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
15 **TEM.**

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

21 (1) the latest available cost to complete esti-
22 mate for the Appalachian development highway sys-
23 tem under section 14501 of title 40, United States
24 Code, with respect to each State; bears to

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

3 (b) MINIMUM AND MAXIMUM APPORTIONMENT.—

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

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

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

10 (c) APPLICABILITY OF TITLE 23.—Funds made
11 available under section 1101(a) of this Act for the Appa-
12 lachian development highway system program shall be
13 available for obligation in the same manner as if such
14 funds were apportioned under chapter 1 of title 23, United
15 States Code, except that the Federal share of the cost of
16 any project under this section shall be determined in ac-
17 cordance with section 14501 of title 40, United States
18 Code, and such funds shall be available to construct high-
19 ways and access roads under such section 14501 and shall
20 remain available until expended.

21 (d) CREDIT FOR NON-FEDERAL SHARE.—Section
22 120(j)(1)(A) is amended by striking “and the Appalachian
23 development highway system program under section
24 14501 of title 40”.

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

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

7 **Subtitle B—Innovative Financing**

8 **SEC. 1201. TRANSPORTATION INFRASTRUCTURE FINANCE**
9 **AND INNOVATION.**

10 (a) DEFINITIONS.—

11 (1) CONTINGENT COMMITMENT.—Section
12 601(a) is amended—

13 (A) by redesignating paragraphs (1), (2),
14 (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),
15 (13), and (14) as paragraphs (2), (3), (4), (5),
16 (6), (7), (9), (10), (11), (12), (14), (15), (16),
17 and (17), respectively; and

18 (B) by inserting before paragraph (2) (as
19 so redesignated) the following:

20 “(1) CONTINGENT COMMITMENT.—The term
21 ‘contingent commitment’ means a commitment to
22 obligate an amount from future available budget au-
23 thority, but is not an obligation of the Federal Gov-
24 ernment.”.

25 (2) ELIGIBLE PROJECT COSTS.—Section
26 601(a)(2) (as amended by paragraph (1)(A) of this

1 subsection) is amended in the matter preceding sub-
2 paragraph (A) by inserting “(regardless of when in-
3 curred)” after “including the cost”.

4 (3) MASTER CREDIT AGREEMENT.—Section
5 601(a) (as amended by paragraph (1)(A) of this
6 subsection) is further amended by inserting after
7 paragraph (7) the following:

8 “(8) MASTER CREDIT AGREEMENT.—The term
9 ‘master credit agreement’ means an agreement en-
10 tered into by and between the Secretary and an obli-
11 gor for a project that—

12 “(A) makes contingent commitments of
13 one or more secured loans or other Federal
14 credit instruments at future dates, subject to
15 the provision of future budget authority;

16 “(B) establishes the amounts and general
17 terms and conditions of such secured loans or
18 other Federal credit instruments;

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

23 “(D) provides for the obligation of funds
24 for such a secured loan or other Federal credit
25 instrument, subject to the provision of future

1 budget authority, for a project included in the
2 agreement after all requirements under this sec-
3 tion have been met for the project.”.

4 (4) OBLIGOR.—Section 601(a)(9) (as redesign-
5 nated by paragraph (1)(A) of this subsection) is
6 amended by inserting “limited liability company,”
7 after “corporation,”.

8 (5) PROJECT.—Section 601(a)(10) (as redesign-
9 nated by paragraph (2)(A) of this subsection) is
10 amended—

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

13 (B) by striking the period at the end of
14 subparagraph (D) and inserting a semicolon;
15 and

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

17 “(E) a program of related transportation
18 projects that—

19 “(i) are coordinated to achieve a com-
20 mon transportation goal;

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

23 “(iii) together receive not more than
24 30 percent of their funding for capital
25 costs from Federal grant funds made avail-

1 able under this title or chapter 53 of title
2 49; and

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

5 “(i) improves mobility; and

6 “(ii) is located within the station area
7 of a transit, passenger rail, or intercity bus
8 station.”.

9 (6) RURAL INFRASTRUCTURE PROJECT.—Sec-
10 tion 601(a) (as amended by paragraph (1)(A) of this
11 subsection) is further amended by inserting after
12 paragraph (12) the following:

13 “(13) RURAL INFRASTRUCTURE PROJECT.—
14 The term ‘rural infrastructure project’ means a sur-
15 face transportation infrastructure project located in
16 any area other than an urbanized area that has a
17 population of greater than 250,000 inhabitants.”.

18 (7) SUBSIDY AMOUNT.—Section 601(a)(16) (as
19 redesignated by paragraph (1)(A) of this subsection)
20 is amended by inserting “, or other source of funds
21 provided pursuant to section 608(c)(2),” after
22 “budget authority”.

23 (b) PROJECT APPLICATIONS AND DETERMINATIONS
24 OF ELIGIBILITY.—

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

3 **“SEC. 602. PROJECT APPLICATIONS AND DETERMINATIONS**
4 **OF ELIGIBILITY.**

5 “(a) PROJECT APPLICATIONS.—

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

13 “(2) MASTER CREDIT AGREEMENTS.—An appli-
14 cation submitted under paragraph (1) may request
15 that financial assistance under this chapter be pro-
16 vided under a master credit agreement.

17 “(3) APPLICATIONS WHERE OBLIGOR WILL BE
18 IDENTIFIED LATER.—A State, local government,
19 agency or instrumentality of a State or local govern-
20 ment, or public authority may submit an application
21 to the Secretary under paragraph (1) under which a
22 private party to a public-private partnership will be
23 the obligor and will be identified later through com-
24 pletion of a procurement and selection of the private
25 party.

1 “(b) ELIGIBILITY.—

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

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

9 “(A) INCLUSION IN TRANSPORTATION
10 PLANS AND PROGRAMS.—The project shall sat-
11 isfy the applicable planning and programmatic
12 requirements of sections 5203 and 5204 of title
13 49—

14 “(i) in the case of an application for
15 financial assistance to be provided under a
16 master credit agreement, at such time as
17 credit assistance is provided for the project
18 pursuant to the master credit agreement;
19 and

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

24 “(B) CREDITWORTHINESS.—

1 “(i) IN GENERAL.—The project shall
2 satisfy applicable creditworthiness stand-
3 ards, including, at a minimum—

4 “(I) a rate covenant, if applica-
5 ble;

6 “(II) adequate coverage require-
7 ments to ensure repayment;

8 “(III) an investment grade rating
9 from at least 2 rating agencies on
10 debt senior to the Federal credit in-
11 strument; and

12 “(IV) a rating from at least 2
13 rating agencies on the Federal credit
14 instrument.

15 “(ii) AMOUNTS LESS THAN
16 \$75,000,000.—Notwithstanding clauses
17 (i)(III) and (i)(IV), if the senior debt and
18 Federal credit instrument is for an amount
19 less than \$75,000,000, 1 rating agency
20 opinion for each of the senior debt and
21 Federal credit instrument shall be suffi-
22 cient.

23 “(iii) FEDERAL CREDIT INSTRUMENTS
24 THAT ARE THE SENIOR DEBT.—Notwith-
25 standing clauses (i)(III) and (i)(IV), in a

1 case in which the Federal credit instru-
2 ment is the senior debt, the Federal credit
3 instrument shall be required to receive an
4 investment grade rating from at least 2
5 rating agencies.

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

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

14 “(ii) in the case of a project for which
15 financial assistance will be provided under
16 a master credit agreement, shall be reason-
17 ably anticipated to equal or exceed
18 \$1,000,000,000;

19 “(iii) in the case of a rural infrastruc-
20 ture project, shall be reasonably antici-
21 pated to equal or exceed \$25,000,000; and

22 “(iv) in the case of any other project,
23 shall be reasonably anticipated to equal or
24 exceed the lesser of—

25 “(I) \$50,000,000; or

1 “(II) 33 $\frac{1}{3}$ percent of the amount
2 apportioned, out of amounts made
3 available from the Highway Trust
4 Fund (other than the Alternative
5 Transportation Account), to the State
6 in which the project is located for
7 Federal-aid highway and highway
8 safety construction programs for the
9 most recently completed fiscal year.

10 “(D) DEDICATED REVENUE SOURCES.—
11 The Federal credit instrument for the project
12 shall be repayable, in whole or in part, from
13 tolls, user fees, payments owing to the obligor
14 under a public-private partnership, or other
15 dedicated revenue sources that also secure or
16 fund the project obligations.

17 “(E) REGIONAL SIGNIFICANCE.—The
18 project shall be regionally significant (as de-
19 fined in regulations implementing sections 134
20 and 135 (as in effect on the day before the date
21 of enactment of the American Energy and In-
22 frastructure Jobs Act of 2012)) or otherwise
23 significantly enhance the national transpor-
24 tation system.

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

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

11 “(i) foster an innovative public-private
12 partnership and attract private debt or eq-
13 uity investment for the project;

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

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

21 “(H) PROJECT READINESS.—The appli-
22 cant shall demonstrate that the contracting
23 process for construction of the project can be
24 commenced not later than 90 days after the

1 date on which a Federal credit instrument is se-
2 cured for the project under this chapter.

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

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

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

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

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

22 “(2) INSUFFICIENT FUNDS.—If the Secretary
23 approves an application submitted under subsection
24 (a)(1) for a project in a fiscal year, but is unable to
25 provide financial assistance for the project in that

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

8 “(e) PROCEDURES FOR DETERMINING PROJECT ELI-
9 GIBILITY.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-
11 tablish procedures for—

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

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

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

21 “(A) The procedures may not restrict when
22 applications may be filed.

23 “(B) The procedures shall ensure that—

24 “(i) the Secretary will provide written
25 notice to an applicant, on or before the

1 15th day following the date of receipt of
2 the applicant's application, informing the
3 applicant of whether the application is
4 complete;

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

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

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

24 “(I) the applicant's application is
25 deemed complete; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) SECURED LOANS.—

12 (1) IN GENERAL.—

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

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

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

23 (2) TERMS AND LIMITATIONS.—

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

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

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

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

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

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

21 (d) LINES OF CREDIT.—

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

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

4 (3) TERMS AND LIMITATIONS.—

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

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

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

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

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

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

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

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

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

14 (f) FUNDING.—

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

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

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

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

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

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

14 “(c) EXHAUSTION OF AVAILABILITY.—

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

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

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

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

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

7 “(d) USE OF UNALLOCATED FUNDS.—

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

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

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

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

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

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

7 (a) FUNDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(b) ELIGIBLE USES OF FUNDING.—

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

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

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

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

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

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

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

11 “(f) FUNDING.—

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

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

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

 “611. State infrastructure bank capitalization.”.

23 **SEC. 1204. TOLLING.**

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

1 “(a) BASIC PROGRAM.—

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

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

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

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

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

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

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

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

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

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

1 participation is authorized under this para-
2 graph.

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

6 “(A) be publicly owned; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(8) LOANS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(A) HIGH OCCUPANCY VEHICLE; HOV.—
4 The term ‘high occupancy vehicle’ or ‘HOV’
5 means a vehicle with no fewer than 2 occu-
6 pants.

7 “(B) INITIAL CONSTRUCTION.—The term
8 ‘initial construction’ means the construction of
9 a highway, bridge, tunnel, or other facility at
10 any time before it is open to traffic and does
11 not include any improvement to a highway,
12 bridge, tunnel, or other facility after it is open
13 to traffic.

14 “(C) PUBLIC AUTHORITY.—The term ‘pub-
15 lic authority’ means a State, interstate compact
16 of States, or public entity designated by a
17 State.

18 “(D) TOLL FACILITY.—The term ‘toll fa-
19 cility’ means a toll highway, bridge, or tunnel or
20 approach thereto constructed under this sub-
21 section.”.

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

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

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

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

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

8 (2) in subparagraph (C)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (d) STANDARD TRANSACTION CONTRACTS.—

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

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

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

3 **Subtitle C—Highway Safety**

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

5 Section 148 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(A) is developed after consultation with—

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

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

24 “(iii) representatives of major modes
25 of transportation;

1 “(iv) State and local traffic enforce-
2 ment officials;

3 “(v) representatives of entities con-
4 ducting a Federal or State motor carrier
5 safety program;

6 “(vi) motor vehicle administration
7 agencies;

8 “(vii) a highway-rail grade crossing
9 safety representative of the Governor of
10 the State; and

11 “(viii) other major Federal, State,
12 tribal, regional, and local safety stake-
13 holders;

14 “(B) is approved by the Governor of the
15 State or a responsible State agency;

16 “(C) defines State safety goals, including
17 with respect to performance measures estab-
18 lished under section 5206 of title 49;

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

1 “(E) analyzes and makes effective use of
2 State, regional, and local safety data, including
3 data from the safety data system required
4 under subsection (e);

5 “(F) considers the results of Federal,
6 State, regional, and local transportation and
7 highway safety planning processes; and

8 “(G) considers the safety needs of, and
9 high-fatality segments of, public roads.

10 “(3) IMPLEMENTATION.—

11 “(A) IDENTIFICATION AND ANALYSIS OF
12 HIGHWAY SAFETY PROBLEMS AND OPPORTUNI-
13 TIES.—As part of the State highway safety im-
14 provement program of the State, each State
15 shall, including through use of the safety data
16 system required under subsection (e)—

17 “(i) identify roadway features that
18 constitute a hazard to road users;

19 “(ii) identify highway safety improve-
20 ment projects on the basis of crash history
21 (including crash rates), crash potential, or
22 other data-supported means;

23 “(iii) establish the relative severity of
24 the risks of roadway features based on
25 crash, injury, fatality, traffic volume, and

1 other relevant data (including the number
2 and rates of crashes, injuries, and fatali-
3 ties);

4 “(iv) identify the 100 most dangerous
5 roads in the State, including specific inter-
6 sections and sections of roads, based on
7 the risk factors described in clause (iii);

8 “(v) consider whether highway safety
9 improvement projects maximize opportuni-
10 ties to advance safety; and

11 “(vi) in conjunction with the National
12 Highway Traffic Safety Administration
13 and the Federal Motor Carrier Safety Ad-
14 ministration, evaluate the progress made
15 each year in achieving State safety goals
16 identified in the State strategic highway
17 safety plan.

18 “(B) SCHEDULE OF HIGHWAY SAFETY IM-
19 PROVEMENT PROJECTS.—As part of the State
20 highway safety improvement program of the
21 State, each State shall, including through use
22 of the safety data system required under sub-
23 section (e)—

24 “(i) identify highway safety improve-
25 ment projects;

1 “(ii) determine priorities for the cor-
2 rection of roadway features that constitute
3 a hazard to road users as identified
4 through safety data analysis; and

5 “(iii) establish and implement a
6 schedule of highway safety improvement
7 projects to address roadway features iden-
8 tified as constituting a hazard to road
9 users.

10 “(4) ELIGIBLE PROJECTS.—

11 “(A) IN GENERAL.—A State may obligate
12 funds apportioned to the State under section
13 104(b)(5) to carry out—

14 “(i) any highway safety improvement
15 project on any public road or publicly
16 owned pathway or trail;

17 “(ii) any project to put in effect or
18 improve the safety data system required
19 under subsection (e), without regard to
20 whether the project is included in an appli-
21 cable State strategic highway safety plan;

22 “(iii) any project to maintain min-
23 imum levels of retroreflectivity with respect
24 to a public road, without regard to whether

1 the project is included in an applicable
2 State strategic highway safety plan;

3 “(iv) any project for roadway safety
4 infrastructure improvements consistent
5 with the recommendations included in the
6 publication of the Federal Highway Ad-
7 ministration entitled ‘Highway Design
8 Handbook for Older Drivers and Pedes-
9 trians’ (Publication number FHWA RD-
10 01–103), or any successor publication; or

11 “(v) as provided in subsection (d),
12 other projects.

13 “(B) USE OF OTHER FUNDING FOR SAFE-
14 TY IMPROVEMENT PROJECTS.—

15 “(i) EFFECT OF SECTION.—Nothing
16 in this section prohibits the use of funds
17 made available under other provisions of
18 this title for highway safety improvement
19 projects.

20 “(ii) USE OF OTHER FUNDS.—States
21 are encouraged to address the full scope of
22 their safety needs and opportunities by
23 using, for a highway safety improvement
24 project, funds made available under other

1 provisions of this title (except a provision
2 that specifically prohibits that use).

3 “(C) AUTOMATED TRAFFIC ENFORCEMENT
4 SYSTEMS.—

5 “(i) PROHIBITION.—A State may not
6 obligate funds apportioned to the State
7 under section 104(b) to carry out any pro-
8 gram to purchase, operate, or maintain an
9 automated traffic enforcement system.

10 “(ii) AUTOMATED TRAFFIC ENFORCE-
11 MENT SYSTEM DEFINED.—In this subpara-
12 graph, the term ‘automated traffic enforce-
13 ment system’ means automated technology
14 that monitors compliance with traffic laws.

15 “(5) UPDATED STATE STRATEGIC HIGHWAY
16 SAFETY PLAN REQUIRED.—

17 “(A) IN GENERAL.—A State may obligate
18 funds apportioned to the State under section
19 104(b)(5) for the second fiscal year beginning
20 after the date of enactment of the American
21 Energy and Infrastructure Jobs Act of 2012
22 only if the State has in effect and has sub-
23 mitted to the Secretary an updated State stra-
24 tegic highway safety plan that satisfies require-
25 ments under this subsection.

1 “(B) TRANSITION.—Before the second fis-
2 cal year beginning after the date of enactment
3 of the American Energy and Infrastructure
4 Jobs Act of 2012, a State may obligate funds
5 apportioned to the State under section
6 104(b)(5) in a manner consistent with a State
7 strategic highway safety plan of the State devel-
8 oped before such date of enactment.

9 “(d) FLEXIBLE FUNDING.—To further the imple-
10 mentation of a State strategic highway safety plan and
11 the achievement of performance measures established
12 under section 5206 of title 49, a State may use not more
13 than 10 percent of the funds apportioned to the State
14 under section 104(b)(5) for a fiscal year to carry out safe-
15 ty projects under any other section if—

16 “(1) the use is consistent with the State stra-
17 tegic highway safety plan of the State; and

18 “(2) the State certifies to the Secretary that
19 the funds are being used for the most effective
20 projects for making progress toward achieving per-
21 formance measures established under section 5206
22 of title 49.

23 “(e) SAFETY DATA SYSTEM.—

24 “(1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of the American Energy and

1 Infrastructure Jobs Act of 2012, each State, as part
2 of the State highway safety improvement program of
3 the State, shall have in effect a safety data system
4 to—

5 “(A) collect and maintain a record of safe-
6 ty data with respect to all public roads in the
7 State;

8 “(B) advance the capabilities of the State
9 with respect to safety data collection, analysis,
10 and integration;

11 “(C) identify roadway features that con-
12 stitute a hazard to road users; and

13 “(D) perform safety problem identification
14 and countermeasure analysis.

15 “(2) IMPROVEMENT EFFORTS.—Each State
16 shall carry out projects, as needed, to ensure that
17 the safety data system of the State enhances—

18 “(A) the timeliness, accuracy, complete-
19 ness, uniformity, and accessibility of safety data
20 with respect to all public roads in the State;

21 “(B) the ability of the State to integrate
22 all safety data collected throughout the State;

23 “(C) the ability of State and national safe-
24 ty data systems to be compatible and interoper-
25 able;

1 “(D) the ability of the Secretary to observe
2 and analyze national trends in crash rates, out-
3 comes, and circumstances; and

4 “(E) the collection of data on crashes that
5 involve a bicyclist or pedestrian.

6 “(3) EVALUATION OF IMPROVEMENT EF-
7 FORTS.—Each State shall collect and maintain a
8 record of projects undertaken to improve the safety
9 data system of the State and shall evaluate the ef-
10 fectiveness of such projects.

11 “(f) TRANSPARENCY.—A State shall make all plans
12 and reports submitted to the Secretary under this section
13 available to the public through—

14 “(1) the Internet Web site of the State trans-
15 portation department of the State; or

16 “(2) such other means as the Secretary deter-
17 mines to be appropriate.

18 “(g) DISCOVERY AND ADMISSION INTO EVIDENCE OF
19 CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Not-
20 withstanding any other provision of law, reports, surveys,
21 schedules, lists, or data compiled or collected for any pur-
22 pose directly relating to this section, or published in ac-
23 cordance with subsection (f), shall not be subject to dis-
24 covery or admitted into evidence in a Federal or State
25 court proceeding or considered for other purposes in any

1 action for damages arising from any occurrence at a loca-
2 tion identified or addressed in such reports, surveys,
3 schedules, lists, or other data.

4 “(h) FEDERAL SHARE OF HIGHWAY SAFETY IM-
5 PROVEMENT PROJECTS.—The Federal share of the cost
6 of a highway safety improvement project carried out with
7 funds apportioned to a State under section 104(b)(5) shall
8 be 90 percent, unless a Federal share exceeding 90 per-
9 cent would apply to the project under section 120 or
10 130.”.

11 **SEC. 1302. RAILWAY-HIGHWAY CROSSINGS.**

12 (a) TRANSPARENCY OF STATE SURVEYS AND SCHED-
13 ULES WITH RESPECT TO RAILWAY-HIGHWAY CROSS-
14 INGS.—

15 (1) SURVEY AND SCHEDULE OF PROJECTS.—
16 Section 130(d) is amended by adding at the end the
17 following: “Each State shall make the surveys con-
18 ducted and schedules implemented under this sub-
19 section available to the public on an appropriate
20 Internet Web site of the State.”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall take effect 1 year after the
23 date of enactment of this Act.

1 (b) RAILWAY-HIGHWAY CROSSING INFORMATION.—
2 Section 130 is amended by adding at the end the fol-
3 lowing:

4 “(m) RAILWAY-HIGHWAY CROSSING INFORMA-
5 TION.—

6 “(1) PRIORITY LISTS AND ACTION PLANS.—

7 “(A) IN GENERAL.—Not later than 1 year
8 after the date of enactment of this subsection,
9 each State shall compile and submit to the Sec-
10 retary a report that includes—

11 “(i) a list of the 10 railway-highway
12 crossings in the State that have the great-
13 est need for safety improvements;

14 “(ii) an action plan that identifies
15 projects and activities the State plans to
16 carry out to improve safety at those rail-
17 way-highway crossings; and

18 “(iii) a list of projects and activities
19 the State carried out to improve safety at
20 those railway-highway crossings during the
21 2-year period ending on the date on which
22 the report is submitted to the Secretary.

23 “(B) UPDATES.—Each State shall update
24 and submit to the Secretary, at least once every

1 2 years, the report of that State under subpara-
2 graph (A).

3 “(2) PUBLICATION OF REPORTS ON U.S. DOT
4 WEB SITE.—The Secretary shall make the reports
5 submitted under paragraph (1) available to the pub-
6 lic on the Internet Web site of the Department of
7 Transportation.

8 “(3) PUBLICATION OF REPORTS ON STATE WEB
9 SITES.—Each State shall make the reports compiled
10 under paragraph (1) available to the public on an
11 appropriate Internet Web site of the State.

12 “(4) LIMITATION ON USE OF DATA IN JUDICIAL
13 PROCEEDINGS.—Notwithstanding any other provi-
14 sion of law, any report, review, survey, schedule, list,
15 data, information, or document of any kind compiled
16 or collected pursuant to this subsection, including
17 for the purpose of identifying, evaluating, or plan-
18 ning the safety enhancement of a potential accident
19 site or railway-highway crossing pursuant to this
20 section, shall not be subject to discovery or admitted
21 into evidence in a Federal or State court proceeding
22 or considered for other purposes in any action for
23 damages arising from any occurrence at a location
24 mentioned or addressed in such report, review, sur-
25 vey, schedule, list, data, information, or document.

1 “(5) NONCOMPLIANCE.—If the Secretary deter-
2 mines that a State is not in compliance with require-
3 ments under this subsection, the Secretary may
4 withhold funding that would otherwise be appor-
5 tioned to that State under this section.”.

6 **SEC. 1303. HIGHWAY WORKER SAFETY.**

7 (a) POSITIVE PROTECTIVE MEASURES.—Not later
8 than 60 days after the date of enactment of this Act, the
9 Secretary shall modify section 630.1108(a) of title 23,
10 Code of Federal Regulations, to ensure that—

11 (1) at a minimum, positive protective measures
12 are used to separate workers on highway construc-
13 tion projects from motorized traffic in all work zones
14 where traffic is present and where workers have no
15 means of escape, including tunnels and bridges, un-
16 less an engineering analysis determines such meas-
17 ures are not necessary;

18 (2) temporary longitudinal traffic barriers are
19 used to protect workers on highway construction
20 projects in stationary work zones lasting 2 weeks or
21 more if traffic is present, the traffic will be traveling
22 at a speed of 45 miles per hour or more, and the
23 nature of the work requires workers to be within 1
24 lane-width from the edge of a live travel lane, un-
25 less—

1 (A) an engineering analysis determines
2 such barriers are not necessary; or

3 (B) the project is located—

4 (i) in a State with a population den-
5 sity of 20 or fewer persons per square
6 mile;

7 (ii) outside of an urbanized area; and

8 (iii) on a roadway with an annual av-
9 erage daily traffic load that is less than
10 100 vehicles per hour; and

11 (3) when positive protective measures are nec-
12 essary for a highway construction project, such
13 measures are paid for on a unit pay basis, unless
14 doing so would create a conflict with innovative con-
15 tracting approaches, including a design-build con-
16 tract or a performance-based contract, under which
17 the contractor is paid to assume a certain risk allo-
18 cation and payment is generally made on a lump
19 sum basis.

20 (b) APPAREL.—Not later than 180 days after the
21 date of enactment of this Act, the Secretary shall modify
22 regulations issued pursuant to section 1402 of
23 SAFETEA-LU (23 U.S.C. 401 note)—

24 (1) to allow fire services personnel, who are
25 subject to the regulations, to wear apparel meeting

1 the high visibility requirements set forth in NFPA
2 1971–2007 (Standard on Protective Ensembles for
3 Structural Fire Fighting and Proximity Fire Fight-
4 ing); and

5 (2) to not require such personnel to wear ap-
6 parel meeting requirements set forth in ANSI/ISEA
7 107–2004.

8 **Subtitle D—Freight Mobility**

9 **SEC. 1401. NATIONAL FREIGHT POLICY.**

10 (a) DEVELOPMENT.—Not later than 1 year after the
11 date of enactment of this Act, and every 5 years there-
12 after, the Secretary, in consultation with interested public
13 and private sector freight stakeholders, including rep-
14 resentatives of ports, shippers, carriers, freight-related as-
15 sociations, the freight industry workforce, State transpor-
16 tation departments, and local governments, shall develop
17 a 5-year National Freight Policy. Such policy shall be con-
18 sistent with the State performance management process
19 under section 5206(e)(1) of title 49, United States Code.

20 (b) CONTENTS.—The National Freight Policy shall—

21 (1) specify goals, objectives, and milestones
22 with respect to the expansion of freight transpor-
23 tation capacity and the improvement of freight
24 transportation infrastructure in the United States;

1 (2) specify programs, strategies, and projects
2 that will assist in achieving the goals, objectives, and
3 milestones specified under paragraph (1);

4 (3) specify the manner in which the programs,
5 strategies, and projects specified under paragraph
6 (2) will achieve the goals, objectives, and milestones
7 specified under paragraph (1), including with respect
8 to a 5-year timeframe for meeting the goals, objec-
9 tives, and milestones;

10 (4) identify protocols to promote and ensure the
11 implementation of the National Freight Policy; and

12 (5) identify a cooperative process, which in-
13 cludes State and local governments, for imple-
14 menting the National Freight Policy.

15 (c) GOALS.—In developing the National Freight Pol-
16 icy, the Secretary shall consider the goals of—

17 (1) investing in freight transportation infra-
18 structure to strengthen the economic competitiveness
19 of the United States, reduce congestion, and in-
20 crease productivity, particularly with respect to do-
21 mestic industries and businesses that create high-
22 value jobs;

23 (2) improving and maintaining existing freight
24 transportation infrastructure to ensure that infra-
25 structure meets appropriate standards;

1 (3) improving the capacity of freight infrastruc-
2 ture across different modes of transportation, reduc-
3 ing congestion, and increasing freight throughput;

4 (4) incorporating concepts of performance, in-
5 novation, competition, and accountability into the
6 operation and maintenance of freight transportation
7 infrastructure;

8 (5) increasing the usage and number of strate-
9 gically-located, multi-modal freight transportation
10 facilities to reduce congestion and emissions relating
11 to highways in the United States;

12 (6) improving the safety of freight transpor-
13 tation;

14 (7) implementing new technologies to improve
15 the coordination and efficiency of the movement of
16 freight throughout the United States;

17 (8) improving methods for incorporating inter-
18 national trade estimates into transportation plan-
19 ning; and

20 (9) advancing the development of aerotropolis
21 transportation systems, which are planned and co-
22 ordinated multimodal freight and passenger trans-
23 portation networks that, as determined by the Sec-
24 retary, provide efficient, cost-effective, sustainable,
25 and intermodal connectivity to a defined region of

1 economic significance centered around a major air-
2 port.

3 (d) REPORTING.—The Secretary shall include the
4 National Freight Policy in the National Strategic Trans-
5 portation Plan developed under section 5205 of title 49,
6 United States Code.

7 (e) COMMODITY FLOW SURVEY.—The Secretary, in
8 consultation with other relevant Federal agencies, shall
9 make changes to the commodity flow survey (conducted
10 by the Bureau of Transportation Statistics pursuant to
11 section 111(c)(5) of title 49, United States Code) that the
12 Secretary determines will reduce identified freight data
13 gaps and deficiencies and assist in the evaluation of fore-
14 casts of transportation demand.

15 **SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.**

16 (a) IN GENERAL.—The Secretary shall encourage
17 each State to establish a freight advisory committee con-
18 sisting of a representative cross-section of public and pri-
19 vate sector freight stakeholders, including representatives
20 of ports, shippers, carriers, freight-related associations,
21 the freight industry workforce, the State's transportation
22 department, and local governments.

23 (b) ROLE OF COMMITTEE.—A freight advisory com-
24 mittee described in subsection (a) shall—

1 (1) advise the State on freight-related priorities,
2 issues, projects, and funding needs;

3 (2) serve as a forum for discussion for State
4 transportation decisions affecting freight mobility;

5 (3) communicate and coordinate regional prior-
6 ities with other organizations;

7 (4) promote the sharing of information between
8 the private and public sectors on freight issues; and

9 (5) participate in the development of the State's
10 freight plan described in section 1403 of this Act.

11 **SEC. 1403. STATE FREIGHT PLANS.**

12 (a) IN GENERAL.—The Secretary shall encourage
13 each State to develop a freight plan that provides a com-
14 prehensive plan for the State's immediate and long-range
15 planning activities and investments with respect to freight.

16 (b) PLAN CONTENTS.—A freight plan described in
17 subsection (a) shall include, at a minimum—

18 (1) an identification of significant freight sys-
19 tem trends, needs, and issues with respect to the
20 State;

21 (2) a description of the freight policies, strate-
22 gies, and performance measures that will guide the
23 State's freight-related transportation investment de-
24 cisions;

1 (3) a description of how such plan will improve
2 the ability of the State to meet the national freight
3 goals established under section 1401 of this Act and
4 the performance targets established under section
5 5206 of title 49, United States Code;

6 (4) evidence of consideration of innovative tech-
7 nologies and operational strategies, including intel-
8 ligent transportation systems, that improve the safe-
9 ty and efficiency of freight movement; and

10 (5) for routes on which travel by heavy vehicles,
11 including mining, agricultural, and timber vehicles,
12 is projected to substantially deteriorate the condition
13 of roadways, a description of improvements that may
14 be required to reduce or impede such deterioration.

15 (c) RELATIONSHIP TO LONG-RANGE PLAN.—A
16 freight plan described in subsection (a) may be developed
17 separate from or incorporated into the statewide strategic
18 long-range transportation plan required by section 5204
19 of title 49, United States Code.

20 **SEC. 1404. TRUCKING PRODUCTIVITY.**

21 (a) WEIGHT LIMITATIONS.—Section 127(a) is
22 amended by adding at the end the following:

23 “(13) PILOT PROGRAM.—

24 “(A) IN GENERAL.—The Secretary may
25 carry out a pilot program under which the Sec-

1 retary may authorize up to 3 States to allow,
2 by special permit, the operation of vehicles with
3 a gross vehicle weight of up to 126,000 pounds
4 on segments on the Interstate System in the
5 State.

6 “(B) REQUIREMENTS.—A State authorized
7 under the pilot program under subparagraph
8 (A) shall—

9 “(i) identify and submit to the Sec-
10 retary for approval the segments on the
11 Interstate System to be subject to the pro-
12 gram and the configurations of vehicles to
13 be allowed to operate under a special per-
14 mit;

15 “(ii) allow vehicles subject to the pro-
16 gram to operate on not more than 3 seg-
17 ments, which may be contiguous, of up to
18 25 miles each;

19 “(iii) require the loads of vehicles op-
20 erating under a special permit to conform
21 to such single axle, tandem axle, tridem
22 axle, and bridge formula limits applicable
23 in the State; and

24 “(iv) establish and collect a fee for ve-
25 hicles operating under a special permit.

1 “(C) PROHIBITIONS.—The Secretary may
2 prohibit the operation of a vehicle under a spe-
3 cial permit if the Secretary determines that the
4 operation poses an unreasonable safety risk
5 based on an analysis of engineering data, safety
6 data, or other applicable data.

7 “(D) DURATION.—The Secretary may au-
8 thorize a State under the pilot program under
9 subparagraph (A) for a period not to exceed 4
10 years.”.

11 (b) ADDITIONAL VEHICLE WEIGHT PROVISIONS.—
12 Section 127 is amended by adding at the end the fol-
13 lowing:

14 “(i) SPECIAL PERMITS DURING PERIODS OF EMER-
15 GENCY.—

16 “(1) IN GENERAL.—A State may issue special
17 permits with respect to a major disaster or emer-
18 gency declared under the Robert T. Stafford Dis-
19 aster Relief and Emergency Assistance Act (42
20 U.S.C. 5121 et seq.) to overweight vehicles and
21 loads that can be easily dismantled or divided allow-
22 ing operations on the Interstate System that would
23 otherwise be prohibited under subsection (a), if—

24 “(A) the permits are issued in accordance
25 with State law; and

1 “(B) the permits are issued exclusively to
2 vehicles and loads that are delivering relief sup-
3 plies in response to the major disaster or emer-
4 gency.

5 “(2) EXPIRATION.—A permit issued with re-
6 spect to a major disaster or emergency under para-
7 graph (1) shall expire not later than 120 days after
8 the date of the declaration of the major disaster or
9 emergency as described in paragraph (1).

10 “(j) EMERGENCY VEHICLES.—

11 “(1) IN GENERAL.—Notwithstanding subsection
12 (a), a State may not enforce against an emergency
13 vehicle a weight limit of—

14 “(A) less than 24,000 pounds on a single
15 steering axle;

16 “(B) less than 33,500 pounds on a single
17 drive axle;

18 “(C) less than 62,000 pounds on a tandem
19 axle; or

20 “(D) less than 52,000 pounds on a tandem
21 rear drive steer axle, up to a maximum gross
22 vehicle weight of 86,000 pounds.

23 “(2) EMERGENCY VEHICLE DEFINED.—In this
24 subsection, the term ‘emergency vehicle’ means a ve-

1 hicle designed to be used under emergency condi-
2 tions—

3 “(A) to transport personnel and equip-
4 ment; and

5 “(B) to support the suppression of fires or
6 mitigation of other hazardous situations.”.

7 (c) WAIVER OF HIGHWAY FUNDING REDUCTION.—

8 The total amount of funds apportioned to a State under
9 section 104(b)(1) of title 23, United States Code, for any
10 period may not be reduced under section 127(a) of such
11 title on the basis that the State authorizes a vehicle to
12 operate on the Interstate System in the State in accord-
13 ance with the amendments made by this section.

14 (d) LENGTH LIMITATIONS.—Section 31111 of title
15 49, United States Code, is amended—

16 (1) in subsection (a) by adding at the end the
17 following:

18 “(5) TRAILER TRANSPORTER TOWING UNIT.—

19 The term ‘trailer transporter towing unit’ means a
20 power unit that is not used to carry property when
21 operating in a towaway trailer transporter combina-
22 tion.

23 “(6) TOWAWAY TRAILER TRANSPORTER COM-
24 BINATION.—The term ‘towaway trailer transporter
25 combination’ means a combination of vehicles con-

1 sisting of a trailer transporter towing unit and 2
2 trailers or semitrailers—

3 “(A) with a total weight that does not ex-
4 ceed 26,000 pounds; and

5 “(B) in which the trailers or semitrailers
6 carry no property and constitute inventory
7 property of a manufacturer, distributor, or
8 dealer of such trailers or semitrailers.”; and

9 (2) in subsection (b)(1)—

10 (A) by striking subparagraph (A) and in-
11 serting the following:

12 “(A) imposes a vehicle length limitation, on any
13 segment of the Dwight D. Eisenhower System of
14 Interstate and Defense Highways (except a segment
15 exempted under subsection (f)) and those classes of
16 qualifying Federal-aid primary system highways des-
17 ignated by the Secretary of Transportation under
18 subsection (e), of—

19 “(i) less than 45 feet on a bus;

20 “(ii) less than 53 feet on a semitrailer op-
21 erating in a truck tractor-semitrailer combina-
22 tion; or

23 “(iii) notwithstanding section 31112, less
24 than 33 feet on a semitrailer or trailer oper-

1 ating in a truck tractor-semitrailer-trailer com-
2 bination;”;

3 (B) in subparagraph (E) by striking “; or”
4 and inserting a semicolon;

5 (C) in subparagraph (F) by striking the
6 period at the end and inserting a semicolon;
7 and

8 (D) by adding at the end the following:

9 “(G) imposes a vehicle length limitation of less
10 than 80 feet on a stinger steered automobile trans-
11 porter with a rear overhand of less than 6 feet;

12 “(H) has the effect of imposing an overall
13 length limitation of less than 82 feet on a towaway
14 trailer transporter combination;

15 “(I) imposes a limitation of less than 46 feet on
16 the distance from the kingpin to the center of the
17 rear axle on a trailer used exclusively or primarily
18 for the transport of livestock; or

19 “(J) has the effect of prohibiting the use of a
20 device designed by a bus manufacturer to affix to
21 the rear of an intercity bus purchased after October
22 1, 2012, for use in carrying passenger baggage, if
23 the device does not result in the bus exceeding 47
24 feet in total length.”.

1 (e) ACCESS TO INTERSTATE SYSTEM.—Section
2 31114(a)(2) of title 49, United States Code, is amended
3 by inserting “a towaway trailer transporter combination
4 as defined in section 31111(a),” before “or any”.

5 **SEC. 1405. STUDY WITH RESPECT TO TRUCK SIZES AND**
6 **WEIGHTS.**

7 (a) STUDY.—

8 (1) IN GENERAL.—The Secretary shall conduct
9 a study with respect to truck sizes and weights in
10 accordance with this section.

11 (2) SCOPE.—In conducting the study, the Sec-
12 retary shall examine, in accordance with paragraph
13 (3), the effect on principal arterial routes and Na-
14 tional Highway System intermodal connectors that
15 allowing nationwide operation of each covered truck
16 configuration would have.

17 (3) CONTENTS.—In conducting the study, the
18 Secretary shall—

19 (A) evaluate the effect on safety that al-
20 lowing each covered truck configuration to oper-
21 ate would have, with consideration given to—

22 (i) vehicle operating characteristics
23 under various conditions likely to be expe-
24 rienced during commercial operation;

- 1 (ii) changes in vehicle miles traveled
2 due to increased vehicle hauling capacity;
- 3 (iii) shifts in freight between transpor-
4 tation modes;
- 5 (iv) crash rates; and
6 (v) vehicle stability and control;
- 7 (B) estimate—
- 8 (i) the effect on pavement perform-
9 ance that allowing each covered truck con-
10 figuration to operate would have;
- 11 (ii) the effect on bridge reliability and
12 service life that allowing each covered
13 truck configuration to operate would have;
14 and
- 15 (iii) the ability of each covered truck
16 configuration to comply with the Federal
17 bridge formula (as specified in section
18 127(a)(2) of title 23, United States Code);
- 19 (C) estimate the full cost responsibility as-
20 sociated with allowing each covered truck con-
21 figuration to operate, including all costs relat-
22 ing to pavement and bridges, and examine
23 methods available for recovering such cost re-
24 sponsibility;

1 (D) examine the ability of a representative
2 sample of regions to meet repair and recon-
3 struction needs related to allowing each covered
4 truck configuration to operate;

5 (E) estimate—

6 (i) the extent to which freight would
7 be diverted from other surface transpor-
8 tation modes to principal arterial routes
9 and National Highway System intermodal
10 connectors if each covered truck configura-
11 tion is allowed to operate and the effect
12 that any such diversion would have on
13 other modes of transportation;

14 (ii) the effect that any such diversion
15 would have on public safety, infrastructure,
16 cost responsibility, fuel efficiency, and the
17 environment;

18 (iii) the effect on the transportation
19 network of the United States that allowing
20 each covered truck configuration to operate
21 would have; and

22 (iv) whether allowing each covered
23 truck configuration to operate would result
24 in an increase or decrease in the total
25 number of trucks operating on principal

1 arterial routes and National Highway Sys-
2 tem intermodal connectors; and

3 (F) identify all Federal rules and regula-
4 tions impacted by changes in truck size and
5 weight limits.

6 (b) REPORT TO CONGRESS.—Not later than 3 years
7 after the date of enactment of this Act, the Secretary shall
8 submit to Congress a report on the results of the study
9 conducted under subsection (a).

10 (c) COVERED TRUCK CONFIGURATION DEFINED.—
11 In this section, the term “covered truck configuration”
12 means each of the following:

13 (1) A combination truck tractor-semitrailer—

14 (A) with 5 axles; and

15 (B) a gross weight of 88,000 pounds.

16 (2) A combination truck tractor-semitrailer—

17 (A) with 6 axles; and

18 (B) a gross weight of 97,000 pounds.

19 (3) Longer combination vehicles (as such term
20 is defined in section 127(d)(4) of title 23, United
21 States Code).

22 (4) Any other truck configuration the Secretary
23 determines appropriate.

1 **SEC. 1406. MAXIMUM WEIGHT INCREASE FOR IDLE REDUC-**
2 **TION TECHNOLOGY ON HEAVY DUTY VEHI-**
3 **CLES.**

4 Section 127(a)(12) is amended—

5 (1) in subparagraph (B) by striking “400” and
6 inserting “550”; and

7 (2) in subparagraph (C)(ii) by striking “400-
8 pound” and inserting “550-pound”.

9 **Subtitle E—Federal Lands and**
10 **Tribal Transportation**

11 **SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
12 **PROGRAMS.**

13 Chapter 2 is amended by striking sections 201
14 through 203 and inserting the following:

15 **“§ 201. General provisions**

16 “(a) PURPOSE.—Recognizing the need for all Federal
17 lands transportation facilities and tribal transportation fa-
18 cilities to be treated under uniform policies similar to the
19 policies that apply to Federal-aid highways and other pub-
20 lic road and transit facilities constructed with Federal as-
21 sistance, the Secretary, in consultation with the Secretary
22 of each Federal land management agency, shall establish
23 and coordinate, in accordance with the requirements of
24 this section, a uniform policy for all transportation facili-
25 ties constructed under a covered program.

1 “(b) COVERED PROGRAM DEFINED.—In this section,
2 the term ‘covered program’ means—

3 “(1) the tribal transportation program estab-
4 lished under section 202; and

5 “(2) the Federal lands transportation program
6 established under section 203.

7 “(c) AVAILABILITY OF FUNDS.—

8 “(1) AVAILABILITY.—Funds made available to
9 carry out a covered program shall be available for
10 contract—

11 “(A) upon apportionment; or

12 “(B) if no apportionment is required, on
13 October 1 of the fiscal year for which author-
14 ized.

15 “(2) PERIOD OF AVAILABILITY.—Funds appor-
16 tioned or allocated to carry out a covered program
17 shall remain available for obligation for a period of
18 3 years after the last day of the fiscal year for which
19 the funds are authorized. Any amounts so appor-
20 tioned or allocated that remain unobligated at the
21 end of that period shall lapse.

22 “(3) AUTHORITY OF DEPARTMENT SECRE-
23 TARIES.—

24 “(A) AUTHORITY TO INCUR OBLIGATIONS,
25 APPROVE PROJECTS, AND ENTER INTO CON-

1 TRACTS.—The Secretary of a Department
2 charged with the administration of funds made
3 available to carry out a covered program may
4 incur obligations, approve projects, and enter
5 into contracts with respect to such funds.

6 “(B) CONTRACTUAL OBLIGATIONS.—A
7 Secretary’s action under subparagraph (A) shall
8 be deemed to be a contractual obligation of the
9 United States to pay the cost thereof, and the
10 funds subject to the action shall be deemed to
11 have been expended when so obligated.

12 “(4) EXPENDITURE.—Any funds made avail-
13 able to carry out a covered program for a fiscal year
14 shall be deemed to have been expended if a sum
15 equal to the total of the sums appropriated for the
16 fiscal year and previous fiscal years have been obli-
17 gated. Any of such funds released by payment of
18 final voucher or modification of project authoriza-
19 tions shall be credited to the balance of unobligated
20 appropriations and be immediately available for ex-
21 penditure.

22 “(5) AUTHORITY OF SECRETARY.—

23 “(A) OBLIGATING FUNDS FOR COVERED
24 PROGRAMS.—Notwithstanding any other provi-
25 sion of law, either of the following actions shall

1 be deemed to constitute a contractual obligation
2 of the United States to pay the total eligible
3 cost of any construction project funded under a
4 covered program:

5 “(i) The authorization by the Sec-
6 retary, or the Secretary of a Department
7 charged with the administration of funds
8 made available to carry out a covered pro-
9 gram, of engineering and related work for
10 the development, design, and acquisition
11 associated with the project, whether per-
12 formed by contract or agreement author-
13 ized by law.

14 “(ii) The approval by the Secretary,
15 or the Secretary of a Department charged
16 with the administration of funds made
17 available to carry out a covered program,
18 of plans, specifications, and estimates for
19 the project.

20 “(B) LIMITATION ON STATUTORY CON-
21 STRUCTION.—Nothing in this paragraph may
22 be construed to affect the application of the
23 Federal share associated with a project under-
24 taken under a covered program or to modify the

1 point of obligation associated with Federal sala-
2 ries and expenses.

3 “(6) REDISTRIBUTION OF UNUSED OBLIGATION
4 AUTHORITY.—To the extent that the Secretary is
5 otherwise required to redistribute unused obligation
6 authority appropriated for purposes other than sec-
7 tion 202, a minimum of 10 percent of such unused
8 obligation authority shall be allocated and distrib-
9 uted by the Secretary to entities eligible to receive
10 funds under such section for purposes of funding
11 competitively awarded high priority projects ensur-
12 ing greater safe access to markets for American In-
13 dian and Alaska Native communities that are, rel-
14 ative to other American Indian and Alaska Native
15 communities, more remotely located from product
16 and essential service markets.

17 “(d) FEDERAL SHARE.—

18 “(1) IN GENERAL.—Except as provided by
19 paragraph (2), the Federal share payable on account
20 of a project carried out under a covered program
21 shall be 100 percent of the total cost of the project.

22 “(2) OPERATING ASSISTANCE.—The Federal
23 share payable, with amounts made available to carry
24 out this chapter, on account of operating expenses
25 for a project carried out under the Federal lands

1 transportation program established under section
2 203 may not exceed 50 percent of the net operating
3 costs, as determined by the Secretary.

4 “(e) TRANSPORTATION PLANNING.—

5 “(1) TRANSPORTATION PLANNING PROCE-
6 DURES.—In consultation with the Secretary of each
7 Federal land management agency, the Secretary
8 shall implement transportation planning procedures
9 for tribal transportation facilities and Federal lands
10 transportation facilities that are consistent with the
11 planning processes required under sections 5203 and
12 5204 of title 49.

13 “(2) APPROVAL OF TRANSPORTATION IMPROVE-
14 MENT PROGRAM.—A transportation improvement
15 program developed as a part of the transportation
16 planning process under this subsection shall be sub-
17 ject to approval by the Secretary, acting in coordina-
18 tion with the Secretary of the appropriate Federal
19 land management agency.

20 “(3) INCLUSION IN OTHER PLANS.—Any
21 project under a covered program that is regionally
22 significant shall—

23 “(A) be developed in cooperation with ap-
24 propriate States and metropolitan planning or-
25 ganizations; and

1 “(B) be included in—
2 “(i) plans for the covered program;
3 “(ii) appropriate State and metropoli-
4 tan long-range transportation plans; and
5 “(iii) appropriate State and metropoli-
6 tan transportation improvement programs.

7 “(4) INCLUSION IN STATE PROGRAMS.—A
8 transportation improvement program that is ap-
9 proved by the Secretary as a part of the transpor-
10 tation planning process under this subsection shall
11 be included in appropriate plans and programs of
12 States and metropolitan planning organizations
13 without further action on the transportation im-
14 provement program.

15 “(5) ASSET MANAGEMENT.—The Secretary and
16 the Secretary of each Federal land management
17 agency, to the extent appropriate, shall have in ef-
18 fect safety, bridge, pavement, and congestion man-
19 agement systems in support of asset management
20 for highways funded under a covered program.

21 “(6) DATA COLLECTION.—

22 “(A) IN GENERAL.—The Secretary of each
23 Federal land management agency shall collect
24 and report on the data that is necessary to im-

1 plement a covered program, including at a min-
2 imum—

3 “(i) inventory and condition informa-
4 tion on tribal roads and Federal lands
5 highways; and

6 “(ii) bridge inspection and inventory
7 information on any Federal bridge that is
8 open to the public.

9 “(B) STANDARDS.—The Secretary, in co-
10 ordination with the Secretary of each Federal
11 land management agency, shall define collection
12 and reporting data standards for purposes of
13 subparagraph (A).

14 “(C) TRIBAL TRANSPORTATION PRO-
15 GRAM.—Each Secretary collecting data under
16 this paragraph relating to the tribal transpor-
17 tation program established under section 202
18 shall collect such data consistent with the re-
19 quirements of the Indian Self-Determination
20 and Education Assistance Act (25 U.S.C. 450
21 et seq.).

22 “(7) ADMINISTRATIVE EXPENSES.—The Sec-
23 retary may use up to 5 percent of the funds made
24 available to carry out section 203 for a fiscal year
25 for purposes of implementing the activities described

1 in this subsection, including direct support of trans-
2 portation planning activities among Federal land
3 management agencies.

4 “(f) REFERENCES TO SECRETARIES OF FEDERAL
5 LAND MANAGEMENT AGENCIES.—In this chapter, the
6 term ‘Secretary’, when used in connection with a Federal
7 land management agency, means the Secretary of the de-
8 partment that contains the agency.

9 **“§ 202. Tribal transportation program**

10 “(a) IN GENERAL.—The Secretary shall carry out a
11 tribal transportation program in accordance with the re-
12 quirements of this section.

13 “(b) USE OF FUNDS.—

14 “(1) IN GENERAL.—Funds made available to
15 carry out the tribal transportation program shall be
16 used by the Secretary and the Secretary of the Inte-
17 rior to pay for the following:

18 “(A) The covered costs of—

19 “(i) tribal roads;

20 “(ii) vehicular parking areas adjacent
21 to tribal roads (which may include electric
22 vehicle charging stations);

23 “(iii) pedestrian walkways and bicycle
24 transportation facilities (as defined in sec-
25 tion 217) on tribal lands; and

1 “(iv) roadside rest areas, including
2 sanitary and water facilities, on tribal
3 lands.

4 “(B) The costs of transportation projects
5 eligible for assistance under this title that are
6 within, or provide access to, tribal lands.

7 “(C) The costs of public transportation
8 projects eligible for assistance under section
9 5311(b)(1) of title 49 that are within, or pro-
10 vide access to, tribal lands (without regard to
11 whether the project is located in an urbanized
12 area).

13 “(D) The costs of rehabilitation, restora-
14 tion, and construction of interpretive signage at
15 tribal roads.

16 “(E) The costs of acquisition of necessary
17 scenic easements and scenic or historic sites as-
18 sociated with tribal roads.

19 “(2) COVERED COSTS DEFINED.—In paragraph
20 (1), the term ‘covered costs’ means the costs of
21 transportation planning, research, preventive mainte-
22 nance, engineering, rehabilitation, restoration, con-
23 struction, and reconstruction.

24 “(3) CONTRACT.—In connection with an activ-
25 ity described in paragraph (1), the Secretary and the

1 Secretary of the Interior may enter into a contract
2 or other appropriate agreement with respect to such
3 activity with—

4 “(A) a State (including a political subdivi-
5 sion of a State); or

6 “(B) an Indian tribe.

7 “(4) INDIAN LABOR.—Indian labor may be em-
8 ployed, in accordance with such rules and regula-
9 tions as may be promulgated by the Secretary of the
10 Interior, to carry out any construction or other ac-
11 tivity described in paragraph (1).

12 “(5) FEDERAL EMPLOYMENT.—No maximum
13 limitation on Federal employment shall apply to con-
14 struction or improvement of tribal transportation fa-
15 cilities.

16 “(6) ADMINISTRATIVE EXPENSES.—

17 “(A) IN GENERAL.—Of the funds made
18 available to carry out the tribal transportation
19 program for a fiscal year, up to 5 percent may
20 be used by the Secretary or the Secretary of the
21 Interior for program management and oversight
22 and project-related administrative expenses.

23 “(B) RESERVATION OF FUNDS.—The Sec-
24 retary of the Interior may reserve funds from
25 administrative funds of the Bureau of Indian

1 Affairs that are associated with the tribal trans-
2 portation program to fund tribal technical as-
3 sistance centers under section 504(b).

4 “(7) MAINTENANCE.—

5 “(A) USE OF FUNDS.—Notwithstanding
6 any other provision of this title, of the funds al-
7 located to an Indian tribe under the tribal
8 transportation program for a fiscal year, the In-
9 dian tribe, or the Secretary with the consent of
10 the affected Indian tribe, may use for the pur-
11 pose of maintenance (excluding road sealing,
12 which shall not be subject to any limitation) an
13 amount that does not exceed the greater of—

14 “(i) 25 percent of the funds; or

15 “(ii) \$500,000.

16 “(B) ROAD MAINTENANCE PROGRAMS ON
17 INDIAN RESERVATIONS.—

18 “(i) BIA RESPONSIBILITY.—The Bu-
19 reau of Indian Affairs shall continue to re-
20 tain primary responsibility, including an-
21 nual funding request responsibility, for
22 road maintenance programs on Indian res-
23 ervations.

24 “(ii) FUNDING.—The Secretary of the
25 Interior shall ensure that funding made

1 available under this paragraph for mainte-
2 nance of tribal transportation facilities for
3 a fiscal year is supplementary to and not
4 in lieu of any obligation of funds by the
5 Bureau of Indian Affairs for road mainte-
6 nance programs on Indian reservations.

7 “(C) TRIBAL-STATE ROAD MAINTENANCE
8 AGREEMENTS.—

9 “(i) AUTHORITY TO ENTER INTO
10 AGREEMENTS.—An Indian tribe and a
11 State may enter into a road maintenance
12 agreement under which the Indian tribe
13 assumes the responsibilities of the State
14 for tribal transportation facilities.

15 “(ii) NEGOTIATIONS.—Agreements
16 entered into under clause (i)—

17 “(I) shall be negotiated between
18 the State and the Indian tribe; and

19 “(II) shall not require the ap-
20 proval of the Secretary.

21 “(8) COOPERATION OF STATES AND COUN-
22 TIES.—

23 “(A) IN GENERAL.—The cooperation of
24 States, counties, and other political subdivisions

1 of States may be accepted in construction and
2 improvement of tribal transportation facilities.

3 “(B) CREDITING OF FUNDS.—Any funds
4 received from a State, county, or other political
5 subdivision of a State for construction or im-
6 provement of tribal transportation facilities
7 shall be credited to appropriations available for
8 the tribal transportation program.

9 “(C) STATE USE OF FEDERAL FUNDS FOR
10 TRIBAL TRANSPORTATION FACILITIES.—

11 “(i) IN GENERAL.—A State may pro-
12 vide a portion of Federal funds appor-
13 tioned to the State under chapter 1 to an
14 Indian tribe for an eligible tribal transpor-
15 tation facility.

16 “(ii) PROCEDURE.—If a State elects
17 to provide funds to an Indian tribe under
18 clause (i), the State shall transfer the
19 funds back to the Secretary and the Sec-
20 retary shall transfer the funds to the In-
21 dian tribe constructing or maintaining the
22 eligible tribal transportation facility under
23 an agreement pursuant to this paragraph.

24 “(iii) CONSTRUCTION RESPONSIBI-
25 BILITY.—Notwithstanding any other provi-

1 sion of law, if a State provides funds re-
2 ferred to in clause (i) to an Indian tribe—

3 “(I) the State shall not be re-
4 sponsible for constructing or main-
5 taining a project carried out using the
6 funds or for administering or super-
7 vising the project or funds during the
8 applicable statute of limitations period
9 of such State with respect to actions
10 related to the construction of the
11 project; and

12 “(II) the Indian tribe receiving
13 the funds shall be responsible for con-
14 structing and maintaining a project
15 carried out using the funds and for
16 administering and supervising the
17 project and funds in accordance with
18 this section during the period referred
19 to in subclause (I).

20 “(9) COMPETITIVE BIDDING.—

21 “(A) IN GENERAL.—Construction of a
22 project under the tribal transportation program
23 shall be performed pursuant to a contract
24 awarded by competitive bidding or other pro-
25 curement process authorized under the Indian

1 Self-Determination and Education Assistance
2 Act (25 U.S.C. 450 et seq.) unless the Sec-
3 retary or the Secretary of the Interior affirma-
4 tively finds that, under the circumstances relat-
5 ing to the project, some other method is in the
6 public interest.

7 “(B) APPLICABILITY OF OTHER LAWS.—
8 Notwithstanding subparagraph (A), section 23
9 of the Act of June 25, 1910 (36 Stat. 861;
10 known as the Buy Indian Act) and section 7(b)
11 of the Indian Self-Determination and Education
12 Assistance Act (88 Stat. 2205) shall apply to
13 all funds administered by the Secretary of the
14 Interior that are appropriated for the construc-
15 tion and improvement of tribal roads.

16 “(c) FUNDS DISTRIBUTION.—

17 “(1) IN GENERAL.—All funds authorized to be
18 appropriated for the tribal transportation program
19 shall be allocated among Indian tribes in accordance
20 with the formula maintained by the Secretary of the
21 Interior under paragraph (4).

22 “(2) NATIONAL TRIBAL TRANSPORTATION FA-
23 CILITY INVENTORY.—

24 “(A) IN GENERAL.—The Secretary of the
25 Interior, in cooperation with the Secretary, shall

1 maintain a comprehensive national inventory of
2 tribal transportation facilities that are eligible
3 for assistance under the tribal transportation
4 program. The Secretary of the Interior, in co-
5 operation with the Secretary, by September 30,
6 2012, and by September 30 of every second
7 year thereafter, shall accept into the com-
8 prehensive national inventory those tribal trans-
9 portation facilities proposed by Indian tribes
10 under the regulations.

11 “(B) TRANSPORTATION FACILITIES IN-
12 CLUDED IN THE INVENTORY.—For purposes of
13 identifying the tribal transportation system and
14 determining the relative transportation needs
15 among Indian tribes, the Secretary shall include
16 in the comprehensive national inventory, at a
17 minimum, transportation facilities that are eli-
18 gible for assistance under the tribal transpor-
19 tation program that a tribe has requested, in-
20 cluding facilities that—

21 “(i) were included in the Bureau of
22 Indian Affairs system inventory prior to
23 October 1, 2004;

24 “(ii) are owned by an Indian tribal
25 government;

1 “(iii) are owned by the Bureau of In-
2 dian Affairs;

3 “(iv) were constructed or recon-
4 structed with funds from the Highway
5 Trust Fund under the Indian reservation
6 roads program since 1983;

7 “(v) are community streets or bridges
8 within the exterior boundary of Indian res-
9 ervations, Alaska native villages, or other
10 recognized Indian communities (including
11 communities in former Indian reservations
12 in Oklahoma) in which the majority of
13 residents are American Indians or Alaska
14 Natives; or

15 “(vi) are primary access routes pro-
16 posed by tribal governments, including
17 roads between villages, roads to landfills,
18 roads to drinking water sources, roads to
19 natural resources identified for economic
20 development, and roads that provide access
21 to intermodal terminals, such as airports,
22 harbors, or boat landings.

23 “(C) LIMITATION ON PRIMARY ACCESS
24 ROUTES.—For purposes of this paragraph, a
25 proposed primary access route is the shortest

1 practicable route connecting 2 points of the pro-
2 posed route.

3 “(D) ADDITIONAL FACILITIES.—Nothing
4 in this paragraph shall preclude the Secretary
5 of the Interior from including additional trans-
6 portation facilities that are eligible for funding
7 under the tribal transportation program in the
8 inventory if such additional facilities are in-
9 cluded in the inventory in a uniform and con-
10 sistent manner nationally.

11 “(E) BRIDGES.—All bridges in the inven-
12 tory shall be recorded in the national bridge in-
13 ventory administered by the Secretary under
14 section 151.

15 “(3) REGULATIONS.—Notwithstanding sections
16 563(a) and 565(a) of title 5, the Secretary of the In-
17 terior shall maintain regulations governing the tribal
18 transportation program and the funding formula
19 under paragraph (4) in accordance with established
20 policies and procedures.

21 “(4) BASIS FOR FUNDING FORMULA FAC-
22 TORS.—

23 “(A) IN GENERAL.—The funding formula
24 established under this paragraph shall be based
25 on factors that reflect—

1 “(i) the relative needs among the In-
2 dian tribes, and reservation or tribal com-
3 munities, for transportation assistance;
4 and

5 “(ii) the relative administration capaci-
6 ties of, and challenges faced by, various
7 Indian tribes, including the cost of road
8 construction in each Bureau of Indian Af-
9 fairs area, geographic isolation, and dif-
10 ficulty in maintaining all-weather access to
11 employment, commerce, health, safety, and
12 educational resources.

13 “(B) TRIBAL HIGH PRIORITY PROJECTS.—
14 The tribal high priority projects program as in-
15 cluded in the tribal transportation allocation
16 methodology of part 170 of title 25, Code of
17 Federal Regulations (as in effect on the date of
18 enactment of the American Energy and Infra-
19 structure Jobs Act of 2012), shall continue in
20 effect.

21 “(5) DISTRIBUTION OF FUNDS TO INDIAN
22 TRIBES.—

23 “(A) IN GENERAL.—Not later than 30
24 days after the date on which funds are made
25 available to the Secretary or the Secretary of

1 the Interior for a fiscal year to carry out the
2 tribal transportation program, the funds shall
3 be distributed to, and available for immediate
4 use by, eligible Indian tribes in accordance with
5 the formula maintained by the Secretary of the
6 Interior under paragraph (4).

7 “(B) USE OF FUNDS.—Notwithstanding
8 any other provision of this section, funds made
9 available to Indian tribes for tribal transpor-
10 tation facilities shall be expended on projects
11 identified in a transportation improvement pro-
12 gram approved by the Secretary.

13 “(6) HEALTH AND SAFETY ASSURANCES.—Not-
14 withstanding any other provision of law, an Indian
15 tribal government may approve plans, specifications,
16 and estimates for, and may commence, a project for
17 construction of a tribal transportation facility with
18 funds made available to carry out the tribal trans-
19 portation program through a contract or agreement
20 entered into under the Indian Self-Determination
21 and Education Assistance Act (25 U.S.C. 450 et
22 seq.) if the Indian tribal government—

23 “(A) provides assurances in the contract or
24 agreement that the construction will meet or ex-
25 ceed applicable health and safety standards;

1 “(B) obtains the advance review of the
2 plans and specifications for the project from a
3 State-licensed civil engineer that has certified
4 that the plans and specifications meet or exceed
5 the applicable health and safety standards;

6 “(C) provides a copy of the certification
7 under subparagraph (A) to the Deputy Assist-
8 ant Secretary for Tribal Government Affairs of
9 the Department of Transportation or the As-
10 sistant Secretary of Indian Affairs of the De-
11 partment of the Interior, as appropriate; and

12 “(D) except with respect to a transpor-
13 tation facility owned by the Bureau of Indian
14 Affairs or an Indian tribe, obtains the advance
15 written approval of the plans, specifications,
16 and estimates from the facility owner or public
17 authority having maintenance responsibility for
18 the facility and provides a copy of the approval
19 to the officials referred to in subparagraph (C).

20 “(7) CONTRACTS AND AGREEMENTS WITH IN-
21 DIAN TRIBES FOR PROGRAM COSTS.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law or any interagency agree-
24 ment, program guideline, manual, or policy di-
25 rective, all funds made available under this

1 chapter and section 125(e) for tribal transpor-
2 tation facilities to pay for the costs of pro-
3 grams, services, functions, and activities, or
4 portions thereof, that are specifically or func-
5 tionally related to the cost of any tribal trans-
6 portation facility that provides access to or is
7 located within the reservation or community of
8 an Indian tribe shall be made available, upon
9 request of the Indian tribal government, to the
10 Indian tribal government for contracts and
11 agreements for such planning, research, engi-
12 neering, and construction in accordance with
13 the Indian Self-Determination and Education
14 Assistance Act (25 U.S.C. 450 et seq.).

15 “(B) EXCLUSION OF AGENCY PARTICIPA-
16 TION.—Funds for programs, functions, services,
17 or activities, or portions thereof (including sup-
18 portive administrative functions that are other-
19 wise contractible to which subparagraph (A) ap-
20 plies) shall be paid in accordance with subpara-
21 graph (A) without regard to the organizational
22 level at which the Department of Transpor-
23 tation or the Department of the Interior has
24 previously carried out such programs, functions,
25 services, or activities.

1 “(8) CONTRACTS AND AGREEMENTS WITH IN-
2 DIAN TRIBES FOR TRIBAL TRANSPORTATION FACIL-
3 ITY PROGRAMS AND PROJECTS.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of law or any interagency agree-
6 ment, program guideline, manual, or policy di-
7 rective, all funds made available to an Indian
8 tribal government under this title or chapter 53
9 of title 49 for a tribal transportation facility
10 program or project that is located on an Indian
11 reservation or provides access to the reservation
12 or a community of an Indian tribe shall be
13 made available, on the request of the Indian
14 tribal government, to the Indian tribal govern-
15 ment for use in carrying out, in accordance
16 with the Indian Self-Determination and Edu-
17 cation Assistance Act (25 U.S.C. 450 et seq.),
18 contracts, agreements, and grants for the plan-
19 ning, research, design, engineering, construc-
20 tion, and maintenance relating to the program
21 or project.

22 “(B) EXCLUSION OF AGENCY PARTICIPA-
23 TION.—In accordance with subparagraph (A),
24 all funds for a program or project to which sub-
25 paragraph (A) applies shall be paid to the In-

1 dian tribal government without regard to the
2 organizational level at which the Department of
3 the Interior has previously carried out, or the
4 Department of Transportation has previously
5 carried out, the programs, functions, services,
6 or activities involved.

7 “(C) CONSORTIA.—Two or more Indian
8 tribes that are otherwise eligible to participate
9 in a program or project to which this chapter
10 applies may form a consortium to be considered
11 as a single Indian tribe for the purpose of par-
12 ticipating in the project under this section.

13 “(D) SECRETARY AS SIGNATORY.—Not-
14 withstanding any other provision of law, the
15 Secretary is authorized to enter into a funding
16 agreement with an Indian tribal government in
17 accordance with and governed by the Indian
18 Self-Determination and Education Assistance
19 Act (25 U.S.C. 450 et seq.) to carry out a trib-
20 al transportation facility program or project
21 under subparagraph (A) that is located on an
22 Indian reservation or provides access to the res-
23 ervation or a community of the Indian tribe.

24 “(E) FUNDING.—The amount an Indian
25 tribal government receives for a program or

1 project under subparagraph (A) shall equal the
2 sum of the funding that the Indian tribal gov-
3 ernment would otherwise receive for the pro-
4 gram or project in accordance with the funding
5 formula established under this subsection and
6 such additional amounts as the Secretary deter-
7 mines equal the amounts that would have been
8 withheld for the costs of the Bureau of Indian
9 Affairs for administration of the program or
10 project.

11 “(F) ELIGIBILITY.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii), funds may be made available under
14 subparagraph (A) to an Indian tribal gov-
15 ernment for a program or project in a fis-
16 cal year only if the Indian tribal govern-
17 ment requesting the funds demonstrates to
18 the satisfaction of the Secretary financial
19 stability and financial management capa-
20 bility during the 3 fiscal years immediately
21 preceding the fiscal year for which the re-
22 quest is made.

23 “(ii) CRITERIA FOR DETERMINING FI-
24 NANCIAL STABILITY AND FINANCIAL MAN-
25 AGEMENT CAPABILITY.—If an Indian trib-

1 al government did not have an uncorrected
2 significant and material audit exception in
3 a required annual audit of the Indian trib-
4 al government's self-determination con-
5 tracts or self-governance funding agree-
6 ments with a Federal agency during the 3-
7 fiscal year period referred in clause (i), the
8 Indian tribe shall be treated as having con-
9 clusive evidence of its financial stability
10 and financial management capability for
11 purposes of clause (i).

12 “(G) ASSUMPTION OF FUNCTIONS AND DU-
13 TIES.—An Indian tribal government receiving
14 funding under subparagraph (A) for a program
15 or project shall assume all functions and duties
16 that the Secretary or the Secretary of the Inte-
17 rior would have performed with respect to a
18 program or project under this chapter, other
19 than those functions and duties that inherently
20 cannot be legally transferred under the Indian
21 Self-Determination and Education Assistance
22 Act (25 U.S.C. 450 et seq.).

23 “(H) POWERS.—An Indian tribal govern-
24 ment receiving funding under subparagraph (A)
25 for a program or project shall have all powers

1 that the Secretary or the Secretary of the Inte-
2 rior would have exercised in administering the
3 funds transferred to the Indian tribal govern-
4 ment for such program or project under this
5 section if the funds had not been transferred,
6 except to the extent that such powers are pow-
7 ers that inherently cannot be legally transferred
8 under the Indian Self-Determination and Edu-
9 cation Assistance Act (25 U.S.C. 450 et seq.).

10 “(I) DISPUTE RESOLUTION.—In the event
11 of a disagreement between the Secretary or the
12 Secretary of the Interior and an Indian tribe
13 over whether a particular function, duty, or
14 power may be lawfully transferred under the In-
15 dian Self-Determination and Education Assist-
16 ance Act (25 U.S.C. 450 et seq.), the Indian
17 tribe shall have the right to pursue all alter-
18 native dispute resolutions and appeal proce-
19 dures authorized by such Act, including regula-
20 tions issued to carry out such Act.

21 “(J) TERMINATION OF CONTRACT OR
22 AGREEMENT.—On the date of the termination
23 of a contract or agreement under this section
24 by an Indian tribal government, the Secretary
25 shall transfer all funds that would have been al-

1 located to the Indian tribal government under
2 the contract or agreement to the Secretary of
3 the Interior to provide continued transportation
4 services in accordance with applicable law.

5 “(d) PLANNING BY INDIAN TRIBAL GOVERN-
6 MENTS.—

7 “(1) IN GENERAL.—Of the funds made avail-
8 able for a fiscal year to carry out the tribal trans-
9 portation program, the greater of 2 percent or
10 \$35,000 may be allocated to Indian tribal govern-
11 ments that have been authorized to conduct trans-
12 portation planning pursuant to the Indian Self-De-
13 termination and Education Assistance Act (25
14 U.S.C. 450 et seq.).

15 “(2) COOPERATION.—An Indian tribal govern-
16 ment described in paragraph (1), in cooperation with
17 the Secretary of the Interior, and as appropriate
18 with a State, local government, or metropolitan plan-
19 ning organization, shall carry out a transportation
20 planning process in accordance with section 201(e).

21 “(3) APPROVAL.—Projects selected by an In-
22 dian tribal government described in paragraph (1)
23 from a transportation improvement program shall be
24 subject to the approval of the Secretary of the Inte-
25 rior and the Secretary.

1 “(e) FEDERAL-AID ELIGIBLE PROJECT.—Before ap-
2 proving as a project on a tribal transportation facility any
3 project eligible funds apportioned under section 104 in a
4 State, the Secretary shall determine that the obligation
5 of funds for such project is supplementary to and not in
6 lieu of the obligation, for projects on tribal transportation
7 facilities, of a fair and equitable share of funds appor-
8 tioned to such State under section 104.

9 “(f) ELIGIBILITY FOR DISCRETIONARY AND COM-
10 PETITIVE GRANTS.—Notwithstanding any other provision
11 of law, an Indian tribe may directly apply for and receive
12 any discretionary or competitive grant made available to
13 a State or a political subdivision of a State under this title
14 or chapter 53 of title 49 in the same manner and under
15 the same circumstances as a State or a political subdivi-
16 sion of a State.

17 **“§ 203. Federal lands transportation program**

18 “(a) IN GENERAL.—The Secretary shall carry out a
19 Federal lands transportation program in accordance with
20 the requirements of this section.

21 “(b) USE OF FUNDS.—

22 “(1) IN GENERAL.—Funds made available to
23 carry out the Federal lands transportation program
24 shall be used by the Secretary and the Secretaries

1 of Federal land management agencies to pay for the
2 following:

3 “(A) The covered costs of—

4 “(i) Federal lands highways;

5 “(ii) vehicular parking areas adjacent
6 to Federal lands highways (which may in-
7 clude electric vehicle charging stations);

8 “(iii) pedestrian walkways and bicycle
9 transportation facilities (as defined in sec-
10 tion 217) on Federal lands; and

11 “(iv) roadside rest areas, including
12 sanitary and water facilities, on Federal
13 lands.

14 “(B) The costs of transportation projects
15 on public roads or trails eligible for assistance
16 under this title that are within, or provide ac-
17 cess to, Federal lands.

18 “(C) The costs of public transportation
19 projects eligible for assistance under section
20 5311(b)(1) of title 49 that are within, or pro-
21 vide access to, Federal lands (without regard to
22 whether the project is located in an urbanized
23 area).

1 “(D) The costs of rehabilitation, restora-
2 tion, and construction of interpretive signage at
3 Federal lands highways.

4 “(E) The costs of acquisition of necessary
5 scenic easements and scenic or historic sites as-
6 sociated with Federal lands highways.

7 “(2) COVERED COSTS DEFINED.—In paragraph
8 (1), the term ‘covered costs’ means the costs of pro-
9 gram administration, transportation planning, re-
10 search, preventive maintenance, engineering, reha-
11 bilitation, restoration, construction, and reconstruc-
12 tion.

13 “(3) CONTRACT.—In connection with an activ-
14 ity described in paragraph (1), the Secretary and the
15 Secretary of the appropriate Federal land manage-
16 ment agency may enter into a contract or other ap-
17 propriate agreement with respect to such activity
18 with—

19 “(A) a State (including a political subdivi-
20 sion of a State); or

21 “(B) an Indian tribe.

22 “(4) ADMINISTRATION.—All appropriations for
23 the construction and improvement of Federal lands
24 transportation facilities shall be administered in con-
25 formity with regulations and agreements jointly ap-

1 proved by the Secretary and the Secretary of the ap-
2 propriate Federal land management agency.

3 “(5) COOPERATION.—

4 “(A) IN GENERAL.—The cooperation of
5 States and political subdivisions of States may
6 be accepted in construction and improvement of
7 Federal lands transportation facilities.

8 “(B) CREDITING OF FUNDS.—Any funds
9 received from a State or a political subdivision
10 of a State for such construction or improvement
11 of Federal lands transportation facilities shall
12 be credited to appropriations available for the
13 class of Federal lands transportation facilities
14 to which funds were contributed.

15 “(6) COMPETITIVE BIDDING.—Construction of
16 a project under the Federal lands transportation
17 program shall be performed pursuant to a contract
18 awarded by competitive bidding unless the Secretary
19 or the Secretary of the appropriate Federal land
20 management agency affirmatively finds that, under
21 the circumstances relating to the project, some other
22 method is in the public interest.

23 “(c) AGENCY PROGRAM DISTRIBUTIONS.—

24 “(1) IN GENERAL.—On October 1 of each fiscal
25 year, the Secretary shall allocate the funds made

1 available to carry out the Federal lands transpor-
2 tation program for the fiscal year on the basis of ap-
3 plications of need, as determined by the Secretary,
4 and in coordination with the transportation plans re-
5 quired by section 201(e), of the respective transpor-
6 tation systems of the Federal land management
7 agencies.

8 “(2) MINIMUM ALLOCATIONS.—When making
9 an allocation of funds under paragraph (1) for a fis-
10 cal year, the Secretary shall ensure that, of the total
11 amount of funds subject to the allocation—

12 “(A) the National Park Service receives, at
13 a minimum, 38 percent;

14 “(B) the Forest Service receives, at a min-
15 imum, 32 percent; and

16 “(C) the United States Fish and Wildlife
17 Service receives, at a minimum, 4.5 percent.

18 “(3) APPLICATIONS.—

19 “(A) IN GENERAL.—The Secretary of a
20 Federal land management agency may submit
21 to the Secretary an application for assistance
22 under the Federal lands transportation pro-
23 gram.

24 “(B) CONTENTS.—An application sub-
25 mitted by the Secretary of a Federal land man-

1 agement agency under subparagraph (A) shall
2 contain such information as the Secretary may
3 require, including a description of any proposed
4 program for which the agency is seeking assist-
5 ance and the potential funding levels for the
6 program.

7 “(C) CONSIDERATIONS.—In reviewing a
8 proposed program described in an application
9 submitted by the Secretary of a Federal land
10 management agency under subparagraph (A),
11 the Secretary shall consider the extent to which
12 the program supports—

13 “(i) a state of good repair of transpor-
14 tation facilities across the agency’s inven-
15 tory;

16 “(ii) a reduction of deficient bridges
17 across the agency’s inventory;

18 “(iii) improvement of safety across the
19 agency’s inventory;

20 “(iv) high use Federal recreation sites
21 or Federal economic generators; and

22 “(v) the resource management goals
23 of the Secretary of the respective Federal
24 land management agency.

1 “(d) NATIONAL FEDERAL LANDS HIGHWAYS INVEN-
2 TORY.—

3 “(1) IN GENERAL.—The Secretaries of the Fed-
4 eral land management agencies, in cooperation with
5 the Secretary, shall maintain a comprehensive na-
6 tional inventory of Federal lands highways.

7 “(2) HIGHWAYS INCLUDED IN THE INVEN-
8 TORY.—For purposes of identifying the Federal
9 lands transportation system and determining the rel-
10 ative transportation needs among Federal land man-
11 agement agencies, the inventory shall include, at a
12 minimum, highways that—

13 “(A) provide access to high use Federal
14 recreation sites or Federal economic generators,
15 as determined by the Secretary in coordination
16 with the Secretaries of the Federal land man-
17 agement agencies; and

18 “(B) are administered by a Federal land
19 management agency.

20 “(3) AVAILABILITY.—The Secretary of each
21 Federal land management agency shall maintain an
22 inventory of the Federal lands highways adminis-
23 tered by the agency and make the inventory avail-
24 able to the Secretary.

1 “(4) UPDATES.—The Secretary of each Federal
2 land management agency shall update its inventory
3 referred to in paragraph (3) as determined by the
4 Secretary.

5 “(5) REVIEW.—A decision to add or remove a
6 highway from an inventory referred to in paragraph
7 (1) or (4) shall not be considered a Federal action
8 for purposes of review under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et
10 seq.).”.

11 **SEC. 1502. DEFINITIONS.**

12 (a) REPEALS.—Paragraphs (7), (9), (12), (19), (20),
13 (24), (25), (26), and (28) of section 101(a) are repealed.

14 (b) DEFINITIONS RELATING TO FEDERAL LANDS
15 AND TRIBAL TRANSPORTATION PROGRAMS.—Section
16 101(a) is amended by adding at the end the following:

17 “(40) FEDERAL LAND MANAGEMENT AGEN-
18 CY.—The term ‘Federal land management agency’
19 means each of the following:

20 “(A) The National Park Service.

21 “(B) The Forest Service.

22 “(C) The United States Fish and Wildlife
23 Service.

24 “(D) The Corps of Engineers.

25 “(E) The Bureau of Land Management.

1 “(41) FEDERAL LANDS.—The term ‘Federal
2 lands’ means lands administered by a Federal land
3 management agency.

4 “(42) FEDERAL LANDS HIGHWAY.—The term
5 ‘Federal lands highway’ means a public road, high-
6 way, bridge, or trail that is located on, is adjacent
7 to, or provides access to Federal lands and appears
8 on the national inventory of Federal lands highways
9 maintained under section 203(d).

10 “(43) FEDERAL LANDS TRANSPORTATION FA-
11 CILITY.—The term ‘Federal lands transportation fa-
12 cility’ means a transportation facility eligible for as-
13 sistance under section 203(b).

14 “(44) TRIBAL ROAD.—The term ‘tribal road’
15 means a public road, highway, bridge, or trail that
16 is located on or provides access to tribal lands and
17 appears on the national inventory of tribal roads
18 maintained under section 202(c).

19 “(45) TRIBAL TRANSPORTATION FACILITY.—
20 The term ‘tribal transportation facility’ means a
21 transportation facility eligible for assistance under
22 section 202(b).”.

23 **SEC. 1503. CONFORMING AMENDMENTS.**

24 (a) FEDERAL SHARE PAYABLE.—Section 120 is
25 amended—

1 (1) in subsection (e) by striking “forest high-
2 ways, forest development roads and trails, park
3 roads and trails, parkways, public lands highways,
4 public lands development roads and trails, and In-
5 dian reservation roads” and inserting “tribal roads
6 and Federal lands highways”; and

7 (2) in subsection (l)—

8 (A) in the subsection heading by striking
9 “FEDERAL LANDS HIGHWAYS PROGRAM” and
10 inserting “TRIBAL TRANSPORTATION PROGRAM
11 AND FEDERAL LANDS TRANSPORTATION PRO-
12 GRAM”; and

13 (B) by striking “the Federal lands high-
14 ways program under section 204” and inserting
15 “the tribal transportation program under sec-
16 tion 202 and the Federal lands transportation
17 program under section 203”.

18 (b) PRESERVATION OF PARKLANDS.—Section 138(a)
19 is amended by striking “park road or parkway under sec-
20 tion 204 of this title” and inserting “Federal lands trans-
21 portation facility under section 203”.

22 (c) EFFICIENT ENVIRONMENTAL REVIEWS FOR
23 PROJECT DECISIONMAKING.—Section 139(j)(3) is amend-
24 ed—

1 (1) in the paragraph heading by striking “USE
2 OF FEDERAL LANDS HIGHWAY FUNDS” and inserting
3 “USE OF TRIBAL TRANSPORTATION PROGRAM AND
4 FEDERAL LANDS TRANSPORTATION PROGRAM
5 FUNDS”; and

6 (2) by striking “section 204” and inserting
7 “sections 202 and 203”.

8 (d) BICYCLE TRANSPORTATION AND PEDESTRIAN
9 WALKWAYS.—Section 217(c) is amended—

10 (1) in the subsection heading by striking “FED-
11 ERAL LANDS HIGHWAYS” and inserting “TRIBAL
12 TRANSPORTATION PROGRAM AND FEDERAL LANDS
13 TRANSPORTATION PROGRAM FUNDS”; and

14 (2) by striking “Funds authorized for” and all
15 that follows through “public lands highways” and
16 inserting “Funds authorized for tribal transpor-
17 tation facilities and Federal lands transportation fa-
18 cilities”.

19 (e) RULES, REGULATIONS, AND RECOMMENDA-
20 TIONS.—Section 315 is amended by striking “sections
21 204(f) and 205(a) of this title” and inserting “sections
22 203(b)(4) and 205(a)”.

1 **SEC. 1504. REPEALS; EFFECTIVE DATE.**

2 (a) IN GENERAL.—Sections 204 and 214, and the
3 items relating to such sections in the analysis for chapter
4 2, are repealed.

5 (b) EXISTING FUNDS.—A repeal or amendment made
6 by this subtitle shall not affect funds apportioned or allo-
7 cated (or funds awarded but not yet allocated) before the
8 effective date of the repeal or amendment.

9 **SEC. 1505. CLERICAL AMENDMENT.**

10 The analysis for chapter 2 is amended by striking the
11 items relating to sections 201 through 203 and inserting
12 the following:

“201. General provisions.

“202. Tribal transportation program.

“203. Federal lands transportation program.”.

13 **SEC. 1506. TRIBAL TRANSPORTATION SELF-GOVERNANCE**
14 **PROGRAM.**

15 (a) IN GENERAL.—Chapter 2 is amended by insert-
16 ing after section 206 the following:

17 **“§ 207. Tribal transportation self-governance pro-**
18 **gram**

19 “(a) ESTABLISHMENT.—Subject to the requirements
20 of this section, the Secretary shall establish and carry out
21 a program to be known as the tribal transportation self-
22 governance program. The Secretary may delegate respon-
23 sibilities for administration of the program as the Sec-
24 retary determines appropriate.

1 “(b) ELIGIBILITY.—

2 “(1) IN GENERAL.—An Indian tribe shall be eli-
3 gible to participate in the program if the Indian
4 tribe—

5 “(A) requests participation in the program
6 by resolution or other official action by the gov-
7 erning body of the Indian tribe; and

8 “(B) demonstrates, for the preceding 3 fis-
9 cal years, financial stability and financial man-
10 agement capability.

11 “(2) CRITERIA FOR DETERMINING FINANCIAL
12 STABILITY AND FINANCIAL MANAGEMENT CAPAC-
13 ITY.—For the purposes of paragraph (1)(B), evi-
14 dence that, during the preceding 3 fiscal years, an
15 Indian tribe had no uncorrected significant and ma-
16 terial audit exceptions in the required annual audit
17 of the Indian tribe’s self-determination contracts or
18 self-governance funding agreements with any Fed-
19 eral agency shall be conclusive evidence of the re-
20 quired stability and capability.

21 “(c) COMPACTS.—

22 “(1) COMPACT REQUIRED.—Upon the request
23 of an eligible Indian tribe, and subject to the re-
24 quirements of this section, the Secretary shall nego-
25 tiate and enter into a written compact with the In-

1 dian tribe for the purpose of providing for the par-
2 ticipation of the Indian tribe in the program.

3 “(2) CONTENTS.—A compact entered into
4 under paragraph (1) shall set forth the general
5 terms of the government-to-government relationship
6 between the Indian tribe and the United States
7 under the program and other terms that will con-
8 tinue to apply in future fiscal years.

9 “(3) AMENDMENTS.—A compact entered into
10 with an Indian tribe under paragraph (1) may be
11 amended only by mutual agreement of the Indian
12 tribe and the Secretary.

13 “(d) ANNUAL FUNDING AGREEMENTS.—

14 “(1) FUNDING AGREEMENT REQUIRED.—After
15 entering into a compact with an Indian tribe under
16 subsection (c), the Secretary shall negotiate and
17 enter into a written annual funding agreement with
18 the Indian tribe.

19 “(2) CONTENTS.—

20 “(A) IN GENERAL.—

21 “(i) DISCRETIONARY AND COMPETI-
22 TIVE GRANTS.—A funding agreement en-
23 tered into with an Indian tribe shall au-
24 thorize the Indian tribe, as determined by
25 the Indian tribe, to plan, conduct, consoli-

1 date, administer, and receive full tribal
2 share funding and funding to tribes from
3 discretionary and competitive grants ad-
4 ministered by the Department for all pro-
5 grams, services, functions, and activities
6 (or portions thereof) that are made avail-
7 able to Indian tribes to carry out tribal
8 transportation programs and programs,
9 services, functions, and activities (or por-
10 tions thereof) administered by the Sec-
11 retary that are otherwise available to In-
12 dian tribes.

13 “(ii) TRANSFERS OF STATE FUNDS.—

14 “(I) INCLUSION OF TRANS-
15 FERRED FUNDS IN FUNDING AGREE-
16 MENT.—A funding agreement entered
17 into with an Indian tribe shall include
18 Federal-aid funds apportioned to a
19 State under chapter 1 if the State
20 elects to provide a portion of such
21 funds to the Indian tribe for a project
22 eligible under section 202(b).

23 “(II) METHOD FOR TRANS-
24 FERS.—If a State elects to provide
25 funds described in subclause (I) to an

1 Indian tribe, the State shall transfer
2 the funds back to the Secretary and
3 the Secretary shall transfer the funds
4 to the Indian tribe in accordance with
5 this section.

6 “(III) RESPONSIBILITY FOR
7 TRANSFERRED FUNDS.—Notwith-
8 standing any other provision of law, if
9 a State provides funds described in
10 subclause (I) to an Indian tribe—

11 “(aa) the State shall not be
12 responsible for constructing or
13 maintaining a project carried out
14 using the funds or for admin-
15 istering or supervising the project
16 or funds during the applicable
17 statute of limitations period re-
18 lated to the construction of the
19 project; and

20 “(bb) the Indian tribe shall
21 be responsible for constructing
22 and maintaining a project carried
23 out using the funds and for ad-
24 ministering and supervising the
25 project and funds in accordance

1 with this section during the ap-
2 plicable statute of limitations pe-
3 riod related to the construction of
4 the project.

5 “(B) ADMINISTRATION OF TRIBAL
6 SHARES.—The tribal shares referred to in sub-
7 paragraph (A) shall be provided without regard
8 to the agency or office of the Department with-
9 in which the program, service, function, or ac-
10 tivity (or portion thereof) is performed.

11 “(C) FLEXIBLE AND INNOVATIVE FINANC-
12 ING.—

13 “(i) IN GENERAL.—A funding agree-
14 ment entered into with an Indian tribe
15 under paragraph (1) shall include provi-
16 sions pertaining to flexible and innovative
17 financing if agreed upon by the parties.

18 “(ii) TERMS AND CONDITIONS.—

19 “(I) AUTHORITY TO ISSUE REGU-
20 LATIONS.—The Secretary may issue
21 regulations to establish the terms and
22 conditions relating to the flexible and
23 innovative financing provisions re-
24 ferred to in clause (i).

1 “(II) TERMS AND CONDITIONS IN
2 ABSENCE OF REGULATIONS.—If the
3 Secretary does not issue regulations
4 under subclause (I), the terms and
5 conditions relating to the flexible and
6 innovative financing provisions re-
7 ferred to in clause (i) shall be con-
8 sistent with—

9 “(aa) agreements entered
10 into by the Department under
11 section 202(e)(8) before the date
12 of enactment of the American
13 Energy and Infrastructure Jobs
14 Act of 2012; or

15 “(bb) regulations of the De-
16 partment of the Interior relating
17 to flexible financing contained in
18 part 170 of title 25, Code of
19 Federal Regulations, as in effect
20 on the date of enactment of such
21 Act.

22 “(3) DISCRETIONARY AND COMPETITIVE
23 GRANTS.—Notwithstanding any other provision of
24 law, an Indian tribe shall be eligible to directly apply
25 for and receive the discretionary and competitive

1 grants made available under transportation pro-
2 grams that States or political subdivisions of States
3 are eligible to apply for and receive.

4 “(4) TERMS.—A funding agreement shall set
5 forth—

6 “(A) terms that generally identify the pro-
7 grams, services, functions, and activities (or
8 portions thereof) to be performed or adminis-
9 tered by the Indian tribe; and

10 “(B) for items identified in subparagraph
11 (A)—

12 “(i) the general budget category as-
13 signed;

14 “(ii) the funds to be provided, includ-
15 ing those funds to be provided on a recur-
16 ring basis;

17 “(iii) the time and method of transfer
18 of the funds;

19 “(iv) the responsibilities of the Sec-
20 retary and the Indian tribe; and

21 “(v) any other provision agreed to by
22 the Indian tribe and the Secretary.

23 “(5) SUBSEQUENT FUNDING AGREEMENTS.—

24 “(A) APPLICABILITY OF EXISTING AGREE-
25 MENT.—Absent notification from an Indian

1 tribe that the Indian tribe is withdrawing from
2 or retroceding the operation of one or more pro-
3 grams, services, functions, or activities (or por-
4 tions thereof) identified in a funding agreement,
5 or unless otherwise agreed to by the parties,
6 each funding agreement shall remain in full
7 force and effect until a subsequent funding
8 agreement is executed.

9 “(B) EFFECTIVE DATE OF SUBSEQUENT
10 AGREEMENT.—The terms of the subsequent
11 funding agreement shall be retroactive to the
12 end of the term of the preceding funding agree-
13 ment.

14 “(6) CONSENT OF INDIAN TRIBE REQUIRED.—
15 The Secretary shall not revise, amend, or require ad-
16 ditional terms in a new or subsequent funding agree-
17 ment without the consent of the Indian tribe that is
18 subject to the agreement unless such terms are re-
19 quired by Federal law.

20 “(e) GENERAL PROVISIONS.—

21 “(1) REDESIGN AND CONSOLIDATION.—

22 “(A) IN GENERAL.—An Indian tribe, in
23 any manner that the Indian tribe considers to
24 be in the best interest of the Indian community
25 being served, may—

1 “(i) redesign or consolidate programs,
2 services, functions, and activities (or por-
3 tions thereof) included in a funding agree-
4 ment; and

5 “(ii) reallocate or redirect funds for
6 such programs, services, functions, and ac-
7 tivities (or portions thereof), if the funds
8 are—

9 “(I) expended on projects identi-
10 fied in a transportation improvement
11 program approved by the Secretary;
12 and

13 “(II) used in accordance with ap-
14 propriations Acts and other applicable
15 statutory limitations.

16 “(B) EXCEPTION.—Notwithstanding sub-
17 paragraph (A), if, pursuant to subsection (d),
18 an Indian tribe receives a discretionary or com-
19 petitive grant from the Secretary or receives
20 State apportioned funds, the Indian tribe shall
21 use the funds for the purpose for which the
22 funds were originally authorized.

23 “(2) RETROCESSION.—

24 “(A) IN GENERAL.—

1 “(i) AUTHORITY OF INDIAN TRIBES.—
2 An Indian tribe may retrocede (fully or
3 partially) to the Secretary programs, serv-
4 ices, functions, or activities (or portions
5 thereof) included in a compact or funding
6 agreement.

7 “(ii) REASSUMPTION OF REMAINING
8 FUNDS.—Following a retrocession de-
9 scribed in clause (i), the Secretary may—

10 “(I) reassume the remaining
11 funding associated with the retroceded
12 programs, functions, services, and ac-
13 tivities (or portions thereof) included
14 in the applicable compact or funding
15 agreement;

16 “(II) out of such remaining
17 funds, transfer funds associated with
18 Department of Interior programs,
19 services, functions, or activities (or
20 portions thereof) to the Secretary of
21 the Interior to carry out transpor-
22 tation services provided by the Sec-
23 retary of the Interior; and

1 “(III) distribute funds not trans-
2 ferred under subclause (II) in accord-
3 ance with applicable law.

4 “(iii) CORRECTION OF PROGRAMS.—If
5 the Secretary makes a finding under sub-
6 section (f)(2)(B) and no funds are avail-
7 able under subsection (f)(2)(A)(ii), the
8 Secretary shall not be required to provide
9 additional funds to complete or correct any
10 programs, functions, or activities (or por-
11 tions thereof).

12 “(B) EFFECTIVE DATE.—Unless the In-
13 dian tribe rescinds a request for retrocession,
14 the retrocession shall become effective within
15 the timeframe specified by the parties in the
16 compact or funding agreement. In the absence
17 of such a specification, the retrocession shall
18 become effective on—

19 “(i) the earlier of—

20 “(I) 1 year after the date of sub-
21 mission of the request; or

22 “(II) the date on which the fund-
23 ing agreement expires; or

24 “(ii) such date as may be mutually
25 agreed upon by the parties and, with re-

1 spect to Department of the Interior pro-
2 grams, functions, services, and activities
3 (or portions thereof), the Secretary of the
4 Interior.

5 “(f) PROVISIONS RELATING TO THE SECRETARY.—

6 “(1) DECISIONMAKER.—A decision that con-
7 stitutes a final agency action and relates to an ap-
8 peal of the rejection of a final offer by the Depart-
9 ment shall be made either—

10 “(A) by an official of the Department who
11 holds a position at a higher organizational level
12 within the Department than the level of the de-
13 partmental agency in which the decision that is
14 the subject of the appeal was made; or

15 “(B) by an administrative judge.

16 “(2) TERMINATION OF COMPACT OR FUNDING
17 AGREEMENT.—

18 “(A) AUTHORITY TO TERMINATE.—

19 “(i) PROVISION TO BE INCLUDED IN
20 COMPACT OR FUNDING AGREEMENT.—A
21 compact or funding agreement shall in-
22 clude a provision authorizing the Sec-
23 retary, if the Secretary makes a finding de-
24 scribed in subparagraph (B), to—

1 “(I) terminate the compact or
2 funding agreement (or a portion
3 thereof); and

4 “(II) reassume the remaining
5 funding associated with the reassumed
6 programs, functions, services, and ac-
7 tivities included in the compact or
8 funding agreement.

9 “(ii) TRANSFERS OF FUNDS.—Out of
10 any funds reassumed under clause (i)(II),
11 the Secretary may transfer the funds asso-
12 ciated with Department of the Interior
13 programs, functions, services, and activi-
14 ties (or portions thereof) to the Secretary
15 of the Interior to provide continued trans-
16 portation services in accordance with appli-
17 cable law.

18 “(B) FINDINGS RESULTING IN TERMI-
19 NATION.—The finding referred to in subpara-
20 graph (A) is a specific finding of—

21 “(i) imminent jeopardy to a trust
22 asset, natural resources, or public health
23 and safety that is caused by an act or
24 omission of the Indian tribe and that
25 arises out of a failure to carry out the

1 compact or funding agreement, as deter-
2 mined by the Secretary; or

3 “(ii) gross mismanagement with re-
4 spect to funds or programs transferred to
5 the Indian tribe under the compact or
6 funding agreement, as determined by the
7 Secretary in consultation with the Inspec-
8 tor General of the Department, as appro-
9 priate.

10 “(C) PROHIBITION.—The Secretary shall
11 not terminate a compact or funding agreement
12 (or portion thereof) unless—

13 “(i) the Secretary has first provided
14 written notice and a hearing on the record
15 to the Indian tribe that is subject to the
16 compact or funding agreement; and

17 “(ii) the Indian tribe has not taken
18 corrective action to remedy the mis-
19 management of funds or programs or the
20 imminent jeopardy to a trust asset, natural
21 resource, or public health and safety.

22 “(D) EXCEPTION.—

23 “(i) IN GENERAL.—Notwithstanding
24 subparagraph (C), the Secretary, upon
25 written notification to an Indian tribe that

1 is subject to a compact or funding agree-
2 ment, may immediately terminate the com-
3 pact or funding agreement (or portion
4 thereof) if—

5 “(I) the Secretary makes a find-
6 ing of imminent substantial and irrep-
7 arable jeopardy to a trust asset, nat-
8 ural resource, or public health and
9 safety; and

10 “(II) the jeopardy arises out of a
11 failure to carry out the compact or
12 funding agreement.

13 “(ii) HEARINGS.—If the Secretary
14 terminates a compact or funding agree-
15 ment (or portion thereof) under clause (i),
16 the Secretary shall provide the Indian tribe
17 subject to the compact or agreement with
18 a hearing on the record not later than 10
19 days after the date of such termination.

20 “(E) BURDEN OF PROOF.—In any hearing
21 or appeal involving a decision to terminate a
22 compact or funding agreement (or portion
23 thereof) under this paragraph, the Secretary
24 shall have the burden of proof in demonstrating

1 by clear and convincing evidence the validity of
2 the grounds for the termination.

3 “(g) COST PRINCIPLES.—In administering funds re-
4 ceived under this section, an Indian tribe shall apply cost
5 principles under the applicable Office of Management and
6 Budget circular, except as modified by section 106 of the
7 Indian Self-Determination and Education Assistance Act
8 (25 U.S.C. 450j–1), other provisions of law, or by any ex-
9 emptions to applicable Office of Management and Budget
10 circulars subsequently granted by the Office of Manage-
11 ment and Budget. No other audit or accounting standards
12 shall be required by the Secretary. Any claim by the Fed-
13 eral Government against the Indian tribe relating to funds
14 received under a funding agreement based on any audit
15 conducted pursuant to this subsection shall be subject to
16 the provisions of section 106(f) of such Act (25 U.S.C.
17 450j–1(f)).

18 “(h) TRANSFER OF FUNDS.—The Secretary shall
19 provide funds to an Indian tribe under a funding agree-
20 ment in an amount equal to—

21 “(1) the sum of the funding that the Indian
22 tribe would otherwise receive for the program, func-
23 tion, service, or activity in accordance with a funding
24 formula or other allocation method established under
25 this title or chapter 53 of title 49; and

1 “(2) such additional amounts as the Secretary
2 determines equal the amounts that would have been
3 withheld for the costs of the Bureau of Indian Af-
4 fairs for administration of the program or project.

5 “(i) CONSTRUCTION PROGRAMS.—

6 “(1) STANDARDS.—Construction projects car-
7 ried out under programs administered by an Indian
8 tribe with funds transferred to the Indian tribe pur-
9 suant to a funding agreement entered into under
10 this section shall be constructed pursuant to the con-
11 struction program standards set forth in applicable
12 regulations or as specifically approved by the Sec-
13 retary (or the Secretary’s designee).

14 “(2) MONITORING.—Construction programs
15 shall be monitored by the Secretary in accordance
16 with applicable regulations.

17 “(j) FACILITATION.—

18 “(1) SECRETARIAL INTERPRETATION.—Except
19 as otherwise provided by law, the Secretary shall in-
20 terpret all Federal laws, Executive orders, and regu-
21 lations in a manner that will facilitate—

22 “(A) the inclusion of programs, services,
23 functions, and activities (or portions thereof)
24 and funds associated therewith, in compacts
25 and funding agreements; and

1 “(B) the implementation of the compacts
2 and funding agreements.

3 “(2) REGULATION WAIVER.—

4 “(A) IN GENERAL.—An Indian tribe may
5 submit to the Secretary a written request to
6 waive application of a regulation promulgated
7 under this section with respect to a compact or
8 funding agreement. The request shall identify
9 the regulation sought to be waived and the
10 basis for the request.

11 “(B) APPROVALS AND DENIALS.—

12 “(i) IN GENERAL.—Not later than 90
13 days after the date of receipt of a written
14 request under subparagraph (A), the Sec-
15 retary shall approve or deny the request in
16 writing.

17 “(ii) DENIALS.—The Secretary may
18 deny a request under clause (i) only if the
19 Secretary finds that the identified lan-
20 guage in the regulation may not be waived
21 because the waiver is prohibited by Federal
22 law.

23 “(iii) DEEMED APPROVAL.—If the
24 Secretary does not approve or deny a re-
25 quest submitted under subparagraph (A)

1 on or before the last day of the 90-day pe-
2 riod referred to in clause (i), the request
3 shall be deemed approved.

4 “(iv) FINALITY OF DECISIONS.—A de-
5 cision by the Secretary under this subpara-
6 graph shall be final for the Department.

7 “(k) DISCLAIMERS.—

8 “(1) EXISTING AUTHORITY.—Notwithstanding
9 any other provision of law, upon the election of an
10 Indian tribe, the Secretary shall—

11 “(A) maintain current Federal Highway
12 Administration Indian reservation roads pro-
13 gram and funding agreements; or

14 “(B) enter into new agreements under the
15 authority of section 202(c)(8).

16 “(2) LIMITATION ON STATUTORY CONSTRUC-
17 TION.—Nothing in this section may be construed to
18 impair or diminish the authority of the Secretary
19 under section 202(c)(8).

20 “(l) APPLICABILITY OF INDIAN SELF-DETERMINA-
21 TION AND EDUCATION ASSISTANCE ACT.—Except to the
22 extent in conflict with this section (as determined by the
23 Secretary), the following provisions of the Indian Self-De-
24 termination and Education Assistance Act shall apply to
25 compact and funding agreements (except that references

1 to the Secretary of the Interior in such provisions shall
2 treated as a references to the Secretary of Transpor-
3 tation):

4 “(1) Subsections (a), (b), (d), (g), and (h) of
5 section 506 of such Act (25 U.S.C. 458aaa–5), re-
6 lating to general provisions.

7 “(2) Subsections (b) through (e) and (g) of sec-
8 tion 507 of such Act (25 U.S.C.458aaa–6), relating
9 to provisions relating to the Secretary of Health and
10 Human Services.

11 “(3) Subsections (a), (b), (d), (e), (g), (h), (i),
12 and (k) of section 508 of such Act (25 U.S.C.
13 458aaa–7), relating to transfer of funds.

14 “(4) Section 510 of such Act (25 U.S.C.
15 458aaa–9), relating to Federal procurement laws
16 and regulations.

17 “(5) Section 511 of such Act (25 U.S.C.
18 458aaa–10), relating to civil actions.

19 “(6) Subsections (a)(1), (a)(2), and (c) through
20 (f) of section 512 of such Act (25 U.S.C. 458aaa–
21 11), relating to facilitation, except that subsection
22 (c)(1) of that section shall be applied by substituting
23 ‘transportation facilities and other facilities’ for
24 ‘school buildings, hospitals, and other facilities’.

1 “(7) Subsections (a) and (b) of section 515 of
2 such Act (25 U.S.C. 458aaa–14), relating to dis-
3 claimers.

4 “(8) Subsections (a) and (b) of section 516 of
5 such Act (25 U.S.C. 458aaa–15), relating to appli-
6 cation of title I provisions.

7 “(9) Section 518 of such Act (25 U.S.C.
8 458aaa–17), relating to appeals.

9 “(m) DEFINITIONS.—

10 “(1) IN GENERAL.—In this section, the fol-
11 lowing definitions apply (except as otherwise ex-
12 pressly provided):

13 “(A) COMPACT.—The term ‘compact’
14 means a compact between the Secretary and an
15 Indian tribe entered into under subsection (c).

16 “(B) DEPARTMENT.—The term ‘Depart-
17 ment’ means the Department of Transpor-
18 tation.

19 “(C) ELIGIBLE INDIAN TRIBE.—The term
20 ‘eligible Indian tribe’ means an Indian tribe
21 that is eligible to participate in the program, as
22 determined under subsection (b).

23 “(D) FUNDING AGREEMENT.—The term
24 ‘funding agreement’ means a funding agree-

1 ment between the Secretary and an Indian tribe
2 entered into under subsection (d).

3 “(E) INDIAN TRIBE.—The term ‘Indian
4 tribe’ means any Indian or Alaska Native tribe,
5 band, nation, pueblo, village, or community that
6 the Secretary of the Interior acknowledges to
7 exist as an Indian tribe under the Federally
8 Recognized Indian Tribe List Act of 1994 (25
9 U.S.C. 479a). In any case in which an Indian
10 tribe has authorized another Indian tribe, an
11 inter-tribal consortium, or a tribal organization
12 to plan for or carry out programs, services,
13 functions, or activities (or portions thereof) on
14 its behalf under this part, the authorized Indian
15 tribe, inter-tribal consortium, or tribal organiza-
16 tion shall have the rights and responsibilities of
17 the authorizing Indian tribe (except as other-
18 wise provided in the authorizing resolution or in
19 this title). In such event, the term ‘Indian tribe’
20 as used in this part shall include such other au-
21 thorized Indian tribe, inter-tribal consortium, or
22 tribal organization.

23 “(F) PROGRAM.—The term ‘program’
24 means the tribal transportation self-governance
25 program established under this section.

1 “(G) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Transportation.

3 “(H) TRANSPORTATION PROGRAMS.—The
4 term ‘transportation programs’ means all pro-
5 grams administered or financed by the Depart-
6 ment under this title and chapter 53 of title 49.

7 “(2) APPLICABILITY OF OTHER DEFINITIONS.—
8 In this section, the definitions set forth in sections
9 4 and 505 of the Indian Self-Determination and
10 Education Assistance Act (25 U.S.C. 450b; 458aaa)
11 apply, except as otherwise expressly provided in this
12 section.

13 “(n) REGULATIONS.—

14 “(1) IN GENERAL.—

15 “(A) PROMULGATION.—Not later than 90
16 days after the date of enactment of the Amer-
17 ican Energy and Infrastructure Jobs Act of
18 2012, the Secretary shall initiate procedures
19 under subchapter III of chapter 5 of title 5 to
20 negotiate and promulgate such regulations as
21 are necessary to carry out this section.

22 “(B) PUBLICATION OF PROPOSED REGULA-
23 TIONS.—Proposed regulations to implement this
24 section shall be published in the Federal Reg-

1 ister by the Secretary not later than 21 months
2 after such date of enactment.

3 “(C) EXPIRATION OF AUTHORITY.—The
4 authority to promulgate regulations under this
5 paragraph shall expire 30 months after such
6 date of enactment.

7 “(D) EXTENSION OF DEADLINES.—A
8 deadline set forth in subparagraph (B) or (C)
9 may be extended up to 180 days if the nego-
10 tiated rulemaking committee referred to in
11 paragraph (2) concludes that the committee
12 cannot meet the deadline and the Secretary so
13 notifies the appropriate committees of Con-
14 gress.

15 “(2) COMMITTEE.—

16 “(A) IN GENERAL.—A negotiated rule-
17 making committee established pursuant to sec-
18 tion 565 of title 5 to carry out this subsection
19 shall have as its members only Federal and
20 tribal government representatives, a majority of
21 whom shall be nominated by and be representa-
22 tives of Indian tribes with funding agreements
23 under this title.

24 “(B) REQUIREMENTS.—The committee
25 shall confer with, and accommodate participa-

1 tion by, representatives of Indian tribes, inter-
2 tribal consortia, tribal organizations, and indi-
3 vidual tribal members.

4 “(C) ADAPTATION OF PROCEDURES.—The
5 Secretary shall adapt the negotiated rulemaking
6 procedures to the unique context of self-govern-
7 ance and the government-to-government rela-
8 tionship between the United States and Indian
9 tribes.

10 “(3) EFFECT.—The lack of promulgated regu-
11 lations shall not limit the effect of this section.

12 “(4) EFFECT OF CIRCULARS, POLICIES, MANU-
13 ALS, GUIDANCE, AND RULES.—Unless expressly
14 agreed to by the participating Indian tribe in the
15 compact or funding agreement, the participating In-
16 dian tribe shall not be subject to any agency cir-
17 cular, policy, manual, guidance, or rule adopted by
18 the Department of Transportation, except regula-
19 tions promulgated under this section.”.

20 “(b) CLERICAL AMENDMENT.—The analysis for such
21 chapter is amended by inserting after the item relating
22 to section 206 the following:

 “207. Tribal transportation self-governance program.”.

1 **Subtitle F—Program Elimination**
2 **and Consolidation**

3 **SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.**

4 (a) GENERAL PROVISIONS.—

5 (1) EXISTING FUNDS.—A repeal or amendment
6 made by this section shall not affect funds appor-
7 tioned or allocated before the effective date of the
8 repeal.

9 (2) AMENDATORY PROVISIONS.—A repeal made
10 by this section of a provision that contains an
11 amendment to or repeal of another law shall not be
12 construed to affect that law. The amendment to or
13 repeal of that law shall remain in effect as if this
14 section had not been enacted.

15 (b) REVENUE ALIGNED BUDGET AUTHORITY.—Sec-
16 tion 110, and the item relating to that section in the anal-
17 ysis for chapter 1, are repealed.

18 (c) HIGH PRIORITY PROJECTS PROGRAM.—Section
19 117, and the item relating to that section in the analysis
20 for chapter 1, are repealed.

21 (d) SET ASIDES FOR INTERSTATE DISCRETIONARY
22 PROJECTS.—Section 118(c) is repealed.

23 (e) CONTROL OF JUNKYARDS.—Section 136, and the
24 item relating to that section in the analysis for chapter
25 1, are repealed.

1 (f) HIGHWAY BRIDGE PROGRAM.—Section 144, and
2 the item relating to that section in the analysis for chapter
3 1, are repealed.

4 (g) HAZARD ELIMINATION PROGRAM.—Section 152,
5 and the item relating to that section in the analysis for
6 chapter 1, are repealed.

7 (h) SAFETY INCENTIVE GRANTS FOR THE USE OF
8 SEAT BELTS.—Section 157, and the item relating to that
9 section in the analysis for chapter 1, are repealed.

10 (i) ACCESS HIGHWAYS TO PUBLIC RECREATION
11 AREAS ON CERTAIN LAKES.—Section 155, and the item
12 relating to that section in the analysis for chapter 1, are
13 repealed.

14 (j) REIMBURSEMENT FOR SEGMENTS OF THE INTER-
15 STATE SYSTEM CONSTRUCTED WITHOUT FEDERAL AS-
16 SISTANCE.—Section 160, and the item relating to that
17 section in the analysis for chapter 1, are repealed.

18 (k) NATIONAL SCENIC BYWAYS PROGRAM.—Section
19 162, and the item relating to that section in the analysis
20 for chapter 1, are repealed.

21 (l) INTER-AMERICAN HIGHWAY.—Section 212, and
22 the item relating to that section in the analysis for chapter
23 2, are repealed.

1 (m) DARIEN GAP HIGHWAY.—Section 216, and the
2 item relating to that section in the analysis for chapter
3 2, are repealed.

4 (n) STATE COORDINATORS.—Section 217 (as amend-
5 ed by this Act) is further amended—

6 (1) by striking subsection (d); and

7 (2) by redesignating subsections (e) through (j)
8 as subsections (d) through (i), respectively.

9 (o) ALASKA HIGHWAY.—Section 218 is amended—

10 (1) in subsection (a)—

11 (A) by striking the first 2 sentences;

12 (B) in the third sentence—

13 (i) by striking “, in addition to such
14 funds,”; and

15 (ii) by striking “such highway or”;
16 and

17 (C) by striking “No expenditures” and all
18 that follows through the period at the end;

19 (2) by striking subsection (b); and

20 (3) by redesignating subsection (c) as sub-
21 section (b).

22 (p) MANAGEMENT SYSTEMS.—Section 303, and the
23 item relating to that section in the analysis for chapter
24 3, are repealed.

1 (q) COOPERATION WITH OTHER AMERICAN REPUB-
2 LICIS.—Section 309, and the item relating to that section
3 in the analysis for chapter 3, are repealed.

4 (r) LANDSCAPING AND SCENIC ENHANCEMENT.—
5 Section 319 is amended—

6 (1) by striking “(a) LANDSCAPE AND ROAD-
7 SIDE DEVELOPMENT.—”; and

8 (2) by striking subsection (b).

9 (s) MAGNETIC LEVITATION TRANSPORTATION TECH-
10 NOLOGY DEPLOYMENT PROGRAM.—Section 322, and the
11 item relating to that section in the analysis for chapter
12 3, are repealed.

13 (t) TRANSPORTATION, COMMUNITY, AND SYSTEM
14 PRESERVATION PROGRAM.—Section 1117 of SAFETEA-
15 LU (119 Stat. 1177), and the item relating to that section
16 in the table of contents contained in section 1(b) of that
17 Act, are repealed.

18 (u) PROJECTS OF NATIONAL AND REGIONAL SIG-
19 NIFICANCE.—Section 1301 of SAFETEA-LU (119 Stat.
20 1198), and the item relating to that section in the table
21 of contents contained in section 1(b) of that Act, are re-
22 pealed.

23 (v) NATIONAL CORRIDOR INFRASTRUCTURE IM-
24 PROVEMENT PROGRAM.—Section 1302 of SAFETEA-LU
25 (119 Stat. 1204), and the item relating to that section

1 in the table of contents contained in section 1(b) of that
2 Act, are repealed.

3 (w) TRUCK PARKING FACILITIES.—Section 1305 of
4 SAFETEA-LU (119 Stat. 1214), and the item relating
5 to that section in the table of contents contained in section
6 1(b) of that Act, are repealed.

7 (x) FREIGHT INTERMODAL DISTRIBUTION PILOT
8 GRANT PROGRAM.—Section 1306 of SAFETEA-LU (119
9 Stat. 1215), and the item relating to that section in the
10 table of contents contained in section 1(b) of that Act,
11 are repealed.

12 (y) DEPLOYMENT OF MAGNETIC LEVITATION
13 TRANSPORTATION PROJECTS.—Section 1307 of
14 SAFETEA-LU (119 Stat. 1217), and the item relating
15 to that section in the table of contents contained in section
16 1(b) of that Act, are repealed.

17 (z) DELTA REGION TRANSPORTATION DEVELOP-
18 MENT PROGRAM.—Section 1308 of SAFETEA-LU (119
19 Stat. 1218), and the item relating to that section in the
20 table of contents contained in section 1(b) of that Act,
21 are repealed.

22 (aa) SAFE ROUTES TO SCHOOL PROGRAM.—Section
23 1404 of SAFETEA-LU (119 Stat. 1228), and the item
24 relating to that section in the table of contents contained
25 in section 1(b) of that Act, are repealed.

1 (bb) NATIONAL WORK ZONE SAFETY INFORMATION
2 CLEARINGHOUSE.—Section 1410 of SAFETEA–LU (119
3 Stat. 1233), and the item relating to that section in the
4 table of contents contained in section 1(b) of that Act,
5 are repealed.

6 (cc) ROADWAY SAFETY.—Section 1411(b) of
7 SAFETEA–LU (119 Stat. 1234) is repealed.

8 (dd) HIGHWAYS FOR LIFE PILOT PROGRAM.—Sec-
9 tion 1502 of SAFETEA–LU (119 Stat. 1236), and the
10 item relating to that section in the table of contents con-
11 tained in section 1(b) of that Act, are repealed.

12 (ee) EXPRESS LANES DEMONSTRATION PROGRAM.—
13 Section 1604(b) of SAFETEA–LU (119 Stat. 1250) is
14 repealed.

15 (ff) INTERSTATE SYSTEM CONSTRUCTION TOLL
16 PILOT PROGRAM.—Section 1604(c) of SAFETEA–LU
17 (119 Stat. 1253) is repealed.

18 (gg) AMERICA’S BYWAYS RESOURCE CENTER.—Sec-
19 tion 1803 of SAFETEA–LU (119 Stat. 1458), and the
20 item relating to that section in the table of contents con-
21 tained in section 1(b) of that Act, are repealed.

22 (hh) NATIONAL HISTORIC COVERED BRIDGE PRES-
23 ERVATION.—Section 1804 of SAFETEA–LU (119 Stat.
24 1458), and the item relating to that section in the table

1 of contents contained in section 1(b) of that Act, are re-
2 pealed.

3 (ii) NONMOTORIZED TRANSPORTATION PILOT PRO-
4 GRAM.—Section 1807 of SAFETEA-LU (119 Stat.
5 1460), and the item relating to that section in the table
6 of contents contained in section 1(b) of that Act, are re-
7 pealed.

8 (jj) GRANT PROGRAM TO PROHIBIT RACIAL
9 PROFILING.—Section 1906 of SAFETEA-LU (119 Stat.
10 1468), and the item relating to that section in the table
11 of contents contained in section 1(b) of that Act, are re-
12 pealed.

13 (kk) PAVEMENT MARKING SYSTEMS DEMONSTRA-
14 TION PROJECTS.—Section 1907 of SAFETEA-LU (119
15 Stat. 1469), and the item relating to that section in the
16 table of contents contained in section 1(b) of that Act,
17 are repealed.

18 (ll) LIMITATION ON PROJECT APPROVAL.—Section
19 1958 of SAFETEA-LU (119 Stat. 1515), and the item
20 relating to that section in the table of contents contained
21 in section 1(b) of that Act, are repealed.

22 **Subtitle G—Miscellaneous**

23 **SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DE-**
24 **FINED.**

25 Section 101(a)(35) is amended—

1 (1) by striking subparagraphs (C), (F), (G),
2 (H), and (L); and

3 (2) by redesignating subparagraphs (D), (E),
4 (I), (J), and (K) as subparagraphs (C), (D), (E),
5 (F), and (G), respectively.

6 **SEC. 1702. PAVEMENT MARKINGS.**

7 Section 109 is amended by adding at the end the fol-
8 lowing:

9 “(r) PAVEMENT MARKINGS.—The Secretary may not
10 approve any pavement markings project that includes the
11 use of glass beads containing more than 200 parts per
12 million of arsenic or lead.”.

13 **SEC. 1703. REST AREAS.**

14 (a) AGREEMENTS RELATING TO USE OF AND ACCESS
15 TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.—Section
16 111 is amended—

17 (1) in subsection (a) in the second sentence by
18 striking the period and inserting “and will not
19 change the boundary of any right-of-way on the
20 Interstate System to accommodate construction of,
21 or afford access to, an automotive service station or
22 other commercial establishment.”;

23 (2) by redesignating subsections (b) and (c) as
24 subsections (c) and (d), respectively; and

1 (3) by inserting after subsection (a) the fol-
2 lowing:

3 “(b) REST AREAS.—

4 “(1) IN GENERAL.—Notwithstanding subsection
5 (a), the Secretary shall permit a State to acquire,
6 construct, operate, and maintain a rest area along a
7 highway on the Interstate System in such State.

8 “(2) ELIGIBLE ACTIVITIES.—The Secretary
9 shall permit a rest area under paragraph (1) to in-
10 clude commercial activities that provide goods, serv-
11 ices, and information serving the traveling public
12 and the commercial motor carrier industry. Such
13 commercial activities shall be limited to—

14 “(A) commercial advertising and media
15 displays if such advertising and displays are—

16 “(i) exhibited solely within any facility
17 constructed in the rest area; and

18 “(ii) not legible from the main trav-
19 eled way;

20 “(B) State promotional or tourism items;

21 “(C) tourism-related merchandise and
22 products, including electronics and clothing;

23 “(D) historical or tourism-related enter-
24 tainment items, including event or attraction
25 tickets;

1 “(E) travel-related information, including
2 maps, travel booklets, and hotel coupon book-
3 lets;

4 “(F) automatic teller machines; and

5 “(G) lottery machines.

6 “(3) PRIVATE OPERATORS.—A State may per-
7 mit a private party to operate such commercial ac-
8 tivities.

9 “(4) LIMITATION ON USE OF REVENUES.—A
10 State shall use any revenues received from the com-
11 mercial activities in a rest area under this section to
12 cover the costs of acquiring, constructing, operating,
13 and maintaining rest areas in the State.”.

14 (b) CONTROL OF OUTDOOR ADVERTISING.—Section
15 131(i) is amended by adding at the end the following: “A
16 State may permit the installation of signs that acknowl-
17 edge the sponsorship of rest areas within such rest areas
18 or along the main traveled way of the system, provided
19 that such signs shall not affect the safe and efficient utili-
20 zation of the Interstate System and the primary system.
21 The Secretary shall establish criteria for the installation
22 of such signs on the main traveled way, including criteria
23 pertaining to the placement of rest area sponsorship ac-
24 knowledgment signs in relation to the placement of ad-
25 vance guide signs for rest areas.”.

1 **SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS**
2 **ON THE INTERSTATE SYSTEM.**

3 Section 111 is amended by adding at the end the fol-
4 lowing:

5 “(e) **JUSTIFICATION REPORTS.**—If the Secretary re-
6 quests or requires a justification report for a project that
7 would add a point of access to, or exit from, the Interstate
8 System, the Secretary may permit a State transportation
9 department to approve such report.”.

10 **SEC. 1705. PATENTED OR PROPRIETARY ITEMS.**

11 Section 112 is amended by adding at the end the fol-
12 lowing:

13 “(h) **USE OF PATENTED OR PROPRIETARY ITEMS.**—
14 The Secretary shall approve the use, by a State, of Federal
15 funds made available to carry out this chapter to pay for
16 patented or proprietary items if the State transportation
17 department certifies, based on the documented analysis
18 and professional judgment of qualified State transpor-
19 tation officials, that—

20 “(1) no equally suitable alternative item exists;

21 “(2) any specified patented or proprietary item
22 will be clearly identified as a patented or proprietary
23 item in bid documents; and

24 “(3) any specified patented or proprietary item
25 will be available in sufficient quantity to complete
26 any project identified in bid documents.”.

1 **SEC. 1706. PREVENTIVE MAINTENANCE.**

2 Section 116 is amended by adding at the end the fol-
3 lowing:

4 “(e) DEFINITIONS.—In this section, the following
5 definitions apply:

6 “(1) PREVENTIVE MAINTENANCE.—The term
7 ‘preventive maintenance’ includes pavement preser-
8 vation programs and activities.

9 “(2) PAVEMENT PRESERVATION PROGRAMS AND
10 ACTIVITIES.—The term ‘pavement preservation pro-
11 grams and activities’ means programs and activities
12 employing a network level, long-term strategy that
13 enhances pavement performance by using an inte-
14 grated, cost-effective set of practices that extend
15 pavement life, improve safety, and meet road user
16 expectations.”.

17 **SEC. 1707. MAPPING.**

18 (a) IN GENERAL.—Section 306 is amended—

19 (1) in subsection (a) by striking “may” and in-
20 serting “shall”;

21 (2) in subsection (b) by striking “State and”
22 and inserting “State government and”; and

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

24 “(c) IMPLEMENTATION.—The Secretary shall develop
25 a process for the oversight and monitoring, on an annual

1 basis, of the compliance of each State with the guidance
2 issued under subsection (b).”.

3 (b) SURVEY.—Not later than 2 years after the date
4 of enactment of this Act, the Secretary shall conduct a
5 survey of all States to determine what percentage of
6 projects carried out under title 23, United States Code,
7 in each State utilize private sector sources for surveying
8 and mapping services.

9 **SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION**
10 **EMERGENCIES.**

11 (a) IN GENERAL.—Chapter 3 is amended by adding
12 at the end the following:

13 **“§ 330. Funding flexibility for transportation emer-**
14 **gencies**

15 “(a) IN GENERAL.—Notwithstanding any other pro-
16 vision of law, the chief executive of a State, after declaring
17 an emergency with respect to a transportation facility
18 under subsection (b), may use any covered funds of the
19 State to repair or replace the transportation facility.

20 “(b) DECLARATION OF EMERGENCY.—To declare an
21 emergency with respect to a transportation facility for
22 purposes of subsection (a), the chief executive of a State
23 shall provide to the Secretary written notice of the declara-
24 tion, which shall specify—

25 “(1) the emergency;

1 “(2) the affected transportation facility; and

2 “(3) the repair or replacement activities to be
3 carried out.

4 “(c) DEFINITIONS.—In this section, the following
5 definitions apply:

6 “(1) COVERED FUNDS.—The term ‘covered
7 funds’ means any amounts apportioned to a State
8 under this title, including any such amounts re-
9 quired to be set aside for a purpose other than the
10 repair or replacement of a transportation facility
11 under this section.

12 “(2) EMERGENCY.—The term ‘emergency’
13 means any unexpected event or condition that—

14 “(A) may cause, or has caused, the cata-
15 strophic failure of a transportation facility; and

16 “(B) is determined to be an emergency by
17 the chief executive of a State.

18 “(3) TRANSPORTATION FACILITY.—The term
19 ‘transportation facility’ means any component of the
20 National Highway System.

21 “(d) LIMITATION ON STATUTORY CONSTRUCTION.—
22 Nothing in this section may be construed to allow a State
23 to change the division of surface transportation program
24 funding under section 133(d)(3).”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 chapter is amended by adding at the end the following:

“330. Funding flexibility for transportation emergencies.”.

3 **SEC. 1709. BUDGET JUSTIFICATION.**

4 (a) IN GENERAL.—Subchapter I of chapter 3 of title
5 49, United States Code, is amended by adding at the end
6 the following:

7 **“§ 310. Budget justification**

8 “The Secretary of Transportation and the head of
9 each modal administration of the Department of Trans-
10 portation shall submit to the Committee on Transpor-
11 tation and Infrastructure of the House of Representatives
12 and the Committee on Environment and Public Works and
13 the Committee on Banking, Housing, and Urban Affairs
14 of the Senate a budget justification concurrently with the
15 President’s annual budget submission to Congress.”.

16 (b) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 3 is amended by inserting after the item relating to
18 section 309 the following:

“310. Budget justification.”.

19 **SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND PUB-
20 LIC TRANSIT VEHICLE EXEMPTION FROM
21 AXLE WEIGHT RESTRICTIONS.**

22 Section 1023(h) of the Intermodal Surface Transpor-
23 tation Efficiency Act of 1991 (23 U.S.C. 127 note) is
24 amended—

1 (1) in the heading of paragraph (1) by striking
2 “TEMPORARY EXEMPTION” and inserting “EXEMP-
3 TION”;

4 (2) in paragraph (1)—

5 (A) in the matter preceding subparagraph
6 (A) by striking “, for the period beginning on
7 October 6, 1992, and ending on October 1,
8 2009,”;

9 (B) in subparagraph (A) by striking “or”
10 at the end;

11 (C) in subparagraph (B) by striking the
12 period at the end and inserting “; or”; and

13 (D) by adding at the end the following:

14 “(C) any motor home (as such term is de-
15 fined in section 571.3 of title 49, Code of Fed-
16 eral Regulations).”; and

17 (3) in paragraph (2)(A) by striking “For the
18 period beginning on the date of enactment of this
19 subparagraph and ending on September 30, 2009,
20 a” and inserting “A”.

21 **SEC. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE**
22 **SYSTEM DESIGNATION.**

23 Section 1105(e)(5)(A) of the Intermodal Surface
24 Transportation Efficiency Act of 1991 is amended by
25 striking “that the segment” and all that follows through

1 the period at the end and inserting “that the segment
2 meets the Interstate System design standards approved by
3 the Secretary under section 109(b) of title 23, United
4 States Code.”.

5 **SEC. 1712. RETROREFLECTIVITY.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary shall amend the Manual on Uni-
8 form Traffic Control Devices to remove compliance dates
9 with respect to retroreflectivity standards for regulatory,
10 warning, and other post-mounted guide signs and for
11 street name and other overhead guide signs.

12 **SEC. 1713. ENGINEERING JUDGMENT.**

13 Not later than 90 days after the date of enactment
14 of this Act, the Secretary shall issue guidance to State
15 transportation departments clarifying that the standards,
16 guidance, and options for design and application of traffic
17 control devices provided in the Manual on Uniform Traffic
18 Control Devices should not be considered a substitute for
19 engineering judgment.

20 **SEC. 1714. EVACUATION ROUTES.**

21 Each State shall give adequate consideration to the
22 needs of evacuation routes when allocating funds appor-
23 tioned to the State under title 23, Unites States Code,
24 for the construction of Federal-aid highways.

1 **SEC. 1715. TRUCK PARKING.**

2 (a) TRUCK PARKING SURVEY.—

3 (1) REQUIREMENT.—Not later than 18 months
4 after the date of enactment of this Act, the Sec-
5 retary, in consultation with appropriate State motor
6 carrier safety personnel, shall conduct a survey of
7 each State—

8 (A) to develop a system of metrics to
9 measure the adequacy of commercial motor ve-
10 hicle parking facilities in the State;

11 (B) to assess the volume of commercial
12 motor vehicle traffic in the State; and

13 (C) to evaluate the capability of the State
14 to provide adequate parking and rest facilities
15 for commercial motor vehicles engaged in inter-
16 state transportation.

17 (2) PUBLICATION OF RESULTS.—The Secretary
18 shall make available to the public on the Internet
19 Web site of the Department the results of surveys
20 conducted under paragraph (1).

21 (3) PERIODIC UPDATES.—The Secretary shall
22 periodically update surveys conducted under para-
23 graph (1).

24 (b) TRUCK PARKING PROJECTS.—A State may obli-
25 gate funds apportioned to the State under paragraph (1),
26 (2), (3), or (5) of section 104(b) of title 23, United States

1 Code, for the following, if serving the National Highway
2 System:

3 (1) Constructing a safety rest area (as defined
4 in section 120(e) of such title) that includes parking
5 for commercial motor vehicles.

6 (2) Constructing a commercial motor vehicle
7 parking facility adjacent to a commercial truck stop
8 or travel plaza.

9 (3) Making a facility available to commercial
10 motor vehicle parking, including an inspection and
11 weigh station or a park-and-ride facility.

12 (4) Promoting the availability of publicly or pri-
13 vately provided commercial motor vehicle parking
14 using intelligent transportation systems and other
15 means.

16 (5) Constructing a turnout for commercial
17 motor vehicles.

18 (6) Making capital improvements to a seasonal
19 public commercial motor vehicle parking facility to
20 allow the facility to remain open throughout the
21 year.

22 (7) Improving the geometric design of an inter-
23 change to improve access to a commercial motor ve-
24 hicle parking facility.

1 (c) **ELECTRIC VEHICLE INFRASTRUCTURE.**—A State
2 may establish electric vehicle charging stations for the use
3 of battery powered trucks or other motor vehicles at any
4 parking facility funded or authorized under this Act or
5 title 23, United States Code. Such charging stations shall
6 be eligible for the same funds as are available for the park-
7 ing facilities in which they are located.

8 **SEC. 1716. USE OF CERTAIN ADMINISTRATIVE EXPENSES.**

9 (a) **IN GENERAL.**—Out of the funds made available
10 under section 104(a) of title 23, United States Code, the
11 Secretary may use not to exceed a total of \$2,000,000
12 each fiscal year—

13 (1) to operate the national work zone safety in-
14 formation clearinghouse authorized by section
15 358(b)(2) of the National Highway System Designa-
16 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.
17 625);

18 (2) to operate a public road safety clearing-
19 house under section 1411(a) of SAFETEA-LU (23
20 U.S.C. 402 note; 119 Stat. 1234); and

21 (3) to provide work zone safety grants under
22 subsections (a) and (b) of section 1409 of
23 SAFETEA-LU (23 U.S.C. 401 note; 119 Stat.
24 1232).

25 (b) **CONFORMING AMENDMENTS.**—

1 (1) ROADWAY SAFETY.—Section 1411(a) of
2 SAFETEA–LU (23 U.S.C. 402 note; 119 Stat.
3 1234) is amended by striking paragraph (2) and in-
4 serting the following:

5 “(2) FUNDING.—Funding for activities under
6 this subsection may be made available as described
7 in section 1716(a) of the American Energy and In-
8 frastructure Jobs Act of 2012.”.

9 (2) WORK ZONE SAFETY GRANTS.—Section
10 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119
11 Stat. 1232) is amended by striking subsection (c)(1)
12 and inserting the following:

13 “(1) IN GENERAL.—Funding for activities
14 under this section may be made available as de-
15 scribed in section 1716(a) of the American Energy
16 and Infrastructure Jobs Act of 2012.”.

17 **SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYMENT**
18 **PROGRAMS.**

19 To encourage the development of careers in the trans-
20 portation field, the Secretary of Education and the Sec-
21 retary of Labor are encouraged to use funds for training
22 and employment education programs to develop such pro-
23 grams for transportation-related careers and trades, and
24 to work with the Secretary of Transportation to carry out
25 such programs.

1 **SEC. 1718. ENGINEERING AND DESIGN SERVICES.**

2 (a) IN GENERAL.—For projects carried out under
3 title 23, United States Code, a State transportation de-
4 partment shall utilize, to the maximum extent practicable,
5 commercial enterprises for the delivery of engineering and
6 design services.

7 (b) REPORTING REQUIREMENT.—Not later than 1
8 year after the date of enactment of this Act, each State
9 transportation department shall submit to the Secretary
10 a report documenting the extent to which the State utilizes
11 commercial enterprises for the delivery of engineering and
12 design services for projects carried out under title 23,
13 United States Code, which shall include, at a minimum—

14 (1) the number and types of engineering and
15 design activities for which commercial enterprises
16 were utilized in the preceding year; and

17 (2) the policies or procedures utilized by the
18 State transportation department to increase the
19 amount of engineering and design services for which
20 commercial enterprises were utilized.

21 (c) STATE TRANSPORTATION DEPARTMENT DE-
22 FINED.—In this section, the term “State transportation
23 department” has the meaning given that term under sec-
24 tion 101 of title 23, United States Code.

1 **SEC. 1719. NOTICE OF CERTAIN GRANT AWARDS.**

2 (a) IN GENERAL.—Except to the extent otherwise ex-
3 pressly provided in another provision of law, at least 3
4 business days before a covered grant award is announced,
5 the Secretary shall provide to the Committee on Transpor-
6 tation and Infrastructure of the House of Representatives
7 written notice of the covered grant award.

8 (b) COVERED GRANT AWARD DEFINED.—The term
9 “covered grant award” means a grant award—

10 (1) made—

11 (A) by the Department; and

12 (B) with funds made available under this
13 Act; and

14 (2) in an amount equal to or greater than
15 \$500,000.

16 **SEC. 1720. MISCELLANEOUS PARKING AMENDMENTS.**

17 (a) FRINGE AND CORRIDOR PARKING FACILITIES.—

18 Section 137(a) is amended by adding at the end the fol-
19 lowing: “The addition of electric vehicle charging stations
20 to new or previously funded parking facilities shall be eligi-
21 ble for funding under this section.”.

22 (b) PUBLIC TRANSPORTATION.—Section 142(a)(1) is
23 amended by inserting “(which may include electric vehicle
24 charging stations)” after “parking facilities”.

25 (c) FOREST DEVELOPMENT ROADS AND TRAILS.—

26 Section 205(d) is amended by inserting “(which may in-

1 clude electric vehicle charging stations)” after “parking
2 areas”.

3 **SEC. 1721. HIGHWAY BUY AMERICA PROVISIONS.**

4 Section 313 is amended by adding at the end the fol-
5 lowing:

6 “(g) APPLICATION.—The requirements of this section
7 apply to all contracts for a project carried out within the
8 scope of the applicable finding, determination, or decision
9 under the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.), regardless of the funding source of
11 such contracts, if at least one contract for the project is
12 funded with amounts made available to carry out this title.

13 “(h) WAIVER REQUIREMENTS.—

14 “(1) IN GENERAL.—If the Secretary receives a
15 request for a waiver under this section, the Sec-
16 retary shall provide notice of and an opportunity for
17 public comment on the request at least 30 days be-
18 fore making a finding based on the request.

19 “(2) NOTICE REQUIREMENTS.—A notice pro-
20 vided under paragraph (1) shall include the informa-
21 tion available to the Secretary concerning the re-
22 quest and shall be provided by electronic means, in-
23 cluding on the official public Internet Web site of
24 the Department of Transportation.

1 “(3) DETAILED JUSTIFICATION.—If the Sec-
2 retary issues a waiver under this subsection, the
3 Secretary shall publish in the Federal Register a de-
4 tailed justification for the waiver that addresses the
5 public comments received under paragraph (1) and
6 shall ensure that such justification is published be-
7 fore the waiver takes effect.”.

8 **SEC. 1722. VETERANS PREFERENCE IN HIGHWAY CON-**
9 **STRUCTION.**

10 Section 114 is amended by adding at the end the fol-
11 lowing:

12 “(d) VETERANS EMPLOYMENT.—Recipients of Fed-
13 eral financial assistance under this chapter shall ensure
14 that contractors working on a highway project funded
15 using such assistance give preference in the hiring or re-
16 ferral of laborers on any project for the construction of
17 a highway to veterans, as defined in section 2108 of title
18 5, who have the requisite skills and abilities to perform
19 the construction work required under the contract. This
20 subsection shall not apply to projects subject to section
21 140(d).”.

22 **SEC. 1723. REAL-TIME RIDESHARING.**

23 Section 101(a)(2) is amended—

24 (1) by striking “and” after “devices,”; and

1 (2) by inserting before the period at the end the
2 following: “, and real-time ridesharing projects
3 (where drivers, using an electronic transfer of funds,
4 recover costs directly associated with the trip pro-
5 vided using location technology to quantify the direct
6 costs associated with the trip, if the cost recovered
7 does not exceed the cost of the trip provided)”.

8 **SEC. 1724. STATE AUTONOMY FOR CULVERT PIPE SELEC-**
9 **TION.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Secretary shall modify section 635.411 of
12 title 23, Code of Federal Regulations (as in effect on the
13 date of enactment of this Act), to ensure that States have
14 the autonomy to determine culvert and storm sewer mate-
15 rial types to be included in the construction of a project
16 on a Federal-aid highway.

17 **SEC. 1725. EQUAL OPPORTUNITY ASSESSMENT.**

18 (a) IN GENERAL.—In accordance with this section,
19 the Secretary shall assess, throughout the United States,
20 the extent to which nondiscrimination and equal oppor-
21 tunity exist in the construction and operation of federally
22 funded transportation projects, programs, and activities.

23 (b) SUPPORTING INFORMATION.—In conducting the
24 assessment under subsection (a), the Secretary shall—

1 (1) review all demographic data, discrimination
2 complaints, reports, and other relevant information
3 collected or prepared by a recipient of Federal finan-
4 cial assistance or the Department pursuant to an
5 applicable civil rights statute, regulation, or other
6 obligation; and

7 (2) coordinate with the Secretary of Labor, as
8 necessary, to obtain information regarding equitable
9 employment and contracting opportunities.

10 (c) REPORT.—Not later than 4 years after the date
11 of enactment of this Act, and every 4 years thereafter,
12 the Secretary shall submit to Congress and publish on the
13 Web site of the Department a report on the results of the
14 assessment under subsection (a). The report shall include
15 the following:

16 (1) A specification of the impediments to non-
17 discrimination and equal opportunity in federally
18 funded transportation projects, programs, and activi-
19 ties.

20 (2) Recommendations for overcoming the im-
21 pediments specified under paragraph (1).

22 (3) Information upon which the assessment is
23 based.

24 (d) COLLECTION AND REPORTING PROCEDURES.—

1 (1) PUBLIC AVAILABILITY.—The Secretary
2 shall ensure, to the extent appropriate, that all in-
3 formation reviewed or collected for the assessment
4 under subsection (a) is made available to the public
5 through the prompt and ongoing publication of the
6 information, including a summary of the informa-
7 tion, on the Web site of the Department.

8 (2) REGULATIONS.—The Secretary shall issue
9 regulations for the collection and reporting of infor-
10 mation necessary to carry out this section.

11 (e) COORDINATION.—In carrying out this section, the
12 Secretary shall coordinate with the Director of the Bureau
13 of Transportation Statistics, the Director of the Depart-
14 mental Office of Civil Rights, the Secretary of Labor, and
15 the heads of such other agencies as may contribute to the
16 assessment under subsection (a).

17 **TITLE II—PUBLIC** 18 **TRANSPORTATION**

19 **SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49,**
20 **UNITED STATES CODE.**

21 (a) SHORT TITLE.—This title may be cited as the
22 “Public Transportation Act of 2012”.

23 (b) AMENDMENTS TO TITLE 49, UNITED STATES
24 CODE.—Except as otherwise expressly provided, whenever
25 in this title an amendment or repeal is expressed in terms

1 of an amendment to, or a repeal of, a section or other
2 provision, the reference shall be considered to be made to
3 a section or other provision of title 49, United States
4 Code.

5 **SEC. 2002. DEFINITIONS.**

6 Section 5302(a) is amended—

7 (1) in paragraph (1)(I) by striking “10 per-
8 cent” and inserting “15 percent”;

9 (2) by redesignating paragraphs (12) through
10 (17) as paragraphs (13) through (18), respectively;
11 and

12 (3) by inserting after paragraph (11) the fol-
13 lowing:

14 “(12) RURAL AREA.—The term ‘rural area’
15 means an area encompassing a population of less
16 than 50,000 people that has not been designated in
17 the most recent decennial census as an ‘urbanized
18 area’ by the Secretary of Commerce.”.

19 **SEC. 2003. PLANNING PROGRAMS.**

20 Section 5305 is amended—

21 (1) in the heading for subsection (d) by insert-
22 ing “TRANSPORTATION” before “PLANNING”;

23 (2) in paragraph (d)(2), by striking “designated
24 under this section” and inserting “responsible for

1 carrying out the provisions of section 5203 of this
2 title”;

3 (3) in subsection (e)—

4 (A) in the subsection heading by striking
5 “STATE” and inserting “STATEWIDE TRANS-
6 PORTATION”; and

7 (B) in paragraph (1)(A) by striking
8 “5315,”; and

9 (4) in subsection (g) by striking “section
10 5338(e)” and inserting “section 5338(a)(2)”.

11 **SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.**

12 Section 5306(a) is amended by striking “, as deter-
13 mined by local policies, criteria, and decisionmaking,”.

14 **SEC. 2005. URBANIZED AREA FORMULA GRANTS.**

15 (a) GRANTS.—Section 5307(b)(1) is amended—

16 (1) by striking “and” at the end of subpara-
17 graph (E);

18 (2) by redesignating subparagraph (F) as sub-
19 paragraph (G); and

20 (3) by inserting after subparagraph (E) the fol-
21 lowing:

22 “(F) operating costs of equipment and fa-
23 cilities for use in public transportation in an ur-
24 banized area with a population of at least
25 200,000 if the State or regional authority pro-

1 viding public transportation for the urbanized
2 area is operating—

3 “(i) 75 buses or fewer in fixed-route
4 service during peak service hours, not to
5 exceed 50 percent of the net project cost of
6 the project for operating expenses; and

7 “(ii) more than 75 but fewer than 100
8 buses in fixed-route service during peak
9 service hours, not to exceed 25 percent of
10 the net project cost of the project for oper-
11 ating expenses; and”.

12 (b) GENERAL AUTHORITY.—Section 5307(b)(3) is
13 amended—

14 (1) by inserting “TRANSPORTATION MANAGE-
15 MENT AREAS.—” before “In a”; and

16 (2) by moving the text 2 ems to the right.

17 (c) GRANT RECIPIENT REQUIREMENTS.—Section
18 5307(d)(1) is amended—

19 (1) in subparagraph (D)—

20 (A) by striking “elderly and handicapped
21 individuals, or an” and inserting “elderly indi-
22 viduals, individuals with disabilities, and any”;
23 and

24 (B) by striking the comma before “will be
25 charged”;

1 (2) in subparagraph (H) by striking “section
2 5301(a), section 5301(d),” and inserting “section
3 5301”;

4 (3) in subparagraph (I) by adding “and” at the
5 end;

6 (4) in subparagraph (J)(ii) by striking “; and”
7 and inserting a period; and

8 (5) by striking subparagraph (K).

9 **SEC. 2006. CAPITAL INVESTMENT GRANTS.**

10 (a) IN GENERAL.—Section 5309 is amended to read
11 as follows:

12 **“§ 5309. Capital investment grants**

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

15 “(1) NEW FIXED GUIDEWAY CAPITAL
16 PROJECT.—The term ‘new fixed guideway capital
17 project’ means an operable segment of a capital
18 project for a new fixed guideway system or extension
19 to an existing fixed guideway system.

20 “(2) NEW START PROJECT.—The term ‘new
21 start project’ means a new fixed guideway capital
22 project for which the Federal assistance provided or
23 to be provided under this section is \$75,000,000 or
24 more.

1 “(3) SMALL START PROJECT.—The term ‘small
2 start project’ means a new fixed guideway capital
3 project for which—

4 “(A) the Federal assistance provided or to
5 be provided under this section is less than
6 \$75,000,000; and

7 “(B) the total estimated net capital cost is
8 less than \$250,000,000.

9 “(b) GENERAL AUTHORITY.—The Secretary may
10 make grants under this section to assist State and local
11 governmental authorities in financing—

12 “(1) new fixed guideway capital projects under
13 subsections (d) and (e), including the acquisition of
14 real property, the initial acquisition of rolling stock
15 for the systems, the acquisition of rights-of-way, and
16 relocation assistance, for fixed guideway corridor de-
17 velopment for projects in the advanced stages of
18 planning or in project development; and

19 “(2) the development of corridors to support
20 new fixed guideway capital projects under sub-
21 sections (d) and (e), including protecting rights-of-
22 way through acquisition, construction of dedicated
23 bus and high occupancy vehicle lanes, park and ride
24 lots, and other nonvehicular capital improvements

1 that the Secretary may determine would result in in-
2 creased public transportation usage in the corridor.

3 “(c) GRANT REQUIREMENTS.—

4 “(1) IN GENERAL.—The Secretary may not ap-
5 prove a grant under this section unless the Secretary
6 determines that—

7 “(A) the project is part of an approved
8 long-range transportation plan and program of
9 projects required under sections 5203, 5204,
10 and 5306; and

11 “(B) the applicant has, or will have—

12 “(i) the legal, financial, and technical
13 capacity to carry out the project, including
14 safety and security aspects of the project;

15 “(ii) satisfactory continuing control
16 over the use of the equipment or facilities;
17 and

18 “(iii) the capability and willingness to
19 maintain the equipment or facilities.

20 “(2) CERTIFICATION.—An applicant that has
21 submitted the certifications required under subpara-
22 graphs (A), (B), (C), and (H) of section 5307(d)(1)
23 shall be deemed to have provided sufficient informa-
24 tion upon which the Secretary may make the deter-
25 minations required under this subsection.

1 “(3) GRANTEE REQUIREMENTS.—The Secretary
2 shall require that any grant awarded under this sec-
3 tion to a recipient be subject to all terms, conditions,
4 requirements, and provisions that the Secretary de-
5 termines to be necessary or appropriate for the pur-
6 poses of this section, including requirements for the
7 disposition of net increases in the value of real prop-
8 erty resulting from the project assisted under this
9 section.

10 “(d) NEW START PROJECTS.—

11 “(1) FULL FUNDING GRANT AGREEMENT.—

12 “(A) IN GENERAL.—A new start project
13 shall be carried out through a full funding
14 grant agreement.

15 “(B) CRITERIA.—The Secretary shall enter
16 into a full funding grant agreement, based on
17 the evaluations and ratings required under this
18 subsection, with each grantee receiving assist-
19 ance for a new start project that—

20 “(i) is authorized for project develop-
21 ment; and

22 “(ii) has been rated as high, medium-
23 high, or medium, in accordance with para-
24 graph (5).

1 “(2) APPROVAL OF GRANTS.—The Secretary
2 may approve a grant under this section for a new
3 start project only if the Secretary, based upon eval-
4 uations and considerations set forth in paragraph
5 (3), determines that the project—

6 “(A) has been adopted as the locally pre-
7 ferred alternative as part of the long-range
8 transportation plan required under section
9 5203;

10 “(B) is based on the results of an evalua-
11 tion of the benefits of the project as set forth
12 in paragraph (3); and

13 “(C) is supported by an acceptable degree
14 of local financial commitment (including evi-
15 dence of stable and dependable financing
16 sources) to construct, maintain, and operate the
17 system or extension, and maintain and operate
18 the entire public transportation system without
19 requiring a reduction in existing public trans-
20 portation services or level of service to operate
21 the project.

22 “(3) EVALUATION OF BENEFITS AND FEDERAL
23 INVESTMENT.—In making a determination for a new
24 start project under paragraph (2)(B), the Secretary
25 shall analyze, evaluate, and consider the following

1 evaluation criteria for the project (as compared to a
2 no-action alternative):

3 “(A) The cost effectiveness of the project.

4 “(B) The mobility and accessibility bene-
5 fits of the project, including direct intermodal
6 connectivity with other modes of transportation.

7 “(C) The degree of congestion relief antici-
8 pated as a result of the project.

9 “(D) The reductions in energy consump-
10 tion and air pollution associated with the
11 project.

12 “(E) The economic development effects as-
13 sociated with the project.

14 “(F) The private contributions to the
15 project, including cost-effective project delivery,
16 management or transfer of project risks, expe-
17 dited project schedule, financial partnering, and
18 other public-private strategies.

19 “(4) EVALUATION OF LOCAL FINANCIAL COM-
20 MITMENT.—In making a determination for a new
21 start project under paragraph (2)(C), the Secretary
22 shall—

23 “(A) require that the proposed project plan
24 provide for the availability of contingency
25 amounts that the Secretary determines to be

1 reasonable to cover unanticipated cost in-
2 creases;

3 “(B) require that each proposed local
4 source of capital and operating financing is sta-
5 ble, reliable, and available within the project
6 timetable;

7 “(C) consider private contributions to the
8 project, including cost-effective project delivery,
9 management or transfer of project risks, expe-
10 dited project schedule, financial partnering, and
11 other public-private partnership strategies;

12 “(D) consider the extent to which the
13 project has a local financial commitment that
14 exceeds the required non-Federal share of the
15 cost of the project; and

16 “(E) consider the elements of the overall
17 proposed public transportation system advanced
18 with 100 percent non-Federal funds.

19 “(5) RATINGS.—In carrying out paragraphs (3)
20 and (4) for a new start project, the Secretary shall
21 evaluate and rate the project on a 5-point scale
22 (high, medium-high, medium, medium-low, or low)
23 based on an evaluation of the benefits of the project
24 as compared to the Federal assistance to be provided
25 and the degree of local financial commitment, as re-

1 quired under this subsection. In rating the projects,
2 the Secretary shall provide, in addition to the overall
3 project rating, individual ratings for each of the cri-
4 teria established by this subsection and shall give
5 comparable, but not necessarily equal, numerical
6 weight to the benefits that the project will bring to
7 the community in calculating the overall project rat-
8 ing.

9 “(e) SMALL START PROJECTS.—

10 “(1) IN GENERAL.—

11 “(A) APPLICABILITY OF REQUIRE-
12 MENTS.—Except as provided by subparagraph
13 (B), a small start project shall be subject to the
14 requirements of this subsection.

15 “(B) PROJECTS RECEIVING LESS THAN
16 \$25,000,000 IN FEDERAL ASSISTANCE.—If the
17 assistance provided under this section for a
18 small start project is less than \$25,000,000—

19 “(i) the requirements of this sub-
20 section shall not apply to the project if de-
21 termined appropriate by the Secretary; and

22 “(ii) the Secretary shall utilize special
23 warrants described in subsection (n) to ad-
24 vance the project and provide Federal as-
25 sistance as appropriate.

1 “(2) SELECTION CRITERIA.—The Secretary
2 may provide Federal assistance for a small start
3 project under this subsection only if the Secretary
4 determines that the project—

5 “(A) has been adopted as the locally pre-
6 ferred alternative as part of the long-range
7 transportation plan required under section
8 5203;

9 “(B) is based on the results of an analysis
10 of the benefits of the project as set forth in
11 paragraph (3); and

12 “(C) is supported by an acceptable degree
13 of local financial commitment.

14 “(3) EVALUATION OF BENEFITS AND FEDERAL
15 INVESTMENT.—In making a determination for a
16 small start project under paragraph (2)(B), the Sec-
17 retary shall analyze, evaluate, and consider the fol-
18 lowing evaluation criteria for the project (as com-
19 pared to a no-action alternative):

20 “(A) The cost effectiveness of the project.

21 “(B) The mobility and accessibility bene-
22 fits of the project, including direct intermodal
23 connectivity with other modes of transportation.

24 “(C) The degree of congestion relief antici-
25 pated as a result of the project.

1 “(D) The economic development effects as-
2 sociated with the project.

3 “(4) EVALUATION OF LOCAL FINANCIAL COM-
4 MITMENT.—For purposes of paragraph (2)(C), the
5 Secretary shall require that each proposed local
6 source of capital and operating financing is stable,
7 reliable, and available within the proposed project
8 timetable.

9 “(5) RATINGS.—In carrying out paragraphs (3)
10 and (4) for a small start project, the Secretary shall
11 evaluate and rate the project on a 5-point scale
12 (high, medium-high, medium, medium-low, or low)
13 based on an evaluation of the benefits of the project
14 as compared to the Federal assistance to be provided
15 and the degree of local financial commitment, as re-
16 quired under this subsection. In rating the projects,
17 the Secretary shall provide, in addition to the overall
18 project rating, individual ratings for each of the cri-
19 teria established by this subsection and shall give
20 comparable, but not necessarily equal, numerical
21 weight to the benefits that the project will bring to
22 the community in calculating the overall project rat-
23 ing.

24 “(6) GRANTS AND EXPEDITED GRANT AGREE-
25 MENTS.—

1 “(A) IN GENERAL.—The Secretary, to the
2 maximum extent practicable, shall provide Fed-
3 eral assistance under this subsection in a single
4 grant. If the Secretary cannot provide such a
5 single grant, the Secretary may execute an ex-
6 pedited grant agreement in order to include a
7 commitment on the part of the Secretary to
8 provide funding for the project in future fiscal
9 years.

10 “(B) TERMS OF EXPEDITED GRANT
11 AGREEMENTS.—In executing an expedited grant
12 agreement under this subsection, the Secretary
13 may include in the agreement terms similar to
14 those established under subsection (g)(2)(A).

15 “(C) NOTICE OF PROPOSED GRANTS AND
16 EXPEDITED GRANT AGREEMENTS.—At least 10
17 days before making a grant award or entering
18 into a grant agreement for a project under this
19 subsection, the Secretary shall notify, in writ-
20 ing, the Committee on Transportation and In-
21 frastructure and the Committee on Appropria-
22 tions of the House of Representatives and the
23 Committee on Banking, Housing, and Urban
24 Affairs and the Committee on Appropriations of
25 the Senate of the proposed grant or expedited

1 grant agreement, as well as the evaluations and
2 ratings for the project.

3 “(7) INCLUSION OF CORRIDOR-BASED CAPITAL
4 PROJECTS.—In this subsection, the term ‘small start
5 project’ includes a corridor-based capital project if—

6 “(A) a majority of the project operates in
7 a separate right-of-way dedicated for transit use
8 during peak hour operations; or

9 “(B) the project represents a substantial
10 investment in a defined corridor as dem-
11 onstrated by investment in fixed transit facili-
12 ties and equipment such as substantial transit
13 stations, intelligent transportation systems tech-
14 nology, traffic signal priority, off-board fare col-
15 lection, and other direct investments in the cor-
16 ridor.

17 “(f) PREVIOUSLY ISSUED LETTER OF INTENT OR
18 GRANT AGREEMENT.—Subsections (d) and (e) do not
19 apply to projects for which the Secretary has issued a let-
20 ter of intent, entered into an early systems work agree-
21 ment or a full funding grant agreement, or has been ap-
22 proved to enter final design before the date of enactment
23 of the Public Transportation Act of 2012.

1 “(g) LETTERS OF INTENT, FULL FUNDING GRANT
2 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
3 MENTS.—

4 “(1) LETTERS OF INTENT.—

5 “(A) AMOUNTS INTENDED TO BE OBLI-
6 GATED.—The Secretary may issue a letter of
7 intent to an applicant announcing an intention
8 to obligate, for a new start project, an amount
9 from future available budget authority specified
10 in law that is not more than the amount stipu-
11 lated as the financial participation of the Sec-
12 retary in the project.

13 “(B) TREATMENT.—The issuance of a let-
14 ter under subparagraph (A) is deemed not to be
15 an obligation under section 1108(c), 1108(d),
16 1501, or 1502(a) of title 31 or an administra-
17 tive commitment.

18 “(2) FULL FUNDING GRANT AGREEMENTS.—

19 “(A) TERMS.—The Secretary may enter
20 into a full funding grant agreement with an ap-
21 plicant for a grant under this section for a new
22 start project. The agreement shall—

23 “(i) establish the terms of participa-
24 tion by the Government in the project;

1 “(ii) establish the maximum amount
2 of Government financial assistance for the
3 project;

4 “(iii) cover the period of time for com-
5 pleting the project, including, if necessary,
6 a period extending beyond the period of an
7 authorization;

8 “(iv) make timely and efficient man-
9 agement of the project easier according to
10 the laws of the United States; and

11 “(v) establish terms requiring the ap-
12 plicant to repay all Government payments
13 made under the agreement (plus such rea-
14 sonable interest and penalty charges as are
15 established by the Secretary in the agree-
16 ment) if the applicant does not carry out
17 the project for reasons within the control
18 of the applicant.

19 “(B) SPECIAL FINANCIAL RULES.—

20 “(i) IN GENERAL.—A full funding
21 grant agreement under this paragraph ob-
22 ligates an amount of available budget au-
23 thority specified in law and may include a
24 commitment (contingent on amounts to be
25 specified in law in advance for commit-

1 ments under this paragraph) to obligate an
2 additional amount from future available
3 budget authority specified in law.

4 “(ii) STATEMENT OF CONTINGENT
5 COMMITMENT.—The full funding grant
6 agreement shall state that the contingent
7 commitment is not an obligation of the
8 Government.

9 “(iii) INTEREST AND OTHER FINANC-
10 ING COSTS.—Interest and other financing
11 costs of efficiently carrying out a part of
12 the project within a reasonable time are a
13 cost of carrying out the project under a
14 full funding grant agreement, except that
15 eligible costs may not be more than the
16 cost of the most favorable financing terms
17 reasonably available for the project at the
18 time of borrowing. The applicant shall cer-
19 tify, in a way satisfactory to the Secretary,
20 that the applicant has shown reasonable
21 diligence in seeking the most favorable fi-
22 nancing terms.

23 “(iv) COMPLETION OF OPERABLE
24 SEGMENT.—The amount stipulated in a
25 full funding grant agreement for a new

1 start project shall be sufficient to complete
2 at least one operable segment.

3 “(C) BEFORE AND AFTER STUDY.—

4 “(i) IN GENERAL.—A full funding
5 grant agreement under this paragraph
6 shall require the applicant to conduct a
7 study that—

8 “(I) describes and analyzes the
9 impacts of the new start project on
10 transit services and transit ridership;

11 “(II) evaluates the consistency of
12 predicted and actual project charac-
13 teristics and performance; and

14 “(III) identifies sources of dif-
15 ferences between predicted and actual
16 outcomes.

17 “(ii) INFORMATION COLLECTION AND
18 ANALYSIS PLAN.—

19 “(I) SUBMISSION OF PLAN.—An
20 applicant seeking a full funding grant
21 agreement under this paragraph shall
22 submit to the Secretary a complete
23 plan for the collection and analysis of
24 information to identify the impacts of
25 the new start project and the accuracy

1 of the forecasts prepared during the
2 development of the project. Prepara-
3 tion of the plan shall be included in
4 the agreement as an eligible activity.

5 “(II) CONTENTS OF PLAN.—The
6 plan submitted under subclause (I)
7 shall provide for—

8 “(aa) the collection of data
9 on the current transit system of
10 the applicant regarding transit
11 service levels and ridership pat-
12 terns, including origins and des-
13 tinations, access modes, trip pur-
14 poses, and rider characteristics;

15 “(bb) documentation of the
16 predicted scope, service levels,
17 capital costs, operating costs, and
18 ridership of the project;

19 “(cc) collection of data on
20 the transit system of the appli-
21 cant 2 years after the opening of
22 the new start project, including
23 analogous information on transit
24 service levels and ridership pat-
25 terns and information on the as-

1 built scope and capital costs of
2 the project; and

3 “(dd) an analysis of the con-
4 sistency of predicted project
5 characteristics with the data col-
6 lected under item (cc).

7 “(D) COLLECTION OF DATA ON CURRENT
8 SYSTEM.—To be eligible to enter into a full
9 funding grant agreement under this paragraph
10 for a new start project, an applicant shall have
11 collected data on the current transit system of
12 the applicant, according to the plan required
13 under subparagraph (C)(ii), before the begin-
14 ning of construction of the project. Collection of
15 the data shall be included in the full funding
16 grant agreement as an eligible activity.

17 “(3) EARLY SYSTEMS WORK AGREEMENTS.—

18 “(A) CONDITIONS.—The Secretary may
19 enter into an early systems work agreement
20 with an applicant for a new start project if a
21 record of decision under the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.) has been issued on the project and the
24 Secretary finds there is reason to believe a full

1 funding grant agreement for the project will be
2 made.

3 “(B) CONTENTS.—

4 “(i) IN GENERAL.—A work agreement
5 under this paragraph for a new start
6 project obligates an amount of available
7 budget authority specified in law and shall
8 provide for reimbursement of preliminary
9 costs of carrying out the project, including
10 land acquisition, timely procurement of
11 system elements for which specifications
12 are decided, and other activities the Sec-
13 retary decides are appropriate to make ef-
14 ficient, long-term project management
15 easier.

16 “(ii) PERIOD COVERED.—A work
17 agreement under this paragraph shall
18 cover the period of time the Secretary con-
19 siders appropriate. The period may extend
20 beyond the period of current authorization.

21 “(iii) INTEREST AND OTHER FINANC-
22 ING COSTS.—Interest and other financing
23 costs of efficiently carrying out the work
24 agreement within a reasonable time are a
25 cost of carrying out the agreement, except

1 that eligible costs may not be more than
2 the cost of the most favorable financing
3 terms reasonably available for the project
4 at the time of borrowing. The applicant
5 shall certify, in a manner satisfactory to
6 the Secretary, that the applicant has
7 shown reasonable diligence in seeking the
8 most favorable financing terms.

9 “(iv) FAILURE TO CARRY OUT
10 PROJECT.—If, after entering into a work
11 agreement under this paragraph for a new
12 start project, an applicant does not carry
13 out the project for reasons within the con-
14 trol of the applicant, the applicant shall
15 repay all Government payments made
16 under the work agreement plus reasonable
17 interest and penalty charges the Secretary
18 establishes in the agreement.

19 “(4) LIMITATION ON AMOUNTS.—

20 “(A) NEW START GRANTS CONTINGENT
21 COMMITMENT AUTHORITY.—The total estimated
22 amount of future obligations of the Government
23 and contingent commitments to incur obliga-
24 tions covered by all outstanding letters of in-
25 tent, full funding grant agreements, and early

1 systems work agreements under this subsection
2 for new start projects may be not more than
3 the greater of the amount authorized under sec-
4 tion 5338(b) for such projects or an amount
5 equivalent to the last 3 fiscal years of funding
6 allocated under subsections (m)(2)(B) for such
7 projects, less an amount the Secretary reason-
8 ably estimates is necessary for grants under
9 this section for the projects that are not covered
10 by a letter or agreement. The total amount cov-
11 ered by new letters and contingent commit-
12 ments included in full funding grant agree-
13 ments and early systems work agreements for
14 such projects may be not more than a limitation
15 specified in law.

16 “(B) APPROPRIATION REQUIRED.—An ob-
17 ligation may be made under this subsection only
18 when amounts are appropriated for the obliga-
19 tion.

20 “(5) NOTIFICATION OF CONGRESS.—At least 10
21 days before issuing a letter of intent or an early sys-
22 tems work agreement under this section, and at
23 least 21 days before entering into a full funding
24 grant agreement under this section, the Secretary
25 shall notify, in writing, the Committee on Transpor-

1 tation and Infrastructure and the Committee on Ap-
2 propriations of the House of Representatives and the
3 Committee on Banking, Housing, and Urban Affairs
4 and the Committee on Appropriations of the Senate
5 of the proposed letter or agreement. The Secretary
6 shall include with the notification a copy of the pro-
7 posed letter or agreement as well as the evaluations
8 and ratings for the project.

9 “(h) GOVERNMENT’S SHARE OF NET PROJECT
10 COST.—

11 “(1) IN GENERAL.—Based on engineering stud-
12 ies, studies of economic feasibility, and information
13 on the expected use of equipment or facilities, the
14 Secretary shall estimate the net capital project cost
15 of a new fixed guideway capital project. A grant
16 under this section for the project shall be for 80 per-
17 cent of the net capital project cost unless the grant
18 recipient requests a lower grant percentage.

19 “(2) ADJUSTMENT FOR COMPLETION UNDER
20 BUDGET.—The Secretary may adjust the final net
21 project cost of a new fixed guideway capital project
22 evaluated under subsections (d) and (e) to include
23 the cost of eligible activities not included in the
24 originally defined project if the Secretary determines
25 that the originally defined project has been com-

1 pleted at a cost that is significantly below the origi-
2 nal estimate.

3 “(3) REMAINDER OF NET PROJECT COST.—The
4 remainder of net project costs shall be provided from
5 an undistributed cash surplus, a replacement or de-
6 preciation cash fund or reserve, or new capital from
7 public or private sources.

8 “(4) LIMITATION ON STATUTORY CONSTRUC-
9 TION.—Nothing in this section shall be construed as
10 authorizing the Secretary to request or require a
11 non-Federal financial commitment for a project that
12 is more than 20 percent of the net capital project
13 cost.

14 “(5) SPECIAL RULE FOR ROLLING STOCK
15 COSTS.—In addition to amounts allowed pursuant to
16 paragraph (1), a planned extension to a fixed guide-
17 way system may include the cost of rolling stock pre-
18 viously purchased if the applicant satisfies the Sec-
19 retary that only amounts other than amounts of the
20 Government were used and that the purchase was
21 made for use on the extension. A refund or reduc-
22 tion of the remainder may be made only if a refund
23 of a proportional amount of the grant of the Govern-
24 ment is made at the same time.

25 “(i) UNDERTAKING PROJECTS IN ADVANCE.—

1 “(1) IN GENERAL.—The Secretary may pay the
2 Government’s share of the net capital project cost to
3 a State or local governmental authority that carries
4 out any part of a project described in this section
5 without the aid of amounts of the Government and
6 according to all applicable procedures and require-
7 ments if—

8 “(A) the State or local governmental au-
9 thority applies for the payment;

10 “(B) the Secretary approves the payment;
11 and

12 “(C) before carrying out the part of the
13 project, the Secretary approves the plans and
14 specifications for the part in the same manner
15 as other projects under this section.

16 “(2) FINANCING COSTS.—

17 “(A) IN GENERAL.—The cost of carrying
18 out part of a project includes the amount of in-
19 terest earned and payable on bonds issued by
20 the State or local governmental authority to the
21 extent proceeds of the bonds are expended in
22 carrying out the part.

23 “(B) LIMITATION ON AMOUNT OF INTER-
24 EST.—The amount of interest under this para-
25 graph may not be more than the most favorable

1 interest terms reasonably available for the
2 project at the time of borrowing.

3 “(C) CERTIFICATION.—The applicant shall
4 certify, in a manner satisfactory to the Sec-
5 retary, that the applicant has shown reasonable
6 diligence in seeking the most favorable financial
7 terms.

8 “(j) AVAILABILITY OF AMOUNTS.—An amount made
9 available or appropriated under section 5338(b) for new
10 fixed guideway capital projects shall remain available for
11 a period of 3 fiscal years after the fiscal year in which
12 the amount is made available or appropriated. Any of such
13 amount that is unobligated at the end of such period shall
14 be rescinded and deposited in the general fund of the
15 Treasury, where such amounts shall be dedicated for the
16 sole purpose of deficit reduction and prohibited from use
17 as an offset for other spending increases or revenue reduc-
18 tions.

19 “(k) REPORTS ON NEW START PROJECTS.—

20 “(1) ANNUAL REPORT ON FUNDING REC-
21 OMMENDATIONS.—Not later than the first Monday
22 in February of each year, the Secretary shall submit
23 to the Committee on Transportation and Infrastruc-
24 ture and the Committee on Appropriations of the
25 House of Representatives and the Committee on

1 Banking, Housing, and Urban Affairs and the Com-
2 mittee on Appropriations of the Senate a report that
3 includes—

4 “(A) a proposal of allocations of amounts
5 to be available to finance grants for new fixed
6 guideway capital projects among applicants for
7 these amounts;

8 “(B) evaluations and ratings, as required
9 under subsections (d) and (e), for each such
10 project that is authorized by the Public Trans-
11 portation Act of 2012; and

12 “(C) recommendations of such projects for
13 funding based on the evaluations and ratings
14 and on existing commitments and anticipated
15 funding levels for the next 3 fiscal years based
16 on information currently available to the Sec-
17 retary.

18 “(2) BIENNIAL GAO REVIEW.—Beginning 2
19 years after the date of enactment of the Public
20 Transportation Act of 2012, the Comptroller Gen-
21 eral of the United States shall—

22 “(A) conduct a biennial review of—

23 “(i) the processes and procedures for
24 evaluating, rating, and recommending new
25 fixed guideway capital projects; and

1 “(ii) the Secretary’s implementation
2 of such processes and procedures; and

3 “(B) on a biennial basis, report to Con-
4 gress on the results of such review by May 31.

5 “(1) BEFORE AND AFTER STUDY REPORT.—Not
6 later than the first Monday of August of each year, the
7 Secretary shall submit to the committees referred to in
8 subsection (k)(1) a report containing a summary of the
9 results of the studies conducted under subsection
10 (g)(2)(C).

11 “(m) LIMITATIONS.—

12 “(1) LIMITATION ON GRANTS.—The Secretary
13 may make a grant or enter into a grant agreement
14 for a new fixed guideway capital project under this
15 section only if the project has been rated as high,
16 medium-high, or medium or the Secretary has issued
17 a special warrant described in subsection (n) in lieu
18 of such ratings.

19 “(2) FISCAL YEARS 2013 THROUGH 2016.—Of
20 the amounts made available or appropriated for fis-
21 cal years 2013 through 2016 under section
22 5338(b)—

23 “(A) \$150,000,000 for each fiscal year
24 shall be allocated for small start projects in ac-
25 cordance with subsection (e); and

1 “(B) the remainder shall be allocated for
2 new start projects in accordance with sub-
3 section (d).

4 “(3) LIMITATION ON EXPENDITURES.—None of
5 the amounts made available or appropriated under
6 section 5338(b) may be expended on a project that
7 has not been adopted as the locally preferred alter-
8 native as part of a long-range transportation plan.

9 “(n) EXPEDITED PROJECT ADVANCEMENT.—

10 “(1) WARRANTS.—The Secretary, to the max-
11 imum extent practicable, shall develop and utilize
12 special warrants to advance projects and provide
13 Federal assistance under this section. Special war-
14 rants may be utilized to advance new fixed guideway
15 projects under this section without requiring evalua-
16 tions and ratings described under subsections (d)(5)
17 and (e)(5). Such warrants shall be—

18 “(A) based on current transit ridership,
19 corridor characteristics, and service on existing
20 alignments;

21 “(B) designed to assess distinct categories
22 of projects, such as proposed new service en-
23 hancements on existing alignments, new line
24 haul service, and new urban circulator service;
25 and

1 “(C) based on the benefits for proposed
2 projects as set forth in subsections (d)(3) and
3 (e)(3) for the Federal assistance provided or to
4 be provided under this subsection.

5 “(2) NEW PROJECT DEVELOPMENT.—

6 “(A) IN GENERAL.—A project sponsor who
7 requests Federal funding under this section
8 shall apply to the Secretary to begin new
9 project development after a proposed new fixed
10 guideway capital project has been adopted as
11 the locally preferred alternative as part of the
12 metropolitan long-range transportation plan re-
13 quired under section 5303, and funding options
14 for the non-Federal funding share have been
15 identified. The application for new project de-
16 velopment shall specify whether the project
17 sponsor is seeking Federal assistance under
18 subsection (d) or (e).

19 “(B) APPLICATIONS.—

20 “(i) NOTICE TO CONGRESS.—Not
21 later than 10 days after the date of receipt
22 of an application for new project develop-
23 ment under subparagraph (A), the Sec-
24 retary shall provide written notice of the
25 application to the Committee on Transpor-

1 tation and Infrastructure of the House of
2 Representatives and the Committee on
3 Banking, Housing, and Urban Affairs of
4 the Senate.

5 “(ii) APPROVAL OR DISAPPROVAL.—
6 On the 11th day following the date on
7 which the Secretary provides written notice
8 of an application for new project develop-
9 ment under clause (i), the Secretary shall
10 approve or disapprove the application.

11 “(C) PROJECT AUTHORIZATION.—Upon
12 approval of an application to begin new project
13 development, the proposed new fixed guideway
14 capital project shall be authorized and eligible
15 for Federal funding under this section.

16 “(3) LETTERS OF INTENT AND EARLY SYSTEMS
17 WORK AGREEMENTS.—The Secretary, to the max-
18 imum extent practicable, shall issue letters of intent
19 and make early systems work agreements upon
20 issuance of a record of decision under the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 “(4) FUNDING AGREEMENTS.—The Secretary
24 shall enter into a full funding grant agreement, ex-
25 pedited grant agreement, or grant, as appropriate,

1 between the Government and the project sponsor as
2 soon as the Secretary determines that the project
3 meets the requirements of subsection (d) or (e).

4 “(5) RECORDS RETENTION.—The Secretary
5 shall adhere to a uniform records retention policy re-
6 garding all documentation related to new fixed
7 guideway capital projects.

8 “(o) REGULATIONS.—Not later than 240 days after
9 the date of enactment of the Public Transportation Act
10 of 2012, the Secretary shall issue regulations establishing
11 new program requirements for the programs created
12 under this section, including new evaluation and rating
13 processes for proposed projects under this section.”.

14 (b) CLERICAL AMENDMENT.—The analysis for chap-
15 ter 53 is amended by striking the item relating to section
16 5309 and inserting the following:

“5309. Capital investment grants.”.

17 **SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.**

18 (a) IN GENERAL.—Section 5310 is amended to read
19 as follows:

20 **“§ 5310. Bus and bus facilities formula grants**

21 “(a) GENERAL AUTHORITY.—The Secretary may
22 make grants under this section to assist States and local
23 governmental authorities in financing capital projects—

24 “(1) to replace, rehabilitate, and purchase buses
25 and related equipment; and

1 “(2) to construct bus-related facilities.

2 “(b) GRANT REQUIREMENTS.—The requirements of
3 subsections (c) and (d) of section 5307 apply to recipients
4 of grants made under this section.

5 “(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

6 “(1) RECIPIENTS.—Eligible recipients under
7 this section are providers of public transportation in
8 urbanized areas that operate fixed route bus services
9 and that do not operate heavy rail, commuter rail,
10 or light rail services.

11 “(2) SUBRECIPIENTS.—A recipient that re-
12 ceives a grant under this section may allocate the
13 amounts provided to subrecipients that are public
14 agencies, private companies engaged in public trans-
15 portation, or private nonprofit organizations.

16 “(d) DISTRIBUTION OF GRANT FUNDS.—Grants
17 under this section shall be distributed pursuant to the for-
18 mula set forth in section 5336 other than subsection (b).

19 “(e) GOVERNMENT’S SHARE OF COSTS.—

20 “(1) CAPITAL PROJECTS.—A grant for a capital
21 project, as defined in section 5302(a)(1), shall be for
22 80 percent of the net project cost of the project. The
23 recipient may provide additional local matching
24 amounts.

1 “(2) REMAINING COSTS.—The remainder of the
2 net project cost shall be provided—

3 “(A) in cash from non-Government sources
4 other than revenues from providing public
5 transportation services;

6 “(B) from revenues derived from the sale
7 of advertising and concessions;

8 “(C) from an undistributed cash surplus, a
9 replacement or depreciation cash fund or re-
10 serve, or new capital; and

11 “(D) from amounts received under a serv-
12 ice agreement with a State or local social serv-
13 ice agency or private social service organization.

14 “(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A
15 grant made available under this section may be obligated
16 by the recipient for 3 years after the fiscal year in which
17 the amount is apportioned. Not later than 30 days after
18 the end of the 3-year period, an amount that is not obli-
19 gated at the end of that period shall be added to the
20 amount that may be apportioned under this section in the
21 next fiscal year.

22 “(g) TRANSFERS OF APPORTIONMENTS.—

23 “(1) TRANSFER TO CERTAIN AREAS.—The chief
24 executive officer of a State may transfer any part of
25 the State’s funds made available under this section

1 to urbanized areas of less than 200,000 in popu-
2 lation or to rural areas in the State, after consulting
3 with responsible local officials and publicly owned
4 operators of public transportation in each area for
5 which the amount originally was provided under this
6 section.

7 “(2) TRANSFER TO STATE.—A designated re-
8 cipient for an urbanized area with a population of at
9 least 200,000 may transfer a part of its grant funds
10 provided under this section to the chief executive of-
11 ficer of a State. The chief executive officer shall dis-
12 tribute the transferred amounts to urbanized areas
13 of less than 200,000 in population or to rural areas
14 in the State.

15 “(h) APPLICATION OF OTHER SECTIONS.—Sections
16 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and
17 5333 apply to this section and to a grant made with funds
18 apportioned under this section. Except as provided in this
19 section, no other provision of this chapter applies to this
20 section or to a grant under this section.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 53 is amended by striking the item relating to section
23 5310 and inserting the following:

“5310. Bus and bus facilities formula grants.”.

1 **SEC. 2008. RURAL AREA FORMULA GRANTS.**

2 (a) AMENDMENT TO SECTION HEADING.—Section
3 5311 is amended by striking the section designation and
4 heading and inserting the following:

5 **“§ 5311. Rural area formula grants”.**

6 (b) PROGRAM GOALS.—Section 5311(b) is amended
7 by adding at the end the following:

8 “(5) PROGRAM GOALS.—The goals of this sec-
9 tion are—

10 “(A) to enhance the mobility and access of
11 people in rural areas by assisting in the devel-
12 opment, construction, operation, improvement,
13 maintenance, and use of public transportation
14 systems and services in rural areas;

15 “(B) to increase the intermodalism of and
16 connectivity among public transportation sys-
17 tems and services within rural areas and to
18 urban areas by providing for maximum coordi-
19 nation of programs and services;

20 “(C) to increase the state of good repair of
21 rural public transportation assets; and

22 “(D) to enhance the mobility and access of
23 people in rural areas by assisting in the devel-
24 opment and support of intercity bus transpor-
25 tation.”.

1 (c) PROJECTS OF NATIONAL SCOPE.—Section
2 5311(b)(3)(C) is amended by adding at the end the fol-
3 lowing: “In carrying out such projects, the Secretary shall
4 enter into a competitively selected contract to provide on-
5 site technical assistance to local and regional governments,
6 public transit agencies, and public transportation-related
7 nonprofit and for-profit organizations in rural areas for
8 the purpose of developing training materials and providing
9 necessary training assistance to local officials and agencies
10 in rural areas.”.

11 (d) APPORTIONMENTS.—Section 5311(c)(2) is
12 amended—

13 (1) by striking “and” at the end of subpara-
14 graph (A);

15 (2) by striking subparagraph (B) and inserting
16 the following:

17 “(B) 70 percent shall be apportioned to
18 the States in accordance with paragraph (4);
19 and”;

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

21 “(C) 10 percent shall be apportioned to the
22 States in accordance with paragraph (5).”.

23 (e) APPORTIONMENTS BASED ON PUBLIC TRANSPOR-
24 TATION SERVICES PROVIDED IN RURAL AREAS.—Section
25 5311(c) is amended by adding at the end the following:

1 “(5) APPORTIONMENTS BASED ON PUBLIC
2 TRANSPORTATION SERVICES PROVIDED IN RURAL
3 AREAS.—The Secretary shall apportion to each State
4 an amount equal to the amount apportioned under
5 paragraph (2)(C) as follows:

6 “(A) $\frac{1}{2}$ of such amount multiplied by the
7 ratio that—

8 “(i) the number of public transpor-
9 tation revenue vehicle-miles operated in or
10 attributable to rural areas in that State, as
11 determined by the Secretary; bears to

12 “(ii) the total number of all public
13 transportation revenue vehicle-miles oper-
14 ated in or attributable to rural areas in all
15 States;

16 “(B) $\frac{1}{2}$ of such amount multiplied by the
17 ratio that—

18 “(i) the number of public transpor-
19 tation unlinked passenger trips operated in
20 or attributable to rural areas in that State,
21 as determined by the Secretary; bears to

22 “(ii) the total number of all public
23 transportation unlinked passenger trips op-
24 erated in or attributable to rural areas in
25 all States.”.

1 (f) USE FOR ADMINISTRATIVE, PLANNING, AND
2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended by
3 striking “15 percent” and inserting “10 percent”.

4 (g) INTERCITY BUS TRANSPORTATION.—Section
5 5311(f)(1) is amended—

6 (1) in subparagraph (B) by striking “shelters”
7 and inserting “facilities”; and

8 (2) in subparagraph (C) by striking “stops and
9 depots” and inserting “facilities”.

10 (h) NON-FEDERAL SHARE.—Section 5311(g)(3) is
11 amended—

12 (1) in subparagraph (B) by striking “and” at
13 the end;

14 (2) in subparagraph (C) by striking the period
15 at the end and inserting “; and”; and

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

17 “(D) may be derived from the costs of a
18 private operator’s intercity bus service as an in-
19 kind match for the operating costs of con-
20 necting rural intercity bus feeder service funded
21 under subsection (f), except that this subpara-
22 graph shall apply only if the project includes
23 both feeder service and a connecting unsub-
24 subsidized intercity route segment and if the pri-

1 vate operator agrees in writing to the use of its
2 unsubsidized costs as an in-kind match.”.

3 (i) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 53 is amended by striking the item relating to section
5 5311 and inserting the following:

“5311. Rural area formula grants.”.

6 **SEC. 2009. TRANSIT RESEARCH.**

7 (a) AMENDMENT TO SECTION HEADING.—Section
8 5312 is amended by striking the section designation and
9 heading and inserting the following:

10 **“§ 5312. Transit research”.**

11 (b) RESEARCH PROJECTS.—Section 5312(a) is
12 amended by adding at the end the following:

13 “(4) FUNDING.—The amounts made available
14 under section 5338(e) are available to the Secretary
15 for grants, contracts, cooperative agreements, or
16 other agreements for the purposes of this section
17 and sections 5305 and 5322, as the Secretary con-
18 siders appropriate.”.

19 (c) JOINT PARTNERSHIP PROGRAM.—Section
20 5312(b)(5) is amended by striking “Mass Transit Ac-
21 count” and inserting “Alternative Transportation Ac-
22 count”.

23 (d) TRANSIT COOPERATIVE RESEARCH PROGRAM.—
24 Section 5312(e) is amended to read as follows:

25 “(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a public transportation cooperative research pro-
3 gram using amounts made available under section
4 5338(e).

5 “(2) INDEPENDENT GOVERNING BOARD.—The
6 Secretary shall establish an independent governing
7 board for the program. The board shall recommend
8 public transportation research, development, and
9 technology transfer activities to be carried out under
10 the program.

11 “(3) GRANTS AND COOPERATIVE AGREE-
12 MENTS.—The Secretary may make grants to, and
13 enter into cooperative agreements with, the National
14 Academy of Sciences to carry out activities under
15 this subsection that the Secretary determines appro-
16 priate.”.

17 (e) GOVERNMENT SHARE.—Section 5312 is amended
18 by adding at the end the following:

19 “(d) GOVERNMENT SHARE.—If there would be a
20 clear and direct financial benefit to an entity under a
21 grant or contract financed under this section, the Sec-
22 retary shall establish a Government share consistent with
23 that benefit.”.

1 (f) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 53 is amended by striking the item relating to section
3 5312 and inserting the following:

“5312. Transit research.”.

4 **SEC. 2010. COORDINATED ACCESS AND MOBILITY PRO-**
5 **GRAM FORMULA GRANTS.**

6 (a) IN GENERAL.—Section 5317 is amended to read
7 as follows:

8 **“§ 5317. Coordinated access and mobility program**
9 **formula grants**

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

12 “(1) ELDERLY INDIVIDUAL.—The term ‘elderly
13 individual’ means an individual who is age 65 or
14 older.

15 “(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The
16 term ‘eligible low-income individual’ means an indi-
17 vidual whose family income is at or below 150 per-
18 cent of the poverty line (as that term is defined in
19 section 673 of the Community Services Block Grant
20 Act (42 U.S.C. 9902), including any revision re-
21 quired by that section) for a family of the size in-
22 volved.

23 “(3) JOB ACCESS AND REVERSE COMMUTE
24 PROJECT.—The term ‘job access and reverse com-
25 mute project’ means a transportation project to fi-

1 nance planning, capital, and operating costs that
2 support the development and maintenance of trans-
3 portation services designed to transport welfare re-
4 cipients and eligible low-income individuals to and
5 from jobs and activities related to their employment,
6 including transportation projects that facilitate the
7 provision of public transportation services from ur-
8 banized areas and rural areas to suburban employ-
9 ment locations.

10 “(4) RECIPIENT.—The term ‘recipient’ means a
11 designated recipient (as defined in section 5307(a))
12 and a State that directly receives a grant under this
13 section.

14 “(5) SUBRECIPIENT.—The term ‘subrecipient’
15 means a State or local governmental authority, non-
16 profit organization, or private operator of public
17 transportation services that receives a grant under
18 this section indirectly through a recipient.

19 “(6) WELFARE RECIPIENT.—The term ‘welfare
20 recipient’ means an individual who has received as-
21 sistance under a State or tribal program funded
22 under part A of title IV of the Social Security Act
23 (42 U.S.C. 601 et seq.) at any time during the 3-
24 year period before the date on which the applicant
25 applies for a grant under this section.

1 “(b) GOALS.—The goals of the program established
2 under this section are to—

3 “(1) improve the accessibility of the Nation’s
4 public transportation systems and services;

5 “(2) improve the mobility of or otherwise meet
6 the special needs of elderly individuals, eligible low-
7 income individuals, and individuals with disabilities;
8 and

9 “(3) improve the coordination among all pro-
10 viders of public transportation and human services
11 transportation.

12 “(c) GENERAL AUTHORITY.—

13 “(1) GRANTS.—The Secretary may make
14 grants under this section to recipients for the fol-
15 lowing purposes:

16 “(A) For public transportation projects
17 planned, designed, and carried out to meet the
18 special needs of elderly individuals and individ-
19 uals with disabilities.

20 “(B) For job access and reverse commute
21 projects carried out by the recipient or a sub-
22 recipient.

23 “(C) For new public transportation serv-
24 ices, and for public transportation alternatives
25 beyond those required by the Americans with

1 Disabilities Act of 1990 (42 U.S.C. 12101 et
2 seq.), that assist individuals with disabilities
3 with transportation, including transportation to
4 and from jobs and employment support serv-
5 ices.

6 “(2) ACQUIRING PUBLIC TRANSPORTATION
7 SERVICES.—A public transportation capital project
8 under this section may include acquisition of public
9 transportation services as an eligible capital expense.

10 “(3) ADMINISTRATIVE EXPENSES.—A recipient
11 may use not more than 10 percent of the amounts
12 apportioned to the recipient under this section to ad-
13 minister, plan, and provide technical assistance for
14 a project funded under this section.

15 “(d) APPORTIONMENTS.—

16 “(1) FORMULA.—The Secretary, using the most
17 recent decennial census data, shall apportion
18 amounts made available for a fiscal year to carry out
19 this section as follows:

20 “(A) 50 percent of the funds shall be ap-
21 portioned among designated recipients (as de-
22 fined in section 5307(a)) for urbanized areas
23 with a population of 200,000 or more in the
24 ratio that—

1 “(i) the number of elderly individuals,
2 individuals with disabilities, eligible low-in-
3 come individuals, and welfare recipients in
4 each such urbanized area; bears to

5 “(ii) the number of elderly individuals,
6 individuals with disabilities, eligible low-in-
7 come individuals, and welfare recipients in
8 all such urbanized areas.

9 “(B) 25 percent of the funds shall be ap-
10 portioned among the States in the ratio that—

11 “(i) the number of elderly individuals,
12 individuals with disabilities, eligible low-in-
13 come individuals, and welfare recipients in
14 urbanized areas with a population of less
15 than 200,000 in each State; bears to

16 “(ii) the number of elderly individuals,
17 individuals with disabilities, eligible low-in-
18 come individuals, and welfare recipients in
19 urbanized areas with a population of less
20 than 200,000 in all States.

21 “(C) 25 percent of the funds shall be ap-
22 portioned among the States in the ratio that—

23 “(i) the number of elderly individuals,
24 individuals with disabilities, eligible low-in-
25 come individuals, and welfare recipients in

1 rural areas with a population of less than
2 50,000 in each State; bears to

3 “(ii) the number of elderly individuals,
4 individuals with disabilities, eligible low-in-
5 come individuals, and welfare recipients in
6 rural areas with a population of less than
7 50,000 in all States.

8 “(2) USE OF APPORTIONED FUNDS.—Except as
9 provided in paragraph (3)—

10 “(A) funds apportioned under paragraph
11 (1)(A) shall be used for projects serving urban-
12 ized areas with a population of 200,000 or
13 more;

14 “(B) funds apportioned under paragraph
15 (1)(B) shall be used for projects serving urban-
16 ized areas with a population of less than
17 200,000; and

18 “(C) funds apportioned under paragraph
19 (1)(C) shall be used for projects serving rural
20 areas.

21 “(3) EXCEPTIONS.—A State may use funds ap-
22 portioned under paragraph (1)(B) or (1)(C)—

23 “(A) for projects serving areas other than
24 the area specified in paragraph (2)(B) or
25 (2)(C), as the case may be, if the Governor of

1 the State certifies that all of the objectives of
2 this section are being met in the specified area;
3 or

4 “(B) for projects anywhere in the State if
5 the State has established a statewide program
6 for meeting the objectives of this section.

7 “(4) MINIMUM APPORTIONMENT.—

8 “(A) IN GENERAL.—The Secretary may es-
9 tablish a minimum apportionment for States
10 and territories under paragraph (1).

11 “(B) LIMITATION.—A minimum apportion-
12 ment received by a State or territory under this
13 paragraph for a fiscal year may not exceed the
14 total of the fiscal year 2012 apportionments re-
15 ceived by the State or territory under sections
16 5310, 5316, and 5317 (as in effect on the day
17 before the date of enactment of the Public
18 Transportation Act of 2012).

19 “(e) COMPETITIVE PROCESS FOR GRANTS TO SUB-
20 RECIPIENTS.—

21 “(1) AREAWIDE SOLICITATIONS.—A recipient of
22 funds apportioned under subsection (d)(1)(A) shall
23 conduct, in cooperation with the appropriate metro-
24 politan planning organization, an areawide sollicita-

1 tion for applications for grants to the recipient and
2 subrecipients under this section.

3 “(2) STATEWIDE SOLICITATION.—A recipient of
4 funds apportioned under subsection (d)(1)(B) or
5 (d)(1)(C) shall conduct a statewide solicitation for
6 applications for grants to the recipient and sub-
7 recipients under this section.

8 “(3) SPECIAL RULE.—A recipient of a grant
9 under this section may allocate the amounts pro-
10 vided under the grant to—

11 “(A) a nonprofit organization or private
12 operator of public transportation, if the public
13 transportation service provided under sub-
14 section (c)(1) is unavailable, insufficient, or in-
15 appropriate; or

16 “(B) in the case of a grant to provide the
17 services described in subsection (c)(1)(A), a
18 governmental authority that—

19 “(i) is approved by the recipient to co-
20 ordinate services for elderly individuals and
21 individuals with disabilities; or

22 “(ii) certifies that there are not any
23 nonprofit organizations or private opera-
24 tors of public transportation services read-

1 ily available in the area to provide the
2 services described in subsection (c)(1)(A).

3 “(4) APPLICATION.—Recipients and subrecipi-
4 ents seeking to receive a grant from funds appor-
5 tioned under subsection (d) shall submit to the re-
6 cipient an application in such form and in accord-
7 ance with such requirements as the recipient shall
8 establish.

9 “(5) GRANT AWARDS.—The recipient shall
10 award grants under paragraphs (1) and (2) on a
11 competitive basis.

12 “(6) FAIR AND EQUITABLE DISTRIBUTION.—A
13 recipient of a grant under this section shall certify
14 to the Secretary that allocations of the grant to sub-
15 recipients will be distributed on a fair, equitable, and
16 competitive basis.

17 “(f) GRANT REQUIREMENTS.—With respect to a
18 grant made to provide services described in subsection (c),
19 the Secretary shall apply grant requirements that are con-
20 sistent with requirements for activities authorized under
21 sections 5310, 5316, and 5317 (as such sections were in
22 effect on the day before the date of enactment of the Pub-
23 lic Transportation Act of 2012).

24 “(g) COORDINATION.—

1 “(1) IN GENERAL.—The Secretary shall coordi-
2 nate activities under this section with related activi-
3 ties under programs of other Federal departments
4 and agencies.

5 “(2) PROJECT SELECTION AND PLANNING.—A
6 recipient of funds under this section shall certify to
7 the Secretary that—

8 “(A) the projects selected to receive fund-
9 ing under this section were derived from a lo-
10 cally developed, coordinated public transpor-
11 tation-human services transportation plan;

12 “(B) the plan was developed through a
13 process that included participation by rep-
14 resentatives of public, private, and nonprofit
15 transportation and human services providers
16 and participation by the public and appropriate
17 advocacy organizations; and

18 “(C) the planning process provided for
19 consideration of projects and strategies to cre-
20 ate or improve regional transportation services
21 that connect multiple jurisdictions.

22 “(h) GOVERNMENT’S SHARE OF COSTS.—

23 “(1) CAPITAL PROJECTS.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), a grant for a capital project

1 under this section shall be for 80 percent of the
2 net capital costs of the project, as determined
3 by the Secretary. The recipient may provide ad-
4 ditional local matching amounts.

5 “(B) EXCEPTION.—A State described in
6 section 120(b) of title 23 shall receive an in-
7 creased Government share in accordance with
8 the formula under such section.

9 “(2) OPERATING ASSISTANCE.—

10 “(A) IN GENERAL.—Except as provided in
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 that
18 equals 62.5 percent of the Government share
19 provided for under paragraph (1)(B).

20 “(3) REMAINDER.—The remainder of the 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 to or made available to a department or
5 agency of the Government (other than the De-
6 partment of Transportation) that are eligible to
7 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 transportation pro-
11 gram established by section 203 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 recipient carrying out a program of oper-
21 ating assistance under this section may not limit the
22 level or extent of use of the Government grant for
23 the payment of operating expenses.

24 “(i) LEASING VEHICLES.—Vehicles and equipment
25 acquired under this section may be leased to a recipient

1 or subrecipient to improve transportation services de-
2 signed to meet the special needs of elderly individuals, eli-
3 gible low-income individuals, and individuals with disabil-
4 ities.

5 “(j) MEAL DELIVERY FOR HOMEBOUND INDIVID-
6 UALS.—Public transportation service providers receiving
7 assistance under this section or section 5311(c) may co-
8 ordinate and assist in regularly providing meal delivery
9 service for homebound individuals if the delivery service
10 does not conflict with providing public transportation serv-
11 ice or reduce service to public transportation passengers.

12 “(k) TRANSFERS OF FACILITIES AND EQUIPMENT.—
13 With the consent of the recipient in possession of a facility
14 or equipment acquired with a grant under this section, a
15 State may transfer the facility or equipment to any recipi-
16 ent eligible to receive assistance under this chapter if the
17 facility or equipment will continue to be used as required
18 under this section.

19 “(l) PROGRAM EVALUATION.—Not later than 2 years
20 after the date of enactment of the Public Transportation
21 Act of 2012, and not later than 2 years thereafter, the
22 Comptroller General of the United States shall—

23 “(1) conduct a study to evaluate the grant pro-
24 gram authorized by this section, including a descrip-
25 tion of how grant recipients have coordinated activi-

1 ties carried out under this section with transpor-
2 tation activities carried out by recipients using
3 grants awarded under title III of the Older Ameri-
4 cans Act of 1965 (42 U.S.C. 3021 et seq.); and

5 “(2) transmit to the Committee on Transpor-
6 tation and Infrastructure of the House of Represent-
7 atives and the Committee on Banking, Housing, and
8 Urban Affairs of the Senate a report describing the
9 results of the study under subparagraph (A).”.

10 (b) CLERICAL AMENDMENT.—The analysis for chap-
11 ter 53 is amended by striking the item relating to section
12 5317 and inserting the following:

“5317. Coordinated access and mobility program formula grants.”.

13 **SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PRO-**
14 **GRAMS.**

15 (a) AMENDMENT TO SECTION HEADING.—Section
16 5322 is amended by striking the section designation and
17 heading and inserting the following:

18 **“§ 5322. Training and technical assistance programs”.**

19 (b) TRAINING AND OUTREACH.—Section 5322(a) is
20 amended—

21 (1) by striking “programs that address” and all
22 that follows before the period at the end of the first
23 sentence and inserting “programs that address
24 training and outreach needs as they apply to public
25 transportation activities, and programs that provide

1 public transportation-related technical assistance to
2 providers of public transportation services”;

3 (2) by striking “and” at the end of paragraph
4 (3);

5 (3) by striking the period at the end of para-
6 graph (4) and inserting “; and”; and

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

8 “(5) technical assistance provided through na-
9 tional nonprofit organizations with demonstrated ca-
10 pacity and expertise in a particular area of public
11 transportation policy.”.

12 (c) NATIONAL TRANSIT INSTITUTE, TECHNICAL AS-
13 SISTANCE, AND FUNDING.—Section 5322 is amended by
14 adding at the end the following:

15 “(c) NATIONAL TRANSIT INSTITUTE.—

16 “(1) GRANTS AND CONTRACTS.—The Secretary
17 may award grants or enter into contracts with a
18 public university to establish a National Transit In-
19 stitute to support training and educational programs
20 for Federal, State, and local transportation employ-
21 ees engaged or to be engaged in Government-aid
22 public transportation work.

23 “(2) EDUCATION AND TRAINING.—The Na-
24 tional Transit Institute shall provide education and
25 training to employees of State and local governments

1 at no cost when the education and training is related
2 to a responsibility under a Government program.

3 “(d) TECHNICAL ASSISTANCE.—The Secretary may
4 provide public transportation-related technical assistance
5 under this section as follows:

6 “(1) To help public transportation providers
7 comply with the Americans with Disabilities Act of
8 1990 (42 U.S.C. 12101 et seq.) through a competi-
9 tively selected contract or cooperative agreement
10 with a national nonprofit organization serving indi-
11 viduals with disabilities that has a demonstrated ca-
12 pacity to carry out technical assistance, demonstra-
13 tion programs, research, public education, and other
14 activities related to complying with such Act.

15 “(2) To help public transportation providers
16 comply with human services transportation coordina-
17 tion requirements and to enhance the coordination of
18 Federal resources for human services transportation
19 with those of the Department of Transportation
20 through a competitively selected contract or coopera-
21 tive agreement with a national nonprofit organiza-
22 tion that has a demonstrated capacity to carry out
23 technical assistance, training, and support services
24 related to complying with such requirements.

1 “(3) To help public transportation providers
2 meet the transportation needs of elderly individuals
3 through a competitively selected contract or coopera-
4 tive agreement with a national nonprofit organiza-
5 tion serving elderly individuals that has a dem-
6 onstrated capacity to carry out such activities.

7 “(4) To provide additional technical assistance,
8 mobility management services, volunteer support
9 services, training, and research that the Secretary
10 determines will assist public transportation providers
11 meet the goals of this section.

12 “(e) FUNDING.—Training and outreach programs
13 and technical assistance activities performed under this
14 section shall be paid for with administrative funds made
15 available under section 5338(c).”.

16 (d) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 53 is amended by striking the item relating to section
18 5322 and inserting the following:

“5322. Training and technical assistance programs.”.

19 **SEC. 2012. GENERAL PROVISIONS.**

20 (a) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN
21 PROJECTS.—Section 5323(i) is amended by adding at the
22 end the following:

23 “(3) COSTS INCURRED BY PROVIDERS OF PUB-
24 LIC TRANSPORTATION BY VANPOOL.—

1 “(A) LOCAL MATCHING SHARE.—The local
2 matching share provided by a recipient of as-
3 sistance for a capital project under this chapter
4 may include any amounts expended by a pro-
5 vider of public transportation by vanpool for the
6 acquisition of rolling stock to be used by such
7 provider in the recipient’s service area, exclud-
8 ing any amounts the provider may have re-
9 ceived in Federal, State, or local government
10 assistance for such acquisition.

11 “(B) USE OF REVENUES.—A private pro-
12 vider of public transportation by vanpool may
13 use revenues it receives in the provision of pub-
14 lic transportation service in the service area of
15 a recipient of assistance under this chapter that
16 are in excess of the provider’s operating costs
17 for the purpose of acquiring rolling stock, if the
18 private provider enters into a legally binding
19 agreement with the recipient that requires the
20 provider to use the rolling stock in the recipi-
21 ent’s service area.

22 “(C) DEFINITIONS.—In this paragraph,
23 the following definitions apply:

24 “(i) PRIVATE PROVIDER OF PUBLIC
25 TRANSPORTATION BY VANPOOL.—The term

1 ‘private provider of public transportation
2 by vanpool’ means a private entity pro-
3 viding vanpool services in the service area
4 of a recipient of assistance under this
5 chapter using a commuter highway vehicle
6 or vanpool vehicle.

7 “(ii) COMMUTER HIGHWAY VEHICLE;
8 VANPOOL VEHICLE.—The term ‘commuter
9 highway vehicle’ or ‘vanpool vehicle’ means
10 any vehicle—

11 “(I) the seating capacity of which
12 is at least 6 adults (not including the
13 driver); and

14 “(II) at least 80 percent of the
15 mileage use of which can be reason-
16 ably expected to be for the purposes
17 of transporting commuters in connec-
18 tion with travel between their resi-
19 dences and their place of employment.

20 “(4) INCENTIVES FOR COMPETITIVELY CON-
21 TRACTED SERVICE.—

22 “(A) ELIGIBILITY.—Subject to subpara-
23 graph (C), a recipient of assistance under this
24 chapter that meets the targets under subpara-
25 graph (B) for competitively contracted service

1 shall be eligible, at the request of the recipient,
2 for a Federal share of 90 percent for the capital
3 cost of buses and bus-related facilities and
4 equipment purchased with financial assistance
5 made available under this chapter.

6 “(B) TARGET.—To qualify for the com-
7 petitively contracted service incentive program
8 under this paragraph, a public transit agency or
9 governmental unit shall competitively contract
10 for at least 20 percent of its fixed route bus
11 service. The percentage of competitively con-
12 tracted service shall be calculated by deter-
13 mining the ratio of competitively contracted
14 service vehicles operated in annual maximum
15 service to total vehicles operated in annual max-
16 imum service.

17 “(C) MAINTENANCE OF EFFORT.—A pub-
18 lic transit agency or governmental unit shall be
19 eligible for an increased Federal share under
20 this paragraph only if the amount of State and
21 local funding provided to the affected public
22 transit agency or governmental unit for the
23 capital cost of buses and bus-related facilities
24 and equipment will not be less than the average
25 amount of funding for such purposes provided

1 during the 3 fiscal years preceding the date of
2 enactment of this paragraph.

3 “(D) DEFINITIONS.—In this paragraph,
4 the following definitions apply:

5 “(i) COMPETITIVELY CONTRACTED
6 SERVICE.—The term ‘competitively con-
7 tracted service’ means fixed route bus
8 transportation service purchased by a pub-
9 lic transit agency or governmental unit
10 from a private transportation provider
11 based on a written contract.

12 “(ii) VEHICLES OPERATED IN ANNUAL
13 MAXIMUM SERVICE.—The term ‘vehicles
14 operated in annual maximum service’
15 means the number of transit vehicles oper-
16 ated to meet the annual maximum service
17 requirement during the peak season of the
18 year, on the week and day that maximum
19 service is provided.”.

20 (b) REASONABLE ACCESS TO PUBLIC TRANSPOR-
21 TATION FACILITIES.—Section 5323 is amended by adding
22 at the end the following:

23 “(q) REASONABLE ACCESS TO PUBLIC TRANSPOR-
24 TATION FACILITIES.—A recipient of assistance under this
25 chapter may not deny reasonable access for a private

1 intercity or charter transportation operator to federally
2 funded public transportation facilities, including inter-
3 modal facilities, park and ride lots, and bus-only highway
4 lanes.”.

5 (c) SPECIAL CONDITION ON CHARTER BUS TRANS-
6 PORTATION SERVICE.—If, in any fiscal year, the Secretary
7 is prohibited by law from enforcing regulations related to
8 charter bus service under part 604 of title 49, Code of
9 Federal Regulations, for any transit agency that during
10 fiscal year 2008 was both initially granted a 60-day period
11 to come into compliance with part 604, and then was sub-
12 sequently granted an exception from such part—

13 (1) the transit agency shall be precluded from
14 receiving its allocation of urbanized area formula
15 grant funds for that fiscal year; and

16 (2) any amounts withheld pursuant to para-
17 graph (1) shall be added to the amount that the
18 Secretary may apportion under section 5336 of title
19 49, United States Code, in the following fiscal year.

20 **SEC. 2013. CONTRACT REQUIREMENTS.**

21 Section 5325(h) is amended by striking “Federal
22 Public Transportation Act of 2005” and inserting “Public
23 Transportation Act of 2012”.

1 **SEC. 2014. VETERANS PREFERENCE IN TRANSIT CON-**
2 **STRUCTION.**

3 Section 5325 is amended by adding at the end the
4 following:

5 “(k) VETERANS EMPLOYMENT.—Recipients and sub-
6 recipients of Federal financial assistance under this chap-
7 ter shall ensure that contractors working on a capital
8 project funded using such assistance give a preference in
9 the hiring or referral of laborers to veterans, as defined
10 in section 2108 of title 5, who have the requisite skills
11 and abilities to perform the construction work required
12 under the contract.”.

13 **SEC. 2015. PRIVATE SECTOR PARTICIPATION.**

14 (a) IN GENERAL.—Chapter 53 is amended by insert-
15 ing after section 5325 the following:

16 **“§ 5326. Private sector participation**

17 “(a) GENERAL PURPOSES.—In the interest of ful-
18 filling the general purposes of this chapter under section
19 5301(f), the Secretary shall—

20 “(1) better coordinate public and private sector-
21 provided public transportation services; and

22 “(2) promote more effective utilization of pri-
23 vate sector expertise, financing, and operational ca-
24 pacity to deliver costly and complex new fixed guide-
25 way capital projects.

1 “(b) ACTIONS TO PROMOTE BETTER COORDINATION
2 BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF
3 PUBLIC TRANSPORTATION.—The Secretary shall—

4 “(1) provide technical assistance to recipients of
5 Federal transit grant assistance on practices and
6 methods to best utilize private providers of public
7 transportation; and

8 “(2) educate recipients of Federal transit grant
9 assistance on laws and regulations under this chap-
10 ter that impact private providers of public transpor-
11 tation.

12 “(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE
13 FOR ALTERNATIVE PROJECT DELIVERY METHODS.—
14 Upon request by a sponsor of a new fixed guideway capital
15 project, the Secretary shall—

16 “(1) identify best practices for public-private
17 partnerships models in the United States and in
18 other countries;

19 “(2) develop standard public-private partner-
20 ship transaction model contracts; and

21 “(3) perform financial assessments that include
22 the calculation of public and private benefits of a
23 proposed public-private partnership transaction.”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 chapter is amended by inserting after the item relating
3 to section 5325 the following:

“5326. Private sector participation.”.

4 (c) PUBLIC-PRIVATE PARTNERSHIP PROCEDURES
5 AND APPROACHES.—

6 (1) IDENTIFY IMPEDIMENTS.—The Secretary
7 shall—

8 (A) except as provided in paragraph (4),
9 identify any provisions of chapter 53 of title 49,
10 United States Code, and any regulations or
11 practices thereunder, that impede greater use of
12 public-private partnerships and private invest-
13 ment in public transportation capital projects;

14 (B) develop and implement on a project
15 basis procedures and approaches that—

16 (i) address such impediments in a
17 manner similar to the Special Experi-
18 mental Project Number 15 of the Federal
19 Highway Administration (commonly re-
20 ferred to as “SEP-15”); and

21 (ii) protect the public interest and any
22 public investment in covered projects.

23 (2) REPORT.—Not later than 4 years after the
24 date of enactment of this Act, the Secretary shall
25 submit to Congress a report on the status of the

1 procedures and approaches developed and imple-
2 mented under paragraph (1).

3 (3) RULEMAKING.—Not later than 1 year after
4 the date of enactment of this Act, the Secretary
5 shall issue rules to carry out the procedures and ap-
6 proaches developed under paragraph (1).

7 (4) RULE OF CONSTRUCTION.—Nothing in this
8 subsection may be construed to allow the Secretary
9 to waive any requirement under—

10 (A) section 5333 of title 49, United States
11 Code;

12 (B) the National Environmental Policy Act
13 of 1969 (42 U.S.C. 4321 et seq.); or

14 (C) any other provision of Federal law not
15 described in paragraph (2)(A).

16 (d) CONTRACTING OUT STUDY.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, the Comptroller
19 General of the United States shall submit to the
20 Committee on Transportation and Infrastructure of
21 the House of Representatives and the Committee on
22 Banking, Housing, and Urban Affairs of the Senate
23 a comprehensive report on the effect of contracting
24 out public transportation operations and administra-

1 tive functions on cost, availability and level of serv-
2 ice, efficiency, and quality of service.

3 (2) CONSIDERATIONS.—In developing the re-
4 port, the Comptroller General shall consider—

5 (A) the number of grant recipients that
6 have contracted out services and the types of
7 public transportation services that are per-
8 formed under contract, including paratransit
9 service, fixed route bus service, commuter rail
10 operations, and administrative functions;

11 (B) the size of the populations served by
12 such grant recipients;

13 (C) the basis for decisions regarding con-
14 tracting out such services;

15 (D) comparative costs of providing service
16 under contract to providing the same service
17 through public transit agency employees, using
18 to the greatest extent possible a standard cost
19 allocation model;

20 (E) the extent of unionization among pri-
21 vately contracted employees; and

22 (F) barriers to contracting out public
23 transportation operations and administrative
24 functions.

1 (e) GUIDANCE ON DOCUMENTING COMPLIANCE.—
2 Not later than 1 year after the date of enactment of this
3 Act, the Secretary shall publish in the Federal Register
4 policy guidance regarding how to best document compli-
5 ance by recipients of Federal assistance under chapter 53
6 of title 49, United States Code, with the requirements re-
7 garding private enterprise participation in public transpor-
8 tation planning and transportation improvement programs
9 under sections 5203(g)(6) (as added by title IV of this
10 Act), and sections 5306(a) and 5307(c) of this title.

11 **SEC. 2016. PROJECT MANAGEMENT OVERSIGHT.**

12 Section 5327(c)(1) is amended—

13 (1) by striking “to make contracts”; and

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

15 “(F) 1 percent of amounts made available
16 to carry out section 5337.

17 “(G) 0.75 percent of amounts made avail-
18 able to carry out section 5317.”.

19 **SEC. 2017. STATE SAFETY OVERSIGHT.**

20 (a) GENERAL AUTHORITY.—Section 5330(b) is
21 amended to read as follows:

22 “(b) GENERAL AUTHORITY.—The Secretary may re-
23 quire that up to 100 percent of the amount required to
24 be appropriated for use in a State or urbanized area in
25 the State under section 5307 for a fiscal year beginning

1 after September 30, 2013, be utilized on capital safety im-
2 provement and state of good repair projects for the benefit
3 of fixed guideway transportation systems in such State or
4 urbanized area in the State before any other transit cap-
5 ital project is undertaken, if—

6 “(1) the State in the prior fiscal year has not
7 met the requirements of subsection (c); or

8 “(2) the Secretary has certified that the State
9 safety oversight agency (as defined in section
10 5336(k)(1)(B)) does not have adequate technical ca-
11 pacity, personnel resources, and authority under rel-
12 evant State law to perform the agency’s responsibil-
13 ities described in that section.”.

14 **SEC. 2018. APPORTIONMENT OF APPROPRIATIONS FOR**
15 **FORMULA GRANTS.**

16 (a) APPORTIONMENTS.—Section 5336(i) is amended
17 to read as follows:

18 “(i) APPORTIONMENTS.—Of the amounts made avail-
19 able for each fiscal year under section 5338(a)(2)(B)—

20 “(1) 2 percent shall be apportioned to certain
21 urbanized areas with populations of less than
22 200,000 in accordance with subsection (j);

23 “(2) 1 percent shall be apportioned to applica-
24 ble States for operational support and training costs
25 of State safety oversight agencies and personnel em-

1 employed by or under contract to such agencies in ac-
2 cordance with subsection (k); and

3 “(3) any amount not apportioned under para-
4 graphs (1) and (2) shall be apportioned to urbanized
5 areas in accordance with subsections (a) through
6 (c).”.

7 (b) STATE SAFETY OVERSIGHT AGENCIES.—Section
8 5336(k) is amended to read as follows:

9 “(k) STATE SAFETY OVERSIGHT AGENCIES FOR-
10 MULA.—

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

13 “(A) APPLICABLE STATES.—The term ‘ap-
14 plicable States’ means States that—

15 “(i) have rail fixed guideway public
16 transportation systems that are not subject
17 to regulation by the Federal Railroad Ad-
18 ministration; or

19 “(ii) are designing or constructing rail
20 fixed guideway public transportation sys-
21 tems that will not be subject to regulation
22 by the Federal Railroad Administration.

23 “(B) STATE SAFETY OVERSIGHT AGEN-
24 CIES.—The term ‘State safety oversight agency’

1 means a designated State authority that has re-
2 sponsibility—

3 “(i) for requiring, reviewing, approv-
4 ing, and monitoring safety program plans
5 under section 5330(c)(1);

6 “(ii) for investigating hazardous con-
7 ditions and accidents on fixed guideway
8 public transportation systems that are not
9 subject to regulation by the Federal Rail-
10 road Administration; and

11 “(iii) for requiring action to correct or
12 eliminate those conditions.

13 “(2) APPORTIONMENT.—

14 “(A) APPORTIONMENT FORMULA.—The
15 amount to be apportioned under subsection
16 (i)(2) shall be apportioned among applicable
17 States under a formula to be established by the
18 Secretary. Such formula shall take into account
19 factors of fixed guideway revenue vehicle miles,
20 fixed guideway route miles, and fixed guideway
21 vehicle passenger miles attributable to all rail
22 fixed guideway systems not subject to regula-
23 tion by the Federal Railroad Administration
24 within each applicable State.

1 “(B) RECIPIENTS OF APPORTIONED
2 AMOUNTS.—Amounts apportioned under the
3 formula established pursuant to subparagraph
4 (A) shall be made available as grants to State
5 safety oversight agencies. Such grants are sub-
6 ject to uniform administrative requirements for
7 grants and cooperative agreements to State and
8 local governments under part 18 of title 49,
9 Code of Federal Regulations, and are subject to
10 the requirements of this chapter as the Sec-
11 retary determines appropriate.

12 “(C) USE OF FUNDS.—A State safety
13 oversight agency may use funds apportioned
14 under subparagraph (A) for program oper-
15 ational and administrative expenses, including
16 employee training activities, that assist the
17 agency in carrying out its responsibilities de-
18 scribed in paragraph (1)(B).

19 “(D) CERTIFICATION PROCESS.—

20 “(i) DETERMINATIONS.—The Sec-
21 retary shall determine whether or not each
22 State safety oversight agency has adequate
23 technical capacity, personnel resources,
24 and authority under relevant State law to

1 perform the agency's defined responsibil-
2 ities described in paragraph (1)(B).

3 “(ii) ISSUANCE OF CERTIFICATIONS
4 AND DENIALS.—The Secretary shall—

5 “(I) issue a certification to each
6 State safety oversight agency that the
7 Secretary determines under clause (i)
8 has adequate technical capacity, per-
9 sonnel resources, and authority; and

10 “(II) issue a denial of certifi-
11 cation to each State safety oversight
12 agency that the Secretary determines
13 under clause (i) does not have ade-
14 quate technical capacity, personnel re-
15 sources, and authority, and provide
16 the agency with a written explanation
17 of the reasons for the denial.

18 “(E) ANNUAL REPORT.—On or before July
19 1 of each year, the Secretary shall submit to
20 the Committee on Transportation and Infra-
21 structure of the House of Representatives and
22 the Committee on Banking, Housing, and
23 Urban Affairs of the Senate a report on—

24 “(i) the amount of funds apportioned
25 to each applicable State; and

1 “(ii) the certification status of each
2 State safety oversight agency, including
3 what steps an agency that has been denied
4 certification must take in order to be so
5 certified.”.

6 (c) CONFORMING AMENDMENT.—Section 5336(d)(1)
7 is amended by striking “subsections (a)(1)(C)(vi) and
8 (b)(2)(B) of section 5338” and inserting “section
9 5338(a)(2)(B)”.

10 **SEC. 2019. FIXED GUIDEWAY MODERNIZATION FORMULA**
11 **GRANTS.**

12 (a) AMENDMENT TO SECTION HEADING.—Section
13 5337 is amended—

14 (1) by striking the section designation and
15 heading and inserting the following:

16 **“§ 5337. Fixed guideway modernization program”.**

17 (b) PROGRAM GOALS.—Section 5337 is amended—

18 (1) by redesignating subsections (a) through (f)
19 as subsections (c) through (h), respectively; and

20 (2) by inserting before subsection (c) (as so re-
21 designated) the following:

22 “(a) PROGRAM GOALS.—The goals of the fixed guide-
23 way modernization program are—

1 “(1) to rehabilitate, maintain, and preserve the
2 Nation’s fixed guideway public transportation sys-
3 tems;

4 “(2) to reduce the maintenance backlog and in-
5 crease the state of good repair of the Nation’s fixed
6 guideway public transportation systems; and

7 “(3) to increase the overall ridership on fixed
8 guideway public transportation systems.

9 “(b) GENERAL AUTHORITY.—The Secretary may
10 make grants to eligible recipients under this section to as-
11 sist State and local government authorities in financing
12 capital projects to modernize eligible fixed guideway sys-
13 tems.”.

14 (c) DISTRIBUTION.—Section 5337(c) (as redesign-
15 ated by subsection (b)(1) of this section) is amended by
16 striking “under section 5309” and all that follows before
17 paragraph (1) and inserting “for a fiscal year as follows:”.

18 (d) AVAILABILITY OF AMOUNTS.—Section 5337(f)
19 (as redesignated by subsection (b)(1) of this section) is
20 amended to read as follows:

21 “(f) AVAILABILITY OF AMOUNTS.—An amount ap-
22 propriated under this section shall remain available for a
23 period of 3 fiscal years after the fiscal year in which the
24 amount is appropriated. Any of such amount that is unob-
25 ligated at the end of such period shall be reapportioned

1 for the next fiscal year among eligible recipients in accord-
2 ance with subsection (c).”.

3 (e) GRANT REQUIREMENTS.—Section 5337 is
4 amended by adding at the end the following:

5 “(i) UNDERTAKING PROJECTS IN ADVANCE.—

6 “(1) IN GENERAL.—When a recipient obligates
7 all amounts apportioned to it under this section and
8 then carries out a part of a project described in this
9 section without amounts of the Government and ac-
10 cording to all applicable procedures and require-
11 ments (except to the extent the procedures and re-
12 quirements limit a State to carrying out a project
13 with amounts of the Government previously appor-
14 tioned to it), the Secretary may pay to the recipient
15 the Government’s share of the cost of carrying out
16 that part when additional amounts are apportioned
17 to the recipient under this section if—

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

19 “(B) the Secretary approves the payment;

20 and

21 “(C) before carrying out that part, the
22 Secretary approves the plans and specifications
23 for the part in the same way as for other
24 projects under this section.

1 “(2) REQUIREMENT FOR APPROVAL OF APPLI-
2 CATIONS.—The Secretary may approve an applica-
3 tion under paragraph (1) only if an authorization for
4 this section is in effect for the fiscal year to which
5 the application applies.

6 “(3) INTEREST PAYMENTS.—The cost of car-
7 rying out that part of a project includes the amount
8 of interest earned and payable on bonds issued by
9 the recipient to the extent proceeds of the bonds are
10 expended in carrying out this part. However, the
11 amount of interest allowed under this paragraph
12 may not be more than the most favorable financing
13 terms reasonably available for the project at the
14 time of borrowing. The applicant shall certify, in a
15 manner satisfactory to the Secretary, that the appli-
16 cant has shown reasonable diligence in seeking the
17 most favorable financing terms.

18 “(j) GRANT REQUIREMENTS.—A grant under this
19 section shall be subject to the requirements of subsections
20 (c), (d), (e), (h), (i), and (m) of section 5307.”.

21 (f) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 53 is amended by striking the item relating to section
23 5337 and inserting the following:

“5337. Fixed guideway modernization program.”.

1 **SEC. 2020. AUTHORIZATIONS.**

2 (a) IN GENERAL.—Section 5338 is amended to read
3 as follows:

4 **“§ 5338. Authorizations**

5 “(a) FORMULA AND BUS GRANTS.—

6 “(1) IN GENERAL.—There shall be available
7 from the Alternative Transportation Account of the
8 Highway Trust Fund to carry out sections 5305,
9 5307, 5310, 5311, 5317, 5330, 5335, and 5337
10 \$8,400,000,000 for each of fiscal years 2013
11 through 2016.

12 “(2) ALLOCATION OF FUNDS.—Amounts made
13 available under paragraph (1) shall be allocated as
14 follows:

15 “(A) \$126,000,000 for each of fiscal years
16 2013 through 2016 shall be available to carry
17 out section 5305.

18 “(B) \$4,578,000,000 for each of fiscal
19 years 2013 through 2016 shall be allocated in
20 accordance with section 5336 to provide finan-
21 cial assistance for urbanized areas and State
22 safety oversight agencies under sections 5307
23 and 5336(k).

24 “(C) \$840,000,000 for each of fiscal years
25 2013 through 2016 shall be available to provide
26 financial assistance for States and local govern-

1 mental authorities to replace, rehabilitate, and
2 purchase buses and related equipment and to
3 construct bus-related facilities under section
4 5310. Of such amount, \$3,000,000 shall be
5 available for each fiscal year for bus testing
6 under section 5318.

7 “(D) \$672,000,000 for each of fiscal years
8 2013 through 2016 shall be available to provide
9 financial assistance for rural areas under sec-
10 tion 5311.

11 “(E) \$504,000,000 for each of fiscal years
12 2013 through 2016 shall be available to provide
13 financial assistance for recipients and subrecipi-
14 ents to provide coordinated access and mobility
15 public transportation projects and services
16 under section 5317.

17 “(F) \$3,500,000 for each of fiscal years
18 2013 through 2016 shall be available to carry
19 out section 5335. Such amount shall be made
20 available from funds allocated in accordance
21 with section 5336 before the apportionments
22 under subsection 5336(i) are carried out.

23 “(G) \$1,680,000,000 for each of fiscal
24 years 2013 through 2016 shall be made avail-
25 able and allocated in accordance with section

1 5337 to provide financial assistance for State
2 and local government authorities to finance cap-
3 ital projects to modernize eligible fixed guide-
4 way systems.

5 “(b) CAPITAL INVESTMENT GRANTS.—There is au-
6 thorized to be appropriated to carry out section
7 5309(m)(2) \$1,955,000,000 for each of fiscal years 2013
8 through 2016.

9 “(c) RESEARCH, TRAINING AND OUTREACH, AND
10 TECHNICAL ASSISTANCE.—There is authorized to be ap-
11 propriated to carry out the transit research program
12 under section 5312 and the training and outreach, Na-
13 tional Transit Institute, and technical assistance activities
14 authorized by section 5322, \$45,000,000 for each of fiscal
15 years 2013 through 2016. Such amounts shall remain
16 available until expended.

17 “(d) ADMINISTRATION.—There is authorized to be
18 appropriated to carry out sections 5326 and 5334
19 \$98,000,000 for each of fiscal years 2013 through 2016.

20 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

21 “(1) GRANTS FINANCED FROM HIGHWAY TRUST
22 FUND.—A grant or contract that is approved by the
23 Secretary and financed with amounts made available
24 from the Alternative Transportation Account of the
25 Highway Trust Fund pursuant to this section is a

1 contractual obligation of the Government to pay the
2 Federal share of the cost of the project.

3 “(2) GRANTS FINANCED FROM GENERAL
4 FUND.—A grant or contract that is approved by the
5 Secretary and financed with amounts appropriated
6 in advance from the General Fund of the Treasury
7 pursuant to this section is a contractual obligation
8 of the Government to pay the Federal share of the
9 cost of the project only to the extent that amounts
10 are appropriated for such purpose by an Act of Con-
11 gress.”.

12 (b) CONFORMING AMENDMENT.—Section 5333(b)(1)
13 is amended by striking “5338(b)” and inserting
14 “5338(a)” each place it appears.

15 **SEC. 2021. OBLIGATION LIMITS.**

16 The total of all obligations from amounts made avail-
17 able from the Alternative Transportation Account of the
18 Highway Trust Fund by, and amounts appropriated
19 under, subsections (a) through (d) of section 5338 of title
20 49, United States Code, shall not exceed \$10,498,000,000
21 in each of fiscal years 2013 through 2016, of which not
22 more than \$8,400,000,000 shall be from the Alternative
23 Transportation Account.

1 **SEC. 2022. PROGRAM ELIMINATION AND CONSOLIDATION.**

2 (a) GENERAL PROVISION.—A repeal or amendment
3 made by this section shall not affect funds apportioned
4 or allocated before the effective date of the repeal.

5 (b) CLEAN FUELS DISCRETIONARY GRANT PRO-
6 GRAM.—Section 5308, and the item relating to that sec-
7 tion in the analysis for chapter 53, are repealed.

8 (c) CONFORMING AMENDMENTS REGARDING FOR-
9 MULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDI-
10 VIDUALS AND INDIVIDUALS WITH DISABILITIES.—

11 (1) Section 5327(c) is amended by striking
12 “5310” each place it appears and inserting “5317”.

13 (2) Section 31138(e)(4) is amended by striking
14 “section 5307, 5310, or 5311” and inserting “sec-
15 tion 5307, 5311, or 5317”.

16 (d) PUBLIC TRANSPORTATION ON INDIAN RESERVA-
17 TIONS.—Section 5311(c)(1) is repealed.

18 (e) TRANSIT COOPERATIVE RESEARCH PROGRAM.—
19 Section 5313, and the item relating to that section in the
20 analysis for chapter 53, are repealed.

21 (f) NATIONAL RESEARCH PROGRAMS.—Section
22 5314, and the item relating to that section in the analysis
23 for chapter 53, are repealed.

24 (g) NATIONAL TRANSIT INSTITUTE.—

1 (1) REPEAL.—Section 5315, and the item relat-
2 ing to that section in the analysis for chapter 53,
3 are repealed.

4 (2) CONFORMING AMENDMENTS.—Chapter 53
5 is amended—

6 (A) in section 5305(e)(1)(A) by striking
7 “5315,”; and

8 (B) in section 5307(k)(1) by striking
9 “5315(c)”.

10 (h) BICYCLE FACILITIES.—Section 5319 is amended
11 by striking the last sentence.

12 (i) JOB ACCESS AND REVERSE COMMUTE FORMULA
13 GRANTS.—

14 (1) REPEAL.—Section 5316, and the item relat-
15 ing to that section in the analysis for chapter 53,
16 are repealed.

17 (2) CONFORMING AMENDMENT.—Chapter 53 is
18 amended in section 5333(b)(1) by striking “5316,”
19 each place it appears.

20 (j) PAUL S. SARBANES TRANSIT IN THE PARKS PRO-
21 GRAM.—

22 (1) REPEAL.—Section 5320, and the item relat-
23 ing to that section in the analysis for chapter 53,
24 are repealed.

1 (2) CONFORMING AMENDMENTS.—Section
2 5327(e) is amended—

3 (A) in paragraph (1) by striking subpara-
4 graph (F); and

5 (B) in paragraph (2)(B) by striking
6 “5311, and 5320” and inserting “and 5311”

7 (k) REPEAL OF DEBT SERVICE RESERVE PILOT
8 PROGRAM.—Section 5323(e) is amended by striking para-
9 graph (4).

10 (l) PROGRAM OF INTERRELATED PROJECTS.—Sec-
11 tion 5328 is amended by striking subsection (e).

12 (m) ALTERNATIVES ANALYSIS.—Section 5339, and
13 the item relating to that section in the analysis for chapter
14 53, are repealed.

15 (n) APPORTIONMENTS BASED ON GROWING STATES
16 AND HIGH DENSITY STATES FORMULA FACTORS.—Sec-
17 tion 5340, and the item relating to that section in the
18 analysis for chapter 53, are repealed.

19 (o) CONTRACTED PARATRANSIT PILOT.—Section
20 3009 of SAFETEA–LU (119 Stat. 1572) is amended by
21 striking subsection (i).

22 (p) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH
23 DISABILITIES PILOT PROGRAM.—Section 3012(b) of
24 SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1591)
25 is repealed.

1 (q) NATIONAL FUEL CELL BUS TECHNOLOGY DE-
2 VELOPMENT PROGRAM.—Section 3045 of SAFETEA-LU
3 (49 U.S.C. 5308 note; 119 Stat. 1705), and the item re-
4 lating to that section in the table of contents contained
5 in section 1(b) of that Act, are repealed.

6 (r) ALLOCATIONS FOR NATIONAL RESEARCH AND
7 TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-
8 LU (49 U.S.C. 5338 note; 119 Stat. 1706), and the item
9 relating to that section in the table of contents contained
10 in section 1(b) of that Act, are repealed.

11 (s) OVER-THE-ROAD BUS ACCESSIBILITY PRO-
12 GRAM.—Section 3038 of the Transportation Equity Act
13 for the 21st Century (49 U.S.C. 5310 note; 112 Stat.
14 392), and the item relating to that section in the table
15 of contents contained in section 1(b) of that Act, are re-
16 pealed.

17 **SEC. 2023. EVALUATION AND REPORT.**

18 (a) EVALUATION.—The Comptroller General of the
19 United States shall evaluate the progress and effectiveness
20 of the Federal Transit Administration in assisting recipi-
21 ents of assistance under chapter 53 of title 49, United
22 States Code, to comply with section 5332(b) of such title,
23 including—

24 (1) by reviewing discrimination complaints, re-
25 ports, and other relevant information collected or

1 prepared by the Federal Transit Administration or
2 recipients of assistance from the Federal Transit
3 Administration pursuant to any applicable civil
4 rights statute, regulation, or other requirement; and

5 (2) by reviewing the process that the Federal
6 Transit Administration uses to resolve discrimina-
7 tion complaints filed by members of the public.

8 (b) REPORT.—Not later than 1 year after the date
9 of enactment of this Act, the Comptroller General shall
10 submit to the Committee on Banking, Housing, and
11 Urban Affairs of the Senate and the Committee on Trans-
12 portation and Infrastructure of the House of Representa-
13 tives a report concerning the evaluation under subsection
14 (a) that includes—

15 (1) a description of the ability of the Federal
16 Transit Administration to address discrimination
17 and foster equal opportunities in federally funded
18 public transportation projects, programs, and activi-
19 ties;

20 (2) recommendations for improvements if the
21 Comptroller General determines that improvements
22 are necessary; and

23 (3) information upon which the evaluation
24 under subsection (a) is based.

1 **SEC. 2024. TRANSIT BUY AMERICA PROVISIONS.**

2 Section 5323(j) is amended by adding at the end the
3 following:

4 “(10) APPLICATION OF BUY AMERICA TO TRAN-
5 SIT PROGRAMS.—The requirements of this sub-
6 section apply to all contracts for a project carried
7 out within the scope of the applicable finding, deter-
8 mination, or decision under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
10 regardless of the funding source of such contracts,
11 if at least one contract for the project is funded with
12 amounts made available to carry out this chapter.

13 “(11) ADDITIONAL WAIVER REQUIREMENTS.—

14 “(A) IN GENERAL.—If the Secretary re-
15 ceives a request for a waiver under this section,
16 the Secretary shall provide notice of and an op-
17 portunity for public comment on the request at
18 least 30 days before making a finding based on
19 the request.

20 “(B) NOTICE REQUIREMENTS.—A notice
21 provided under subparagraph (A) shall include
22 the information available to the Secretary con-
23 cerning the request and shall be provided by
24 electronic means, including on the official public
25 Internet Web site of the Department of Trans-
26 portation

1 “(C) DETAILED JUSTIFICATION.—If the
2 Secretary issues a waiver under this subsection,
3 the Secretary shall publish in the Federal Reg-
4 ister a detailed justification for the waiver that
5 addresses the public comments received under
6 subparagraph (A) and shall ensure that such
7 justification is published before the waiver takes
8 effect.”.

9 **TITLE III—ENVIRONMENTAL**
10 **STREAMLINING**

11 **SEC. 3001. AMENDMENTS TO TITLE 23, UNITED STATES**
12 **CODE.**

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

19 **SEC. 3002. DECLARATION OF POLICY.**

20 (a) EXPEDITED PROJECT DELIVERY.—Section
21 101(b) is amended by adding at the end the following:

22 “(4) EXPEDITED PROJECT DELIVERY.—Con-
23 gress declares that it is in the national interest to
24 expedite the delivery of surface transportation
25 projects by substantially reducing the average length

1 of the environmental review process. Accordingly, it
2 is the policy of the United States that—

3 “(A) the Secretary shall have the lead role
4 among Federal agencies in carrying out the en-
5 vironmental review process for surface transpor-
6 tation projects;

7 “(B) each Federal agency shall cooperate
8 with the Secretary to expedite the environ-
9 mental review process for surface transpor-
10 tation projects;

11 “(C) there shall be a presumption that the
12 mode, facility type, and corridor location for a
13 surface transportation project will be deter-
14 mined in the transportation planning process,
15 as established in sections 5203 and 5204 of
16 title 49;

17 “(D) project sponsors shall not be prohib-
18 ited from carrying out pre-construction project
19 development activities concurrently with the en-
20 vironmental review process;

21 “(E) programmatic approaches shall be
22 used, to the maximum extent possible, to reduce
23 the need for project-by-project reviews and deci-
24 sions by Federal agencies; and

1 “(F) the Secretary shall actively support
2 increased opportunities for project sponsors to
3 assume responsibilities of the Secretary in car-
4 rying out the environmental review process.”.

5 **SEC. 3003. EXEMPTION IN EMERGENCIES.**

6 If any road, highway, or bridge is in operation or
7 under construction when damaged by an emergency de-
8 clared by the Governor of the State and concurred in by
9 the Secretary, or declared by the President pursuant to
10 the Robert T. Stafford Disaster Relief and Emergency As-
11 sistance Act (42 U.S.C. 5121), and is reconstructed in the
12 same location with the same capacity, dimensions, and de-
13 sign as before the emergency, then that reconstruction
14 project shall be exempt from any further environmental
15 reviews, approvals, licensing, and permit requirements
16 under—

17 (1) the National Environmental Policy Act of
18 1969 (42 U.S.C. 4321 et seq.);

19 (2) sections 402 and 404 of the Federal Water
20 Pollution Control Act (33 U.S.C. 1342, 1344);

21 (3) the National Historic Preservation Act (16
22 U.S.C. 470 et seq.);

23 (4) the Migratory Bird Treaty Act (16 U.S.C.
24 703 et seq.);

1 (5) the Wild and Scenic Rivers Act (16 U.S.C.
2 1271 et seq.);

3 (6) the Fish and Wildlife Coordination Act (16
4 U.S.C. 661 et seq.);

5 (7) the Endangered Species Act of 1973 (16
6 U.S.C. 1531 et seq.), except when the reconstruction
7 occurs in designated critical habitat for threatened
8 and endangered species;

9 (8) Executive Order 11990 (42 U.S.C. 4321
10 note; relating to the protection of wetlands); and

11 (9) any Federal law (including regulations) re-
12 quiring no net loss of wetlands.

13 **SEC. 3004. ADVANCE ACQUISITION OF REAL PROPERTY IN-**
14 **TERESTS.**

15 (a) REAL PROPERTY INTERESTS.—Section 108 is
16 amended—

17 (1) by striking “real property” each place it ap-
18 pears and inserting “real property interests”;

19 (2) by striking “right-of-way” each place it ap-
20 pears and inserting “real property interest”; and

21 (3) by striking “rights-of-way” each place it ap-
22 pears and inserting “real property interests”.

23 (b) STATE-FUNDED EARLY ACQUISITION OF REAL
24 PROPERTY INTERESTS.—Section 108(c) is amended—

1 (1) in the subsection heading by striking
2 “EARLY ACQUISITION OF RIGHTS-OF-WAY” and in-
3 serting “STATE-FUNDED EARLY ACQUISITION OF
4 REAL PROPERTY INTERESTS”;

5 (2) by redesignating paragraphs (1) and (2) as
6 paragraphs (2) and (3), respectively;

7 (3) in paragraph (2), as redesignated—

8 (A) in the heading by striking “GENERAL
9 RULE” and inserting “ELIGIBILITY FOR REIM-
10 BURSEMENT”; and

11 (B) by striking “Subject to paragraph (2)”
12 and inserting “Subject to paragraph (3)”;

13 (4) by inserting before paragraph (2), as redesi-
14 gnated, the following:

15 “(1) IN GENERAL.—A State may carry out, at
16 the expense of the State, acquisitions of interests in
17 real property for a project before completion of the
18 review process required for the project under the
19 National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.) without affecting subsequent
21 approvals required for the project by the State or
22 any Federal agency.”; and

23 (5) in paragraph (3), as redesignated—

1 (A) in the matter preceding subparagraph
2 (A) by striking “in paragraph (1)” and insert-
3 ing “in paragraph (2)”; and

4 (B) in subparagraph (G) by striking “both
5 the Secretary and the Administrator of the En-
6 vironmental Protection Agency have concurred”
7 and inserting “the Secretary has determined”.

8 (c) **FEDERALLY FUNDED ACQUISITION OF REAL**
9 **PROPERTY INTERESTS.**—Section 108 is further amended
10 by adding at the end the following:

11 “(d) **FEDERALLY FUNDED EARLY ACQUISITION OF**
12 **REAL PROPERTY INTERESTS.**—

13 “(1) **IN GENERAL.**—The Secretary may author-
14 ize the use of Federal funds for the acquisition of
15 a real property interest by a State. For purposes of
16 this subsection, an acquisition of a real property in-
17 terest includes the acquisition of any interest in
18 land, including the acquisition of a contractual right
19 to acquire any interest in land, or any other similar
20 action to acquire or preserve rights-of-way for a
21 transportation facility.

22 “(2) **STATE CERTIFICATION.**—A State request-
23 ing Federal funding for an acquisition of a real
24 property interest shall certify in writing that—

1 “(A) the State has authority to acquire the
2 real property interest under State law;

3 “(B) the acquisition of the real property
4 interest is for a transportation purpose; and

5 “(C) the State acknowledges that early ac-
6 quisition will not be considered by the Secretary
7 in the environmental assessment of a project,
8 the decision relative to the need to construct a
9 project, or the selection of a project design or
10 location.

11 “(3) ENVIRONMENTAL COMPLIANCE.—Before
12 authorizing Federal funding for an acquisition of a
13 real property interest, the Secretary shall complete
14 for the acquisition the review process under the Na-
15 tional Environmental Policy Act of 1969 (42 U.S.C.
16 4321 et seq.). For purposes of the review process,
17 the acquisition of a real property interest shall be
18 treated as having independent utility and does not
19 limit consideration of alternatives for future trans-
20 portation improvements with respect to the real
21 property interest.

22 “(4) PROGRAMMING.—The acquisition of a real
23 property interest for which Federal funding is re-
24 quested shall be included as a project in an applica-
25 ble transportation improvement program under sec-

1 tions 5203 and 5204 of title 49, United States Code.

2 The acquisition project may be included in the
3 transportation improvement program on its own,
4 without including the future construction project for
5 which the real property interest is being acquired.

6 The acquisition project may consist of the acquisi-
7 tion of a specific parcel, a portion of a transpor-
8 tation corridor, or an entire transportation corridor.

9 “(5) OTHER REQUIREMENTS.—The acquisition
10 of a real property interest shall be carried out in
11 compliance with all requirements applicable to the
12 acquisition of real property interests for federally
13 funded transportation projects.

14 “(e) CONSIDERATION OF LONG-RANGE TRANSPOR-
15 TATION NEEDS.—The Secretary shall encourage States
16 and other public authorities, if practicable, to acquire
17 transportation real property interests that are sufficient
18 to accommodate long-range transportation needs and, if
19 possible, to do so through the acquisition of broad real
20 property interests that have the capacity for expansion
21 over a 50- to 100-year period and the potential to accom-
22 modate one or more transportation modes.”.

23 **SEC. 3005. STANDARDS.**

24 Section 109 (as amended by title I of this Act) is
25 further amended by adding at the end the following:

1 “(s) UNDERTAKING DESIGN ACTIVITIES BEFORE
2 COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

3 “(1) IN GENERAL.—A State may carry out, at
4 the expense of the State, design activities at any
5 level of detail for a project before completion of the
6 review process required for the project under the
7 National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.) without affecting subsequent
9 approvals of the project.

10 “(2) ELIGIBILITY FOR REIMBURSEMENT.—Sub-
11 ject to paragraph (3), funds apportioned to a State
12 under this title may be used to participate in the
13 payment of costs incurred by the State for design
14 activities, if the results of the activities are subse-
15 quently incorporated (in whole or in substantial
16 part) into a project eligible for surface transpor-
17 tation program funds.

18 “(3) TERMS AND CONDITIONS.—The Federal
19 share payable of the costs described in paragraph
20 (2) shall be eligible for reimbursement out of funds
21 apportioned to a State under this title when the de-
22 sign activities are incorporated (in whole or in sub-
23 stantial part) into a project eligible for surface
24 transportation program funds, if the State dem-

1 onstrates to the Secretary and the Secretary finds
2 that—

3 “(A) before the time that the cost incurred
4 by a State is approved for Federal participa-
5 tion, environmental compliance pursuant to the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.) has been completed for the
8 project for which the design activities were con-
9 ducted by the State; and

10 “(B) the design activities conducted pursu-
11 ant to this subsection did not preclude the con-
12 sideration of alternatives to the project.”.

13 **SEC. 3006. LETTING OF CONTRACTS.**

14 (a) **BIDDING REQUIREMENTS.**—Section 112(b)(1) is
15 amended to read as follows:

16 “(1) **IN GENERAL.**—

17 “(A) **COMPETITIVE BIDDING REQUIRE-**
18 **MENT.**—Subject to paragraphs (2), (3), and
19 (4), construction of each project, subject to the
20 provisions of subsection (a), shall be performed
21 by contract awarded by competitive bidding, un-
22 less the State transportation department dem-
23 onstrates, to the satisfaction of the Secretary,
24 that some other method is more cost effective
25 or that an emergency exists.

1 “(B) BASIS OF AWARD.—

2 “(i) IN GENERAL.—Contracts for the
3 construction of each project shall be
4 awarded only on the basis of the lowest re-
5 sponsive bid submitted by a bidder meeting
6 established criteria of responsibility.

7 “(ii) PROHIBITION.—No requirement
8 or obligation shall be imposed as a condi-
9 tion precedent to the award of a contract
10 to such bidder for a project, or to the Sec-
11 retary’s concurrence in the award of a con-
12 tract to such bidder, unless such require-
13 ment or obligation is otherwise lawful and
14 is specifically set forth in the advertised
15 specifications.”.

16 (b) DESIGN-BUILD CONTRACTING.—Section
17 112(b)(3) is amended—

18 (1) in subparagraph (A) by striking “subpara-
19 graph (C)” and inserting “subparagraph (B)”;

20 (2) by striking subparagraph (B);

21 (3) by redesignating subparagraphs (C) through
22 (E) as subparagraphs (B) through (D), respectively;

23 and

24 (4) in subparagraph (C), as redesignated—

1 (A) in the matter preceding clause (i) by
2 striking “of the SAFETEA-LU” and inserting
3 “of the American Energy and Infrastructure
4 Jobs Act of 2012”;

5 (B) in clause (ii) by striking “and” at the
6 end;

7 (C) in clause (iii)—

8 (i) by striking “final design or”; and

9 (ii) by striking the period at the end
10 and inserting “; and”; and

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

12 “(iv) permit the State transportation
13 department, the local transportation agen-
14 cy, and the design-build contractor to pro-
15 ceed, at the expense of one or more of
16 those entities, with design activities at any
17 level of detail for a project before comple-
18 tion of the review process required for the
19 project under the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.) without affecting subsequent approv-
22 als required for the project. Design activi-
23 ties carried out under this clause shall be
24 eligible for Federal reimbursement as a

1 project expense in accordance with the re-
2 quirements under section 109(s).”.

3 (c) EFFICIENCIES IN CONTRACTING.—Section 112(b)
4 is amended by adding at the end the following:

5 “(4) METHOD OF CONTRACTING.—

6 “(A) IN GENERAL.—

7 “(i) TWO-PHASE CONTRACT.—A con-
8 tracting agency may award a two-phase
9 contract for preconstruction and construc-
10 tion services.

11 “(ii) PRE-CONSTRUCTION SERVICES
12 PHASE.—In the pre-construction services
13 phase, the contractor shall provide the con-
14 tracting agency with advice for scheduling,
15 work sequencing, cost engineering,
16 constructability, cost estimating, and risk
17 identification.

18 “(iii) AGREEMENT.—Prior to the
19 start of the construction services phase,
20 the contracting agency and the contractor
21 may agree to a price and other factors
22 specified in regulation for the construction
23 of the project or a portion of the project.

24 “(iv) CONSTRUCTION PHASE.—If an
25 agreement is reached under clause (iii), the

1 contractor shall be responsible for the con-
2 struction of the project or portion of the
3 project at the negotiated price and other
4 factors specified in regulation.

5 “(B) SELECTION.—A contract shall be
6 awarded to a contractor using a competitive se-
7 lection process based on qualifications, experi-
8 ence, best value, or any other combination of
9 factors considered appropriate by the con-
10 tracting agency.

11 “(C) TIMING.—

12 “(i) RELATIONSHIP TO NEPA PROC-
13 ESS.—Prior to the completion of the proc-
14 ess required under section 102 of the Na-
15 tional Environmental Policy Act of 1969
16 (42 U.S.C. 4332), a contracting agency
17 may—

18 “(I) issue requests for proposals;

19 “(II) proceed with the award of a
20 contract for preconstruction services
21 under subparagraph (A); and

22 “(III) issue notices to proceed
23 with a preliminary design and any
24 work related to preliminary design.

1 “(ii) PRECONSTRUCTION SERVICES
2 PHASE.—If the preconstruction services
3 phase of a contract under subparagraph
4 (A)(ii) focuses primarily on one alternative,
5 the Secretary shall require that the con-
6 tract include appropriate provisions to
7 achieve the objectives of section 102 of the
8 National Environmental Policy Act of
9 1969 (42 U.S.C. 4332) and comply with
10 other applicable Federal laws and regula-
11 tions.

12 “(iii) CONSTRUCTION SERVICES
13 PHASE.—A contracting agency may not
14 proceed with the award of the construction
15 services phase of a contract under subpara-
16 graph (A)(iv) and may not proceed, or per-
17 mit any consultant or contractor to pro-
18 ceed, with construction until completion of
19 the process required under section 102 of
20 the National Environmental Policy Act of
21 1969 (42 U.S.C. 4332).

22 “(iv) APPROVAL REQUIREMENT.—
23 Prior to authorizing construction activities,
24 the Secretary shall approve the contracting
25 agency’s price estimate for the entire

1 project, as well as any price agreement
2 with the general contractor for the project
3 or a portion of the project.

4 “(v) DESIGN ACTIVITIES.—A con-
5 tracting agency may proceed, at its ex-
6 pense, with design activities at any level of
7 detail for a project before completion of
8 the review process required for the project
9 under the National Environmental Policy
10 Act of 1969 (42 U.S.C. 4321 et seq.) with-
11 out affecting subsequent approvals re-
12 quired for the project. Design activities
13 carried out under this clause shall be eligi-
14 ble for Federal reimbursement as a project
15 expense in accordance with the require-
16 ments under section 109(s).”.

17 **SEC. 3007. ELIMINATION OF DUPLICATION IN HISTORIC**
18 **PRESERVATION REQUIREMENTS.**

19 (a) PRESERVATION OF PARKLANDS.—Section 138 is
20 amended by adding at the end the following:

21 “(c) ELIMINATION OF DUPLICATION FOR HISTORIC
22 SITES AND PROPERTIES.—The requirements of this sec-
23 tion shall be considered to be satisfied for an historic site
24 or property where its treatment has been agreed upon in
25 a memorandum of agreement by invited and mandatory

1 signatories, including the Advisory Council on Historic
2 Preservation, if participating, in accordance with section
3 106 of the National Historic Preservation Act (16 U.S.C.
4 470f).”.

5 (b) POLICY ON LANDS, WILDLIFE AND WATERFOWL
6 REFUGES, AND HISTORIC SITES.—Section 303 of title 49,
7 United States Code, is amended by adding at the end the
8 following:

9 “(e) ELIMINATION OF DUPLICATION FOR HISTORIC
10 SITES AND PROPERTIES.—The requirements of this sec-
11 tion shall be considered to be satisfied for an historic site
12 or property where its treatment has been agreed upon in
13 a memorandum of agreement by invited and mandatory
14 signatories, including the Advisory Council on Historic
15 Preservation, if participating, in accordance with Section
16 106 of the National Historic Preservation Act (16 U.S.C.
17 470f).”.

18 **SEC. 3008. FUNDING THRESHOLD.**

19 Section 139(b) is amended by adding at the end the
20 following:

21 “(3) FUNDING THRESHOLD.—The Secretary’s
22 approval of a project receiving funds under this title
23 or under chapter 53 of title 49 shall not be consid-
24 ered a Federal action for the purposes of the Na-

1 tional Environmental Policy Act of 1969 if such
2 funds—

3 “(A) constitute 15 percent or less of the
4 total estimated project costs; or

5 “(B) are less than \$10,000,000.”.

6 **SEC. 3009. EFFICIENT ENVIRONMENTAL REVIEWS FOR**
7 **PROJECT DECISIONMAKING.**

8 (a) FLEXIBILITY.—Section 139(b) is further amend-
9 ed—

10 (1) in paragraph (2) by inserting “, and any re-
11 quirements established in this section may be satis-
12 fied,” after “exercised”; and

13 (2) by adding after paragraph (3), as added by
14 this Act, the following:

15 “(4) PROGRAMMATIC COMPLIANCE.—At the re-
16 quest of a State, the Secretary may modify the pro-
17 cedures developed under this section to encourage
18 programmatic approaches and strategies with re-
19 spect to environmental programs and permits (in
20 lieu of project-by-project reviews).”.

21 (b) FEDERAL LEAD AGENCY.—Section 139(c) is
22 amended—

23 (1) in paragraph (1) by adding at the end the
24 following: “If the project requires approval from
25 more than one modal administration within the De-

1 partment, the Secretary shall designate a single
2 modal administration to serve as the Federal lead
3 agency for the Department in the environmental re-
4 view process for the project.”;

5 (2) in paragraph (3) by inserting “or other ap-
6 provals by the Secretary” after “chapter 53 of title
7 49”; and

8 (3) by striking paragraph (5) and inserting the
9 following:

10 “(5) ADOPTION AND USE OF DOCUMENTS.—
11 Any environmental document prepared in accordance
12 with this subsection shall be adopted and used by
13 any Federal agency in making any approval of a
14 project subject to this section as the document re-
15 quired to be completed under the National Environ-
16 mental Policy Act of 1969.”.

17 (c) PARTICIPATING AGENCIES.—

18 (1) EFFECT OF DESIGNATION.—Section
19 139(d)(4) is amended to read as follows:

20 “(4) EFFECT OF DESIGNATION.—

21 “(A) REQUIREMENT.—A participating
22 agency shall comply with the requirements of
23 this section and any schedule established under
24 this section.

1 “(B) IMPLICATION.—Designation as a par-
2 ticipating agency under this subsection shall not
3 imply that the participating agency—

4 “(i) supports a proposed project; or

5 “(ii) has any jurisdiction over, or spe-
6 cial expertise with respect to evaluation of,
7 the project.”.

8 (2) CONCURRENT REVIEWS.—Section 139(d)(7)
9 is amended to read as follows:

10 “(7) CONCURRENT REVIEWS.—Each partici-
11 pating agency and cooperating agency shall—

12 “(A) carry out obligations of that agency
13 under other applicable law concurrently, and in
14 conjunction, with the review required under the
15 National Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.); and

17 “(B) formulate and implement administra-
18 tive, policy, and procedural mechanisms to en-
19 able the agency to ensure completion of the en-
20 vironmental review process in a timely, coordi-
21 nated, and environmentally responsible man-
22 ner.”.

23 (d) PROJECT INITIATION.—Section 139(e) is amend-
24 ed by adding at the end the following: “The project spon-
25 sor may satisfy this requirement by submitting to the Sec-

1 retary a draft notice for publication in the Federal Reg-
2 ister announcing the preparation of an environmental im-
3 pact statement for the project.”.

4 (e) ALTERNATIVES ANALYSIS.—Section 139(f) is
5 amended—

6 (1) in paragraph (4)—

7 (A) by amending subparagraph (B) to read
8 as follows

9 “(B) RANGE OF ALTERNATIVES.—

10 “(i) IN GENERAL.—Following partici-
11 pation under paragraph (1), the lead agen-
12 cy shall determine the range of alternatives
13 for consideration in any document which
14 the lead agency is responsible for pre-
15 paring for the project.

16 “(ii) LIMITATION.—The range of al-
17 ternatives shall be limited to alternatives
18 that are—

19 “(I) consistent with the transpor-
20 tation mode and general design of the
21 project described in the long-range
22 transportation plan or transportation
23 improvement program prepared pur-
24 suant to section 5203 or 5204 of title
25 49; and

1 “(II) consistent with the funding
2 identified for the project under the
3 fiscal constraint requirements of sec-
4 tion 5203 or 5204 of title 49.

5 “(iii) RESTRICTION.—A Federal agen-
6 cy may not require the evaluation of any
7 alternative that was evaluated, but not
8 adopted—

9 “(I) in any prior State or Fed-
10 eral environmental document with re-
11 gard to the applicable long-range
12 transportation plan or transportation
13 improvement program; or

14 “(II) after the preparation of a
15 programmatic or tiered environmental
16 document that evaluated alternatives
17 to the project.

18 “(iv) LEGAL SUFFICIENCY.—The eval-
19 uation of the range of alternatives shall be
20 deemed legally sufficient if the environ-
21 mental document complies with the re-
22 quirements of this paragraph.”;

23 (B) in subparagraph (C)—

1 (i) by striking “(C) METHODOLO-
2 GIES.—The lead agency” and inserting the
3 following:

4 “(C) METHODOLOGIES.—

5 “(i) IN GENERAL.—The lead agency”;

6 (ii) by striking “in collaboration with
7 participating agencies at appropriate times
8 during the study process” and inserting
9 “after consultation with participating
10 agencies as part of the scoping process”;
11 and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(ii) COMMENTS.—Each participating
15 agency shall limit comments on such meth-
16 odologies to those issues that are within
17 the authority and expertise of such partici-
18 pating agency.

19 “(iii) STUDIES.—The lead agency may
20 not conduct studies proposed by any par-
21 ticipating agency that are not within the
22 authority or expertise of such participating
23 agency.”; and

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

1 “(E) LIMITATIONS ON THE EVALUATION
2 OF IMPACTS EVALUATED IN PRIOR ENVIRON-
3 MENTAL DOCUMENTS.—

4 “(i) IN GENERAL.—The lead agency
5 may not reevaluate, and a Federal agency
6 may not require the reevaluation of, cumu-
7 lative impacts or growth-inducing impacts
8 where such impacts were previously evalu-
9 ated in—

10 “(I) a long-range transportation
11 plan or transportation improvement
12 program developed pursuant to sec-
13 tion 5203 or 5204 of title 49;

14 “(II) a prior environmental docu-
15 ment approved by the Secretary; or

16 “(III) a prior State environ-
17 mental document approved pursuant
18 to a State law that is substantially
19 equivalent to section 102(2)(C) of the
20 National Environmental Policy Act of
21 1969 (42 U.S.C. 4332(2)(C)).

22 “(ii) LEGAL SUFFICIENCY.—The eval-
23 uation of cumulative impacts and growth
24 inducing impacts shall be deemed legally
25 sufficient if the environmental document

1 complies with the requirements of this
2 paragraph.”; and

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

4 “(5) EFFECTIVE DECISIONMAKING.—

5 “(A) CONCURRENCE.—At the discretion of
6 the lead agency, a participating agency shall be
7 presumed to concur in the determinations made
8 by the lead agency under this subsection unless
9 the participating agency submits an objection to
10 the lead agency in writing within 30 days after
11 receiving notice of the lead agency’s determina-
12 tion and specifies the statutory basis for the ob-
13 jection.

14 “(B) ADOPTION OF DETERMINATION.—If
15 the participating agency concurs or does not ob-
16 ject within the 30-day period, the participating
17 agency shall adopt the lead agency’s determina-
18 tion for purposes of any reviews, approvals, or
19 other actions taken by the participating agency
20 as part of the environmental review process for
21 the project.”.

22 (f) COORDINATION PLAN.—Section 139(g) is amend-
23 ed—

1 (1) in paragraph (1)(A) by striking “project or
2 category of projects” and inserting “project, cat-
3 egory of projects, or program of projects”;

4 (2) by amending paragraph (3) to read as fol-
5 lows:

6 “(3) DEADLINES FOR DECISIONS UNDER
7 OTHER LAWS.—

8 “(A) PRIOR APPROVAL DEADLINE.—If a
9 participating agency is required to make a de-
10 termination regarding or otherwise approve or
11 disapprove the project prior to the record of de-
12 cision or finding of no significant impact of the
13 lead agency, such participating agency shall
14 make such determination or approval not later
15 than 30 days after the lead agency publishes
16 notice of the availability of a final environ-
17 mental impact statement or other final environ-
18 mental document, or not later than such other
19 date that is otherwise required by law, which-
20 ever occurs first.

21 “(B) OTHER DEADLINES.—With regard to
22 any determination or approval of a partici-
23 pating agency that is not subject to subpara-
24 graph (A), each participating agency shall make
25 any required determination regarding or other-

1 wise approve or disapprove the project not later
2 than 90 days after the date that the lead agen-
3 cy approves the record of decision or finding of
4 no significant impact for the project, or not
5 later than such other date that is otherwise re-
6 quired by law, whichever occurs first.

7 “(C) DEEMED APPROVED.—In the event
8 that any participating agency fails to make a
9 determination or approve or disapprove the
10 project within the applicable deadline described
11 in subparagraphs (A) and (B), the project shall
12 be deemed approved by such participating agen-
13 cy, and such approval shall be deemed to com-
14 ply with the applicable requirements of Federal
15 law.

16 “(D) JUDICIAL REVIEW.—

17 “(i) IN GENERAL.—An approval of a
18 project under subparagraph (C) shall not
19 be subject to judicial review.

20 “(ii) WRITTEN FINDING.—The Sec-
21 retary may issue a written finding
22 verifying the approval made in accordance
23 with this paragraph.”; and

24 (3) by striking paragraph (4).

1 (g) ISSUE IDENTIFICATION AND RESOLUTION.—Sec-
2 tion 139(h)(4) is amended by adding at the end the fol-
3 lowing:

4 “(C) RESOLUTION FINAL.—

5 “(i) IN GENERAL.—The lead agency
6 and participating agencies may not recon-
7 sider the resolution of any issue agreed to
8 by the relevant agencies in a meeting
9 under subparagraph (A).

10 “(ii) COMPLIANCE WITH APPLICABLE
11 LAW.—Any such resolution shall be
12 deemed to comply with applicable law not-
13 withstanding that the agencies agreed to
14 such resolution prior to the approval of the
15 environmental document.”.

16 (h) STREAMLINED DOCUMENTATION AND DECISION-
17 MAKING.—Section 139 (as amended by title I of this Act)
18 is further amended—

19 (1) by redesignating subsections (i) through (l)
20 as subsections (k) through (n), respectively; and

21 (2) by inserting after subsection (h) the fol-
22 lowing:

23 “(i) STREAMLINED DOCUMENTATION AND DECISION-
24 MAKING.—

1 “(1) IN GENERAL.—The lead agency in the en-
2 vironmental review process for a project, in order to
3 reduce paperwork and expedite decisionmaking, shall
4 prepare a condensed final environmental impact
5 statement.

6 “(2) CONDENSED FORMAT.—A condensed final
7 environmental impact statement for a project in the
8 environmental review process shall consist only of—

9 “(A) an incorporation by reference of the
10 draft environmental impact statement;

11 “(B) any updates to specific pages or sec-
12 tions of the draft environmental impact state-
13 ment as appropriate; and

14 “(C) responses to comments on the draft
15 environmental impact statement and copies of
16 the comments.

17 “(3) TIMING OF DECISION.—Notwithstanding
18 any other provision of law, in conducting the envi-
19 ronmental review process for a project, the lead
20 agency shall combine a final environmental impact
21 statement and a record of decision for the project
22 into a single document if—

23 “(A) the alternative approved in the record
24 of decision is either a preferred alternative that
25 was identified in the draft environmental im-

1 pact statement or is a modification of such pre-
2 ferred alternative that was developed in re-
3 sponse to comments on the draft environmental
4 impact statement;

5 “(B) the Secretary has received a certifi-
6 cation from a State under section 128, if such
7 a certification is required for the project; and

8 “(C) the Secretary determines that the
9 lead agency, participating agency, or the project
10 sponsor has committed to implement the meas-
11 ures applicable to the approved alternative that
12 are identified in the final environmental impact
13 statement.

14 “(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND
15 RE-EVALUATION.—

16 “(1) SUPPLEMENTAL ENVIRONMENTAL RE-
17 VIEW.—After the approval of a record of decision or
18 finding of no significant impact with regard to a
19 project, an agency may not require the preparation
20 of a subsequent environmental document for such
21 project unless the lead agency determines that—

22 “(A) changes to the project will result in
23 new significant impacts that were not evaluated
24 in the environmental document; or

1 “(B) new information has become available
2 or changes in circumstances have occurred after
3 the lead agency approval of the project that will
4 result in new significant impacts that were not
5 evaluated in the environmental document.

6 “(2) RE-EVALUATIONS.—The Secretary may
7 only require the re-evaluation of a document pre-
8 pared under the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.) if—

10 “(A) the Secretary determines that the
11 events in paragraph (1)(A) or (1)(B) apply; and

12 “(B) more than 5 years has elapsed since
13 the Secretary’s prior approval of the project or
14 authorization of project funding.

15 “(3) CHANGE TO RECORD OF DECISION.—After
16 the approval of a record of decision, the Secretary
17 may not require the record of decision to be changed
18 solely because of a change in the fiscal cir-
19 cumstances surrounding the project.”.

20 (i) REGULATIONS.—Section 139(m) (as redesignated
21 by subsection (h)(1) of this section) is further amended
22 to read as follows:

23 “(m) REGULATIONS.—

24 “(1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of the American Energy and

1 Infrastructure Jobs Act of 2012, the Secretary, by
2 regulation, shall—

3 “(A) implement this section; and

4 “(B) establish methodologies and proce-
5 dures for evaluating the environmental impacts,
6 including cumulative impacts and growth-induc-
7 ing impacts, of transportation projects subject
8 to this section.

9 “(2) COMPLIANCE WITH APPLICABLE LAW.—

10 Any environmental document that utilizes the meth-
11 odologies and procedures established under this sub-
12 section shall be deemed to comply with the applica-
13 ble requirements of—

14 “(A) the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4321 et seq.) or its im-
16 plementing regulations; or

17 “(B) any other Federal environmental
18 statute applicable to transportation projects.”.

19 (j) LIMITATIONS ON CLAIMS.—Section 139(n) (as re-
20 designated by subsection (h)(1) of this section) is further
21 amended—

22 (1) in paragraph (1) by striking “180 days”
23 and inserting “90 days”; and

24 (2) by striking paragraph (2) and inserting the
25 following:

1 “(2) NEW INFORMATION.—The preparation of
2 a supplemental environmental impact statement or
3 other environmental document when required by this
4 section shall be considered a separate final agency
5 action and the deadline for filing a claim for judicial
6 review of such action shall be 90 days after the date
7 of publication of a notice in the Federal Register an-
8 nouncing such action.”.

9 (k) LIMITATIONS ON JUDICIAL RELIEF.—Section
10 139 is further amended by adding at the end the following:

11 “(o) LIMITATIONS ON JUDICIAL RELIEF.—Notwith-
12 standing any other provision of law, the following limita-
13 tions shall apply to actions brought before a court in con-
14 nection with a project under this section:

15 “(1) Venue for any action shall be where the
16 project is located.

17 “(2) A specific property interest impacted by
18 the transportation project in question must exist in
19 order to have standing to bring an action.

20 “(3) No action may be commenced by any per-
21 son alleging a violation of—

22 “(A) the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4321 et seq.), chapters
24 5 and 7 of title 5, or any other Federal law ap-
25 plicable to the evaluation, avoidance, or mitiga-

1 tion of environmental impacts of the project if
2 such Federal law is identified in the draft envi-
3 ronmental impact statement, unless such person
4 provided written notice to the lead agency of
5 the alleged violation of law, and the facts sup-
6 porting such claim, during the public comment
7 period on the draft environmental impact state-
8 ment; or

9 “(B) any other law with regard to the
10 project unless such person provided written no-
11 tice to the applicable approving agency of the
12 alleged violation of law, and the facts sup-
13 porting such claim, during the public comment
14 period on such agency approval.

15 “(4) Elected or appointed officials working for
16 the Government or a State government may not be
17 named in their individual capacities in an action if
18 they are acting within the scope of their official du-
19 ties.”.

20 **SEC. 3010. DISPOSAL OF HISTORIC PROPERTIES.**

21 (a) DISPOSAL OF HISTORIC PROPERTIES.—Section
22 156 is amended—

23 (1) by striking the section heading and insert-
24 ing “**Sale or lease of real property**”; and

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

1 “(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwith-
2 standing part 800 of title 36, Code of Federal Regula-
3 tions, the sale or lease by a State of any historic property
4 that is not listed in the National Register of Historic
5 Places shall not be considered an adverse effect to the
6 property within any consultation process carried out under
7 section 106 of the National Historic Preservation Act (16
8 U.S.C. 470f).”.

9 (b) CLERICAL AMENDMENT.—The analysis for chap-
10 ter 1 is amended by striking the item relating to section
11 156 and inserting the following:

“156. Sale or lease of real property.”.

12 **SEC. 3011. INTEGRATION OF PLANNING AND ENVIRON-**
13 **MENTAL REVIEW.**

14 (a) IN GENERAL.—Chapter 1 is amended by adding
15 at the end the following:

16 **“§ 167. Integration of planning and environmental re-**
17 **view**

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

20 “(1) ENVIRONMENTAL REVIEW PROCESS.—

21 “(A) IN GENERAL.—The term ‘environ-
22 mental review process’ means the process for
23 preparing for a project an environmental impact
24 statement, environmental assessment, categor-
25 ical exclusion, or other document prepared

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

3 “(B) INCLUSIONS.—The term ‘environ-
4 mental review process’ includes the process for
5 and completion of any environmental permit,
6 approval, review, or study required for a project
7 under any Federal law other than the National
8 Environmental Policy Act of 1969 (42 U.S.C.
9 4321 et seq.).

10 “(2) PLANNING PRODUCT.—The term ‘planning
11 product’ means any decision, analysis, study, or
12 other documented result of an evaluation or deci-
13 sionmaking process carried out during transpor-
14 tation planning.

15 “(3) PROJECT.—The term ‘project’ means any
16 highway project or program of projects, public trans-
17 portation capital project or program of projects, or
18 multimodal project or program of projects that re-
19 quires the approval of the Secretary.

20 “(4) PROJECT SPONSOR.—The term ‘project
21 sponsor’ means the agency or other entity, including
22 any private or public-private entity, that seeks ap-
23 proval of the Secretary for a project.

24 “(b) PURPOSE AND FINDINGS.—

1 “(1) PURPOSE.—The purpose of this section is
2 to establish the authority and provide procedures for
3 achieving integrated planning and environmental re-
4 view processes to—

5 “(A) enable statewide and metropolitan
6 planning processes to more effectively serve as
7 the foundation for project decisions;

8 “(B) foster better decisionmaking;

9 “(C) reduce duplication in work;

10 “(D) avoid delays in transportation im-
11 provements; and

12 “(E) better transportation and environ-
13 mental results for communities and the United
14 States.

15 “(2) FINDINGS.—Congress finds the following:

16 “(A) This section is consistent with and is
17 adopted in furtherance of sections 101 and 102
18 of the National Environmental Policy Act of
19 1969 (42 U.S.C. 4331 and 4332) and section
20 109 of this title.

21 “(B) This section should be broadly con-
22 strued and may be applied to any project, class
23 of projects, or program of projects carried out
24 under this title or chapter 53 of title 49.

1 “(c) ADOPTION OF PLANNING PRODUCTS FOR USE
2 IN NEPA PROCEEDINGS.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of law and subject to the conditions set
5 forth in subsection (e), the Federal lead agency for
6 a project, at the request of the project sponsors, may
7 adopt and use a planning product in proceedings re-
8 lating to any class of action in the environmental re-
9 view process of the project.

10 “(2) PARTIAL ADOPTION OF PLANNING PROD-
11 UCTS.—The Federal lead agency may adopt a plan-
12 ning product under paragraph (1) in its entirety or
13 may select portions for adoption.

14 “(3) TIMING.—A determination under para-
15 graph (1) with respect to the adoption of a planning
16 product shall be made at the time the lead agencies
17 decide the appropriate scope of environmental review
18 for the project.

19 “(d) APPLICABILITY.—

20 “(1) PLANNING DECISIONS.—Planning deci-
21 sions that may be adopted pursuant to this section
22 include—

23 “(A) a purpose and need or goals and ob-
24 jectives statement for the project, including
25 with respect to whether tolling, private financial

1 assistance, or other special financial measures
2 are necessary to implement the project;

3 “(B) a decision with respect to travel cor-
4 ridor location, including project termini;

5 “(C) a decision with respect to modal
6 choice, including a decision to implement cor-
7 ridor or subarea study recommendations to ad-
8 vance different modal solutions as separate
9 projects with independent utility;

10 “(D) a decision with respect to the elimi-
11 nation of unreasonable alternatives and the se-
12 lection of the range of reasonable alternatives
13 for detailed study during the environmental re-
14 view process;

15 “(E) a basic description of the environ-
16 mental setting;

17 “(F) a decision with respect to methodolo-
18 gies for analysis; and

19 “(G) identifications of programmatic level
20 mitigation for potential impacts that the Fed-
21 eral lead agency, in consultation with Federal,
22 State, local, and tribal resource agencies, deter-
23 mines are most effectively addressed at a re-
24 gional or national program level, including—

1 “(i) system-level measures to avoid,
2 minimize, or mitigate impacts of proposed
3 transportation investments on environ-
4 mental resources, including regional eco-
5 system and water resources; and

6 “(ii) potential mitigation activities, lo-
7 cations, and investments.

8 “(2) PLANNING ANALYSES.—Planning analyses
9 that may be adopted pursuant to this section include
10 studies with respect to—

11 “(A) travel demands;

12 “(B) regional development and growth;

13 “(C) local land use, growth management,
14 and development;

15 “(D) population and employment;

16 “(E) natural and built environmental con-
17 ditions;

18 “(F) environmental resources and environ-
19 mentally sensitive areas;

20 “(G) potential environmental effects, in-
21 cluding the identification of resources of con-
22 cern and potential cumulative effects on those
23 resources, identified as a result of a statewide
24 or regional cumulative effects assessment; and

1 “(H) mitigation needs for a proposed ac-
2 tion, or for programmatic level mitigation, for
3 potential effects that the Federal lead agency
4 determines are most effectively addressed at a
5 regional or national program level.

6 “(e) CONDITIONS.—Adoption and use of a planning
7 product under this section is subject to a determination
8 by the Federal lead agency, in consultation with joint lead
9 agencies and project sponsors as appropriate, that the fol-
10 lowing conditions have been met:

11 “(1) The planning product was developed
12 through a planning process conducted pursuant to
13 applicable Federal law.

14 “(2) The planning process included broad mul-
15 tidisciplinary consideration of systems-level or cor-
16 ridor-wide transportation needs and potential effects.

17 “(3) During the planning process, notice was
18 provided through publication or other means to Fed-
19 eral, State, and local government agencies and tribal
20 governments that might have an interest in the pro-
21 posed project, and to members of the general public,
22 of the planning products that the planning process
23 might produce and that might be relied on during
24 the environmental review process, and such entities
25 have been provided an appropriate opportunity to

1 participate in the planning process leading to such
2 planning product.

3 “(4) Prior to determining the scope of environ-
4 mental review for the project, the joint lead agencies
5 have made documentation relating to the planning
6 product available to Federal, State, and local gov-
7 ernmental agencies and tribal governments that may
8 have an interest in the proposed action, and to mem-
9 bers of the general public.

10 “(5) There is no significant new information or
11 new circumstance that has a reasonable likelihood of
12 affecting the continued validity or appropriateness of
13 the planning product.

14 “(6) The planning product is based on reliable
15 and reasonably current data and reasonable and sci-
16 entifically acceptable methodologies.

17 “(7) The planning product is documented in
18 sufficient detail to support the decision or the re-
19 sults of the analysis and to meet requirements for
20 use of the information in the environmental review
21 process.

22 “(8) The planning product is appropriate for
23 adoption and use in the environmental review proc-
24 ess for the project.

1 “(f) EFFECT OF ADOPTION.—Notwithstanding any
2 other provision of law, any planning product adopted by
3 the Federal lead agency in accordance with this section
4 shall not be reconsidered or made the subject of additional
5 interagency consultation during the environmental review
6 process of the project unless the Federal lead agency, in
7 consultation with joint lead agencies and project sponsors
8 as appropriate, determines that there is significant new
9 information or new circumstances that affect the contin-
10 ued validity or appropriateness of the adopted planning
11 product. Any planning product adopted by the Federal
12 lead agency in accordance with this section may be relied
13 upon and used by other Federal agencies in carrying out
14 reviews of the project.

15 “(g) RULE OF CONSTRUCTION.—This section may
16 not be construed to make the National Environmental Pol-
17 icy Act of 1969 (42 U.S.C. 4321 et seq.) process applica-
18 ble to the transportation planning process conducted
19 under chapter 52 of title 49. Initiation of the National
20 Environmental Policy Act of 1969 process as a part of,
21 or concurrently with, transportation planning activities
22 does not subject transportation plans and programs to the
23 National Environmental Policy Act of 1969 process. This
24 section may not be construed to affect the use of planning
25 products in the National Environmental Policy Act of

1 1969 process pursuant to other authorities under law or
2 to restrict the initiation of the National Environmental
3 Policy Act of 1969 process during planning.”.

4 (b) CLERICAL AMENDMENT.—The analysis for such
5 chapter is amended by adding at end the following:

“167. Integration of planning and environmental review.”.

6 **SEC. 3012. DEVELOPMENT OF PROGRAMMATIC MITIGATION**
7 **PLANS.**

8 (a) IN GENERAL.—Chapter 1 (as amended by this
9 title) is further amended by adding at the end the fol-
10 lowing:

11 **“§ 168. Development of programmatic mitigation**
12 **plans**

13 “(a) IN GENERAL.—As part of the statewide or met-
14 ropolitan transportation planning process, a State or met-
15 ropolitan planning organization may develop one or more
16 programmatic mitigation plans to address the potential
17 environmental impacts of future transportation projects.

18 “(b) SCOPE.—

19 “(1) SCALE.—A programmatic mitigation plan
20 may be developed on a regional, ecosystem, water-
21 shed, or statewide scale.

22 “(2) RESOURCES.—The plan may encompass
23 multiple environmental resources within a defined
24 geographic area or may focus on a specific resource,

1 such as aquatic resources, parklands, or wildlife
2 habitat.

3 “(3) PROJECT IMPACTS.—The plan may ad-
4 dress impacts from all projects in a defined geo-
5 graphic area or may focus on a specific type of
6 project, such as bridge replacements.

7 “(4) CONSULTATION.—The scope of the plan
8 shall be determined by the State or metropolitan
9 planning organization, as appropriate, in consulta-
10 tion with the agency or agencies with jurisdiction
11 over the resources being addressed in the mitigation
12 plan.

13 “(c) CONTENTS.—A programmatic mitigation plan
14 may include—

15 “(1) an assessment of the condition of environ-
16 mental resources in the geographic area covered by
17 the plan, including an assessment of recent trends
18 and any potential threats to those resources;

19 “(2) an assessment of potential opportunities to
20 improve the overall quality of environmental re-
21 sources in the geographic area covered by the plan,
22 through strategic mitigation for impacts of transpor-
23 tation projects;

24 “(3) standard measures for mitigating certain
25 types of impacts;

1 “(4) parameters for determining appropriate
2 mitigation for certain types of impacts, such as miti-
3 gation ratios or criteria for determining appropriate
4 mitigation sites;

5 “(5) adaptive management procedures, such as
6 protocols that involve monitoring predicted impacts
7 over time and adjusting mitigation measures in re-
8 sponse to information gathered through the moni-
9 toring; and

10 “(6) acknowledgment of specific statutory or
11 regulatory requirements that must be satisfied when
12 determining appropriate mitigation for certain types
13 of resources.

14 “(d) PROCESS.—Before adopting a programmatic
15 mitigation plan, a State or metropolitan planning organi-
16 zation shall—

17 “(1) consult with the agency or agencies with
18 jurisdiction over the environmental resources consid-
19 ered in the programmatic mitigation plan;

20 “(2) make a draft of the plan available for re-
21 view and comment by applicable environmental re-
22 source agencies and the public;

23 “(3) consider any comments received from such
24 agencies and the public on the draft plan; and

25 “(4) address such comments in the final plan.

1 “(e) INTEGRATION WITH OTHER PLANS.—A pro-
2 grammatic mitigation plan may be integrated with other
3 plans, including watershed plans, ecosystem plans, species
4 recovery plans, growth management plans, and land use
5 plans.

6 “(f) CONSIDERATION IN PROJECT DEVELOPMENT
7 AND PERMITTING.—If a programmatic mitigation plan
8 has been developed pursuant to this section, any Federal
9 agency responsible for environmental reviews, permits, or
10 approvals for a transportation project shall give substan-
11 tial weight to the recommendations in a programmatic
12 mitigation plan when carrying out their responsibilities
13 under applicable laws.

14 “(g) PRESERVATION OF EXISTING AUTHORITIES.—
15 Nothing in this section limits the use of programmatic ap-
16 proaches to reviews under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

18 (b) CLERICAL AMENDMENT.—The analysis for such
19 chapter (as amended by this title) is further amended by
20 adding at the end the following:

“168. Development of programmatic mitigation plans.”.

21 **SEC. 3013. STATE ASSUMPTION OF RESPONSIBILITY FOR**
22 **CATEGORICAL EXCLUSIONS.**

23 Section 326(a) is amended—

24 (1) in paragraph (2) by striking “and only for
25 types of activities specifically designated by the Sec-

1 retary” and inserting “and for any type of activity
2 for which a categorical exclusion classification is ap-
3 propriate”; and

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

5 “(4) PRESERVATION OF FLEXIBILITY.—The
6 Secretary shall not require a State, as a condition of
7 assuming responsibility under this section, to forego
8 project delivery methods that are otherwise permis-
9 sible for highway projects.”.

10 **SEC. 3014. SURFACE TRANSPORTATION PROJECT DELIV-**
11 **ERY PROGRAM.**

12 (a) PROGRAM NAME.—Section 327 is amended—

13 (1) in the section heading by striking “**pilot**”;

14 and

15 (2) in subsection (a)(1) by striking “pilot”.

16 (b) ASSUMPTION OF RESPONSIBILITY.—Section
17 327(a)(2) is amended—

18 (1) in subparagraph (A) by striking “highway”;

19 (2) in subparagraph (B) by striking clause (ii)

20 and inserting the following:

21 “(ii) the Secretary may not assign any
22 responsibility imposed on the Secretary by
23 section 5203 or 5204 of title 49.”; and

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

1 “(F) PRESERVATION OF FLEXIBILITY.—
2 The Secretary may not require a State, as a
3 condition of participation in the program, to
4 forego project delivery methods that are other-
5 wise permissible for projects.”.

6 (c) STATE PARTICIPATION.—Section 327(b) is
7 amended—

8 (1) by amending paragraph (1) to read as fol-
9 lows:

10 “(1) PARTICIPATING STATES.—All States are
11 eligible to participate in the program.”; and

12 (2) in paragraph (2) by striking “this section,
13 the Secretary shall promulgate” and inserting
14 “amendments to this section by the American En-
15 ergy and Infrastructure Jobs Act of 2012, the Sec-
16 retary shall amend, as appropriate,”.

17 (d) WRITTEN AGREEMENT.—Section 327(e) is
18 amended—

19 (1) in paragraph (3)(D) by striking the period
20 at the end and inserting a semicolon; and

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

22 “(4) have a term of not more than 5 years; and

23 “(5) be renewable.”.

1 (e) CONFORMING AMENDMENT.—Section 327(e) is
2 amended by striking “subsection (i)” and inserting “sub-
3 section (j)”.

4 (f) AUDITS.—Section 327(g)(1)(B) is amended by
5 striking “subsequent year” and inserting “of the third and
6 fourth years”.

7 (g) MONITORING.—Section 327 is further amended—

8 (1) by redesignating subsections (h) and (i) as
9 subsections (i) and (j), respectively; and

10 (2) by inserting after subsection (g) the fol-
11 lowing:

12 “(h) MONITORING.—After the fourth year of the par-
13 ticipation of a State in the program, the Secretary shall
14 monitor compliance by the State with the written agree-
15 ment, including the provision by the State of financial re-
16 sources to carry out the written agreement.”.

17 (h) TERMINATION.—Section 327(j) (as redesignated
18 by subsection (g)(1) of this section) is amended to read
19 as follows:

20 “(j) TERMINATION.—The Secretary may terminate
21 the participation of any State in the program if—

22 “(1) the Secretary determines that the State is
23 not adequately carrying out the responsibilities as-
24 signed to the State;

25 “(2) the Secretary provides to the State—

1 “(A) notification of the determination of
2 noncompliance; and

3 “(B) a period of at least 30 days during
4 which to take such corrective action as the Sec-
5 retary determines is necessary to comply with
6 the applicable agreement; and

7 “(3) the State, after the notification and period
8 provided under paragraph (2), fails to take satisfac-
9 tory corrective action, as determined by the Sec-
10 retary.”.

11 (i) DEFINITIONS.—Section 327 is amended by adding
12 at the end the following:

13 “(k) DEFINITIONS.—In this section, the following
14 definitions apply:

15 “(1) MULTIMODAL PROJECT.—The term
16 ‘multimodal project’ means a project funded, in
17 whole or in part, under this title or chapter 53 of
18 title 49 and involving the participation of more than
19 one Department of Transportation administration or
20 agency.

21 “(2) PROJECT.—The term ‘project’ means any
22 highway project, public transportation capital
23 project, or multimodal project that requires the ap-
24 proval of the Secretary.”.

1 (j) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 3 is amended by striking the item relating to section
3 327 and inserting the following:

“327. Surface transportation project delivery program.”.

4 **SEC. 3015. PROGRAM FOR ELIMINATING DUPLICATION OF**
5 **ENVIRONMENTAL REVIEWS.**

6 (a) IN GENERAL.—Chapter 3 (as amended by title
7 I of this Act) is further amended by adding at the end
8 the following:

9 **“§ 331. Program for eliminating duplication of envi-**
10 **ronmental reviews**

11 “(a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—The Secretary shall estab-
13 lish a program to eliminate duplicative environ-
14 mental reviews and approvals under State and Fed-
15 eral law of projects. Under this program, a State
16 may use State laws and procedures to conduct re-
17 views and make approvals in lieu of Federal environ-
18 mental laws and regulations, consistent with the pro-
19 visions of this section.

20 “(2) PARTICIPATING STATES.—All States are
21 eligible to participate in the program.

22 “(3) SCOPE OF ALTERNATIVE REVIEW AND AP-
23 PROVAL PROCEDURES.—For purposes of this sec-
24 tion, alternative environmental review and approval
25 procedures may include one or more of the following:

1 “(A) Substitution of one or more State en-
2 vironmental laws for one or more Federal envi-
3 ronmental laws, if the Secretary determines in
4 accordance with this section that the State envi-
5 ronmental laws provide environmental protec-
6 tion and opportunities for public involvement
7 that are substantially equivalent to the applica-
8 ble Federal environmental laws.

9 “(B) Substitution of one or more State
10 regulations for Federal regulations imple-
11 menting one or more Federal environmental
12 laws, if the Secretary determines in accordance
13 with this section that the State regulations pro-
14 vide environmental protection and opportunities
15 for public involvement that are substantially
16 equivalent to the Federal regulations.

17 “(b) APPLICATION.—To participate in the program,
18 a State shall submit to the Secretary an application con-
19 taining such information as the Secretary may require, in-
20 cluding—

21 “(1) a full and complete description of the pro-
22 posed alternative environmental review and approval
23 procedures of the State;

24 “(2) for each State law or regulation included
25 in the proposed alternative environmental review and

1 approval procedures of the State, an explanation of
2 the basis for concluding that the law or regulation
3 meets the requirements under subsection (a)(3); and

4 “(3) evidence of having sought, received, and
5 addressed comments on the proposed application
6 from the public and appropriate Federal environ-
7 mental resource agencies.

8 “(c) REVIEW OF APPLICATION.—The Secretary
9 shall—

10 “(1) review an application submitted under sub-
11 section (b);

12 “(2) approve or disapprove the application in
13 accordance with subsection (d) not later than 90
14 days after the date of the receipt of the application;
15 and

16 “(3) transmit to the State notice of the ap-
17 proval or disapproval, together with a statement of
18 the reasons for the approval or disapproval.

19 “(d) APPROVAL OF STATE PROGRAMS.—

20 “(1) IN GENERAL.—The Secretary shall ap-
21 prove each such application if the Secretary finds
22 that the proposed alternative environmental review
23 and approval procedures of the State are substan-
24 tially equivalent to the applicable Federal environ-
25 mental laws and Federal regulations.

1 “(2) EXCLUSION.—The National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
3 and the Endangered Species Act of 1973 (16 U.S.C.
4 1531 et seq.) shall not apply to any decision by the
5 Secretary to approve or disapprove any application
6 submitted pursuant to this section.

7 “(e) COMPLIANCE WITH PERMITS.—Compliance with
8 a permit or other approval of a project issued pursuant
9 to a program approved by the Secretary under this section
10 shall be deemed compliance with the Federal laws and reg-
11 ulations identified in the program approved by the Sec-
12 retary pursuant to this section.

13 “(f) REVIEW AND TERMINATION.—

14 “(1) REVIEW.—All State alternative environ-
15 mental review and approval procedures approved
16 under this section shall be reviewed by the Secretary
17 not less than once every 5 years.

18 “(2) PUBLIC NOTICE AND COMMENT.—In con-
19 ducting the review process under paragraph (1), the
20 Secretary shall provide notice and an opportunity for
21 public comment.

22 “(3) EXTENSIONS AND TERMINATIONS.—At the
23 conclusion of the review process, the Secretary may
24 extend the State alternative environmental review

1 and approval procedures for an additional 5-year pe-
2 riod or terminate the State program.

3 “(g) REPORT TO CONGRESS.—Not later than 2 years
4 after the date of enactment of this section and annually
5 thereafter, the Secretary shall submit to Congress a report
6 that describes the administration of the program.

7 “(h) DEFINITIONS.—For purposes of this section:

8 “(1) ENVIRONMENTAL LAW.—The term ‘envi-
9 ronmental law’ includes any law that provides proce-
10 dural or substantive protection, as applicable, for the
11 natural or built environment with regard to the con-
12 struction and operation of projects.

13 “(2) FEDERAL ENVIRONMENTAL LAWS.—The
14 term ‘Federal environmental laws’ means laws gov-
15 erning the review of environmental impacts of, and
16 issuance of permits and other approvals for, the con-
17 struction and operation of projects, including section
18 102(2)(C) of the National Environmental Policy Act
19 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
20 Federal Water Pollution Control Act (33 U.S.C.
21 1344), section 106 of the National Historic Preser-
22 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
23 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
24 cies Act of 1973 (16 U.S.C. 1536(a)(2),
25 1538(a)(1)(B), 1539(a)(1)(B)).

1 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.) in accordance with this section.

3 “(b) TERMS OF AGREEMENT.—An agreement au-
4 thorizing a State to carry out legal sufficiency reviews for
5 Federal-aid highway projects shall contain the following
6 provisions:

7 “(1) A finding by the Federal Highway Admin-
8 istration that the State has the capacity to carry out
9 legal sufficiency reviews that are equivalent in qual-
10 ity and consistency to the reviews that would other-
11 wise be conducted by attorneys employed by such
12 Administration.

13 “(2) An oversight process, including periodic re-
14 views conducted by attorneys employed by such Ad-
15 ministration, to evaluate the quality of the legal suf-
16 ficiency reviews carried out by the State transpor-
17 tation department under the agreement.

18 “(3) A requirement for the State transportation
19 department to submit a written finding of legal suf-
20 ficiency to the Federal Highway Administration con-
21 currently with the request by the State for Federal
22 approval of the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4321 et seq.) document.

24 “(4) An opportunity for the Federal Highway
25 Administration to conduct an additional legal suffi-

1 ciency review for any project, for not more than 30
2 days, if considered necessary by the Federal High-
3 way Administration.

4 “(5) Procedures allowing either party to the
5 agreement to terminate the agreement for any rea-
6 son with 30 days notice to the other party.

7 “(c) EFFECT OF AGREEMENT.—A legal sufficiency
8 review carried out by a State transportation department
9 under this section shall be deemed by the Federal High-
10 way Administration to satisfy the requirement for a legal
11 sufficiency review in sections 771.125(b) and 774.7(d) of
12 title 23, Code of Federal Regulations, or other applicable
13 regulations issued by the Federal Highway Administra-
14 tion.”.

15 (b) CLERICAL AMENDMENT.—The analysis for such
16 chapter (as amended by this title) is further amended by
17 adding at the end the following:

“332. State performance of legal sufficiency reviews.”.

18 **SEC. 3017. CATEGORICAL EXCLUSIONS.**

19 (a) IN GENERAL.—The Secretary shall treat an activ-
20 ity carried out under title 23, United States Code, or
21 project within a right-of-way as a class of action categori-
22 cally excluded from the requirements relating to environ-
23 mental assessments or environmental impact statements
24 under section 771.117(c) of title 23, Code of Federal Reg-
25 ulations.

1 (b) DEFINITIONS.—In this section, the following defi-
2 nitions apply:

3 (1) MULTIMODAL PROJECT.—The term
4 “multimodal project” means a project funded, in
5 whole or in part, under title 23, United States Code,
6 or chapter 53 of title 49 of such Code and involving
7 the participation of more than one Department of
8 Transportation administration or agency.

9 (2) PROJECT.—The term “project” means any
10 highway project, public transportation capital
11 project, or multimodal project that requires the ap-
12 proval of the Secretary.

13 **SEC. 3018. ENVIRONMENTAL REVIEW PROCESS DEADLINE.**

14 (a) IN GENERAL.—

15 (1) DEADLINE.—Notwithstanding any other
16 provision of law, the environmental review process
17 for a project shall be completed not later than 270
18 days after the date on which the notice of project
19 initiation under section 139(e) of title 23, United
20 States Code, is published in the Federal Register.

21 (2) CONSEQUENCES OF MISSED DEADLINE.—If
22 the environmental review process for a project is not
23 completed in accordance with paragraph (1)—

24 (A) the project shall be considered to have
25 no significant impact to the human environment

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

4 (B) that classification shall be considered
5 to be a final agency action.

6 (b) APPEAL.—In this section, the following rules
7 shall apply:

8 (1) There shall be a single administrative ap-
9 peal for the environmental review process carried out
10 pursuant to this section.

11 (2) Upon resolution of the administrative ap-
12 peal, judicial review of the final agency decision after
13 exhaustion of administrative remedies shall lie with
14 the United States Court of Appeals for the District
15 of Columbia Circuit.

16 (3) An appeal to the court specified in para-
17 graph (2) shall be based only on the administrative
18 record.

19 (4) After an agency has made a final decision
20 with respect to the environmental review process car-
21 ried out under this section, that decision shall be ef-
22 fective during the course of any subsequent appeal
23 to a court specified in paragraph (2).

1 (5) All civil actions arising under this section
2 shall be considered to arise under the laws of the
3 United States.

4 (c) DEFINITIONS.—In this section, the following defi-
5 nitions apply:

6 (1) ENVIRONMENTAL REVIEW PROCESS.—

7 (A) IN GENERAL.—The term “environ-
8 mental review process” means the process for
9 preparing for a project an environmental impact
10 statement, environmental assessment, categor-
11 ical exclusion, or other document prepared
12 under the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.).

14 (B) INCLUSIONS.—The term “environ-
15 mental review process” includes the process for
16 and completion of any environmental permit,
17 approval, review, or study required for a project
18 under any Federal law other than the National
19 Environmental Policy Act of 1969 (42 U.S.C.
20 4321 et seq.).

21 (2) LEAD AGENCY.—The term “lead agency”
22 means the Department of Transportation and, if ap-
23 plicable, any State or local governmental entity serv-
24 ing as a joint lead agency pursuant to this section.

1 (3) MULTIMODAL PROJECT.—The term
2 “multimodal project” means a project funded, in
3 whole or in part, under title 23, United States Code,
4 or chapter 53 of title 49 of such Code and involving
5 the participation of more than one Department of
6 Transportation administration or agency.

7 (4) PROJECT.—The term “project” means any
8 highway project, public transportation capital
9 project, or multimodal project that requires the ap-
10 proval of the Secretary.

11 **SEC. 3019. RELOCATION ASSISTANCE.**

12 (a) ALTERNATIVE RELOCATION PAYMENT PROC-
13 ESS.—

14 (1) ESTABLISHMENT.—For the purpose of
15 identifying improvements in the timeliness of pro-
16 viding relocation assistance to persons displaced as
17 a result of Federal or federally-assisted programs
18 and projects, the Secretary shall establish an alter-
19 native relocation payment process under which pay-
20 ments to displaced persons eligible for relocation as-
21 sistance pursuant to the Uniform Relocation Assist-
22 ance and Real Property Acquisition Policies Act of
23 1970 (42 U.S.C. 4601 et seq.), are calculated based
24 on reasonable estimates and paid in advance of the
25 physical displacement of the displaced person.

1 (2) PAYMENTS.—

2 (A) TIMING OF PAYMENTS.—Relocation as-
3 sistance payments may be provided to the dis-
4 placed person at the same time as payments of
5 just compensation for real property acquired for
6 a program or project of the State.

7 (B) COMBINED PAYMENT.—Payments for
8 relocation and just compensation may be com-
9 bined into a single unallocated amount.

10 (3) CONDITIONS FOR STATE USE OF ALTER-
11 NATIVE PROCESS.—

12 (A) IN GENERAL.—After public notice and
13 an opportunity to comment, the Secretary shall
14 adopt criteria for States to use the alternative
15 relocation payment process established by the
16 Secretary.

17 (B) MEMORANDUM OF AGREEMENT.—In
18 order to use the alternative relocation payment
19 process, a State shall enter into a memorandum
20 of agreement with the Secretary that includes
21 provisions relating to—

22 (i) the selection of projects or pro-
23 grams within the State to which the alter-
24 native relocation payment process will be
25 applied;

1 (ii) program and project-level moni-
2 toring;

3 (iii) performance measurement;

4 (iv) reporting requirements; and

5 (v) the circumstances under which the
6 Secretary may terminate or suspend the
7 authority of the State to use the alter-
8 native relocation payment process.

9 (C) REQUIRED INFORMATION.—A State
10 may use the alternative relocation payment
11 process only after the displaced persons affected
12 by a program or project—

13 (i) are informed in writing—

14 (I) that the relocation payments
15 the displaced persons receive under
16 the alternative relocation payment
17 process may be higher or lower than
18 the amount that the displaced persons
19 would have received under the stand-
20 ard relocation assistance process; and

21 (II) of their right not to partici-
22 pate in the alternative relocation pay-
23 ment process; and

24 (ii) agree in writing to the alternative
25 relocation payment process.

1 (D) ELECTION NOT TO PARTICIPATE.—

2 The displacing agency shall provide any dis-
3 placed person who elects not to participate in
4 the alternative relocation payment process with
5 relocation assistance in accordance with the
6 Uniform Relocation Assistance and Real Prop-
7 erty Acquisition Policies Act of 1970 (42
8 U.S.C. 4601 et seq.).

9 (4) PROTECTIONS AGAINST INCONSISTENT
10 TREATMENT.—If other Federal agencies plan dis-
11 placements in or adjacent to an area of a project
12 using the alternative relocation payment process
13 within the same time period as a project acquisition
14 and relocation action of the project, the Secretary
15 shall adopt measures to protect against inconsistent
16 treatment of displaced persons. Such measures may
17 include a determination that the alternative reloca-
18 tion payment process authority may not be used on
19 a specific project.

20 (5) REPORT.—

21 (A) IN GENERAL.—The Secretary shall
22 submit to Congress an annual report on the im-
23 plementation of the alternative relocation pay-
24 ment process.

1 (B) CONTENTS.—The report shall include
2 an evaluation of the merits of the alternative
3 relocation payment process, including the ef-
4 fects of the alternative relocation payment pro-
5 cess on—

6 (i) displaced persons and the protec-
7 tions afforded to such persons by the Uni-
8 form Relocation Assistance and Real Prop-
9 erty Acquisition Policies Act of 1970 (42
10 U.S.C. 4601 et seq.);

11 (ii) the efficiency of the delivery of
12 Federal-aid highway projects and overall
13 effects on the Federal-aid highway pro-
14 gram; and

15 (iii) the achievement of the purposes
16 of the Uniform Relocation Assistance and
17 Real Property Acquisition Policies Act of
18 1970 (42 U.S.C. 4601 et seq.).

19 (6) LIMITATION.—The alternative relocation
20 payment process under this section may be used only
21 on projects funded under title 23, United States
22 Code, in cases in which the funds are administered
23 by the Federal Highway Administration.

24 (7) NEPA APPLICABILITY.—Notwithstanding
25 any other provision of law, the use of the alternative

1 relocation payment process established under this
2 section on a project funded under title 23, United
3 States Code, and administered by the Federal High-
4 way Administration is not a major Federal action re-
5 quiring analysis or approval under the National En-
6 vironmental Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.).

8 (b) UNIFORM RELOCATION ASSISTANCE ACT
9 AMENDMENTS.—

10 (1) MOVING AND RELATED EXPENSES.—Sec-
11 tion 202 of the Uniform Relocation Assistance and
12 Real Property Acquisition Policies Act of 1970 (42
13 U.S.C. 4622) is amended—

14 (A) in subsection (a)(4) by striking
15 “\$10,000” and inserting “\$25,000, as adjusted
16 by regulation, in accordance with section
17 213(d)”; and

18 (B) in the second sentence of subsection
19 (c) by striking “\$20,000” and inserting
20 “\$40,000, as adjusted by regulation, in accord-
21 ance with section 213(d)”.

22 (2) REPLACEMENT HOUSING FOR HOME-
23 OWNERS.—The first sentence of section 203(a)(1) of
24 the Uniform Relocation Assistance and Real Prop-

1 erty Acquisition Policies Act of 1970 (42 U.S.C.
2 4623(a)(1)) is amended by—

3 (A) striking “\$22,500” and inserting
4 “\$31,000, as adjusted by regulation, in accord-
5 ance with section 213(d),”; and

6 (B) striking “one hundred and eighty days
7 prior to” and inserting “90 days before”.

8 (3) REPLACEMENT HOUSING FOR TENANTS
9 AND CERTAIN OTHERS.—Section 204 of the Uniform
10 Relocation Assistance and Real Property Acquisition
11 Policies Act of 1970 (42 U.S.C. 4624) is amended—

12 (A) in the second sentence of subsection
13 (a) by striking “\$5,250” and inserting “\$7,200,
14 as adjusted by regulation, in accordance with
15 section 213(d),”; and

16 (B) in the second sentence of subsection
17 (b) by striking “, except” and all that follows
18 through the end of the subsection and inserting
19 a period.

20 (4) DUTIES OF LEAD AGENCY.—Section 213 of
21 the Uniform Relocation Assistance and Real Prop-
22 erty Acquisition Policies Act of 1970 (42 U.S.C.
23 4633) is amended—

24 (A) in subsection (b)—

1 (i) in paragraph (2) by striking
2 “and”;

3 (ii) in paragraph (3) by striking the
4 period and inserting “; and”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(4) that each Federal agency that has pro-
8 grams or projects requiring the acquisition of real
9 property or causing a displacement from real prop-
10 erty subject to the provisions of this Act shall pro-
11 vide to the lead agency an annual summary report
12 that describes the activities conducted by the Fed-
13 eral agency.”; and

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

15 “(d) ADJUSTMENT OF PAYMENTS.—The head of the
16 lead agency may adjust, by regulation, the amounts of re-
17 location payments provided under sections 202(a)(4),
18 202(e), 203(a), and 204(a) if the head of the lead agency
19 determines that cost of living, inflation, or other factors
20 indicate that the payments should be adjusted to meet the
21 policy objectives of this Act.”.

22 (5) AGENCY COORDINATION.—Title II of the
23 Uniform Relocation Assistance and Real Property
24 Acquisition Policies Act of 1970 (42 U.S.C. 4601 et

1 seq.) is amended by inserting after section 213 (42
2 U.S.C. 4633) the following:

3 **“SEC. 214. AGENCY COORDINATION.**

4 “(a) AGENCY CAPACITY.—Each Federal agency re-
5 sponsible for funding or carrying out relocation and acqui-
6 sition activities shall have adequately trained personnel
7 and such other resources as are necessary to manage and
8 oversee the relocation and acquisition program of the Fed-
9 eral agency in accordance with this Act.

10 “(b) INTERAGENCY AGREEMENTS.—Not later than 1
11 year after the date of the enactment of this section, each
12 Federal agency responsible for funding relocation and ac-
13 quisition activities (other than the agency serving as the
14 lead agency) shall enter into a memorandum of under-
15 standing with the lead agency that—

16 “(1) provides for periodic training of the per-
17 sonnel of the Federal agency, which in the case of
18 a Federal agency that provides Federal financial as-
19 sistance, may include personnel of any displacing
20 agency that receives Federal financial assistance;

21 “(2) addresses ways in which the lead agency
22 may provide assistance and coordination to the Fed-
23 eral agency relating to compliance with this Act on
24 a program or project basis; and

1 “(3) addresses the funding of the training, as-
2 sistance, and coordination activities provided by the
3 lead agency, in accordance with subsection (c).

4 “(c) INTERAGENCY PAYMENTS.—

5 “(1) IN GENERAL.—For the fiscal year that be-
6 gins 1 year after the date of the enactment of this
7 section, and each fiscal year thereafter, each Federal
8 agency responsible for funding relocation and acqui-
9 sition activities (other than the agency serving as the
10 lead agency) shall transfer to the lead agency for the
11 fiscal year, such funds as are necessary, but not less
12 than \$35,000, to support the training, assistance,
13 and coordination activities of the lead agency de-
14 scribed in subsection (b).

15 “(2) INCLUDED COSTS.—The cost to a Federal
16 agency of providing the funds described in para-
17 graph (1) shall be included as part of the cost of 1
18 or more programs or projects undertaken by the
19 Federal agency or with Federal financial assistance
20 that result in the displacement of persons or the ac-
21 quisition of real property.”.

22 (c) COOPERATION WITH FEDERAL AGENCIES.—Sec-
23 tion 308(a) is amended to read as follows:

24 “(a) AUTHORIZED ACTIVITIES.—

1 “(1) IN GENERAL.—The Secretary may per-
2 form, by contract or otherwise, authorized engineer-
3 ing or other services in connection with the survey,
4 construction, maintenance, or improvement of high-
5 ways for other Federal agencies, cooperating foreign
6 countries, and State cooperating agencies.

7 “(2) INCLUSIONS.—Services authorized under
8 paragraph (1) may include activities authorized
9 under section 214 of the Uniform Relocation Assist-
10 ance and Real Property Acquisition Policies Act of
11 1970 (42 U.S.C. 4601 et seq.).

12 “(3) REIMBURSEMENT.—Reimbursement for
13 services carried out under this subsection, including
14 depreciation on engineering and road-building equip-
15 ment, shall be credited to the applicable appropria-
16 tion.”.

17 **TITLE IV—TRANSPORTATION** 18 **PLANNING**

19 **SEC. 4001. TRANSPORTATION PLANNING.**

20 (a) IN GENERAL.—Subtitle III of title 49, United
21 States Code, is amended by inserting after chapter 51 the
22 following:

23 **“CHAPTER 52—TRANSPORTATION** 24 **PLANNING**

“Sec.

“5201. Policy.

“5202. Definitions.

“5203. Metropolitan transportation planning.

“5204. Statewide transportation planning.

“5205. National strategic transportation plan.

“5206. National performance management system.

1 **“§ 5201. Policy**

2 “(a) IN GENERAL.—It is in the national interest to—

3 “(1) encourage and promote the safe and effi-
4 cient management, operation, and development of
5 surface transportation systems that will serve the
6 mobility needs of people and freight and foster eco-
7 nomic growth and development within and between
8 States and urbanized areas, while minimizing trans-
9 portation-related fuel consumption and air pollution
10 through metropolitan and statewide transportation
11 planning processes identified in this chapter; and

12 “(2) encourage the continued improvement and
13 evolution of the metropolitan and statewide trans-
14 portation planning processes by metropolitan plan-
15 ning organizations, State departments of transpor-
16 tation, and public transportation operators as guided
17 by the planning factors identified in sections 5203(f)
18 and 5204(d).

19 “(b) COMMON TRANSPORTATION PLANNING PRO-
20 GRAM.—This chapter provides a common transportation
21 planning program to be administered by the Federal High-
22 way Administration and the Federal Transit Administra-
23 tion.

1 **“§ 5202. Definitions**

2 “In this chapter, the following definitions apply:

3 “(1) METROPOLITAN PLANNING AREA.—The
4 term ‘metropolitan planning area’ means the geo-
5 graphic area determined by agreement between the
6 metropolitan planning organization for the area and
7 the Governor under section 5203(c).

8 “(2) METROPOLITAN LONG-RANGE TRANSPOR-
9 TATION PLAN.—The term ‘metropolitan long-range
10 transportation plan’ means a long-range transpor-
11 tation plan developed by an MPO under section
12 5203 for a metropolitan planning area.

13 “(3) METROPOLITAN PLANNING ORGANIZATION;
14 MPO.—The term ‘metropolitan planning organiza-
15 tion’ or ‘MPO’ means the policy board of an organi-
16 zation created as a result of the designation process
17 in section 5203(b).

18 “(4) METROPOLITAN TRANSPORTATION IM-
19 PROVEMENT PROGRAM; METROPOLITAN TIP.—The
20 term ‘metropolitan transportation improvement pro-
21 gram’ or ‘metropolitan TIP’ means a transportation
22 improvement program developed by an MPO under
23 section 5203 for a metropolitan planning area.

24 “(5) NONMETROPOLITAN AREA.—The term
25 ‘nonmetropolitan area’ means a geographic area out-
26 side designated metropolitan planning areas.

1 “(6) NONMETROPOLITAN LOCAL OFFICIAL.—

2 The term ‘nonmetropolitan local official’ means
3 elected and appointed officials of general purpose
4 local government in a nonmetropolitan area with re-
5 sponsibility for transportation.

6 “(7) REGIONAL TRANSPORTATION PLANNING

7 ORGANIZATION.—The term ‘regional transportation
8 planning organization’ means a policy board of an
9 organization created as the result of a designation
10 under section 5204(k).

11 “(8) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Transportation.

13 “(9) STATE.—The term ‘State’ means any of
14 the 50 States, the District of Columbia, or Puerto
15 Rico.

16 “(10) STATEWIDE STRATEGIC LONG-RANGE

17 TRANSPORTATION PLAN.—The term ‘statewide stra-
18 tegic long-range transportation plan’ means a stra-
19 tegic long-range transportation plan developed by a
20 State under section 5204 for all areas of the State.

21 “(11) STATEWIDE TRANSPORTATION IMPROVE-

22 MENT PROGRAM; STATEWIDE TIP.—The term ‘state-
23 wide transportation improvement program’ or ‘state-
24 wide TIP’ means a transportation improvement pro-

1 gram developed by a State under section 5204 for
2 all areas of the State.

3 “(12) URBANIZED AREA.—The term ‘urbanized
4 area’ means a geographic area with a population of
5 50,000 or more, as designated by the Bureau of the
6 Census.

7 **“§ 5203. Metropolitan transportation planning**

8 “(a) GENERAL REQUIREMENTS.—

9 “(1) DEVELOPMENT OF METROPOLITAN LONG-
10 RANGE PLANS AND TIPS.—To accomplish the objec-
11 tives set forth in section 5201, metropolitan plan-
12 ning organizations designated under subsection (b),
13 in cooperation with the State and public transpor-
14 tation operators, shall develop metropolitan long-
15 range transportation plans and transportation im-
16 provement programs for metropolitan planning areas
17 of the State.

18 “(2) CONTENTS.—Metropolitan long-range
19 transportation plans and TIPs shall provide for the
20 development and integrated management and oper-
21 ation of transportation systems and facilities (includ-
22 ing accessible pedestrian walkways, bicycle transpor-
23 tation facilities, and intermodal facilities that sup-
24 port intercity transportation, including intercity
25 buses and intercity bus facilities) that will function

1 as an intermodal transportation system for the met-
2 ropolitan planning area and as an integral part of
3 an intermodal transportation system for the State
4 and the United States.

5 “(3) PROCESS OF DEVELOPMENT.—The process
6 for developing metropolitan long-range transpor-
7 tation plans and TIPs shall provide for consideration
8 of all modes of transportation and shall be con-
9 tinuing, cooperative, and comprehensive to the de-
10 gree appropriate, based on the complexity of the
11 transportation problems to be addressed.

12 “(b) DESIGNATION OF MPOs.—

13 “(1) IN GENERAL.—To carry out the transpor-
14 tation planning process required by this section, an
15 MPO shall be designated for an urbanized area with
16 a population of more than 100,000 individuals—

17 “(A) by agreement between the Governor
18 and units of general purpose local government
19 that together represent at least 75 percent of
20 the affected population (including the largest
21 incorporated city (based on population) as
22 named by the Bureau of the Census); or

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

1 “(2) STRUCTURE.—An MPO that serves an
2 area designated as a transportation management
3 area, when designated or redesignated under this
4 subsection, shall consist of—

5 “(A) local elected officials;

6 “(B) officials of public agencies that ad-
7 minister or operate major modes of transpor-
8 tation in the metropolitan area; and

9 “(C) appropriate State officials.

10 “(3) LIMITATION ON STATUTORY CONSTRUC-
11 TION.—Nothing in this subsection may be construed
12 to interfere with the authority, under any State law
13 in effect on December 18, 1991, of a public agency
14 with multimodal transportation responsibilities to—

15 “(A) develop metropolitan long-range
16 transportation plans or TIPs for adoption by an
17 MPO; and

18 “(B) develop long-range capital plans, co-
19 ordinate public transportation services or
20 projects, or carry out other activities pursuant
21 to State law.

22 “(4) CONTINUING DESIGNATION.—A designa-
23 tion of an MPO under this subsection or any other
24 provision of law shall remain in effect until the MPO
25 is redesignated under paragraph (5) or revoked by

1 agreement among the Governor and units of general
2 purpose local government that together represent at
3 least 75 percent of the affected population or as oth-
4 erwise provided under State or local procedures.

5 “(5) REDESIGNATION PROCEDURES.—An MPO
6 may be redesignated by agreement between the Gov-
7 ernor and units of general purpose local government
8 that together represent at least 75 percent of the ex-
9 isting planning area population (including the larg-
10 est incorporated city (based on population) as named
11 by the Bureau of the Census) as appropriate to
12 carry out this section.

13 “(6) DESIGNATION OF MULTIPLE MPOS.—More
14 than 1 MPO may be designated within an existing
15 metropolitan planning area only if the Governor and
16 the existing MPO determine that the size and com-
17 plexity of the existing metropolitan planning area
18 make designation of more than 1 MPO for the area
19 appropriate.

20 “(c) METROPOLITAN PLANNING AREA BOUND-
21 ARIES.—

22 “(1) IN GENERAL.—For the purposes of this
23 section, the boundaries of a metropolitan planning
24 area shall be determined by agreement between the
25 MPO and the Governor.

1 “(2) INCLUDED AREA.—A metropolitan plan-
2 ning area—

3 “(A) shall encompass at least the existing
4 urbanized area and the contiguous area ex-
5 pected to become urbanized within a 20-year
6 forecast period for the metropolitan long-range
7 transportation plan; and

8 “(B) may encompass the entire metropoli-
9 tan statistical area or consolidated metropolitan
10 statistical area, as defined by the Bureau of the
11 Census.

12 “(3) IDENTIFICATION OF NEW URBANIZED
13 AREAS WITHIN EXISTING PLANNING AREA BOUND-
14 ARIES.—The designation by the Bureau of the Cen-
15 sus of new urbanized areas within an existing metro-
16 politan planning area shall not require the redesign-
17 nation of the existing MPO.

18 “(4) EXISTING METROPOLITAN PLANNING
19 AREAS IN NONATTAINMENT.—Notwithstanding para-
20 graph (2), in the case of an urbanized area des-
21 ignated as a nonattainment area for ozone or carbon
22 monoxide under the Clean Air Act (42 U.S.C. 7401
23 et seq.) as of August 10, 2005, the boundaries of
24 the metropolitan planning area in existence as of
25 such date shall be retained, except that the bound-

1 aries may be adjusted by agreement of the Governor
2 and affected MPOs in the manner described in sub-
3 section (b)(5).

4 “(5) NEW METROPOLITAN PLANNING AREAS IN
5 NONATTAINMENT.—In the case of an urbanized area
6 designated after August 10, 2005, as a nonattain-
7 ment area for ozone or carbon monoxide, the bound-
8 aries of the metropolitan planning area—

9 “(A) shall be established in the manner de-
10 scribed in subsection (b)(1);

11 “(B) shall encompass the areas described
12 in subsection (c)(2)(A);

13 “(C) may encompass the areas described in
14 subsection (c)(2)(B); and

15 “(D) may address any nonattainment area
16 identified under the Clean Air Act for ozone or
17 carbon monoxide.

18 “(d) COORDINATION IN MULTISTATE AREAS.—

19 “(1) IN GENERAL.—The Secretary shall encour-
20 age a Governor with responsibility for a portion of
21 a multistate metropolitan area and the appropriate
22 MPOs to provide coordinated transportation plan-
23 ning for the entire metropolitan area.

24 “(2) INTERSTATE COMPACTS.—The consent of
25 Congress is granted to any 2 or more States—

1 “(A) to enter into agreements or compacts,
2 not in conflict with any law of the United
3 States, for cooperative efforts and mutual as-
4 sistance in support of activities authorized
5 under this section as the activities pertain to
6 interstate areas and localities within the States;
7 and

8 “(B) to establish such agencies, joint or
9 otherwise, as the States may determine desir-
10 able for making the agreements and compacts
11 effective.

12 “(3) RESERVATION OF RIGHTS.—The right to
13 alter, amend, or repeal interstate compacts entered
14 into under this subsection is expressly reserved.

15 “(e) MPO CONSULTATION IN PLAN AND TIP CO-
16 ORDINATION.—

17 “(1) NONATTAINMENT AREAS.—If more than 1
18 MPO has authority within a metropolitan area or an
19 area that is designated as a nonattainment area for
20 ozone or carbon monoxide under the Clean Air Act,
21 each MPO shall consult with the other MPOs des-
22 ignated for such area and the State in the coordina-
23 tion of metropolitan long-range transportation plans
24 and TIPs.

1 “(2) TRANSPORTATION IMPROVEMENTS LO-
2 CATED IN AREAS REPRESENTED BY MULTIPLE
3 MPOS.—If a transportation improvement, funded
4 from the Highway Trust Fund or authorized under
5 chapter 53 of this title, is located within the bound-
6 aries of more than 1 metropolitan planning area, the
7 MPOs shall coordinate metropolitan long-range
8 transportation plans and TIPs regarding the trans-
9 portation improvement.

10 “(3) RELATIONSHIP WITH OTHER PLANNING
11 OFFICIALS.—The Secretary shall encourage an MPO
12 to consult with officials responsible for other types
13 of planning activities that are affected by transpor-
14 tation in the area (including State and local planned
15 growth, economic development, environmental pro-
16 tection, airport operations, and freight movements)
17 or to coordinate its planning process, to the max-
18 imum extent practicable, with such planning activi-
19 ties. Under the metropolitan planning process, met-
20 ropolitan long-range transportation plans and TIPs
21 shall be developed with due consideration of other
22 related planning activities within the metropolitan
23 area, and the process shall provide for the design
24 and delivery of transportation services within the
25 metropolitan area that are provided by—

1 “(A) recipients of assistance under chapter
2 53;

3 “(B) governmental agencies and nonprofit
4 organizations (including representatives of the
5 agencies and organizations) that receive Federal
6 assistance from a source other than the Depart-
7 ment of Transportation to provide non-
8 emergency transportation services; and

9 “(C) recipients of assistance under sections
10 202 and 203 of title 23.

11 “(f) SCOPE OF PLANNING PROCESS.—

12 “(1) IN GENERAL.—The metropolitan planning
13 process for a metropolitan planning area under this
14 section shall provide for consideration of projects
15 and strategies that will—

16 “(A) support the economic vitality of the
17 metropolitan area, especially by enabling global
18 competitiveness, productivity, and efficiency;

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

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

1 “(D) increase the accessibility and mobility
2 of people and for freight;

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

9 “(F) enhance the integration and
10 connectivity of the transportation system,
11 across and between modes, for people and
12 freight;

13 “(G) promote efficient system management
14 and operation, including through the use of in-
15 telligent transportation systems;

16 “(H) emphasize the preservation of the ex-
17 isting transportation system; and

18 “(I) support intermodal facilities or facili-
19 tate regional growth.

20 “(2) FAILURE TO CONSIDER FACTORS.—The
21 failure to consider any factor specified in paragraph
22 (1) shall not be reviewable by any court under title
23 23, chapter 53 of this title, subchapter II of chapter
24 5 of title 5, or chapter 7 of title 5 in any matter af-
25 fecting a metropolitan long-range transportation

1 plan or TIP, a project or strategy, or the certifi-
2 cation of a planning process.

3 “(g) DEVELOPMENT OF LONG-RANGE TRANSPOR-
4 TATION PLAN.—

5 “(1) IN GENERAL.—

6 “(A) EXISTING AND FORMER NONATTAIN-
7 MENT AREAS.—An MPO shall prepare and up-
8 date a metropolitan long-range transportation
9 plan for its metropolitan planning area in ac-
10 cordance with the requirements of this sub-
11 section. The MPO shall prepare and update the
12 plan every 4 years (or more frequently, if the
13 MPO elects to update more frequently) in the
14 case of each of the following:

15 “(i) Any area designated as non-
16 attainment, as defined in section 107(d) of
17 the Clean Air Act (42 U.S.C. 7407(d)).

18 “(ii) Any area that was nonattain-
19 ment and subsequently designated to at-
20 tainment in accordance with section
21 107(d)(3) of that Act (42 U.S.C.
22 7407(d)(3)) and that is subject to a main-
23 tenance plan under section 175A of that
24 Act (42 U.S.C. 7505a).

1 “(B) OTHER AREAS.—In the case of any
2 other area required to have a metropolitan long-
3 range transportation plan, the MPO shall pre-
4 pare and update the plan every 5 years unless
5 the MPO elects to update more frequently.

6 “(2) LONG-RANGE TRANSPORTATION PLAN.—A
7 metropolitan long-range transportation plan shall be
8 in a form that the Secretary determines to be appro-
9 priate and shall contain, at a minimum, the fol-
10 lowing:

11 “(A) IDENTIFICATION OF TRANSPOR-
12 TATION FACILITIES.—An identification of trans-
13 portation facilities (including major roadways,
14 public transportation facilities, intercity bus fa-
15 cilities, multimodal and intermodal facilities,
16 and intermodal connectors) that should function
17 as an integrated metropolitan transportation
18 system, giving emphasis to those facilities that
19 serve important national and regional transpor-
20 tation functions. In formulating the plan, the
21 MPO shall consider factors described in sub-
22 section (f) and other relevant data and factors
23 disseminated by the Secretary pursuant to sec-
24 tion 5205(b) as such factors relate to a 20-year
25 forecast period.

1 “(B) MITIGATION ACTIVITIES.—

2 “(i) IN GENERAL.—A metropolitan
3 long-range transportation plan shall in-
4 clude a discussion of types of potential en-
5 vironmental mitigation activities and po-
6 tential areas to carry out these activities,
7 including activities that may have the
8 greatest potential to restore and maintain
9 the environmental functions affected by the
10 plan.

11 “(ii) CONSULTATION.—The discussion
12 shall be developed in consultation with
13 Federal, State, and tribal wildlife, land
14 management, and regulatory agencies.

15 “(C) FINANCIAL PLAN.—

16 “(i) IN GENERAL.—A financial plan
17 that—

18 “(I) demonstrates how the adopt-
19 ed metropolitan long-range transpor-
20 tation plan can be implemented;

21 “(II) indicates resources from
22 public and private sources that are
23 reasonably expected to be made avail-
24 able to carry out the metropolitan
25 long-range transportation plan;

1 “(III) recommends any additional
2 financing strategies for needed
3 projects and programs; and

4 “(IV) may include, for illustrative
5 purposes, additional projects that
6 would be included in the adopted met-
7 ropolitan long-range transportation
8 plan if reasonable additional resources
9 beyond those identified in the finan-
10 cial plan were available.

11 “(ii) ESTIMATES OF FUNDS.—For the
12 purpose of developing the metropolitan
13 long-range transportation plan, the MPO,
14 public transportation operator, and State
15 shall cooperatively develop estimates of
16 funds that will be available to support plan
17 implementation.

18 “(D) OPERATIONAL AND MANAGEMENT
19 STRATEGIES.—Operational and management
20 strategies to improve the performance of exist-
21 ing transportation facilities to relieve vehicular
22 congestion and maximize the safety and mobil-
23 ity of people and goods.

24 “(E) CAPITAL INVESTMENT AND OTHER
25 STRATEGIES.—Capital investment and other

1 strategies to preserve the existing and projected
2 future metropolitan transportation infrastruc-
3 ture and provide for multimodal capacity in-
4 creases based on regional priorities and needs.

5 “(3) INTERCITY BUS.—A metropolitan long-
6 range transportation plan shall consider the role
7 intercity buses may play in reducing congestion, pol-
8 lution, and energy consumption in a cost-effective
9 manner and strategies and investments that preserve
10 and enhance intercity bus systems, including sys-
11 tems that are privately owned and operated.

12 “(4) COORDINATION WITH CLEAN AIR ACT
13 AGENCIES.—In metropolitan areas that are in non-
14 attainment for ozone or carbon monoxide under the
15 Clean Air Act, the MPO shall coordinate the devel-
16 opment of a metropolitan long-range transportation
17 plan with the process for development of the trans-
18 portation control measures of the State implementa-
19 tion plan required by that Act.

20 “(5) CONSULTATION; COMPARISONS.—

21 “(A) CONSULTATION.—A metropolitan
22 long-range transportation plan shall be devel-
23 oped, as appropriate, in consultation with State
24 and local agencies responsible for land use man-

1 agement, natural resources, environmental pro-
2 tection, conservation, and historic preservation.

3 “(B) COMPARISONS.—Consultation under
4 subparagraph (A) shall involve, as appropriate,
5 a comparison of the metropolitan long-range
6 transportation plan—

7 “(i) to State conservation plans and
8 maps, if available; and

9 “(ii) to inventories of natural and his-
10 toric resources, if available.

11 “(6) PARTICIPATION BY INTERESTED PAR-
12 TIES.—

13 “(A) IN GENERAL.—An MPO shall provide
14 citizens, affected public agencies, representa-
15 tives of public transportation employees, freight
16 shippers, providers of freight transportation
17 services, private providers of transportation, in-
18 cluding intercity bus services, representatives of
19 users of public transportation, representatives
20 of users of pedestrian walkways and bicycle
21 transportation facilities, representatives of the
22 disabled, and other interested parties with a
23 reasonable opportunity to comment on its met-
24 ropolitan long-range transportation plan.

1 “(B) CONTENTS OF PARTICIPATION
2 PLAN.—A participation plan shall—

3 “(i) be developed in consultation with
4 all interested parties; and

5 “(ii) provide that all interested parties
6 have reasonable opportunities to comment
7 on the contents of the metropolitan long-
8 range transportation plan.

9 “(C) METHODS.—In carrying out subpara-
10 graph (A), the MPO shall, to the maximum ex-
11 tent practicable—

12 “(i) hold any public meetings at con-
13 venient and accessible locations and times;

14 “(ii) employ visualization techniques
15 to describe plans; and

16 “(iii) make public information avail-
17 able in electronically accessible format and
18 means, such as the Internet, as appro-
19 priate to afford a reasonable opportunity
20 for consideration of public information
21 under subparagraph (A).

22 “(7) PUBLICATION.—A metropolitan long-range
23 transportation plan involving Federal participation
24 shall be published or otherwise made readily avail-
25 able by the MPO for public review (including to the

1 maximum extent practicable in electronically acces-
2 sible formats and means, such as the Internet) ap-
3 proved by the MPO, and submitted for information
4 purposes to the Governor, at such times and in such
5 manner as the Secretary shall establish.

6 “(8) SELECTION OF PROJECTS FROM ILLUS-
7 TRATIVE LIST.—Notwithstanding paragraph (2)(C),
8 a State or MPO shall not be required to select any
9 project from the illustrative list of additional
10 projects included in the financial plan under such
11 paragraph.

12 “(h) METROPOLITAN TIP.—

13 “(1) DEVELOPMENT.—

14 “(A) IN GENERAL.—In cooperation with
15 the State and any affected public transportation
16 operator, the MPO designated for a metropoli-
17 tan area shall develop a metropolitan TIP for
18 the area for which the organization is des-
19 igned.

20 “(B) OPPORTUNITY FOR COMMENT.—In
21 developing the metropolitan TIP, the MPO, in
22 cooperation with the State and any affected
23 public transportation operator, shall provide an
24 opportunity for participation by interested par-

1 ties in the development of the program, in ac-
2 cordance with subsection (g)(6).

3 “(C) FUNDING ESTIMATES.—For the pur-
4 pose of developing the metropolitan TIP, the
5 MPO, public transportation agency, and State
6 shall cooperatively develop estimates of funds
7 that are reasonably expected to be available to
8 support program implementation.

9 “(D) UPDATING AND APPROVAL.—The
10 metropolitan TIP shall be updated at least once
11 every 4 years and shall be approved by the
12 MPO and the Governor.

13 “(2) CONTENTS.—

14 “(A) PRIORITY LIST.—The metropolitan
15 TIP shall include a priority list of proposed fed-
16 erally supported projects and strategies to be
17 carried out within each 4-year period after the
18 initial adoption of the metropolitan TIP.

19 “(B) FINANCIAL PLAN.—The metropolitan
20 TIP shall include a financial plan that—

21 “(i) demonstrates how the metropoli-
22 tan TIP can be implemented;

23 “(ii) indicates resources from public
24 and private sources that are reasonably ex-

1 pected to be available to carry out the met-
2 ropolitan TIP;

3 “(iii) identifies innovative financing
4 techniques to finance projects, programs,
5 and strategies; and

6 “(iv) may include, for illustrative pur-
7 poses, additional projects that would be in-
8 cluded in the approved metropolitan TIP if
9 reasonable additional resources beyond
10 those identified in the financial plan were
11 available.

12 “(C) DESCRIPTIONS.—A project in the
13 metropolitan TIP shall include sufficient de-
14 scriptive material (such as type of work, ter-
15 mini, length, and other similar factors) to iden-
16 tify the project or phase of the project.

17 “(3) INCLUDED PROJECTS.—

18 “(A) PROJECTS UNDER TITLE 23 AND
19 CHAPTER 53 OF THIS TITLE.—A metropolitan
20 TIP for an area shall include the projects with-
21 in the area that are proposed for funding under
22 chapter 1 of title 23 and chapter 53 of this
23 title.

24 “(B) PROJECTS UNDER CHAPTER 2 OF
25 TITLE 23.—

1 “(i) REGIONALLY SIGNIFICANT
2 PROJECTS.—Regionally significant projects
3 proposed for funding under chapter 2 of
4 title 23 shall be identified individually in
5 the metropolitan TIP.

6 “(ii) OTHER PROJECTS.—Projects
7 proposed for funding under such chapter
8 that are not determined to be regionally
9 significant shall be grouped in one line
10 item or identified individually in the metro-
11 politan TIP.

12 “(C) CONSISTENCY WITH LONG-RANGE
13 TRANSPORTATION PLAN.—A project shall be
14 consistent with the metropolitan long-range
15 transportation plan for the area.

16 “(D) REQUIREMENT OF ANTICIPATED
17 FULL FUNDING.—The program shall include a
18 project, or the identified phase of a project,
19 only if full funding can reasonably be antici-
20 pated to be available for the project or the iden-
21 tified phase within the time period con-
22 templated for completion of the project or the
23 identified phase.

24 “(E) TIP MODIFICATIONS BY GOV-
25 ERNOR.—

1 “(i) IN GENERAL.—Notwithstanding
2 any other provisions of this section or sec-
3 tion 5204, if a State and an MPO fail to
4 agree on programming a project of state-
5 wide significance on the Interstate System
6 (as defined in section 101(a) of title 23)
7 into a metropolitan TIP, the Governor may
8 modify the metropolitan TIP to add the
9 project without approval or endorsement
10 by the MPO.

11 “(ii) CONFORMING AMENDMENTS TO
12 METROPOLITAN LONG-RANGE TRANSPOR-
13 TATION PLAN.—If the Governor modifies a
14 metropolitan TIP under clause (i), the
15 MPO shall amend its metropolitan long-
16 range transportation plan to be consistent
17 with the modified metropolitan TIP.

18 “(4) NOTICE AND COMMENT.—Before approv-
19 ing a metropolitan TIP, an MPO, in cooperation
20 with the State and any affected public transpor-
21 tation operator, shall provide an opportunity for par-
22 ticipation by interested parties in the development of
23 the program, in accordance with subsection (g)(5).

24 “(5) SELECTION OF PROJECTS.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in subsection (i)(4) and in addition to
3 the metropolitan TIP development required
4 under paragraph (1), the selection of federally
5 funded projects in metropolitan areas shall be
6 carried out from the approved metropolitan
7 TIP—

8 “(i) by—

9 “(I) in the case of projects under
10 title 23, the State; and

11 “(II) in the case of projects
12 under chapter 53, the designated re-
13 cipients of public transportation fund-
14 ing; and

15 “(ii) in cooperation with the MPO.

16 “(B) MODIFICATIONS TO PROJECT PRI-
17 ORITY.—Notwithstanding any other provision of
18 law, action by the Secretary shall not be re-
19 quired to advance a project included in the ap-
20 proved metropolitan TIP in place of another
21 project in the program.

22 “(6) SELECTION OF PROJECTS FROM ILLUS-
23 TRATIVE LIST.—

24 “(A) NO REQUIRED SELECTION.—Notwith-
25 standing paragraph (2)(B)(iv), a State or MPO

1 shall not be required to select any project from
2 the illustrative list of additional projects in-
3 cluded in the financial plan under paragraph
4 (2)(B)(iv).

5 “(B) REQUIRED ACTION BY THE SEC-
6 RETARY.—Action by the Secretary shall be re-
7 quired for a State or MPO to select any project
8 from the illustrative list of additional projects
9 included in the financial plan under paragraph
10 (2)(B)(iv) for inclusion in an approved metro-
11 politan TIP.

12 “(7) PUBLICATION.—

13 “(A) PUBLICATION OF TIPS.—A metropoli-
14 tan TIP involving Federal participation shall be
15 published or otherwise made readily available,
16 including on the Internet, by the MPO for pub-
17 lic review.

18 “(B) PUBLICATION OF ANNUAL LISTINGS
19 OF PROJECTS.—An annual listing of projects
20 (including investments in pedestrian walkways,
21 bicycle transportation facilities, and intermodal
22 facilities that support intercity transportation)
23 for which Federal funds have been obligated in
24 the preceding year shall be published or other-
25 wise made available, including on the Internet,

1 by the cooperative effort of the State, public
2 transportation operator, and MPO for public
3 review. The listing shall be consistent with the
4 categories identified in the metropolitan TIP.

5 “(i) TRANSPORTATION MANAGEMENT AREAS.—

6 “(1) IDENTIFICATION AND DESIGNATION.—

7 “(A) REQUIRED IDENTIFICATION.—The
8 Secretary shall identify as a transportation
9 management area each urbanized area (as de-
10 fined by the Bureau of the Census) with a pop-
11 ulation of over 200,000 individuals.

12 “(B) DESIGNATIONS ON REQUEST.—The
13 Secretary shall designate any additional area as
14 a transportation management area on the re-
15 quest of the Governor and the MPO designated
16 for the area.

17 “(2) LONG-RANGE TRANSPORTATION PLANS.—

18 In a transportation management area, metropolitan
19 long-range transportation plans shall be based on a
20 continuing and comprehensive transportation plan-
21 ning process carried out by the MPO in cooperation
22 with the State and public transportation operators.

23 “(3) CONGESTION MANAGEMENT PROCESS.—

24 Within a metropolitan planning area serving a trans-
25 portation management area, the transportation plan-

1 ning process under this section shall address conges-
2 tion management through a process that provides
3 for effective management and operation, based on a
4 cooperatively developed and implemented metropoli-
5 tan-wide strategy, of new and existing transportation
6 facilities eligible for funding under title 23 and chap-
7 ter 53 of this title through the use of travel demand
8 reduction, intelligent transportation systems, and
9 operational management strategies. The Secretary
10 shall establish an appropriate phase-in schedule for
11 compliance with the requirements of this section but
12 not sooner than 1 year after the identification of a
13 transportation management area.

14 “(4) SELECTION OF PROJECTS.—

15 “(A) IN GENERAL.—All federally funded
16 projects carried out within the boundaries of a
17 metropolitan planning area serving a transpor-
18 tation management area under title 23 (exclud-
19 ing projects carried out on the National High-
20 way System under such title) or under chapter
21 53 of this title shall be selected for implementa-
22 tion from the approved metropolitan TIP by the
23 MPO designated for the area in consultation
24 with the State and any affected public transpor-
25 tation operator.

1 “(B) NATIONAL HIGHWAY SYSTEM
2 PROJECTS.—Projects carried out within the
3 boundaries of a metropolitan planning area
4 serving a transportation management area on
5 the National Highway System under title 23
6 shall be selected for implementation from the
7 approved metropolitan TIP by the State in co-
8 operation with the MPO designated for the
9 area.

10 “(5) CERTIFICATION.—

11 “(A) IN GENERAL.—The Secretary shall—

12 “(i) ensure that the metropolitan
13 planning process of an MPO serving a
14 transportation management area is being
15 carried out in accordance with applicable
16 provisions of Federal law; and

17 “(ii) subject to subparagraph (B), cer-
18 tify, not less often than once every 4 years,
19 that the requirements of this paragraph
20 are met with respect to the metropolitan
21 planning process.

22 “(B) REQUIREMENTS FOR CERTIFI-
23 CATION.—The Secretary may make the certifi-
24 cation under subparagraph (A) if—

1 “(i) the transportation planning proc-
2 ess complies with the requirements of this
3 section and other applicable requirements
4 of Federal law; and

5 “(ii) there is a metropolitan TIP for
6 the metropolitan planning area that has
7 been approved by the MPO and the Gov-
8 ernor.

9 “(C) EFFECT OF FAILURE TO CERTIFY.—

10 “(i) WITHHOLDING OF PROJECT
11 FUNDS.—If the metropolitan planning
12 process of an MPO serving a transpor-
13 tation management area is not certified,
14 the Secretary may withhold up to 20 per-
15 cent of the funds attributable to the metro-
16 politan planning area of the MPO for
17 projects funded under title 23 and chapter
18 53 of this title.

19 “(ii) RESTORATION OF WITHHELD
20 FUNDS.—The withheld funds shall be re-
21 stored to the metropolitan planning area at
22 such time as the metropolitan planning
23 process is certified by the Secretary.

24 “(D) REVIEW OF CERTIFICATION.—In
25 making certification determinations under this

1 paragraph, the Secretary shall provide for pub-
2 lic involvement appropriate to the metropolitan
3 area under review.

4 “(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 in the case of a metropolitan area not designated as
7 a transportation management area under this sec-
8 tion, the Secretary may provide for the development
9 of an abbreviated metropolitan long-range transpor-
10 tation plan and TIP for the metropolitan planning
11 area that the Secretary determines is appropriate to
12 achieve the purposes of this section, taking into ac-
13 count the complexity of transportation problems in
14 the area.

15 “(2) NONATTAINMENT AREAS.—The Secretary
16 may not permit abbreviated plans or TIPs for a
17 metropolitan area that is in nonattainment for ozone
18 or carbon monoxide under the Clean Air Act.

19 “(k) ADDITIONAL REQUIREMENTS FOR CERTAIN
20 NONATTAINMENT AREAS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of title 23, this chapter, or chapter 53 of
23 this title, for transportation management areas clas-
24 sified as nonattainment for ozone or carbon mon-
25 oxide pursuant to the Clean Air Act, Federal funds

1 may not be advanced in such area for any highway
2 project that will result in a significant increase in
3 the carrying capacity for single-occupant vehicles un-
4 less the project is addressed through a congestion
5 management process.

6 “(2) APPLICABILITY.—This subsection applies
7 to a nonattainment area within the metropolitan
8 planning area boundaries determined under sub-
9 section (c).

10 “(1) LIMITATION ON STATUTORY CONSTRUCTION.—
11 Nothing in this section may be construed to confer on an
12 MPO the authority to impose legal requirements on any
13 transportation facility, provider, or project not eligible
14 under title 23 or chapter 53 of this title.

15 “(m) FUNDING.—Funds set aside under section
16 104(f) of title 23 or section 5305(g) of this title shall be
17 available to carry out this section.

18 “(n) CONTINUATION OF CURRENT REVIEW PRAC-
19 TICE.—Since metropolitan long-range transportation
20 plans and TIPs are subject to a reasonable opportunity
21 for public comment, since individual projects included in
22 such plans and TIPs are subject to review under the Na-
23 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.), and since decisions by the Secretary concerning
25 such plans and TIPs have not been reviewed under that

1 Act as of January 1, 1997, any decision by the Secretary
2 concerning such plans and TIPs shall not be considered
3 to be a Federal action subject to review under that Act.

4 **“§ 5204. Statewide transportation planning**

5 “(a) GENERAL REQUIREMENTS.—

6 “(1) DEVELOPMENT OF PLANS AND PRO-
7 GRAMS.—To accomplish the objectives stated in sec-
8 tion 5201, a State shall develop a statewide strategic
9 long-range transportation plan and a statewide
10 transportation improvement program for all areas of
11 the State, subject to section 5203.

12 “(2) CONTENTS.—Statewide strategic long-
13 range transportation plans and TIPs shall provide
14 for the development and integrated management and
15 operation of transportation systems and facilities
16 (including accessible pedestrian walkways, bicycle
17 transportation facilities, and intermodal facilities
18 that support intercity transportation, including
19 intercity buses and intercity bus facilities) that will
20 function as an intermodal transportation system for
21 the State and an integral part of an intermodal
22 transportation system for the United States.

23 “(3) PROCESS OF DEVELOPMENT.—The process
24 for developing statewide strategic long-range trans-
25 portation plans and TIPs shall provide for consider-

1 ation of all modes of transportation and the policies
2 stated in section 5201, and shall be continuing, co-
3 operative, and comprehensive to the degree appro-
4 priate, based on the complexity of the transportation
5 problems to be addressed.

6 “(b) COORDINATION WITH METROPOLITAN PLAN-
7 NING; STATE IMPLEMENTATION PLAN.—A State shall—

8 “(1) coordinate planning carried out under this
9 section with the transportation planning activities
10 carried out under section 5203 for metropolitan
11 areas of the State and with statewide trade and eco-
12 nomic development planning activities and related
13 multistate planning efforts; and

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

17 “(c) INTERSTATE AGREEMENTS.—

18 “(1) IN GENERAL.—The consent of Congress is
19 granted to 2 or more States entering into agree-
20 ments or compacts, not in conflict with any law of
21 the United States, for cooperative efforts and mu-
22 tual assistance in support of activities authorized
23 under this section related to interstate areas and lo-
24 calities in the States and establishing authorities the

1 States consider desirable for making the agreements
2 and compacts effective.

3 “(2) RESERVATION OF RIGHTS.—The right to
4 alter, amend, or repeal interstate compacts entered
5 into under this subsection is expressly reserved.

6 “(d) SCOPE OF PLANNING PROCESS.—

7 “(1) IN GENERAL.—A State shall carry out a
8 statewide transportation planning process that pro-
9 vides for consideration and implementation of
10 projects, strategies, and services that will—

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

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

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

22 “(D) increase the accessibility and mobility
23 of people and freight;

24 “(E) protect and enhance the environment,
25 promote energy conservation, improve the qual-

1 ity of life, and promote consistency between
2 transportation improvements and State and
3 local planned growth and economic development
4 patterns;

5 “(F) enhance the integration and
6 connectivity of the transportation system,
7 across and between modes throughout the
8 State, for people and freight;

9 “(G) promote efficient system management
10 and operation, including through the use of in-
11 telligent transportation systems; and

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

14 “(2) FAILURE TO CONSIDER FACTORS.—The
15 failure to consider any factor specified in paragraph
16 (1) shall not be reviewable by any court under title
17 23, chapter 53 of this title, subchapter II of chapter
18 5 of title 5, or chapter 7 of title 5 in any matter af-
19 fecting a statewide strategic long-range transpor-
20 tation plan or TIP, a project or strategy, or the cer-
21 tification of a planning process.

22 “(e) ADDITIONAL REQUIREMENTS.—In carrying out
23 planning under this section, a State shall, at a minimum—

24 “(1) with respect to nonmetropolitan areas, co-
25 operate with affected nonmetropolitan local officials

1 or, if applicable, through regional transportation
2 planning organizations described in subsection (k);

3 “(2) consider the concerns of Indian tribal gov-
4 ernments and Federal land management agencies
5 that have jurisdiction over land within the bound-
6 aries of the State; and

7 “(3) coordinate statewide long-range transpor-
8 tation plans and TIPs and planning activities with
9 related planning activities being carried out outside
10 of metropolitan planning areas and between States.

11 “(f) STATEWIDE STRATEGIC LONG-RANGE TRANS-
12 PORTATION PLAN.—

13 “(1) DEVELOPMENT.—

14 “(A) IN GENERAL.—A State shall develop
15 a statewide strategic long-range transportation
16 plan, with a minimum 20-year forecast period
17 for all areas of the State, that provides for the
18 development and implementation of the inter-
19 modal interconnected transportation system of
20 the State.

21 “(B) STATEWIDE STRATEGIC LONG-RANGE
22 TRANSPORTATION PLAN REQUIREMENTS.—

23 “(i) NATIONAL TRANSPORTATION STA-
24 TISTICS.—In developing a statewide stra-
25 tegic long-range transportation plan, the

1 State shall consider the data and factors
2 disseminated by the Secretary pursuant to
3 section 5205(b) for that particular State.

4 “(ii) TRANSPORTATION PROJECTS
5 THAT ARE OF STATEWIDE, REGIONAL, AND
6 NATIONAL IMPORTANCE.—The State shall
7 identify transportation projects across all
8 modes of transportation in the State that
9 have statewide, regional, and national sig-
10 nificance. In identifying these projects, the
11 State shall consider the factors described
12 in section 5205(b).

13 “(iii) STATES WITH CONGESTED AIR-
14 PORTS.—If a State has an airport in its
15 jurisdiction that had at least 1 percent of
16 all delayed aircraft operations in the
17 United States, as identified by the Federal
18 Aviation Administration’s Airport Capacity
19 Benchmark Report, the statewide strategic
20 long-range transportation plan shall in-
21 clude measures to alleviate congestion at
22 that airport either through expansion or
23 the development of additional facilities.

24 “(iv) STATES WITH CONGESTED
25 FREIGHT RAIL CORRIDORS.—If data from

1 the Department of Transportation and the
2 freight railroad industry project that a
3 State has freight railroad corridors that
4 operate at levels of service that are at or
5 exceed capacity, the statewide strategic
6 long-range transportation plan shall in-
7 clude measures by which the State depart-
8 ment of transportation and the freight rail-
9 roads provide relief for the congested cor-
10 ridors.

11 “(v) STATES WITH DEEP DRAFT
12 PORTS.—If a State has a deep draft port,
13 the statewide strategic long-range trans-
14 portation plan shall take into account any
15 plan for expansion at that port and any
16 projected increase in shipping traffic at
17 that port.

18 “(vi) STATES WITH NAVIGABLE IN-
19 LAND WATERWAYS.—A State that has nav-
20 igable inland waterways shall include in its
21 statewide strategic long-range transpor-
22 tation plan any plans to use those water-
23 ways to facilitate the efficient and reliable
24 transportation of freight and people.

1 “(vii) PROJECT
2 INTERCONNECTIVITY.—In developing a
3 statewide strategic long-range transpor-
4 tation plan, the State shall ensure
5 interconnectivity for freight and passengers
6 between different facilities and between
7 different modes of transportation.

8 “(viii) COST ESTIMATES FOR
9 PROJECTS THAT ARE OF STATEWIDE, RE-
10 GIONAL, AND NATIONAL IMPORTANCE.—In
11 developing the statewide strategic long-
12 range transportation plan, the State shall
13 include estimates of the costs of each of
14 the projects identified in clause (ii).

15 “(2) CONSULTATION WITH GOVERNMENTS.—

16 “(A) METROPOLITAN AREAS.—The state-
17 wide strategic long-range transportation plan
18 shall be developed for each metropolitan area in
19 the State in cooperation with the metropolitan
20 planning organization designated for the metro-
21 politan area under section 5203.

22 “(B) NONMETROPOLITAN AREAS.—With
23 respect to nonmetropolitan areas, the statewide
24 strategic long-range transportation plan shall be
25 developed in cooperation with affected non-

1 metropolitan local officials or, if applicable,
2 through regional transportation planning orga-
3 nizations described in subsection (k).

4 “(C) INDIAN TRIBAL AREAS.—With respect
5 to an area of the State under the jurisdiction
6 of an Indian tribal government, the statewide
7 strategic long-range transportation plan shall be
8 developed in consultation with the tribal govern-
9 ment and the Secretary of the Interior.

10 “(D) CONSULTATION; COMPARISONS.—

11 “(i) CONSULTATION.—A statewide
12 strategic long-range transportation plan
13 shall be developed, as appropriate, in con-
14 sultation with State, tribal, regional, and
15 local agencies responsible for land use
16 management, natural resources, environ-
17 mental protection, conservation, and his-
18 toric preservation.

19 “(ii) COMPARISONS.—Consultation
20 under clause (i) shall involve, as appro-
21 priate, comparison of statewide strategic
22 long-range transportation plans—

23 “(I) to State and tribal conserva-
24 tion plans and maps, if available; and

1 “(II) to inventories of natural
2 and historic resources, if available.

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

5 “(A) IN GENERAL.—The State shall pro-
6 vide citizens, affected public agencies, rep-
7 resentatives of public transportation employees,
8 freight shippers, providers of freight transpor-
9 tation services, private providers of transpor-
10 tation, including intercity bus services, rep-
11 resentatives of users of public transportation,
12 representatives of users of pedestrian walkways
13 and bicycle transportation facilities, representa-
14 tives of the disabled, and other interested par-
15 ties with a reasonable opportunity to comment
16 on the statewide strategic long-range transpor-
17 tation plan.

18 “(B) METHODS.—In carrying out subpara-
19 graph (A), the State shall, to the maximum ex-
20 tent practicable—

21 “(i) hold any public meetings at con-
22 venient and accessible locations and times;

23 “(ii) employ visualization techniques
24 to describe plans; and

1 “(iii) make public information avail-
2 able in electronically accessible format and
3 means, such as the Internet, as appro-
4 priate to afford a reasonable opportunity
5 for consideration of public information
6 under subparagraph (A).

7 “(4) MITIGATION ACTIVITIES.—

8 “(A) IN GENERAL.—A statewide strategic
9 long-range transportation plan shall include a
10 discussion of potential environmental mitigation
11 activities and potential areas to carry out these
12 activities, including activities that may have the
13 greatest potential to restore and maintain the
14 environmental functions affected by the plan.

15 “(B) CONSULTATION.—The discussion
16 shall be developed in consultation with Federal,
17 State, and tribal wildlife, land management,
18 and regulatory agencies.

19 “(5) FINANCIAL PLAN.—The statewide stra-
20 tegic long-range transportation plan may include a
21 financial plan that—

22 “(A) demonstrates how the adopted state-
23 wide strategic long-range transportation plan
24 can be implemented;

1 “(B) indicates resources from public and
2 private sources that are reasonably expected to
3 be made available to carry out the statewide
4 strategic long-range transportation plan;

5 “(C) recommends any additional financing
6 strategies for needed projects and programs;
7 and

8 “(D) may include, for illustrative purposes,
9 additional projects that would be included in
10 the adopted statewide strategic long-range
11 transportation plan if reasonable additional re-
12 sources beyond those identified in the financial
13 plan were available.

14 “(6) SELECTION OF PROJECTS FROM ILLUS-
15 TRATIVE LIST.—A State shall not be required to se-
16 lect any project from the illustrative list of addi-
17 tional projects included in the financial plan de-
18 scribed in paragraph (5).

19 “(7) EXISTING SYSTEM.—A statewide strategic
20 long-range transportation plan should include cap-
21 ital, operations, and management strategies, invest-
22 ments, procedures, and other measures to ensure the
23 preservation and most efficient use of the existing
24 transportation system.

1 “(8) INTERCITY BUS.—A statewide strategic
2 long-range transportation plan shall consider the
3 role intercity buses may play in reducing congestion,
4 pollution, and energy consumption in a cost-effective
5 manner and strategies and investments that preserve
6 and enhance intercity bus systems, including sys-
7 tems that are privately owned and operated.

8 “(9) PUBLICATION OF STATEWIDE STRATEGIC
9 LONG-RANGE TRANSPORTATION PLANS.—A state-
10 wide strategic long-range transportation plan pre-
11 pared by a State shall be published or otherwise
12 made available, including to the maximum extent
13 practicable in electronically accessible formats and
14 means, such as the Internet.

15 “(g) STATEWIDE TIP.—

16 “(1) DEVELOPMENT.—A State shall develop a
17 statewide TIP for all areas of the State. Such pro-
18 gram shall cover a period of 4 years and be updated
19 every 4 years or more frequently if the Governor
20 elects to update more frequently.

21 “(2) CONSULTATION WITH GOVERNMENTS.—

22 “(A) METROPOLITAN AREAS.—With re-
23 spect to a metropolitan area in the State, the
24 program shall be developed in cooperation with

1 the MPO designated for the metropolitan area
2 under section 5203.

3 “(B) NONMETROPOLITAN AREAS.—With
4 respect to a nonmetropolitan area in the State,
5 the program shall be developed in cooperation
6 with affected nonmetropolitan local officials or,
7 if applicable, through regional transportation
8 planning organizations described in subsection
9 (k).

10 “(C) INDIAN TRIBAL AREAS.—With respect
11 to an area of the State under the jurisdiction
12 of an Indian tribal government, the program
13 shall be developed in consultation with the trib-
14 al government and the Secretary of the Interior.

15 “(3) PARTICIPATION BY INTERESTED PAR-
16 TIES.—In developing the program, the State shall
17 provide citizens, affected public agencies, representa-
18 tives of public transportation employees, freight
19 shippers, private providers of transportation, pro-
20 viders of freight transportation services, representa-
21 tives of users of public transportation, representa-
22 tives of users of pedestrian walkways and bicycle
23 transportation facilities, representatives of the dis-
24 abled, and other interested parties with a reasonable
25 opportunity to comment on the proposed program.

1 “(4) INCLUDED PROJECTS.—

2 “(A) IN GENERAL.—A statewide TIP de-
3 veloped for a State shall include federally sup-
4 ported surface transportation expenditures
5 within the boundaries of the State.

6 “(B) LISTING OF PROJECTS.—An annual
7 listing of projects for which funds have been ob-
8 ligated in the preceding year in each metropoli-
9 tan planning area shall be published or other-
10 wise made available by the cooperative effort of
11 the State, public transportation operator, and
12 the MPO for public review. The listing shall be
13 consistent with the funding categories identified
14 in each metropolitan TIP.

15 “(C) PROJECTS UNDER CHAPTER 2 OF
16 TITLE 23.—

17 “(i) REGIONALLY SIGNIFICANT
18 PROJECTS.—Regionally significant projects
19 proposed for funding under chapter 2 of
20 title 23 shall be identified individually in
21 the statewide TIP.

22 “(ii) OTHER PROJECTS.—Projects
23 proposed for funding under such chapter
24 that are not determined to be regionally
25 significant shall be grouped in one line

1 item or identified individually in the state-
2 wide TIP.

3 “(D) CONSISTENCY WITH STATEWIDE
4 STRATEGIC LONG-RANGE TRANSPORTATION
5 PLAN.—A project shall be—

6 “(i) consistent with the statewide
7 strategic long-range transportation plan
8 developed under this section for the State;

9 “(ii) identical to the project or phase
10 of the project as described in an approved
11 metropolitan long-range transportation
12 plan;

13 “(iii) identical to the project or phase
14 of the project as described in a metropoli-
15 tan TIP approved by the Governor; and

16 “(iv) in conformance with the applica-
17 ble State air quality implementation plan
18 developed under the Clean Air Act, if the
19 project is carried out in an area designated
20 as nonattainment for ozone, particulate
21 matter, or carbon monoxide under that
22 Act.

23 “(E) REQUIREMENT OF ANTICIPATED
24 FULL FUNDING.—The statewide TIP shall in-
25 clude a project, or the identified phase of a

1 project, only if full funding can reasonably be
2 anticipated to be available for the project or the
3 identified phase within the time period con-
4 templated for completion of the project or the
5 identified phase.

6 “(F) FINANCIAL PLAN.—The statewide
7 TIP may include a financial plan that—

8 “(i) demonstrates how the approved
9 statewide TIP can be implemented;

10 “(ii) indicates resources from public
11 and private sources that are reasonably ex-
12 pected to be made available to carry out
13 the statewide TIP;

14 “(iii) recommends any additional fi-
15 nancing strategies for needed projects and
16 programs; and

17 “(iv) may include, for illustrative pur-
18 poses, additional projects that would be in-
19 cluded in the adopted statewide TIP if rea-
20 sonable additional resources beyond those
21 identified in the financial plan were avail-
22 able.

23 “(G) SELECTION OF PROJECTS FROM IL-
24 LUSTRATIVE LIST.—

1 “(i) NO REQUIRED SELECTION.—Not-
2 withstanding subparagraph (F), a State
3 shall not be required to select any project
4 from the illustrative list of additional
5 projects included in the financial plan
6 under subparagraph (F).

7 “(ii) REQUIRED ACTION BY THE SEC-
8 RETARY.—An action by the Secretary shall
9 be required for a State to select any
10 project from the illustrative list of addi-
11 tional projects included in the financial
12 plan under subparagraph (F) for inclusion
13 in an approved statewide TIP.

14 “(H) PRIORITIES.—The statewide TIP
15 shall reflect the priorities for programming and
16 expenditures of funds required by title 23, this
17 chapter, and chapter 53 of this title.

18 “(5) PROJECT SELECTION FOR AREAS WITHOUT
19 MPOS.—

20 “(A) IN GENERAL.—Except as provided by
21 subparagraph (B), projects carried out in areas
22 without a designated MPO shall be selected
23 from the approved statewide TIP by the State
24 in cooperation with affected nonmetropolitan
25 local officials or, if applicable, through regional

1 transportation planning organizations described
2 in subsection (k).

3 “(B) NHS PROJECTS.—Projects carried
4 out on the National Highway System under
5 title 23 or under sections 5311 and 5317 of
6 this title in areas without a designated MPO
7 shall be selected from the approved statewide
8 TIP by the State in consultation with affected
9 nonmetropolitan local officials.

10 “(6) TIP APPROVAL.—Every 4 years, a state-
11 wide TIP shall be reviewed and approved by the Sec-
12 retary if based on a current planning finding.

13 “(7) PLANNING FINDING.—A finding shall be
14 made by the Secretary at least once every 4 years
15 that the transportation planning process through
16 which statewide strategic long-range transportation
17 plans and TIPs are developed is consistent with this
18 section and section 5203.

19 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
20 Notwithstanding any other provision of law, action
21 by the Secretary shall not be required to advance a
22 project included in the approved statewide TIP in
23 place of another project in the program.

1 “(h) FUNDING.—Funds set aside pursuant to sec-
2 tions 104(f) and 505 of title 23 and section 5305(g) of
3 this title shall be available to carry out this section.

4 “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-
5 GESTION MANAGEMENT PROCESSES.—For purposes of
6 this section and section 5203, State laws, rules, or regula-
7 tions pertaining to congestion management systems or
8 programs may constitute the congestion management
9 process under this section and section 5203 if the Sec-
10 retary finds that the State laws, rules, or regulations are
11 consistent with, and fulfill the intent of, the purposes of
12 this section and section 5203, as appropriate.

13 “(j) CONTINUATION OF CURRENT REVIEW PRAC-
14 TICE.—Since statewide strategic long-range transpor-
15 tation plans and TIPs are subject to a reasonable oppor-
16 tunity for public comment, individual projects included in
17 such plans and TIPs are subject to review under the Na-
18 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
19 et seq.), and decisions by the Secretary concerning such
20 plans and TIPs have not been reviewed under that Act
21 as of January 1, 1997, any decision by the Secretary con-
22 cerning such plans and TIPS shall not be considered to
23 be a Federal action subject to review under that Act.

24 “(k) DESIGNATION OF REGIONAL TRANSPORTATION
25 PLANNING ORGANIZATIONS.—

1 “(1) IN GENERAL.—To carry out the transpor-
2 tation planning process required by this section, a
3 State may establish and designate regional transpor-
4 tation planning organizations to enhance the plan-
5 ning, coordination, and implementation of statewide
6 strategic long-range transportation plans and TIPs,
7 with an emphasis on addressing the needs of non-
8 metropolitan areas of the State.

9 “(2) STRUCTURE.—A regional transportation
10 planning organization shall be established as a
11 multi-jurisdictional organization of volunteers from
12 nonmetropolitan local officials or their designees and
13 representatives of local transportation systems.

14 “(3) REQUIREMENTS.—A regional transpor-
15 tation planning organization shall establish, at a
16 minimum—

17 “(A) a policy committee, the majority of
18 which shall consist of nonmetropolitan local of-
19 ficials, or their designees, and which shall also
20 include, as appropriate, additional representa-
21 tives from the State, private business, transpor-
22 tation service providers, economic development
23 practitioners, and the public in the region; and

24 “(B) a fiscal and administrative agent,
25 such as an existing regional planning and devel-

1 opment organization, to provide professional
2 planning, management, and administrative sup-
3 port.

4 “(4) DUTIES.—The duties of a regional trans-
5 portation planning organization shall include—

6 “(A) developing and maintaining, in co-
7 operation with the State, regional long-range
8 multimodal transportation plans;

9 “(B) developing a regional transportation
10 improvement program for consideration by the
11 State;

12 “(C) fostering the coordination of local
13 planning, land use, and economic development
14 plans with State, regional, and local transpor-
15 tation plans and programs;

16 “(D) providing technical assistance to local
17 officials;

18 “(E) participating in national, multistate,
19 and State policy and planning development
20 processes to ensure the regional and local input
21 of nonmetropolitan areas;

22 “(F) providing a forum for public partici-
23 pation in the statewide and regional transpor-
24 tation planning processes;

1 “(G) considering and sharing plans and
2 programs with neighboring regional transpor-
3 tation planning organizations, MPOs, and,
4 where appropriate, tribal organizations; and

5 “(H) conducting other duties, as nec-
6 essary, to support and enhance the statewide
7 planning process under subsection (d).

8 “(5) STATES WITHOUT REGIONAL TRANSPOR-
9 TATION PLANNING ORGANIZATIONS.—If a State
10 chooses not to establish or designate a regional
11 transportation planning organization, the State shall
12 consult with affected nonmetropolitan local officials
13 to determine projects that may be of regional signifi-
14 cance.

15 **“§ 5205. National strategic transportation plan**

16 “(a) DEVELOPMENT OF NATIONAL STRATEGIC
17 TRANSPORTATION PLAN.—

18 “(1) DEVELOPMENT OF PLAN.—

19 “(A) IN GENERAL.—The Secretary, in con-
20 sultation with State departments of transpor-
21 tation, shall develop a national strategic trans-
22 portation plan (in this section referred to as the
23 ‘national plan’) in accordance with the require-
24 ments of this section.

1 “(B) SOLICITATION.—Not later than 30
2 days after the date of enactment of this section,
3 the Secretary shall publish in the Federal Reg-
4 ister a solicitation requesting each State depart-
5 ment of transportation to submit to the Sec-
6 retary, not later than 90 days after such date
7 of enactment, a list of projects that the State
8 recommends for inclusion in the national plan.

9 “(C) STATE SELECTION OF PROJECTS.—In
10 selecting projects under subparagraph (B), a
11 State department of transportation shall con-
12 sider the elements of the national plan de-
13 scribed in paragraph (2).

14 “(D) FAILURE TO SUBMIT RECOMMENDA-
15 TIONS.—If a State does not submit a list of rec-
16 ommended projects in accordance with this
17 paragraph, the Secretary shall select projects in
18 the State that will be considered for inclusion in
19 the national plan.

20 “(E) SELECTION OF PROJECTS.—Not later
21 than 60 days after the date on which the Sec-
22 retary receives a list of recommended projects
23 from a State department of transportation
24 under this paragraph, the Secretary shall review

1 the list and select projects from the list for in-
2 clusion in the national plan.

3 “(F) BASIS FOR SELECTION.—In selecting
4 projects for inclusion in the national plan, the
5 Secretary shall consider, at a minimum—

6 “(i) the projects recommended by
7 State departments of transportation under
8 this paragraph;

9 “(ii) the ability of projects to improve
10 mobility by increasing transportation op-
11 tions for passengers and freight;

12 “(iii) the degree to which projects cre-
13 ate intermodal links between different
14 modes of transportation, including pas-
15 senger and freight rail, public transpor-
16 tation, intercity bus, airports, seaports,
17 and navigable inland waterways; and

18 “(iv) the ability of projects to gen-
19 erate national economic benefits, includ-
20 ing—

21 “(I) improvements to economic
22 productivity through congestion relief;
23 and

24 “(II) improvements to passenger
25 and freight movement.

1 “(2) ELEMENTS OF NATIONAL PLAN.—

2 “(A) ROLE OF STATEWIDE STRATEGIC
3 LONG-RANGE TRANSPORTATION PLANS.—The
4 national plan shall be modeled after the state-
5 wide strategic long-range transportation plans
6 developed under section 5204(f).

7 “(B) NATIONAL AND REGIONAL TRANS-
8 PORTATION PROJECTS.—Giving emphasis to the
9 facilities that serve important national and re-
10 gional transportation functions, the national
11 plan shall include an identification of transpor-
12 tation projects (including major roadways, pub-
13 lic transportation facilities, intercity bus facili-
14 ties, multimodal and intermodal facilities, and
15 intermodal connectors) that facilitate the devel-
16 opment of—

17 “(i) a national transportation system;

18 and

19 “(ii) an integrated regional transpor-
20 tation system.

21 “(C) INTERCONNECTIVITY BETWEEN
22 STATES AND REGIONS.—The national plan shall
23 ensure a level of interconnectivity among trans-
24 portation facilities and strategies at State and
25 regional borders.

1 “(D) IDENTIFICATION OF POTENTIAL
2 HIGH-SPEED INTERCITY RAIL CORRIDORS AND
3 SHIPPING ROUTES.—In developing the national
4 plan, the Secretary, in consultation with State
5 departments of transportation, shall identify po-
6 tential high-speed passenger rail projects and
7 potential short seas shipping routes.

8 “(E) INTERCITY BUS NETWORK.—The na-
9 tional plan shall identify projects to preserve
10 and expand the Nation’s intercity bus network
11 and provide interconnectivity to other forms of
12 intercity and local transportation.

13 “(F) AEROTROPOLIS TRANSPORTATION
14 SYSTEMS.—The national plan shall identify
15 aerotropolis transportation systems that will en-
16 hance economic competitiveness and exports in
17 the United States by providing efficient, cost-ef-
18 fective, sustainable, and intermodal connectivity
19 to a defined region of economic significance for
20 freight and passenger transportation.

21 “(G) COST ESTIMATES FOR PROJECTS.—In
22 developing the national plan, the Secretary shall
23 include estimates of the costs of each of the
24 projects and strategies identified in the national

1 plan and a total cost of all of the projects and
2 strategies identified in the national plan.

3 “(3) ISSUANCE AND UPDATING OF NATIONAL
4 PLAN.—

5 “(A) ISSUANCE.—Not later than April 30,
6 2014, the Secretary shall submit to the Com-
7 mittee on Transportation and Infrastructure of
8 the House of Representatives and the Com-
9 mittee on Environment and Public Works, the
10 Committee on Banking, Housing, and Urban
11 Affairs, and the Committee on Commerce,
12 Science, and Transportation of the Senate the
13 national plan developed under this section.

14 “(B) UPDATES.—At least once every 2
15 years after the date of submission of the na-
16 tional plan under subparagraph (A), the Sec-
17 retary—

18 “(i) in consultation with State depart-
19 ments of transportation, shall update the
20 national plan; and

21 “(ii) shall submit the updated national
22 plan to the committees referred to in sub-
23 paragraph (A).

1 “(b) DISSEMINATION OF TRANSPORTATION DATA
2 AND STATISTICS FOR DEVELOPMENT OF STRATEGIC
3 LONG-RANGE TRANSPORTATION PLANS.—

4 “(1) IN GENERAL.—The Secretary shall de-
5 velop, and disseminate to the States, relevant long-
6 range transportation data and statistics that a State
7 or the Secretary, as the case may be, shall use in the
8 development of statewide, regional, and national
9 strategic long-range transportation plans.

10 “(2) TYPES OF TRANSPORTATION DATA AND
11 STATISTICS TO BE DEVELOPED.—The data and sta-
12 tistics referred to in paragraph (1) shall include, at
13 a minimum, 20-year projections—

14 “(A) of population growth in each State;

15 “(B) from the Department of Transpor-
16 tation’s Freight Analysis Framework (referred
17 to in this paragraph as ‘FAF’), including pro-
18 jections for annual average daily truck flow on
19 specific highway routes;

20 “(C) from the Department of Transpor-
21 tation’s Highway Performance Monitoring Sys-
22 tem (referred to in this paragraph as ‘HPMS’)
23 of estimated peak period congestion on major
24 highway routes or segments of routes and in
25 metropolitan areas;

1 “(D) from HPMS and FAF of estimated
2 traffic volumes on segments of highway that are
3 projected to be classified as moderately or high-
4 ly congested;

5 “(E) from HPMS and FAF for highway
6 bottlenecks;

7 “(F) of public transportation use in urban-
8 ized areas, including for each urbanized area a
9 comparison of estimated ridership growth and
10 estimated public transportation revenue vehicle
11 miles to available system capacity and current
12 service levels;

13 “(G) of aviation passenger enplanements
14 and cargo ton miles flown;

15 “(H) of increases in unmanned aerial sys-
16 tem and general aviation active aircraft and
17 hours flown;

18 “(I) of capacity-constrained airports and
19 congested air traffic routes;

20 “(J) of passenger demand for suborbital
21 space tourism;

22 “(K) of demand on major freight rail lines;

23 “(L) of shipping traffic at United States
24 ports; and

1 “(M) of intercity bus and passenger rail
2 ridership demand.

3 **“§ 5206. National performance management system**

4 “(a) ESTABLISHMENT OF NATIONAL PERFORMANCE
5 MANAGEMENT SYSTEM.—

6 “(1) ESTABLISHMENT.—The Secretary shall es-
7 tablish a national performance management system
8 to track the Nation’s progress toward broad national
9 performance goals for the Nation’s highway and
10 public transportation systems.

11 “(2) COMPONENTS.—The National Perform-
12 ance Management System shall include the following
13 components:

14 “(A) A national performance management
15 goal.

16 “(B) Core performance measures.

17 “(C) Technical guidance.

18 “(D) A State performance management
19 process, including—

20 “(i) performance targets;

21 “(ii) strategies; and

22 “(iii) reporting requirements.

23 “(b) NATIONAL PERFORMANCE MANAGEMENT
24 GOAL.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish, in broad qualitative terms, a national per-
3 formance management goal for the Nation’s highway
4 and public transportation systems to ensure eco-
5 nomic growth, safety improvement, and increased
6 mobility.

7 “(2) CONSISTENCY WITH NATIONAL STRATEGIC
8 TRANSPORTATION PLAN.—The national strategic
9 transportation plan, to the greatest extent prac-
10 ticable, shall be consistent with the national per-
11 formance management goal.

12 “(c) CORE PERFORMANCE MEASURES.—

13 “(1) ESTABLISHMENT.—Not later than 2 years
14 after the date of enactment of this section, the Sec-
15 retary, in collaboration with the States, metropolitan
16 planning organizations, and public transportation
17 agencies through the process described in paragraph
18 (4) shall establish core performance measures.

19 “(2) IMPLEMENTATION.—A State shall be re-
20 quired to implement the core performance measures
21 as part of the State’s performance management
22 process established in subsection (e).

23 “(3) CATEGORIES.—The core performance
24 measures shall include not more than 2 measures
25 from each of the following categories:

1 “(A) Pavement condition on the National
2 Highway System.

3 “(B) Bridge condition on the National
4 Highway System.

5 “(C) Highway and motor carrier safety.

6 “(D) Highway safety infrastructure asset
7 management.

8 “(E) Bike and pedestrian safety.

9 “(F) Highway congestion.

10 “(G) Air emissions and energy consump-
11 tion.

12 “(H) Freight mobility.

13 “(I) Public transportation state of good re-
14 pair.

15 “(J) Public transportation service avail-
16 ability.

17 “(K) Rural connectivity.

18 “(4) PROCESS.—The core performance meas-
19 ures shall be established under the following process:

20 “(A) At any time after the date of enact-
21 ment of this section, the State departments of
22 transportation (in consultation with metropoli-
23 tan planning organizations and public transpor-
24 tation agencies), acting through their national
25 organization, may jointly submit to the Sec-

1 retary a complete set of recommended core per-
2 formance measures for use in statewide trans-
3 portation planning.

4 “(B) The Secretary shall give substantial
5 weight to the recommendations submitted by
6 the State departments of transportation, if such
7 recommendations are submitted not later than
8 18 months after enactment of this section.

9 “(C) After consultation with the State de-
10 partments of transportation regarding the rec-
11 ommendations, the Secretary shall issue a no-
12 tice in the Federal Register announcing the
13 Secretary’s proposed set of core performance
14 measures and providing an opportunity for
15 comment.

16 “(D) After considering any comments, the
17 Secretary shall publish a notice in the Federal
18 Register not later than 2 years after the date
19 of enactment of this section announcing the
20 final set of core performance measures.

21 “(d) TECHNICAL GUIDANCE.—

22 “(1) IN GENERAL.—Not later than 6 months
23 after the Secretary publishes the final set of core
24 performance measures in the Federal Register under
25 subsection (e)(4)(D), the Secretary shall issue tech-

1 nical guidance, including a uniform methodology for
2 collecting data, for use by the States in applying the
3 core performance measures.

4 “(2) DEVELOPMENT.—The Secretary shall—

5 “(A) develop the technical guidance in col-
6 laboration with the State departments of trans-
7 portation;

8 “(B) give substantial weight to any rec-
9 ommendations submitted by the State depart-
10 ments of transportation through their national
11 organization, if such recommendations are sub-
12 mitted not later than 3 months after the Sec-
13 retary publishes the final set of core perform-
14 ance measures in the Federal Register under
15 subsection (c)(4)(D); and

16 “(C) provide a reasonable opportunity for
17 State departments of transportation to com-
18 ment on the technical guidance before it is
19 issued.

20 “(e) STATE PERFORMANCE MANAGEMENT PROC-
21 ESS.—

22 “(1) ESTABLISHMENT OF PERFORMANCE TAR-
23 GETS.—

24 “(A) INITIAL TARGETS.—Not later than 1
25 year after the Secretary publishes the final set

1 of core performance measures in the Federal
2 Register under subsection (c)(4)(D), a State
3 shall amend its statewide strategic long-range
4 transportation plan to include a target level of
5 performance for each of the core performance
6 measures.

7 “(B) REVISIONS TO TARGETS.—A State
8 may revise its performance targets for the core
9 performance measures at any time by amending
10 its statewide strategic long-range transportation
11 plan and resubmitting the plan to the Sec-
12 retary.

13 “(2) REPORTING REQUIREMENTS.—

14 “(A) IN GENERAL.—In order to improve
15 the outcomes of the transportation planning
16 process, the States shall implement a national
17 performance reporting process in accordance
18 with subparagraphs (B) and (C).

19 “(B) BASELINE REPORT.—Not later than
20 6 months after adopting its initial performance
21 targets for the core performance measures pur-
22 suant to paragraph (1)(A), a State shall publish
23 a baseline report including data from the most
24 recent year for which data is available for the
25 full set of core performance measures.

1 “(C) ANNUAL PROGRESS REPORTS.—Not
 2 later than 18 months after publication of the
 3 baseline report, and annually thereafter, a State
 4 shall publish a report documenting the progress
 5 that the State has made in meeting its perform-
 6 ance targets for the core performance meas-
 7 ures.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) SUBTITLE ANALYSIS.—The analysis for
 10 subtitle III of title 49, United States Code, is
 11 amended by inserting after the item relating to
 12 chapter 51 the following:

“52. Transportation Planning 5201”.

13 (2) METROPOLITAN TRANSPORTATION PLAN-
 14 NING.—

15 (A) TITLE 23.—Section 134 of title 23,
 16 United States Code, is amended to read as fol-
 17 lows:

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

19 “Metropolitan transportation planning programs
 20 funded under section 104(f) shall be carried out in accord-
 21 ance with the metropolitan planning provisions of section
 22 5203 of title 49.”.

23 (B) CHAPTER 53 OF TITLE 49.—Section
 24 5303 of title 49, United States Code, is amend-
 25 ed to read as follows:

1 **“§ 5303. Metropolitan transportation planning**

2 “Metropolitan transportation planning programs
3 funded under section 5305 shall be carried out in accord-
4 ance with the metropolitan planning provisions of section
5 5203.”.

6 (3) STATEWIDE TRANSPORTATION PLANNING.—

7 (A) TITLE 23.—Section 135 of title 23,
8 United States Code, is amended to read as fol-
9 lows:

10 **“§ 135. Statewide transportation planning**

11 “Statewide transportation planning programs funded
12 under sections 104(f) and 505 shall be carried out in ac-
13 cordance with the metropolitan planning provisions of sec-
14 tion 5204 of title 49.”.

15 (B) CHAPTER 53 OF TITLE 49.—Section
16 5304 of title 49, United States Code, is amend-
17 ed to read as follows:

18 **“§ 5304. Statewide transportation planning**

19 “Statewide transportation planning programs funded
20 under section 5305 shall be carried out in accordance with
21 the metropolitan planning provisions of section 5204.”.

22 **SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN**
23 **PLANNING ORGANIZATIONS.**

24 (a) CONTINUATION OF APPLICABILITY OF SECTION
25 134.—A metropolitan planning organization that serves
26 an urbanized area with a population of more than 50,000

1 and less than 100,000 and that is subject to the provisions
2 of section 134 of title 23, United States Code, and section
3 5303 of title 49, United States Code (as in effect on the
4 day before the date of enactment of this Act), shall con-
5 tinue to be designated as a metropolitan planning organi-
6 zation subject to section 5203 of title 49, United States
7 Code (as added by this title), unless the Governor and
8 units of general purpose local government that together
9 represent at least 75 percent of the affected population,
10 including the largest incorporated city (based on popu-
11 lation) as determined by the Bureau of the Census, agree
12 to terminate the designation.

13 (b) TREATMENT.—A metropolitan planning organiza-
14 tion described in paragraph (1) shall be treated, for pur-
15 poses of title 23, United States Code, and chapters 52 and
16 53 of title 49, United States Code, the Transportation Eq-
17 uity Act for the 21st Century (Public Law 105–178), and
18 SAFETEA–LU (Public Law 109–59) as a metropolitan
19 planning organization that is subject to the provisions of
20 section 5203 of title 49, United States Code (as added
21 by this title).

22 **SEC. 4003. FINANCIAL PLANS.**

23 Not later than 90 days after the date of enactment
24 of this Act, the Secretary shall issue revised regulations

1 under sections 5203 and 5204 of title 49, United States
2 Code (as added by this title), to clarify that—

3 (1) a financial plan for a long-range transpor-
4 tation plan or transportation improvement program
5 is required to be updated not more than once every
6 4 years;

7 (2) an amendment to a long-range transpor-
8 tation plan or transportation improvement program
9 does not require a review of the entire financial plan,
10 but rather requires only a plan for covering any in-
11 cremental costs associated with the amendment;

12 (3) project costs and revenue estimates used in
13 developing a financial plan for a long-range plan
14 should be based on long-term trends, and need not
15 be adjusted to reflect short-term fluctuations;

16 (4) the Department shall defer to the judgment
17 of State and local governments regarding the mag-
18 nitude of potential State and local revenue streams,
19 including the likelihood that State or local govern-
20 ments will approve tax increases, tolling, bonding, or
21 other measures to increase revenues; and

22 (5) the requirement for a financial plan does
23 not give the Secretary the authority or responsibility
24 to determine the adequacy of a State or metropoli-

1 tan area's funding levels for operation and mainte-
2 nance of the transportation system.

3 **SEC. 4004. PLAN UPDATE.**

4 Not later than September 30, 2012, a State shall up-
5 date its statewide strategic long-range transportation plan
6 to comply with the requirements of section 5205 of title
7 49, United States Code.

8 **SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR**
9 **TITLE 23.**

10 Section 505 of title 23, United States Code, is
11 amended—

12 (1) in subsection (a)(5) by inserting “intercity
13 bus,” after “public transportation,”; and

14 (2) in subsection (b)(1) by inserting “intercity
15 bus,” after “public transportation,”.

16 **SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.**

17 (a) **STUDY.**—The Secretary shall enter into appro-
18 priate arrangements with the National Academy of
19 Sciences to conduct a study on the implementation of sec-
20 tion 5206 of title 49, United States Code (as added by
21 this title).

22 (b) **CONTENTS.**—The study shall—

23 (1) report on the timeliness of implementation,
24 the quality and consistency of performance measure-

1 ment practices, the costs of compliance, and impact
2 on the transportation planning process;

3 (2) include recommendations for changes to im-
4 prove implementation; and

5 (3) include recommendations for future addi-
6 tions or changes to the performance categories as
7 described in this section.

8 (c) CONSULTATION.—The National Academy of
9 Sciences shall conduct the study required under this sec-
10 tion in consultation with the Federal Highway Adminis-
11 tration, Federal Transit Administration, American Asso-
12 ciation of State Highway and Transportation Officials,
13 American Public Transit Association, and Association of
14 Metropolitan Planning Organizations.

15 (d) COMPLETION IN PHASES.—

16 (1) IN GENERAL.—The National Academy of
17 Sciences shall complete the study in 2 phases, cor-
18 responding to the major stages of implementation of
19 section 5206 of title 49, United States Code.

20 (2) PHASE I.—Phase 1 of the study shall—

21 (A) address implementation of perform-
22 ance measures; and

23 (B) be completed not later than 3 years
24 after the date of enactment of this Act.

25 (3) PHASE II.—Phase 2 of the study shall—

1 (A) address implementation of perform-
2 ance targets, as well as performance measures;
3 and

4 (B) be completed not later than 5 years
5 after the date of enactment of this Act.

6 **SEC. 4007. CONGESTION RELIEF.**

7 The Secretary shall—

8 (1) encourage States and metropolitan planning
9 organizations to prioritize congestion relief projects
10 in transportation improvement programs in order to
11 improve the flow of commerce and the productivity
12 of the Federal-aid system; and

13 (2) provide technical assistance and educational
14 materials to States to quantify the economic, envi-
15 ronmental, and quality-of-life damage caused by
16 traffic congestion as well as identify multiple options
17 for solutions, including new roads and lanes, bottle-
18 neck removal, congestion reducing and, if applicable,
19 energy efficient intelligent transportation systems,
20 and low-cost congestion relief projects.

21 **TITLE V—HIGHWAY SAFETY**

22 **SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES**
23 **CODE.**

24 Except as otherwise expressly provided, whenever in
25 this title an amendment or repeal is expressed in terms

1 of an amendment to, or a repeal of, a section or other
2 provision, the reference shall be considered to be made to
3 a section or other provision of title 23, United States
4 Code.

5 **SEC. 5002. 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 Alternative Transportation Account):

9 (1) HIGHWAY SAFETY PROGRAMS.—For car-
10 rying out section 402 of title 23, United States
11 Code, \$493,312,000 for each of fiscal years 2013
12 through 2016.

13 (2) 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, \$4,116,000 for each of fiscal years 2013
17 through 2016.

18 (3) ADMINISTRATIVE EXPENSES.—For adminis-
19 trative and related operating expenses of the Na-
20 tional Highway Traffic Safety Administration in car-
21 rying out chapter 4 of title 23, United States Code,
22 and this title (including the amendments made by
23 this title) \$162,572,000 for each of fiscal years 2013
24 through 2016.

1 (b) PROHIBITION ON OTHER USES.—Except as oth-
2 erwise provided in chapter 4 of title 23, United States
3 Code, and this title (including the amendments made by
4 this title), the amounts made available from the Highway
5 Trust Fund (other than the Alternative Transportation
6 Account) for a program under that chapter shall be used
7 only to carry out such program and may not be used by
8 States or local governments for construction purposes.

9 (c) APPLICABILITY OF CHAPTER 1.—Except as oth-
10 erwise provided in chapter 4 of title 23, United States
11 Code, and this title (including the amendments made by
12 this title), the amounts made available under subsection
13 (a) for each of fiscal years 2013 through 2016 shall be
14 available for obligation in the same manner as if such
15 funds were apportioned under chapter 1 of title 23, United
16 States Code.

17 **SEC. 5003. HIGHWAY SAFETY PROGRAMS.**

18 (a) IN GENERAL.—Section 402(a) is amended to
19 read as follows:

20 “(a) STATE HIGHWAY SAFETY PROGRAMS.—

21 “(1) IN GENERAL.—Each State shall have a
22 highway safety program that is subject to approval
23 by the Secretary and is designed to reduce traffic
24 crashes and the fatalities, injuries, and property
25 damage resulting therefrom.

1 “(2) UNIFORM GUIDELINES.—A State’s high-
2 way safety program under paragraph (1) shall be es-
3 tablished and carried out in accordance with uniform
4 guidelines promulgated by the Secretary, which shall
5 be expressed in terms of performance criteria and
6 shall include programs—

7 “(A) to reduce injuries and fatalities re-
8 sulting from motor vehicles being driven in ex-
9 cess of posted speed limits;

10 “(B) to encourage the proper use of occu-
11 pant protection devices (including the use of
12 seat belts and child restraints) by occupants of
13 motor vehicles;

14 “(C) to reduce fatalities and injuries re-
15 sulting from persons driving motor vehicles
16 while impaired by alcohol or a controlled sub-
17 stance;

18 “(D) to prevent crashes and reduce fatali-
19 ties and injuries resulting from crashes involv-
20 ing motor vehicles and motorcycles;

21 “(E) to reduce crashes resulting from un-
22 safe driving behavior (including aggressive or
23 fatigued driving and distracted driving arising
24 from the use of electronic devices in vehicles);

1 “(F) to improve law enforcement activities
2 relating to motor vehicle crash prevention, traf-
3 fic supervision, and postcrash procedures;

4 “(G) to improve the timeliness, accuracy,
5 completeness, uniformity, and accessibility of
6 the safety data of States that is needed—

7 “(i) for activities relating to perform-
8 ance targets established under subsection
9 (m);

10 “(ii) to identify priorities for national,
11 State, and local highway and traffic safety
12 programs; and

13 “(iii) to improve the compatibility and
14 interoperability of the data systems of each
15 State with national data systems and the
16 data systems of other States;

17 “(H) to improve driver performance, in-
18 cluding through driver education, driver testing
19 to determine proficiency to operate motor vehi-
20 cles, driver examinations (both physical and
21 mental), and driver licensing; and

22 “(I) to improve pedestrian and bicycle
23 safety.

1 “(3) RECORD SYSTEM.—The uniform guidelines
2 promulgated under paragraph (2) shall include pro-
3 visions for an effective record system of—

4 “(A) traffic crashes, including injuries and
5 fatalities resulting therefrom;

6 “(B) crash investigation activities carried
7 out to determine the probable causes of crashes,
8 injuries, and fatalities;

9 “(C) vehicle registration, operation, and in-
10 spection activities;

11 “(D) highway design and maintenance ac-
12 tivities, including lighting, markings, and sur-
13 face treatment activities;

14 “(E) traffic surveillance activities relating
15 to the detection and correction of locations with
16 a significant potential for crashes; and

17 “(F) emergency services.

18 “(4) APPLICABILITY OF GUIDELINES.—The
19 uniform guidelines applicable to State highway safe-
20 ty programs shall, to the extent determined appro-
21 priate by the Secretary, be applicable to federally ad-
22 ministered areas where a Federal department or
23 agency controls the highways or supervises traffic
24 operations.”.

1 (b) ADMINISTRATION OF STATE PROGRAMS.—Sec-
2 tion 402(b) is amended—

3 (1) in paragraph (1)—

4 (A) in subparagraph (D) by striking “and”
5 at the end;

6 (B) in subparagraph (E)—

7 (i) in clause (i) by striking “national
8 law enforcement mobilizations” and insert-
9 ing “any national traffic safety law en-
10 forcement mobilizations coordinated by the
11 Secretary”; and

12 (ii) by striking the period at the end
13 and inserting a semicolon; and

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

15 “(F) demonstrate that the State has estab-
16 lished a highway safety data and traffic records
17 coordinating committee with a multidisciplinary
18 membership that includes, among others, man-
19 agers, collectors, and users of traffic records
20 and public health and injury control data sys-
21 tems;

22 “(G) demonstrate that the State has devel-
23 oped a multiyear highway safety data and traf-
24 fic records system strategic plan that—

1 “(i) addresses existing deficiencies in
2 the State’s highway safety data and traffic
3 records system;

4 “(ii) is approved by the State’s high-
5 way safety data and traffic records coordi-
6 nating committee;

7 “(iii) specifies how existing defi-
8 ciencies in the State’s highway safety data
9 and traffic records system were identified;

10 “(iv) prioritizes, on the basis of the
11 identified highway safety data and traffic
12 records system deficiencies of the State,
13 the highway safety data and traffic records
14 system needs and goals of the State;

15 “(v) identifies performance-based
16 measures by which progress toward those
17 goals will be determined; and

18 “(vi) specifies how funds apportioned
19 to the State under subsection (c) and any
20 other funds of the State are to be used to
21 address needs and goals identified in the
22 multiyear plan; and

23 “(H) demonstrate that an assessment or
24 audit of the State’s highway safety data and
25 traffic records system was conducted or up-

1 dated during the 5-year period ending on the
2 date on which such State highway safety pro-
3 gram is submitted to the Secretary for ap-
4 proval.”; and

5 (2) by striking paragraph (3).

6 (c) APPORTIONMENT OF FUNDS.—Section 402(c) is
7 amended to read as follows:

8 “(c) APPORTIONMENT OF FUNDS.—

9 “(1) IN GENERAL.—Funds made available to
10 carry out this section shall be used to aid States in
11 conducting the highway safety programs approved
12 under subsection (a).

13 “(2) APPORTIONMENT FORMULA.—Funds de-
14 scribed in paragraph (1) shall be apportioned among
15 the States each fiscal year in the following manner:

16 “(A) 62.5 percent in the ratio that the
17 population of each State bears to the total pop-
18 ulation of all States, as shown by the latest
19 available Federal census.

20 “(B) 20 percent in the ratio that the pub-
21 lic road mileage in each State bears to the total
22 public road mileage in all States.

23 “(C) 10 percent only to States that have
24 enacted and are enforcing a primary safety belt
25 use law, in the ratio that the population of each

1 such State bears to the total population of all
2 such States, as shown by the latest available
3 Federal census.

4 “(D) 5 percent only to States that have
5 enacted and are enforcing an ignition interlock
6 law, in the ratio that the population of each
7 such State bears to the total population of all
8 such States, as shown by the latest available
9 Federal census.

10 “(E) 2.5 percent only to States that have
11 enacted and are enforcing a graduated drivers
12 licensing law, in the ratio that the population of
13 each such State bears to the total population of
14 all such States, as shown by the latest available
15 Federal census.

16 “(3) MINIMUM APPORTIONMENT.—The annual
17 apportionment under paragraph (2) to each State
18 shall not be less than three-quarters of 1 percent of
19 the total apportionment under that paragraph in the
20 applicable fiscal year, except that the apportionment
21 to the Secretary of the Interior shall not be less than
22 1.5 percent of the total apportionment and the ap-
23 portionments to the Virgin Islands, Guam, American
24 Samoa, and the Commonwealth of the Northern

1 Mariana Islands shall not be less than one-quarter
2 of 1 percent of the total apportionment.

3 “(4) IMPLEMENTATION OF APPROVED HIGHWAY
4 SAFETY PROGRAMS.—

5 “(A) REQUIREMENT FOR RECEIVING AP-
6 PORTIONMENTS.—The Secretary shall not ap-
7 portion any funds under this section to any
8 State that is not implementing a highway safety
9 program approved by the Secretary under this
10 section.

11 “(B) LIMITATIONS ON REQUIREMENTS RE-
12 LATING TO MOTORCYCLE SAFETY HELMETS.—A
13 highway safety program approved by the Sec-
14 retary shall not include any requirement that a
15 State implement such program by adopting or
16 enforcing any law, rule, or regulation based on
17 a guideline promulgated by the Secretary under
18 this section that requires any motorcycle oper-
19 ator 18 years of age or older or passenger 18
20 years of age or older to wear a safety helmet
21 when operating or riding a motorcycle on the
22 streets and highways of that State.

23 “(C) COMPLIANCE WITH IMPLEMENTATION
24 REQUIREMENTS.—Implementation of a highway
25 safety program under this section shall not be

1 construed to require the Secretary to require
2 compliance with every uniform guideline pro-
3 mulgated under this section, or with every ele-
4 ment of every uniform guideline, in every State.

5 “(D) MINIMUM REQUIREMENTS FOR IM-
6 PAIRED DRIVING HIGH RANGE STATES.—An im-
7 paired driving high range State shall expend in
8 a fiscal year, on projects and activities address-
9 ing impaired driving, at least 30 percent of the
10 funds apportioned to that State under para-
11 graph (2) for that fiscal year.

12 “(E) AUTOMATED TRAFFIC ENFORCEMENT
13 SYSTEMS.—

14 “(i) PROHIBITION.—A State may not
15 expend funds apportioned to that State
16 under paragraph (2) to carry out any pro-
17 gram to purchase, operate, or maintain an
18 automated traffic enforcement system.

19 “(ii) AUTOMATED TRAFFIC ENFORCE-
20 MENT SYSTEM DEFINED.—In this subpara-
21 graph, the term ‘automated traffic enforce-
22 ment system’ means automated technology
23 that monitors compliance with traffic
24 laws.”.

25 (d) MISCELLANEOUS.—Section 402 is amended—

1 (1) in subsection (d) by striking “(d) All provi-
2 sions” and inserting “(d) APPLICABILITY OF CER-
3 TAIN PROVISIONS.—All provisions”;

4 (2) in subsection (e) by striking “(e) Uniform
5 guidelines” and inserting “(e) COOPERATION.—Uni-
6 form guidelines”;

7 (3) in subsection (f) by striking “(f) The Sec-
8 retary” and inserting “(f) DEPARTMENT AND AGEN-
9 CY PARTICIPATION.—The Secretary”;

10 (4) in subsection (g)—

11 (A) by striking “(g) Nothing in” and in-
12 serting “(g) LIMITATION ON FUNDS.—Nothing
13 in”;

14 (B) by striking “for (1) highway construc-
15 tion” and inserting “for highway construction”;
16 and

17 (C) by striking “guidelines) or” and all
18 that follows before the period at the end and in-
19 serting “guidelines) or for any purpose for
20 which funds are authorized under section
21 403(a)”;

22 (5) by striking subsection (k); and

23 (6) by redesignating subsections (l) and (m) as
24 subsections (k) and (l), respectively.

1 (e) HIGHWAY SAFETY PERFORMANCE MANAGE-
2 MENT.—Section 402 (as amended by this Act) is further
3 amended by adding at the end the following:

4 “(m) ESTABLISHMENT OF PERFORMANCE TAR-
5 GETS.—

6 “(1) IN GENERAL.—The Governor of each State
7 shall establish quantifiable performance targets for
8 their State—

9 “(A) to be incorporated into the highway
10 safety plan of the State under subsection (n)
11 each year; and

12 “(B) with respect to, at a minimum—

13 “(i) the average number of fatalities
14 in the State resulting from traffic crashes
15 per 100,000,000 vehicle miles traveled;

16 “(ii) the average number of serious in-
17 juries in the State resulting from traffic
18 crashes per 100,000,000 vehicle miles trav-
19 eled;

20 “(iii) the average number of traffic fa-
21 talities in the State involving drivers or
22 motorcycle operators with a blood alcohol
23 content of .08 or above per 100,000,000
24 vehicle miles traveled;

1 “(iv) the average number of traffic
2 crashes in the State involving drivers or
3 motorcycle operators with a blood alcohol
4 content of .08 or above per 100,000,000
5 vehicle miles traveled;

6 “(v) the average number of unre-
7 strained motor vehicle occupant fatalities,
8 for all seat positions, in the State resulting
9 from traffic crashes per 100,000,000 vehi-
10 cle miles traveled; and

11 “(vi) the average number of motorcy-
12 clist fatalities in the State resulting from
13 traffic crashes per 100,000,000 vehicle
14 miles traveled.

15 “(2) CONSIDERATIONS IN ESTABLISHING PER-
16 FORMANCE TARGETS.—In establishing performance
17 targets for a State under this subsection, a Governor
18 shall consider, at a minimum—

19 “(A) the number of fatalities in the State
20 resulting from traffic crashes during the pre-
21 ceding 3 years;

22 “(B) the number of serious injuries in the
23 State resulting from traffic crashes during the
24 preceding 3 years;

1 “(C) the extent to which vehicle miles trav-
2 eled in the State may impact the number of fa-
3 talities and serious injuries in the State result-
4 ing from traffic crashes; and

5 “(D) data available from the Fatality
6 Analysis Reporting System of the National
7 Highway Traffic Safety Administration.

8 “(n) HIGHWAY SAFETY PLAN AND REPORTING RE-
9 QUIREMENTS.—

10 “(1) IN GENERAL.—With respect to fiscal year
11 2014, and each fiscal year thereafter, the Secretary
12 shall require the Governor of each State, as a condi-
13 tion of the approval of the State’s highway safety
14 program for that fiscal year, to develop and submit
15 to the Secretary for approval a highway safety plan
16 applicable to that fiscal year in accordance with this
17 subsection. The plan required under this paragraph
18 may be incorporated into any other document re-
19 quired to be submitted under this section.

20 “(2) TIMING.—Each Governor shall submit to
21 the Secretary the highway safety plan of their State
22 not later than September 1 of the fiscal year pre-
23 ceding the fiscal year to which the plan applies.

24 “(3) CONTENTS.—A State’s highway safety
25 plan shall include, at a minimum—

1 “(A) current data with respect to each per-
2 formance target established for the State under
3 subsection (m);

4 “(B) for the fiscal year preceding the fiscal
5 year to which the plan applies, a description of
6 the State’s performance regarding each per-
7 formance target category described in sub-
8 section (m)(1)(B);

9 “(C) for the fiscal year preceding the fiscal
10 year to which the plan applies, a description of
11 the projects and activities for which the State
12 obligated funding apportioned to the State
13 under this section;

14 “(D) for the fiscal year to which the plan
15 applies, the State’s strategy for using funds ap-
16 portioned to the State under this section for
17 projects and activities that will allow the State
18 to meet the performance targets established for
19 the State under subsection (m);

20 “(E) data and data analysis supporting the
21 effectiveness of projects and activities proposed
22 in the strategy under subparagraph (D);

23 “(F) a description of any Federal, State,
24 local, or private funds that the State plans to
25 use, in addition to funds apportioned to the

1 State under this section, to carry out the
2 State's strategy under subparagraph (D); and

3 “(G) a certification that the State will
4 maintain its aggregate expenditures for high-
5 way safety activities, from sources other than
6 funds apportioned to the State under this sec-
7 tion, at or above the average level of such ex-
8 penditures in the 2 fiscal years preceding the
9 date of enactment of this subsection.

10 “(4) REVIEW OF HIGHWAY SAFETY PLANS.—

11 “(A) IN GENERAL.—Not later than 60
12 days after the date on which the Secretary re-
13 ceives a State's highway safety plan, the Sec-
14 retary shall approve or disapprove the plan.

15 “(B) APPROVALS AND DISAPPROVALS.—

16 The Secretary shall approve or disapprove a
17 State's highway safety plan based on a review
18 of the plan, including an evaluation of whether,
19 in the Secretary's judgment, the plan is evi-
20 dence-based, is supported by data and analysis,
21 and, if implemented, will allow the State to
22 meet the performance targets established for
23 the State under subsection (m). The Secretary
24 shall disapprove a State's highway safety plan
25 if the plan does not, in the Secretary's judg-

1 ment, provide for the evidenced-based use of
2 funding in a manner sufficient to allow the
3 State to meet performance targets.

4 “(C) ACTIONS UPON DISAPPROVAL.—If the
5 Secretary disapproves a State’s highway safety
6 plan, the Secretary shall inform the Governor of
7 the State of the reasons for the disapproval and
8 require the Governor to resubmit the plan with
9 such modifications as the Secretary determines
10 necessary.

11 “(D) REVIEW OF RESUBMITTED PLANS.—
12 If the Secretary requires a Governor to resub-
13 mit a highway safety plan with modifications,
14 the Secretary shall approve or disapprove the
15 modified plan not later than 30 days after the
16 date on which the modified plan is submitted to
17 the Secretary.

18 “(E) FUNDING ALLOCATIONS.—If a State
19 failed to accomplish, as determined by the Sec-
20 retary, a performance target established for
21 that State under subsection (m) in the fiscal
22 year preceding the fiscal year to which a State
23 highway safety plan under review applies, the
24 Secretary shall require the following to be in-
25 cluded in the highway safety plan under review:

1 “(i) If the State failed to accomplish
2 a performance target established under
3 subsection (m)(1)(B)(iii) or (m)(1)(B)(iv),
4 a certification that the State will expend
5 funds apportioned to the State under this
6 section, during the fiscal year to which the
7 plan applies, for projects and activities ad-
8 dressing impaired driving in an amount
9 that is at least 5 percent more than the
10 amount expended on such projects and ac-
11 tivities in the preceding fiscal year using
12 such funds.

13 “(ii) If the State failed to accomplish
14 a performance target established under
15 subsection (m)(1)(B)(v), a certification
16 that the State will expend funds appor-
17 tioned to the State under this section, dur-
18 ing the fiscal year to which the plan ap-
19 plies, for projects and activities addressing
20 occupant protection in an amount that is
21 at least 5 percent more than the amount
22 expended on such projects and activities in
23 the preceding fiscal year using such funds.

24 “(iii) If the State failed to accomplish
25 a performance target established under

1 subsection (m)(1)(B)(vi), a certification
2 that the State will expend funds appor-
3 tioned to the State under this section, dur-
4 ing the fiscal year to which the plan ap-
5 plies, for projects and activities addressing
6 motorcycle safety in an amount that is at
7 least 5 percent more than the amount ex-
8 pended on such projects and activities in
9 the preceding fiscal year using such funds.

10 “(F) DATA.—

11 “(i) FATALITIES DATA.—A State’s
12 compliance with performance targets relat-
13 ing to fatalities shall be determined using
14 the most recent data from the Fatality
15 Analysis Reporting System of the National
16 Highway Traffic Safety Administration.

17 “(ii) CRASH DATA.—A State’s compli-
18 ance with performance targets relating to
19 serious injuries shall be determined using
20 State crash data files.

21 “(G) PUBLIC NOTICE.—A State shall make
22 each highway safety plan of the State available
23 to the public.

24 “(o) ANNUAL REPORT TO CONGRESS.—Not later
25 than October 1, 2015, and annually thereafter, the Sec-

1 retary shall submit to the Committee on Transportation
2 and Infrastructure of the House of Representatives and
3 the Committee on Commerce, Science, and Transportation
4 of the Senate a report containing—

5 “(1) an evaluation of each State’s performance
6 with respect to the State’s highway safety plan
7 under subsection (n) and performance targets under
8 subsection (m); and

9 “(2) such recommendations as the Secretary
10 may have for improvements to activities carried out
11 under subsections (m) and (n).

12 “(p) DEFINITIONS.—In this section, the following
13 definitions apply:

14 “(1) CHILD RESTRAINT.—The term ‘child re-
15 straint’ means any product designed to provide re-
16 straint to a child in a motor vehicle (including boost-
17 er seats and other products used with a lap and
18 shoulder belt assembly) that meets applicable Fed-
19 eral motor vehicle safety standards prescribed by the
20 National Highway Traffic Safety Administration.

21 “(2) CONTROLLED SUBSTANCE.—The term
22 ‘controlled substance’ has the meaning given that
23 term in section 102 of the Controlled Substances
24 Act (21 U.S.C. 802).

1 “(3) DRIVING WHILE INTOXICATED; DRIVING
2 UNDER THE INFLUENCE.—The terms ‘driving while
3 intoxicated’ and ‘driving under the influence’ have
4 the meaning given those terms in section 164.

5 “(4) GRADUATED DRIVERS LICENSING LAW.—
6 The term ‘graduated drivers licensing law’ means a
7 law enacted by a State that requires, before the
8 granting of an unrestricted driver’s license to indi-
9 viduals under the age of 21 years, a 2-stage licens-
10 ing process that includes the following:

11 “(A) A learner’s permit stage that—

12 “(i) allows for the acquisition of a
13 learner’s permit by an individual not ear-
14 lier than the date on which that individual
15 attains 15 years and 6 months of age;

16 “(ii) is at least 6 months in duration;

17 “(iii) requires an individual with a
18 learner’s permit to complete at least 30
19 hours of driving supervised by a licensed
20 driver who is 21 years of age or older;

21 “(iv) requires an individual with a
22 learner’s permit to be accompanied and su-
23 pervised by a licensed driver who is 21
24 years of age or older at all times when op-
25 erating a motor vehicle; and

1 “(v) is in effect until the commence-
2 ment of the intermediate stage or until the
3 date on which the applicable individual at-
4 tains 18 years of age.

5 “(B) An intermediate stage that—

6 “(i) applies to an individual imme-
7 diately after the expiration of the learner’s
8 permit stage for that individual;

9 “(ii) is at least 6 months in duration;

10 “(iii) prohibits the operation of a
11 motor vehicle by an individual to whom the
12 stage applies, if that individual is trans-
13 porting more than one nonfamilial pas-
14 senger under the age of 18 years and there
15 is no licensed driver 21 years of age or
16 older present in the motor vehicle; and

17 “(iv) prohibits an individual to whom
18 the stage applies from operating a motor
19 vehicle between the hours of midnight and
20 4 a.m., unless such individual is accom-
21 panied and supervised by a licensed driver
22 who is 21 years of age or older.

23 “(5) IMPAIRED DRIVING HIGH RANGE STATE.—

24 The term ‘impaired driving high range State’ means
25 a State that averaged more than .50 alcohol im-

1 paired driving fatalities per 100,000,000 vehicle
2 miles traveled, as determined using data from the
3 Fatality Analysis Reporting System of the National
4 Highway Traffic Safety Administration, for the most
5 recent 3 years for which data are available.

6 “(6) IGNITION INTERLOCK DEVICE.—The term
7 ‘ignition interlock device’ means an in-vehicle device
8 that requires a driver to provide a breath sample
9 prior to a motor vehicle starting and that prevents
10 a motor vehicle from starting if the blood alcohol
11 content of the driver is above the legal limit.

12 “(7) IGNITION INTERLOCK LAW.—The term ‘ig-
13 nition interlock law’ means a law enacted by a State
14 that requires throughout the State the installation of
15 an ignition interlock device, for a minimum of 6
16 months, on each motor vehicle operated by an indi-
17 vidual who is convicted of driving while intoxicated
18 or driving under the influence.

19 “(8) MOTOR VEHICLE.—The term ‘motor vehi-
20 cle’ has the meaning given that term in section 157.

21 “(9) MOTORCYCLIST SAFETY TRAINING.—The
22 term ‘motorcyclist safety training’ means a formal
23 program of instruction that is approved for use in
24 a State by the designated State authority having ju-
25 risdiction over motorcyclist safety issues, which may

1 include a State motorcycle safety administrator or a
2 motorcycle advisory council appointed by the Gov-
3 ernor of the State.

4 “(10) PRIMARY SAFETY BELT USE LAW.—The
5 term ‘primary safety belt use law’ means a law en-
6 acted by a State that—

7 “(A) requires all occupants in the front
8 seat of a motor vehicle to utilize a seat belt
9 when the motor vehicle is being driven; and

10 “(B) allows for a law enforcement officer
11 to stop a vehicle solely for the purpose of
12 issuing a citation for a violation of the require-
13 ment in subparagraph (A) in the absence of evi-
14 dence of another offense.

15 “(11) PROJECTS AND ACTIVITIES ADDRESSING
16 IMPAIRED DRIVING.—The term ‘projects and activi-
17 ties addressing impaired driving’ means projects and
18 activities—

19 “(A) to develop and implement law en-
20 forcement measures and tools designed to re-
21 duce impaired driving, including training, edu-
22 cation, equipment, and other methods of sup-
23 port for law enforcement and criminal justice
24 professionals;

1 “(B) to improve impaired driving prosecu-
2 tion and adjudication, including the establish-
3 ment of courts that specialize in impaired driv-
4 ing cases;

5 “(C) to carry out safety campaigns relat-
6 ing to impaired driving using paid media;

7 “(D) to provide inpatient and outpatient
8 alcohol rehabilitation based on mandatory as-
9 sessment and appropriate treatment;

10 “(E) to establish and improve information
11 systems containing data on impaired driving; or

12 “(F) to establish and implement an igni-
13 tion interlock system for individuals convicted
14 of driving while intoxicated or driving under the
15 influence.

16 “(12) PROJECTS AND ACTIVITIES ADDRESSING
17 MOTORCYCLE SAFETY.—The term ‘projects and ac-
18 tivities addressing motorcycle safety’ means projects
19 and activities—

20 “(A) to improve the content and delivery of
21 motorcyclist safety training curricula;

22 “(B) to support licensing, training, and
23 safety education for motorcyclists, including
24 new entrants;

1 “(C) to enhance motorcycle safety through
2 public service announcements, including safety
3 messages on road sharing, outreach, and public
4 awareness activities; or

5 “(D) to provide for the safety of motorcy-
6 clists through the promotion of appropriate pro-
7 tective equipment.

8 “(13) PROJECTS AND ACTIVITIES ADDRESSING
9 OCCUPANT PROTECTION.—The term ‘projects and
10 activities addressing occupant protection’ means
11 projects and activities—

12 “(A) to provide for occupant protection
13 training, education, equipment, and other meth-
14 ods of support for law enforcement and criminal
15 justice professionals;

16 “(B) to carry out safety campaigns relat-
17 ing to occupant protection using paid media;

18 “(C) to establish and improve information
19 systems containing data on occupant protection;

20 “(D) to provide for training of firefighters,
21 law enforcement officers, emergency medical
22 services professionals, and others on the provi-
23 sion of community child passenger safety serv-
24 ices; or

1 “(E) to purchase child restraints for low-
2 income families.

3 “(14) PUBLIC ROAD.—The term ‘public road’
4 means any road under the jurisdiction of and main-
5 tained by a public authority and open to public trav-
6 el.

7 “(15) PUBLIC ROAD MILEAGE.—The term ‘pub-
8 lic road mileage’ means the number of public road
9 miles in a State as—

10 “(A) determined at the end of the calendar
11 year preceding the year in which applicable
12 funds are apportioned; and

13 “(B) certified by the Governor of the
14 State, subject to approval by the Secretary.

15 “(16) SEAT BELT.—The term ‘seat belt’ has
16 the meaning given that term in section 157.”.

17 **SEC. 5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR**
18 **ADMINISTRATIVE EXPENSES.**

19 (a) IN GENERAL.—Section 403 is amended to read
20 as follows:

21 **“§ 403. Use of certain funds made available for ad-**
22 **ministrative expenses**

23 “(a) HIGHWAY SAFETY RESEARCH AND DEVELOP-
24 MENT.—The Secretary is authorized to carry out, using
25 funds made available out of the Highway Trust Fund

1 (other than the Alternative Transportation Account)
2 under section 5002(a)(3) of the American Energy and In-
3 frastructure Jobs Act of 2012—

4 “(1) ongoing research into driver behavior and
5 its effect on traffic safety;

6 “(2) research on, initiatives to counter, and
7 demonstration projects on fatigued driving by driv-
8 ers of motor vehicles and distracted driving in such
9 vehicles, including the effect that the use of elec-
10 tronic devices and other factors determined relevant
11 by the Secretary have on driving;

12 “(3) training or education programs in coopera-
13 tion with other Federal departments and agencies,
14 States, private sector persons, highway safety per-
15 sonnel, and law enforcement personnel;

16 “(4) research on and evaluations of the effec-
17 tiveness of traffic safety countermeasures, including
18 seat belts and impaired driving initiatives;

19 “(5) research on, evaluations of, and identifica-
20 tion of best practices related to driver education pro-
21 grams (including driver education curricula, instruc-
22 tor training and certification, program administra-
23 tion, and delivery mechanisms) and make rec-
24 ommendations for harmonizing driver education and
25 multistage graduated licensing systems;

1 “(6) research, training, and education programs
2 related to older drivers;

3 “(7) highway safety demonstration projects re-
4 lated to driver behavior, including field operational
5 tests for vehicle collision avoidance systems, vehicle
6 voice interface systems, vehicle workload manage-
7 ment systems, driver state monitoring systems, and
8 autonomous vehicles; and

9 “(8) research, training, and programs relating
10 to motorcycle safety, including impaired driving.

11 “(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

12 “(1) IN GENERAL.—The Administrator of the
13 National Highway Traffic Safety Administration
14 shall establish and administer, using funds made
15 available out of the Highway Trust Fund (other
16 than the Alternative Transportation Account) under
17 section 5002(a)(3) of the American Energy and In-
18 frastructure Jobs Act of 2012, a program under
19 which at least 2 high-visibility traffic safety law en-
20 forcement campaigns will be carried out for the pur-
21 pose specified in paragraph (2) in each of fiscal
22 years 2013 through 2016.

23 “(2) PURPOSE.—The purpose of each law en-
24 forcement campaign under this subsection shall be
25 to achieve one or more of the following objectives:

1 “(A) Reduce alcohol-impaired or drug-im-
2 paired operation of motor vehicles.

3 “(B) Increase the use of seat belts by oc-
4 cupants of motor vehicles.

5 “(C) Reduce distracted driving of motor
6 vehicles.

7 “(3) ADVERTISING.—The Administrator may
8 use, or authorize the use of, funds made available to
9 carry out this subsection to pay for the development,
10 production, and use of broadcast and print media
11 advertising in carrying out law enforcement cam-
12 paigns under this subsection. Consideration shall be
13 given to advertising directed at non-English speak-
14 ing populations, including those who listen to, read,
15 or watch nontraditional media.

16 “(4) COORDINATION WITH STATES.—The Ad-
17 ministrator shall coordinate with States in carrying
18 out law enforcement campaigns under this sub-
19 section, including advertising funded under para-
20 graph (3), with a view toward—

21 “(A) relying on States to provide the law
22 enforcement resources for the campaigns out of
23 funding available under this subsection and sec-
24 tion 402; and

1 “(B) providing out of National Highway
2 Traffic Safety Administration resources most of
3 the means necessary for national advertising
4 and education efforts associated with the law
5 enforcement campaigns.

6 “(5) ANNUAL EVALUATION.—The Secretary
7 shall conduct an annual evaluation of the effective-
8 ness of campaigns carried out under this subsection.

9 “(6) STATE DEFINED.—In this subsection, the
10 term ‘State’ has the meaning given that term in sec-
11 tion 401.

12 “(c) AVAILABILITY OF FUNDS.—The Secretary shall
13 ensure that at least \$137,244,000 of the funds made avail-
14 able out of the Highway Trust Fund (other than the Alter-
15 native Transportation Account) under section 5002(a)(3)
16 of the American Energy and Infrastructure Jobs Act of
17 2012 each fiscal year are used for programs and activities
18 authorized under this section.”.

19 (b) CLERICAL AMENDMENT.—The analysis for chap-
20 ter 4 is amended by striking the item relating to section
21 403 and inserting the following:

 “403. Use of certain funds made available for administrative expenses.”.

22 **SEC. 5005. REPEAL OF PROGRAMS.**

23 (a) GENERAL PROVISION.—A repeal made by this
24 section shall not affect funds apportioned or allocated be-
25 fore the effective date of the repeal.

1 (b) OCCUPANT PROTECTION INCENTIVE GRANTS.—
2 Section 405, and the item relating to that section in the
3 analysis for chapter 4, are repealed.

4 (c) SAFETY BELT PERFORMANCE GRANTS.—Section
5 406, and the item relating to that section in the analysis
6 for chapter 4, are repealed.

7 (d) INNOVATIVE PROJECT GRANTS.—Section 407,
8 and the item relating to that section in the analysis for
9 chapter 4, are repealed.

10 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
11 IMPROVEMENTS.—Section 408, and the item relating to
12 that section in the analysis for chapter 4, are repealed.

13 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
14 MEASURES.—Section 410, and the item relating to that
15 section in the analysis for chapter 4, are repealed.

16 (g) STATE HIGHWAY SAFETY DATA IMPROVE-
17 MENTS.—Section 411, and the item relating to that sec-
18 tion in the analysis for chapter 4, are repealed.

19 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—
20 Section 2009 of SAFETEA-LU (23 U.S.C. 402 note; 119
21 Stat. 1535), and the item relating to that section in the
22 table of contents contained in section 1(b) of that Act,
23 are repealed.

24 (i) MOTORCYCLIST SAFETY.—Section 2010 of
25 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1535),

1 and the item relating to that section in the table of con-
2 tents contained in section 1(b) of that Act, are repealed.

3 (j) CHILD SAFETY AND CHILD BOOSTER SEAT IN-
4 CENTIVE GRANTS.—Section 2011 of SAFETEA–LU (23
5 U.S.C. 405 note; 119 Stat. 1538), and the item relating
6 to that section in the table of contents contained in section
7 1(b) of that Act, are repealed.

8 (k) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Sec-
9 tion 2013 of SAFETEA–LU (23 U.S.C. 403 note; 119
10 Stat. 1539), and the item relating to that section in the
11 table of contents contained in section 1(b) of that Act,
12 are repealed.

13 (l) FIRST RESPONDER VEHICLE SAFETY PRO-
14 GRAM.—Section 2014 of SAFETEA–LU (23 U.S.C. 402
15 note; 119 Stat. 1540), and the item relating to that sec-
16 tion in the table of contents contained in section 1(b) of
17 that Act, are repealed.

18 (m) RURAL STATE EMERGENCY MEDICAL SERVICES
19 OPTIMIZATION PILOT PROGRAM.—Section 2016 of
20 SAFETEA–LU (119 Stat. 1541), and the item relating
21 to that section in the table of contents contained in section
22 1(b) of that Act, are repealed.

23 (n) OLDER DRIVER SAFETY; LAW ENFORCEMENT
24 TRAINING.—Section 2017 of SAFETEA–LU (119 Stat.
25 1541), and the item relating to that section in the table

1 of contents contained in section 1(b) of that Act, are re-
2 pealed.

3 **SEC. 5006. DISCOVERY AND ADMISSION AS EVIDENCE OF**
4 **CERTAIN REPORTS AND SURVEYS.**

5 Section 409 is amended by striking “and 148” and
6 inserting “148, and 402”.

7 **SEC. 5007. PROHIBITION ON FUNDS TO CHECK HELMET**
8 **USAGE OR CREATE CHECKPOINTS FOR A MO-**
9 **TORCYCLE DRIVER OR PASSENGER.**

10 The Secretary may not provide a grant or otherwise
11 make available funding to a State, Indian tribe, county,
12 municipality, or other local government to be used for any
13 program to check helmet usage or create checkpoints for
14 a motorcycle driver or passenger.

15 **SEC. 5008. NATIONAL DRIVER REGISTER.**

16 (a) ACCURACY OF INFORMATION.—Not later than
17 October 1, 2013, to ensure the accuracy of information
18 contained in the National Driver Register established
19 under section 30302 of title 49, United States Code, the
20 Secretary, in cooperation with the States, shall—

21 (1) establish and implement procedures to—

22 (A) ensure that participating States sub-
23 mit reports required under section 30304(a) of
24 such title with respect to a conviction not later
25 than 31 days after receiving notice of the con-

1 viction, as required under section 30304(e)(2)
2 of such title; and

3 (B) verify and improve the accuracy of re-
4 ports submitted for inclusion in the Register
5 under section 30304 of such title; and

6 (2) establish and implement a process for—

7 (A) the removal or modification of an in-
8 valid or duplicative driver record contained in
9 the Register; and

10 (B) the verification of a request for the re-
11 moval or modification of an invalid or duplica-
12 tive driver record contained in the Register.

13 (b) REPORT TO CONGRESS.—Not later than Feb-
14 ruary 1, 2013, and every February 1 thereafter, the Sec-
15 retary shall submit to the Committee on Transportation
16 and Infrastructure of the House of Representatives and
17 the Committee on Commerce, Science, and Transportation
18 of the Senate a report describing—

19 (1) the timeliness and completeness of State
20 submissions under section 30304 of title 49, United
21 States Code;

22 (2) the Department's efforts to monitor and en-
23 sure compliance with the reporting requirements
24 under such section; and

1 (3) recommendations for improving the Na-
2 tional Driver Register established under section
3 30302 of title 49, United States Code, including the
4 accuracy of information contained in the Register,
5 and the Problem Driver Pointer System of the
6 American Association of Motor Vehicle Administra-
7 tors.

8 **TITLE VI—COMMERCIAL MOTOR**
9 **VEHICLE SAFETY**

10 **SEC. 6001. SHORT TITLE.**

11 This title may be cited as the “Motor Carrier Safety,
12 Efficiency, and Accountability Act of 2012”.

13 **SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES**
14 **CODE.**

15 Except as otherwise expressly provided, whenever in
16 this title an amendment or repeal is expressed in terms
17 of an amendment to, or a repeal of, a section or other
18 provision, the reference shall be considered to be made to
19 a section or other provision of title 49, United States
20 Code.

21 **Subtitle A—Authorization of**
22 **Appropriations**

23 **SEC. 6101. MOTOR CARRIER SAFETY GRANTS.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
25 31104(a) is amended to read as follows:

1 “(a) IN GENERAL.—Subject to subsection (f), there
2 is authorized to be appropriated from the Highway Trust
3 Fund (other than the Alternative Transportation Account)
4 to carry out section 31102 \$247,000,000 for each of fiscal
5 years 2013 through 2016.”.

6 (b) ADMINISTRATIVE TAKEDOWN.—

7 (1) IN GENERAL.—Section 31104(e) is amend-
8 ed to read as follows:

9 “(e) DEDUCTION FOR ADMINISTRATIVE EX-
10 PENSES.—

11 “(1) IN GENERAL.—On October 1 of each fiscal
12 year (or as soon after that date as practicable), the
13 Secretary may deduct, from amounts made available
14 under subsection (a) for that fiscal year, not more
15 than 1.25 percent of those amounts for administra-
16 tive expenses incurred in carrying out section 31102
17 in that fiscal year.

18 “(2) TRAINING.—The Secretary shall use at
19 least 75 percent of the amounts deducted under
20 paragraph (1) to train non-Government employees
21 and to develop related training materials in carrying
22 out section 31102.”.

23 (2) REPORT TO CONGRESS.—At the end of each
24 fiscal year, the Secretary shall submit to Congress a
25 report detailing the use of amounts deducted under

1 section 31104(e) of title 49, United States Code, as
2 amended by paragraph (1) of this subsection.

3 (c) ALLOCATION CRITERIA.—Section 31104(f) is
4 amended to read as follows:

5 “(f) ALLOCATION CRITERIA.—

6 “(1) IN GENERAL.—On October 1 of each fiscal
7 year (or as soon after that date as practicable) and
8 after making the deduction under subsection (e), the
9 Secretary shall allocate amounts made available to
10 carry out section 31102 for such fiscal year among
11 the States that are eligible for grant funds under
12 section 31102(f)(2).

13 “(2) ALLOCATION FORMULA.—The amounts
14 made available to carry out section 31102 shall be
15 allocated among the States in the following manner:

16 “(A) 20 percent in the ratio that—

17 “(i) the total public road mileage in
18 each State; bears to

19 “(ii) the total public road mileage in
20 all States.

21 “(B) 20 percent in the ratio that—

22 “(i) the total vehicle miles traveled in
23 each State; bears to

24 “(ii) the total vehicle miles traveled in
25 all States.

1 “(C) 20 percent in the ratio that—

2 “(i) the total population of each State
3 (as shown in the annual census estimates
4 issued by the Bureau of the Census); bears
5 to

6 “(ii) the total population of all States
7 (as shown in the annual census estimates
8 issued by the Bureau of the Census).

9 “(D) 20 percent in the ratio that—

10 “(i) the total special fuel consumption
11 (net after reciprocity adjustment) in each
12 State (as determined by the Secretary);
13 bears to

14 “(ii) the total special fuel consumption
15 (net after reciprocity adjustment) in all
16 States (as determined by the Secretary).

17 “(E) 10 percent only to those States that
18 share a land border with another country and
19 conduct border commercial motor vehicle safety
20 programs and related activities (in this sub-
21 paragraph referred to as a ‘border State’),
22 with—

23 “(i) 70 percent of such amount to be
24 allocated among border States in the ratio
25 that—

1 “(I) the total number of inter-
2 national commercial motor vehicle in-
3 spections conducted within the bound-
4 aries of each border State (as deter-
5 mined by the Secretary); bears to

6 “(II) the total number of inter-
7 national commercial motor vehicle in-
8 spections conducted within the bound-
9 aries of all border States (as deter-
10 mined by the Secretary); and

11 “(ii) 30 percent of such amount to be
12 allocated among border States in the ratio
13 that—

14 “(I) the total number of land
15 border crossing locations with State-
16 maintained commercial motor vehicle
17 safety enforcement infrastructure
18 within the boundaries of each border
19 State (as determined by the Sec-
20 retary); bears to

21 “(II) the total number of land
22 border crossing locations with State-
23 maintained commercial motor vehicle
24 safety enforcement infrastructure
25 within the boundaries of all border

1 States (as determined by the Sec-
2 retary).

3 “(F) 10 percent only to those States that
4 reduce the rate of large truck-involved fatal ac-
5 cidents in the State for the most recent cal-
6 endar year for which data are available when
7 compared to the average rate of large truck-in-
8 volved fatal accidents in the State for the 10-
9 year period ending on the last day preceding
10 that calendar year (in this subparagraph re-
11 ferred to as an ‘eligible State’), with—

12 “(i) 25 percent of such amount to be
13 allocated among eligible States in the ratio
14 that—

15 “(I) the total public road mileage
16 in each eligible State; bears to

17 “(II) the total public road mile-
18 age in all eligible States;

19 “(ii) 25 percent of such amount to be
20 allocated among eligible States in the ratio
21 that—

22 “(I) the total vehicle miles trav-
23 eled in each eligible State; bears to

24 “(II) the total vehicle miles trav-
25 eled in all eligible States;

1 “(iii) 25 percent of such amount to be
2 allocated among eligible States in the ratio
3 that—

4 “(I) the total population of each
5 eligible State (as shown in the annual
6 census estimates issued by the Bureau
7 of the Census); bears to

8 “(II) the total population of all
9 eligible States (as shown in the an-
10 nual census estimates issued by the
11 Bureau of the Census); and

12 “(iv) 25 percent of such amount to be
13 allocated among eligible States in the ratio
14 that—

15 “(I) the total special fuel con-
16 sumption (net after reciprocity adjust-
17 ment) in each eligible State (as deter-
18 mined by the Secretary); bears to

19 “(II) the total special fuel con-
20 sumption (net after reciprocity adjust-
21 ment) in all eligible States (as deter-
22 mined by the Secretary).

23 “(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

24 “(A) MAXIMUM ALLOCATION.—The alloca-
25 tion under subparagraphs (A) through (D) of

1 paragraph (2) for a fiscal year to each State
2 (excluding the Virgin Islands, American Samoa,
3 Guam, and the Northern Mariana Islands) shall
4 be not greater than 4.944 percent of the total
5 allocation under those subparagraphs in that
6 fiscal year.

7 “(B) MINIMUM ALLOCATION.—The alloca-
8 tion under paragraph (2) for a fiscal year to
9 each State (excluding the Virgin Islands, Amer-
10 ican Samoa, Guam, and the Northern Mariana
11 Islands) shall be not less than 0.44 percent of
12 the total allocation under that paragraph in
13 that fiscal year.

14 “(C) ALLOCATION TO TERRITORIES.—The
15 annual allocation to each of the Virgin Islands,
16 American Samoa, Guam, and the Northern
17 Mariana Islands shall be \$350,000.”.

18 (d) ADMINISTRATIVE EXPENSES.—Section 31104(i)
19 is amended—

20 (1) by striking paragraph (1) and inserting the
21 following:

22 “(1) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated from the
24 Highway Trust Fund (other than the Alternative
25 Transportation Account) for the Secretary of Trans-

1 portation to pay administrative expenses of the Fed-
2 eral Motor Carrier Safety Administration
3 \$244,144,000 for each of fiscal years 2013 through
4 2016.”; and

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

6 “(3) OUTREACH AND EDUCATION.—

7 “(A) IN GENERAL.—Using the funds au-
8 thorized by this subsection, the Secretary shall
9 conduct an outreach and education program to
10 be administered by the Administrator of the
11 Federal Motor Carrier Safety Administration in
12 cooperation with the Administrator of the Na-
13 tional Highway Traffic Safety Administration.

14 “(B) PROGRAM ELEMENTS.—The program
15 shall include, at a minimum, the following:

16 “(i) A program to promote a more
17 comprehensive and national effort to edu-
18 cate commercial motor vehicle operators
19 and passenger vehicle drivers about how
20 such operators and drivers can more safely
21 share the road with each other.

22 “(ii) A program to promote enhanced
23 traffic enforcement efforts aimed at reduc-
24 ing the incidence of the most common un-
25 safe driving behaviors that cause or con-

1 tribute to crashes involving commercial
2 motor vehicles and passenger vehicles.

3 “(iii) A program to establish a public-
4 private partnership to provide resources
5 and expertise for the development and dis-
6 semination of information relating to shar-
7 ing the road referred to in clauses (i) and
8 (ii) to each partner’s constituents and to
9 the general public through the use of bro-
10 chures, videos, paid and public advertise-
11 ments, the Internet, and other media.”.

12 **SEC. 6102. GRANT PROGRAMS.**

13 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated from the Highway Trust
15 Fund (other than the Alternative Transportation Account)
16 the following sums for the following Federal Motor Carrier
17 Safety Administration programs:

18 (1) **COMMERCIAL DRIVER’S LICENSE PROGRAM**
19 **IMPLEMENTATION GRANTS.**—For commercial driv-
20 er’s license program implementation grants under
21 section 31313 of title 49, United States Code,
22 \$30,000,000 for each of fiscal years 2013 through
23 2016.

24 (2) **COMMERCIAL VEHICLE INFORMATION SYS-**
25 **TEMS AND NETWORKS DEPLOYMENT.**—For carrying

1 out the commercial vehicle information systems and
2 networks deployment program under section 4126 of
3 SAFETEA-LU (119 Stat. 1738) \$30,000,000 for
4 each of fiscal years 2013 through 2016.

5 (b) PERIOD OF AVAILABILITY.—The amounts made
6 available under this section shall remain available until ex-
7 pended.

8 (c) INITIAL DATE OF AVAILABILITY.—Amounts au-
9 thorized to be appropriated from the Highway Trust Fund
10 (other than the Alternative Transportation Account) by
11 this section shall be available for obligation on the date
12 of their apportionment or allocation or on October 1 of
13 the fiscal year for which they are authorized, whichever
14 occurs first.

15 (d) CONTRACT AUTHORITY.—Approval by the Sec-
16 retary of a grant with funds made available under this
17 section imposes upon the United States a contractual obli-
18 gation for payment of the Government's share of costs in-
19 curred in carrying out the objectives of the grant.

20 **Subtitle B—Registration**

21 **SEC. 6201. REGISTRATION REQUIREMENTS.**

22 (a) GENERAL REQUIREMENTS.—Section 13901 is
23 amended to read as follows:

1 **“§ 13901. Requirement for registration**

2 “(a) IN GENERAL.—A person may provide the fol-
3 lowing transportation or services only if the person is reg-
4 istered under this chapter to provide the transportation
5 or service:

6 “(1) Transportation as a motor carrier subject
7 to jurisdiction under subchapter I of chapter 135.

8 “(2) Service as a freight forwarder subject to
9 jurisdiction under subchapter III of chapter 135.

10 “(3) Service as a broker for transportation sub-
11 ject to jurisdiction under subchapter I of chapter
12 135.

13 “(b) REGISTRATION NUMBERS.—

14 “(1) IN GENERAL.—If the Secretary registers a
15 person under this chapter to provide transportation
16 or service, including as a motor carrier, freight for-
17 warder, or broker, the Secretary shall issue a dis-
18 tinctive registration number to the person for the
19 transportation or service. In the case of a person
20 registered by the Secretary to provide more than one
21 type of transportation or service, the Secretary shall
22 issue a separate registration number to the person
23 for each authority to provide transportation or serv-
24 ice.

25 “(2) TRANSPORTATION OR SERVICE TYPE INDI-
26 CATOR.—A registration number issued under para-

1 graph (1) shall include an indicator of the type of
2 transportation or service for which the registration
3 number is issued, including whether the registration
4 number is issued for registration of a motor carrier,
5 freight forwarder, or broker.

6 “(c) SPECIFICATION OF AUTHORITY.—For each
7 agreement to provide transportation or service for which
8 registration is required under this chapter, the registrant
9 shall specify, in writing, the authority under which the
10 person is providing the transportation or service.”.

11 (b) AVAILABILITY OF INFORMATION.—

12 (1) IN GENERAL.—Chapter 139 is amended by
13 adding at the end the following:

14 **“§ 13909. Availability of information**

15 “The Secretary shall make information relating to
16 registration and financial security required by this chapter
17 publicly available on the Internet, including—

18 “(1) the names and addresses of the principals
19 of each entity holding such registration;

20 “(2) the status of such registration; and

21 “(3) the electronic address of the entity’s surety
22 provider for the submission of claims.”.

23 (2) CONFORMING AMENDMENT.—The analysis
24 for such chapter is amended by adding at the end
25 the following:

“13909. Availability of information.”.

1 **SEC. 6202. MOTOR CARRIER REGISTRATION.**

2 (a) MOTOR CARRIER GENERALLY.—Section
3 13902(a) is amended—

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) IN GENERAL.—Except as provided in this
7 section, the Secretary shall register a person to pro-
8 vide transportation subject to jurisdiction under sub-
9 chapter I of chapter 135 as a motor carrier using
10 self-propelled vehicles the motor carrier owns, rents,
11 or leases if the Secretary finds that the person—

12 “(A) is willing and able to comply with—

13 “(i) this part and the applicable regu-
14 lations of the Secretary and the Board;

15 “(ii) any safety regulations imposed
16 by the Secretary;

17 “(iii) the duties of employers and em-
18 ployees established by the Secretary under
19 section 31135;

20 “(iv) the safety fitness requirements
21 established by the Secretary under section
22 31144;

23 “(v) the accessibility requirements es-
24 tablished by the Secretary under subpart
25 H of part 37 of title 49, Code of Federal
26 Regulations, or a successor regulation, for

1 transportation provided by an over-the-
2 road bus; and

3 “(vi) the minimum financial responsi-
4 bility requirements established by the Sec-
5 retary pursuant to sections 13906 and
6 31138;

7 “(B) has demonstrated, through successful
8 completion of a proficiency examination, to be
9 developed by the Secretary by regulation,
10 knowledge of the requirements and regulations
11 described in subparagraph (A);

12 “(C) has disclosed to the Secretary any re-
13 lationship involving common stock, common
14 ownership, common control, common manage-
15 ment, or common familial relationship between
16 that person and any other motor carrier in the
17 3-year period preceding the date of the filing of
18 the application for registration; and

19 “(D) has been issued a Department of
20 Transportation number under section 31134.”;
21 and

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

23 “(6) SEPARATE REGISTRATION REQUIRED.—A
24 motor carrier may not broker transportation services

1 unless the motor carrier has registered as a broker
2 under this chapter.”.

3 (b) ENHANCED REGISTRATION PROCEDURES FOR
4 HOUSEHOLD GOODS MOTOR CARRIERS.—

5 (1) IN GENERAL.—Section 13902(a)(2) is
6 amended to read as follows:

7 “(2) REGISTRATION FOR HOUSEHOLD GOODS
8 MOTOR CARRIERS.—

9 “(A) ADDITIONAL REQUIREMENTS.—In
10 addition to meeting the requirements of para-
11 graph (1), the Secretary may register a person
12 to provide transportation of household goods as
13 a household goods motor carrier only after the
14 person—

15 “(i) provides evidence of participation
16 in an arbitration program under section
17 14708 and provides a copy of the notice of
18 the arbitration program as required by sec-
19 tion 14708(b)(2);

20 “(ii) identifies the motor carrier’s tar-
21 iff and provides a copy of the notice of the
22 availability of that tariff for inspection as
23 required by section 13702(c);

24 “(iii) provides evidence that the per-
25 son has access to, has read, is familiar

1 with, and will observe all applicable Fed-
2 eral laws relating to consumer protection,
3 estimating, consumers' rights and respon-
4 sibilities, and options for limitations of li-
5 ability for loss and damage;

6 “(iv) discloses any relationship involv-
7 ing common stock, common ownership,
8 common control, common management, or
9 common familial relationships between the
10 person and any other motor carrier, freight
11 forwarder, or broker of household goods
12 within 3 years of the proposed date of reg-
13 istration;

14 “(v) demonstrates that the person is
15 willing and able to comply with the house-
16 hold goods consumer protection rules of
17 the Secretary; and

18 “(vi) demonstrates, through successful
19 completion of a proficiency examination, to
20 be developed by the Secretary by regula-
21 tion, knowledge of the requirements and
22 regulations described in this subparagraph.

23 “(B) HOUSEHOLD GOODS AUDITS.—

24 “(i) IN GENERAL.—The Secretary
25 shall require, by regulation, each registrant

1 described in subparagraph (A) to undergo
2 a household goods audit during the 180-
3 day period beginning 1 year after the date
4 of issuance of a provisional registration to
5 the registrant.

6 “(ii) REGULATIONS.—

7 “(I) DEADLINE.—The Secretary
8 shall issue regulations under clause (i)
9 not later than 2 years after the date
10 of enactment of the Motor Carrier
11 Safety, Efficiency, and Accountability
12 Act of 2012.

13 “(II) ISSUANCE OF STAND-
14 ARDS.—The regulations shall include
15 standards for household goods audits.

16 “(iii) CONTENTS.—The Secretary
17 shall ensure that the standards issued
18 under clause (ii)(II) require evidence dem-
19 onstrating that a registrant described in
20 subparagraph (A)—

21 “(I) has consistently adhered to
22 the household goods regulations of the
23 Secretary;

24 “(II) has consistently adhered to
25 the requirements of its tariff;

1 “(III) has not wrongfully with-
2 held the household goods of a cus-
3 tomer;

4 “(IV) has not had a pattern of
5 substantiated customer service com-
6 plaints filed against it; and

7 “(V) has complied with all rel-
8 evant arbitration requirements.

9 “(C) CORRECTIVE ACTION PLAN.—

10 “(i) IN GENERAL.—If a registrant de-
11 scribed in subparagraph (A) fails a house-
12 hold goods audit, the registrant may sub-
13 mit to the Secretary for approval a correc-
14 tive action plan to address deficiencies
15 identified in the audit. The registrant shall
16 submit the plan during the 60-day period
17 beginning on the date the registrant is no-
18 tified of the results of the audit.

19 “(ii) DEADLINE FOR APPROVAL OR
20 DISAPPROVAL.—The Secretary shall ap-
21 prove or disapprove a corrective action
22 plan submitted under clause (i) not later
23 than 60 days after the date of submission
24 of the plan.

1 “(iii) ASSESSMENT OF IMPLEMENTA-
2 TION OF CORRECTIVE ACTION PLAN.—If
3 the Secretary approves a corrective action
4 plan submitted by a registrant under
5 clause (i), the Secretary shall determine,
6 during the 1-year period beginning on the
7 date of such approval, whether the reg-
8 istrant has carried out the plan satisfac-
9 torily.

10 “(D) PROVISIONAL REGISTRATION.—

11 “(i) IN GENERAL.—Any registration
12 issued under subparagraph (A) shall be
13 designated as a provisional registration
14 until the audit required by subparagraph
15 (B) is completed.

16 “(ii) REQUIREMENT FOR ISSUANCE
17 OF PERMANENT REGISTRATION.—A provi-
18 sional registration issued to a registrant
19 under subparagraph (A) shall become per-
20 manent after the registrant—

21 “(I) passes the household goods
22 audit required under subparagraph
23 (B); or

1 “(II) implements to the satisfac-
2 tion of the Secretary a corrective ac-
3 tion plan under subparagraph (C).

4 “(iii) REVOCATION OF PROVISIONAL
5 REGISTRATION.—If a registrant fails a
6 household goods audit required under sub-
7 paragraph (B) or does not implement to
8 the satisfaction of the Secretary a correc-
9 tive action plan under subparagraph (C),
10 the Secretary shall revoke the provisional
11 registration of the registrant.

12 “(E) REAPPLYING FOR REGISTRATION.—

13 “(i) IN GENERAL.—Nothing in this
14 paragraph permanently prohibits a person
15 from reapplying for registration to provide
16 transportation of household goods as a
17 household goods motor carrier.

18 “(ii) LIMITATION.—If the Secretary
19 revokes the provisional registration of a
20 person under this paragraph, the person
21 shall be required to wait at least 1 year be-
22 fore reapplying for a registration to pro-
23 vide transportation of household goods as
24 a household goods motor carrier.”.

1 (2) RULEMAKING.—Not later than 2 years after
2 the date of enactment of this Act, the Secretary
3 shall issue a final rule establishing the proficiency
4 examination referred to in section
5 13902(a)(2)(A)(vi) of title 49, United States Code,
6 as amended by paragraph (1).

7 (c) REGISTRATION AS FREIGHT FORWARDER OR
8 BROKER REQUIRED.—Section 13902 is amended—

9 (1) by redesignating subsection (g) as sub-
10 subsection (h); and

11 (2) by inserting after subsection (f) the fol-
12 lowing:

13 “(g) REGISTRATION AS FREIGHT FORWARDER OR
14 BROKER REQUIRED.—A motor carrier registered under
15 this chapter—

16 “(1) may only provide transportation of prop-
17 erty with—

18 “(A) self-propelled motor vehicles owned or
19 leased by the motor carrier; or

20 “(B) interchanges, as permitted under reg-
21 ulations issued by the Secretary and subject to
22 requirements that the originating carrier phys-
23 ically transports the cargo at some point and
24 retains liability for the cargo and payment of
25 interchanged carriers; and

1 “(2) may not arrange such transportation un-
2 less the motor carrier has obtained a separate reg-
3 istration as a freight forwarder or broker for trans-
4 portation under section 13903 or 13904, as the case
5 may be.”.

6 **SEC. 6203. REGISTRATION OF FREIGHT FORWARDERS AND**
7 **BROKERS.**

8 (a) REGISTRATION OF FREIGHT FORWARDERS.—
9 Section 13903 is amended to read as follows:

10 **“§ 13903. Registration of freight forwarders**

11 “(a) IN GENERAL.—The Secretary shall register a
12 person to provide service subject to jurisdiction under sub-
13 chapter III of chapter 135 as a freight forwarder if the
14 Secretary finds that the person—

15 “(1) is qualified by experience to act as a
16 freight forwarder; and

17 “(2) is fit, willing, and able to provide the serv-
18 ice and to comply with this part and applicable regu-
19 lations of the Secretary.

20 “(b) FINANCIAL SECURITY REQUIREMENTS.—A reg-
21 istration issued under subsection (a) shall remain in effect
22 only as long as the freight forwarder is in compliance with
23 section 13906(c).

1 “(c) EXPERIENCE OR TRAINING REQUIREMENT.—A
2 freight forwarder shall employ, as an officer, an individual
3 who—

4 “(1) has at least 3 years of relevant experience;

5 or

6 “(2) provides the Secretary with satisfactory
7 evidence of completion of relevant training.

8 “(d) REGISTRATION AS MOTOR CARRIER RE-
9 QUIRED.—A freight forwarder may not provide transpor-
10 tation as a motor carrier unless the freight forwarder has
11 registered separately under this chapter to provide trans-
12 portation as a motor carrier.”.

13 (b) REGISTRATION OF BROKERS.—Section 13904 is
14 amended to read as follows:

15 **“§ 13904. Registration of brokers**

16 “(a) IN GENERAL.—The Secretary shall register a
17 person to be a broker for transportation of property sub-
18 ject to jurisdiction under subchapter I of chapter 135, if
19 the Secretary finds that the person—

20 “(1) is qualified by experience to act as a
21 broker for transportation; and

22 “(2) is fit, willing, and able to be a broker for
23 transportation and to comply with this part and ap-
24 plicable regulations of the Secretary.

1 “(b) FINANCIAL SECURITY REQUIREMENTS.—A reg-
2 istration issued under subsection (a) shall remain in effect
3 only as long as the broker for transportation is in compli-
4 ance with section 13906(b).

5 “(c) EXPERIENCE OR TRAINING REQUIREMENT.—A
6 broker shall employ, as an officer, an individual who—

7 “(1) has at least 3 years of relevant experience;

8 or

9 “(2) provides the Secretary with satisfactory
10 evidence of completion of relevant training.

11 “(d) REGISTRATION AS MOTOR CARRIER RE-
12 QUIRED.—

13 “(1) IN GENERAL.—A broker for transportation
14 may not provide transportation as a motor carrier
15 unless the broker has registered separately under
16 this chapter to provide transportation as a motor
17 carrier.

18 “(2) LIMITATION.—This subsection does not
19 apply to a motor carrier registered under this chap-
20 ter or to an employee or agent of the motor carrier
21 to the extent the transportation is to be provided en-
22 tirely by the motor carrier.

23 “(e) REGULATIONS TO PROTECT MOTOR CARRIERS
24 AND SHIPPERS.—Regulations of the Secretary applicable
25 to brokers registered under this section shall provide for

1 the protection of motor carriers and shippers by motor ve-
2 hicle.

3 “(f) BOND AND INSURANCE.—The Secretary may im-
4 pose on brokers for motor carriers of passengers such re-
5 quirements for bonds or insurance (or both) as the Sec-
6 retary determines are needed to protect passengers and
7 carriers dealing with such brokers.”.

8 **SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.**

9 Section 13905(c) is amended to read as follows:

10 “(c) EFFECTIVE PERIOD.—

11 “(1) IN GENERAL.—Except as provided in this
12 part, each registration issued under section 13902,
13 13903, or 13904 shall be effective from the date
14 specified by the Secretary and shall remain in effect
15 for such period as the Secretary determines appro-
16 priate by regulation.

17 “(2) REISSUANCE OF REGISTRATION.—Not
18 later than 4 years after the date of enactment of the
19 Motor Carrier Safety, Efficiency, and Accountability
20 Act of 2012, the Secretary shall require a freight
21 forwarder or broker to renew its registration issued
22 under this chapter. Such registration shall expire not
23 later than 5 years after the date of such renewal and
24 may be further renewed as provided under this chap-
25 ter.

1 “(3) REQUIREMENT FOR INFORMATION UP-
2 DATE.—

3 “(A) IN GENERAL.—The Secretary shall
4 require a motor carrier, freight forwarder, or
5 broker to update its registration information
6 under this chapter within 30 days of any
7 change in address, other contact information,
8 officers, process agent, or other essential infor-
9 mation as determined by the Secretary and
10 published in the Federal Register.

11 “(B) MOTOR CARRIERS OF PASSENGERS.—
12 In addition to the requirements of subpara-
13 graph (A), the Secretary shall require a motor
14 carrier of passengers to update its registration
15 information, including numbers of vehicles, an-
16 nual mileage, and individuals responsible for
17 compliance with Federal safety regulations
18 quarterly for the first 2 years after being issued
19 a registration under section 13902.”.

20 **SEC. 6205. REINCARNATED CARRIERS.**

21 (a) DENIALS, SUSPENSIONS, AMENDMENTS, AND
22 REVOCATIONS.—Section 13905(d) is amended—

23 (1) by redesignating paragraph (2) as para-
24 graph (4);

1 (2) by striking paragraph (1) and inserting the
2 following:

3 “(1) APPLICATIONS.—On application of the
4 registrant, the Secretary may deny, suspend, amend,
5 or revoke a registration.

6 “(2) COMPLAINTS AND ACTIONS ON SEC-
7 RETARY’S OWN INITIATIVE.—On complaint or on the
8 Secretary’s own initiative and after notice and an
9 opportunity for a proceeding, the Secretary may—

10 “(A) deny, suspend, amend, or revoke any
11 part of the registration of a motor carrier,
12 broker, or freight forwarder for willful failure to
13 comply with—

14 “(i) this part;

15 “(ii) an applicable regulation or order
16 of the Secretary or the Board, including
17 the accessibility requirements established
18 by the Secretary under subpart H of part
19 37 of title 49, Code of Federal Regula-
20 tions, or a successor regulation, for trans-
21 portation provided by an over-the-road bus;
22 or

23 “(iii) a condition of its registration;

1 “(B) deny, suspend, amend, or revoke any
2 part of the registration of a motor carrier,
3 broker, or freight forwarder for failure to—

4 “(i) pay a civil penalty imposed under
5 chapter 5, 51, 149, or 311 of this title; or

6 “(ii) arrange and abide by an accept-
7 able payment plan for such civil penalty,
8 within 90 days of the time specified by
9 order of the Secretary for the payment of
10 such penalty; and

11 “(C) deny, suspend, amend, or revoke any
12 part of a registration of a motor carrier fol-
13 lowing a determination by the Secretary that
14 the motor carrier failed to disclose in its appli-
15 cation for registration a material fact relevant
16 to its willingness and ability to comply with—

17 “(i) this part;

18 “(ii) an applicable regulation or order
19 of the Secretary or the Board; or

20 “(iii) a condition of its registration.

21 “(3) LIMITATION.—Paragraph (2)(B) shall not
22 apply to any person who is unable to pay a civil pen-
23 alty because such person is a debtor in a case under
24 chapter 11 of title 11.”; and

1 (3) in paragraph (4) (as redesignated by sub-
2 paragraph (A) of this paragraph) by striking “para-
3 graph (1)(B)” and inserting “paragraph (2)(B)”.

4 (b) PROCEDURE.—Section 13905(e) is amended by
5 inserting “or if the Secretary determines that the reg-
6 istrant has failed to disclose a material fact in an applica-
7 tion for registration in accordance with subsection
8 (d)(2)(C)” before the first comma.

9 (c) DUTIES OF EMPLOYERS AND EMPLOYEES.—Sec-
10 tion 31135 is amended—

11 (1) by redesignating subsection (d) as sub-
12 section (e); and

13 (2) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) AVOIDING COMPLIANCE.—

16 “(1) IN GENERAL.—Two or more employers
17 shall not use common ownership, common manage-
18 ment, common control, or common familial relation-
19 ship to enable any or all such employers to avoid
20 compliance, or mask or otherwise conceal noncompli-
21 ance, or a history of noncompliance, with commercial
22 motor vehicle safety regulations issued under this
23 subchapter or an order of the Secretary issued under
24 this subchapter or such regulations.

1 “(2) PENALTY.—If the Secretary determines
2 that actions described in the preceding sentence have
3 occurred, the Secretary shall—

4 “(A) deny, suspend, amend, or revoke all
5 or part of any such employer’s registration
6 under sections 13905 and 31134; and

7 “(B) take into account such noncompliance
8 for purposes of determining civil penalty
9 amounts under section 521(b)(2)(D).”.

10 (d) INFORMATION SYSTEMS.—Section 31106(a)(3) is
11 amended—

12 (1) in subparagraph (F) by striking “and” at
13 the end;

14 (2) in subparagraph (G) by striking the period
15 at the end and inserting “; and”; and

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

17 “(H) determine whether a motor carrier is
18 or has been related, through common stock,
19 common ownership, common control, common
20 management, or common familial relationship
21 to any other motor carrier.”.

1 **SEC. 6206. FINANCIAL SECURITY OF BROKERS AND**
2 **FREIGHT FORWARDERS.**

3 (a) IN GENERAL.—Section 13906 is amended by
4 striking subsections (b) and (c) and inserting the fol-
5 lowing:

6 “(b) **BROKER FINANCIAL SECURITY REQUIRE-**
7 **MENTS.—**

8 “(1) **REQUIREMENTS.—**

9 “(A) IN GENERAL.—The Secretary may
10 register a person as a broker under section
11 13904 only if the person files with the Sec-
12 retary a surety bond, proof of trust fund, or
13 other financial security, or a combination there-
14 of, in a form and amount, and from a provider,
15 determined by the Secretary to be adequate to
16 ensure financial responsibility.

17 “(B) **USE OF A GROUP SURETY BOND,**
18 **TRUST FUND, OR OTHER SURETY.—**In imple-
19 menting the standards established by subpara-
20 graph (A), the Secretary may authorize the use
21 of a group surety bond, trust fund, or other fi-
22 nancial security, or a combination thereof, that
23 meets the requirements of this subsection.

24 “(C) **SURETY BONDS.—**A surety bond ob-
25 tained under this section may only be obtained

1 from a bonding company that has been ap-
2 proved by the Secretary of the Treasury.

3 “(D) PROOF OF TRUST OR OTHER FINAN-
4 CIAL SECURITY.—For purposes of subpara-
5 graph (A), a trust fund or other financial secu-
6 rity may be acceptable to the Secretary only if
7 the trust fund or other financial security con-
8 sists of assets readily available to pay claims
9 without resort to personal guarantees or collec-
10 tion of pledged accounts receivable.

11 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

12 “(A) PAYMENT OF CLAIMS.—A surety
13 bond, trust fund, or other financial security ob-
14 tained under paragraph (1) shall be available to
15 pay any claim against a broker arising from its
16 failure to pay freight charges under its con-
17 tracts, agreements, or arrangements for trans-
18 portation subject to jurisdiction under chapter
19 135 if—

20 “(i) subject to the review by the sur-
21 ety provider, the broker consents to the
22 payment;

23 “(ii) in the case the broker does not
24 respond to adequate notice to address the

1 validity of the claim, the surety provider
2 determines the claim is valid; or

3 “(iii) the claim is not resolved within
4 a reasonable period of time following a rea-
5 sonable attempt by the claimant to resolve
6 the claim under clauses (i) and (ii) and the
7 claim is reduced to a judgment against the
8 broker.

9 “(B) RESPONSE OF SURETY PROVIDERS
10 TO CLAIMS.—If a surety provider receives notice
11 of a claim described in subparagraph (A), the
12 surety provider shall—

13 “(i) respond to the claim on or before
14 the 30th day following receipt of the no-
15 tice; and

16 “(ii) in the case of a denial, set forth
17 in writing for the claimant the grounds for
18 the denial.

19 “(C) COSTS AND ATTORNEYS FEES.—In
20 any action against a surety provider to recover
21 on a claim described in subparagraph (A), the
22 prevailing party shall be entitled to recover its
23 reasonable costs and attorneys fees.

24 “(3) MINIMUM FINANCIAL SECURITY.—A
25 broker subject to the requirements of this section

1 shall provide financial security of \$100,000, regard-
2 less of the number of branch offices or sales agents
3 of the broker.

4 “(4) CANCELLATION NOTICE.—If a financial se-
5 curity required under this subsection is canceled—

6 “(A) the holder of the financial security
7 shall provide electronic notification to the Sec-
8 retary of the cancellation not later than 30 days
9 before the effective date of the cancellation; and

10 “(B) the Secretary shall immediately post
11 such notification on the public Internet Web
12 site of the Department of Transportation.

13 “(5) SUSPENSION.—The Secretary shall imme-
14 diately suspend the registration of a broker issued
15 under this chapter if the available financial security
16 of the broker falls below the amount required under
17 this subsection.

18 “(6) PAYMENT OF CLAIMS IN CASES OF FINAN-
19 CIAL FAILURE OR INSOLVENCY.—If a broker reg-
20 istered under this chapter experiences financial fail-
21 ure or insolvency, the surety provider of the broker
22 shall—

23 “(A) submit a notice to cancel the financial
24 security to the Administrator in accordance
25 with paragraph (4);

1 “(B) publicly advertise for claims for 60
2 days beginning on the date of publication by the
3 Secretary of the notice to cancel the financial
4 security; and

5 “(C) pay, not later than 30 days after the
6 expiration of the 60-day period for submission
7 of claims—

8 “(i) all uncontested claims received
9 during such period; or

10 “(ii) a pro rata share of such claims
11 if the total amount of such claims exceeds
12 the financial security available.

13 “(7) PENALTIES.—

14 “(A) CIVIL ACTIONS.—Either the Sec-
15 retary or the Attorney General may bring a civil
16 action in an appropriate district court of the
17 United States to enforce the requirements of
18 this subsection or a regulation prescribed or
19 order issued under this subsection. The court
20 may award appropriate relief, including injunc-
21 tive relief.

22 “(B) CIVIL PENALTIES.—If the Secretary
23 determines, after notice and opportunity for a
24 hearing, that a surety provider of a broker reg-
25 istered under this chapter has violated the re-

1 quirements of this subsection or a regulation
2 prescribed under this subsection, the surety
3 provider shall be liable to the United States for
4 a civil penalty in an amount not to exceed
5 \$10,000.

6 “(C) ELIGIBILITY.—If the Secretary deter-
7 mines, after notice and opportunity for a hear-
8 ing, that a surety provider of a broker reg-
9 istered under this chapter has violated the re-
10 quirements of this subsection or a regulation
11 prescribed under this subsection, the surety
12 provider shall be ineligible to provide the finan-
13 cial security of a broker for 5 years.

14 “(8) DEDUCTION OF COSTS PROHIBITED.—The
15 amount of the financial security required under this
16 subsection may not be reduced by deducting attor-
17 ney’s fees or administrative costs.

18 “(9) FINANCIAL SECURITY AMOUNT ASSESS-
19 MENT.—Every 5 years, the Secretary shall review,
20 with public notice and comment, the amounts of the
21 financial security required under this subsection to
22 determine whether the amounts are sufficient to pro-
23 vide adequate financial security, and shall be author-
24 ized to increase the amounts, if necessary, based
25 upon that determination.

1 “(c) FREIGHT FORWARDER FINANCIAL SECURITY
2 REQUIREMENTS.—

3 “(1) REQUIREMENTS.—

4 “(A) IN GENERAL.—The Secretary may
5 register a person as a freight forwarder under
6 section 13903 only if the person files with the
7 Secretary a surety bond, proof of trust fund, or
8 other financial security, or a combination there-
9 of, in a form and amount, and from a provider,
10 determined by the Secretary to be adequate to
11 ensure financial responsibility.

12 “(B) USE OF A GROUP SURETY BOND,
13 TRUST FUND, OR OTHER FINANCIAL SECUR-
14 ITY.—In implementing the standards estab-
15 lished by subparagraph (A), the Secretary may
16 authorize the use of a group surety bond, trust
17 fund, or other financial security, or a combina-
18 tion thereof, that meets the requirements of
19 this subsection.

20 “(C) SURETY BONDS.—A surety bond ob-
21 tained under this section may only be obtained
22 from a bonding company that has been ap-
23 proved by the Secretary of the Treasury.

24 “(D) PROOF OF TRUST OR OTHER FINAN-
25 CIAL SECURITY.—For purposes of subpara-

1 graph (A), a trust fund or other financial secu-
2 rity may be acceptable to the Secretary only if
3 the trust fund or other financial security con-
4 sists of assets readily available to pay claims
5 without resort to personal guarantees or collec-
6 tion of pledged accounts receivable.

7 “(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

8 “(A) PAYMENT OF CLAIMS.—A surety
9 bond, trust fund, or other financial security ob-
10 tained under paragraph (1) shall be available to
11 pay any claim against a freight forwarder aris-
12 ing from its failure to pay freight charges under
13 its contracts, agreements, or arrangements for
14 transportation subject to jurisdiction under
15 chapter 135 if—

16 “(i) subject to the review by the sur-
17 ety provider, the freight forwarder con-
18 sents to the payment;

19 “(ii) in the case the freight forwarder
20 does not respond to adequate notice to ad-
21 dress the validity of the claim, the surety
22 provider determines the claim is valid; or

23 “(iii) the claim is not resolved within
24 a reasonable period of time following a rea-
25 sonable attempt by the claimant to resolve

1 the claim under clauses (i) and (ii) and the
2 claim is reduced to a judgment against the
3 freight forwarder.

4 “(B) RESPONSE OF SURETY PROVIDERS
5 TO CLAIMS.—If a surety provider receives notice
6 of a claim described in subparagraph (A), the
7 surety provider shall—

8 “(i) respond to the claim on or before
9 the 30th day following receipt of the no-
10 tice; and

11 “(ii) in the case of a denial, set forth
12 in writing for the claimant the grounds for
13 the denial.

14 “(C) COSTS AND ATTORNEYS FEES.—In
15 any action against a surety provider to recover
16 on a claim described in subparagraph (A), the
17 prevailing party shall be entitled to recover its
18 reasonable costs and attorneys fees.

19 “(3) FREIGHT FORWARDER INSURANCE.—

20 “(A) IN GENERAL.—The Secretary may
21 register a person as a freight forwarder under
22 section 13903 only if the person files with the
23 Secretary a surety bond, insurance policy, or
24 other type of financial security that meets
25 standards to be prescribed by the Secretary.

1 “(B) LIABILITY INSURANCE.—A financial
2 security filed by a freight forwarder under sub-
3 paragraph (A) shall be sufficient to pay an
4 amount, not to exceed the amount of the finan-
5 cial security, for each final judgment against
6 the freight forwarder for—

7 “(i) bodily injury to, or death of, an
8 individual, or

9 “(ii) loss of, or damage to, property
10 (other than property referred to in sub-
11 paragraph (C)),

12 resulting from the negligent operation, mainte-
13 nance, or use of motor vehicles by, or under the
14 direction and control of, the freight forwarder
15 when providing transfer, collection, or delivery
16 service under this part.

17 “(C) CARGO INSURANCE.—The Secretary
18 may require a registered freight forwarder to
19 file with the Secretary a surety bond, insurance
20 policy, or other type of financial security ap-
21 proved by the Secretary that will pay an
22 amount, not to exceed the amount of the finan-
23 cial security, for loss of, or damage to, property
24 for which the freight forwarder provides service.

1 “(4) MINIMUM FINANCIAL SECURITY.—Each
2 freight forwarder subject to the requirements of this
3 section shall provide financial security of \$100,000,
4 regardless of the number of branch offices or sales
5 agents of the freight forwarder.

6 “(5) CANCELLATION NOTICE.—If a financial se-
7 curity required under this subsection is canceled—

8 “(A) the holder of the financial security
9 shall provide electronic notification to the Sec-
10 retary of the cancellation not later than 30 days
11 before the effective date of the cancellation; and

12 “(B) the Secretary shall immediately post
13 such notification on the public Internet Web
14 site of the Department of Transportation.

15 “(6) SUSPENSION.—The Secretary shall imme-
16 diately suspend the registration of a freight for-
17 warder issued under this chapter if the available fi-
18 nancial security of the freight forwarder falls below
19 the amount required under this subsection.

20 “(7) PAYMENT OF CLAIMS IN CASES OF FINAN-
21 CIAL FAILURE OR INSOLVENCY.—If a freight for-
22 warder registered under this chapter experiences fi-
23 nancial failure or insolvency, the surety provider of
24 the freight forwarder shall—

1 “(A) submit a notice to cancel the financial
2 security to the Administrator in accordance
3 with paragraph (5);

4 “(B) publicly advertise for claims for 60
5 days beginning on the date of publication by the
6 Secretary of the notice to cancel the financial
7 security; and

8 “(C) pay, not later than 30 days after the
9 expiration of the 60-day period for submission
10 of claims—

11 “(i) all uncontested claims received
12 during such period; or

13 “(ii) a pro rata share of such claims
14 if the total amount of such claims exceeds
15 the financial security available.

16 “(8) PENALTIES.—

17 “(A) CIVIL ACTIONS.—Either the Sec-
18 retary or the Attorney General may bring a civil
19 action in an appropriate district court of the
20 United States to enforce the requirements of
21 this subsection or a regulation prescribed or
22 order issued under this subsection. The court
23 may award appropriate relief, including injunc-
24 tive relief.

1 “(B) CIVIL PENALTIES.—If the Secretary
2 determines, after notice and opportunity for a
3 hearing, that a surety provider of a freight for-
4 warder registered under this chapter has vio-
5 lated the requirements of this subsection or a
6 regulation prescribed under this subsection, the
7 surety provider shall be liable to the United
8 States for a civil penalty in an amount not to
9 exceed \$10,000.

10 “(C) ELIGIBILITY.—If the Secretary deter-
11 mines, after notice and opportunity for a hear-
12 ing, that a surety provider of a freight for-
13 warder registered under this chapter has vio-
14 lated the requirements of this subsection or a
15 regulation prescribed under this subsection, the
16 surety provider shall be ineligible to provide the
17 financial security of a freight forwarder for 5
18 years.

19 “(9) DEDUCTION OF COSTS PROHIBITED.—The
20 amount of the financial security required under this
21 subsection may not be reduced by deducting attor-
22 ney’s fees or administrative costs.

23 “(10) FINANCIAL SECURITY AND INSURANCE
24 AMOUNT ASSESSMENT.—Every 5 years, the Sec-
25 retary shall review, with public notice and comment,

1 the amounts of the financial security and insurance
2 required under this subsection to determine whether
3 the amounts are sufficient to provide adequate fi-
4 nancial security, and shall be authorized to increase
5 the amounts, if necessary, based upon that deter-
6 mination.”.

7 (b) RULEMAKING.—Not later than 1 year after the
8 date of enactment of this Act, the Secretary shall issue
9 regulations to implement and enforce the requirements of
10 subsections (b) and (c) of section 13906 of title 49, United
11 States Code, as amended by subsection (a).

12 (c) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall take effect on the date that is 1 year
14 after the date of enactment of this Act.

15 (d) REVIEW OF SECURITY REQUIREMENTS.—Not
16 later than 15 months after the date of enactment of this
17 Act, the Inspector General of the Department of Trans-
18 portation shall—

19 (1) review the regulations and enforcement
20 practices of the Secretary under subsections (b) and
21 (c) of section 13906 of title 49, United States Code,
22 as amended by this Act; and

23 (2) make any recommendations to the Secretary
24 that may be necessary to improve the enforcement of
25 such regulations.

1 **SEC. 6207. REGISTRATION FEE SYSTEM.**

2 Section 13908(d)(1) is amended by striking “but
3 shall not exceed \$300”.

4 **SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.**

5 (a) IN GENERAL.—Chapter 149 is amended by add-
6 ing at the end the following:

7 **“§ 14916. Unlawful brokerage activities**

8 “(a) PROHIBITED ACTIVITIES.—A person may pro-
9 vide interstate brokerage services as a broker only if the
10 person—

11 “(1) is registered under, and in compliance
12 with, section 13904; and

13 “(2) has satisfied the financial security require-
14 ments under section 13906.

15 “(b) Subsection (a) shall not apply to—

16 “(1) a non-vessel-operating common carrier (as
17 defined in section 40102 of title 46);

18 “(2) an ocean freight forwarder (as defined in
19 section 40102 of title 46);

20 “(3) a customs broker licensed in accordance
21 with section 111.2 of title 19, Code of Federal Regu-
22 lations; or

23 “(4) an indirect air carrier holding a Standard
24 Security Program approved by the Transportation
25 Security Administration,

1 when arranging for inland transportation as part of an
2 international through movement involving ocean transpor-
3 tation between the United States and a foreign port.

4 “(c) CIVIL PENALTIES AND PRIVATE CAUSE OF AC-
5 TION.—Any person who knowingly authorizes, consents to,
6 or permits, directly or indirectly, either alone or in con-
7 junction with any other person, a violation of subsection
8 (a) is liable—

9 “(1) to the United States Government for a
10 civil penalty in an amount not to exceed \$10,000 for
11 each violation; and

12 “(2) to the injured party for all valid claims in-
13 curred without regard to amount.

14 “(d) LIABLE PARTIES.—The liability for civil pen-
15 alties and for claims under this section for unauthorized
16 brokering shall apply, jointly and severally—

17 “(1) to any corporate entity or partnership in-
18 volved; and

19 “(2) to the individual officers, directors, and
20 principals of such entities.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 chapter is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

1 **SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT**
2 **NUMBER.**

3 (a) IN GENERAL.—Subchapter III of chapter 311 is
4 amended by inserting after section 31133 the following:

5 **“§ 31134. Requirement for registration and Depart-**
6 **ment of Transportation number**

7 “(a) IN GENERAL.—An employer or an employee of
8 the employer may operate a commercial motor vehicle in
9 interstate commerce only if the Secretary of Transpor-
10 tation registers the employer under this section and issues
11 the employer a Department of Transportation number.

12 “(b) REGISTRATION.—Upon application for registra-
13 tion and a Department of Transportation number under
14 this section, the Secretary shall register the employer if
15 the Secretary determines that—

16 “(1) the employer is willing and able to comply
17 with the requirements of this subchapter and chap-
18 ter 51 if applicable; and

19 “(2)(A) during the 3-year period before the
20 date of the filing of the application, the employer
21 was not related through common stock, common
22 ownership, common control, common management,
23 or common familial relationship to any other person
24 subject to safety regulations under this subchapter
25 who, during such 3-year period, was unwilling or un-

1 able to comply with the requirements of this sub-
2 chapter or chapter 51 if applicable; or

3 “(B) the employer has disclosed to the Sec-
4 retary any relationship involving common stock,
5 common ownership, common control, common man-
6 agement, or common familial relationship between
7 that person and any other motor carrier.

8 “(c) REVOCATION OR SUSPENSION.—The Secretary
9 shall revoke or suspend the registration of an employer
10 issued under subsection (b) if the Secretary determines
11 that—

12 “(1) the authority of the employer to operate as
13 a motor carrier, freight forwarder, or broker pursu-
14 ant to chapter 139 is revoked or suspended under
15 section 13905(d)(1) or 13905(f); or

16 “(2) the employer has willfully failed to comply
17 with the requirements for registration set forth in
18 subsection (b).

19 “(d) COMMERCIAL REGISTRATION.—An employer
20 registered under this section may not provide transpor-
21 tation subject to jurisdiction under subchapter I of chapter
22 135 unless the employer is also registered under section
23 13902 to provide such transportation.

24 “(e) STATE AUTHORITY.—Nothing in this section
25 shall be construed as affecting the authority of a State

1 to issue a Department of Transportation number under
2 State law to a person operating in intrastate commerce.”.

3 (b) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 311 is amended by inserting after the item relating
5 to section 31133 the following:

“31134. Requirement for registration and Department of Transportation num-
ber.”.

6 **Subtitle C—Commercial Motor**
7 **Vehicle Safety**

8 **SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PRO-**
9 **GRAM.**

10 (a) GENERAL AUTHORITY.—Section 31102 is amend-
11 ed to read as follows:

12 **“§ 31102. Motor carrier safety assistance program**

13 “(a) GENERAL AUTHORITY.—The Secretary of
14 Transportation shall administer a motor carrier safety as-
15 sistance program to assist States with—

16 “(1) the development or implementation of pro-
17 grams for improving motor carrier safety; and

18 “(2) the enforcement of Federal regulations,
19 standards, and orders (and compatible State regula-
20 tions, standards, and orders) on—

21 “(A) commercial motor vehicle safety; and

22 “(B) hazardous materials transportation
23 safety.

24 “(b) STATE PLANS.—

1 “(1) PROCEDURES.—The Secretary shall pre-
2 scribe procedures for a State to participate in the
3 program, including procedures under which the
4 State shall submit a plan, in writing, to the Sec-
5 retary in which the State agrees—

6 “(A) to assume responsibility for improv-
7 ing motor carrier safety in the State; and

8 “(B) to adopt and enforce Federal regula-
9 tions, standards, and orders (and compatible
10 State regulations, standards, and orders) on—

11 “(i) commercial motor vehicle safety;

12 and

13 “(ii) hazardous materials transpor-
14 tation safety.

15 “(2) CONTENTS.—A plan submitted by a State
16 under paragraph (1) shall—

17 “(A) provide for implementation of per-
18 formance-based activities, including deployment
19 of technology, to enhance the efficiency and ef-
20 fectiveness of commercial motor vehicle safety
21 programs;

22 “(B) provide for implementation of a bor-
23 der commercial motor vehicle safety program
24 and related enforcement activities if the State
25 shares a land border with another country;

1 “(C) designate a State motor vehicle safety
2 agency (in this paragraph referred to as the
3 ‘designated State agency’) responsible for ad-
4 ministering the plan throughout the State;

5 “(D) provide satisfactory assurances that
6 the designated State agency has or will have the
7 legal authority, resources, and qualified per-
8 sonnel necessary to enforce the regulations,
9 standards, and orders;

10 “(E) provide satisfactory assurances that
11 the State will devote adequate amounts to the
12 administration of the plan and enforcement of
13 the regulations, standards, and orders;

14 “(F) provide a right of entry and inspec-
15 tion to carry out the plan;

16 “(G) provide that all reports required
17 under this section be submitted to the des-
18 ignated State agency and that the designated
19 State agency will make the reports available to
20 the Secretary on request;

21 “(H) provide that the designated State
22 agency will adopt the reporting requirements
23 and use the forms for recordkeeping, inspec-
24 tions, and investigations the Secretary pre-
25 scribes;

1 “(I) require registrants of commercial
2 motor vehicles to make a declaration of knowl-
3 edge of applicable safety regulations, standards,
4 and orders of the Government and the State;

5 “(J) provide that the State will grant max-
6 imum reciprocity for inspections conducted
7 under the North American Inspection Standard
8 through the use of a nationally accepted system
9 that allows ready identification of previously in-
10 spected commercial motor vehicles;

11 “(K) ensure that activities described in
12 subsection (f)(3)(B), if financed with grants
13 under this section, will not diminish the effec-
14 tiveness of the development and implementation
15 of commercial motor vehicle safety programs
16 described in subsection (a);

17 “(L) ensure that the designated State
18 agency will coordinate the plan, data collection,
19 and information systems with State highway
20 safety programs under title 23;

21 “(M) ensure participation in appropriate
22 Federal Motor Carrier Safety Administration
23 information systems and other information sys-
24 tems by all appropriate jurisdictions receiving
25 funding under this section;

1 “(N) provide satisfactory assurances that
2 the State is willing and able to exchange infor-
3 mation with other States in a timely manner;

4 “(O) provide satisfactory assurances that
5 the State will undertake efforts that will em-
6 phasize and improve enforcement of State and
7 local traffic safety laws and regulations related
8 to commercial motor vehicle safety;

9 “(P) provide satisfactory assurances that
10 the State will promote activities in support of
11 national priorities, including—

12 “(i) activities aimed at removing im-
13 paired commercial motor vehicle drivers
14 from the highways of the United States—

15 “(I) through adequate enforce-
16 ment of regulations on the use of alco-
17 hol and controlled substances; and

18 “(II) by ensuring ready roadside
19 access to alcohol detection and meas-
20 uring equipment;

21 “(ii) activities aimed at providing an
22 appropriate level of training to State motor
23 carrier safety assistance program officers
24 and employees on recognizing drivers im-

1 paired by alcohol or controlled substances;

2 and

3 “(iii) interdiction activities affecting
4 the transportation of controlled substances
5 by commercial motor vehicle drivers and
6 training on appropriate strategies for car-
7 rying out those interdiction activities;

8 “(Q) provide satisfactory assurances that
9 the State has established a program to ensure
10 that—

11 “(i) accurate, complete, and timely
12 motor carrier safety data is collected and
13 reported to the Secretary; and

14 “(ii) the State will participate in a na-
15 tional motor carrier safety data correction
16 system prescribed by the Secretary;

17 “(R) ensure that the State will cooperate
18 in the enforcement of financial responsibility re-
19 quirements under sections 13906, 31138, and
20 31139 and regulations issued thereunder;

21 “(S) ensure consistent, effective, and rea-
22 sonable sanctions;

23 “(T) ensure that roadside inspections will
24 be conducted at a location that is adequate to

1 protect the safety of drivers and enforcement
2 personnel;

3 “(U) provide satisfactory assurances that
4 the State will include, in the training manual
5 for the licensing examination to drive a non-
6 commercial motor vehicle and a commercial
7 motor vehicle, information on best practices for
8 driving safely in the vicinity of noncommercial
9 and commercial motor vehicles;

10 “(V) provide satisfactory assurances that
11 the State will enforce the registration require-
12 ments of sections 13902 and 31134 by prohib-
13 iting the operation of any vehicle discovered to
14 be operated by a motor carrier—

15 “(i) without a registration issued
16 under such sections; or

17 “(ii) beyond the scope of such reg-
18 istration;

19 “(W) provide satisfactory assurances that
20 the State will conduct comprehensive and highly
21 visible traffic enforcement and commercial
22 motor vehicle safety inspection programs in
23 high-risk locations and corridors; and

24 “(X) provide for implementation of activi-
25 ties to monitor the safety performance of motor

1 carriers of passengers, including inspections of
2 commercial motor vehicles designed or used to
3 transport passengers; except that roadside in-
4 spections must be conducted at a station, ter-
5 minal, border crossing, maintenance facility,
6 destination, or other location where a motor
7 carrier may make a planned stop, except in the
8 case of an imminent or obvious safety hazard.

9 “(3) MAINTENANCE OF EFFORT.—

10 “(A) IN GENERAL.—A plan submitted by a
11 State under this subsection shall provide that
12 the total expenditure of amounts of the State
13 and political subdivisions of the State (not in-
14 cluding amounts of the United States) for com-
15 mercial motor vehicle safety programs and for
16 enforcement of commercial motor vehicle size
17 and weight limitations, drug interdiction, and
18 State traffic safety laws and regulations under
19 subsection (f) will be maintained at a level at
20 least equal to the average level of that expendi-
21 ture for the 3 most recent fiscal years ending
22 before the date of enactment of the Motor Car-
23 rier Safety, Efficiency, and Accountability Act
24 of 2012.

1 “(B) CALCULATING STATE EXPENDI-
2 TURES.—In calculating the average level of
3 State expenditure, the Secretary—

4 “(i) may allow the State to exclude
5 State expenditures for Government-spon-
6 sored demonstration or pilot programs;
7 and

8 “(ii) shall require the State to exclude
9 Government amounts.

10 “(c) GUIDANCE AND STANDARDS.—

11 “(1) IN GENERAL.—Not later than October 1,
12 2013, the Secretary shall—

13 “(A) develop guidance on the effectiveness
14 of specific enforcement and related activities in
15 generating reductions in fatalities and crashes
16 involving commercial motor vehicles; and

17 “(B) publish standards for data timeliness,
18 accuracy, and completeness that will allow
19 States to meet the objectives of this section and
20 that are consistent with the standards issued
21 under section 31106(a)(4).

22 “(2) OPTIMIZATION OF ALLOCATIONS.—The
23 Secretary shall develop a tool for States to optimize
24 allocations of motor carrier safety resources to carry

1 out enforcement and related activities to meet the
2 objectives of this section.

3 “(3) UPDATES OF GUIDANCE.—The Secretary
4 shall update the guidance issued under paragraph
5 (1)(A) periodically to reflect new information.

6 “(d) PERFORMANCE MEASURES.—

7 “(1) STATE TARGETS.—For fiscal year 2014,
8 and each fiscal year thereafter, each State, in the
9 plan submitted by that State under subsection (b),
10 shall—

11 “(A) establish targets, in quantifiable
12 metrics, for enforcement activities, data quality,
13 and other benchmarks to reduce fatalities and
14 crashes involving commercial motor vehicles;

15 “(B) select target activities in accordance
16 with the Secretary’s latest guidance to ensure
17 States pursue activities likely to generate max-
18 imum fatality and crash reduction; and

19 “(C) meet the standards for data published
20 by the Secretary under subsection (c)(1)(B).

21 “(2) ANNUAL UPDATES OF STATE PLANS.—A
22 State shall—

23 “(A) update its plan under subsection (b)
24 annually to establish targets for the following
25 fiscal year; and

1 “(B) submit the updated plan to the Sec-
2 retary.

3 “(3) REQUIREMENTS FOR TARGETS.—If a
4 State receives an increase in grant funds under this
5 section in a fiscal year as compared to the previous
6 fiscal year, the targets established by the State
7 under paragraph (1) for the fiscal year shall exceed
8 the levels achieved by the State in the previous fiscal
9 year.

10 “(4) STATE REPORTS.—

11 “(A) INFORMATION ON FATALITIES AND
12 CRASHES INVOLVING COMMERCIAL MOTOR VE-
13 HICLES.—Under the motor carrier safety assist-
14 ance program, a State shall report to the Sec-
15 retary the number and rate of fatalities and
16 crashes involving commercial motor vehicles oc-
17 curring in the State in the previous fiscal year.

18 “(B) OTHER INFORMATION.—A State shall
19 include in the report required under subpara-
20 graph (A) information on commercial motor ve-
21 hicles registered in the State and involved in
22 crashes in such fiscal year and any other infor-
23 mation requested by the Secretary.

1 “(5) ASSESSMENTS.—As part of the annual
2 plan approval process under subsection (e), the Sec-
3 retary shall assess whether—

4 “(A) a State met its targets in the pre-
5 vious fiscal year; and

6 “(B) targeted activities are reducing fatali-
7 ties and crashes involving commercial motor ve-
8 hicles.

9 “(e) PLAN REVIEW.—

10 “(1) APPROVAL PROCESS.—Before distributing
11 grant funds under subsection (f) in a fiscal year, the
12 Secretary shall—

13 “(A) review each State plan submitted to
14 the Secretary under subsection (b), as updated
15 by the State under subsection (d); and

16 “(B)(i) approve the plan if the Secretary
17 determines that the plan is adequate to promote
18 the objectives of this section; or

19 “(ii) disapprove the plan.

20 “(2) RESUBMITTAL.—If the Secretary dis-
21 approves a plan under this subsection, the Secretary
22 shall—

23 “(A) give the State a written explanation;
24 and

1 “(B) allow the State to modify and resub-
2 mit the plan for approval.

3 “(3) CONTINUOUS EVALUATION OF PLANS.—

4 “(A) IN GENERAL.—On the basis of re-
5 ports submitted by the motor vehicle safety
6 agency of a State with a plan approved under
7 this subsection and the Secretary’s own inves-
8 tigations, the Secretary shall make a continuing
9 evaluation of the way the State is carrying out
10 the plan.

11 “(B) WITHDRAWAL OF APPROVAL.—

12 “(i) IN GENERAL.—If the Secretary
13 finds, after notice and opportunity for
14 comment, a State plan previously approved
15 under this subsection is not being followed
16 or has become inadequate to ensure en-
17 forcement of the regulations, standards, or
18 orders, the Secretary shall withdraw ap-
19 proval of the plan and notify the State.

20 “(ii) EFFECTIVE DATE.—The plan
21 shall not be effective beginning on the date
22 the notice is received.

23 “(iii) JUDICIAL REVIEW.—A State ad-
24 versely affected by a withdrawal under this

1 subparagraph may seek judicial review
2 under chapter 7 of title 5.

3 “(C) ADMINISTRATIVE AND JUDICIAL PRO-
4 CEEDINGS.—Notwithstanding a withdrawal of
5 approval of a State plan under this paragraph,
6 the State may retain jurisdiction in administra-
7 tive or judicial proceedings begun before the
8 date of the withdrawal if the issues involved are
9 not related directly to the reasons for the with-
10 drawal.

11 “(f) GRANTS TO STATES.—

12 “(1) IN GENERAL.—Subject to the availability
13 of funds, the Secretary shall make grants to States
14 for the development or implementation of programs
15 under this section in accordance with paragraph (3).

16 “(2) ELIGIBILITY.—

17 “(A) IN GENERAL.—A State shall be eligi-
18 ble for a grant under this subsection in a fiscal
19 year in an amount equal to the State’s allocated
20 amount determined under section 31104(f) if
21 the State has in effect a State plan under sub-
22 section (b) that has been approved by the Sec-
23 retary under subsection (e) for that fiscal year.

24 “(B) WITHHOLDING OF FUNDS.—In the
25 case of a State that does not meet the require-

1 ments of subparagraph (A) in a fiscal year, the
2 Secretary may withhold grant funds from a
3 State's allocated amount determined under sec-
4 tion 31104(f) for that fiscal year as follows:

5 “(i) The Secretary may withhold up to
6 25 percent of such funds if the State had
7 a plan approved under subsection (e) for
8 the fiscal year preceding the fiscal year of
9 the grant, but has not had a plan approved
10 under subsection (e) for the fiscal year of
11 the grant.

12 “(ii) The Secretary may withhold up
13 to 50 percent of such funds if the State
14 had a plan approved under subsection (e)
15 for the second fiscal year preceding the fis-
16 cal year of the grant, but has not had a
17 plan approved under subsection (e) for the
18 fiscal year of the grant and the preceding
19 fiscal year.

20 “(iii) The Secretary may withhold up
21 to 75 percent of such funds if the State
22 had a plan approved under subsection (e)
23 for the third fiscal year preceding the fiscal
24 year of the grant, but has not had a plan
25 approved under subsection (e) for the fiscal

1 year of the grant and the 2 preceding fis-
2 cal years.

3 “(iv) The Secretary may withhold 100
4 percent of such funds if the State has not
5 had a plan approved under subsection (e)
6 for the fiscal year of the grant and the 3
7 preceding fiscal years.

8 “(C) SUBSEQUENT AVAILABILITY OF
9 WITHHELD FUNDS.—The Secretary shall make
10 available to a State the grant funds withheld
11 from the State for a fiscal year under subpara-
12 graph (B) if the Secretary approves the State’s
13 plan under subsection (e) on or before the last
14 day of that fiscal year.

15 “(D) REALLOCATION OF WITHHELD
16 FUNDS.—If the Secretary withholds grant funds
17 from a State for a fiscal year under subpara-
18 graph (B), and the State does not have a plan
19 approved under subsection (e) on or before the
20 last day of that fiscal year, such funds shall be
21 released to the Secretary for reallocation among
22 the States under section 31104(f) in the fol-
23 lowing fiscal year.

24 “(3) USE OF GRANT FUNDS.—

1 “(A) IN GENERAL.—A State receiving a
2 grant under this subsection shall use the grant
3 funds for activities to further the State’s plan
4 under subsection (b).

5 “(B) USE OF GRANTS TO ENFORCE OTHER
6 LAWS.—Subject to subparagraph (C), a State
7 may use grant funds received under this sub-
8 section—

9 “(i) if carried out in conjunction with
10 an appropriate inspection of a commercial
11 motor vehicle to enforce Federal or State
12 commercial motor vehicle safety regula-
13 tions, for—

14 “(I) enforcement of commercial
15 motor vehicle size and weight limita-
16 tions at locations other than fixed
17 weight facilities, at specific locations
18 such as steep grades or mountainous
19 terrains where the weight of a com-
20 mercial motor vehicle can significantly
21 affect the safe operation of the vehi-
22 cle, or at ports where intermodal ship-
23 ping containers enter and leave the
24 United States; and

1 “(II) detection of the unlawful
2 presence of a controlled substance (as
3 defined under section 102 of the Com-
4 prehensive Drug Abuse Prevention
5 and Control Act of 1970 (21 U.S.C.
6 802)) in a commercial motor vehicle
7 or on the person of any occupant (in-
8 cluding the operator) of the vehicle;
9 and

10 “(ii) for documented enforcement of
11 State traffic laws and regulations designed
12 to promote the safe operation of commer-
13 cial motor vehicles, including documented
14 enforcement of such laws and regulations
15 relating to noncommercial motor vehicles
16 when necessary to promote the safe oper-
17 ation of commercial motor vehicles.

18 “(C) LIMITATIONS.—

19 “(i) EFFECT ON COMMERCIAL MOTOR
20 VEHICLE SAFETY PROGRAMS.—A State
21 may use grant funds received under this
22 subsection for an activity described in sub-
23 paragraph (B) only if the activity will not
24 diminish the effectiveness of commercial

1 motor vehicle safety programs described in
2 subsection (a).

3 “(ii) ENFORCEMENT ACTIVITIES RE-
4 LATING TO NONCOMMERCIAL MOTOR VEHI-
5 CLES.—A State may not use more than 5
6 percent of the total amount of grants re-
7 ceived by the State under this subsection
8 in a fiscal year for enforcement activities
9 relating to noncommercial motor vehicles
10 described in subparagraph (B)(ii) unless
11 the Secretary determines a higher percent-
12 age will result in significant increases in
13 commercial motor vehicle safety.

14 “(g) ANNUAL REPORT.—The Secretary shall submit
15 to the Committee on Transportation and Infrastructure
16 of the House of Representatives and the Committee on
17 Commerce, Science, and Transportation of the Senate an
18 annual report that—

19 “(1) analyzes commercial motor vehicle safety
20 trends among the States and documents the most ef-
21 fective commercial motor vehicle safety programs
22 implemented with grants under this section;

23 “(2) describes the effect of activities carried out
24 with grants made under this section on commercial
25 motor vehicle safety; and

1 “(A) when licensing or registering the
2 motor carrier or registrant; or

3 “(B) while the license or registration is in
4 effect; and

5 “(2) deny, suspend, or revoke the commercial
6 motor vehicle registration of a motor carrier or reg-
7 istrant to whom the Secretary has issued an oper-
8 ations out-of-service order.

9 “(c) PROGRAM PARTICIPATION.—Not later than Sep-
10 tember 30, 2015, the Secretary shall require a State to
11 participate in the program by—

12 “(1) complying with the uniform policies, proce-
13 dures, and technical and operational standards pre-
14 scribed by the Secretary under section 31106(a)(4);

15 “(2) having in effect a law providing the State
16 with the authority to impose the sanctions described
17 in paragraph (3)(A) on the basis of an out-of-service
18 order issued by the Secretary; and

19 “(3) establishing and implementing a process,
20 approved by the Secretary, to—

21 “(A) deny, suspend, or revoke the vehicle
22 registration or seize the registration plates of a
23 commercial motor vehicle registered to a motor
24 carrier to whom the Secretary has issued an
25 out-of-service order; and

1 “(B) reinstate the vehicle registration or
2 return the registration plates of the commercial
3 motor vehicle subject to sanctions under sub-
4 paragraph (A) if the Secretary permits such
5 carrier to resume operations after the date of
6 issuance of such order.

7 “(d) FUNDING.—A State may use grant funds made
8 available to the State under section 4126 of SAFETEA-
9 LU (119 Stat. 1738) for each of fiscal years 2013 through
10 2016 to meet the requirements of this section for partici-
11 pation in the program under subsection (c).”.

12 (b) CONFORMING AMENDMENTS.—Section 31106(b)
13 is amended—

14 (1) by striking paragraphs (2) through (4);

15 (2) by striking “(b) PERFORMANCE AND REG-
16 ISTRATION INFORMATION PROGRAM.—” and all that
17 follows through “(1) INFORMATION CLEARING-
18 HOUSE.—The Secretary” and inserting the fol-
19 lowing:

20 “(b) INFORMATION CLEARINGHOUSE.—The Sec-
21 retary”; and

22 (3) by aligning the remaining text accordingly.

23 (c) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 311 is amended by striking the item relating to section
25 31109 and inserting the following:

“31109. Performance and registration information systems management program.”.

1 **SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
2 **AND NETWORKS DEPLOYMENT GRANTS.**

3 (a) IN GENERAL.—Section 4126(a) of SAFETEA—
4 LU (119 Stat. 1738) is amended—

5 (1) in paragraph (1) by striking “and” at the
6 end;

7 (2) in paragraph (2) by striking “and Federal”
8 and all that follows through the period at the end
9 and inserting a semicolon; and

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

11 “(3) facilitate compliance with Federal and
12 State commercial motor vehicle regulatory require-
13 ments; and

14 “(4) provide assistance for State participation
15 in the performance and registration information sys-
16 tems management program under section 31109.”.

17 (b) AMOUNT OF GRANTS.—

18 (1) CORE DEPLOYMENT GRANTS.—Section
19 4126(c) of such Act (119 Stat. 1738) is amended—

20 (A) by striking paragraph (2); and

21 (B) by redesignating paragraph (3) as
22 paragraph (2).

23 (2) EXPANDED DEPLOYMENT GRANTS.—Section
24 4126(d) of such Act (119 Stat. 1739) is amended—

1 (A) by striking paragraph (3); and

2 (B) by redesignating paragraph (4) as
3 paragraph (3).

4 (c) ELIGIBILITY.—Section 4126(e) of such Act (119
5 Stat. 1739) is amended—

6 (1) in paragraph (2)(B)—

7 (A) by inserting “in interstate commerce”
8 after “efficiency”; and

9 (B) by striking “and” at the end;

10 (2) in paragraph (3) by striking the period at
11 the end and inserting “; and”; and

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

13 “(4) shall be participating not later than Sep-
14 tember 30, 2015, in the performance and registra-
15 tion information systems management program
16 under section 31109 of title 49, United States
17 Code.”.

18 (d) FEDERAL SHARE.—Section 4126(f) of such Act
19 (119 Stat. 1739) is amended—

20 (1) by striking “The Federal” and inserting the
21 following:

22 “(1) IN GENERAL.—The Federal”; and

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

24 “(2) PERFORMANCE AND REGISTRATION INFOR-
25 MATION SYSTEMS MANAGEMENT PROGRAM.—Not-

1 withstanding any other provision of this subsection,
2 the Federal share of the cost of a project relating to
3 participation in the performance and registration in-
4 formation systems management program under sec-
5 tion 31109 of title 49, United States Code, shall be
6 100 percent for fiscal years 2013 through 2016.”.

7 **SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPEC-**
8 **TION PROGRAMS.**

9 (a) IN GENERAL.—Section 31142(b) is amended to
10 read as follows:

11 “(b) INSPECTION OF VEHICLES AND RECORD RE-
12 TENTION.—

13 “(1) REGULATIONS ON GOVERNMENT STAND-
14 ARDS.—The Secretary of Transportation shall pre-
15 scribe regulations on Government standards for in-
16 spection of commercial motor vehicles and retention
17 by employers of records of such inspections.

18 “(2) CONTENTS OF STANDARDS.—The stand-
19 ards shall provide for—

20 “(A) annual or more frequent inspections
21 of a commercial motor vehicle designed or used
22 to transport property unless the Secretary finds
23 that another inspection system is as effective as
24 an annual or more frequent inspection system;
25 and

1 shall consider Safety Recommendation H-99-6 of the Na-
2 tional Transportation Safety Board, issued February 26,
3 1999, closed.

4 **SEC. 6306. NEW ENTRANT CARRIERS.**

5 (a) SAFETY REVIEW.—Section 31144(g)(1) is
6 amended to read as follows:

7 “(1) SAFETY REVIEW.—The Secretary shall re-
8 quire, by regulation, each owner and operator issued
9 a new registration under section 13902 or 31134 to
10 undergo a safety review under this section—

11 “(A) except as provided by subparagraphs
12 (B) and (C), within the first 18 months after
13 the date on which the owner or operator begins
14 operations under such registration;

15 “(B) in the case of an owner or operator
16 with authority to transport hazardous mate-
17 rials, within the first 9 months after the date
18 on which the owner or operator begins oper-
19 ations under such registration; and

20 “(C) in the case of an owner or operator
21 with authority to transport passengers, within
22 the first 90 days after the date on which the
23 owner or operator begins operations under such
24 registration.”.

1 (b) NEW ENTRANT REGISTRATION.—Section
2 31144(g)(4) is amended to read as follows:

3 “(4) NEW ENTRANT REGISTRATION.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of this title, any new registra-
6 tion issued under section 13902 or 31134 shall
7 each be designated as new entrant registration
8 until the safety review required by paragraph
9 (1) is completed.

10 “(B) REQUIREMENT FOR ISSUANCE OF
11 PERMANENT OPERATING AUTHORITY.—A new
12 registration issued to an owner or operator
13 under section 13902 or 31134 shall become
14 permanent after the owner or operator has
15 passed the safety review required under para-
16 graph (1).”.

17 (c) FUNDING.—Section 31144(g)(5) is amended to
18 read as follows:

19 “(5) FUNDING.—

20 “(A) IN GENERAL.—A State shall carry
21 out the requirements of this section with funds
22 allocated to the State under section 31104(f).

23 “(B) DETERMINATION.—If the Secretary
24 determines that a State or local government is
25 not able to use government employees to con-

1 duct new entrant motor carrier safety reviews
2 with funds allocated to the State under section
3 31104(f), the Secretary may conduct for the
4 State or local government the safety reviews
5 that the State or local government is not able
6 to conduct with such funds.”.

7 (d) FEDERAL SHARE.—Section 31103(b) is amended
8 to read as follows:

9 “(b) NEW ENTRANT MOTOR CARRIER SAFETY RE-
10 VIEWS.—

11 “(1) INCREASE IN SHARE OF COSTS.—Subject
12 to paragraph (2), the Secretary may reimburse a
13 State an amount that is up to 100 percent of the
14 costs incurred by the State in a fiscal year for new
15 entrant motor carrier safety reviews conducted
16 under section 31144(g).

17 “(2) LIMITATION.—The increased Federal
18 share provided under paragraph (1) shall apply with
19 respect to reimbursements of costs described in
20 paragraph (1) made using not more than 20 percent
21 of the funds allocated to a State under section
22 31104(f) for a fiscal year. Any such reimbursements
23 made using an amount in excess of 20 percent of
24 such funds shall be subject to the cost-sharing re-
25 quirements of subsection (a).”.

1 (e) CONFORMING AMENDMENT.—Section 31144(g) is
2 amended, in the subsection heading, by striking “SAFETY
3 REVIEWS OF NEW OPERATORS” and inserting “NEW EN-
4 TRANT MOTOR CARRIER SAFETY REVIEWS”.

5 **SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF**
6 **PASSENGERS.**

7 Section 31144 is amended by adding at the end the
8 following:

9 “(h) SAFETY REVIEWS OF OWNERS AND OPERATORS
10 OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHI-
11 CLES DESIGNED OR USED TO TRANSPORT PAS-
12 SENGERS.—

13 “(1) IN GENERAL.—Not later than September
14 30, 2015, the Secretary shall determine the safety
15 fitness of each owner, and each operator, of a com-
16 mercial motor vehicle designed or used to transport
17 passengers who the Secretary registers, on or before
18 September 30, 2014 (including before the date of
19 enactment of this subsection), under section 13902
20 or 31134.

21 “(2) SAFETY FITNESS RATING.—As part of the
22 safety fitness determination required by paragraph
23 (1), the Secretary shall assign a safety fitness rating
24 to each owner and each operator described in para-
25 graph (1).

1 “(3) PERIODIC MONITORING.—

2 “(A) PROCESS.—The Secretary shall es-
3 tablish a process, by regulation, for monitoring
4 on a regular basis the safety performance of an
5 owner or operator of a commercial motor vehi-
6 cle designed or used to transport passengers,
7 following the assignment of a safety rating to
8 such owner or operator.

9 “(B) ELEMENTS OF MONITORING AND
10 SAFETY ENFORCEMENT.—Regulations issued
11 under subparagraph (A) shall provide for the
12 following:

13 “(i) Monitoring of the safety perform-
14 ance, in critical safety areas (as defined by
15 the Secretary, by regulation) of an owner
16 or operator of a commercial motor vehicle
17 designed or used to transport passengers
18 (including by activities conducted onsite at
19 the offices of the owner or operator or off-
20 site).

21 “(ii) Increasingly more stringent
22 interventions designed to correct unsafe
23 practices of an owner or operator of a com-
24 mercial motor vehicle designed or used to
25 transport passengers.

1 “(iii) Periodic updates to the safety
2 fitness rating of an owner or operator if
3 the Secretary determines that such update
4 will improve the safety performance of the
5 owner or operator.

6 “(iv) Enforcement action, including
7 determining that the owner or operator is
8 not fit and may not operate a commercial
9 motor vehicle under subsection (c)(2).”.

10 **SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.**

11 (a) EXAMINATION REQUIREMENT FOR NATIONAL
12 REGISTRY OF MEDICAL EXAMINERS.—Section
13 31149(c)(1)(D) is amended to read as follows:

14 “(D) develop requirements applicable to a
15 medical examiner in order for the medical ex-
16 aminer to be listed in the national registry es-
17 tablished under this section, including—

18 “(i) specific courses and materials
19 that must be completed;

20 “(ii) at a minimum, self-certification
21 requirements to verify that the medical ex-
22 aminer has completed specific training, in-
23 cluding refresher courses, that the Sec-
24 retary determines are necessary; and

1 “(iii) an examination developed by the
2 Secretary for which a passing grade must
3 be achieved.”.

4 (b) ADDITIONAL OVERSIGHT OF LICENSING AU-
5 THORITIES.—

6 (1) IN GENERAL.—Section 31149(c)(1) is
7 amended—

8 (A) in subparagraph (E) by striking “and”
9 at the end;

10 (B) in subparagraph (F) by striking the
11 period at the end and inserting “; and”; and

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

13 “(G) review each year the implementation
14 of commercial driver’s license requirements of a
15 minimum of 10 States to assess the accuracy,
16 validity, and timeliness of—

17 “(i) submission of physical examina-
18 tion reports and medical certificates to
19 State licensing agencies; and

20 “(ii) the processing of such submis-
21 sions by State licensing agencies.”.

22 (2) INTERNAL OVERSIGHT POLICY.—

23 (A) IN GENERAL.—Not later than 2 years
24 after the date of enactment of this Act, the Sec-
25 retary shall establish an oversight policy and

1 process within the Department for the purposes
2 of carrying out the requirement of section
3 31149(c)(1)(G) of title 49, United States Code,
4 as added by paragraph (1) of this subsection.

5 (B) EFFECTIVE DATE.—Section
6 31149(c)(1)(G) of title 49, United States Code,
7 as added by paragraph (1) of this subsection,
8 shall take effect on the date that the oversight
9 policy and process is established pursuant to
10 subparagraph (A).

11 (c) DEADLINE FOR ESTABLISHMENT OF NATIONAL
12 REGISTRY OF MEDICAL EXAMINERS.—Not later than 1
13 year after the date of enactment of this Act, the Secretary
14 shall establish a national registry of medical examiners as
15 required by section 31149(d)(1) of title 49, United States
16 Code.

17 **SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STAND-**
18 **ARDS.**

19 (a) SAFETY STANDARDS FOR COMMERCIAL MOTOR
20 VEHICLES OF PROPERTY.—

21 (1) RESEARCH.—The Secretary shall conduct
22 research on the need for roof strength, pillar
23 strength, frontal and back wall strength, and other
24 potential occupant protection standards for commer-
25 cial motor vehicles of property.

1 (2) COMMERCIAL MOTOR VEHICLE OF PROP-
2 ERTY DEFINED.—In this subsection, the term “com-
3 mercial motor vehicle of property” means a motor
4 vehicle used in commerce to transport property that
5 has a gross vehicle weight rating or gross vehicle
6 weight of at least 26,001 pounds, whichever is great-
7 er.

8 (b) SAFETY STANDARDS FOR MOTORCOACHES.—

9 (1) SAFETY STANDARDS FOR NEW
10 MOTORCOACHES.—

11 (A) OCCUPANT PROTECTION SYSTEMS.—

12 (i) IN GENERAL.—Not later than 3
13 years after the date of enactment of this
14 Act, the Secretary shall issue standards for
15 motorcoach occupant protection systems
16 that account for frontal impact collisions,
17 side impact collisions, rear impact colli-
18 sions, and rollovers. Such standards shall
19 not eliminate or lessen the occupant pro-
20 tection standards in effect on the date of
21 enactment of this Act and shall—

22 (I) be based on sound scientific
23 research, extensive testing, and anal-
24 ysis by the National Highway Traffic
25 Safety Administration, consistent with

1 the recommendations of the National
2 Transportation Safety Board regard-
3 ing motorcoach occupant protection;
4 and

5 (II) take into consideration the
6 various types of motorcoaches and the
7 various uses and configurations of the
8 occupant compartment as well as
9 local, State, and Federal size and
10 weight limits and restrictions.

11 (ii) CONTENTS.—Such standards may
12 include seatbelts or other occupant protec-
13 tion systems, passive or otherwise, for pas-
14 sengers, including those in child safety re-
15 straint systems.

16 (iii) CONSULTATION.—Prior to issuing
17 such standards, the Secretary shall consult
18 with affected parties, as appropriate, on
19 the proceedings leading to the issuance of
20 the standards required by this subpara-
21 graph. Any communications concerning
22 such consultation shall be included in the
23 public record of the proceedings leading to
24 the issuance of such standards and shall be
25 subject to public comment.

1 (B) ROOF STRENGTH.—

2 (i) RESEARCH AND TESTING.—The
3 Secretary shall conduct research and test-
4 ing on roof strength to determine the
5 method or methods that provide adequate
6 survival space for all seating positions.

7 (ii) STANDARDS.—Not later than 3
8 years after the date of enactment of this
9 Act, the Secretary shall issue roof strength
10 standards for motorcoaches based on the
11 results of such research and testing and
12 taking into account all motorcoach window
13 dimensions and highway size and weight
14 restrictions.

15 (C) WINDOW GLAZING.—

16 (i) RESEARCH AND TESTING.—The
17 Secretary shall conduct research and test-
18 ing on advanced window glazing and se-
19 curement to determine the best method or
20 methods for window glazing to prevent mo-
21 torcoach occupant ejection.

22 (ii) STANDARDS.—Not later than 3
23 years after the date of enactment of this
24 Act, the Secretary shall revise window
25 glazing standards for motorcoaches based

1 on the results of such research and testing
2 and taking into account all motorcoach
3 window dimensions and highway height
4 and weight restrictions.

5 (D) FIRE PREVENTION AND MITIGA-
6 TION.—

7 (i) RESEARCH AND TESTING.—The
8 Secretary shall conduct research and test-
9 ing to determine the most prevalent causes
10 of motorcoach fires and the best methods
11 to prevent such fires and to mitigate the
12 effect of such fires, both inside and outside
13 the motorcoach.

14 (ii) STANDARDS.—Not later than 3
15 years after the date of enactment of this
16 Act, the Secretary shall issue fire preven-
17 tion and mitigation standards for
18 motorcoaches, based on the results of the
19 Secretary's research and testing, taking
20 into account motorcoach highway size and
21 weight restrictions.

22 (E) EMERGENCY EVACUATION DESIGN.—

23 (i) RESEARCH AND TESTING.—The
24 Secretary shall conduct research and test-
25 ing to determine any necessary changes in

1 motorcoach design standards, including
2 windows and doors, to improve motorcoach
3 emergency evacuation.

4 (ii) STANDARDS.—Not later than 3
5 years after the date of enactment of this
6 Act, the Secretary shall issue motorcoach
7 emergency evacuation design standards, in-
8 cluding—

9 (I) window standards that en-
10 hance the use of windows for emer-
11 gency evacuation to the maximum ex-
12 tent feasible, while not detracting
13 from the window glazing standards to
14 be issued under this paragraph; and

15 (II) door standards, including de-
16 sign of the wheelchair lift door for
17 emergency evacuation use.

18 (iii) MOTORCOACH HIGHWAY SIZE
19 AND WEIGHT RESTRICTIONS.—Such stand-
20 ards shall take into account motorcoach
21 highway size and weight restrictions.

22 (F) GENERAL PROVISIONS.—

23 (i) EFFECT ON STATE AND LOCAL
24 LAWS.—Notwithstanding any provision of
25 chapter 301 of title 49, United States

1 Code, a State or a political subdivision of
2 a State may not adopt or enforce a law or
3 regulation related to a motorcoach crash
4 avoidance and occupant protection system
5 prior to the effective date of the regula-
6 tions issued pursuant to this paragraph.

7 (ii) APPLICABILITY OF STANDARDS.—
8 The standards issued under subparagraphs
9 (A) through (E) shall require motorcoaches
10 manufactured after the last day of 3-year
11 period beginning on the date on which
12 such standards are issued to be engineered
13 and equipped to meet such standards.

14 (iii) LIMITATION ON STATUTORY CON-
15 STRUCTION.—Nothing in this subsection or
16 in the regulations issued pursuant to this
17 subsection may be construed as indicating
18 an intention by Congress to affect, change,
19 or modify in any way the liability, if any,
20 of a motorcoach manufacturer or motor-
21 coach owner or operator under applicable
22 law to buses or motorcoaches, manufac-
23 tured and operated with or without pas-
24 senger seat belts or other passenger re-
25 straint systems, prior to the effective date

1 of the regulations issued under this sub-
2 section.

3 (2) SAFETY STANDARDS FOR EXISTING
4 MOTORCOACHES.—

5 (A) IN GENERAL.—The Secretary may
6 issue standards for motorcoaches that are man-
7 ufactured before the date that is 3 years after
8 the date on which the standards required under
9 paragraph (1) are issued, taking into account
10 the limitations posed by the need to retrofit ex-
11 isting motorcoaches. Such standards shall have
12 the same objectives as the standards required
13 under subparagraphs (A) through (E) of para-
14 graph (1), but may differ from such standards
15 based on what is technically feasible for existing
16 motorcoaches. Such standards are technically
17 feasible if the equipment can be certified by the
18 original equipment manufacturer as meeting
19 requisite performance requirements and if the
20 equipment is readily attachable subsequent to
21 initial manufacture by the operator and en-
22 forced through readily visible inspection requir-
23 ing no disassembly.

24 (B) STANDARDS FOR COMPONENT PARTS
25 AND EQUIPMENT.—In lieu of issuing com-

1 prehensive standards for motorcoaches under
2 subparagraph (A), the Secretary may develop
3 standards for various component parts and
4 equipment of motorcoaches that would increase
5 occupant protection.

6 (C) EFFECTIVE DATE.—The effective date
7 for the standards issued under this subsection
8 shall be the same as the effective date for the
9 standards issued under paragraph (1).

10 (D) CERTIFICATION.—The Secretary shall
11 establish, by regulation, a system whereby the
12 motorcoaches to which the standards issued
13 under subparagraph (A) apply shall be certified
14 as in compliance with such standards. Such cer-
15 tification shall be carried out by the Secretary
16 or by private parties at the discretion and au-
17 thorization of the Secretary.

18 (3) COMPLIANCE TIMETABLES.—

19 (A) EFFECTIVE DATE.—The effective date
20 of the standards issued under paragraphs (1)
21 and (2) shall be 3 years after the date on which
22 such final standards are issued. All
23 motorcoaches manufactured after such date
24 shall comply with such standards.

25 (B) PHASED IN REQUIREMENTS.—

1 (i) FIRST PHASE.—Not later than 6
2 years after the effective date of the stand-
3 ards issued under paragraphs (1) and (2),
4 a motorcoach owner or operator shall en-
5 sure that at least 50 percent of the
6 motorcoaches used by the owner or oper-
7 ator comply with either the standards
8 issued under paragraph (1) or the stand-
9 ards issued under paragraph (2), as appro-
10 priate.

11 (ii) SECOND PHASE.—Not later than
12 12 years after the effective date of the
13 standards issued under paragraphs (1) and
14 (2), a motorcoach owner or operator shall
15 ensure that 100 percent of the
16 motorcoaches used by the owner or oper-
17 ator comply with either of such standards.

18 (C) STATE AND LOCAL LAWS.—

19 (i) LIABILITY OF MOTORCOACH MANU-
20 FACTURERS AND OWNERS AND OPERA-
21 TORS.—Nothing in this subsection may be
22 construed to affect, change, or modify in
23 any way the liability, if any, of a motor-
24 coach manufacturer or motorcoach owner
25 or operator under applicable law to buses

1 or motorcoaches unless the manufacturer
2 or owner or operator is shown not to be in
3 compliance with the timetables set forth in
4 subparagraphs (A) and (B).

5 (ii) PREEMPTION.—Notwithstanding
6 any provision of chapter 301 of title 49,
7 United States Code, a State or a political
8 subdivision of a State may not adopt or
9 enforce a law or regulation related to any
10 of the standards required by paragraphs
11 (1) and (2) during the time periods set
12 forth in subparagraphs (A) and (B).

13 (4) DEFINITION OF MOTORCOACH.—In this
14 subsection, the term “motorcoach” means an over-
15 the-road bus, characterized by an elevated passenger
16 deck located over a baggage compartment.

17 **SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.**

18 (a) STUDY.—The Secretary shall study the effective-
19 ness of crash avoidance technologies as countermeasures
20 to lessen the impact of distracted driving in commercial
21 motor vehicle crashes.

22 (b) REPORT TO CONGRESS.—Not later than October
23 1, 2013, the Secretary shall submit to the Committee on
24 Transportation and Infrastructure of the House of Rep-
25 resentatives and the Committee on Commerce, Science,

1 and Transportation of the Senate a report detailing the
2 results of the study.

3 **SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.**

4 (a) **STUDY.**—The Secretary shall expand the ongoing
5 study of the Department on collision mitigation systems
6 in commercial motor vehicles to include systems that can
7 react to a stopped vehicle.

8 (b) **REPORT TO CONGRESS.**—Not later than October
9 1, 2013, the Secretary shall submit to the Committee on
10 Transportation and Infrastructure of the House of Rep-
11 resentatives and the Committee on Commerce, Science,
12 and Transportation of the Senate a report detailing the
13 results of the study.

14 **Subtitle D—Commercial Motor**
15 **Vehicle Operators**

16 **SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RE-**
17 **LATING TO ALCOHOL AND CONTROLLED SUB-**
18 **STANCES TESTING OF COMMERCIAL MOTOR**
19 **VEHICLE OPERATORS.**

20 (a) **IN GENERAL.**—Chapter 313 is amended by in-
21 serting after section 31306 the following:

22 **“§ 31306a. National clearinghouse for records relating**
23 **to alcohol and controlled substances test-**
24 **ing**

25 **“(a) ESTABLISHMENT.**—

1 “(1) IN GENERAL.—Subject to the require-
2 ments of this section, the Secretary of Transpor-
3 tation shall establish and maintain an information
4 system that will serve as a national clearinghouse for
5 records relating to the alcohol and controlled sub-
6 stances testing program applicable to operators of
7 commercial motor vehicles under section 31306.

8 “(2) PURPOSES.—The purposes of the clearing-
9 house shall be—

10 “(A) to improve compliance with the re-
11 quirements of the testing program; and

12 “(B) to help prevent accidents and injuries
13 resulting from the misuse of alcohol or use of
14 controlled substances by operators of commer-
15 cial motor vehicles.

16 “(3) CONTENTS.—The clearinghouse shall be a
17 repository of records relating to violations of the
18 testing program by individuals submitted to the Sec-
19 retary in accordance with this section.

20 “(4) ELECTRONIC EXCHANGE OF RECORDS.—
21 The Secretary shall ensure the ability for records to
22 be submitted to the clearinghouse, and requested
23 from the clearinghouse, on an electronic basis.

1 “(5) DEADLINE.—The Secretary shall establish
2 the clearinghouse not later than 1 year after the
3 date of enactment of this section.

4 “(b) EMPLOYMENT PROHIBITIONS.—

5 “(1) IN GENERAL.—An employer may permit
6 an individual to operate a commercial motor vehicle
7 or perform any other safety sensitive function only
8 if the employer makes a request for information
9 from the clearinghouse at such times as the Sec-
10 retary shall specify, by regulation, and the informa-
11 tion in the clearinghouse at the time of the request
12 indicates that the individual—

13 “(A) has not violated the requirements of
14 the testing program in the preceding 3-year pe-
15 riod; or

16 “(B) if the individual has violated the re-
17 quirements of the testing program during that
18 period, is eligible to return to safety sensitive
19 duties pursuant to the return-to-duty process
20 established under the testing program.

21 “(2) VIOLATIONS.—For purposes of paragraph
22 (1), an individual shall be considered to have vio-
23 lated the requirements of the testing program if the
24 individual—

1 “(A) has a confirmed or verified, as appli-
2 cable, positive alcohol or controlled substances
3 test result under the testing program;

4 “(B) has failed or refused to submit to an
5 alcohol or controlled substances test under the
6 testing program; or

7 “(C) has otherwise failed to comply with
8 the requirements of the testing program.

9 “(3) APPLICABILITY.—Paragraph (1) shall
10 apply to an individual who performs a safety sen-
11 sitive function for an employer as a full-time regu-
12 larly employed driver, casual, intermittent, or occa-
13 sional driver, or leased driver, or independent owner-
14 operator contractor of such employer or, as deter-
15 mined by the Secretary, pursuant to another ar-
16 rangement.

17 “(4) WRITTEN NOTICE THAT CLEARINGHOUSE
18 IS OPERATIONAL.—The Secretary shall issue a writ-
19 ten notice when the Secretary determines that the
20 clearinghouse is operational and employers are able
21 to use the clearinghouse to meet the requirements of
22 section 382.413 of title 49, Code of Federal Regula-
23 tions, as in effect on the date of enactment of this
24 section.

1 “(5) EFFECTIVE DATE.—Paragraph (1) shall
2 take effect on a date specified by the Secretary in
3 the written notice issued under paragraph (4) that
4 is not later than 30 days after the date of issuance
5 of the written notice.

6 “(6) CONTINUED APPLICATION OF EXISTING
7 REQUIREMENTS.—Following the date on which para-
8 graph (1) takes effect, an employer shall continue to
9 be subject to the requirements of section 382.413 of
10 title 49, Code of Federal Regulations, as in effect on
11 the date of enactment of this section, for a period
12 of 3 years or for such longer period as the Secretary
13 determines appropriate.

14 “(7) NOTICE OF REQUIREMENTS APPLICABLE
15 TO EMPLOYERS.—The Secretary shall provide notice
16 of the requirements applicable to employers under
17 this section through published notices in the Federal
18 Register.

19 “(c) REPORTING OF RECORDS.—

20 “(1) IN GENERAL.—The Secretary shall require
21 employers and appropriate service agents, including
22 medical review officers, to submit to the Secretary
23 for inclusion in the clearinghouse records of viola-
24 tions of the testing program by individuals described
25 in subsection (b)(3).

1 “(2) SPECIFIC REPORTING REQUIREMENTS.—In
2 carrying out paragraph (1), the Secretary shall re-
3 quire, at a minimum—

4 “(A) a medical review officer to report
5 promptly, as determined by the Secretary, to
6 the clearinghouse—

7 “(i) a verified positive controlled sub-
8 stances test result of an individual under
9 the testing program; and

10 “(ii) a failure or refusal of an indi-
11 vidual to submit to a controlled substances
12 test in accordance with the requirements of
13 the testing program; and

14 “(B) an employer (or, in the case of an op-
15 erator of a commercial motor vehicle who is
16 self-employed, the service agent administering
17 the operator’s testing program) to report
18 promptly, as determined by the Secretary, to
19 the clearinghouse—

20 “(i) a confirmed positive alcohol test
21 result of an individual under the testing
22 program; and

23 “(ii) a failure or refusal of an indi-
24 vidual to provide a specimen for a con-

1 trolled substances test in accordance with
2 the requirements of the testing program.

3 “(3) UPDATING OF RECORDS.—The Secretary
4 shall ensure that a record in the clearinghouse is up-
5 dated to include a return-to-duty test result of an in-
6 dividual under the testing program.

7 “(4) INCLUSION OF RECORDS IN CLEARING-
8 HOUSE.—The Secretary shall include all records of
9 violations received pursuant to this subsection in the
10 clearinghouse.

11 “(5) MODIFICATIONS AND DELETIONS.—If the
12 Secretary determines that a record contained in the
13 clearinghouse is not accurate, the Secretary shall
14 modify or delete the record.

15 “(6) NOTIFICATION OF INDIVIDUALS.—The
16 Secretary shall establish a process to provide notifi-
17 cation to an individual of—

18 “(A) a submission of a record to the clear-
19 inghouse relating to the individual; and

20 “(B) any modification or deletion of a
21 record in the clearinghouse pertaining to the in-
22 dividual, including the reason for the modifica-
23 tion or deletion.

24 “(7) TIMELY AND ACCURATE REPORTING.—The
25 Secretary may establish additional requirements, as

1 appropriate, to ensure timely and accurate reporting
2 of records to the clearinghouse.

3 “(8) DELETION OF RECORDS.—The Secretary
4 shall delete a record of a violation submitted to the
5 clearinghouse after a period of 3 years beginning on
6 the date the individual is eligible to return to safety
7 sensitive duties pursuant to the return-to-duty pro-
8 cess established under the testing program.

9 “(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

10 “(1) IN GENERAL.—The Secretary shall estab-
11 lish a process for an employer to request and receive
12 records in the clearinghouse pertaining to an indi-
13 vidual in accordance with subsection (b).

14 “(2) WRITTEN CONSENT OF INDIVIDUALS.—An
15 employer shall obtain the written consent of an indi-
16 vidual before requesting any records in the clearing-
17 house pertaining to the individual.

18 “(3) ACCESS TO RECORDS.—Upon receipt of a
19 request for records from an employer under para-
20 graph (1), the Secretary shall provide the employer
21 with access to the records as expeditiously as prac-
22 ticable.

23 “(4) RECORDS OF REQUESTS.—The Secretary
24 shall require an employer to maintain for a 3-year
25 period—

1 “(A) a record of each request made by the
2 employer for records from the clearinghouse;
3 and

4 “(B) any information received pursuant to
5 the request.

6 “(5) USE OF RECORDS.—

7 “(A) IN GENERAL.—An employer—

8 “(i) may obtain from the clearing-
9 house a record pertaining to an individual
10 only for the purpose of determining wheth-
11 er a prohibition applies with respect to the
12 individual to operate a commercial motor
13 vehicle or perform any other safety sen-
14 sitive function under subsection (b)(1); and

15 “(ii) may use the record only for such
16 purpose.

17 “(B) PROTECTION OF PRIVACY OF INDI-
18 VIDUALS.—An employer that receives a record
19 from the clearinghouse pertaining to an indi-
20 vidual shall protect the privacy of the individual
21 and the confidentiality of the record, including
22 taking reasonable precautions to ensure that in-
23 formation contained in the record is not di-
24 vulged to any person who is not directly in-
25 volved in determining whether a prohibition ap-

1 plies with respect to the individual to operate a
2 commercial motor vehicle or perform any other
3 safety sensitive function under subsection
4 (b)(1).

5 “(e) ACCESS TO CLEARINGHOUSE BY INDIVID-
6 UALS.—

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 learn whether a record pertaining
11 to the individual is contained in the clearing-
12 house;

13 “(B) to verify the accuracy of the record;

14 “(C) to verify updates to the individual’s
15 record, including completion of a return-to-duty
16 process under the testing program; and

17 “(D) to learn of requests for information
18 from the clearinghouse regarding the individual.

19 “(2) DISPUTE PROCEDURE.—The Secretary
20 shall establish a procedure, including an appeal
21 process, for an individual to dispute and remedy an
22 administrative error in a record pertaining to the in-
23 dividual in the clearinghouse, except that the appeal
24 process shall not be used to dispute or remedy the

1 validity of a controlled substance or alcohol test re-
2 sult.

3 “(3) ACCESS TO RECORDS.—Upon receipt of a
4 request for records from an individual under para-
5 graph (1), the Secretary shall provide the individual
6 with access to the records as expeditiously as prac-
7 ticable.

8 “(f) ACCESS TO CLEARINGHOUSE BY CHIEF COM-
9 MERCIAL DRIVER LICENSING OFFICIALS.—

10 “(1) IN GENERAL.—The Secretary shall estab-
11 lish a process for the chief commercial driver licens-
12 ing official of a State to request and receive records
13 pertaining to an individual from the clearinghouse.

14 “(2) USE OF INFORMATION.—The chief com-
15 mercial driver licensing official of a State may not
16 obtain from the clearinghouse a record pertaining to
17 an individual for any purpose other than to take an
18 action related to a commercial driver’s license for
19 the individual under applicable State law or to com-
20 ply with section 31311(a)(22).

21 “(g) USE OF CLEARINGHOUSE INFORMATION FOR
22 ENFORCEMENT PURPOSES.—The Secretary may use the
23 records in the clearinghouse for the purposes of enforce-
24 ment activities under this chapter.

25 “(h) DESIGN OF CLEARINGHOUSE.—

1 “(1) IN GENERAL.—In establishing the clear-
2 inghouse, the Secretary shall develop a secure proc-
3 ess for—

4 “(A) registration, authorization, and au-
5 thentication of a user of the clearinghouse;

6 “(B) registration, authorization, and au-
7 thentication of individuals required to report to
8 the clearinghouse under subsection (c);

9 “(C) preventing information from the
10 clearinghouse from being accessed by unauthor-
11 ized users;

12 “(D) timely and accurate electronic sub-
13 missions of data to the clearinghouse under
14 subsection (c);

15 “(E) timely and accurate access to records
16 from the clearinghouse under subsections (d),
17 (e), and (f); and

18 “(F) updates to an individual’s record re-
19 lated to compliance with the return-to-duty
20 process under the testing program.

21 “(2) ARCHIVE CAPABILITY.—The clearinghouse
22 shall be designed to allow for an archive of the re-
23 ceipt, modification, and deletion of records for the
24 purposes of auditing and evaluating the timeliness,

1 accuracy, and completeness of data in the clearing-
2 house.

3 “(3) SECURITY STANDARDS.—The clearing-
4 house shall be designed and administered in compli-
5 ance with applicable Department of Transportation
6 information technology security standards.

7 “(4) INTEROPERABILITY WITH OTHER SYS-
8 TEMS.—In establishing the clearinghouse and devel-
9 oping requirements for data to be included in the
10 clearinghouse, the Secretary, to the maximum extent
11 practicable, shall take into consideration—

12 “(A) existing information systems con-
13 taining regulatory and safety data for motor ve-
14 hicle operators;

15 “(B) the efficacy of using or combining
16 clearinghouse data with 1 or more of such sys-
17 tems; and

18 “(C) the potential interoperability of the
19 clearinghouse with existing and future informa-
20 tion systems containing regulatory and safety
21 data for motor vehicle operators.

22 “(i) PRIVACY.—

23 “(1) AVAILABILITY OF CLEARINGHOUSE INFOR-
24 MATION.—The Secretary shall establish a process to
25 make information available from the clearinghouse

1 in a manner that is consistent with this section and
2 applicable Federal information and privacy laws, in-
3 cluding regulations.

4 “(2) UNAUTHORIZED INDIVIDUALS.—The Sec-
5 retary may not provide information from the clear-
6 inghouse to an individual who is not authorized by
7 this section to receive the information.

8 “(j) FEES.—

9 “(1) AUTHORITY TO COLLECT FEES.—

10 “(A) GENERAL AUTHORITY.—The Sec-
11 retary may collect fees for requests for informa-
12 tion from the clearinghouse.

13 “(B) AMOUNT TO BE COLLECTED.—Fees
14 collected under this subsection in a fiscal year
15 shall equal as nearly as possible the costs of op-
16 erating the clearinghouse in that fiscal year, in-
17 cluding personnel costs.

18 “(C) RECEIPTS TO BE CREDITED AS OFF-
19 SETTING COLLECTIONS.—The amount of any
20 fee collected under this subsection shall be—

21 “(i) credited as offsetting collections
22 to the account that finances the activities
23 and services for which the fee is imposed;
24 and

1 “(ii) available without further appro-
2 piation for such activities and services
3 until expended.

4 “(2) LIMITATION.—The Secretary shall ensure
5 that an individual requesting information from the
6 clearinghouse in order to dispute or remedy an error
7 in a record pertaining to the individual pursuant to
8 subsection (e)(2) may obtain the information with-
9 out being subject to a fee authorized by paragraph
10 (1).

11 “(k) ENFORCEMENT.—An employer, and any person
12 acting as a service agent, shall be subject to civil and
13 criminal penalties for a violation of this section in accord-
14 ance with section 521(b).

15 “(l) DEFINITIONS.—In this section, the following
16 definitions apply:

17 “(1) CHIEF COMMERCIAL DRIVER LICENSING
18 OFFICIAL.—The term ‘chief commercial driver li-
19 censing official’ means the official in a State who is
20 authorized—

21 “(A) to maintain a record about a com-
22 mercial driver’s license issued by the State; and

23 “(B) to take action on a commercial driv-
24 er’s license issued by the State.

1 “(2) CLEARINGHOUSE.—The term ‘clearing-
2 house’ means the clearinghouse to be established
3 under subsection (a).

4 “(3) EMPLOYER.—Notwithstanding section
5 31301, the term ‘employer’ means a person or entity
6 employing 1 or more employees (including an indi-
7 vidual who is self-employed) that is subject to De-
8 partment of Transportation requirements under the
9 testing program. The term does not include a service
10 agent.

11 “(4) MEDICAL REVIEW OFFICER.—The term
12 ‘medical review officer’ means a person who is a li-
13 censed physician and who is responsible for receiving
14 and reviewing laboratory results generated under the
15 testing program and evaluating medical explanations
16 for certain controlled substances test results.

17 “(5) SAFETY SENSITIVE FUNCTION.—The term
18 ‘safety sensitive function’ has the meaning such
19 term has under part 382 of title 49, Code of Federal
20 Regulations, or any successor regulation.

21 “(6) SERVICE AGENT.—The term ‘service
22 agent’ means a person or entity, other than an em-
23 ployee of an employer, who provides services covered
24 by part 40 of title 49, Code of Federal Regulations,
25 or any successor regulation, to employers or employ-

1 ees (or both) under the testing program, and the
2 term includes a medical review officer.

3 “(7) TESTING PROGRAM.—The term ‘testing
4 program’ means the alcohol and controlled sub-
5 stances testing program established under section
6 31306.”.

7 (b) CONFORMING AMENDMENT.—The analysis for
8 such chapter is amended by inserting after the item relat-
9 ing to section 31306 the following:

 “31306a. National clearinghouse for records relating to alcohol and controlled
 substances testing.”.

10 (c) PENALTIES.—

11 (1) APPLICATION OF PENALTY.—Section
12 31306(j) is amended by inserting “An employer, in-
13 cluding an individual who is self-employed, shall be
14 subject to civil and criminal penalties in accordance
15 with section 521(b) for a violation of this section.”
16 before “This section”.

17 (2) VIOLATIONS RELATING TO COMMERCIAL
18 MOTOR VEHICLE SAFETY REGULATIONS AND OPERA-
19 TORS.—Section 521(b) is amended—

20 (A) in paragraph (1)(A) by inserting
21 “31306, 31306a,” before “31310(g)(1)(A)”;

22 (B) in paragraphs (2)(A), (2)(B), and
23 (6)(A) by inserting “31306, 31306a, or” before
24 “31502”; and

1 (C) in paragraph (5)(A) by inserting
2 “31306, 31306a,” before “or 31502”.

3 (3) CONTROLLED SUBSTANCE OR ALCOHOL
4 TESTING.—Any person acting as a service agent
5 under the Secretary’s regulations in part 40 of title
6 49, Code of Federal Regulations, as in effect on the
7 date of enactment of this Act, who violates the re-
8 quirements prescribed by the Secretary for con-
9 ducting alcohol or controlled substances testing
10 under such part or any related regulation of the De-
11 partment shall be liable to the United States Gov-
12 ernment for a civil penalty of not more than
13 \$10,000 for each violation. Each day that a violation
14 continues shall constitute a separate violation.

15 **SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR**
16 **TRAINING.**

17 (a) IN GENERAL.—Not later than 2 years after the
18 date of enactment of this Act, the Secretary shall issue
19 final regulations establishing minimum training require-
20 ments for commercial motor vehicle operators.

21 (b) REQUIREMENTS.—The regulations shall—

22 (1) require commercial motor vehicle operators,
23 before obtaining a commercial driver’s license for the
24 first time or upgrading from one class of commercial

1 driver's license to another, to receive training that
2 meets the requirements established by the Secretary;

3 (2) address the knowledge and skills necessary
4 for an operator of a commercial motor vehicle to
5 safely operate a commercial motor vehicle;

6 (3) address the specific and additional training
7 needs of commercial motor vehicle operators seeking
8 passenger or hazardous materials endorsements;

9 (4) require instruction that is effective for ac-
10 quiring the knowledge and skills referred to in para-
11 graphs (2) and (3);

12 (5) require the issuance of a certification that
13 a commercial motor vehicle operator has met the re-
14 quirements established by the Secretary; and

15 (6) require a training provider (including public
16 or private driving schools, motor carriers, or owners
17 or operators of a commercial motor vehicle) offering
18 training that results in the issuance of a certification
19 to an operator under paragraph (5) to demonstrate
20 that such training meets the requirements of the
21 regulations, through a process established by the
22 Secretary.

23 (c) COMMERCIAL DRIVER'S LICENSE UNIFORM
24 STANDARDS.—Section 31308(1) is amended to read as
25 follows:

1 “(1) an individual issued a commercial driver’s
2 license—

3 “(A) pass written and driving tests for the
4 operation of a commercial motor vehicle that
5 comply with the minimum standards prescribed
6 by the Secretary under section 31305(a); and

7 “(B) present certification of completion of
8 driver training that meets the requirements es-
9 tablished by the Secretary under section 4042
10 of the Motor Carrier Safety, Efficiency, and Ac-
11 countability Act of 2012;”.

12 **SEC. 6403. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

13 (a) IN GENERAL.—Section 31309(e)(4)(A) is amend-
14 ed by striking the period at the end and inserting “and
15 must use the systems to receive and submit conviction and
16 disqualification data.”.

17 (b) REQUIREMENTS FOR STATE PARTICIPATION.—

18 (1) IN GENERAL.—Section 31311(a) is amend-
19 ed—

20 (A) in paragraph (5) by striking “At least”
21 and all that follows through “regulation),” and
22 inserting the following: “Within the time period
23 the Secretary prescribes by regulation,”; and

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

1 “(22) Before renewing or issuing a commercial
2 driver’s license to an individual, the State shall re-
3 quest information pertaining to the individual from
4 the drug and alcohol clearinghouse maintained under
5 section 31306a.

6 “(23) The State shall ensure that the State’s
7 commercial driver’s license information system com-
8 plies with applicable Federal information technology
9 standards.”.

10 (2) STATE COMMERCIAL DRIVER’S LICENSE
11 PROGRAM PLAN.—Section 31311 is amended by add-
12 ing at the end the following:

13 “(d) STATE COMMERCIAL DRIVER’S LICENSE PRO-
14 GRAM PLAN.—

15 “(1) IN GENERAL.—A State shall develop and
16 submit to the Secretary for approval a plan for com-
17 plying with the requirements of subsection (a) in the
18 period beginning on the date that the plan is ap-
19 proved and ending on September 30, 2017.

20 “(2) CONTENTS.—A plan submitted by a State
21 under paragraph (1) shall identify—

22 “(A) the actions that the State must take
23 to address any deficiencies in the State’s com-
24 mercial driver’s license program, as identified

1 by the Secretary in the most recent audit of the
2 program; and

3 “(B) other actions that the State must
4 take to comply with the requirements of sub-
5 section (a).

6 “(3) PRIORITY.—

7 “(A) IMPLEMENTATION SCHEDULE.—A
8 plan submitted by a State under paragraph (1)
9 shall include a schedule for the implementation
10 of the actions identified under paragraph (2).

11 “(B) DEADLINE FOR COMPLIANCE WITH
12 REQUIREMENTS.—A plan submitted by a State
13 under paragraph (1) shall include assurances
14 that the State will take the necessary actions to
15 comply with the requirements of subsection (a)
16 not later than September 30, 2017.

17 “(4) APPROVAL AND DISAPPROVAL.—The Sec-
18 retary shall—

19 “(A) review a plan submitted by a State
20 under paragraph (1); and

21 “(B)(i) approve the plan if the Secretary
22 determines that the plan is adequate to promote
23 the objectives of this section; or

24 “(ii) disapprove the plan.

1 “(5) MODIFICATION OF DISAPPROVED PLANS.—
2 If the Secretary disapproves a plan under this sub-
3 section, the Secretary shall—

4 “(A) provide the State a written expla-
5 nation of the disapproval; and

6 “(B) allow the State to modify and resub-
7 mit the plan for approval.

8 “(6) PLAN UPDATES.—The Secretary may re-
9 quire States to review and update plans, as appro-
10 priate.”.

11 (3) ANNUAL COMPARISON OF STATE LEVELS OF
12 COMPLIANCE.—Section 31311 is further amended by
13 adding at the end the following:

14 “(e) ANNUAL COMPARISON OF STATE LEVELS OF
15 COMPLIANCE.—On an annual basis, the Secretary shall—

16 “(1) conduct a comparison of the relative levels
17 of compliance by States with the requirements of
18 subsection (a); and

19 “(2) make available to the public the results of
20 the comparison, using a mechanism that the Sec-
21 retary determines appropriate.”.

22 (c) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
23 PROGRAM IMPLEMENTATION.—

24 (1) IN GENERAL.—Section 31313(a) is amend-
25 ed to read as follows:

1 “(a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
2 PROGRAM IMPLEMENTATION.—

3 “(1) IN GENERAL.—The Secretary of Transpor-
4 tation may make a grant to a State in a fiscal year
5 to assist the State in complying with the require-
6 ments of section 31311.

7 “(2) ELIGIBILITY.—A State shall be eligible for
8 a grant under this subsection if the State has in ef-
9 fect a commercial driver’s license program plan ap-
10 proved by the Secretary under section 31311(d).

11 “(3) USES OF GRANT FUNDS.—A State may
12 use grant funds under this subsection—

13 “(A) to comply with section 31311; and

14 “(B) in the case of a State that is making
15 a good faith effort toward substantial compli-
16 ance with the requirements of section 31311
17 and this section, to improve its implementation
18 of its commercial driver’s license program, in-
19 cluding expenses—

20 “(i) for computer hardware and soft-
21 ware;

22 “(ii) for publications, testing, per-
23 sonnel, training, and quality control;

24 “(iii) for commercial driver’s license
25 program coordinators; and

1 “(iv) to establish and implement a
2 system to notify an employer of an oper-
3 ator of a commercial motor vehicle of a
4 suspension or revocation of such operator’s
5 driver’s license.

6 “(C) PROHIBITIONS.—A State may not
7 use grant funds under this subsection to rent,
8 lease, or buy land or buildings.

9 “(4) MAINTENANCE OF EXPENDITURES.—The
10 Secretary may make a grant to a State under this
11 subsection only if the State provides assurances sat-
12 isfactory to the Secretary that the total expenditure
13 of amounts of the State and political subdivisions of
14 the State (not including amounts of the United
15 States) for the State’s commercial driver’s license
16 program will be maintained at a level that at least
17 equals the average level of that expenditure by the
18 State and political subdivisions of the State for the
19 most recent 3 fiscal years ending before the date of
20 enactment of the Motor Carrier Safety, Efficiency,
21 and Accountability Act of 2012.”.

22 (2) APPORTIONMENT.—Section 31313 is
23 amended—

24 (A) by striking subsections (b) and (c);

1 (B) by redesignating subsection (d) as sub-
2 section (b); and

3 (C) by striking subsection (b) (as so redес-
4 igned) and inserting the following:

5 “(b) APPORTIONMENT.—

6 “(1) APPORTIONMENT FORMULA.—Subject to
7 paragraph (2), the amounts made available to carry
8 out this section for a fiscal year shall be apportioned
9 among the States in the ratio that—

10 “(A) the number of commercial driver’s li-
11 censes issued in each State; bears to

12 “(B) the total number of commercial driv-
13 er’s licenses issued in all States.

14 “(2) MINIMUM APPORTIONMENT.—The appor-
15 tionment to each State that has in effect a commer-
16 cial driver’s license program plan approved by the
17 Secretary under section 31311(d) shall be not less
18 than one-half of 1 percent of the total funds avail-
19 able to carry out this section.”.

20 (3) CONFORMING AMENDMENT.—The section
21 heading for section 31313 is amended by striking
22 “**improvements**” and inserting “**impleмента-**
23 **tion**”.

1 (4) CLERICAL AMENDMENT.—The analysis for
2 chapter 313 is amended by striking the item relating
3 to section 31313 and inserting the following:

“31313. Grants for commercial driver’s license program implementation.”.

4 **SEC. 6404. COMMERCIAL DRIVER’S LICENSE PASSENGER**
5 **ENDORSEMENT REQUIREMENTS.**

6 (a) IN GENERAL.—Not later than 2 years after the
7 date of enactment of this Act, the Secretary shall review
8 and assess the current knowledge and skill testing require-
9 ments for a commercial driver’s license passenger endorse-
10 ment to determine what improvements to the knowledge
11 test or examination of driving skills are necessary to en-
12 sure the safe operation of commercial motor vehicles de-
13 signed or used to transport passengers.

14 (b) REPORT.—Not later than 120 days after comple-
15 tion of the review and assessment under subsection (a),
16 the Secretary shall submit to the Committee on Transpor-
17 tation and Infrastructure of the House of Representatives
18 and the Committee on Commerce, Science, and Transpor-
19 tation of the Senate—

20 (1) a report on the review and assessment con-
21 ducted under subsection (a);

22 (2) a plan to implement any changes to the
23 knowledge and skills tests; and

24 (3) a timeframe by which the Secretary will im-
25 plement the changes.

1 **SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS**
2 **MATERIALS ENDORSEMENT EXEMPTION.**

3 (a) IN GENERAL.—The Secretary may not require an
4 individual with a class A commercial driver's license to ob-
5 tain a hazardous materials endorsement under part 383
6 of title 49, Code of Federal Regulations (or any successor
7 regulation), in order to operate a service vehicle carrying
8 diesel fuel in quantities of 3,785 liters (1,000 gallons) or
9 less if—

10 (1) the tank containing such fuel is clearly
11 marked with a placard reading “Diesel Fuel”; and

12 (2) the individual is acting within the scope of
13 the individual's employment as an employee of any
14 of the following farm-related service industries:

15 (A) Agri-chemical business.

16 (B) Custom harvesters.

17 (C) Farm retail outlets and suppliers.

18 (D) Livestock feeders.

19 (b) IMPLEMENTATION.—The Secretary shall carry
20 out subsection (a) in a manner consistent with the exemp-
21 tion provided to restricted commercial driver's license
22 holders under section 383.3(f) of title 49, Code of Federal
23 Regulations, as in effect on the date of enactment of this
24 Act.

1 **SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE**
2 **COMMERCIAL DRIVER'S LICENSES.**

3 (a) **ESTABLISHMENT.**—Not later than 1 year after
4 the date of enactment of this Act, the Secretary, in con-
5 sultation with the Secretary of Defense and in cooperation
6 with the States, shall establish accelerated licensing proce-
7 dures to assist veterans to acquire commercial driver's li-
8 censes.

9 (b) **ACCELERATED LICENSING PROCEDURES.**—The
10 procedures established under subsection (a) shall be de-
11 signed to be applicable to any veteran who—

12 (1) is attempting to acquire a commercial driv-
13 er's license; and

14 (2) obtained, during military service, driving ex-
15 perience that, in the determination of the Secretary,
16 makes the use of accelerated licensing procedures
17 appropriate.

18 (c) **DEFINITIONS.**—In this section, the following defi-
19 nitions apply:

20 (1) **COMMERCIAL DRIVER'S LICENSE.**—The
21 term “commercial driver's license” has the meaning
22 given that term in section 31301 of title 49, United
23 States Code.

24 (2) **STATE.**—The term “State” has the mean-
25 ing given that term in section 31301 of title 49,
26 United States Code.

1 (3) VETERAN.—The term “veteran” has the
2 meaning given that term in section 101 of title 38,
3 United States Code.

4 **Subtitle E—Motor Carrier Safety**

5 **SEC. 6501. MOTOR CARRIER TRANSPORTATION.**

6 Section 13506(a)(4) is amended by inserting “in
7 interstate or intrastate commerce” after “a motor vehi-
8 cle”.

9 **SEC. 6502. HOURS OF SERVICE STUDY.**

10 (a) HOURS OF SERVICE STUDY.—

11 (1) IN GENERAL.—Not later than March 31,
12 2013, the Secretary shall complete a field study on
13 the efficacy of the restart rule published on Decem-
14 ber 27, 2011 (in this section referred to as the
15 “2011 restart rule”), applicable to operators of com-
16 mercial motor vehicles of property subject to max-
17 imum driving time requirements of the Secretary.

18 (2) REQUIREMENT.—The study shall expand
19 upon the results of the laboratory-based study relat-
20 ing to commercial motor vehicle driver fatigue spon-
21 sored by the Federal Motor Carrier Safety Adminis-
22 tration presented in the report of December 2010 ti-
23 tled “Investigation into Motor Carrier Practices to
24 Achieve Optimal Commercial Motor Vehicle Driver
25 Performance: Phase I”.

1 (3) CRITERIA.—In conducting the field study,
2 the Secretary shall ensure that—

3 (A) the methodology for the field study is
4 consistent, to the maximum extent possible,
5 with the laboratory-based study methodology;

6 (B) the data collected is representative of
7 the drivers and motor carriers affected by the
8 maximum driving time requirements;

9 (C) the analysis is statistically valid; and

10 (D) the field study follows the plan for the
11 “Scheduling and Fatigue Recovery Project” de-
12 veloped by the Federal Motor Carrier Safety
13 Administration.

14 (b) REPORT TO CONGRESS.—Not later than April 30,
15 2013, the Secretary shall submit to the Committee on
16 Transportation and Infrastructure of the House of Rep-
17 resentatives and the Committee on Commerce, Science,
18 and Transportation of the Senate a report detailing the
19 results of the study.

20 (c) RULE MODIFICATION AND IMPLEMENTATION.—

21 (1) APPLICABLE RESTART RULE.—The restart
22 rule published on November 19, 2008, shall remain
23 in effect until the Secretary completes the field
24 study on the 2011 restart rule under subsection (a).

1 (2) IMPLEMENTATION ON SCHEDULE.—If the
2 Secretary determines that the results of the field
3 study support the 2011 restart rule, the rule shall
4 be implemented beginning on the effective date es-
5 tablished in the rule.

6 (3) MODIFICATION.—

7 (A) IN GENERAL.—If the Secretary deter-
8 mines that the results of the field study do not
9 support the 2011 restart rule, the Secretary
10 shall—

11 (i) stay the implementation of the
12 rule; and

13 (ii) conduct a rulemaking to modify
14 the rule based on the results of the study.

15 (B) INTERIM RULE.—If the Secretary
16 stays the implementation of the 2011 restart
17 rule under subparagraph (A)(i), the restart rule
18 published on November 19, 2008, shall remain
19 in effect until the effective date of a final rule
20 issued under subparagraph (A)(ii).

21 **SEC. 6503. ELECTRONIC LOGGING DEVICES.**

22 (a) IN GENERAL.—If the Secretary issues regulations
23 regarding electronic logging devices to be used to monitor
24 compliance with the Secretary's requirements for hours of
25 service of drivers under part 395 of title 49, Code of Fed-

1 eral Regulations, the regulations shall include performance
2 standards.

3 (b) PERFORMANCE STANDARDS AND CERTIFICATION
4 CRITERIA.—

5 (1) PERFORMANCE STANDARDS.—Any perform-
6 ance standards issued under subsection (a) shall en-
7 sure, at a minimum, that an electronic logging de-
8 vice installed in a commercial motor vehicle—

9 (A) is synchronized to the operation of the
10 vehicle engine or is capable of recognizing when
11 the vehicle is being operated;

12 (B) is able to identify each individual who
13 operates the vehicle and track the periods dur-
14 ing which such individual operates the vehicle;

15 (C) automatically creates a record of all
16 changes in duty status necessary to determine
17 compliance with part 395 of title 49, Code of
18 Federal Regulations;

19 (D) enables law enforcement personnel to
20 access information contained in the recorder
21 quickly and easily during a roadside inspection;
22 and

23 (E) is tamperproof.

24 (2) CERTIFICATION CRITERIA.—

1 (A) IN GENERAL.—If the Secretary issues
2 regulations described in subsection (a), the Sec-
3 retary, in issuing the regulations, shall establish
4 the criteria and a process for the certification
5 of electronic logging devices to ensure that such
6 devices meet the performance standards issued
7 under subsection (a).

8 (B) EFFECT OF NONCERTIFICATION.—
9 Electronic logging devices that are not certified
10 in accordance with the certification process es-
11 tablished under subparagraph (A) shall not be
12 acceptable evidence of hours of service and
13 record of duty status requirements under part
14 395 of title 49, Code of Federal Regulations.

15 (3) ADDITIONAL REQUIREMENTS.—If the Sec-
16 retary issues regulations described in subsection (a),
17 the Secretary, in issuing the regulations, shall—

18 (A) define a standardized user interface to
19 aid vehicle operator compliance and law en-
20 forcement reviews;

21 (B) establish a secure process for—

22 (i) standardized and unique vehicle
23 operator identification;

24 (ii) data access;

1 (iii) data transfer for vehicle operators
2 between motor vehicles;

3 (iv) data storage for motor carriers;
4 and

5 (v) data transfer and transportability
6 for law enforcement;

7 (C) establish a standard security level for
8 electronic logging devices to be tamperproof;
9 and

10 (D) establish rules necessary to ensure
11 that electronic logging devices will not be used
12 to harass a vehicle operator.

13 (c) ADDITIONAL CONSIDERATIONS.—If the Secretary
14 issues regulations described in subsection (a), the Sec-
15 retary, in issuing the regulations, shall—

16 (1) evaluate the ability of electronic logging de-
17 vice technologies that meet the performance stand-
18 ards described in subsection (b)—

19 (A) to record accurately the time an indi-
20 vidual operating a commercial motor vehicle
21 spends on duty but not driving, including time
22 spent loading and unloading; and

23 (B) to ensure all time on duty is accounted
24 for and cannot be altered or otherwise tampered
25 with by the operator or motor carrier;

1 (2) reduce or eliminate requirements for drivers
2 and motor carriers to retain supporting documenta-
3 tion associated with paper-based records of duty sta-
4 tus if—

5 (A) data contained in an electronic logging
6 device supplants such documentation; and

7 (B) using such data without paper-based
8 records does not diminish the Secretary's ability
9 to audit and review compliance with the Sec-
10 retary's hours of service regulations;

11 (3) include such measures as the Secretary de-
12 termines are necessary to protect the privacy of indi-
13 viduals whose personal information is contained in
14 an electronic logging device;

15 (4) include such measures as are necessary to
16 ensure that any information collected by the elec-
17 tronic logging device is used by enforcement per-
18 sonnel only for the purpose of determining compli-
19 ance with hours-of-service requirements and is
20 stored no longer than necessary under the rules; and

21 (5) include such measures as are necessary to
22 prohibit public access to data collected by electronic
23 logging devices.

24 (d) USE OF DATA.—

1 (1) IN GENERAL.—The Secretary may utilize
2 information contained in an electronic logging device
3 only to enforce the Secretary’s motor carrier safety
4 and related regulations, including record-of-duty sta-
5 tus regulations.

6 (2) MEASURES TO PRESERVE CONFIDENTIALITY
7 OF PERSONAL DATA.—The Secretary shall institute
8 appropriate measures to preserve the confidentiality
9 of any personal data contained in an electronic log-
10 ging device and disclosed in the course of actions
11 taken by the Secretary or law enforcement officials
12 to enforce the regulations referred to in paragraph
13 (1).

14 (e) DEFINITIONS.—In this section, the following defi-
15 nitions apply:

16 (1) COMMERCIAL MOTOR VEHICLE.—The term
17 “commercial motor vehicle” has the meaning given
18 that term in section 31132 of title 49, United States
19 Code.

20 (2) ELECTRONIC LOGGING DEVICE.—The term
21 “electronic logging device” means an electronic de-
22 vice that acquires and stores data showing the
23 record of duty status of the vehicle operator.

24 (3) TAMPERPROOF.—The term “tamperproof”
25 means to not allow any individual to cause an elec-

1 (2) is limited to an area within a 175 air-mile
2 radius from the location where the grapes are picked
3 or distributed.

4 **Subtitle F—Miscellaneous**

5 **SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CER-** 6 **TAIN FARM VEHICLES.**

7 (a) **FEDERAL REQUIREMENTS.**—A covered farm ve-
8 hicle, including the individual operating that vehicle, shall
9 be exempt from the following:

10 (1) Any requirement relating to commercial
11 driver’s licenses established under chapter 313 of
12 title 49, United States Code.

13 (2) Any requirement relating to drug testing es-
14 tablished under chapter 313 of title 49, United
15 States Code.

16 (3) Any requirement relating to medical certifi-
17 cates established under—

18 (A) subchapter III of chapter 311 of title
19 49, United States Code; or

20 (B) chapter 313 of title 49, United States
21 Code.

22 (4) Any requirement relating to hours of service
23 established under—

24 (A) subchapter III of chapter 311 of title
25 49, United States Code; or

1 (B) chapter 315 of title 49, United States
2 Code.

3 (b) STATE REQUIREMENTS.—

4 (1) IN GENERAL.—Federal transportation fund-
5 ing to a State may not be terminated, limited, or
6 otherwise interfered with as a result of the State ex-
7 empting a covered farm vehicle, including the indi-
8 vidual operating that vehicle, from any State re-
9 quirement relating to the operation of that vehicle.

10 (2) EXCEPTION.—Paragraph (1) does not apply
11 with respect to a covered farm vehicle transporting
12 hazardous materials that require a placard.

13 (c) COVERED FARM VEHICLE DEFINED.—

14 (1) IN GENERAL.—In this section, the term
15 “covered farm vehicle” means a motor vehicle—

16 (A) that—

17 (i) is traveling in the State in which
18 the vehicle is registered or another State;

19 (ii) is operated by—

20 (I) a farm owner or operator;

21 (II) a ranch owner or operator;

22 or

23 (III) an employee or family mem-
24 ber of an individual specified in sub-
25 clause (I) or (II);

1 (iii) is transporting to or from a farm
2 or ranch—

3 (I) agricultural commodities;

4 (II) livestock; or

5 (III) machinery or supplies;

6 (iv) except as provided in paragraph
7 (2), is not used in the operations of a for-
8 hire motor carrier; and

9 (v) is equipped with a special license
10 plate or other designation by the State in
11 which the vehicle is registered to allow for
12 identification of the vehicle as a farm vehi-
13 cle by law enforcement personnel; and

14 (B) that has a gross vehicle weight rating
15 or gross vehicle weight, whichever is greater,
16 that is—

17 (i) 26,001 pounds or less; or

18 (ii) greater than 26,001 pounds and
19 traveling within 150 air miles of the farm
20 or ranch with respect to which the vehicle
21 is being operated.

22 (2) INCLUSION.—In this section, the term “cov-
23 ered farm vehicle” includes a motor vehicle that
24 meets the requirements of paragraph (1) (other than
25 paragraph (1)(A)(iv)) and is—

1 (A) operated pursuant to a crop share
2 farm lease agreement;

3 (B) owned by a tenant with respect to that
4 agreement; and

5 (C) transporting the landlord's portion of
6 the crops under that agreement.

7 **SEC. 6602. TECHNICAL CORRECTION.**

8 Section 306(c)(2)(B) of the SAFETEA-LU Tech-
9 nical Corrections Act of 2008 (29 U.S.C. 207 note; 122
10 Stat. 1621) is amended—

11 (1) in clause (ii) by striking “or” at the end;

12 (2) in clause (iii) by striking “and” at the end
13 and inserting “or”; and

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

15 “(iv) operating under contracts with
16 rail carriers subject to part A of subtitle
17 IV of title 49, United States Code, and
18 used to transport employees of such rail
19 carriers; and”.

20 **SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL**
21 **TRUCKING COMPANIES.**

22 (a) STUDY.—The Comptroller General of the United
23 States shall conduct a study to assess trends in motor car-
24 rier safety relating to small trucking companies and inde-
25 pendent operators, including the extent to which Federal

1 motor carrier safety regulation adversely impacts and eco-
2 nomically and competitively disadvantages small trucking
3 companies and independent operators and the extent to
4 which there is a correlation between company size and
5 crash rates and crash causation.

6 (b) CONTENTS.—The study shall contain the fol-
7 lowing:

8 (1) Overall trends in highway crashes involving
9 large trucks for the past 2 decades, including a sep-
10 arate analysis of the annual number of incidents in-
11 volving a large truck only, a truck and automobile,
12 and more than one large truck.

13 (2) Crash causation factors typical in each type
14 of incident described in paragraph (1), including the
15 frequency of large truck crashes caused by or in
16 which an automobile driver was predominately at
17 fault, and the ratio of truck driver fatigue versus
18 automobile driver fatigue.

19 (3) The correlation of—

20 (A) truck driver turnover and truck driver
21 retention and longevity rates with a given
22 trucking company to company crash rates,
23 crash causation, the severity of injuries, number
24 of fatalities, and fault; and

1 (B) truck driver experience and safety
2 records proportional to company size.

3 (4) The role of truck driver experience level,
4 longevity with a given trucking company, retention
5 rate, high driver turnover rates, and truck driver in-
6 experience in highway crashes involving trucks, and
7 the degree to which each is a factor in a crash.

8 (5) The degree and frequency of such contrib-
9 uting factors as weather conditions, traffic conges-
10 tion, daytime or nighttime conditions, variety of road
11 and vehicle types, and types of pick-up and delivery
12 locations (such as urban, rural, and small metropoli-
13 tan areas) in crashes involving a truck.

14 (6) Impacts and incentives perceived by truck
15 drivers caused by current Federal motor carrier
16 safety regulations and the inflexibility in the applica-
17 tion and enforcement of regulations.

18 (7) An assessment of the data quality of the
19 Compliance, Safety, and Accountability initiative of
20 the Federal Motor Carrier Safety Administration,
21 including compliance with the Data Quality Act
22 (Public Law 106-554; section 515 of H.R. 5658, as
23 introduced on December 14, 2000), the number of
24 carriers for which there is insufficient data, discrep-
25 ancies in measurements and methodologies, com-

1 plaints about data quality, and whether company
2 size impacts data quality.

3 (c) REPORT.—Not later than 9 months after the date
4 of enactment of this Act, the Comptroller General shall
5 submit to the Committee on Transportation and Infra-
6 structure of the House of Representatives and the Com-
7 mittee on Commerce, Science, and Transportation of the
8 Senate a report on the results of the study, including rec-
9 ommendations for achieving a better balance of safety with
10 competition and efficiency and recommendations to reduce
11 adverse regulatory impacts on small trucking companies
12 and independent operators.

13 (d) PROHIBITION.—No proposed regulations from
14 the Federal Motor Carrier Safety Administration that re-
15 late to the contents of the study may become final or take
16 effect before the expiration of the 180-day period begin-
17 ning on the date the Comptroller General submits to the
18 Committees the report described in subsection (c).

19 **SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of enactment of this Act, and annually thereafter,
22 the Secretary shall submit to the Committee on Transpor-
23 tation and Infrastructure of the House of Representatives
24 and the Committee on Commerce, Science, and Transpor-
25 tation of the Senate a report on the efforts of the Depart-

1 ment of Transportation to better balance truck competi-
2 tion and efficiency with safety.

3 (b) CONTENTS.—The report shall contain the fol-
4 lowing:

5 (1) A description of specific steps that modal
6 administrations within the Department have taken
7 and plan to take to reduce economic and competitive
8 disadvantages imposed by specific regulations on
9 small trucking companies, their truck drivers, and
10 independent operators.

11 (2) A description of specific performance goals,
12 plans for, and performance to date on regulatory
13 flexibility measures, pursuant to the Regulatory
14 Flexibility Act (Public Law 96–354), the Data Qual-
15 ity Act (Public Law 106–554; section 515 of H.R.
16 5658, as introduced on December 14, 2000), and
17 the Paperwork Reduction Act of 1980 (Public Law
18 96–511), that are affirmatively and precisely de-
19 signed to achieve greater flexibility with respect to
20 regulatory compliance, in particular detailing con-
21 crete steps to reasonably accommodate the needs
22 unique to small trucking companies, independent op-
23 erators, and special load haulers (such as of live-
24 stock, frozen foodstuffs, and automobiles), relating
25 to hours of service rules, log- and recordkeeping, and

1 the accounting of driver time lost due to loading and
2 unloading, traffic, or weather delays.

3 (3) A table showing the relation of truck driver
4 experience and tenure with a trucking company or
5 as an independent operator to incidence of being at
6 fault in an accident.

7 **SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICUL-**
8 **TURAL EQUIPMENT.**

9 (a) RULEMAKING.—Not later than 2 years after the
10 date of enactment of this Act, the Secretary, after con-
11 sultation with the American Society of Agricultural and
12 Biological Engineers, other appropriate Federal agencies,
13 and other appropriate persons, shall issue a rule to im-
14 prove the daytime and nighttime visibility of agricultural
15 equipment that may be operated on a public road. Such
16 rule shall establish minimum lighting and marking stand-
17 ards for applicable agricultural equipment manufactured
18 1 year or more subsequent to the effective date of the rule.
19 Such rule shall provide for methods, materials, specifica-
20 tions, or equipment employed, equivalent to the standard
21 set in ANSI/ASAE S279.14 published in July 2008 by
22 the American Society of Agriculture and Biological Engi-
23 neers and entitled “Lighting and Marking of Agricultural
24 Equipment on Highways”, or any successor standard.

1 (b) REVIEW.—The Secretary shall periodically, and
2 not less than once every 5 years, review the standards es-
3 tablished under this section and shall revise the standards
4 to reflect the provisions of the edition of ANSI/ASAE
5 S279 that is in effect at the time of the review.

6 (c) RULES OF CONSTRUCTION.—

7 (1) COMPLIANCE WITH SUCCESSOR STAND-
8 ARDS.—No provision of any rule issued pursuant to
9 this section shall prohibit the operation on public
10 roads of agricultural equipment that is equipped ac-
11 cording to any adopted edition of ANSI/ASAE S279
12 that is later than the edition of such standard that
13 is referenced during the issuance of the rule.

14 (2) NO RETROFITTING REQUIRED.—No provi-
15 sion of any rule issued pursuant to this section shall
16 require the retrofitting of agricultural equipment
17 that is manufactured prior to 1 year after the date
18 on which a final rule is issued pursuant to sub-
19 section (a).

20 (3) NO EFFECT ON ADDITIONAL MATERIALS
21 AND EQUIPMENT.—No provision of any rule issued
22 pursuant to this section shall prohibit the operation
23 on public roads of agricultural equipment that is
24 equipped with materials or equipment that are in
25 addition to the minimum materials and equipment

1 specified by the standards established under the
2 rule.

3 (d) DEFINITIONS.—In this section, the following defi-
4 nitions apply:

5 (1) AGRICULTURAL EQUIPMENT.—The term
6 “agricultural equipment” means “agricultural field
7 equipment” as defined under the standard ANSI/
8 ASABE S390.4 published by the American Society
9 of Agriculture and Biological Engineers, or any suc-
10 cessor standard.

11 (2) PUBLIC ROAD.—The term “public road”
12 has the meaning given that term in section 101 of
13 title 23, United States Code.

14 **SEC. 6606. TRANSPORTATION OF HORSES.**

15 Section 80502 of title 49, United States Code, is
16 amended—

17 (1) in subsection (c) by striking “This section
18 does not” and inserting “Subsections (a) and (b) do
19 not”;

20 (2) by redesignating subsection (d) as sub-
21 section (e);

22 (3) by inserting after subsection (c) the fol-
23 lowing:

24 “(d) TRANSPORTATION OF HORSES.—

1 “(1) PROHIBITION.—No person may transport,
2 or cause to be transported, a horse from a place in
3 a State, the District of Columbia, or a territory or
4 possession of the United States through or to a
5 place in another State, the District of Columbia, or
6 a territory or possession of the United States in a
7 motor vehicle containing 2 or more levels stacked on
8 top of each other.

9 “(2) MOTOR VEHICLE DEFINED.—In this sub-
10 section, the term ‘motor vehicle’ has the meaning
11 given that term in section 13102.”; and

12 (4) in subsection (e) (as redesignated by para-
13 graph (2) of this subsection)—

14 (A) by striking “A rail carrier” and insert-
15 ing the following:

16 “(1) IN GENERAL.—A rail carrier”;

17 (B) by striking “this section” and insert-
18 ing “subsection (a) or (b)”;

19 (C) by striking “On learning of a viola-
20 tion” and inserting the following:

21 “(2) TRANSPORTATION OF HORSES IN MULTI-
22 LEVEL TRAILER.—

23 “(A) CIVIL PENALTY.—A person that
24 knowingly violates subsection (d) is liable to the
25 United States Government for a civil penalty of

1 at least \$100 but not more than \$500 for each
2 violation. A separate violation occurs under sub-
3 section (d) for each horse that is transported,
4 or caused to be transported, in violation of sub-
5 section (d).

6 “(B) RELATIONSHIP TO OTHER LAWS.—
7 The penalty provided under subparagraph (A)
8 shall be in addition to any penalty or remedy
9 available under any other law or common law.

10 “(3) CIVIL ACTION.—On learning of a violation
11 of a provision of this section”.

12 **SEC. 6607. REGULATORY REVIEW AND REVISION.**

13 Not later than 12 months after the date of enactment
14 of this Act, the Secretary shall review and revise the Fed-
15 eral motor carrier safety regulations contained in chapter
16 III of subtitle B of title 49, Code of Federal Regulations,
17 to—

18 (1) simplify the regulations; and

19 (2) eliminate those requirements that are out-
20 moded or excessively burdensome.

21 **SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.**

22 The Secretary shall take such actions as may be nec-
23 essary in fiscal year 2012 to expedite the issuance of safe-
24 ty regulations to carry out this title (and the amendments
25 made by this title) following the effective date of this title.

1 **SEC. 6609. REPEALS.**

2 (a) REPEAL OF HIGH-PRIORITY PROGRAM.—Section
3 31104(k) is repealed.

4 (b) BORDER ENFORCEMENT GRANTS.—Section
5 31107, and the item relating to that section in the analysis
6 for chapter 311, are repealed.

7 (c) COMMERCIAL DRIVER'S LICENSE INFORMATION
8 SYSTEM MODERNIZATION.—Subsections (c), (d), and (e)
9 of section 4123 of SAFETEA-LU (119 Stat. 1735–1736)
10 are repealed.

11 (d) OUTREACH AND EDUCATION.—Section 4127 of
12 SAFETEA-LU (119 Stat. 1741), and the item relating
13 to that section in the table of contents contained in section
14 1(b) of that Act, are repealed.

15 (e) SAFETY DATA IMPROVEMENT PROGRAM.—Sec-
16 tion 4128 of SAFETEA-LU (119 Stat. 1742), and the
17 item relating to that section in the table of contents con-
18 tained in section 1(b) of that Act, are repealed.

19 (f) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-
20 HICLE OPERATORS.—Section 4134 of SAFETEA-LU
21 (119 Stat. 1744), and the item relating to that section
22 in the table of contents contained in section 1(b) of that
23 Act, are repealed.

24 (g) REPORT ON MOTOR CARRIER EMPLOYEE PRO-
25 TECTIONS.—Section 4023 of the Transportation Equity
26 Act for the 21st Century (49 U.S.C. 31105 note; 112 Stat.

1 415), and the item relating to that section in the table
2 of contents contained in section 1(b) of that Act, are re-
3 pealed.

4 **TITLE VII—RESEARCH AND** 5 **EDUCATION**

6 **SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—The following sums are author-
8 ized to be appropriated out of the Alternative Transpor-
9 tation Account of the Highway Trust Fund:

10 (1) HIGHWAY RESEARCH AND DEVELOPMENT
11 PROGRAM.—To carry out section 503 of title 23,
12 United States Code, \$141,750,000 for each of fiscal
13 years 2013 through 2016.

14 (2) TECHNOLOGY AND INNOVATION DEPLOY-
15 MENT PROGRAM.—To carry out section 503a of title
16 23, United States Code, \$60,750,000 for each of fis-
17 cal years 2013 through 2016.

18 (3) TRAINING AND EDUCATION.—To carry out
19 section 504 of title 23, United States Code,
20 \$25,500,000 for each of fiscal years 2013 through
21 2016.

22 (4) INTELLIGENT TRANSPORTATION SYSTEMS
23 RESEARCH.—To carry out sections 512, 514, 515,
24 516, and 517 of title 23, United States Code,

1 \$110,000,000 for each of fiscal years 2013 through
2 2016.

3 (5) UNIVERSITY TRANSPORTATION RE-
4 SEARCH.—To carry out section 5506 of title 49,
5 United States Code, \$75,000,000 for each of fiscal
6 years 2013 through 2016.

7 (6) BUREAU OF TRANSPORTATION STATIS-
8 TICS.—To carry out section 111 of title 49, United
9 States Code, \$27,000,000 for each of fiscal years
10 2013 through 2016.

11 (b) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—
12 Funds authorized to be appropriated by subsection (a)
13 shall be available for obligation in the same manner as
14 if such funds were apportioned under chapter 1 of title
15 23, United States Code, except that the Federal share of
16 the cost of a project or activity carried out using such
17 funds shall be 80 percent, unless otherwise expressly pro-
18 vided by this Act (including the amendments made by this
19 Act) or otherwise determined by the Secretary, and such
20 funds shall remain available until expended and shall not
21 be transferable.

22 **SEC. 7002. OBLIGATION CEILING.**

23 Notwithstanding any other provision of law, the total
24 of all obligations from amounts made available from the
25 Alternative Transportation Account of the Highway Trust

1 Fund by section 7001(a) shall be \$440,000,000 for each
2 of fiscal years 2013 through 2016.

3 **SEC. 7003. DEFINITIONS.**

4 Section 501 of title 23, United States Code, is
5 amended—

6 (1) by redesignating paragraph (2) as para-
7 graph (7);

8 (2) by redesignating paragraph (1) as para-
9 graph (2);

10 (3) by inserting before paragraph (2) (as so re-
11 designated) the following:

12 “(1) CONNECTED VEHICLE TECHNOLOGY.—The
13 term ‘connected vehicle technology’ means the utili-
14 zation of wireless technology to enable multiple vehi-
15 cles to communicate information to each other.”;
16 and

17 (4) by inserting after paragraph (2) (as so re-
18 designated) the following:

19 “(3) INCIDENT.—The term ‘incident’ means a
20 crash, natural disaster, workzone activity, special
21 event, or other emergency road user occurrence that
22 adversely affects or impedes the normal flow of traf-
23 fic.

24 “(4) INTELLIGENT TRANSPORTATION INFRA-
25 STRUCTURE.—The term ‘intelligent transportation

1 infrastructure’ means fully integrated public sector
2 intelligent transportation system components, as de-
3 fined by the Secretary.

4 “(5) INTELLIGENT TRANSPORTATION SYS-
5 TEM.—The term ‘intelligent transportation system’
6 means electronics, photonics, communications, or in-
7 formation processing used singly or in combination
8 to improve the efficiency or safety of a surface
9 transportation system.

10 “(6) NATIONAL ARCHITECTURE.—The term
11 ‘national architecture’ means the common frame-
12 work for interoperability that defines—

13 “(A) the functions associated with intel-
14 ligent transportation system user services;

15 “(B) the physical entities or subsystems
16 within which the functions reside;

17 “(C) the data interfaces and information
18 flows between physical subsystems; and

19 “(D) the communications requirements as-
20 sociated with the information flows.”.

21 **SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVEL-**
22 **OPMENT, AND TECHNOLOGY.**

23 (a) IN GENERAL.—Section 502 of title 23, United
24 States Code, is amended—

1 (1) in the section heading by striking “**re-**
2 **search**” and inserting “**research, develop-**
3 **ment, and technology**”;

4 (2) in subsection (a)—

5 (A) in paragraph (2)—

6 (i) by redesignating subparagraphs

7 (B) through (D) as subparagraphs (C)

8 through (E), respectively;

9 (ii) by inserting after subparagraph

10 (A) the following:

11 “(B) addresses current or emerging
12 needs;”;

13 (iii) in subparagraph (C) (as redesign-

14 ated by clause (i) of this subparagraph)

15 by striking “supports research in which

16 there is” and inserting “delivers”;

17 (iv) in subparagraph (D) (as redesign-

18 ated by clause (i) of this subparagraph)

19 by striking “or” after the semicolon;

20 (v) in subparagraph (E) (as redesign-

21 ated by clause (i) of this subparagraph)

22 by striking the period at the end and in-

23 serting a semicolon; and

24 (vi) by adding at the end the fol-

25 lowing:

1 “(F) presents the best means to align re-
2 sources with multiyear plans and priorities; or

3 “(G) ensures the coordination of highway
4 research and technology transfer activities, in-
5 cluding those performed by the university trans-
6 portation centers established under subchapter
7 I of chapter 55 of title 49.”;

8 (B) in paragraph (3)—

9 (i) in subparagraph (B)—

10 (I) by striking “support and”
11 and inserting “partner with State
12 transportation departments and other
13 stakeholders as appropriate to”; and

14 (II) by striking “by State high-
15 way agencies”;

16 (ii) in subparagraph (C)—

17 (I) by striking “share” and in-
18 serting “communicate”;

19 (II) by inserting “on-going and”
20 before “completed”; and

21 (III) by striking “and” after the
22 semicolon;

23 (iii) in subparagraph (D)—

24 (I) by striking “support and fa-
25 cilitate technology” and inserting

1 “lead efforts to coordinate areas of
2 national emphasis for highway re-
3 search, technology,”; and

4 (II) by striking the period at the
5 end and inserting a semicolon; and

6 (iv) by adding at the end the fol-
7 lowing:

8 “(E) leverage partnerships with industry,
9 academia, and other entities; and

10 “(F) conduct, facilitate, and support train-
11 ing and education of current and future trans-
12 portation professionals.”;

13 (C) in paragraph (4)(C) by striking “policy
14 and planning” and inserting “all highway objec-
15 tives seeking to improve the performance of the
16 transportation system”;

17 (D) in paragraph (5) by inserting “tribal
18 governments,” after “local governments,”;

19 (E) by striking paragraph (7) and insert-
20 ing the following:

21 “(7) PERFORMANCE REVIEW AND EVALUA-
22 TION.—

23 “(A) IN GENERAL.—To the maximum ex-
24 tent practicable, all surface transportation re-
25 search and development projects shall include a

1 component of performance measurement and
2 evaluation.

3 “(B) PERFORMANCE MEASURES.—Per-
4 formance measures shall be established during
5 the proposal stage of a research and develop-
6 ment project and shall, to the maximum extent
7 practicable, be outcome-based.

8 “(C) PROGRAM PLAN.—To the maximum
9 extent practicable, each program pursued under
10 this chapter shall be part of a data-driven, out-
11 come-oriented program plan.

12 “(D) AVAILABILITY OF EVALUATIONS.—All
13 evaluations under this paragraph shall be made
14 readily available to the public.”; and

15 (F) in paragraph (8) by striking “surface”;
16 (3) in subsection (b)—

17 (A) by striking paragraph (4) and insert-
18 ing the following:

19 “(4) TECHNOLOGICAL INNOVATION.—The Sec-
20 retary shall ensure that the programs and activities
21 carried out under this chapter are consistent with
22 the transportation research and development stra-
23 tegic plan developed under section 508.”;

24 (B) in paragraph (5) by striking “section”
25 each place it appears and inserting “chapter”;

1 (C) in paragraph (6) by adding at the end
2 the following:

3 “(C) TRANSFER OF FUNDS AMONG STATES
4 OR TO FEDERAL HIGHWAY ADMINISTRATION.—
5 The Secretary, at the request of a State, may
6 transfer funds apportioned or allocated under
7 this chapter to the State to another State, or
8 to the Federal Highway Administration, for the
9 purpose of funding research, development, and
10 technology transfer activities of mutual interest
11 on a pooled funds basis.

12 “(D) TRANSFER OF OBLIGATION AUTHOR-
13 ITY.—Obligation authority for funds trans-
14 ferred under this subsection shall be transferred
15 in the same manner and amount as the funds
16 for projects that are transferred under this sub-
17 section.”; and

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

19 “(7) PRIZE COMPETITIONS.—

20 “(A) IN GENERAL.—Consistent with sec-
21 tion 24 of the Stevenson-Wydler Technology In-
22 novation Act of 1980, the Secretary may carry
23 out a program to award prizes competitively to
24 stimulate innovation in the area of surface
25 transportation that has the potential to advance

1 the Federal Highway Administration's research
2 and technology objectives and activities under
3 section 503.

4 “(B) ANNUAL REPORT.—

5 “(i) IN GENERAL.—Not later than
6 March 1 of each year, the Secretary shall
7 submit to the Committees on Transpor-
8 tation and Infrastructure and Science,
9 Space, and Technology of the House of
10 Representatives and the Committees on
11 Environment and Public Works and Com-
12 merce, Science, and Transportation of the
13 Senate a report on the activities carried
14 out during the preceding fiscal year under
15 the authority in subparagraph (A) if such
16 authority under subparagraph (A) was uti-
17 lized by the Secretary.

18 “(ii) INFORMATION INCLUDED.—A re-
19 port under this subparagraph shall include,
20 for each prize competition under subpara-
21 graph (A), the following:

22 “(I) A description of the pro-
23 posed goals of each prize competition.

24 “(II) An analysis of why the uti-
25 lization of the authority in subpara-

1 graph (A) was the preferable method
2 of achieving the goals described in
3 subclause (I) as opposed to other au-
4 thorities available to the agency, such
5 as contracts, grants, and cooperative
6 agreements.

7 “(III) The total amount of cash
8 prizes awarded for each prize competi-
9 tion, including a description of the
10 amount of private funds contributed
11 to the program, the sources of such
12 funds, and the manner in which the
13 amounts of cash prizes awarded and
14 claimed were allocated among the ac-
15 counts of the agency for recording as
16 obligations and expenditures.

17 “(IV) The methods used for the
18 solicitation and evaluation of submis-
19 sions under each prize competition,
20 together with an assessment of the ef-
21 fectiveness of such methods and les-
22 sons learned for future prize competi-
23 tions.

24 “(V) A description of the re-
25 sources, including personnel and fund-

1 ing, used in the execution of each
2 prize competition together with a de-
3 tailed description of the activities for
4 which such resources were used and
5 an accounting of how funding for exe-
6 cution was allocated among the ac-
7 counts of the agency for recording as
8 obligations and expenditures.

9 “(VI) A description of how each
10 prize competition advanced the mis-
11 sion of the Department of Transpor-
12 tation.”;

13 (4) in subsection (c)—

14 (A) in paragraph (3)(A)—

15 (i) by striking “The” and inserting
16 “Except as otherwise provided in this
17 chapter, the”;

18 (ii) by striking “subsection” and in-
19 serting “chapter”; and

20 (iii) by striking “50” and inserting
21 “80”;

22 (B) in paragraph (4) by striking “sub-
23 section” and inserting “chapter”; and

24 (5) by striking subsections (d) through (j).

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 5 of title 23, United States Code, is amended by
3 striking the item relating to section 502 and inserting the
4 following:

“502. Surface transportation research, development, and technology.”.

5 **SEC. 7005. RESEARCH AND DEVELOPMENT.**

6 (a) IN GENERAL.—Section 503 of title 23, United
7 States Code, is amended to read as follows:

8 **“§ 503. Research and development**

9 “(a) IN GENERAL.—The Secretary shall establish a
10 research and development program in accordance with this
11 section and the strategic plan developed under section
12 508.

13 “(b) RESPONSIBILITIES.—To address current and
14 emerging highway transportation needs, the Secretary, in
15 carrying out the program under this section, shall—

16 “(1) identify research topics;

17 “(2) conduct research, testing, and evaluation
18 activities;

19 “(3) facilitate technology transfer;

20 “(4) provide technical assistance; and

21 “(5) ensure program activities are coordinated
22 with the transportation research and development
23 strategic plan developed under section 508.

24 “(c) IMPROVING HIGHWAY SAFETY.—

1 “(1) OBJECTIVES.—In carrying out the pro-
2 gram under this section, the Secretary shall create
3 systematic measures to improve highway safety for
4 all road users, vehicles, and public roads to—

5 “(A) achieve greater long-term safety
6 gains;

7 “(B) reduce the number of fatalities and
8 serious injuries;

9 “(C) fill knowledge gaps that currently
10 limit the effectiveness of research;

11 “(D) support the development and imple-
12 mentation of State strategic highway safety
13 plans under section 148;

14 “(E) advance improvements in and use of
15 performance prediction analysis for decision-
16 making;

17 “(F) expand technology transfer to part-
18 ners and stakeholders;

19 “(G) achieve safety benefits through con-
20 nected vehicle technology; and

21 “(H) enhance rural highway safety.

22 “(2) ACTIVITIES.—Research and development
23 activities carried out under this subsection may in-
24 clude activities relating to—

1 “(A) safety assessments and decision-
2 making tools;

3 “(B) data collection and analysis;

4 “(C) crash reduction projections;

5 “(D) low-cost safety countermeasures;

6 “(E) innovative operational improvements
7 and designs of roadway and roadside features;

8 “(F) evaluation of countermeasure costs
9 and benefits;

10 “(G) development of tools for projecting
11 impacts of safety countermeasures;

12 “(H) rural road safety;

13 “(I) safety policy studies;

14 “(J) human factors studies and methods;

15 “(K) safety technology deployment;

16 “(L) safety program and process improve-
17 ments; and

18 “(M) tools and methods to enhance safety
19 performance, including achievement of state-
20 wide safety performance targets.

21 “(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEG-
22 RITY.—

23 “(1) OBJECTIVES.—In carrying out the pro-
24 gram under this section, the Secretary shall improve
25 the ability to maintain highway infrastructure integ-

1 rity, meet user needs, and improve system perform-
2 ance through targeted Federal transportation invest-
3 ments to—

4 “(A) reduce the number of fatalities attrib-
5 utable to highway infrastructure design charac-
6 teristics and work zones;

7 “(B) improve the safety of highway infra-
8 structure;

9 “(C) increase the reliability of life-cycle
10 performance predictions used in highway infra-
11 structure design, construction, and manage-
12 ment;

13 “(D) improve the ability of transportation
14 agencies to deliver projects that meet expecta-
15 tions for timeliness, quality, and cost;

16 “(E) reduce user delay attributable to
17 highway infrastructure system performance,
18 maintenance, rehabilitation, and construction;

19 “(F) improve highway condition and per-
20 formance through increased use of innovative
21 pavements during highway design, construction,
22 and maintenance;

23 “(G) improve highway condition and per-
24 formance through increased use of innovative
25 designs, materials, and construction methods in

1 the construction, repair, and rehabilitation of
2 bridges;

3 “(H) reduce the life-cycle environmental
4 impacts of highway infrastructure, including de-
5 sign, construction, operation, preservation, and
6 maintenance; and

7 “(I) improve the resiliency of roadways to
8 commercial heavy freight traffic.

9 “(2) ACTIVITIES.—Research and technology ac-
10 tivities carried out under this subsection may include
11 activities relating to—

12 “(A) long-term infrastructure performance
13 programs addressing pavements, bridges, tun-
14 nels, and other structures;

15 “(B) short-term and accelerated studies of
16 highway infrastructure performance;

17 “(C) the development of more durable
18 highway and bridge infrastructure materials
19 and systems, including the use of carbon fiber
20 composite materials in bridge replacement and
21 rehabilitation;

22 “(D) advanced highway and bridge infra-
23 structure design methods;

24 “(E) accelerated highway construction;

25 “(F) performance-based specifications;

1 “(G) construction and materials quality as-
2 surance;

3 “(H) comprehensive and integrated high-
4 way infrastructure asset management;

5 “(I) technology transfer and adoption of
6 permeable, pervious, or porous paving mate-
7 rials, practices, and systems that are designed
8 to minimize environmental impacts, stormwater
9 runoff, and flooding and to treat or remove pol-
10 lutants by allowing stormwater to infiltrate
11 through the pavement in a manner similar to
12 predevelopment hydrologic conditions;

13 “(J) sustainable highway infrastructure
14 design and construction;

15 “(K) highway and bridge infrastructure re-
16 habilitation and preservation techniques, includ-
17 ing those techniques to address historic infra-
18 structure;

19 “(L) hydraulic, geotechnical, and aero-
20 dynamic aspects of highway infrastructure;

21 “(M) improved highway construction tech-
22 nologies and practices;

23 “(N) improved tools, technologies, and
24 models for highway and bridge infrastructure

1 management, including assessment and moni-
2 toring of infrastructure condition;

3 “(O) improving flexibility and resiliency of
4 highway and bridge infrastructure systems to
5 withstand climate variability; and

6 “(P) highway infrastructure resilience and
7 other adaptation measures.

8 “(e) REDUCING CONGESTION, IMPROVING HIGHWAY
9 OPERATIONS, AND ENHANCING FREIGHT PRODUC-
10 TIVITY.—

11 “(1) OBJECTIVES.—In carrying out the pro-
12 gram under this section, the Secretary shall examine
13 approaches to reduce traffic congestion (including
14 freight-related congestion throughout the transpor-
15 tation network), reduce the costs of such congestion,
16 and improve freight movement.

17 “(2) ACTIVITIES.—Research and technology ac-
18 tivities carried out under this subsection may include
19 examination of—

20 “(A) active traffic and demand manage-
21 ment;

22 “(B) accelerating deployment of intelligent
23 transportation systems;

24 “(C) arterial management and traffic sig-
25 nal operation;

- 1 “(D) congestion pricing;
- 2 “(E) corridor management;
- 3 “(F) emergency operations;
- 4 “(G) freeway management;
- 5 “(H) impacts of vehicle size and weight;
- 6 “(I) freight operations and technology;
- 7 “(J) operations and freight performance
- 8 measurement and management;
- 9 “(K) organizing and planning for oper-
- 10 ations;
- 11 “(L) planned special events management;
- 12 “(M) real-time transportation information,
- 13 including real-time ridesharing;
- 14 “(N) road weather management;
- 15 “(O) traffic and freight data and analysis
- 16 tools;
- 17 “(P) traffic control devices;
- 18 “(Q) traffic incident management;
- 19 “(R) workzone management;
- 20 “(S) mechanisms that communicate travel,
- 21 roadway, and emergency information to all road
- 22 users (as defined in section 148); and
- 23 “(T) enhanced mode choice and intermodal
- 24 connectivity.

1 “(f) ASSESSING POLICY AND SYSTEM FINANCING
2 ALTERNATIVES.—

3 “(1) OBJECTIVES.—In carrying out the pro-
4 gram under this section, the Secretary shall conduct
5 policy analysis on emerging issues in the transpor-
6 tation community to provide information to policy-
7 makers and decisionmakers.

8 “(2) ACTIVITIES.—Research and technology ac-
9 tivities carried out under this subsection may include
10 activities relating to—

11 “(A) highway needs and investment anal-
12 ysis;

13 “(B) analysis of legislative development
14 and implementation;

15 “(C) highway policy analysis;

16 “(D) the effect of highway congestion on
17 the economy;

18 “(E) research in emerging policy areas;

19 “(F) advancing innovations in revenue gen-
20 eration, financing, and procurement for project
21 delivery;

22 “(G) improving project financial and cost
23 analysis;

24 “(H) highway performance measurement;

1 “(I) travel demand performance measure-
2 ment; and

3 “(J) highway finance performance meas-
4 urement.

5 “(3) INFRASTRUCTURE INVESTMENT NEEDS
6 REPORT.—

7 “(A) IN GENERAL.—Not later than July
8 31, 2012, and July 31 of every second year
9 thereafter, the Secretary shall transmit to the
10 Committee on Transportation and Infrastruc-
11 ture of the House of Representatives and the
12 Committee on Environment and Public Works
13 of the Senate a report that describes estimates
14 of the future highway and bridge needs of the
15 United States and the backlog of highway and
16 bridge needs at the time of the report.

17 “(B) COMPARISON.—Each report under
18 subparagraph (A) shall provide the means, in-
19 cluding all necessary information, to relate and
20 compare the conditions and service measures
21 used in the previous biennial reports.

22 “(g) EXPLORATORY ADVANCED RESEARCH.—In car-
23 rying out the program under this section, the Secretary
24 shall conduct long-term, higher-risk research, consistent
25 with the transportation research and development plan

1 under section 508, with the potential for dramatic break-
2 throughs in the field of highway transportation.

3 “(h) GRANTS, COOPERATIVE AGREEMENTS, AND
4 CONTRACTS.—

5 “(1) IN GENERAL.—In carrying out the pro-
6 gram under this section, the Secretary may make
7 grants to, and enter into cooperative agreements and
8 contracts with, States, other Federal agencies, insti-
9 tutions of higher education, private sector entities,
10 and nonprofit organizations to pay the Federal share
11 of the cost of research, development, and technology
12 transfer activities.

13 “(2) APPLICATIONS.—To receive a grant under
14 this subsection, an entity described in paragraph (1)
15 shall submit an application to the Secretary. The ap-
16 plication shall be in such form and contain such in-
17 formation and assurances as the Secretary may re-
18 quire.

19 “(3) TECHNOLOGY AND INFORMATION TRANS-
20 FER.—The Secretary shall ensure that the informa-
21 tion and technology resulting from research con-
22 ducted under this subsection is made available to
23 State and local transportation departments and
24 other interested parties as specified by the Sec-
25 retary.

1 “(i) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-
2 TER.—

3 “(1) IN GENERAL.—The Secretary shall operate
4 in the Federal Highway Administration a Turner-
5 Fairbank Highway Research Center.

6 “(2) USES OF THE CENTER.—The Center shall
7 support—

8 “(A) the conduct of highway research and
9 development related to new highway technology,
10 including connected vehicle technology;

11 “(B) the development of understandings,
12 tools, and techniques that provide solutions to
13 complex technical problems through the devel-
14 opment of economical and environmentally sen-
15 sitive designs, efficient and quality-controlled
16 construction practices, and durable materials;

17 “(C) the development of innovative high-
18 way products and practices; and

19 “(D) long-term high-risk research to im-
20 prove the materials used in highway infrastruc-
21 ture.

22 “(j) CENTERS FOR SURFACE TRANSPORTATION EX-
23 CELLENCE.—

1 “(1) ESTABLISHMENT.—The Secretary may es-
2 tablish not more than 4 centers for surface transpor-
3 tation excellence.

4 “(2) GOALS.—The goals of the centers for sur-
5 face transportation excellence are to promote and
6 support strategic national surface transportation
7 programs and activities relating to the work of State
8 departments of transportation.

9 “(3) ROLE OF THE CENTERS.—To achieve the
10 goals set forth in paragraph (2), the Secretary shall
11 establish centers that provide technical assistance,
12 information sharing of best practices, and training
13 in the use of tools and decisionmaking processes that
14 can assist States in effectively implementing surface
15 transportation programs, projects, and policies.

16 “(4) PROGRAM ADMINISTRATION.—

17 “(A) COMPETITION.—A party entering
18 into a contract, cooperative agreement, or other
19 transaction with the Secretary under this sub-
20 section, or receiving a grant to perform re-
21 search or provide technical assistance under
22 this subsection, shall be selected on a competi-
23 tive basis.

24 “(B) STRATEGIC PLAN.—The Secretary
25 shall require each center to develop a multiyear

1 strategic plan, and submit the plan to the Sec-
2 retary at such time as the Secretary requires,
3 that describes—

4 “(i) the activities to be undertaken by
5 the center; and

6 “(ii) how the work of the center will
7 be coordinated with the activities of the
8 Federal Highway Administration and the
9 various other research, development, and
10 technology transfer activities authorized by
11 this chapter.

12 “(5) FUNDING.—Of the amounts made avail-
13 able by section 7001(a)(1) of the American Energy
14 and Infrastructure Jobs Act of 2012, not more than
15 \$3,000,000 for each of fiscal years 2013 through
16 2016 shall be available to carry out this sub-
17 section.”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 5 of such title is amended by striking the item relating
20 to section 503 and inserting the following:

“503. Research and development.”.

21 **SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT**
22 **PROGRAM.**

23 (a) IN GENERAL.—Chapter 5 of title 23, United
24 States Code, is amended by inserting after section 503 the
25 following:

1 **“§ 503a. Technology and innovation deployment pro-**
2 **gram**

3 “(a) IN GENERAL.—The Secretary, in accordance
4 with the strategic plan developed under section 508, shall
5 carry out a technology and innovation deployment pro-
6 gram on all aspects of highway transportation by pro-
7 moting and facilitating the products, technologies, tools,
8 methods, or other findings resulting from highway re-
9 search conducted under this chapter.

10 “(b) OBJECTIVES.—The Secretary shall seek to ad-
11 vance the following objectives:

12 “(1) Significantly accelerate the adoption of in-
13 novative technologies by the surface transportation
14 community.

15 “(2) Significantly accelerate the adoption of ad-
16 vanced modeling technologies, as described in section
17 106, by the surface transportation community.

18 “(3) Provide leadership and incentives to dem-
19 onstrate and promote state-of-the-art technologies,
20 elevated performance standards, and new business
21 practices in highway construction processes that re-
22 sult in improved safety, faster construction, reduced
23 congestion from construction, and improved quality
24 and user satisfaction.

25 “(4) Advance longer-lasting highways using in-
26 novative technologies and practices to accomplish

1 more rapid construction of efficient and safe high-
2 ways and bridges.

3 “(5) Improve highway efficiency, safety, mobil-
4 ity, reliability, service life, and environmental protec-
5 tion.

6 “(6) Develop and deploy new tools, techniques,
7 and practices to accelerate the adoption of innova-
8 tion in all aspects of highway transportation.

9 “(7) Enhance deployment and operations of in-
10 telligent transportation systems.

11 “(c) ACTIVITIES.—The program may include—

12 “(1) activities conducted under section 503;

13 “(2) other technologies and innovations requir-
14 ing additional development and testing not per-
15 formed under section 503 but necessary to bring
16 about successful deployment and delivery; and

17 “(3) developing and improving innovative tech-
18 nologies and practices and exploring new tech-
19 nologies to accelerate innovation adoption.

20 “(d) GRANTS, COOPERATIVE AGREEMENTS, AND
21 CONTRACTS.—

22 “(1) IN GENERAL.—Under the program, the
23 Secretary may make grants to, and enter into coop-
24 erative agreements and contracts with, States, other
25 Federal agencies, institutions of higher education,

1 private sector entities, Federal laboratories, and
2 nonprofit organizations to pay the Federal share of
3 the cost of research, development, and deployment
4 activities.

5 “(2) APPLICATIONS.—To receive a grant under
6 this subsection, an entity described in paragraph (1)
7 shall submit an application to the Secretary. The ap-
8 plication shall be in such form and contain such in-
9 formation and assurances as the Secretary may re-
10 quire.

11 “(3) TECHNOLOGY AND INFORMATION TRANS-
12 FER.—The Secretary shall ensure that the informa-
13 tion and technology resulting from research con-
14 ducted under this subsection is made available to
15 State and local transportation departments and
16 other interested parties as specified by the Sec-
17 retary.

18 “(e) DEPLOYMENT OF FUTURE STRATEGIC HIGH-
19 WAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

20 “(1) IN GENERAL.—The Secretary, in consulta-
21 tion with the American Association of State High-
22 way and Transportation Officials and the National
23 Academy of Sciences, shall promote research results
24 and products developed under the Strategic Highway
25 Research Program 2 administered by the Transpor-

1 tation Research Board of the National Academy of
2 Sciences.

3 “(2) STRATEGY OF PROMOTION.—The Sec-
4 retary, to the extent practicable, shall base the de-
5 ployment of research results and products described
6 in paragraph (1) on the recommendations included
7 in the Transportation Research Board Special Re-
8 port 296 entitled ‘Implementing the Results of the
9 Second Strategic Highway Research Program: Sav-
10 ing Lives, Reducing Congestion, Improving Quality
11 of Life’.”.

12 (b) CONFORMING AMENDMENT.—The analysis for
13 chapter 5 of title 23, United States Code, is amended by
14 inserting after the item relating to section 503 the fol-
15 lowing:

 “503a. Technology and innovation deployment program.”.

16 **SEC. 7007. TRAINING AND EDUCATION.**

17 Section 504 of title 23, United States Code, is
18 amended—

19 (1) in subsection (a)(2) by striking subpara-
20 graph (A) and inserting the following:

21 “(A) Federal Highway Administration em-
22 ployees, State and local transportation agency
23 employees, and Federal agency partners;”;

24 (2) in subsection (b) by striking paragraph (3)
25 and inserting the following:

1 “(3) FEDERAL SHARE.—

2 “(A) LOCAL TECHNICAL ASSISTANCE CEN-
3 TERS.—Subject to clause (ii), the Federal share
4 of the cost of any activity carried out by a local
5 technical assistance center under paragraphs
6 (1) and (2) shall be 50 percent, except that the
7 remaining share may include funds provided to
8 a recipient under subsection (e) or section 505.

9 “(B) TRIBAL TECHNICAL ASSISTANCE
10 CENTERS.—The Federal share of the cost of ac-
11 tivities carried out by the tribal technical assist-
12 ance centers under paragraph (2)(D)(ii) shall
13 be 100 percent.”;

14 (3) in subsection (e)(2) by adding at the end
15 the following: “Funds provided to institutions of
16 higher education to carry out this paragraph shall be
17 used in direct support of student expenses associated
18 with their transportation studies.”;

19 (4) by striking subsection (d);

20 (5) by redesignating subsections (e) through (g)
21 as subsections (d) through (f), respectively;

22 (6) in subsection (d) (as so redesignated)—

23 (A) in paragraph (1)—

24 (i) by striking “sections 104(b)(1),
25 104(b)(2), 104(b)(3), 104(b)(4), and

1 144(e)” and inserting “paragraphs (1),
2 (2), and (3) of section 104(b)”;

3 (ii) in subparagraph (D) by striking
4 “and”;

5 (iii) in subparagraph (E) by striking
6 the period at the end and inserting a semi-
7 colon; and

8 (iv) by adding at the end the fol-
9 lowing:

10 “(F) activities delivered by the National
11 Highway Institute under subsection (a); and

12 “(G) the local technical assistance program
13 under subsection (b).”;

14 (B) in paragraph (2) by inserting before
15 the period at the end the following: “, except
16 for activities carried out under paragraph
17 (1)(G), for which the Federal share shall be 50
18 percent as described in subsection (b)(3)(A)”;

19 and

20 (7) in the heading of subsection (e) (as redesign-
21 nated by paragraph (5) of this section) by striking
22 “PILOT”.

1 **SEC. 7008. STATE PLANNING AND RESEARCH.**

2 Section 505(a) of title 23, United States Code, is
3 amended in the first sentence by striking “104(h)) and
4 under section 144” and inserting “104(i)”.

5 **SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION**
6 **OUTREACH PROGRAM.**

7 Section 506 of title 23, United States Code, and the
8 item relating to such section in the analysis for chapter
9 5 of such title, are repealed.

10 **SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL**
11 **COOPERATIVE RESEARCH PROGRAM.**

12 Section 507 of title 23, United States Code, and the
13 item relating to such section in the analysis for chapter
14 5 of such title, are repealed.

15 **SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOP-**
16 **MENT STRATEGIC PLANNING.**

17 Section 508(a) of title 23, United States Code, is
18 amended—

19 (1) in paragraph (1)—

20 (A) by striking “SAFETEA-LU” and in-
21 serting “American Energy and Infrastructure
22 Jobs Act of 2012”; and

23 (B) by adding “, acting through the Ad-
24 ministrator of the Research and Innovative
25 Technology Administration,” after “Secretary”;
26 and

1 (2) in paragraph (2)(A)(iii) by striking “pro-
2 moting security” and inserting “improving goods
3 movement”.

4 **SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPOR-**
5 **TATION RESEARCH PROGRAM.**

6 Section 509 of title 23, United States Code, and the
7 item relating to such section in the analysis for chapter
8 5 of such title, are repealed.

9 **SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PRO-**
10 **GRAM.**

11 Section 510 of title 23, United States Code, and the
12 item relating to such section in the analysis for chapter
13 5 of such title, are repealed.

14 **SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYS-**
15 **TEMS PROGRAM PLAN.**

16 (a) IN GENERAL.—Section 512 of title 23, United
17 States Code, is amended—

18 (1) in the section heading by striking “**ITS**”
19 and inserting “**intelligent transportation sys-**
20 **tems**”; and

21 (2) in subsection (a)(1) by striking
22 “SAFETEA-LU” and inserting “American Energy
23 and Infrastructure Jobs Act of 2012”.

24 (b) CONFORMING AMENDMENT.—The analysis for
25 chapter 5 of title 23, United States Code, is amended by

1 striking the item relating to section 512 and inserting the
2 following:

“512. National intelligent transportation systems program plan.”.

3 **SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPOR-**
4 **TATION SYSTEMS ACTIVITIES.**

5 (a) IN GENERAL.—Section 513 of title 23, United
6 States Code, is amended—

7 (1) in the section heading by striking “**ITS**”
8 and inserting “**intelligent transportation sys-**
9 **tems**”; and

10 (2) in subsection (a) by striking “subtitle C of
11 title V of the SAFETEA-LU” and inserting “section
12 7001(a)(4) of the American Energy and Infrastruc-
13 ture Jobs Act of 2012”.

14 (b) CONFORMING AMENDMENT.—The analysis for
15 chapter 5 of title 23, United States Code, is amended by
16 striking the item relating to section 513 and inserting the
17 following:

“513. Use of funds for intelligent transportation systems activities.”.

18 **SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PRO-**
19 **GRAM GOALS AND PURPOSES.**

20 (a) IN GENERAL.—Chapter 5 of title 23, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

1 **“§ 514. Intelligent transportation systems program**
2 **goals and purposes**

3 “(a) GOALS.—The goals of the intelligent transpor-
4 tation system program include—

5 “(1) enhancement of surface transportation ef-
6 ficiency and facilitation of intermodalism and inter-
7 national trade to enable existing facilities to meet a
8 significant portion of future transportation needs,
9 including public access to employment, goods, and
10 services, and to reduce regulatory, financial, and
11 other transaction costs to public agencies and sys-
12 tem users;

13 “(2) achievement of national transportation
14 safety goals, including the enhancement of safe oper-
15 ation of motor vehicles and nonmotorized vehicles
16 and improved emergency response to a crash, with
17 particular emphasis on decreasing the number and
18 severity of collisions;

19 “(3) protection and enhancement of the natural
20 environment and communities affected by surface
21 transportation, with particular emphasis on assisting
22 State and local governments to achieve national en-
23 vironmental goals;

24 “(4) accommodation of the needs of all users of
25 surface transportation systems, including operators
26 of commercial motor vehicles, passenger motor vehi-

1 cles, motorcycles, and bicycles and pedestrians, in-
2 cluding individuals with disabilities; and

3 “(5) improvement of the Nation’s ability to re-
4 spond to emergencies and natural disasters.

5 “(b) PURPOSES.—The Secretary shall implement ac-
6 tivities under the intelligent system transportation pro-
7 gram to, at a minimum—

8 “(1) expedite, in both metropolitan and rural
9 areas, deployment and integration of intelligent
10 transportation systems for consumers of passenger
11 and freight transportation;

12 “(2) ensure that Federal, State, and local
13 transportation officials have adequate knowledge of
14 intelligent transportation systems for consideration
15 in the transportation planning process;

16 “(3) improve regional cooperation and oper-
17 ations planning for effective intelligent transpor-
18 tation system deployment;

19 “(4) promote the innovative use of private re-
20 sources;

21 “(5) facilitate, in cooperation with the motor
22 vehicle industry, the introduction of vehicle-based
23 safety enhancing systems;

1 transportation system program to research, develop, and
2 operationally test intelligent transportation systems and to
3 provide technical assistance in the nationwide application
4 of those systems as a component of the surface transpor-
5 tation systems of the United States.

6 “(b) POLICY.—Intelligent transportation system re-
7 search projects and operational tests funded pursuant to
8 this chapter shall encourage and not displace public-pri-
9 vate partnerships or private sector investment in such
10 tests and projects.

11 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
12 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
13 shall carry out the intelligent transportation system pro-
14 gram in cooperation with State and local governments and
15 other public entities, private sector firms in the United
16 States, Federal laboratories, and institutions of higher
17 education, including historically Black colleges and univer-
18 sities and other minority institutions of higher education.

19 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
20 In carrying out the intelligent transportation system pro-
21 gram, the Secretary shall consult with the heads of other
22 Federal departments and agencies, as appropriate.

23 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
24 FORMATION.—The Secretary may provide technical assist-
25 ance, training, and information to State and local govern-

1 ments seeking to implement, operate, maintain, or evalu-
2 ate intelligent transportation system technologies and
3 services.

4 “(f) TRANSPORTATION PLANNING.—The Secretary
5 may provide funding to support adequate consideration of
6 transportation systems management and operations, in-
7 cluding intelligent transportation systems, within metro-
8 politan and statewide transportation planning processes.

9 “(g) INFORMATION CLEARINGHOUSE.—

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

11 “(A) maintain a repository for technical
12 and safety data collected as a result of federally
13 sponsored projects carried out under this chap-
14 ter; and

15 “(B) make, on request, that information
16 (except for proprietary information and data)
17 readily available to all users of the repository at
18 an appropriate cost.

19 “(2) AGREEMENT.—

20 “(A) IN GENERAL.—The Secretary may
21 enter into an agreement with a third party for
22 the maintenance of the repository for technical
23 and safety data under paragraph (1)(A).

24 “(B) FEDERAL FINANCIAL ASSISTANCE.—

25 If the Secretary enters into an agreement with

1 an entity for the maintenance of the repository,
2 the entity shall be eligible for Federal financial
3 assistance under this section.

4 “(3) AVAILABILITY OF INFORMATION.—Infor-
5 mation in the repository shall not be subject to sec-
6 tions 552 and 555 of title 5, United States Code.

7 “(h) INFRASTRUCTURE DEVELOPMENT.—Funds
8 made available to carry out this chapter for operational
9 tests—

10 “(1) shall be used primarily for the development
11 of intelligent transportation system infrastructure;
12 and

13 “(2) to the maximum extent practicable, shall
14 not be used for the construction of physical highway
15 and public transportation infrastructure unless the
16 construction is incidental and critically necessary to
17 the implementation of an intelligent transportation
18 system project.”.

19 (b) REPEAL.—Sections 5304 and 5305 of the Safe,
20 Accountable, Flexible, Efficient Transportation Equity
21 Act: A Legacy for Users are repealed.

22 (c) CONFORMING AMENDMENT.—The analysis for
23 chapter 5 of title 23, United States Code, is further
24 amended by adding after the item relating to section 514
25 the following:

“515. Intelligent transportation systems program general authority and requirements.”.

1 **SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RE-**
2 **SEARCH AND DEVELOPMENT.**

3 (a) IN GENERAL.—Chapter 5 of title 23, United
4 States Code, is further amended by adding at the end the
5 following:

6 **“§ 516. Intelligent transportation systems research**
7 **and development**

8 “(a) IN GENERAL.—The Secretary shall carry out a
9 comprehensive program of intelligent transportation sys-
10 tem research, development, and operational tests of intel-
11 ligent vehicles and intelligent infrastructure systems and
12 other similar activities that are necessary to carry out this
13 chapter.

14 “(b) PRIORITY AREAS.—Under the program, the Sec-
15 retary shall give higher priority to funding projects that—

16 “(1) enhance mobility and productivity through
17 improved traffic management, incident management,
18 transit management, freight management, road
19 weather management, toll collection, traveler infor-
20 mation, or highway operations systems and remote
21 sensing products;

22 “(2) utilize interdisciplinary approaches to de-
23 velop traffic management strategies and tools to ad-
24 dress multiple impacts of congestion concurrently;

1 “(3) address traffic management, incident man-
2 agement, transit management, toll collection traveler
3 information, or highway operations systems;

4 “(4) incorporate research on the impact of envi-
5 ronmental, weather, and natural conditions on intel-
6 ligent transportation systems, including the effects
7 of cold climates;

8 “(5) enhance intermodal use of intelligent
9 transportation systems for diverse groups, including
10 for emergency and health-related services;

11 “(6) enhance safety through improved crash
12 avoidance and protection, crash and other emergency
13 personnel notification, commercial motor vehicle op-
14 erations, and infrastructure-based or cooperative
15 safety systems; and

16 “(7) facilitate the integration of intelligent in-
17 frastructure, vehicle, and control technologies.”.

18 (b) REPEAL.—Section 5306 of the Safe, Accountable,
19 Flexible, Efficient Transportation Equity Act: A Legacy
20 for Users is repealed.

21 (c) CONFORMING AMENDMENT.—The analysis for
22 chapter 5 of title 23, United States Code, is further
23 amended by adding after the item relating to section 515
24 the following:

“516. Intelligent transportation systems research and development.”.

1 **SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NA-**
2 **TIONAL ARCHITECTURE AND STANDARDS.**

3 (a) IN GENERAL.—Chapter 5 of title 23, United
4 States Code, is further amended by adding at the end the
5 following:

6 **“§ 517. Intelligent transportation systems national ar-**
7 **chitecture and standards**

8 “(a) IN GENERAL.—

9 “(1) DEVELOPMENT, IMPLEMENTATION, AND
10 MAINTENANCE.—Consistent with section 12(d) of
11 the National Technology Transfer and Advancement
12 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
13 the Secretary shall develop, implement, and maintain
14 a national architecture and supporting standards
15 and protocols to promote the widespread use and
16 evaluation of intelligent transportation system tech-
17 nology as a component of the surface transportation
18 systems of the United States.

19 “(2) INTEROPERABILITY AND EFFICIENCY.—To
20 the maximum extent practicable, the national archi-
21 tecture shall promote interoperability among, and ef-
22 ficiency of, intelligent transportation system tech-
23 nologies implemented throughout the United States.

24 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
25 NIZATIONS.—In carrying out this section, the Sec-
26 retary shall use the services of such standards devel-

1 opment organizations as the Secretary determines to
2 be appropriate.

3 “(b) PROVISIONAL STANDARDS.—

4 “(1) IN GENERAL.—If the Secretary finds that
5 the development or balloting of an intelligent trans-
6 portation system standard jeopardizes the timely
7 achievement of the objectives identified in subsection
8 (a), the Secretary may establish a provisional stand-
9 ard, after consultation with affected parties, using,
10 to the extent practicable, the work product of appro-
11 priate standards development organizations.

12 “(2) PERIOD OF EFFECTIVENESS.—A provi-
13 sional standard established under paragraph (1)
14 shall be published in the Federal Register and re-
15 main in effect until the appropriate standards devel-
16 opment organization adopts and publishes a stand-
17 ard.

18 “(c) CONFORMITY WITH NATIONAL ARCHITEC-
19 TURE.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), the Secretary shall ensure that
22 intelligent transportation system projects carried out
23 using funds made available from the Highway Trust
24 Fund, including funds made available under this
25 chapter, to deploy intelligent transportation system

1 technologies conform to the national architecture,
2 applicable standards or provisional standards, and
3 protocols developed under subsection (a).

4 “(2) SECRETARY’S DISCRETION.—The Sec-
5 retary may authorize exceptions to paragraph (1)
6 for—

7 “(A) projects designed to achieve specific
8 research objectives outlined in the national in-
9 telligent transportation system program plan or
10 the surface transportation research and devel-
11 opment strategic plan developed under section
12 508; or

13 “(B) the upgrade or expansion of an intel-
14 ligent transportation system in existence on the
15 date of enactment of the SAFETEA-LU if the
16 Secretary determines that the upgrade or ex-
17 pansion—

18 “(i) would not adversely affect the
19 goals or purposes of this chapter;

20 “(ii) is carried out before the end of
21 the useful life of such system; and

22 “(iii) is cost-effective as compared to
23 alternatives that would meet the con-
24 formity requirement of paragraph (1).

1 “(3) EXCEPTIONS.—Paragraph (1) shall not
2 apply to funds used for operation or maintenance of
3 an intelligent transportation system in existence on
4 the date of enactment of the SAFETEA-LU.

5 “(d) STANDARD DEFINED.—The term ‘standard’
6 means a document that—

7 “(1) contains technical specifications or other
8 precise criteria for intelligent transportation systems
9 that are to be used consistently as rules, guidelines,
10 or definitions of characteristics so as to ensure that
11 materials, products, processes, and services are fit
12 for their purposes; and

13 “(2) may support the national architecture and
14 promote—

15 “(A) the widespread use and adoption of
16 intelligent transportation system technology as
17 a component of the surface transportation sys-
18 tems of the United States; and

19 “(B) interoperability among intelligent
20 transportation system technologies implemented
21 throughout the States.”.

22 (b) REPEAL.—Section 5307 of the Safe, Accountable,
23 Flexible, Efficient Transportation Equity Act: A Legacy
24 for Users is repealed.

1 (c) CONFORMING AMENDMENT.—The analysis for
2 chapter 5 of title 23, United States Code, is further
3 amended by adding after the item relating to section 516
4 the following:

“517. Intelligent transportation systems national architecture and standards.”.

5 **SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CEN-**
6 **TERS.**

7 Section 5505 of title 49, United States Code, and the
8 item relating to such section in the analysis of chapter
9 55 of such title, is repealed.

10 **SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.**

11 Section 5506 of title 49, United States Code, is
12 amended—

13 (1) in subsection (b)(1) by adding “that is con-
14 sistent with section 503 of title 23” after “applied
15 research”;

16 (2) in subsection (c)—

17 (A) in the heading by striking “REGIONAL,
18 TIER I, AND TIER II CENTERS” and inserting
19 “REGIONAL AND STANDARD CENTERS”;

20 (B) in paragraph (1)—

21 (i) in the heading by striking “RE-
22 GIONAL AND TIER I CENTERS” and insert-
23 ing “REGIONAL AND STANDARD CEN-
24 TERS”;

1 (ii) in the matter preceding subpara-
2 graph (A) by striking “2005 through
3 2009” and inserting “2013 through
4 2016”; and

5 (iii) in subparagraph (B) by striking
6 “10 Tier I” and inserting “20 standard”;

7 (C) by striking paragraph (2); and

8 (D) by redesignating paragraphs (3) and
9 (4) as paragraphs (2) and (3), respectively;

10 (3) in subsection (d) by adding at the end the
11 following:

12 “(3) OPPORTUNITY ANNOUNCEMENT.—

13 “(A) PUBLIC DISCLOSURE.—All funding
14 opportunities under this section shall be pub-
15 lically announced and shall be posted on the
16 Department of Transportation’s Web site and
17 on Grants.gov. Any announcement shall, at a
18 minimum, include a detailed description of how
19 applications will be evaluated and a list of any
20 specific research areas, educational objectives,
21 or technology transfer objectives expected to be
22 addressed by an application.

23 “(B) INPUT.—In developing an oppor-
24 tunity announcement under this paragraph, the
25 Secretary shall solicit the input of transpor-

1 tation stakeholders, including academic re-
2 searchers, State highway and transportation de-
3 partments, local and regional governments, pri-
4 vate industry, the Administrator of the Re-
5 search and Innovative Technology Administra-
6 tion, and Administrators of other relevant De-
7 partment of Transportation agencies.

8 “(4) PROPOSAL REVIEW AND SELECTION.—

9 “(A) IN GENERAL.—The Secretary shall
10 make award decisions under subsection (c)(1)
11 through a peer-reviewed, merit-based process.
12 The Secretary may make grants to, and enter
13 into cooperative agreements with, the National
14 Academy of Sciences to carry out such activities
15 under this paragraph as the Secretary deter-
16 mines are appropriate.

17 “(B) PEER-REVIEW.—

18 “(i) IN GENERAL.—The Secretary,
19 acting through the National Research
20 Council of the National Academy of
21 Sciences, shall establish a peer-review proc-
22 ess in which all proposals shall be reviewed
23 by an external committee of experts.

24 “(ii) SELECTION.—The external com-
25 mittee of experts shall be selected and con-

1 vened by the Transportation Research
2 Board of the National Research Council
3 based on—

4 “(I) their specific knowledge of
5 transportation research fields or their
6 broad knowledge of transportation re-
7 search fields;

8 “(II) their knowledge of associ-
9 ated educational activities;

10 “(III) their broad knowledge of
11 the community of transportation prac-
12 titioners; and

13 “(IV) to the extent possible, di-
14 verse representation within the review
15 group.

16 “(iii) DUTIES.—The external com-
17 mittee of experts shall evaluate proposals
18 based on the degree to which they advance
19 the objectives in subsection (b), the selec-
20 tion criteria in paragraph (2) of this sub-
21 section, and any additional review criteria
22 set forth in the opportunity announce-
23 ments described in paragraph (3) of this
24 subsection.

1 “(iv) REPORT.—The external com-
2 mittee of experts shall issue a report, pub-
3 lished and made available to the public by
4 the Transportation Research Board, sum-
5 marizing the evaluation process and ex-
6 plaining its findings.

7 “(v) COST.—The Secretary shall pay
8 for any necessary expenses associated with
9 peer-review with a portion of the funds as-
10 signed to the Research and Innovative
11 Technology Administration for administra-
12 tion of this section.

13 “(C) SECRETARIAL REVIEW.—The Sec-
14 retary, in consultation with the Administrator
15 of the Research and Innovative Technology Ad-
16 ministration and Administrators of any other
17 relevant Department of Transportation agen-
18 cies, shall make final award decisions. The Sec-
19 retary’s decision shall consider—

20 “(i) the findings of the committee
21 under subparagraph (B);

22 “(ii) the portfolio of other programs
23 funded under this section;

24 “(iii) the objectives set forth in sub-
25 section (b);

1 “(iv) the criteria set forth in para-
2 graph (2);

3 “(v) the details included in the oppor-
4 tunity announcement required under para-
5 graph (3); and

6 “(vi) other current proposals and pre-
7 viously funded proposals.

8 “(D) TRANSPARENCY.—

9 “(i) IN GENERAL.—The Secretary
10 shall provide to each applicant of a pro-
11 posal copies of reviews by the committee
12 under subparagraph (B) and any other
13 materials used in the evaluation process
14 (with any reviewer identifying information
15 redacted) of the applicant’s proposal.

16 “(ii) PUBLIC AVAILABILITY.—The
17 Secretary shall make results of the review
18 process available to all applicants and to
19 the public on the Department’s website.

20 “(iii) REPORT.—The Secretary shall
21 issue a public report that includes, at a
22 minimum—

23 “(I) the results of the peer-review
24 process, including the findings of the

1 committee under subparagraph (B);
2 and

3 “(II) the reasons for the Sec-
4 retary’s final decision, including a de-
5 scription of—

6 “(aa) the context in which
7 the proposal was reviewed; and

8 “(bb) how the findings of
9 the committee under subpara-
10 graph (B) were used in reaching
11 the final decision.”;

12 (4) in subsection (e)—

13 (A) in paragraph (1) by striking “March
14 31, 2006, and not later than March 31st of
15 every 4th year thereafter” and inserting “180
16 days after the date of enactment of the Amer-
17 ican Energy and Infrastructure Jobs Act of
18 2012, and every 4 years thereafter”;

19 (B) in paragraph (5)—

20 (i) in subparagraph (B) by striking
21 “and”;

22 (ii) in subparagraph (C) by striking
23 the period and adding “; and”; and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(D) \$3,500,000 for each of fiscal years
2 2013 through 2016.”; and

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

4 “(6) RESEARCH REQUIREMENT.—

5 “(A) COMPREHENSIVE TRANSPORTATION
6 SAFETY.—The Secretary shall make a grant to
7 1 of the 10 regional university transportation
8 centers established under subsection (c) for the
9 purpose of furthering the objectives described in
10 subsection (b) in the field of comprehensive
11 transportation safety.

12 “(B) INTELLIGENT TRANSPORTATION SYS-
13 TEMS.—The Secretary shall make a grant to 1
14 of the 10 regional university transportation cen-
15 ters established under subsection (c) (other
16 than the center described in subparagraph (A))
17 for the purpose of furthering the objectives de-
18 scribed in subsection (b) in the field of intel-
19 ligent transportation systems.

20 “(7) COMPETITIVE PROCESS.—The Secretary
21 shall make award decisions through a competitive
22 process that follows the requirements described in
23 subsections (d)(3) and (d)(4) and incorporates the
24 additional selection criteria set forth in paragraph
25 (2) of this subsection.”;

1 (5) in subsection (f)—

2 (A) by striking “TIER I” in the subsection
3 heading and inserting “STANDARD”;

4 (B) in paragraph (1)—

5 (i) by striking “June 30, 2006, and
6 not later than June 30 of every 4th year
7 thereafter” and inserting “180 days after
8 the date of enactment of the American En-
9 ergy and Infrastructure Jobs Act of 2012,
10 and every 4 years thereafter”; and

11 (ii) by striking “10 Tier I” and in-
12 sserting “20 standard”;

13 (C) in paragraph (3) by striking “Tier I”
14 and inserting “standard”; and

15 (D) in paragraph (5)—

16 (i) by striking “\$1,000,000” and in-
17 sserting “\$2,000,000”;

18 (ii) by striking “2005 through 2009”
19 and inserting “2013 through 2016”; and

20 (iii) by striking “Tier I” and inserting
21 “standard”;

22 (6) by striking subsection (g) and redesignating
23 subsections (h) through (m) as subsections (g)
24 through (l), respectively;

1 (7) in subsection (h) (as redesignated by para-
2 graph (5) of this section)—

3 (A) by striking “MAINTENANCE OF EF-
4 FORT.—” and all that follows through “In order
5 to be” and inserting “MAINTENANCE OF EF-
6 FORT.—In order to be”; and

7 (B) by striking paragraph (2);

8 (8) in subsection (i) (as redesignated by para-
9 graph (5) of this section)—

10 (A) by striking “50” and inserting “65”;

11 and

12 (B) by striking “503” and inserting
13 “503A”; and

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

15 “(m) ANNUAL REPORT.—The Secretary shall submit
16 to the Committee on Science, Space, and Technology and
17 the Committee on Transportation and Infrastructure of
18 the House of Representatives and the Committee on Com-
19 merce, Science, and Transportation of the Senate, and
20 make available to the public on the Department’s Web
21 site, an annual report on the university transportation
22 center program under this section detailing the activities
23 of the regional and standard centers during the previous
24 year and how such activities reflect the priorities of the
25 strategic plan required under section 508(a) of title 23.”.

1 **SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.**

2 Section 111 of title 49, United States Code, is
3 amended—

4 (1) in subsection (c) by striking paragraph (5)
5 and inserting the following:

6 “(5) TRANSPORTATION STATISTICS.—Col-
7 lecting, compiling, analyzing, and publishing a com-
8 prehensive set of transportation statistics on the per-
9 formance and impacts of the national transportation
10 system, including statistics on—

11 “(A) transportation safety across all modes
12 and intermodally;

13 “(B) the state of good repair of United
14 States transportation infrastructure;

15 “(C) the extent, connectivity, and condition
16 of the transportation system, building on the
17 national transportation atlas database devel-
18 oped under subsection (g);

19 “(D) economic efficiency across the entire
20 transportation sector;

21 “(E) the effects of the transportation sys-
22 tem on global and domestic economic competi-
23 tiveness;

24 “(F) demographic, economic, and other
25 variables influencing travel behavior, including

1 choice of transportation mode and goods move-
2 ment;

3 “(G) transportation-related variables that
4 influence the domestic economy and global
5 competitiveness;

6 “(H) economic costs and impacts for pas-
7 senger travel and freight movement;

8 “(I) intermodal and multimodal passenger
9 movement; and

10 “(J) consequences of transportation for the
11 environment.”;

12 (2) by striking subsection (d) and inserting the
13 following:

14 “(d) ACCESS TO FEDERAL DATA.—In carrying out
15 subsection (c), the Director shall be provided access to all
16 transportation and transportation-related information and
17 data, including safety-related data, held by an agency of
18 the Department of Transportation and, upon written re-
19 quest and subject to any statutory or regulatory restric-
20 tions, to all such data held by any other Federal Govern-
21 ment agency, that is germane to carrying out subsection
22 (c).”;

23 (3) in subsection (n) by striking “Mass Tran-
24 sit” and inserting “Alternative Transportation”; and

25 (4) in subsection (o)(2)—

1 (A) in subparagraph (A) by inserting
2 “and” after the semicolon;
3 (B) by striking subparagraph (B); and
4 (C) by redesignating subparagraph (C) as
5 subparagraph (B).

6 **SEC. 7023. ADMINISTRATIVE AUTHORITY.**

7 Section 112 of title 49, United States Code, is
8 amended by adding at the end the following:

9 “(f) PROGRAM EVALUATION AND OVERSIGHT.—For
10 each of fiscal years 2013 through 2016, the Administrator
11 may expend not more than 1 ½ percent of the amounts
12 authorized to be appropriated for the administration and
13 operation of the Research and Innovative Technology Ad-
14 ministration to carry out the coordination, evaluation, and
15 oversight of the programs administered by the Administra-
16 tion.

17 “(g) COLLABORATIVE RESEARCH AND DEVELOP-
18 MENT.—

19 “(1) IN GENERAL.—To encourage innovative
20 solutions to multimodal transportation problems and
21 stimulate the deployment of new technology, the Ad-
22 ministrator may carry out, on a cost-shared basis,
23 collaborative research and development with—

24 “(A) non-Federal entities, including State
25 and local governments, foreign governments, in-

1 stitutions of higher education, corporations, in-
2 stitutions, partnerships, sole proprietorships,
3 and trade associations that are incorporated or
4 established under the laws of any State;

5 “(B) Federal laboratories; and

6 “(C) other Federal agencies.

7 “(2) COOPERATION, GRANTS, CONTRACTS, AND
8 AGREEMENTS.—Notwithstanding any other provision
9 of law, the Administrator may directly initiate con-
10 tracts, grants, cooperative research and development
11 agreements (as defined in section 12 of the Steven-
12 son-Wydler Technology Innovation Act of 1980 (15
13 U.S.C. 3710a)), and other agreements to fund, and
14 accept funds from, the Transportation Research
15 Board of the National Research Council of the Na-
16 tional Academy of Sciences, State departments of
17 transportation, cities, counties, institutions of higher
18 education, associations, and the agents of those enti-
19 ties to carry out joint transportation research and
20 technology efforts.

21 “(3) FEDERAL SHARE.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B), the Federal share of the cost of an
24 activity carried out under paragraph (2) shall
25 not exceed 50 percent.

1 “(B) EXCEPTION.—If the Secretary deter-
2 mines that the activity is of substantial public
3 interest or benefit, the Secretary may approve
4 a greater Federal share.

5 “(C) 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 an activity de-
10 scribed in subparagraph (A).

11 “(4) USE OF TECHNOLOGY.—The research, de-
12 velopment, or use of a technology under a contract,
13 grant, cooperative research and development agree-
14 ment, or other agreement entered into under this
15 subsection, including the terms under which the
16 technology may be licensed and the resulting royal-
17 ties may be distributed, shall be subject to the Ste-
18 venson-Wydler Technology Innovation Act of 1980
19 (15 U.S.C. 3701 et seq.).”.

20 **SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) ADDITIONAL REPEALS.—Sections 5308, 5309,
22 5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Ac-
23 countable, Flexible, Efficient Transportation Equity Act:
24 A Legacy for Users are repealed.

1 (b) TABLE OF CONTENTS FOR SAFETEA-LU.—The
2 table of contents for the Safe, Accountable, Flexible, Effi-
3 cient Transportation Equity Act: A Legacy for Users is
4 amended by striking the items relating to sections 5303
5 through 5310, 5501, 5506, 5507, 5511, and 5513.

6 (c) CONFORMING AMENDMENT.—Section 6010(c) of
7 the Safe, Accountable, Flexible, Efficient Transportation
8 Equity Act: A Legacy for Users (23 U.S.C. 512 note) is
9 amended by striking “subtitle C of title V of this Act”
10 and inserting “section 501 of title 23, United States
11 Code”.

12 **TITLE VIII—RAILROADS**
13 **Subtitle A—Repeals and Reforms of**
14 **Intercity Passenger Rail Capital**
15 **Grant Programs**

16 **SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III**
17 **RAILROADS.**

18 Chapter 223 of title 49, United States Code, and the
19 item relating thereto in the table of chapters for subtitle
20 V of such title, are repealed.

21 **SEC. 8002. CONGESTION GRANTS.**

22 Section 24105 of title 49, United States Code, and
23 the item relating thereto in the table of sections for chap-
24 ter 241 of such title, are repealed.

1 **SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS**
2 **TO STATES.**

3 (a) AMENDMENTS.—Section 24402 of title 49,
4 United States Code, is amended—

5 (1) in the section heading, by striking “**CAP-**
6 **ITAL INVESTMENT GRANTS TO SUPPORT**
7 **INTERCITY PASSENGER RAIL SERVICE**” and in-
8 serting “**INTERCITY PASSENGER RAIL CAPITAL**
9 **GRANTS TO STATES**”;

10 (2) by striking subsection (b);

11 (3) by redesignating subsections (c) through (l)
12 as subsections (b) through (k), respectively;

13 (4) in subsection (b)(1)(D), as so redesignated
14 by paragraph (3) of this subsection, by striking
15 “that if an applicant has selected the proposed oper-
16 ator of its service competitively, that the applicant
17 provide” and inserting “that the applicant shall se-
18 lect the proposed operator of its service competi-
19 tively, and that the applicant shall provide”;

20 (5) in subsection (b)(2)(B), as so redesignated
21 by paragraph (3) of this subsection—

22 (A) by inserting “and” at the end of clause

23 (ii); and

24 (B) by inserting “and” at the end of clause

25 (iii); and

26 (C) by striking clauses (iv) and (v);

1 (6) in subsection (c), as so redesignated by
2 paragraph (3) of this subsection, by striking “sub-
3 section (c)(1)(A)” and inserting “subsection
4 (b)(1)(A)”;

5 (7) in subsection (d), as so redesignated by
6 paragraph (3) of this subsection, by striking “sub-
7 section (g)” and inserting “subsection (f)”;

8 (8) in subsection (e)(2), as so redesignated by
9 paragraph (3) of this subsection, by striking “sub-
10 section (c)” and inserting “subsection (b)”;

11 (9) in subsection (f), as so redesignated by
12 paragraph (3) of this subsection, by striking para-
13 graphs (3) and (4); and

14 (10) in subsection (g), as so redesignated by
15 paragraph (3) of this subsection, by amending the
16 second sentence to read as follows: “If any amount
17 provided as a grant under this section is not obli-
18 gated within 3 years after the date on which the
19 State is awarded the grant, such amount shall be re-
20 scinded and deposited to the general fund of the
21 Treasury, where such amount shall be dedicated for
22 the sole purpose of deficit reduction and prohibited
23 from use as an offset for other spending increases
24 or revenue reductions.”.

1 (b) CONFORMING AMENDMENT.—The item relating
2 to section 24402 in the table of sections for chapter 244
3 of title 49, United States Code, is amended to read as
4 follows:

“Intercity passenger rail capital grants to States.”.

5 **Subtitle B—Amtrak Reforms**

6 **SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EX-** 7 **PENSES.**

8 Section 101(a) of the Passenger Rail Investment and
9 Improvement Act of 2008 (Division B of Public Law 110–
10 432, 122 Stat. 4908) is amended—

11 (1) in paragraph (4), by striking
12 “\$616,000,000” and inserting “\$466,000,000”; and

13 (2) in paragraph (5), by striking
14 “\$631,000,000” and inserting “\$473,250,000”.

15 **SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.**

16 Section 24305 of title 49, United States Code, is
17 amended by adding at the end the following new sub-
18 section:

19 “(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—

20 “(1) LIMITATIONS.—Amtrak may not use any
21 Federal funds for the following purposes:

22 “(A) Hiring or contracting with any out-
23 side legal professional for the purpose of filing,
24 litigating, or otherwise pursuing any cause of

1 action in a Federal or State court against a
2 passenger rail service provider.

3 “(B) Filing, litigating, or otherwise pur-
4 suing in any Federal or State court any cause
5 of action against a passenger rail service pro-
6 vider arising from a competitive bid process in
7 which Amtrak and the passenger rail service
8 provider participated.

9 “(2) DEFINITIONS.—For the purposes of this
10 subsection—

11 “(A) the term ‘outside legal professional’
12 means any individual, corporation, partnership,
13 limited liability corporation, limited liability
14 partnership, or other private entity in the busi-
15 ness of providing legal services that is not em-
16 ployed on a full-time basis solely by Amtrak;
17 and

18 “(B) the term ‘passenger rail service pro-
19 vider’ means any company, partnership, or
20 other public or private entity that operates pas-
21 senger rail service or bids to operate passenger
22 rail service in a competitive process.”.

23 **SEC. 8103. APPLICABILITY OF LAWS.**

24 (a) TITLE 18 VIOLATIONS.—For purposes of sections
25 286, 287, 371, 641, 1001, and 1002 of title 18, United

1 States Code, and, with respect to audits conducted by the
2 Amtrak Office of the Inspector General, for purposes of
3 section 1516 of such title, Amtrak and the Amtrak Office
4 of the Inspector General shall be considered to be agencies
5 of the United States Government.

6 (b) FALSE CLAIMS.—Claims made or presented to
7 Amtrak shall be considered as claims under section
8 3729(b)(2)(A)(ii) of title 31, United States Code, and
9 statements made or presented to Amtrak shall be consid-
10 ered as statements under section 3729(a)(1)(B) and (G)
11 of title 31, United States Code.

12 (c) LIMITATION.—Subsections (a) and (b) shall be ef-
13 fective only with respect to a fiscal year for which Amtrak
14 receives a Federal subsidy.

15 **SEC. 8104. INSPECTOR GENERAL OF AMTRAK.**

16 (a) IN GENERAL.—Chapter 243 is amended by in-
17 serting after section 24316 the following:

18 **“§ 24317. Inspector General**

19 “(a) INVESTIGATION AUTHORITY.—The Inspector
20 General of Amtrak shall have all authority available to
21 other Inspectors General, as necessary in carrying out the
22 duties specified in the Inspector General Act 1978 (5
23 U.S.C. App. 3), to investigate any alleged violation of sec-
24 tion 286, 287, 371, 641, 1001, or 1002 of title 18, and,
25 with respect to audits conducted by the Amtrak Office of

1 the Inspector General, any violation of section 1516 of
2 such title.

3 “(b) SERVICES FROM GENERAL SERVICES ADMINIS-
4 TRATION.—The Inspector General of Amtrak may obtain
5 from the Administrator of General Services, and the Ad-
6 ministrator shall provide to the Inspector General, services
7 under sections 502(a) and 602 of title 40, including travel
8 programs.

9 “(c) QUALIFIED IMMUNITY.—

10 “(1) IN GENERAL.—An employee of the Amtrak
11 Office of Inspector General shall enjoy the same per-
12 sonal qualified immunity from lawsuit or liability as
13 the employees of other inspectors general that oper-
14 ate under authority of the Inspector General Act of
15 1978 with respect to the performance of investiga-
16 tive, audit, or inspection functions authorized under
17 that Act that are carried out for the Amtrak Office
18 of Inspector General.

19 “(2) FEDERAL GOVERNMENT LIABILITY.—No
20 liability of any kind shall attach to or rest upon the
21 United States for any damages from or by any ac-
22 tions of the Amtrak Office of Inspector General, its
23 employees, agents, or representatives.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for chapter 243 is amended by inserting after the
3 item relating to section 24316 the following:

“24317. Inspector General.”.

4 **SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.**

5 Section 24310 is amended to read as follows:

6 **“§ 24310. Management accountability**

7 “(a) IN GENERAL.—Promptly after the date of enact-
8 ment of the American Energy and Infrastructure Jobs Act
9 of 2012, and again not later than 5 years after the date
10 of enactment of the Passenger Rail Investment and Im-
11 provement Act of 2008, the Inspector General of the De-
12 partment of Transportation shall complete an overall as-
13 sessment of the progress made by the Department of
14 Transportation, and the Inspector General of Amtrak
15 shall complete an overall assessment of the progress made
16 by Amtrak management, in implementing the provisions
17 of the Passenger Rail Investment and Improvement Act
18 of 2008.

19 “(b) ASSESSMENT.—The management assessment
20 undertaken by the Amtrak Inspector General may include
21 a review of—

22 “(1) effectiveness in improving annual financial
23 planning;

24 “(2) effectiveness in implementing improved fi-
25 nancial accounting;

1 “(3) efforts to implement minimum train per-
2 formance standards;

3 “(4) progress maximizing revenues, minimizing
4 Federal subsidies, and improving financial results;
5 and

6 “(5) any other aspect of Amtrak operations the
7 Amtrak Inspector General finds appropriate to re-
8 view.”.

9 **SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.**

10 (a) **AUTHORITY.**—Section 24305(c)(4) of title 49,
11 United States Code, is amended by striking “only if reve-
12 nues from the services each year at least equal the cost
13 of providing the services” and inserting “only as provided
14 in subsection (h)”.

15 (b) **PROCEDURES.**—Section 24305 of title 49, United
16 States Code, is further amended by adding at the end the
17 following new subsection:

18 “(h) **FOOD AND BEVERAGE SERVICE.**—

19 “(1) **IN GENERAL.**—Except as provided in para-
20 graph (6), food and beverage service may be pro-
21 vided on Amtrak trains only by a bidder selected by
22 the Federal Railroad Administration under para-
23 graph (5). The Federal Railroad Administration may
24 consult with and obtain assistance from the General

1 Services Administration in carrying out this sub-
2 section.

3 “(2) REQUESTS FOR PROPOSALS.—Not later
4 than 60 days after the date of enactment of this
5 subsection, the Federal Railroad Administration
6 shall issue separate requests for proposals for provi-
7 sion of food and beverage service on Amtrak trains
8 on the national rail passenger transportation system
9 for each of subparagraphs (A) through (D) of sec-
10 tion 24102(5).

11 “(3) DEADLINES.—

12 “(A) SUBMITTAL OF BIDS.—Bids for the
13 provision of food and beverage service on Am-
14 trak trains pursuant to the requests for pro-
15 posals issued under paragraph (2) shall be sub-
16 mitted to the Federal Railroad Administration
17 not later than 60 days after the issuance of the
18 relevant request for proposals.

19 “(B) SELECTION OF WINNING BIDS.—The
20 Federal Railroad Administration shall select
21 winning bidders pursuant to paragraph (5) not
22 later than 90 days after the issuance of the rel-
23 evant request for proposals.

1 “(4) AMTRAK PARTICIPATION.—Amtrak may
2 participate in the bidding pursuant to a request for
3 proposals issued under paragraph (2).

4 “(5) SELECTION OF PROVIDERS.—The Federal
5 Railroad Administration shall select for the provision
6 of food and beverage service on Amtrak trains the
7 qualified bidder responding to the request for pro-
8 posals issued under paragraph (2) whose bid would
9 result in the lowest cost, or the greatest source of
10 revenue, to Amtrak.

11 “(6) EXEMPTION.—If no qualified bidder re-
12 sponds to the request for proposals issued under
13 paragraph (2), Amtrak, after transmitting to the
14 Federal Railroad Administration and the Congress
15 an explanation of the reasons for the need of an ex-
16 emption, may request from the Federal Railroad Ad-
17 ministration, and the Federal Railroad Administra-
18 tion may grant, an exemption from the limitations
19 under this subsection.

20 “(7) SUBSIDY FOR NET LOSS.—The Federal
21 Railroad Administration shall provide directly to the
22 entity providing food and beverage service on Am-
23 trak trains any portion of appropriations for Amtrak
24 necessary to cover a net loss resulting from the pro-

1 vision of such service, but only to the extent that
2 such net loss was anticipated in the bid selected.”.

3 **SEC. 8107. APPLICATION OF BUY AMERICA TO AMTRAK.**

4 Section 24305(f) of title 49, United States Code, is
5 amended by adding at the end the following new para-
6 graphs:

7 “(5) The requirements of this subsection apply
8 to all contracts for a project carried out within the
9 scope of the applicable finding, determination, or de-
10 cision under the National Environmental Policy Act
11 of 1969 (42 U.S.C. 4321 et seq.), regardless of the
12 funding source of such contracts, if at least one con-
13 tract for the project is funded with amounts made
14 available to carry out this title.

15 “(6) If the Secretary receives a request for an
16 exemption under this subsection, the Secretary shall
17 provide notice of and an opportunity for public com-
18 ment on the request at least 30 days before making
19 a finding based on the request. Such a notice shall
20 include the information available to the Secretary
21 concerning the request and shall be provided by elec-
22 tronic means, including on the official public Inter-
23 net Web site of the Department of Transportation.
24 If the Secretary grants an exemption under this sub-
25 section, the Secretary shall publish in the Federal

1 Register a detailed justification for the exemption
2 that addresses the public comments received under
3 this paragraph and shall ensure that such justifica-
4 tion is published before the exemption takes effect.”.

5 **Subtitle C—Project Development** 6 **and Review**

7 **SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.**

8 (a) AMENDMENT.—Part B of subtitle V of title 49,
9 United States Code, is amended by adding at the end the
10 following new chapter:

11 **“CHAPTER 229—PROJECT DEVELOPMENT** 12 **AND REVIEW**

“Sec.

“22901. Applicability.

“22902. Definitions.

“22903. Efficient environmental reviews for rail project decisionmaking.

“22904. Integration of planning and environmental review.

“22905. Program for eliminating duplication of environmental reviews.

“22906. Railroad corridor preservation.

“22907. Treatment of railroads for historic preservation.

“22908. Categorical exclusion.

“22909. State assumption of responsibility for categorical exclusions.

“22910. Rail project delivery program.

“22911. Exemption in emergencies.

13 **“§ 22901. Applicability**

14 “The provisions of this chapter—

15 “(1) shall be applicable to any freight or inter-
16 city passenger rail capital project that is carried out
17 or planned to be carried out with the use of Federal
18 funds administered by the Federal Railroad Admin-

1 istration through a grant, contract, loan, or other fi-
2 nancing instrument;

3 “(2) shall be broadly construed; and

4 “(3) may be applied by the Secretary to any
5 class or program of such projects.

6 **“§ 22902. Definitions**

7 “In this chapter, the following definitions apply:

8 “(1) AGENCY.—The term ‘agency’ means any
9 agency, department, or other unit of Federal, State,
10 local, or Indian tribal government.

11 “(2) ENVIRONMENTAL IMPACT STATEMENT.—
12 The term ‘environmental impact statement’ means
13 the detailed statement of environmental impacts re-
14 quired to be prepared under the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

16 “(3) ENVIRONMENTAL LAW.—The term ‘envi-
17 ronmental law’ includes any law that provides proce-
18 dural or substantive protection, as applicable, for the
19 natural or built environment with regard to the con-
20 struction and operation of transportation projects.

21 “(4) ENVIRONMENTAL REVIEW PROCESS.—

22 “(A) IN GENERAL.—The term ‘environ-
23 mental review process’ means the process for
24 preparing for a rail project an environmental
25 impact statement, environmental assessment,

1 categorical exclusion, or other document pre-
2 pared under the National Environmental Policy
3 Act of 1969 (42 U.S.C. 4321 et seq.).

4 “(B) INCLUSIONS.—The term ‘environ-
5 mental review process’ includes the process for
6 and completion of any environmental permit,
7 approval, review, or study required for a rail
8 project under any Federal law other than the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.).

11 “(5) FEDERAL ENVIRONMENTAL LAWS.—The
12 term ‘Federal environmental laws’ means Federal
13 laws governing the review, including through the
14 issuance of permits and other approvals of environ-
15 mental impacts of, the construction and operation of
16 transportation projects. Such term includes section
17 102(2)(C) of the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
19 Federal Water Pollution Control Act (33 U.S.C.
20 1344), section 106 of the National Historic Preser-
21 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
22 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
23 cies Act of 1973 (16 U.S.C. 1536(a)(2),
24 1538(a)(1)(B), 1539(a)(1)(B)).

1 “(6) FEDERAL LEAD AGENCY.—The term ‘Fed-
2 eral lead agency’ means the Department of Trans-
3 portation.

4 “(7) JOINT LEAD AGENCY.—The term ‘joint
5 lead agency’ means an agency designated as a joint
6 lead agency as described in paragraph (1) or (2) of
7 section 22903(b).

8 “(8) LEAD AGENCY.—The term ‘lead agency’
9 means the Department of Transportation and, if ap-
10 plicable, any joint lead agency.

11 “(9) PLANNING PRODUCT.—The term ‘planning
12 product’ means any decision, analysis, study, or
13 other documented result of an evaluation or deci-
14 sionmaking process carried out during rail and
15 transportation planning.

16 “(10) PROJECT SPONSOR.—The term ‘project
17 sponsor’ means the State agency or other entity, in-
18 cluding any private or public-private entity, that
19 seeks approval of the Secretary for a rail project.

20 “(11) RAIL PROJECT.—The term ‘rail project’
21 means any freight or intercity passenger rail capital
22 project that is carried out or is planned to be carried
23 out with the use of Federal funds administered by
24 the Federal Railroad Administration through a
25 grant, contract, loan, or other financing instrument.

1 “(12) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Transportation.

3 “(13) STATE.—The term ‘State’ has the mean-
4 ing given that term in section 22701(3).

5 “(14) STATE TRANSPORTATION DEPART-
6 MENT.—The term ‘State transportation department’
7 means any statewide agency of a State with respon-
8 sibility for one or more modes of transportation.

9 **“§ 22903. Efficient environmental reviews for rail**
10 **project decisionmaking**

11 “(a) APPLICABILITY.—

12 “(1) IN GENERAL.—The project development
13 procedures in this section are applicable to all rail
14 projects for which an environmental impact state-
15 ment is prepared under the National Environmental
16 Policy Act of 1969 and may be applied, to the extent
17 determined appropriate by the Secretary, to other
18 rail projects for which an environmental document is
19 prepared as part of an environmental review process.

20 “(2) FLEXIBILITY.—Any authorities granted in
21 this section may be exercised, and any requirements
22 established in this section may be satisfied, for a rail
23 project, class of projects, or program of rail projects.

24 “(3) FUNDING THRESHOLD.—The Secretary’s
25 approval of a rail project involving Federal funds

1 shall not be considered a Federal action for the pur-
2 poses of the National Environmental Policy Act of
3 1969 if the Federal funding share—

4 “(A) constitutes 15 percent or less of the
5 total estimated project costs; or

6 “(B) is less than \$10,000,000.

7 “(4) PROGRAMMATIC COMPLIANCE.—At the re-
8 quest of a State, the Secretary may modify the pro-
9 cedures developed under this section to encourage
10 programmatic approaches and strategies with re-
11 spect to environmental programs and permits (in
12 lieu of project-by-project reviews).

13 “(b) LEAD AGENCIES.—

14 “(1) IN GENERAL.—If the rail project requires
15 approval from more than one modal administration
16 within the Department of Transportation, the Sec-
17 retary shall designate a single modal administration
18 to serve as the Federal lead agency for the Depart-
19 ment in the environmental review process for the
20 project.

21 “(2) JOINT LEAD AGENCIES.—Nothing in this
22 section precludes another agency from being a joint
23 lead agency in accordance with regulations under the
24 National Environmental Policy Act of 1969.

1 “(3) PROJECT SPONSOR AS JOINT LEAD AGEN-
2 CY.—Any project sponsor that is a State or local
3 governmental entity applying to receive or receiving
4 Federal funds for the rail project shall serve as a
5 joint lead agency with the Department of Transpor-
6 tation for purposes of preparing any environmental
7 document under the National Environmental Policy
8 Act of 1969 and may prepare any such environ-
9 mental document required in support of any action
10 or approval by the Secretary if the Federal lead
11 agency furnishes guidance in such preparation and
12 independently evaluates such document and the doc-
13 ument is approved and adopted by the Secretary
14 prior to the Secretary taking any subsequent action
15 or making any approval based on such document,
16 whether or not the Secretary’s action or approval re-
17 sults in Federal funding.

18 “(4) ENSURING COMPLIANCE.—The Secretary
19 shall ensure that a project sponsor complies with all
20 design and mitigation commitments made jointly by
21 the Secretary and the project sponsor in any envi-
22 ronmental document prepared by the project sponsor
23 in accordance with this subsection, and that such
24 document is appropriately supplemented if rail
25 project changes become necessary.

1 “(5) ADOPTION AND USE OF DOCUMENTS.—
2 Any environmental document prepared in accordance
3 with this subsection shall be adopted and used by
4 any Federal agency in making any approval of a rail
5 project as the document required to be completed
6 under the National Environmental Policy Act of
7 1969.

8 “(6) ROLES AND RESPONSIBILITY OF LEAD
9 AGENCY.—With respect to the environmental review
10 process for any rail project, the lead agency shall
11 have authority and responsibility—

12 “(A) to take such actions as are necessary
13 and proper, within the authority of the lead
14 agency, to facilitate the expeditious resolution
15 of the environmental review process for the rail
16 project; and

17 “(B) to prepare or ensure that any re-
18 quired environmental impact statement or other
19 document required to be completed under the
20 National Environmental Policy Act of 1969 is
21 completed in accordance with this section and
22 other applicable Federal law.

23 “(c) PARTICIPATING AGENCIES.—

1 “(1) IN GENERAL.—The lead agency shall be
2 responsible for inviting and designating participating
3 agencies in accordance with this subsection.

4 “(2) INVITATION.—The lead agency shall iden-
5 tify, as early as practicable in the environmental re-
6 view process for a rail project, any other Federal
7 and non-Federal agencies that may have an interest
8 in the rail project, and shall invite such agencies to
9 become participating agencies in the environmental
10 review process for the rail project. The invitation
11 shall set a deadline for responses to be submitted.
12 The deadline may be extended by the lead agency for
13 good cause.

14 “(3) FEDERAL PARTICIPATING AGENCIES.—Any
15 Federal agency that is invited by the lead agency to
16 participate in the environmental review process for a
17 rail project shall be designated as a participating
18 agency by the lead agency unless the invited agency
19 informs the lead agency, in writing, by the deadline
20 specified in the invitation that the invited agency—

21 “(A) has no jurisdiction or authority with
22 respect to the rail project;

23 “(B) has no expertise or information rel-
24 evant to the rail project; and

1 “(C) does not intend to submit comments
2 on the rail project.

3 “(4) EFFECT OF DESIGNATION.—

4 “(A) REQUIREMENT.—A participating
5 agency shall comply with the requirements of
6 this section and any schedule established under
7 this section.

8 “(B) IMPLICATION.—Designation as a par-
9 ticipating agency under this subsection shall not
10 imply that the participating agency—

11 “(i) supports a proposed rail project;

12 or

13 “(ii) has any jurisdiction over, or spe-
14 cial expertise with respect to evaluation of,
15 the rail project.

16 “(5) COOPERATING AGENCY.—A participating
17 agency may also be designated by a lead agency as
18 a ‘cooperating agency’ under the regulations con-
19 tained in part 1500 of title 40, Code of Federal Reg-
20 ulations.

21 “(6) DESIGNATIONS FOR CATEGORIES OF RAIL
22 PROJECTS.—The Secretary may exercise the authori-
23 ties granted under this subsection for a rail project,
24 class of rail projects, or program of rail projects.

1 “(7) CONCURRENT REVIEWS.—Each partici-
2 pating agency and cooperating agency shall—

3 “(A) carry out obligations of that agency
4 under other applicable law concurrently, and in
5 conjunction, with the review required under the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.); and

8 “(B) formulate and implement administra-
9 tive, policy, and procedural mechanisms to en-
10 able the agency to ensure completion of the en-
11 vironmental review process in a timely, coordi-
12 nated, and environmentally responsible manner.

13 “(d) RAIL PROJECT INITIATION.—The project spon-
14 sor shall notify the Secretary of the type of work, length,
15 and general location of the proposed rail project, together
16 with a statement of any Federal approvals anticipated to
17 be necessary for the proposed rail project, for the purpose
18 of informing the Secretary that the environmental review
19 process should be initiated. The project sponsor may sat-
20 isfy this requirement by submitting to the Secretary a
21 draft notice for publication in the Federal Register an-
22 nouncing the preparation of an environmental impact
23 statement for the rail project.

24 “(e) PURPOSE AND NEED.—

1 “(1) PARTICIPATION.—As early as practicable
2 during the environmental review process, the lead
3 agency shall provide an opportunity for involvement
4 by participating agencies and the public in defining
5 the purpose and need for a rail project.

6 “(2) DEFINITION.—Following participation
7 under paragraph (1), the lead agency shall define
8 the rail project’s purpose and need for purposes of
9 any document which the lead agency is responsible
10 for preparing for the rail project.

11 “(3) OBJECTIVES.—The statement of purpose
12 and need shall include a clear statement of the ob-
13 jectives that the proposed action is intended to
14 achieve, which may include—

15 “(A) achieving a transportation objective
16 identified in an applicable rail or transportation
17 plan;

18 “(B) supporting land use, economic devel-
19 opment, or growth objectives established in ap-
20 plicable Federal, State, local, or tribal plans;

21 “(C) serving national defense, national se-
22 curity, or other national objectives, as estab-
23 lished in Federal laws, plans, or policies; and

1 “(D) serving the purpose for which the ap-
2 plicable grant, contract, loan, or other financing
3 program was established.

4 “(4) ALTERNATIVES ANALYSIS.—

5 “(A) PARTICIPATION.—As early as prac-
6 ticable during the environmental review process,
7 the lead agency shall provide an opportunity for
8 involvement by participating agencies and the
9 public in determining the range of alternatives
10 to be considered for a rail project.

11 “(B) RANGE OF ALTERNATIVES.—

12 “(i) IN GENERAL.—Following partici-
13 pation under paragraph (1), the lead agen-
14 cy shall determine the range of alternatives
15 for consideration in any document which
16 the lead agency is responsible for pre-
17 paring for the rail project.

18 “(ii) RESTRICTION.—A Federal agen-
19 cy may not require the evaluation of any
20 alternative that was evaluated, but not
21 adopted—

22 “(I) in any prior State or Fed-
23 eral environmental document with re-
24 gard to the applicable transportation
25 or rail plan or program; or

1 “(II) after the preparation of a
2 programmatic or tiered environmental
3 document that evaluated alternatives
4 to the rail project.

5 “(iii) LEGAL SUFFICIENCY.—The
6 evaluation of the range of alternatives shall
7 be deemed legally sufficient if the environ-
8 mental document complies with the re-
9 quirements of this paragraph.

10 “(C) METHODOLOGIES.—

11 “(i) IN GENERAL.—The lead agency
12 also shall determine, after consultation
13 with participating agencies as part of the
14 scoping process, the methodologies to be
15 used and the level of detail required in the
16 analysis of each alternative for a rail
17 project.

18 “(ii) COMMENTS.—Each participating
19 agency shall limit comments on such meth-
20 odologies to those issues that are within
21 the authority and expertise of such partici-
22 pating agency.

23 “(iii) STUDIES.—The lead agency may
24 not conduct studies proposed by any par-
25 ticipating agency that are not within the

1 authority or expertise of such participating
2 agency.

3 “(D) PREFERRED ALTERNATIVE.—At the
4 discretion of the lead agency, the preferred al-
5 ternative for a rail project, after being identi-
6 fied, may be developed to a higher level of detail
7 than other alternatives in order to facilitate the
8 development of mitigation measures or concu-
9 rent compliance with other applicable laws if
10 the lead agency determines that the develop-
11 ment of such higher level of detail will not pre-
12 vent the lead agency from making an impartial
13 decision as to whether to accept another alter-
14 native which is being considered in the environ-
15 mental review process.

16 “(E) LIMITATIONS ON THE EVALUATION
17 OF IMPACTS EVALUATED IN PRIOR ENVIRON-
18 MENTAL DOCUMENTS.—

19 “(i) IN GENERAL.—The lead agency
20 may not reevaluate, and a Federal agency
21 may not require the reevaluation of, cumu-
22 lative impacts or growth-inducing impacts
23 where such impacts were previously evalu-
24 ated in—

1 “(I) a rail transportation plan or
2 program;

3 “(II) a prior environmental docu-
4 ment approved by the Secretary; or

5 “(III) a prior State environ-
6 mental document approved pursuant
7 to a State law that is substantially
8 equivalent to section 102(2)(C) of the
9 National Environmental Policy Act of
10 1969 (42 U.S.C. 4332(2)(C)).

11 “(ii) LEGAL SUFFICIENCY.—The eval-
12 uation of cumulative impacts and growth
13 inducing impacts shall be deemed legally
14 sufficient if the environmental document
15 complies with the requirements of this
16 paragraph.

17 “(5) EFFECTIVE DECISIONMAKING.—

18 “(A) CONCURRENCE.—At the discretion of
19 the lead agency, a participating agency shall be
20 presumed to concur in the determinations made
21 by the lead agency under this subsection unless
22 the participating agency submits an objection to
23 the lead agency in writing within 30 days after
24 receiving notice of the lead agency’s determina-

1 tion and specifies the statutory basis for the ob-
2 jection.

3 “(B) ADOPTION OF DETERMINATION.—If
4 the participating agency concurs or does not ob-
5 ject within the 30-day period, the participating
6 agency shall adopt the lead agency’s determina-
7 tion for purposes of any reviews, approvals, or
8 other actions taken by the participating agency
9 as part of the environmental review process for
10 the rail project.

11 “(f) COORDINATION AND SCHEDULING.—

12 “(1) COORDINATION PLAN.—

13 “(A) IN GENERAL.—The lead agency shall
14 establish a rail plan for coordinating public and
15 agency participation in and comment on the en-
16 vironmental review process for a rail project,
17 category of rail projects, or program of rail
18 projects. The coordination plan may be incor-
19 porated into a memorandum of understanding.

20 “(B) SCHEDULE.—

21 “(i) IN GENERAL.—The lead agency
22 may establish as part of the coordination
23 plan, after consultation with each partici-
24 pating agency for the rail project and with
25 each State in which the rail project is lo-

1 cated (and, if the State is not the project
2 sponsor, with the project sponsor), a
3 schedule for completion of the environ-
4 mental review process for the rail project.

5 “(ii) FACTORS FOR CONSIDER-
6 ATION.—In establishing the schedule, the
7 lead agency shall consider factors such
8 as—

9 “(I) the responsibilities of par-
10 ticipating agencies under applicable
11 laws;

12 “(II) resources available to the
13 cooperating agencies;

14 “(III) overall size and complexity
15 of the rail project;

16 “(IV) the overall schedule for
17 and cost of the rail project; and

18 “(V) the sensitivity of the natural
19 and historic resources that could be
20 affected by the rail project.

21 “(C) CONSISTENCY WITH OTHER TIME PE-
22 RIODS.—A schedule under subparagraph (B)
23 shall be consistent with any other relevant time
24 periods established under Federal law.

1 “(D) MODIFICATION.—The lead agency
2 may—

3 “(i) lengthen a schedule established
4 under subparagraph (B) for good cause;
5 and

6 “(ii) shorten a schedule only with the
7 concurrence of the affected cooperating
8 agencies.

9 “(E) DISSEMINATION.—A copy of a sched-
10 ule established under subparagraph (B), and of
11 any modifications to the schedule, shall be—

12 “(i) provided to all participating agen-
13 cies and to the State transportation de-
14 partment of each State in which the rail
15 project is located (and, if the State is not
16 the project sponsor, to the project spon-
17 sor); and

18 “(ii) made available to the public.

19 “(2) COMMENT DEADLINES.—The lead agency
20 shall establish the following deadlines for comment
21 during the environmental review process for a rail
22 project:

23 “(A) For comments by agencies and the
24 public on a draft environmental impact state-
25 ment, a period of not more than 60 days after

1 publication in the Federal Register of notice of
2 the date of public availability of such document,
3 unless—

4 “(i) a different deadline is established
5 by agreement of the lead agency, the
6 project sponsor, and all participating agen-
7 cies; or

8 “(ii) the deadline is extended by the
9 lead agency for good cause.

10 “(B) For all other comment periods estab-
11 lished by the lead agency for agency or public
12 comments in the environmental review process,
13 a period of no more than 30 days from avail-
14 ability of the materials on which comment is re-
15 quested, unless—

16 “(i) a different deadline is established
17 by agreement of the lead agency, the
18 project sponsor, and all participating agen-
19 cies; or

20 “(ii) the deadline is extended by the
21 lead agency for good cause.

22 “(3) DEADLINES FOR DECISIONS UNDER
23 OTHER LAWS.—

24 “(A) PRIOR APPROVAL DEADLINE.—If a
25 participating agency is required to make a de-

1 termination regarding or otherwise approve or
2 disapprove the rail project prior to the record of
3 decision or finding of no significant impact of
4 the lead agency, such participating agency shall
5 make such determination or approval no later
6 than 30 days after the lead agency publishes
7 notice of the availability of a final environ-
8 mental impact statement or other final environ-
9 mental document, or no later than such other
10 date that is otherwise required by law, which-
11 ever occurs first.

12 “(B) OTHER DEADLINES.—With regard to
13 any determination or approval of a partici-
14 pating agency that is not subject to subpara-
15 graph (A), each participating agency shall make
16 any required determination regarding or other-
17 wise approve or disapprove the rail project no
18 later than 90 days after the date that the lead
19 agency approves the record of decision or find-
20 ing of no significant impact for the rail project,
21 or not later than such other date that is other-
22 wise required by law, whichever occurs first.

23 “(C) DEEMED APPROVED.—In the event
24 that any participating agency fails to make a
25 determination or approve or disapprove the rail

1 project within the applicable deadline described
2 in subparagraphs (A) and (B), the rail project
3 shall be deemed approved by such participating
4 agency and such approval shall be deemed to
5 comply with the applicable requirements of Fed-
6 eral law.

7 “(D) JUDICIAL REVIEW.—

8 “(i) IN GENERAL.—An approval of a
9 rail project under subparagraph (C) shall
10 not be subject to judicial review.

11 “(ii) WRITTEN FINDING.—The Sec-
12 retary may issue a written finding
13 verifying the approval made in accordance
14 with this paragraph.

15 “(g) ISSUE IDENTIFICATION AND RESOLUTION.—

16 “(1) COOPERATION.—The lead agency and the
17 participating agencies shall work cooperatively in ac-
18 cordance with this section to identify and resolve
19 issues that could delay completion of the environ-
20 mental review process or could result in denial of
21 any approvals required for the rail project under ap-
22 plicable laws.

23 “(2) LEAD AGENCY RESPONSIBILITIES.—The
24 lead agency shall make information available to the
25 participating agencies as early as practicable in the

1 environmental review process regarding the environ-
2 mental and socioeconomic resources located within
3 the rail project area and the general locations of the
4 alternatives under consideration. Such information
5 may be based on existing data sources, including ge-
6 ographic information systems mapping.

7 “(3) PARTICIPATING AGENCY RESPONSIBIL-
8 ITIES.—Based on information received from the lead
9 agency, participating agencies shall identify, as early
10 as practicable, any issues of concern regarding the
11 rail project’s potential environmental or socio-
12 economic impacts. In this paragraph, issues of con-
13 cern include any issues that could substantially delay
14 or prevent an agency from granting a permit or
15 other approval that is needed for the rail project.

16 “(4) ISSUE RESOLUTION.—

17 “(A) MEETING OF PARTICIPATING AGEN-
18 CIES.—At any time upon request of a project
19 sponsor or the Governor of a State in which the
20 rail project is located, the lead agency shall
21 promptly convene a meeting with the relevant
22 participating agencies, the project sponsor, and
23 the Governor (if the meeting was requested by
24 the Governor) to resolve issues that could delay
25 completion of the environmental review process

1 or could result in denial of any approvals re-
2 quired for the rail project under applicable
3 laws.

4 “(B) NOTICE THAT RESOLUTION CANNOT
5 BE ACHIEVED.—If a resolution cannot be
6 achieved within 30 days following such a meet-
7 ing and a determination by the lead agency that
8 all information necessary to resolve the issue
9 has been obtained, the lead agency shall notify
10 the heads of all participating agencies, the
11 project sponsor, the Governor, the Committee
12 on Environment and Public Works of the Sen-
13 ate, the Committee on Transportation and In-
14 frastructure of the House of Representatives,
15 and the Council on Environmental Quality, and
16 shall publish such notification in the Federal
17 Register.

18 “(C) RESOLUTION FINAL.—

19 “(i) IN GENERAL.—The lead agency
20 and participating agencies may not recon-
21 sider the resolution of any issue agreed to
22 by the relevant agencies in a meeting
23 under subparagraph (A).

24 “(ii) COMPLIANCE WITH APPLICABLE
25 LAW.—Any such resolution shall be

1 deemed to comply with applicable law not-
2 withstanding that the agencies agreed to
3 such resolution prior to the approval of the
4 environmental document.

5 “(h) STREAMLINED DOCUMENTATION AND DECI-
6 SIONMAKING.—

7 “(1) IN GENERAL.—The lead agency in the en-
8 vironmental review process for a rail project, in
9 order to reduce paperwork and expedite decision-
10 making, shall prepare a condensed final environ-
11 mental impact statement.

12 “(2) CONDENSED FORMAT.—A condensed final
13 environmental impact statement for a rail project in
14 the environmental review process shall consist only
15 of—

16 “(A) an incorporation by reference of the
17 draft environmental impact statement;

18 “(B) any updates to specific pages or sec-
19 tions of the draft environmental impact state-
20 ment as appropriate; and

21 “(C) responses to comments on the draft
22 environmental impact statement and copies of
23 the comments.

24 “(3) TIMING OF DECISION.—Notwithstanding
25 any other provision of law, in conducting the envi-

1 ronmental review process for a rail project, the lead
2 agency shall combine a final environmental impact
3 statement and a record of decision for the rail
4 project into a single document if—

5 “(A) the alternative approved in the record
6 of decision is either a preferred alternative that
7 was identified in the draft environmental im-
8 pact statement or is a modification of such pre-
9 ferred alternative that was developed in re-
10 sponse to comments on the draft environmental
11 impact statement; and

12 “(B) the Secretary determines that the
13 lead agency, participating agency, or the project
14 sponsor has committed to implement the meas-
15 ures applicable to the approved alternative that
16 are identified in the final environmental impact
17 statement.

18 “(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND
19 RE-EVALUATION.—

20 “(1) SUPPLEMENTAL ENVIRONMENTAL RE-
21 VIEW.—After the approval of a record of decision or
22 finding of no significant impact with regard to a rail
23 project, an agency may not require the preparation
24 of a subsequent environmental document for such
25 rail project unless the lead agency determines that—

1 “(A) changes to the rail project will result
2 in new significant impacts that were not evalu-
3 ated in the environmental document; or

4 “(B) new information has become available
5 or changes in circumstances have occurred after
6 the lead agency approval of the rail project that
7 will result in new significant impacts that were
8 not evaluated in the environmental document.

9 “(2) RE-EVALUATIONS.—The Secretary may
10 only require the re-evaluation of a document pre-
11 pared under the National Environmental Policy Act
12 of 1969 (42 U.S.C. 4321 et seq.) if—

13 “(A) the Secretary determines that the
14 events in paragraph (1)(A) or (1)(B) apply; and

15 “(B) more than 5 years has elapsed since
16 the Secretary’s prior approval of the rail project
17 or authorization of rail project funding.

18 “(3) CHANGE TO RECORD OF DECISIONS.—
19 After the approval of a record of decision, the Sec-
20 retary may not require the record of decision to be
21 changed based solely because of a change in the fis-
22 cal circumstances surrounding the rail project.

23 “(j) PERFORMANCE MEASUREMENT.—The Secretary
24 shall establish a program to measure and report on

1 progress toward improving and expediting the planning
2 and environmental review processes.

3 “(k) ASSISTANCE TO AFFECTED STATE AND FED-
4 ERAL AGENCIES.—

5 “(1) IN GENERAL.—For a rail project that is
6 subject to the environmental review process estab-
7 lished under this section and for which funds are
8 made available to a State under funding programs
9 administered by the Federal Railroad Administra-
10 tion, the Secretary may approve a request by the
11 State to provide such funds to affected Federal
12 agencies (including the Department of Transpor-
13 tation), State agencies, and Indian tribes partici-
14 pating in the environmental review process for the
15 rail projects in that State or participating in a State
16 process that has been approved by the Secretary for
17 that State. Such funds may be provided only to sup-
18 port activities that directly and meaningfully con-
19 tribute to expediting and improving transportation
20 or rail project planning and delivery for rail projects
21 in that State.

22 “(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Ac-
23 tivities for which funds may be provided under para-
24 graph (1) include transportation planning activities
25 that precede the initiation of the environmental re-

1 view process, dedicated staffing, training of agency
2 personnel, information gathering and mapping, and
3 development of programmatic agreements.

4 “(3) AMOUNTS.—Requests under paragraph (1)
5 may be approved only for the additional amounts
6 that the Secretary determines are necessary for the
7 Federal agencies, State agencies, or Indian tribes
8 participating in the environmental review process to
9 meet the time limits for environmental review.

10 “(4) CONDITION.—A request under paragraph
11 (1) to expedite time limits for environmental review
12 may be approved only if such time limits are less
13 than the customary time necessary for such review.

14 “(1) REGULATIONS.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of the American Energy and
17 Infrastructure Jobs Act of 2012, the Secretary, by
18 regulation, shall—

19 “(A) implement this section; and

20 “(B) establish methodologies and proce-
21 dures for evaluating the environmental impacts,
22 including cumulative impacts and growth-induc-
23 ing impacts, of rail projects subject to this sec-
24 tion.

1 “(2) COMPLIANCE WITH APPLICABLE LAW.—
2 Any environmental document that utilizes the meth-
3 odologies and procedures established under this sub-
4 section shall be deemed to comply with the applica-
5 ble requirements of—

6 “(A) the National Environmental Policy
7 Act of 1969 (42 U.S.C. 4321 et seq.) or its im-
8 plementing regulations; or

9 “(B) any other Federal environmental
10 statute applicable to rail projects.

11 “(m) LIMITATIONS ON CLAIMS.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of law, a claim arising under Federal law
14 seeking judicial review of a permit, license, or ap-
15 proval issued by a Federal agency for a rail project
16 shall be barred unless it is filed within 90 days after
17 publication of a notice in the Federal Register an-
18 nouncing that the permit, license, or approval is
19 final pursuant to the law under which the agency ac-
20 tion is taken, unless a shorter time is specified in
21 the Federal law pursuant to which judicial review is
22 allowed. Nothing in this subsection shall create a
23 right to judicial review or place any limit on filing
24 a claim that a person has violated the terms of a
25 permit, license, or approval.

1 “(2) NEW INFORMATION.—The preparation of
2 a supplemental environmental impact statement or
3 other environmental document when required by this
4 section shall be considered a separate final agency
5 action and the deadline for filing a claim for judicial
6 review of such action shall be 90 days after the date
7 of publication of a notice in the Federal Register an-
8 nouncing such action.

9 “(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwith-
10 standing any other provision of law, the following limita-
11 tions shall apply to actions brought before a court in con-
12 nection with a rail project under this section:

13 “(1) Venue for any action shall be where the
14 rail project is located.

15 “(2) A specific property interest impacted by
16 the rail project in question must exist in order to
17 have standing to bring an action.

18 “(3) No action may be commenced by any per-
19 son alleging a violation of—

20 “(A) the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.), chapters
22 5 and 7 of title 5, or any other Federal environ-
23 mental law if such Federal law is identified in
24 the draft environmental impact statement, un-
25 less such person provided written notice to the

1 lead agency of the alleged violation of law, and
2 the facts supporting such claim, during the
3 public comment period on the draft environ-
4 mental impact statement; or

5 “(B) any other law with regard to the rail
6 project unless such person provided written no-
7 tice to the applicable approving agency of the
8 alleged violation of law, and the facts sup-
9 porting such claim, during the public comment
10 period on such agency approval.

11 “(4) Elected or appointed officials working for
12 the Federal Government or a State government may
13 not be named in their individual capacities in an ac-
14 tion if they are acting within the scope of their offi-
15 cial duties.

16 **“§ 22904. Integration of planning and environmental**
17 **review**

18 “(a) ADOPTION OF PLANNING PRODUCTS FOR USE
19 IN NEPA PROCEEDINGS.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law and subject to the conditions set
22 forth in subsection (c), the Federal lead agency for
23 a rail project, at the request of the project sponsors,
24 may adopt and use a planning product in pro-

1 proceedings relating to any class of action in the envi-
2 ronmental review process of the rail project.

3 “(2) PARTIAL ADOPTION OF PLANNING PROD-
4 UCTS.—The Federal lead agency may adopt a plan-
5 ning product under paragraph (1) in its entirety or
6 may select portions for adoption.

7 “(3) TIMING.—A determination under para-
8 graph (1) with respect to the adoption of a planning
9 product shall be made at the time the lead agencies
10 decide the appropriate scope of environmental review
11 for the rail project.

12 “(b) APPLICABILITY.—

13 “(1) PLANNING DECISIONS.—Planning deci-
14 sions that may be adopted pursuant to this section
15 include—

16 “(A) a purpose and need or goals and ob-
17 jectives statement for the rail project, including
18 with respect to whether private financial assist-
19 ance or other special financial measures are
20 necessary to implement the rail project;

21 “(B) a decision with respect to rail project
22 location;

23 “(C) a decision with respect to the elimi-
24 nation of unreasonable alternatives and the se-
25 lection of the range of reasonable alternatives

1 for detailed study during the environmental re-
2 view process;

3 “(D) a basic description of the environ-
4 mental setting;

5 “(E) a decision with respect to methodolo-
6 gies for analysis; and

7 “(F) identifications of programmatic level
8 mitigation for potential impacts that the Fed-
9 eral lead agency, in consultation with Federal,
10 State, local, and tribal resource agencies, deter-
11 mines are most effectively addressed at a re-
12 gional or national program level, including—

13 “(i) system-level measures to avoid,
14 minimize, or mitigate impacts of proposed
15 transportation and rail investments on en-
16 vironmental resources, including regional
17 ecosystem and water resources; and

18 “(ii) potential mitigation activities, lo-
19 cations, and investments.

20 “(2) PLANNING ANALYSES.—Planning analyses
21 that may be adopted pursuant to this section include
22 studies with respect to—

23 “(A) freight and passenger rail needs and
24 demands;

25 “(B) regional development and growth;

1 “(C) local land use, growth management,
2 and development;

3 “(D) population and employment;

4 “(E) natural and built environmental con-
5 ditions;

6 “(F) environmental resources and environ-
7 mentally sensitive areas;

8 “(G) potential environmental effects, in-
9 cluding the identification of resources of con-
10 cern and potential cumulative effects on those
11 resources, identified as a result of a statewide
12 or regional cumulative effects assessment; and

13 “(H) mitigation needs for a proposed ac-
14 tion, or programmatic level mitigation, for po-
15 tential effects that the Federal lead agency de-
16 termines are most effectively addressed at a re-
17 gional or national program level.

18 “(c) CONDITIONS.—Adoption and use of a planning
19 product under this section is subject to a determination
20 by the Federal lead agency, in consultation with joint lead
21 agencies and project sponsors as appropriate, that the fol-
22 lowing conditions have been met:

23 “(1) The planning product was developed
24 through a planning process conducted pursuant to
25 applicable Federal law.

1 “(2) The planning process included broad con-
2 sideration of freight and passenger rail needs and
3 potential effects.

4 “(3) During the planning process, notice was
5 provided, to the extent required by applicable law,
6 through publication or other means to Federal,
7 State, and local government agencies and tribal gov-
8 ernments that might have an interest in the pro-
9 posed rail project, and to members of the general
10 public, of the planning products that the planning
11 process might produce and that might be relied on
12 during the environmental review process, and such
13 entities have been provided an appropriate oppor-
14 tunity to participate in the planning process leading
15 to such planning product.

16 “(4) Prior to determining the scope of environ-
17 mental review for the rail project, the joint lead
18 agencies have made documentation relating to the
19 planning product available to Federal, State, and
20 local governmental agencies and tribal governments
21 that may have an interest in the proposed action,
22 and to members of the general public.

23 “(5) There is no significant new information or
24 new circumstance that has a reasonable likelihood of

1 affecting the continued validity or appropriateness of
2 the planning product.

3 “(6) The planning product is based on reliable
4 and reasonably current data and reasonable and sci-
5 entifically acceptable methodologies.

6 “(7) The planning product is documented in
7 sufficient detail to support the decision or the re-
8 sults of the analysis and to meet requirements for
9 use of the information in the environmental review
10 process.

11 “(8) The planning product is appropriate for
12 adoption and use in the environmental review pro-
13 cess for the rail project.

14 “(d) EFFECT OF ADOPTION.—Notwithstanding any
15 other provision of law, any planning product adopted by
16 the Federal lead agency in accordance with this section
17 shall not be reconsidered or made the subject of additional
18 interagency consultation during the environmental review
19 process of the rail project unless the Federal lead agency,
20 in consultation with joint lead agencies and project spon-
21 sors as appropriate, determines that there is significant
22 new information or new circumstances that affect the con-
23 tinued validity or appropriateness of the adopted planning
24 product. Any planning product adopted by the Federal
25 lead agency in accordance with this section may be relied

1 upon and used by other Federal agencies in carrying out
2 reviews of the rail project.

3 “(e) **RULE OF CONSTRUCTION.**—This section may
4 not be construed to make the National Environmental Pol-
5 icy Act of 1969 (42 U.S.C. 4321 et seq.) process applica-
6 ble to the transportation planning processes conducted
7 under chapters 52 and 227 of this title, section 211 of
8 the Passenger Rail Investment and Improvement Act of
9 2008, or section 26101 of this title. Initiation of the Na-
10 tional Environmental Policy Act of 1969 process as a part
11 of, or concurrently with, transportation planning activities
12 does not subject transportation plans and programs to the
13 National Environmental Policy Act of 1969 process. This
14 section may not be construed to affect the use of planning
15 products in the National Environmental Policy Act of
16 1969 process pursuant to other authorities under law or
17 to restrict the initiation of the National Environmental
18 Policy Act of 1969 process during planning.

19 **“§ 22905. Program for eliminating duplication of envi-
20 ronmental reviews**

21 “(a) **ESTABLISHMENT.**—

22 “(1) **IN GENERAL.**—The Secretary shall estab-
23 lish a program to eliminate duplicative environ-
24 mental reviews and approvals under State and Fed-
25 eral law of rail projects. Under this program, a

1 State may use State laws and procedures to conduct
2 reviews and make approvals in lieu of Federal envi-
3 ronmental laws and regulations, consistent with the
4 provisions of this section.

5 “(2) PARTICIPATING STATES.—All States are
6 eligible to participate in the program.

7 “(3) SCOPE OF ALTERNATIVE REVIEW AND AP-
8 PROVAL PROCEDURES.—For purposes of this sec-
9 tion, alternative environmental review and approval
10 procedures may include one or more of the following:

11 “(A) Substitution of one or more State en-
12 vironmental laws for one or more Federal envi-
13 ronmental laws, if the Secretary determines in
14 accordance with this section that the State envi-
15 ronmental laws provide environmental protec-
16 tion and opportunities for public involvement
17 that are substantially equivalent to the applica-
18 ble Federal environmental laws.

19 “(B) Substitution of one or more State
20 regulations for Federal regulations imple-
21 menting one or more Federal environmental
22 laws, if the Secretary determines in accordance
23 with this section that the State regulations pro-
24 vide environmental protection and opportunities

1 for public involvement that are substantially
2 equivalent to the Federal regulations.

3 “(b) APPLICATION.—To participate in the program,
4 a State shall submit to the Secretary an application con-
5 taining such information as the Secretary may require, in-
6 cluding—

7 “(1) a full and complete description of the pro-
8 posed alternative environmental review and approval
9 procedures of the State;

10 “(2) for each State law or regulation included
11 in the proposed alternative environmental review and
12 approval procedures of the State, an explanation of
13 the basis for concluding that the law or regulation
14 meets the requirements under subsection (a)(3); and

15 “(3) evidence of having sought, received, and
16 addressed comments on the proposed application
17 from the public and appropriate Federal environ-
18 mental resource agencies.

19 “(c) REVIEW OF APPLICATION.—The Secretary
20 shall—

21 “(1) review an application submitted under sub-
22 section (b);

23 “(2) approve or disapprove the application in
24 accordance with subsection (d) not later than 90

1 days after the date of the receipt of the application;
2 and

3 “(3) transmit to the State notice of the ap-
4 proval or disapproval, together with a statement of
5 the reasons for the approval or disapproval.

6 “(d) APPROVAL OF STATE PROGRAMS.—

7 “(1) IN GENERAL.—The Secretary shall ap-
8 prove each such application if the Secretary finds
9 that the proposed alternative environmental review
10 and approval procedures of the State are substan-
11 tially equivalent to the applicable Federal environ-
12 mental laws and Federal regulations.

13 “(2) EXCLUSION.—The National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
15 and the Endangered Species Act of 1973 (16 U.S.C.
16 1531 et seq.) shall not apply to any decision by the
17 Secretary to approve or disapprove any application
18 submitted pursuant to this section.

19 “(e) COMPLIANCE WITH PERMITS.—Compliance with
20 a permit or other approval of a rail project issued pursu-
21 ant to a program approved by the Secretary under this
22 section shall be deemed compliance with the Federal laws
23 and regulations identified in the program approved by the
24 Secretary pursuant to this section.

25 “(f) REVIEW AND TERMINATION.—

1 “(1) REVIEW.—All State alternative environ-
2 mental review and approval procedures approved
3 under this section shall be reviewed by the Secretary
4 not less than once every 5 years.

5 “(2) PUBLIC NOTICE AND COMMENT.—In con-
6 ducting the review process under paragraph (1), the
7 Secretary shall provide notice and an opportunity for
8 public comment.

9 “(3) EXTENSIONS AND TERMINATIONS.—At the
10 conclusion of the review process, the Secretary may
11 extend the State alternative environmental review
12 and approval procedures for an additional 5-year pe-
13 riod or terminate the State program.

14 “(g) REPORT TO CONGRESS.—Not later than 2 years
15 after the date of enactment of this section, and annually
16 thereafter, the Secretary shall submit to Congress a report
17 that describes the administration of the program.

18 **“§ 22906. Railroad corridor preservation**

19 “(a) IN GENERAL.—The Secretary may assist an ap-
20 plicant to acquire railroad right-of-way and adjacent real
21 property interests before the completion of the environ-
22 mental reviews for any rail project that may use the right-
23 of-way and the real property interests if the acquisition
24 is otherwise permitted under Federal law. The Secretary

1 may establish restrictions on such an acquisition as the
2 Secretary determines to be necessary and appropriate.

3 “(b) ENVIRONMENTAL REVIEWS.—Railroad right-of-
4 way and real property interests acquired under this section
5 may not be developed in anticipation of final approval of
6 the rail project until all required environmental reviews
7 for the rail project have been completed.

8 **“§ 22907. Treatment of railroads for historic preserva-**
9 **tion**

10 “Except for a railroad operated as a historic site with
11 the purpose of preserving the railroad for listing in the
12 National Register of Historic Places, a railroad subject to
13 the safety regulation jurisdiction of the Federal Railroad
14 Administration, or any portion of such railroad, or any
15 property in current or former use by a railroad and in-
16 tended to be restored to use by a railroad, shall not be
17 considered a historic site, district, object, structure, or
18 property of national, State, or local significance for pur-
19 poses of section 303 of this title or section 106 or 110
20 of the National Historic Preservation Act (16 U.S.C. 470f
21 or 470h–2) by virtue of being listed as a resource in, or
22 eligible for listing in, the National Register of Historic
23 Places. At the discretion of the Secretary, with the advice
24 of the Department of the Interior, significant individual

1 elements of a railroad such as depots and major bridges
2 would be subject to such section 106 or 110.

3 **“§ 22908. Categorical exclusion**

4 “(a) TREATMENT OF RAIL PROJECTS.—The Sec-
5 retary shall, for the purposes of this title, treat a rail
6 project as a class of action categorically excluded from the
7 requirements relating to the environmental assessment
8 process or the preparation of environmental impact state-
9 ments under the standards promulgated by the Council
10 on Environmental Quality (40 C.F.R. 1508.4), if such rail
11 project—

12 “(1) replaces or maintains existing railroad
13 equipment; track and bridge structures; electrifica-
14 tion, communication, signaling, or security facilities;
15 stations; maintenance-of-way and maintenance-of-
16 equipment bases; or other existing railroad-related
17 facilities;

18 “(2) is a rail line addition of any length within
19 an existing right of way;

20 “(3) is related to the implementation of positive
21 train control systems, as required by section 20157
22 of title 49, United States Code; or

23 “(4) replaces, reconstructs, or rehabilitates an
24 existing railroad bridge, including replacement of a

1 culvert, that does not require the acquisition of a
2 significant amount of right-of-way.

3 “(b) ADDITIONAL ACTIONS.—If a rail project quali-
4 fies for categorical exclusion under this section except for
5 additional actions that do not fit in the relevant category,
6 the rail project may be categorically excluded if the Sec-
7 retary determines, based on information provided by the
8 project sponsor, that the additional actions meet the
9 standards for categorical exclusion promulgated by the
10 Council on Environmental Quality (40 C.F.R. 1508.4).

11 “(c) OTHER OPERATING ADMINISTRATIONS’ CAT-
12 EGORICAL EXCLUSIONS.—If a rail project would be eligi-
13 ble for categorical exclusion from the requirements relat-
14 ing to the environmental assessment process or the prepa-
15 ration of environmental impact statements by another op-
16 erating administration of the Department of Transpor-
17 tation, the Federal Railroad Administration may categori-
18 cally exclude the rail project.

19 **“§ 22909. State assumption of responsibility for cat-**
20 **egorical exclusions**

21 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

22 “(1) IN GENERAL.—The Secretary may assign,
23 and a State may assume, responsibility for deter-
24 mining whether certain designated activities are in-
25 cluded within classes of action identified by the Sec-

1 retary that are categorically excluded from require-
2 ments for environmental assessments or environ-
3 mental impact statements pursuant to regulations
4 promulgated by the Council on Environmental Qual-
5 ity under part 1500 of title 40, Code of Federal
6 Regulations (as in effect on October 1, 2003).

7 “(2) SCOPE OF AUTHORITY.—A determination
8 described in paragraph (1) shall be made by a State
9 in accordance with criteria established by the Sec-
10 retary and for any type of activity for which a cat-
11 egorical exclusion classification is appropriate.

12 “(3) CRITERIA.—The criteria under paragraph
13 (2) shall include provisions for public availability of
14 information consistent with section 552 of title 5
15 and the National Environmental Policy Act of 1969
16 (42 U.S.C. 4321 et seq.).

17 “(4) PRESERVATION OF FLEXIBILITY.—The
18 Secretary shall not require a State, as a condition of
19 assuming responsibility under this section, to forego
20 project delivery methods that are otherwise permis-
21 sible for rail projects.

22 “(b) OTHER APPLICABLE FEDERAL LAWS.—

23 “(1) IN GENERAL.—If a State assumes respon-
24 sibility under subsection (a), the Secretary may also
25 assign and the State may assume all or part of the

1 responsibilities of the Secretary for environmental
2 review, consultation, or other related actions re-
3 quired under any Federal environmental law applica-
4 ble to activities that are classified by the Secretary
5 as categorical exclusions, with the exception of gov-
6 ernment-to-government consultation with Indian
7 tribes, subject to the same procedural and sub-
8 stantive requirements as would be required if that
9 responsibility were carried out by the Secretary.

10 “(2) SOLE RESPONSIBILITY.—A State that as-
11 sumes responsibility under paragraph (1) with re-
12 spect to a Federal law shall be solely responsible and
13 solely liable for complying with and carrying out
14 that law, and the Secretary shall have no such re-
15 sponsibility or liability.

16 “(c) MEMORANDA OF UNDERSTANDING.—

17 “(1) IN GENERAL.—The Secretary and the
18 State, after providing public notice and opportunity
19 for comment, shall enter into a memorandum of un-
20 derstanding setting forth the responsibilities to be
21 assigned under this section and the terms and condi-
22 tions under which the assignments are made, includ-
23 ing establishment of the circumstances under which
24 the Secretary would reassume responsibility for cat-
25 egorical exclusion determinations.

1 “(2) TERM.—A memorandum of under-
2 standing—

3 “(A) shall have a term of not more than
4 3 years; and

5 “(B) shall be renewable.

6 “(3) ACCEPTANCE OF JURISDICTION.—In a
7 memorandum of understanding, the State shall con-
8 sent to accept the jurisdiction of the Federal courts
9 for the compliance, discharge, and enforcement of
10 any responsibility of the Secretary that the State as-
11 sumes.

12 “(4) MONITORING.—The Secretary shall—

13 “(A) monitor compliance by the State with
14 the memorandum of understanding and the
15 provision by the State of financial resources to
16 carry out the memorandum of understanding;
17 and

18 “(B) take into account the performance by
19 the State when considering renewal of the
20 memorandum of understanding.

21 “(d) TERMINATION.—The Secretary may terminate
22 any assumption of responsibility under a memorandum of
23 understanding on a determination that the State is not
24 adequately carrying out the responsibilities assigned to the
25 State.

1 “(e) STATE AGENCY DEEMED TO BE FEDERAL
2 AGENCY.—A State agency that is assigned a responsibility
3 under a memorandum of understanding shall be deemed
4 to be a Federal agency for the purposes of the Federal
5 law under which the responsibility is exercised.

6 **“§ 22910. Rail project delivery program**

7 “(a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—The Secretary shall carry
9 out a rail project delivery program (referred to in
10 this section as the ‘program’).

11 “(2) ASSUMPTION OF RESPONSIBILITY.—

12 “(A) IN GENERAL.—Subject to the other
13 provisions of this section, with the written
14 agreement of the Secretary and a State, which
15 may be in the form of a memorandum of under-
16 standing, the Secretary may assign, and the
17 State may assume, the responsibilities of the
18 Secretary with respect to one or more rail
19 projects within the State under the National
20 Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.).

22 “(B) ADDITIONAL RESPONSIBILITY.—If a
23 State assumes responsibility under subpara-
24 graph (A)—

1 “(i) the Secretary may assign to the
2 State, and the State may assume, all or
3 part of the responsibilities of the Secretary
4 for environmental review, consultation, or
5 other action required under any Federal
6 environmental law pertaining to the review
7 or approval of a specific rail project; but

8 “(ii) the Secretary may not assign any
9 responsibility imposed on the Secretary by
10 chapter 227 of this title.

11 “(C) PROCEDURAL AND SUBSTANTIVE RE-
12 QUIREMENTS.—A State shall assume responsi-
13 bility under this section subject to the same
14 procedural and substantive requirements as
15 would apply if that responsibility were carried
16 out by the Secretary.

17 “(D) FEDERAL RESPONSIBILITY.—Any re-
18 sponsibility of the Secretary not explicitly as-
19 sumed by the State by written agreement under
20 this section shall remain the responsibility of
21 the Secretary.

22 “(E) NO EFFECT ON AUTHORITY.—Noth-
23 ing in this section preempts or interferes with
24 any power, jurisdiction, responsibility, or au-
25 thority of an agency, other than the Depart-

1 ment of Transportation, under applicable law
2 (including regulations) with respect to a rail
3 project.

4 “(F) PRESERVATION OF FLEXIBILITY.—
5 The Secretary may not require a State, as a
6 condition of participation in the program, to
7 forego project delivery methods that are other-
8 wise permissible for rail projects.

9 “(b) STATE PARTICIPATION.—

10 “(1) PARTICIPATING STATES.—All States are
11 eligible to participate in the program.

12 “(2) APPLICATION.—Not later than 270 days
13 after the date of enactment of this section, the Sec-
14 retary shall promulgate regulations that establish re-
15 quirements relating to information required to be
16 contained in any application of a State to participate
17 in the program, including, at a minimum—

18 “(A) the rail projects or classes of projects
19 for which the State anticipates exercising the
20 authority that may be granted under the pro-
21 gram;

22 “(B) verification of the financial resources
23 necessary to carry out the authority that may
24 be granted under the program; and

1 “(C) evidence of the notice and solicitation
2 of public comment by the State relating to par-
3 ticipation of the State in the program, including
4 copies of comments received from that solicita-
5 tion.

6 “(3) PUBLIC NOTICE.—

7 “(A) IN GENERAL.—Each State that sub-
8 mits an application under this subsection shall
9 give notice of the intent of the State to partici-
10 pate in the program not later than 30 days be-
11 fore the date of submission of the application.

12 “(B) METHOD OF NOTICE AND SOLICITA-
13 TION.—The State shall provide notice and so-
14 licit public comment under this paragraph by
15 publishing the complete application of the State
16 in accordance with the appropriate public notice
17 law of the State.

18 “(4) SELECTION CRITERIA.—The Secretary
19 may approve the application of a State under this
20 section only if—

21 “(A) the regulatory requirements under
22 paragraph (2) have been met;

23 “(B) the Secretary determines that the
24 State has the capability, including financial and
25 personnel, to assume the responsibility; and

1 “(C) the head of the State agency having
2 primary jurisdiction over rail matters enters
3 into a written agreement with the Secretary de-
4 scribed in subsection (c).

5 “(5) OTHER FEDERAL AGENCY VIEWS.—If a
6 State applies to assume a responsibility of the Sec-
7 retary that would have required the Secretary to
8 consult with another Federal agency, the Secretary
9 shall solicit the views of the Federal agency before
10 approving the application.

11 “(c) WRITTEN AGREEMENT.—A written agreement
12 under this section shall—

13 “(1) be executed by the Governor or the top-
14 ranking transportation official in the State who is
15 charged with responsibility for rail construction;

16 “(2) be in such form as the Secretary may pre-
17 scribe;

18 “(3) provide that the State—

19 “(A) agrees to assume all or part of the re-
20 sponsibilities of the Secretary described in sub-
21 section (a);

22 “(B) expressly consents, on behalf of the
23 State, to accept the jurisdiction of the Federal
24 courts for the compliance, discharge, and en-

1 enforcement of any responsibility of the Secretary
2 assumed by the State;

3 “(C) certifies that State laws (including
4 regulations) are in effect that—

5 “(i) authorize the State to take the
6 actions necessary to carry out the respon-
7 sibilities being assumed; and

8 “(ii) are comparable to section 552 of
9 title 5, including providing that any deci-
10 sion regarding the public availability of a
11 document under those State laws is review-
12 able by a court of competent jurisdiction;
13 and

14 “(D) agrees to maintain the financial re-
15 sources necessary to carry out the responsibil-
16 ities being assumed;

17 “(4) shall have a term of not more than 5
18 years; and

19 “(5) shall be renewable.

20 “(d) JURISDICTION.—

21 “(1) IN GENERAL.—The United States district
22 courts shall have exclusive jurisdiction over any civil
23 action against a State for failure to carry out any
24 responsibility of the State under this section.

1 “(2) LEGAL STANDARDS AND REQUIRE-
2 MENTS.—A civil action under paragraph (1) shall be
3 governed by the legal standards and requirements
4 that would apply in such a civil action against the
5 Secretary had the Secretary taken the actions in
6 question.

7 “(3) INTERVENTION.—The Secretary shall have
8 the right to intervene in any action described in
9 paragraph (1).

10 “(e) EFFECT OF ASSUMPTION OF RESPONSI-
11 BILITY.—A State that assumes responsibility under sub-
12 section (a)(2) shall be solely responsible and solely liable
13 for carrying out, in lieu of the Secretary, the responsibil-
14 ities assumed under subsection (a)(2), until the program
15 is terminated as provided in subsection (j).

16 “(f) LIMITATIONS ON AGREEMENTS.—Nothing in
17 this section permits a State to assume any rulemaking au-
18 thority of the Secretary under any Federal law.

19 “(g) AUDITS.—

20 “(1) IN GENERAL.—To ensure compliance by a
21 State with any agreement of the State under sub-
22 section (c) (including compliance by the State with
23 all Federal laws for which responsibility is assumed
24 under subsection (a)(2)), for each State partici-

1 participating in the program under this section, the Sec-
2 retary shall conduct—

3 “(A) semiannual audits during each of the
4 first 2 years of State participation; and

5 “(B) annual audits during each of the
6 third and fourth years of State participation.

7 “(2) PUBLIC AVAILABILITY AND COMMENT.—

8 “(A) IN GENERAL.—An audit conducted
9 under paragraph (1) shall be provided to the
10 public for comment.

11 “(B) RESPONSE.—Not later than 60 days
12 after the date on which the period for public
13 comment ends, the Secretary shall respond to
14 public comments received under subparagraph
15 (A).

16 “(h) MONITORING.—After the fourth year of partici-
17 pation of the State in the program, the Secretary shall
18 monitor compliance by the State with the written agree-
19 ment, including the provision by the State of financial re-
20 sources to carry out the written agreement.

21 “(i) REPORT TO CONGRESS.—The Secretary shall
22 submit to Congress an annual report that describes the
23 administration of the program.

24 “(j) TERMINATION.—The Secretary may terminate
25 the participation of any State in the program if—

1 “(1) the Secretary determines that the State is
2 not adequately carrying out the responsibilities as-
3 signed to the State;

4 “(2) the Secretary provides to the State—

5 “(A) notification of the determination of
6 noncompliance; and

7 “(B) a period of at least 30 days during
8 which to take such corrective action as the Sec-
9 retary determines is necessary to comply with
10 the applicable agreement; and

11 “(3) the State, after the notification and period
12 provided under paragraph (2), fails to take satisfac-
13 tory corrective action, as determined by Secretary.

14 **“§ 22911. Exemption in emergencies**

15 “If any railroad, track, bridge, or other facility is in
16 operation or under construction when damaged by an
17 emergency declared by the Governor of the State and con-
18 curred in by the Secretary, or declared by the President
19 pursuant to the Robert T. Stafford Disaster Relief and
20 Emergency Assistance Act (42 U.S.C. 5121), is proposed
21 to be reconstructed with Federal funds, and is recon-
22 structed in the same location with the same capacity, di-
23 mensions, and design as before the emergency, then that
24 reconstruction project shall be exempt from any further

1 environmental reviews, approvals, licensing, and permit re-
2 quirements under—

3 “(1) the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.);

5 “(2) sections 402 and 404 of the Federal Water
6 Pollution Control Act (33 U.S.C. 1342, 1344);

7 “(3) the National Historic Preservation Act (16
8 U.S.C. 470 et seq.);

9 “(4) the Migratory Bird Treaty Act (16 U.S.C.
10 703 et seq.);

11 “(5) the Wild and Scenic Rivers Act (16 U.S.C.
12 1271 et seq.);

13 “(6) the Fish and Wildlife Coordination Act (16
14 U.S.C. 661 et seq.);

15 “(7) the Endangered Species Act of 1973 (16
16 U.S.C. 1531 et seq.), except when the reconstruction
17 occurs in designated critical habitat for threatened
18 and endangered species;

19 “(8) Executive Order 11990 (42 U.S.C. 4321
20 note; relating to the protection of wetlands); and

21 “(9) any Federal law (including regulations) re-
22 quiring no net loss of wetlands.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for subtitle V of title 49, United States Code, is

1 amended by inserting after the item relating to chapter
2 227 the following:

“229. Project development and review22901”.

3 **Subtitle D—Railroad Rehabilita-**
4 **tion and Improvement Financ-**
5 **ing**

6 **SEC. 8301. RAILROAD REHABILITATION AND IMPROVE-**
7 **MENT FINANCING.**

8 (a) PURPOSE AND REGULATIONS.—

9 (1) PURPOSE.—The amendments made by this
10 section are intended to encourage a higher level of
11 participation in the railroad rehabilitation and im-
12 provement financing program under section 502 of
13 the Railroad Revitalization and Regulatory Reform
14 Act of 1976 and to make the loan process under
15 that program faster, more efficient, and more pre-
16 dictable.

17 (2) REGULATIONS.—Not later than 1 year after
18 the date of enactment of this Act, the Secretary
19 shall issue regulations implementing the amend-
20 ments made by this section in a manner that
21 achieves the purpose stated in paragraph (1).

22 (b) HIGH-SPEED RAIL.—Section 502(b)(1)(C) of
23 such Act (45 U.S.C. 822(b)(1)(C)) is amended by insert-
24 ing “, including high-speed rail (as defined in section

1 26105(2) of title 49, United States Code) facilities” after
2 “railroad facilities”.

3 (c) PRIVATE INSURANCE.—Section 502(f)(1) of such
4 Act (45 U.S.C. 822(f)(1)) is amended—

5 (1) by striking “under this section a commit-
6 ment” and inserting “under this section private in-
7 surance, including bond insurance, or any other
8 commitment”; and

9 (2) by inserting “or private insurance, including
10 bond insurance,” after “authority and credit risk
11 premiums”.

12 (d) FINANCING OF CREDIT RISK PREMIUM.—Section
13 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended
14 by inserting “, or, at the discretion of the Secretary, in
15 a series of payments over the term of the loan. If private
16 insurance, including bond insurance, is used, the policy
17 premium shall be paid before the loan is disbursed” after
18 “of loan amounts”.

19 (e) COLLATERAL.—

20 (1) FULL VALUE.—Section 502(h)(2) of such
21 Act (45 U.S.C. 822(h)(2)) is amended by inserting
22 “Such collateral shall be valued at 100 percent of
23 the liquidated asset valuation, or going concern valu-
24 ation when applicable.” after “operation of the
25 project.”.

1 (2) DEDICATED REVENUE AND SUBORDINA-
2 TION.—Such section 502(h)(2) is further amended—

3 (A) by striking “(2) The Secretary” and
4 inserting “(2)(A) The Secretary”;

5 (B) by adding at the end of subparagraph
6 (A) the following: “The Secretary may subordi-
7 nate rights of the Secretary under any provision
8 of title 49 or title 23 of the United States Code,
9 to the rights of the Secretary under this section
10 and section 503.”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(B) In the case of an applicant that is a State,
14 an Interstate compact, a local government authority
15 as defined in section 5302 of title 49, United States
16 Code, or a high-speed rail system as defined in sec-
17 tion 26105 of title 49, United States Code, the Sec-
18 retary shall, for purposes of making a finding under
19 subsection (g)(4), accept the net present value on a
20 future stream of State or local subsidy income or
21 dedicated revenue as collateral offered to secure the
22 loan.”.

23 (f) OFFICE OF MANAGEMENT AND BUDGET.—Sec-
24 tion 502(i) of such Act (45 U.S.C. 822(i)) is amended by
25 inserting “In order to enable compliance with such time

1 limit, the Office of Management and Budget shall take
2 any actions required with respect to the application within
3 such 90-day period.” after “disapprove the application.”.

4 (g) COMPLETION OF APPLICATION.—Section 502(i)
5 of such Act (45 U.S.C. 822(i)) is further amended—

6 (1) by striking “DISAPPROVAL.—Not later than
7 90 days after receiving” and inserting “DIS-
8 APPROVAL.—

9 “(1) IN GENERAL.—Not later than 90 days
10 after an application is determined pursuant to para-
11 graph (2) to be”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(2) COMPLETION OF APPLICATION.—The Sec-
15 retary shall establish procedures for making a deter-
16 mination not later than 45 days after submission of
17 an application under this section whether the appli-
18 cation is complete. Such procedures shall—

19 “(A) provide for a checklist of the required
20 components of a complete application;

21 “(B) provide that an independent financial
22 analyst be assigned within 45 days of submittal
23 to review the application;

24 “(C) require the Secretary to provide to
25 the applicant a description of the specific com-

1 ponents of the application that remain incom-
2 plete or unsatisfactory if an application is de-
3 termined to be incomplete; and

4 “(D) permit reapplication without preju-
5 dice for applications determined to be incom-
6 plete or unsatisfactory.”.

7 (h) REPAYMENT DEFERRAL.—Section 502(j) of such
8 Act (45 U.S.C. 822(j)) is amended by adding at the end
9 the following new paragraph:

10 “(3) TREATMENT OF COSTS ASSOCIATED WITH
11 DEFERRAL.—Any additional costs associated with a
12 deferred repayment schedule under paragraph (1)
13 may be financed over the remaining term of the loan
14 beginning at the time the payments begin, or may
15 be included in the credit risk premium determined
16 under subsection (f)(2).”.

17 (i) POSITIVE TRAIN CONTROL.—

18 (1) PRIORITY.—Section 502(c)(1) of such Act
19 (45 U.S.C. 822(c)(1)) is amended by inserting “, in-
20 cluding projects for the installation of positive train
21 control systems as defined in section 20157(i) of
22 title 49, United States Code” after “public safety”.

23 (2) COLLATERAL.—Section 502(h)(2) of such
24 Act (45 U.S.C. 822(h)(2)), as amended by this sec-

1 tion, is further amended by adding at the end the
2 following new subparagraph:

3 “(C) For purposes of making a finding under
4 subsection (g)(4) with respect to an application for
5 a project for the installation of positive train control
6 systems, the collateral value of that asset shall be
7 deemed to be equal to the total cost of the labor and
8 materials associated with installing the positive train
9 control systems.”.

10 (j) REPORT TO CONGRESS.—Section 502 of such Act
11 (45 U.S.C. 822) is amended by adding at the end the fol-
12 lowing new subsection:

13 “(k) REPORT TO CONGRESS.—Not later than 1 year
14 after the date of enactment of the American Energy and
15 Infrastructure Jobs Act of 2012, and annually thereafter,
16 the Secretary shall transmit to the Congress a report on
17 the program under this section that summarizes the num-
18 ber of loans approved and disapproved by the Secretary
19 during the previous year. Such report shall not disclose
20 the identity of loan or loan guarantee recipients. The re-
21 port shall describe—

22 “(1) the number of preapplication meetings
23 with potential applicants;

1 “(2) the number of applications received and
2 determined complete under subsection (i)(2), includ-
3 ing the requested loan amounts;

4 “(3) the dates of receipt of applications;

5 “(4) the dates applications were determined
6 complete under subsection (i)(2);

7 “(5) the number of applications determined in-
8 complete under subsection (i)(2);

9 “(6) the final decision dates for both approvals
10 and denials of applications;

11 “(7) the number of applications withdrawn
12 from consideration; and

13 “(8) the annual loan portfolio asset quality.”.

14 (k) AUTHORIZATION OF APPROPRIATIONS.—Section
15 502 of such Act (45 U.S.C. 822) is amended by adding
16 at the end the following new subsection:

17 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary for pur-
19 poses of carrying out subsections (f)(3) and (j)(3),
20 \$50,000,000 for fiscal year 2013.”.

21 **Subtitle E—Positive Train Control**

22 **SEC. 8401. POSITIVE TRAIN CONTROL.**

23 (a) RAILROAD SAFETY RISK REDUCTION PRO-
24 GRAM.—Section 20156(e)(4) of title 49, United States
25 Code, is amended to read as follows:

1 “(4) POSITIVE TRAIN CONTROL.—Except as re-
2 quired by section 20157 (relating to the require-
3 ments for implementation of positive train control
4 systems), the Secretary shall ensure that each rail-
5 road carrier’s technology implementation plan re-
6 quired under paragraph (1) that includes a schedule
7 for implementation of a positive train control system
8 complies with that schedule. Nothing in this section
9 shall be construed as requiring the installation of
10 positive train control on railroad tracks if positive
11 train control is not required on those tracks by sec-
12 tion 20157 and positive train control on those tracks
13 is not chosen by the railroad as a technology to be
14 implemented under this section.”.

15 (b) IMPLEMENTATION OF POSITIVE TRAIN CONTROL
16 SYSTEMS.—Section 20157 of title 49, United States Code,
17 is amended—

18 (1) in subsection (a)(1)—

19 (A) by striking “December 31, 2015” and
20 inserting “December 31, 2020”;

21 (B) by inserting “and” after the semicolon
22 at the end of subparagraph (A);

23 (C) by striking “; and” at the end of sub-
24 paragraph (B) and inserting “on or after De-
25 cember 31, 2020.”; and

1 (D) by striking subparagraph (C);

2 (2) by adding at the end of subsection (a) the
3 following new paragraph:

4 “(3) ALTERNATIVE STRATEGY.—A plan sub-
5 mitted under this subsection may provide that, in
6 lieu of installing positive train control on all or some
7 of the tracks on which positive train control is other-
8 wise required to be installed pursuant to paragraph
9 (1)(B), the railroad carrier will utilize an alternative
10 risk reduction strategy that would reduce the risk of
11 release of poison- or toxic-by-inhalation hazardous
12 materials to the same extent the risk of a release of
13 poison- or toxic-by-inhalation hazardous materials
14 would be reduced if positive train control were in-
15 stalled on those tracks. An alternative risk reduction
16 strategy may only be used pursuant to this para-
17 graph on tracks for which positive train control is
18 not required pursuant to paragraph (1)(A).”;

19 (3) in subsection (c)—

20 (A) by striking “APPROVAL.—Not later
21 than 90 days after the Secretary receives a
22 plan” and inserting “APPROVAL.—

23 “(1) IN GENERAL.—Not later than 90 days
24 after the Secretary receives a plan or revision of a
25 plan under this section”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) REVISION OF PLAN.—A railroad carrier
4 may revise a plan under this section as necessary to
5 reflect rail lines that are added or removed, or to re-
6 flect alternative risk reduction strategies proposed
7 pursuant to subsection (a)(3).”;

8 (4) in subsection (d)—

9 (A) by striking “December 31, 2012” and
10 inserting “December 31, 2015”; and

11 (B) by inserting “and alternative risk re-
12 duction strategies. Such report shall include
13 any recommendations for improving the ability
14 of rail carriers to implement positive train con-
15 trol systems or alternative risk reduction strate-
16 gies in accordance with this section” after
17 “positive train control systems”;

18 (5) in subsection (e), by inserting “and alter-
19 native risk reduction strategies” after “positive train
20 control”; and

21 (6) in subsection (f), by striking “or section
22 20156” the first place it appears.

1 the problem poses and the priority of address-
2 ing those risks compared to other matters or
3 activities within the agency's jurisdiction),
4 whether the problem warrants new agency ac-
5 tion, and the countervailing risks that may be
6 posed by alternatives for new agency action.

7 “(D) Whether existing rules have created
8 or contributed to the problem the agency may
9 address with a rule and whether those rules
10 could be amended or rescinded to address the
11 problem in whole or part.

12 “(E) The best reasonably obtainable sci-
13 entific, technical, and other information related
14 to the need for, and consequences of, the rule.

15 “(F) The potential costs and benefits, in-
16 cluding direct, indirect, and cumulative costs
17 and benefits and estimated impacts on jobs,
18 economic growth, innovation, and economic
19 competitiveness.

20 “(G) Means to increase the cost-effective-
21 ness of any Federal response.

22 “(H) Incentives for innovation, consist-
23 ency, predictability, lower costs of enforcement
24 and compliance (to government entities, regu-
25 lated entities, and the public), and flexibility.

1 “(I) Any reasonable alternatives for a new
2 rule or other response identified by the agency
3 or interested persons, including not only re-
4 sponses that mandate particular conduct or
5 manners of compliance, but also—

6 “(i) the alternative of no Federal re-
7 sponse;

8 “(ii) amending or rescinding existing
9 rules;

10 “(iii) potential regional, State, local,
11 or tribal regulatory action or other re-
12 sponses that could be taken in lieu of
13 agency action; and

14 “(iv) potential responses that—

15 “(I) specify performance objec-
16 tives rather than conduct or manners
17 of compliance;

18 “(II) establish economic incen-
19 tives to encourage desired behavior;

20 “(III) provide information upon
21 which choices can be made by the
22 public; or

23 “(IV) incorporate other innova-
24 tive alternatives rather than agency

1 actions that specify conduct or man-
2 ners of compliance.

3 “(2) PUBLIC COMMENT.—The Administrator
4 shall solicit and take into consideration public com-
5 ment on the subjects described in subparagraphs (A)
6 through (I) of paragraph (1) before issuance of a
7 final regulation described in paragraph (1).

8 “(3) AGENCY STATEMENTS.—

9 “(A) IN GENERAL.—The Administrator
10 shall follow applicable rulemaking procedures
11 under section 553 of title 5 before issuing a
12 binding obligation applicable to recipients of
13 Federal assistance.

14 “(B) BINDING OBLIGATION DEFINED.—In
15 this paragraph, the term ‘binding obligation’
16 means a substantive policy statement, rule, or
17 guidance document issued by the Administra-
18 tion that grants rights, imposes obligations,
19 produces significant effects on private interests,
20 or effects a significant change in existing pol-
21 icy.”.

22 (b) EFFECTIVE DATE.—Paragraphs (1) and (2) of
23 the subsection (l) added by the amendment made by sub-
24 section (a) of this section shall be effective only with re-
25 spect to regulations with respect to which no notice of pro-

1 posed rulemaking has been issued before the date of enact-
2 ment of this Act.

3 **Subtitle G—Technical Corrections**

4 **SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS,** 5 **AND REPEALS.**

6 (a) TECHNICAL CORRECTIONS TO PROVISIONS OF
7 THE UNITED STATES CODE ENACTED IN, OR AMENDED
8 BY, THE RAIL SAFETY IMPROVEMENT ACT OF 2008.—

9 (1) Section 1139 of title 49, United States Code, is
10 amended—

11 (A) in subsection (a)(1) by striking “phone
12 number” and inserting “telephone number”;

13 (B) in subsection (a)(2) by striking “post trau-
14 ma communication with families” and inserting
15 “post-trauma communication with families”; and

16 (C) in subsection (j)(2) by striking “railroad
17 passenger accident” and inserting “rail passenger
18 accident”.

19 (2) Section 10909 of title 49, United States Code,
20 is amended—

21 (A) in subsection (b), by striking “Clean Rail-
22 road Act of 2008,” and inserting “Clean Railroads
23 Act of 2008,”; and

1 (B) in subsection (e), by striking “Upon the
2 granting of petition from the State” and inserting
3 “Upon the granting of a petition from the State”.

4 (3) Section 20116 of title 49, United States Code,
5 is amended—

6 (A) by inserting “(1)” after “unless”; and

7 (B) by inserting “(2)” before “the code, rule,
8 standard, requirement, or practice has been subject
9 to notice and comment under a rule or order issued
10 under this part.”.

11 (4) Section 20120(a) of title 49, United States Code,
12 is amended—

13 (A) by striking “website” and inserting “Web
14 site”;

15 (B) in paragraph (1), by striking “accident and
16 incidence reporting” and inserting “accident and in-
17 cident reporting”;

18 (C) in paragraph (2)(G), by inserting “and” at
19 the end; and

20 (D) in paragraph (5)(B), by striking “Adminis-
21 trative Hearing Officer or Administrative Law
22 Judge” and inserting “administrative hearing officer
23 or administrative law judge”.

24 (5) Section 20156 of title 49, United States Code,
25 is amended—

1 (A) in subsection (e), by inserting a comma
2 after “In developing its railroad safety risk reduc-
3 tion program”; and

4 (B) in subsection (g)(1), by inserting a comma
5 after “good faith” and by striking “non-profit” and
6 inserting “nonprofit”.

7 (6) Section 20157(a)(1)(B) of title 49, United States
8 Code, is amended by striking “parts 171.8, 173.115, and
9 173.132” and inserting “sections 171.8, 173.115, and
10 173.132”.

11 (7) Section 20159 of title 49, United States Code,
12 is amended by striking “the Secretary” and inserting “the
13 Secretary of Transportation”.

14 (8) Section 20160 of title 49, United States Code,
15 is amended—

16 (A) in subsection (a)(1), by striking “or with”
17 and inserting “with”; and

18 (B) in subsection (b)(1)(A), by striking “or
19 with” and inserting “with”.

20 (9) Section 20162(a)(3) of title 49, United States
21 Code, is amended by striking “railroad compliance with
22 Federal standards” and inserting “railroad carrier compli-
23 ance with Federal standards”.

24 (10) Section 20164(a) of title 49, United States
25 Code, is amended by striking “after enactment of the Rail-

1 road Safety Enhancement Act of 2008” and inserting
2 “after the enactment of the Rail Safety Improvement Act
3 of 2008”.

4 (11) Section 22106(b) of title 49, United States
5 Code, is amended by striking “interest thereof” and in-
6 serting “interest thereon”.

7 (12) The item relating to section 24316 in the chap-
8 ter analysis for chapter 243 of title 49, United States
9 Code, is amended by striking “to assist families of pas-
10 sengers” and inserting “to address needs of families of
11 passengers”.

12 (b) TECHNICAL CORRECTIONS TO RAIL SAFETY IM-
13 PROVEMENT ACT OF 2008.—(1) The table of contents in
14 section 1(b) of the Rail Safety Improvement Act of 2008
15 is amended—

16 (A) in the item relating to section 307, by strik-
17 ing “website” and inserting “Web site”;

18 (B) in the item relating to section 403, by
19 striking “Track inspection time study” and inserting
20 “Study and rulemaking on track inspection time;
21 rulemaking on concrete cross ties”;

22 (C) in the item relating to section 408, by strik-
23 ing “Conrail” and inserting “Consolidated Rail Cor-
24 poration”;

1 (D) in the item relating to title VI, by striking
2 “SOLID WASTE FACILITIES” and inserting “SOLID
3 WASTE RAIL TRANSFER FACILITIES”; and

4 (E) in the item relating to section 602 by strik-
5 ing “solid waste transfer facilities” and inserting
6 “solid waste rail transfer facilities”.

7 (2) Section 2(a)(1) of the Rail Safety Improvement
8 Act of 2008 is amended by inserting a comma after
9 “tracks at grade”.

10 (3) Section 102(a)(6) of the Rail Safety Improvement
11 Act of 2008 is amended to read as follows:

12 “(6) Improving the safety of railroad bridges,
13 tunnels, and related infrastructure to prevent acci-
14 dents, incidents, injuries, and fatalities caused by
15 catastrophic and other failures of such infrastruc-
16 ture.”.

17 (4) Section 206(a) of the Rail Safety Improvement
18 Act of 2008 is amended by striking “Public Service An-
19 nouncements” and inserting “public service announce-
20 ments”.

21 (5) Section 307 of the Rail Safety Improvement Act
22 of 2008 is amended—

23 (A) in the section heading, by striking
24 “**WEBSITE**” and inserting “**WEB SITE**”;

1 (B) in subsection (a), by striking “website”
2 each place it appears and inserting “Web site”; and

3 (C) in subsection (b), by striking “website’s”
4 and inserting “Web site’s”.

5 (6) Section 403 of the Rail Safety Improvement Act
6 of 2008 is amended in the section heading by striking
7 “**TRACK INSPECTION TIME STUDY**” and inserting
8 “**STUDY AND RULEMAKING ON TRACK INSPECTION**
9 **TIME; RULEMAKING ON CONCRETE CROSS TIES**”.

10 (7) Section 405 of the Rail Safety Improvement Act
11 of 2008 is amended—

12 (A) in subsection (a), by striking “cell phones”
13 and inserting “cellular telephones”; and

14 (B) in subsection (d), by striking “Secretary of
15 Transportation” and inserting “Secretary”.

16 (8) Section 408 of the Rail Safety Improvement Act
17 of 2008 is amended in the section heading by striking
18 “**CONRAIL**” and inserting “**CONSOLIDATED RAIL COR-**
19 **PORATION**”.

20 (9) Section 412 of the Rail Safety Improvement Act
21 of 2008 is amended by striking “Secretary of Transpor-
22 tation” and inserting “Secretary”.

23 (10) Section 414 of the Rail Safety Improvement Act
24 of 2008 is amended—

1 (A) by striking “parts 171.8, 173.115,” and in-
2 sserting “sections 171.8, 173.115,”; and

3 (B) by striking “part 1520.5” and inserting
4 “section 1520.5”.

5 (11) Section 416 of the Rail Safety Improvement Act
6 of 2008 is amended—

7 (A) by striking “Secretary of Transportation”
8 and inserting “Secretary”; and

9 (B) in paragraph (4), by striking “subsection”
10 and inserting “section”.

11 (12) Section 417(c) of the Rail Safety Improvement
12 Act of 2008 is amended by striking “each railroad” and
13 inserting “each railroad carrier”.

14 (13) Section 503 of the Rail Safety Improvement Act
15 of 2008 is amended—

16 (A) in subsection (b)—

17 (i) in paragraph (1), by striking “pas-
18 senger rail accidents” and inserting “rail pas-
19 senger accidents”;

20 (ii) by striking “passenger rail accident”
21 each place it appears and inserting “rail pas-
22 senger accident”; and

23 (iii) in paragraph (4), by striking “a count
24 of the number of passengers onboard the train”

1 and inserting “a count of the number of pas-
2 sengers aboard the train”; and

3 (B) by adding at the end a new subsection (d)
4 to read as follows:

5 “(d) DEFINITIONS.—In this section, the terms ‘pas-
6 senger’ and ‘rail passenger accident’ have the meaning
7 given those terms by section 1139 of this title.”.

8 (14) The heading title VI of the Rail Safety Improve-
9 ment Act of 2008 is amended by striking “**SOLID**
10 **WASTE FACILITIES**” and inserting “**SOLID**
11 **WASTE RAIL TRANSFER FACILITIES**”.

12 (15) The heading of section 602 of the Rail Safety
13 Improvement Act of 2008 is amended by striking “**SOLID**
14 **WASTE TRANSFER FACILITIES**” and inserting “**SOLID**
15 **WASTE RAIL TRANSFER FACILITIES**”.

16 (c) TECHNICAL CORRECTIONS TO PROVISIONS OF
17 THE UNITED STATES CODE ENACTED IN, OR AMENDED
18 BY, THE PASSENGER RAIL INVESTMENT AND IMPROVE-
19 MENT ACT OF 2008.—

20 (1) ALTERNATE PASSENGER RAIL SERVICE
21 PILOT.—Section 24711 of title 49, United States
22 Code, is amended—

23 (A) in subsection (a)(1) by striking “a pe-
24 riod not to exceed 5 years after the date of en-
25 actment of the Passenger Rail Investment and

1 Improvement Act of 2008” and inserting “an
2 operations period of 5 years, renewable for a
3 second 5-year operations period at the discre-
4 tion of the Administrator”; and

5 (B) by inserting after subsection (e) the
6 following new subsection:

7 “(f) TRANSFER AUTHORITY.—The Secretary of
8 Transportation may provide directly to a winning bidder
9 selected under this section any portion of appropriations
10 for Amtrak operations necessary to cover the operating
11 subsidy described in subsection (a)(5)(B).”.

12 (2) COMPETITIVE GRANT SELECTION AND CRI-
13 TERIA FOR GRANTS.—Section 26106(e)(2) of title
14 49, United States Code, is amended—

15 (A) in subparagraph (A)(v), by striking
16 “that if an applicant has selected the proposed
17 operator of its service, that the applicant pro-
18 vide”, and inserting “that the applicant shall
19 select the proposed operator of its service com-
20 petitively, and that the applicant shall provide”;
21 and

22 (B) in subparagraph (B)(ii)—

23 (i) by inserting “and” at the end of
24 subclause (I);

1 (ii) by inserting “and” at the end of
2 subclause (II); and
3 (iii) by striking subclauses (III) and
4 (IV).

5 (d) STATE-SUPPORTED ROUTES.—Section 209(e) of
6 the Passenger Rail Investment and Improvement Act of
7 2008 (Public Law 110–432, 122 Stat. 4918) is amended
8 by striking “within 1 year after the Board’s determina-
9 tion” and inserting “by the first day of the first fiscal year
10 beginning at least 1 year after the Board’s determina-
11 tion”.

12 **Subtitle H—Miscellaneous**

13 **SEC. 8701. APPLICATION OF BUY AMERICA TO INTERCITY** 14 **PASSENGER RAIL SERVICE CORRIDORS.**

15 Section 24405(a) of title 49, United States Code, is
16 amended—

17 (1) by striking paragraph (4) and redesignating
18 paragraphs (5) through (11) as paragraphs (4)
19 through (10), respectively; and

20 (2) by adding at the end the following new
21 paragraphs:

22 “(11) The requirements of this subsection apply to
23 all contracts for a project carried out within the scope of
24 the applicable finding, determination, or decision under
25 the National Environmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.), regardless of the funding source of such
2 contracts, if at least one contract for the project is funded
3 with amounts made available to carry out this title.

4 “(12) If the Secretary receives a request for a waiver
5 under this subsection, the Secretary shall provide notice
6 of and an opportunity for public comment on the request
7 at least 30 days before making a finding based on the re-
8 quest. Such a notice shall include the information available
9 to the Secretary concerning the request and shall be pro-
10 vided by electronic means, including on the official public
11 Internet Web site of the Department of Transportation.
12 If the Secretary issues a waiver under this subsection, the
13 Secretary shall publish in the Federal Register a detailed
14 justification for the waiver that addresses the public com-
15 ments received under this paragraph and shall ensure that
16 such justification is published before the waiver takes ef-
17 fect.”.

18 **SEC. 8702. PROHIBITION ON USE OF FUNDS FOR CALI-**
19 **FORNIA HIGH-SPEED RAIL.**

20 No funds made available to carry out this Act or any
21 amendment made by this Act may be used for high-speed
22 rail in the State of California, for the California High-
23 Speed Rail Authority, or for projects designed to further
24 high-speed rail in the State of California.

1 **SEC. 8703. DISADVANTAGED BUSINESS ENTERPRISES.**

2 (a) AVAILABILITY OF FUNDS.—Except to the extent
3 that the Secretary determines otherwise, not less than 10
4 percent of the amounts made available for any capital
5 grant program under the jurisdiction of the Federal Rail-
6 road Administration shall be expended through small busi-
7 ness concerns owned and controlled by socially and eco-
8 nomically disadvantaged individuals.

9 (b) DEFINITIONS.—In this section, the following defi-
10 nitions apply:

11 (1) SMALL BUSINESS CONCERN.—The term
12 “small business concern” has the meaning that term
13 has under section 3 of the Small Business Act (15
14 U.S.C. 632), except that the term shall not include
15 any concern or group of concerns controlled by the
16 same socially and economically disadvantaged indi-
17 vidual or individuals which has average annual gross
18 receipts over the preceding 3 fiscal years in excess
19 of \$22,410,000, as adjusted annually by the Sec-
20 retary of Transportation for inflation.

21 (2) SOCIALLY AND ECONOMICALLY DISADVAN-
22 TAGED INDIVIDUALS.—The term “socially and eco-
23 nomically disadvantaged individuals” has the mean-
24 ing that term has under section 8(d) of the Small
25 Business Act (15 U.S.C. 637(d)) and relevant sub-
26 contracting regulations issued pursuant to that Act,

1 except that women shall be presumed to be socially
2 and economically disadvantaged individuals for pur-
3 poses of this section.

4 (c) COMPLIANCE WITH COURT ORDERS.—Nothing in
5 this subsection limits the eligibility of an entity or person
6 to receive funds made available for any capital grant pro-
7 gram under the jurisdiction of the Federal Railroad Ad-
8 ministration, if the entity or person is prevented, in whole
9 or in part, from complying with subsection (a) because a
10 Federal court issues a final order in which the court finds
11 that the requirement of subsection (a), or the program es-
12 tablished under subsection (a), is unconstitutional.

13 (d) PROGRAM IMPLEMENTATION.—This section shall
14 be carried out by the Secretary and by States in a manner
15 consistent with that by which the disadvantaged business
16 enterprises program authorized by section 1101(c) of this
17 Act is carried out.

18 **TITLE IX—HAZARDOUS**
19 **MATERIAL TRANSPORTATION**

20 **SEC. 9001. SHORT TITLE.**

21 This title may be cited as the “Hazardous Material
22 Transportation Safety, Efficiency, and Accountability Act
23 of 2012”.

1 **SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES**
2 **CODE.**

3 Except as otherwise provided, whenever in this Act
4 an amendment or repeal is expressed in terms of an
5 amendment to, or repeal of, a section or other provision,
6 the reference shall be considered to be made to a section
7 or other provision of title 49, United States Code.

8 **SEC. 9003. FINDINGS.**

9 Congress finds the following:

10 (1) There are annually 2.2 billion tons of haz-
11 ardous material shipments by all modes across the
12 United States totaling more than \$1.4 trillion.

13 (2) The number of fatalities and serious inju-
14 ries caused by the transportation of hazardous mate-
15 rial has been historically low, averaging 4.2 fatalities
16 per 100 million shipments – meaning an American
17 is about 4 times more likely to be killed by lightning
18 than a hazardous material in transportation. In fis-
19 cal year 2010, there was the lowest number of haz-
20 ardous material incidents on record.

21 (3) It is critical to the economic health of the
22 Nation that the laws and regulations governing the
23 transportation of hazardous material maintain a
24 high level of safety, while balancing the need for eco-
25 nomic growth, innovation, competitiveness, and job
26 creation.

1 (4) The individuals involved in the transpor-
2 tation stream and the public benefit from a regu-
3 latory regime that is certain, uniform, cost-efficient,
4 and science-based.

5 (5) Because of the potential risks to life, prop-
6 erty, and the environment posed by an unintentional
7 release of hazardous material, consistency and uni-
8 formity in laws and regulation regarding the trans-
9 portation of hazardous material is necessary and de-
10 sirable.

11 **SEC. 9004. PURPOSES.**

12 Section 5101 is amended by striking “that are inher-
13 ent”.

14 **SEC. 9005. DEFINITIONS.**

15 (a) HAZMAT EMPLOYER.—Section 5102(4)(A)(i)(I)
16 is amended by striking “or uses”.

17 (b) TRANSPORTS.—Section 5102(13) is amended to
18 read as follows:

19 “(13) ‘transports’ or ‘transportation’—

20 “(A) means the movement of property and
21 loading, unloading, handling, or storage inci-
22 dental to the movement;

23 “(B) includes all activities related to—

24 “(i) loading or unloading packaged or
25 containerized hazardous material, such as

1 portable tanks, cylinders, and intermediate
2 bulk containers, onto a transport vehicle,
3 rail car, aircraft, or vessel at its origin,
4 during en route movement, or at its des-
5 tination; or

6 “(ii) loading or unloading a hazardous
7 material into or from a bulk packaging
8 with a capacity greater than 3,000 liters,
9 such as a portable tank, cargo tank, or rail
10 tank car, at its origin, during en route
11 movement, or at its destination; and

12 “(C) includes storage of a hazardous mate-
13 rial from the time the hazardous material is
14 loaded for purposes of movement until the haz-
15 ardous material is unloaded at its destination,
16 including during en route movement.”.

17 **SEC. 9006. GENERAL REGULATORY AUTHORITY.**

18 (a) REGULATIONS FOR SAFE TRANSPORTATION.—

19 Section 5103(b)(1)(A) is amended—

20 (1) in clause (vi) by striking “or” at the end;

21 (2) by redesignating clause (vii) as clause (viii);

22 (3) by inserting after clause (vi) the following:

23 “(vii) provides hazardous material
24 transportation emergency response infor-
25 mation services required or governed by

1 regulations prescribed under this chapter;
2 or”; and

3 (4) in clause (viii) (as redesignated by para-
4 graph (2) of this section) by striking “(vi); and” and
5 inserting “(vii);”.

6 (b) FITNESS DETERMINATIONS.—

7 (1) IN GENERAL.—Section 5103(b)(1) is
8 amended—

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

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

12 “(C) shall govern the procedures and cri-
13 teria used by the Secretary for determining the
14 fitness of a person applying for an approval or
15 a special permit under the regulations.”.

16 (2) REGULATION REQUIRED.—In accordance
17 with section 5103(b)(2) of title 49, United States
18 Code, not later than 1 year after the date of enact-
19 ment of this Act, the Secretary of Transportation
20 shall take all actions necessary to finalize a regula-
21 tion pursuant to section 5103(b)(1)(C) of such title.

22 (c) IMPROVING REGULATIONS AND REGULATORY RE-
23 VIEW.—

24 (1) IN GENERAL.—Section 5103(b) is amended
25 by adding at the end the following:

1 “(3) Before any final regulation within the jurisdic-
2 tion of the Secretary is issued, the Secretary shall make
3 all preliminary and final determinations based on evidence
4 and consider, in addition to other applicable consider-
5 ations, the following:

6 “(A) The legal authority under which a rule
7 may be proposed, including whether a rulemaking is
8 required by statute, and if so, whether by a specific
9 date, or whether the agency has discretion to com-
10 mence a rulemaking.

11 “(B) Other statutory considerations applicable
12 to whether the agency can or should propose a rule
13 or undertake other agency action.

14 “(C) The specific nature and significance of the
15 problem the agency may address with a rule (includ-
16 ing the degree and nature of risks the problem poses
17 and the priority of addressing those risks compared
18 to other matters or activities within the agency’s ju-
19 risdiction), whether the problem warrants new agen-
20 cy action, and the countervailing risks that may be
21 posed by alternatives for new agency action.

22 “(D) Whether existing rules have created or
23 contributed to the problem the agency may address
24 with a rule and whether those rules could be amend-

1 ed or rescinded to address the problem in whole or
2 part.

3 “(E) The best reasonably obtainable scientific,
4 technical, and other information related to the need
5 for, and consequences of, the rule.

6 “(F) The potential costs and benefits, including
7 direct, indirect, and cumulative costs and benefits
8 and estimated impacts on jobs, economic growth, in-
9 novation, and economic competitiveness.

10 “(G) Means to increase the cost-effectiveness of
11 any Federal response.

12 “(H) Incentives for innovation, consistency, pre-
13 dictability, lower costs of enforcement and compli-
14 ance (to government entities, regulated entities, and
15 the public), and flexibility.

16 “(I) Any reasonable alternatives for a new rule
17 or other response identified by the agency or inter-
18 ested persons, including not only responses that
19 mandate particular conduct or manners of compli-
20 ance, but also—

21 “(i) the alternative of no Federal response;

22 “(ii) amending or rescinding existing rules;

23 “(iii) potential regional, State, local, or
24 tribal regulatory action or other responses that
25 could be taken in lieu of agency action; and

1 “(iv) potential responses that—

2 “(I) specify performance objectives
3 rather than conduct or manners of compli-
4 ance;

5 “(II) establish economic incentives to
6 encourage desired behavior;

7 “(III) provide information upon which
8 choices can be made by the public; or

9 “(IV) incorporate other innovative al-
10 ternatives rather than agency actions that
11 specify conduct or manners of compliance.

12 “(4) The Secretary shall solicit and take into consid-
13 eration public comment on the subjects described in sub-
14 paragraphs (A) through (I) of paragraph (3) before
15 issuance of a final regulation described in paragraph (3).

16 “(5) The Secretary shall follow applicable rulemaking
17 procedures under section 553 of title 5 before issuing a
18 binding obligation applicable to recipients of Federal as-
19 sistance. In this paragraph, the term ‘binding obligation’
20 means a substantive policy statement, rule, or guidance
21 document issued by the Secretary that grants rights, im-
22 poses obligations, produces significant effects on private
23 interests, or effects a significant change in existing pol-
24 icy.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) of this subsection shall apply to
3 regulations for which the notice of proposed rule-
4 making is published after the date of enactment of
5 this Act.

6 (d) INCORPORATION BY REFERENCE.—Section
7 5103(b) is further amended by adding after paragraph (5)
8 (as added by subsection (c)(1) of this section) the fol-
9 lowing:

10 “(6) In considering whether to incorporate by ref-
11 erence any publication in prescribing regulations, the Sec-
12 retary shall—

13 “(A) consider—

14 “(i) the cost of such publication;

15 “(ii) the broadness of its applicability;

16 “(iii) the cost imposed on the public in ac-
17 quiring such publication; and

18 “(iv) other alternatives to incorporation by
19 reference; and

20 “(B) either incorporate by reference the publi-
21 cation or use the alternative that meets the Depart-
22 ment of Transportation’s safety objectives in the
23 most cost-effective manner.”.

1 **SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANS-**
2 **PORTING RADIOACTIVE MATERIAL.**

3 Section 5105(d) is amended to read as follows:

4 “(d) INSPECTIONS OF MOTOR VEHICLES TRANS-
5 PORTING CERTAIN MATERIAL.—

6 “(1) REQUIREMENT.—The Secretary shall re-
7 quire by regulation that before each use of a motor
8 vehicle to transport a highway-route-controlled quan-
9 tity of radioactive material in commerce, the vehicle
10 shall be inspected and certified as complying with
11 this chapter and applicable United States motor car-
12 rier safety laws and regulations.

13 “(2) TYPE OF INSPECTOR.—In carrying out
14 paragraph (1), the Secretary may—

15 “(A) require that the inspection be carried
16 out by an authorized United States Government
17 inspector or according to appropriate State pro-
18 cedures; or

19 “(B) allow a person, transporting or caus-
20 ing to be transported a highway-route-con-
21 trolled quantity of radioactive material, to in-
22 spect the motor vehicle used to transport the
23 material and to certify that the vehicle complies
24 with this chapter.

25 “(3) QUALIFICATION REQUIREMENTS.—An in-
26 dividual conducting an inspection under paragraph

1 (2)(B) shall be in compliance with the inspector
2 qualification requirements the Secretary prescribes
3 for an individual inspecting a motor vehicle.

4 “(4) PREEMPTION.—Each State that a motor
5 vehicle transporting a highway-route-controlled
6 quantity of radioactive material in commerce enters
7 shall recognize the inspection and certification re-
8 quired by paragraph (1) and may not require a new
9 inspection at an equivalent level and certification ex-
10 cept as provided in paragraph (5).

11 “(5) CHANGED CONDITION.—If an en route
12 change to the condition of the cargo, the driver, the
13 motor vehicle, or the operation of the motor vehicle
14 invalidates the certification under paragraph (1), the
15 State where such change is discovered may require
16 a new inspection and certification under such para-
17 graph.”.

18 **SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**

19 **AND GRANTS.**

20 (a) TRAINING GRANTS.—Section 5107 is amended—

21 (1) by striking subsections (e) and (h); and

22 (2) by redesignating subsections (f) and (g) as
23 subsections (e) and (f), respectively.

1 (b) SAFE LOADING, UNLOADING, AND HANDLING.—
2 Section 5107(f)(2), as redesignated by subsection (a)(2)
3 of this section, is amended by striking “and section 5106”.

4 **SEC. 9009. FEES.**

5 Section 5108(g)(2) is amended—

6 (1) in subparagraph (A)—

7 (A) in the matter before clause (i) by strik-
8 ing “be at least \$250 but not more than” and
9 inserting “not exceed”; and

10 (B) in clause (viii) by striking “sections
11 5108(g)(2), 5115,” and inserting “this para-
12 graph and sections 5115”; and

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

14 “(D) In establishing and collecting a fee under
15 subparagraph (A), the Secretary may not consider
16 whether a person has or is likely to apply for a spe-
17 cial permit or approval, nor is the Secretary author-
18 ized to establish a separate fee in order to apply for
19 or receive a special permit or approval.”.

20 **SEC. 9010. MOTOR CARRIER SAFETY PERMITS.**

21 (a) APPLICABLE TRANSPORTATION.—Section
22 5109(b)(1) is amended by striking “class A or B” and
23 inserting “division 1.1, 1.2, or 1.3”.

1 (b) OFFEROR RESPONSIBILITY.—The heading for
2 subsection (f) of section 5109 is amended by striking
3 “SHIPPER” and inserting “OFFEROR”.

4 (c) TECHNICAL AMENDMENT.—Section 5109 is
5 amended by striking subsection (h).

6 (d) PROGRAM REVIEW AND REPORT.—

7 (1) PROGRAM REVIEW.—

8 (A) IN GENERAL.—Not later than 9
9 months after the date of enactment of this Act,
10 the Secretary of Transportation shall conduct a
11 proceeding, using notice and comment proce-
12 dures in accordance with section 553 of title 5,
13 United States Code, to examine the implemen-
14 tation of the hazardous material safety permit
15 program established by section 5109 of title 49
16 of such Code, including—

17 (i) safety concerns related to former
18 permit holders that have re-applied for a
19 permit after being out of the program for
20 a year or longer; and

21 (ii) fairness of the program for car-
22 riers whose total number of inspections
23 over the course of the fiscal year cycle may
24 create a disadvantage.

1 (B) CONSULTATION.—In carrying out sub-
2 paragraph (A), the Secretary shall consult with
3 motor carriers, persons offering hazardous ma-
4 terial for transportation in commerce, the Com-
5 mercial Vehicle Safety Alliance, and others that
6 have direct experience with the implementation
7 of the program.

8 (2) REPORT.—

9 (A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this Act, the Sec-
11 retary of Transportation shall transmit to the
12 Committee on Transportation and Infrastruc-
13 ture of the House of Representatives and the
14 Committee on Commerce, Science, and Trans-
15 portation of the Senate a report on the imple-
16 mentation of the hazardous material safety per-
17 mit program established by section 5109 of title
18 49, United States Code.

19 (B) CONTENTS.—The report shall in-
20 clude—

21 (i) an identification of the number of
22 permits that have been issued, denied, re-
23 voked, or suspended for each registration
24 cycle since the inception of the program by

1 the type of covered hazardous material
2 transported;

3 (ii) an explanation of the reason for
4 each denial, revocation, and suspension, in-
5 cluding administrative denials, revocations,
6 and suspensions;

7 (iii) a record and analysis of the types
8 of implementation issues identified in the
9 proceeding under paragraph (1)(A); and

10 (iv) a description of the Secretary's
11 actions—

12 (I) to simplify the permit applica-
13 tion process;

14 (II) to minimize the number of
15 administrative denials, revocations,
16 and suspensions;

17 (III) to address the issues identi-
18 fied under clause (iii); and

19 (IV) to ensure a consistent
20 standard of safety fitness that does
21 not fluctuate over time.

22 (e) REGULATION.—Not later than 2 years after the
23 date of enactment of this Act, the Secretary of Transpor-
24 tation shall take such actions as are necessary to ensure
25 that regulations prescribed to carry out the program under

1 section 5109 of title 49, United States Code, ensure a con-
2 sistent standard of safety fitness that does not fluctuate
3 over time and address issues identified in the proceeding
4 in subsection (d)(1)(A).

5 **SEC. 9011. PLANNING AND TRAINING GRANTS, MONI-**
6 **TORING, AND REVIEW.**

7 (a) TRAINING GRANTS.—Section 5116(b)(4) is
8 amended—

9 (1) in the matter preceding subparagraph (A)—

10 (A) by inserting “and subsection (a)” after
11 “this subsection”; and

12 (B) by inserting “planning and” after
13 “emergency response”; and

14 (2) in subparagraph (E) by inserting “and sub-
15 section (a)” before the period at the end.

16 (b) COMPLIANCE WITH CERTAIN LAWS.—Section
17 5116(c) is amended to read as follows:

18 “(c) COMPLIANCE WITH CERTAIN LAW.—The Sec-
19 retary may make a grant to a State or Indian tribe under
20 this section in a fiscal year only if—

21 “(1) the State certifies that the State complies
22 with sections 301 and 303 of the Emergency Plan-
23 ning and Community Right-To-Know Act of 1986
24 (42 U.S.C. 11001, 11003); and

1 “(2) the State or Indian tribe certifies to the
2 Secretary that such State or Indian tribe is in com-
3 pliance with section 5125(f).”.

4 (c) SUPPLEMENTAL TRAINING GRANTS.—Section
5 5116(j) is amended—

6 (1) in paragraph (1) by striking “funds,” and
7 all that follows through “fighting fires for” and in-
8 serting “funds and through a competitive process,
9 make grants to national nonprofit fire service orga-
10 nizations for”;

11 (2) in paragraph (3)(A) by striking “train” and
12 inserting “provide portable training for”; and

13 (3) in paragraph (4)—

14 (A) by striking “train” and inserting “pro-
15 vide portable training for”; and

16 (B) by inserting after “training courses
17 shall” the following: “comply with national con-
18 sensus standards for hazardous material re-
19 sponse and”.

20 (d) REPORTS.—Section 5116(k) is amended—

21 (1) in the first sentence by striking “planning
22 grants” and all that follows through “and under sec-
23 tion 5107” and inserting “grants allocated under
24 subsections (a), (b), and (j)”;

25 (2) in the second sentence—

- 1 (A) by inserting “planning and” before
2 “training grants”; and
3 (B) by inserting “planning and” before
4 “training programs”.”.

5 **SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.**

6 Section 5117 is amended—

7 (1) in subsection (a)—

8 (A) by striking “(a) AUTHORITY TO ISSUE
9 SPECIAL PERMITS.—(1) As provided under pro-
10 cedures prescribed by regulation,” and inserting
11 the following:

12 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

13 “(1) IN GENERAL.—As provided under proce-
14 dures and criteria prescribed by regulation in ac-
15 cordance with section 553 of title 5, United States
16 Code,”;

17 (B) by inserting after paragraph (1) the
18 following:

19 “(2) REQUIREMENTS.—The Secretary shall en-
20 sure that the procedures and criteria prescribed
21 under paragraph (1) provide adequate consistency,
22 predictability, and transparency in making the deter-
23 minations to issue, modify, or terminate a special
24 permit.”; and

1 (C) by striking “(2) A special permit” and
2 inserting the following:

3 “(3) EFFECTIVE PERIOD.—A special permit”;
4 and

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

6 “(f) LIMITATION ON DENIAL.—The Secretary may
7 not deny an application for a modification or renewal of
8 a special permit or an application for party status to an
9 existing special permit for the sole reason that the appli-
10 cant has a hazardous material out-of-service percentage
11 of greater than the national average, according to the safe-
12 ty and fitness records maintained by the Federal Motor
13 Carrier Safety Administration.

14 “(g) INCORPORATION INTO REGULATION.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date on which a special permit has been in con-
17 tinuous effect for a 6-year period, the Secretary
18 shall develop and implement a rulemaking pursuant
19 to section 5103 to incorporate the special permit
20 into regulation if the special permit—

21 “(A) concerns a matter of general applica-
22 bility;

23 “(B) has future effect; and

24 “(C) is consistent with hazardous material
25 safety.

1 “(2) INTENT.—Nothing in paragraph (1) limits
2 the Secretary from incorporating a special permit
3 into regulation at any time before the deadline set
4 by paragraph (1).

5 “(3) OLDER SPECIAL PERMITS.—Not later than
6 3 years after the date of enactment of this sub-
7 section, the Secretary shall finalize a rulemaking
8 pursuant to section 5103 to incorporate into regula-
9 tion any special permit that concerns a matter of
10 general applicability, has future effect, is consistent
11 with hazardous material safety, and has been in con-
12 tinuous effect for more than a 6-year period as of
13 the date of enactment of this subsection.”.

14 **SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CAR-**
15 **RIER PERMIT PROGRAM.**

16 Section 5119 is amended by striking subsection (a)
17 and all that follows and inserting the following:

18 “(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM
19 DEFINED.—In this section, the term ‘Uniform Motor Car-
20 rier Permit Program’ means the State-based, reciprocal
21 program of uniform forms and procedures for registering
22 and permitting persons who transport hazardous material
23 by motor vehicle developed and recommended by the Alli-
24 ance for Uniform Hazmat Transportation Procedures, in-

1 cluding any superseding amendments or revisions adopted
2 by the Secretary pursuant to subsection (b).

3 “(b) REGULATIONS.—

4 “(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of the Hazardous Material
6 Transportation Safety, Efficiency, and Account-
7 ability Act of 2012, the Secretary shall issue regula-
8 tions to implement the Uniform Motor Carrier Per-
9 mit Program.

10 “(2) REVISIONS.—The Secretary may modify
11 the regulations issued under paragraph (1) only as
12 necessary to promote safety, efficiency, and uni-
13 formity.

14 “(c) FINANCIAL AND TECHNICAL ASSISTANCE AND
15 SUPPORT.—

16 “(1) IN GENERAL.—The Secretary may provide
17 planning and transition assistance to States to facili-
18 tate the adoption of the Uniform Motor Carrier Per-
19 mit Program.

20 “(2) USE OF FUNDS.—A State shall use assist-
21 ance awarded under this subsection only to transi-
22 tion existing State registration and permitting pro-
23 grams to the Uniform Motor Carrier Permit Pro-
24 gram.

1 “(3) TERMINATION OF AUTHORITY.—The au-
2 thority to provide assistance to States under this
3 subsection shall terminate 6 years after the date of
4 enactment of the Hazardous Material Transpor-
5 tation Safety, Efficiency, and Accountability Act of
6 2012.

7 “(d) COOPERATIVE AGREEMENT.—The Secretary
8 may enter into a cooperative agreement for outreach, data
9 management, and other centralized functions supporting
10 implementation of the Uniform Motor Carrier Permit Pro-
11 gram.

12 “(e) RELATED EXPENSES.—For purposes of section
13 5125(f)(1), a fee used for a purpose related to trans-
14 porting hazardous material may include the costs incurred
15 in implementing and administering the Uniform Motor
16 Carrier Permit Program, including the costs of estab-
17 lishing or modifying forms, procedures, and systems.

18 “(f) TRANSITION OF STATE PROGRAMS.—Not later
19 than 6 years after the date of enactment of the Hazardous
20 Material Transportation Safety, Efficiency, and Account-
21 ability Act of 2012, a State may enforce registration and
22 permitting requirements for motor carriers that transport
23 hazardous material in commerce only in accordance with
24 the Uniform Motor Carrier Permit Program.

1 “(g) LIMITATION.—Nothing in this section shall de-
2 fine or limit the amount of a fee a State may impose or
3 collect for registration and permitting.”.

4 **SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS**
5 **AND REQUIREMENTS.**

6 Section 5120 is amended—

7 (1) in subsection (a) by striking “State, the
8 Secretary of Transportation shall participate” and
9 inserting “State and the Secretary of Transpor-
10 tation, the Administrator of the Pipelines and Haz-
11 arduous Materials Safety Administration, or the Ad-
12 ministrator’s designee, shall represent the United
13 States and serve as the United States competent au-
14 thority”; and

15 (2) in subsection (b)—

16 (A) by striking “The Secretary” and in-
17 serting “The Administrator”; and

18 (B) by striking “sections 5103(b), 5104,
19 5110, and 5112 of this title” and inserting
20 “this chapter”.

21 **SEC. 9015. INVESTIGATIONS.**

22 (a) INSPECTIONS AND INVESTIGATIONS.—Section
23 5121(c)(1) is amended—

24 (1) in subparagraph (B) by striking “may con-
25 tain a hazardous material;” and inserting “may con-

1 tain an undeclared hazardous material and such ac-
2 tivity takes place at a properly equipped facility des-
3 ignated by the Secretary for this purpose;”;

4 (2) in subparagraph (C), in the matter pre-
5 ceding clause (i), by striking “or related packages”
6 and inserting “suspected of containing undeclared
7 hazardous material”;

8 (3) in subparagraph (E) by striking “may
9 order” and all that follows through “; and” and in-
10 serting “may order the offeror, after giving notice to
11 the carrier, to have the package transported to,
12 opened, and the contents examined and analyzed at
13 a properly equipped facility designated by the Sec-
14 retary for this purpose;”;

15 (4) in subparagraph (F) by striking the period
16 at the end and inserting “; and”; and

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

18 “(G) shall provide contemporaneous notice
19 to the affected offeror and carrier of its decision
20 to exercise its authority under subparagraphs
21 (B), (C), (D), or (E).”.

22 (b) REGULATIONS.—

23 (1) IN GENERAL.—Section 5121(e) is amended
24 to read as follows:

1 “(e) REGULATIONS.—To carry out subsections (c)
2 and (d), the Secretary shall issue regulations in accord-
3 ance with section 553 of title 5 that address, at a min-
4 imum, the following:

5 “(1) Avoidance of delay in the transportation of
6 time-sensitive materials, such as medical products,
7 perishables, and other packages that are not the
8 subject of the inspection.

9 “(2) Appropriate training and equipment for in-
10 spectors.

11 “(3) Restoration of the properly certified status
12 of the inspected package before resumption of trans-
13 portation of that package.

14 “(4) Consideration of the costs and damages
15 that might occur as a result of an inspection.”.

16 (2) REGULATION REQUIRED.—In accordance
17 with section 5103(b)(2) of title 49, United States
18 Code, not later than 1 year after the date of enact-
19 ment of this Act, the Secretary of Transportation
20 shall take all actions necessary to finalize a regula-
21 tion pursuant to section 5121(e) of such title.

22 **SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFE-**
23 **TY AND SYSTEM PERFORMANCE.**

24 Section 5121(g) is amended—

1 (1) in paragraph (3) by striking “or” after the
2 semicolon;

3 (2) by redesignating paragraph (4) as para-
4 graph (5); and

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) to work with State enforcement personnel
8 with information and training relating to the uni-
9 form enforcement of the regulations governing the
10 transportation of hazardous material; or”.

11 **SEC. 9017. SAFETY REPORTING.**

12 Section 5121(h) is amended—

13 (1) in the heading by inserting “BIENNIAL” be-
14 fore “REPORT”;

15 (2) in the matter before paragraph (1) by strik-
16 ing “materials during” and inserting “material in all
17 modes of transportation during”;

18 (3) by redesignating paragraphs (2) through
19 (6) as paragraphs (3) through (7), respectively;

20 (4) by inserting after paragraph (1) the fol-
21 lowing:

22 “(2) a summary of the hazardous material
23 transported during the period covered by the report,
24 set forth by the type and quantity of hazardous ma-
25 terial and by mode;”;

1 (5) in paragraph (4), as redesignated by para-
2 graph (3) of this section, by striking “permit” and
3 inserting “permit issued”;

4 (6) in paragraph (5), as redesignated by para-
5 graph (3) of this section, by striking “activities” and
6 inserting “activities, including activities conducted
7 under subsections (c) and (d),”; and

8 (7) in paragraph (7), as redesignated by para-
9 graph (3) of this section, by striking “appropriate
10 legislation” and inserting “legislative action that the
11 Secretary considers appropriate”.

12 **SEC. 9018. CIVIL PENALTIES.**

13 (a) PENALTY.—Section 5123(a) is amended—

14 (1) in paragraph (1) by striking “at least \$250
15 but”;

16 (2) by striking paragraph (3) and redesignating
17 paragraph (4) as paragraph (3); and

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

19 “(4) A carrier shall not be liable for violations of this
20 chapter, or a regulation issued under this chapter, stem-
21 ming from pre-transportation functions, as defined in sec-
22 tion 171.1 of title 49, Code of Federal Regulations, that
23 are performed by another person unless the carrier has
24 actual knowledge of a violation.”.

1 (b) PENALTY FOR FAILURE TO MAINTAIN RECORDS,
2 REPORTS, AND INFORMATION.—Section 5123 is amended
3 by adding at the end the following:

4 “(h) PENALTY FOR FAILURE TO MAINTAIN
5 RECORDS, REPORTS, AND INFORMATION.—The Secretary
6 may impose a penalty on a person who fails to comply
7 with section 5121(b).”.

8 **SEC. 9019. PREEMPTION.**

9 (a) BURDEN ON COMMERCE.—Section 5125(a) is
10 amended—

11 (1) in paragraph (1) by striking “or” after the
12 semicolon;

13 (2) in paragraph (2) by striking the period at
14 the end and inserting “; or”; and

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

16 “(3) the requirement of the State, political sub-
17 division, or Indian tribe, as applied or enforced, is
18 an unreasonable burden on commerce.”.

19 (b) SUBSTANTIVE DIFFERENCES.—Section
20 5125(b)(1)(D) is amended by striking “written”.

21 (c) ROUTE REGISTRY.—Section 5125(c)(1) is amend-
22 ed by striking the period at the end and inserting “and
23 is published in the Department’s hazardous material route
24 registry under section 5112(c).”.

1 (d) FEES.—Section 5125(f)(2) is amended by strik-
2 ing “, upon the Secretary’s request,” and inserting “bien-
3 nially”.

4 (e) NON-FEDERAL ENFORCEMENT STANDARDS.—
5 Section 5125 is amended by striking subsection (h).

6 (f) CONFORMING CHANGE.—Section 5125 is further
7 amended—

8 (1) in subsections (d)(1) and (e) by striking “or
9 section 5119(f)”; and

10 (2) in subsection (g) by striking “, and in sec-
11 tion 5119(f),”.

12 **SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 5128 is amended to read as follows:

14 **“§ 5128. Authorization of appropriations**

15 “(a) IN GENERAL.—In order to carry out this chap-
16 ter (except sections 5108(g)(2), 5113, 5115, 5116, and
17 5119), there are authorized to be appropriated to the Sec-
18 retary \$39,000,000 for each of fiscal years 2012 through
19 2016.

20 “(b) HAZARDOUS MATERIAL EMERGENCY PRE-
21 PAREDNESS FUND.—For each of the fiscal years 2012
22 through 2016, there shall be available to the Secretary,
23 from the account established pursuant to section 5116(i),
24 the following:

25 “(1) To carry out section 5115, \$188,000.

1 “(2) To carry out subsections (a) and (b) of
2 section 5116, \$21,800,000.

3 “(3) To carry out section 5116(f), \$150,000.

4 “(4) To publish and distribute the Emergency
5 Response Guidebook under section 5116(j)(3),
6 \$625,000.

7 “(5) To carry out section 5116(j), \$1,000,000.

8 “(c) ISSUANCE OF HAZMAT LICENSES.—There are
9 authorized to be appropriated to the Secretary such
10 amounts as may be necessary to carry out section 5103a.

11 “(d) CREDITS TO APPROPRIATIONS.—The Secretary
12 may credit to any appropriation to carry out this chapter
13 an amount received from a State, Indian tribe, or other
14 public authority or private entity for expenses the Sec-
15 retary incurs in providing training to the State, tribe, au-
16 thority, or entity.

17 “(e) UNIFORM FORMS AND PROCEDURES.—There
18 are authorized to be appropriated to the Secretary
19 \$1,000,000 to carry out section 5119. This amount shall
20 remain available to be expended by the Secretary for the
21 6-year period that begins on the date of enactment of this
22 section.

23 “(f) AVAILABILITY OF AMOUNTS.—Amounts made
24 available by or under this section, except for the amount

1 under subsection (e), shall remain available until ex-
2 pended.”.

3 **SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PRO-**
4 **GRAM.**

5 (a) IN GENERAL.—The Secretary of Transportation
6 shall establish pilot projects, at least one of which shall
7 be in a rural area, to evaluate the feasibility and cost effec-
8 tiveness of electronic shipping paper systems that facili-
9 tate the exchange of shipping paper information between
10 offerors of hazardous material under chapter 51 of title
11 49, United States Code, carriers, and emergency respond-
12 ers.

13 (b) REPORT.—

14 (1) IN GENERAL.—Not later than 3 years after
15 the date of enactment of this Act, the Secretary
16 shall transmit to the Committee on Transportation
17 and Infrastructure of the House of Representatives
18 and the Committee on Commerce, Science, and
19 Transportation of the Senate a report on the results
20 of the pilot projects carried out under this section.

21 (2) CONTENTS.—The report shall contain, at a
22 minimum—

23 (A) an evaluation of each pilot project, in-
24 cluding an evaluation of the impacts on safety
25 and the performance of each system evaluated

1 under that project and a cost-benefit analysis
2 for each mode of transportation; and

3 (B) based on the results of the cost-benefit
4 analyses, a recommendation on whether elec-
5 tronic shipping papers systems described in
6 subsection (a) should be incorporated into the
7 Federal hazardous material safety program
8 under chapter 51 of title 49, United States
9 Code, on a permanent basis.

10 **SEC. 9022. WETLINES.**

11 (a) STUDY.—

12 (1) IN GENERAL.—The Secretary of Transpor-
13 tation shall enter into an arrangement with an ob-
14 jective non-profit organization to conduct a peer-re-
15 viewed study of the transportation of flammable liq-
16 uids in the external product piping of cargo tank
17 motor vehicles (commonly referred to as “wetlines”).

18 (2) CONTENTS.—The study shall—

19 (A) accurately quantify the number of
20 wetlines incidents over a 10-year period;

21 (B) identify various alternatives to loading
22 and transporting flammable liquids in cargo
23 tank wetlines;

24 (C) examine the costs and benefits of each
25 alternative; and

1 (D) identify existing obstacles to imple-
2 menting each alternative.

3 (3) TRANSMITTAL.—Not later than 1 year after
4 the date of enactment of this Act, the Secretary
5 shall transmit to the Committee on Transportation
6 and Infrastructure of the House of Representatives
7 and the Committee on Commerce, Science, and
8 Transportation of the Senate a copy of the study.

9 (b) REGULATORY RESTRICTION.—The Secretary may
10 not issue a final rule regulating the transportation of flam-
11 mable liquids in the external product piping of cargo tank
12 motor vehicles.

13 **SEC. 9023. PRODUCT STUDY.**

14 (a) IN GENERAL.—The Secretary shall conduct a
15 study on whether it is necessary to continue to designate
16 any amount or form of finished pharmaceutical, finished
17 cosmetic, or similar product containing ethyl alcohol as a
18 hazardous material under section 5103(a) of title 49,
19 United States Code.

20 (b) CONTENTS.—The study conducted under sub-
21 section (a) shall include, at a minimum—

22 (1) an evaluation of the history, severity, and
23 costs of any incidents in transporting such products;

24 (2) an evaluation of the risk posed by such
25 products in commercial packaging in current use in

1 transportation and the risk associated in trans-
2 porting the products without any specific packaging
3 required by any applicable special permit or regula-
4 tion;

5 (3) the costs to the industry of designating the
6 products as hazardous material, including the cost of
7 regulation, as compared with the costs of incidents
8 that have occurred or are probable with regard to
9 the products; and

10 (4) a summary of comments from industry
11 stakeholders and the public on whether there is a
12 need for continued designation of such products as
13 hazardous material.

14 (c) TRANSMITTAL.—Not later than 1 year after the
15 date of enactment of this Act, the Secretary shall transmit
16 to the Committee on Transportation and Infrastructure
17 of the House of Representatives and the Committee on
18 Commerce, Science, and Transportation of the Senate a
19 report on the results of the study conducted under sub-
20 section (a) and any proposed actions to be taken by the
21 Secretary resulting from the study.

1 **TITLE X—WATERBORNE**
2 **TRANSPORTATION**

3 **SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.**
4

5 (a) FINDINGS.—Congress finds the following:

6 (1) There are 926 ports served by federally
7 maintained channels which handle more than 2.2 bil-
8 lion tons of cargo annually, and this figure is ex-
9 pected to increase.

10 (2) More than \$1.1 trillion in foreign commerce
11 enters the United States through the Nation's ports
12 annually, and this figure is expected to increase.

13 (3) Expansion of the Panama Canal system in
14 Central America will likely be completed in 2014,
15 and this will present opportunities and challenges for
16 the Nation's economic well-being.

17 (4) Insufficient maintenance dredging of the
18 Nation's navigation channels results in inefficient
19 water transportation and harmful economic con-
20 sequences.

21 (5) In 1986, Congress created the Harbor
22 Maintenance Trust Fund to provide funds for the
23 operation and maintenance of the Nation's naviga-
24 tion channels.

1 (6) The fiscal year 2011, Harbor Maintenance
2 Trust Fund equity grew by 13.7 percent from fiscal
3 year 2010 (to \$6.42 billion) and total annual re-
4 ceipts increased 17.3 percent (to \$1.6 billion).

5 (7) Despite growth of the Harbor Maintenance
6 Trust Fund, expenditures from the Harbor Mainte-
7 nance Trust Fund have not been sufficient.

8 (8) Despite growth of the Harbor Maintenance
9 Trust Fund, federally maintained channels are only
10 at their authorized widths or depths 35 percent of
11 the time, thereby restricting access to the Nation's
12 ports for both imports and exports.

13 (b) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 (1) the Administration should request full use
16 of the Harbor Maintenance Trust Fund for oper-
17 ating and maintaining the Nation's navigation sys-
18 tem; and

19 (2) Congress should fully expend the amounts
20 in the Harbor Maintenance Trust Fund to operate
21 and maintain the Nation's navigation system.

22 **SEC. 10002. STUDY AND REPORT ON STRATEGIC PORTS.**

23 (a) STUDY REQUIREMENT.—The Secretary shall con-
24 duct a study on infrastructure facility requirements, road
25 and highway improvements, rail connections, and other

1 multimodal transportation capacity requirements nec-
2 essary to achieve the following goals with respect to stra-
3 tegic ports:

4 (1) Provide greater access to port facilities.

5 (2) Reduce congestion.

6 (3) Improve the movement of goods.

7 (4) Increase productivity.

8 (5) Enhance maritime security.

9 (b) REPORT.—Not later than 180 days after the date
10 of enactment of this Act, the Secretary shall submit to
11 Congress a report on the results of the study conducted
12 under subsection (a), with such recommendations as the
13 Secretary considers necessary to achieve the goals listed
14 in that subsection.

15 (c) STRATEGIC PORT DEFINED.—In this section, the
16 term “strategic port” means a United States port des-
17 ignated by the Secretary and the Secretary of Defense as
18 a significant transportation hub important to the readi-
19 ness and cargo throughput capacity of the Department of
20 Defense.

1 **TITLE XI—REAUTHORIZATION**
2 **AND AMENDMENTS TO THE**
3 **SPORT FISH RESTORATION**
4 **AND BOATING TRUST FUND**

5 **SEC. 11001. SHORT TITLE.**

6 This title may be cited as the “Sportfishing and Rec-
7 reational Boating Safety Act of 2012”.

8 **SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE**
9 **SPORT FISH RESTORATION AND BOATING**
10 **TRUST FUND.**

11 (a) DINGELL-JOHNSON SPORT FISH RESTORATION
12 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
13 toration Act (16 U.S.C. 777c) is amended—

14 (1) in subsection (a) in the matter preceding
15 paragraph (1), by striking “For each of” and all
16 that follows through “the balance of each annual”
17 and inserting “For each fiscal year through fiscal
18 year 2016, the balance of each annual”;

19 (2) in subsection (b)(1)(A), by striking “From
20 the annual” and all that follows through “the Sec-
21 retary” and inserting “From the annual appropria-
22 tion made in accordance with section 3 for each fis-
23 cal year through fiscal year 2016, the Secretary”;
24 and

1 (3) by striking subsection (b)(1)(B) and insert-
2 ing the following:

3 “(B) AVAILABLE AMOUNTS.—The available
4 amount referred to in subparagraph (A) is, for
5 each fiscal year, the sum of—

6 “(i) the available amount for the pre-
7 ceding fiscal year; and

8 “(ii) the amount determined by multi-
9 plying—

10 “(I) the available amount for the
11 preceding fiscal year; and

12 “(II) the change, relative to the
13 preceding fiscal year, in the Consumer
14 Price Index for All Urban Consumers
15 published by the Department of
16 Labor.”.

17 (A) by striking “The available amount”
18 and all that follows through “the sum of—”
19 and inserting “The available amount referred to
20 in subparagraph (A) is, for each fiscal year, the
21 sum of—”; and

22 (B) by redesignating subitems (aa) and
23 (bb) as clauses (i) and (ii), and moving them 4
24 ems to the left.

1 (b) EXTENSION OF EXPENDITURE AUTHORITY FROM
2 THE SPORT FISH RESTORATION AND BOATING TRUST
3 FUND.—Section 9504 of the Internal Revenue Code of
4 1986 is amended—

5 (1) in subsection (b)(2), by striking “(as in ef-
6 fect on” each place it appears and all that follows
7 through the next closed parenthesis and inserting
8 “(as in effect on the date of enactment of the
9 Sportfishing and Recreational Boating Safety Act of
10 2012)”, and

11 (2) in subsection (d)(2), by striking “before”
12 and all that follows through “in accordance” and in-
13 serting “before October 1, 2016, in accordance”.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—Chapter
15 131 of title 46, United States Code, is amended—

16 (1) in section 13107(a)(2), by striking “two”
17 and inserting “1.5”; and

18 (2) in section 13107(c), by striking so much as
19 precedes paragraph (2) and inserting the following:

20 “(c)(1) Of the amount transferred to the Secretary
21 under section 4(a)(2) of the Dingell-Johnson Sport Fish
22 Restoration Act (16 U.S.C. 777c(a)(2))—

23 “(A) \$6,000,000 is available to the Secretary
24 for the payment of expenses of the Coast Guard for
25 personnel and activities directly related to coordi-

1 nating and carrying out the national recreational
2 boating safety program under this title, of which not
3 less than \$2,000,000 shall be available to the Sec-
4 retary only to ensure compliance with chapter 43 of
5 this title; and

6 “(B) \$100,000 is available to fund the activities
7 of the National Boating Safety Advisory Council es-
8 tablished under this chapter.”.

9 **TITLE XII—EXTENSION OF SUR-** 10 **FACE TRANSPORTATION PRO-** 11 **GRAMS**

12 **SEC. 12001. SHORT TITLE; EFFECTIVE DATE.**

13 (a) **SHORT TITLE.**—This title may be cited as the
14 “Surface Transportation Extension Act of 2012”.

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 this title take effect on April 1, 2012.

17 **Subtitle A—Federal-Aid Highways**

18 **SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PRO-** 19 **GRAMS.**

20 (a) **IN GENERAL.**—Section 111 of the Surface Trans-
21 portation Extension Act of 2011, Part II (Public Law
22 112–30; 125 Stat. 343) is amended—

23 (1) by striking “the period beginning on Octo-
24 ber 1, 2011, and ending on March 31, 2012,” each
25 place it appears and inserting “fiscal year 2012”;

1 (2) by striking “ $\frac{1}{2}$ of” each place it appears;

2 and

3 (3) in subsection (a) by striking “March 31,
4 2012” and inserting “September 30, 2012”.

5 (b) USE OF FUNDS.—Section 111(c) of the Surface
6 Transportation Extension Act of 2011, Part II (125 Stat.
7 343) is amended—

8 (1) in paragraph (3)—

9 (A) in subparagraph (A) by striking “, ex-
10 cept that during such period” and all that fol-
11 lows before the period at the end; and

12 (B) in subparagraph (B)(ii) by striking
13 “\$319,500,000” and inserting “\$639,000,000”;
14 and

15 (2) by striking paragraph (4).

16 (c) EXTENSION OF AUTHORIZATIONS UNDER TITLE
17 V OF SAFETEA-LU.—Section 111(e)(2) of the Surface
18 Transportation Extension Act of 2011, Part II (125 Stat.
19 343) is amended by striking “the period beginning on Oc-
20 tober 1, 2011, and ending on March 31, 2012.” and in-
21 serting “fiscal year 2012.”.

22 (d) ADMINISTRATIVE EXPENSES.—Section 112(a) of
23 the Surface Transportation Extension Act of 2011, Part
24 II (125 Stat. 346) is amended by striking “\$196,427,625
25 for the period beginning on October 1, 2011, and ending

1 on March 31, 2012.” and inserting “\$392,855,250 for fis-
2 cal year 2012.”.

3 **Subtitle B—Extension of Highway**
4 **Safety Programs**

5 **SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**
6 **SAFETY ADMINISTRATION HIGHWAY SAFETY**
7 **PROGRAMS.**

8 (a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Sec-
9 tion 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is
10 amended by striking “\$235,000,000 for fiscal year 2009”
11 and all that follows through the period at the end and
12 inserting “and \$235,000,000 for each of fiscal years 2009
13 through 2012.”.

14 (b) HIGHWAY SAFETY RESEARCH AND DEVELOP-
15 MENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat.
16 1519) is amended by striking “\$108,244,000 for fiscal
17 year 2011” and all that follows through the period at the
18 end and inserting “and \$108,244,000 for each of fiscal
19 years 2011 and 2012.”.

20 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—
21 Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519)
22 is amended by striking “, \$25,000,000 for fiscal year
23 2006” and all that follows through the period at the end
24 and inserting “and \$25,000,000 for each of fiscal years
25 2006 through 2012.”.

1 (d) SAFETY BELT PERFORMANCE GRANTS.—Section
2 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amend-
3 ed by striking “and \$24,250,000 for the period beginning
4 on October 1, 2011, and ending on March 31, 2012.” and
5 inserting “and \$48,500,000 for fiscal year 2012.”.

6 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
7 IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU
8 (119 Stat. 1519) is amended by striking “for fiscal year
9 2006” and all that follows through the period at the end
10 and inserting “for each of fiscal years 2006 through
11 2012.”.

12 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
13 MEASURES INCENTIVE GRANT PROGRAM.—Section
14 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amend-
15 ed by striking “\$139,000,000 for fiscal year 2009” and
16 all that follows through the period at the end and inserting
17 “and \$139,000,000 for each of fiscal years fiscal years
18 2009 through 2012.”.

19 (g) NATIONAL DRIVER REGISTER.—Section
20 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amend-
21 ed by striking “and \$2,058,000 for the period beginning
22 on October 1, 2011, and ending on March 31, 2012.” and
23 inserting “and \$4,000,000 for fiscal year 2012.”.

24 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—
25 Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520)

1 is amended by striking “for fiscal year 2006” and all that
2 follows through the period at the end and inserting “for
3 each of fiscal years 2006 through 2012.”.

4 (i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of
5 SAFETEA–LU (119 Stat. 1520) is amended by striking
6 “\$7,000,000 for fiscal year 2009” and all that follows
7 through the period at the end and inserting “and
8 \$7,000,000 for each of fiscal years 2009 through 2012.”.

9 (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFE-
10 TY INCENTIVE GRANTS.—Section 2001(a)(10) of
11 SAFETEA–LU (119 Stat. 1520) is amended by striking
12 “\$7,000,000 for fiscal year 2009” and all that follows
13 through the period at the end and inserting “and
14 \$7,000,000 for each of fiscal years 2009 through 2012.”.

15 (k) ADMINISTRATIVE EXPENSES.—Section
16 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is
17 amended by striking “\$25,328,000 for fiscal year 2011”
18 and all that follows through the period at the end and
19 inserting “and \$25,328,000 for each of fiscal years 2011
20 and 2012.”.

21 **SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER**
22 **SAFETY ADMINISTRATION PROGRAMS.**

23 (a) MOTOR CARRIER SAFETY GRANTS.—Section
24 31104(a)(8) of title 49, United States Code, is amended
25 to read as follows:

1 “(8) \$212,000,000 for fiscal year 2012.”.

2 (b) ADMINISTRATIVE EXPENSES.—Section
3 31104(i)(1)(H) of title 49, United States Code, is amend-
4 ed to read as follows:

5 “(H) \$244,144,000 for fiscal year 2012.”.

6 (c) GRANT PROGRAMS.—Section 4101(c) of
7 SAFETEA-LU (119 Stat. 1715) is amended—

8 (1) in paragraph (1) by striking “and
9 \$15,000,000 for the period beginning on October 1,
10 2011, and ending on March 31, 2012.” and insert-
11 ing “and \$30,000,000 for fiscal year 2012.”;

12 (2) in paragraph (2) by striking “2011 and
13 \$16,000,000 for the period beginning on October 1,
14 2011, and ending on March 31, 2012.” and insert-
15 ing “2012.”;

16 (3) in paragraph (3) by striking “2011 and
17 \$2,500,000 for the period beginning on October 1,
18 2011, and ending on March 31, 2012.” and insert-
19 ing “2012.”;

20 (4) in paragraph (4) by striking “2011 and
21 \$12,500,000 for the period beginning on October 1,
22 2011, and ending on March 31, 2012.” and insert-
23 ing “2012.”; and

24 (5) in paragraph (5) by striking “2011 and
25 \$1,500,000 for the period beginning on October 1,

1 2011, and ending on March 31, 2012.” and insert-
2 ing “2012”.

3 (d) HIGH-PRIORITY ACTIVITIES.—Section
4 31104(k)(2) of title 49, United States Code, is amended
5 by striking “2011 and \$7,500,000 for the period begin-
6 ning on October 1, 2011, and ending on March 31, 2012,”
7 and inserting “2012”.

8 (e) NEW ENTRANT AUDITS.—Section
9 31144(g)(5)(B) of title 49, United States Code, is amend-
10 ed by striking “and up to \$14,500,000 for the period be-
11 ginning on October 1, 2011, and ending on March 31,
12 2012,”.

13 (f) OUTREACH AND EDUCATION.—Section 4127(e) of
14 SAFETEA–LU (119 Stat. 1741) is amended by striking
15 “and 2011 (and \$500,000 to the Federal Motor Carrier
16 Safety Administration, and \$1,500,000 to the National
17 Highway Traffic Safety Administration, for the period be-
18 ginning on October 1, 2011, and ending on March 31,
19 2012)” and inserting “2011, and 2012”.

20 (g) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-
21 HICLE OPERATORS.—Section 4134(c) of SAFETEA–LU
22 (119 Stat. 1744) is amended by striking “2011 and
23 \$500,000 for the period beginning on October 1, 2011,
24 and ending on March 31, 2012,” and inserting “2012”.

1 (h) MOTOR CARRIER SAFETY ADVISORY COM-
2 MITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat.
3 1748) is amended by striking “March 31, 2012” and in-
4 serting “September 30, 2012”.

5 (i) WORKING GROUP FOR DEVELOPMENT OF PRAC-
6 TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE
7 RELATIONS.—Section 4213(d) of SAFETEA–LU (49
8 U.S.C. 14710 note; 119 Stat. 1759) is amended by strik-
9 ing “March 31, 2012” and inserting “September 30,
10 2012”.

11 **SEC. 12203. ADDITIONAL PROGRAMS.**

12 (a) HAZARDOUS MATERIALS RESEARCH
13 PROJECTS.—Section 7131(e) of SAFETEA–LU (119
14 Stat. 1910) is amended by striking “2011 and \$580,000
15 for the period beginning on October 1, 2011, and ending
16 on March 31, 2012,” and inserting “2012”.

17 (b) DINGELL-JOHNSON SPORT FISH RESTORATION
18 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
19 toration Act (16 U.S.C. 777c) is amended—

20 (1) in subsection (a) by striking “2011 and for
21 the period beginning on October 1, 2011, and ending
22 on March 31, 2012,” and inserting “2012,”; and

23 (2) in the first sentence of subsection (b)(1)(A)
24 by striking “2011 and for the period beginning on

1 October 1, 2011, and ending on March 31, 2012,”
2 and inserting “2012,”.

3 **Subtitle C—Public Transportation**
4 **Programs**

5 **SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PRO-**
6 **GRAMS.**

7 Section 5305(g) of title 49, United States Code, is
8 amended by striking “2011 and for the period beginning
9 on October 1, 2011, and ending on March 31, 2012” and
10 inserting “2012”.

11 **SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FOR-**
12 **MULA GRANTS.**

13 Section 5307(b)(2) of title 49, United States Code,
14 is amended—

15 (1) by striking the paragraph heading and in-
16 serting “SPECIAL RULE FOR FISCAL YEARS 2005
17 THROUGH 2012.—”;

18 (2) in subparagraph (A) by striking “2011 and
19 the period beginning on October 1, 2011, and ending
20 on March 31, 2012,” and inserting “2012,” ; and

21 (3) in subparagraph (E)—

22 (A) by striking the subparagraph heading
23 and inserting “MAXIMUM AMOUNTS IN FISCAL
24 YEARS 2008 THROUGH 2012.—”; and

1 (B) in the matter preceding clause (i) by
2 striking “2011 and during the period beginning
3 on October 1, 2011, and ending on March 31,
4 2012” and inserting “2012”.

5 **SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**
6 **MENT GRANTS.**

7 Section 5309(m) of title 49, United States Code, is
8 amended—

9 (1) in paragraph (2)—

10 (A) by striking the paragraph heading and
11 inserting “FISCAL YEARS 2006 THROUGH
12 2012.—”;

13 (B) in the matter preceding subparagraph
14 (A) by striking “2011 and the period beginning
15 on October 1, 2011, and ending on March 31,
16 2012,” and inserting “2012”; and

17 (C) in subparagraph (A)(i) by striking
18 “2011 and \$100,000,000 for the period begin-
19 ning on October 1, 2011, and ending on March
20 31, 2012,” and inserting “2012”;

21 (2) in paragraph (6)—

22 (A) in subparagraph (B) by striking “2011
23 and \$7,500,000 shall be available for the period
24 beginning on October 1, 2011, and ending on
25 March 31, 2012,” and inserting “2012”; and

1 (B) in subparagraph (C) by striking “2011
2 and \$2,500,000 shall be available for the period
3 beginning on October 1, 2011, and ending on
4 March 31, 2012,” and inserting “2012”; and
5 (3) in paragraph (7)—

6 (A) in subparagraph (A)—

7 (i) in the matter preceding clause
8 (i)—

9 (I) in the first sentence by strik-
10 ing “2011 and \$5,000,000 shall be
11 available for the period beginning on
12 October 1, 2011, and ending on
13 March 31, 2012,” and inserting
14 “2012”; and

15 (II) in the second sentence by in-
16 serting “each fiscal year” before the
17 colon;

18 (ii) in clause (i) by striking “for each
19 fiscal year and \$1,250,000 for the period
20 beginning on October 1, 2011, and ending
21 on March 31, 2012,”;

22 (iii) in clause (ii) by striking “for each
23 fiscal year and \$1,250,000 for the period
24 beginning on October 1, 2011, and ending
25 on March 31, 2012,”;

1 (iv) in clause (iii) by striking “for
2 each fiscal year and \$500,000 for the pe-
3 riod beginning on October 1, 2011, and
4 ending on March 31, 2012,”;

5 (v) in clause (iv) by striking “for each
6 fiscal year and \$500,000 for the period be-
7 ginning on October 1, 2011, and ending on
8 March 31, 2012,”;

9 (vi) in clause (v) by striking “for each
10 fiscal year and \$500,000 for the period be-
11 ginning on October 1, 2011, and ending on
12 March 31, 2012,”;

13 (vii) in clause (vi) by striking “for
14 each fiscal year and \$500,000 for the pe-
15 riod beginning on October 1, 2011, and
16 ending on March 31, 2012,”;

17 (viii) in clause (vii) by striking “for
18 each fiscal year and \$325,000 for the pe-
19 riod beginning on October 1, 2011, and
20 ending on March 31, 2012,”; and

21 (ix) in clause (viii) by striking “for
22 each fiscal year and \$175,000 for the pe-
23 riod beginning on October 1, 2011, and
24 ending on March 31, 2012,”;

1 (B) in subparagraph (B) by striking clause
2 (vii) and inserting the following:

3 “(vii) \$13,500,000 for fiscal year
4 2012.”;

5 (C) in subparagraph (C) by striking “and
6 during the period beginning on October 1,
7 2011, and ending on March 31, 2012.”;

8 (D) in subparagraph (D) by striking “and
9 not less than \$17,500,000 shall be available for
10 the period beginning on October 1, 2011, and
11 ending on March 31, 2012.”; and

12 (E) in subparagraph (E) by striking “and
13 \$1,500,000 shall be available for the period be-
14 ginning on October 1, 2011, and ending on
15 March 31, 2012.”.

16 **SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR**
17 **OTHER THAN URBANIZED AREAS.**

18 Section 5311(c)(1)(G) of title 49, United States
19 Code, is amended to read as follows:

20 “(G) \$15,000,000 for fiscal year 2012.”.

21 **SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY**
22 **FACTORS.**

23 Section 5337 of title 49, United States Code, is
24 amended by striking subsection (g).

1 **SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**
2 **TATION.**

3 (a) FORMULA AND BUS GRANTS.—Section 5338(b)
4 of title 49, United States Code, is amended—

5 (1) in paragraph (1) by striking subparagraph
6 (G) and inserting the following:

7 “(G) \$8,360,565,000 for fiscal year
8 2012.”; and

9 (2) in paragraph (2)—

10 (A) in subparagraph (A) by striking
11 “\$113,500,000 for each of fiscal years 2009
12 and 2010, \$113,500,000 for fiscal year 2011,
13 and \$56,750,000 for the period beginning on
14 October 1, 2011, and ending on March 31,
15 2012,” and inserting “and \$113,500,000 for
16 each of fiscal years 2009 through 2012”;

17 (B) in subparagraph (B) by striking
18 “\$4,160,365,000 for each of fiscal years 2009
19 and 2010, \$4,160,365,000 for fiscal year 2011,
20 and \$2,080,182,500 for the period beginning on
21 October 1, 2011, and ending on March 31,
22 2012,” and inserting “and \$4,160,365,000 for
23 each of fiscal years 2009 through 2012”;

24 (C) in subparagraph (C) by striking
25 “\$51,500,000 for each of fiscal years 2009 and
26 2010, \$51,500,000 for fiscal year 2011, and

1 \$25,750,000 for the period beginning on Octo-
2 ber 1, 2011, and ending on March 31, 2012,”
3 and inserting “and \$51,500,000 for each of fis-
4 cal years 2009 through 2012”;

5 (D) in subparagraph (D) by striking
6 “\$1,666,500,000 for each of fiscal years 2009
7 and 2010, \$1,666,500,000 for fiscal year 2011,
8 and \$833,250,000 for the period beginning on
9 October 1, 2011, and ending on March 31,
10 2012,” and inserting “and \$1,666,500,000 for
11 each of fiscal years 2009 through 2012”;

12 (E) in subparagraph (E) by striking
13 “\$984,000,000 for each of fiscal years 2009
14 and 2010, \$984,000,000 for fiscal year 2011,
15 and \$492,000,000 for the period beginning on
16 October 1, 2011, and ending on March 31,
17 2012,” and inserting “and \$984,000,000 for
18 each of fiscal years 2009 through 2012”;

19 (F) in subparagraph (F) by striking
20 “\$133,500,000 for each of fiscal years 2009
21 and 2010, \$133,500,000 for fiscal year 2011,
22 and \$66,750,000 for the period beginning on
23 October 1, 2011, and ending on March 31,
24 2012,” and inserting “and \$133,500,000 for
25 each of fiscal years 2009 through 2012”;

1 (G) in subparagraph (G) by striking
2 “\$465,000,000 for each of fiscal years 2009
3 and 2010, \$465,000,000 for fiscal year 2011,
4 and \$232,500,000 for the period beginning on
5 October 1, 2011, and ending on March 31,
6 2012,” and inserting “and \$465,000,000 for
7 each of fiscal years 2009 through 2012”;

8 (H) in subparagraph (H) by striking
9 “\$164,500,000 for each of fiscal years 2009
10 and 2010, \$164,500,000 for fiscal year 2011,
11 and \$82,250,000 for the period beginning on
12 October 1, 2011, and ending on March 31,
13 2012,” and inserting “and \$164,500,000 for
14 each of fiscal years 2009 through 2012”;

15 (I) in subparagraph (I) by striking
16 “\$92,500,000 for each of fiscal years 2009 and
17 2010, \$92,500,000 for fiscal year 2011, and
18 \$46,250,000 for the period beginning on Octo-
19 ber 1, 2011, and ending on March 31, 2012,”
20 and inserting “and \$92,500,000 for each of fis-
21 cal years 2009 through 2012”;

22 (J) in subparagraph (J) by striking
23 “\$26,900,000 for each of fiscal years 2009 and
24 2010, \$26,900,000 for fiscal year 2011, and
25 \$13,450,000 for the period beginning on Octo-

1 ber 1, 2011, and ending on March 31, 2012,”
2 and inserting “and \$26,900,000 for each of fis-
3 cal years 2009 through 2012”;

4 (K) in subparagraph (K) by striking “in
5 fiscal year 2006” and all that follows through
6 “March 31, 2012,” and inserting “for each of
7 fiscal years 2006 through 2012”;

8 (L) in subparagraph (L) by striking “in
9 fiscal year 2006” and all that follows through
10 “March 31, 2012,” and inserting “for each of
11 fiscal years 2006 through 2012”;

12 (M) in subparagraph (M) by striking
13 “\$465,000,000 for each of fiscal years 2009
14 and 2010, \$465,000,000 for fiscal year 2011,
15 and \$232,500,000 for the period beginning on
16 October 1, 2011, and ending on March 31,
17 2012,” and inserting “and \$465,000,000 for
18 each of fiscal years 2009 through 2012”; and

19 (N) in subparagraph (N) by striking
20 “\$8,800,000 for each of fiscal years 2009 and
21 2010, \$8,800,000 for fiscal year 2011, and
22 \$4,400,000 for the period beginning on October
23 1, 2011, and ending on March 31, 2012,” and
24 inserting “and \$8,800,000 for each of fiscal
25 years 2009 through 2012”.

1 (b) CAPITAL INVESTMENT GRANTS.—Section
2 5338(c)(7) of title 49, United States Code, is amended
3 to read as follows:

4 “(7) \$1,600,000,000 for fiscal year 2012.”.

5 (c) RESEARCH AND UNIVERSITY RESEARCH CEN-
6 TERS.—Section 5338(d) of title 49, United States Code,
7 is amended—

8 (1) in paragraph (1), in the matter preceding
9 subparagraph (A), by striking “and 2010,
10 \$69,750,000 for fiscal year 2011, and \$29,500,000
11 for the period beginning on October 1, 2011, and
12 ending on March 31, 2012,” and inserting “through
13 2011 and \$44,000,000 for fiscal year 2012”; and

14 (2) by striking paragraph (3) and inserting the
15 following:

16 “(3) ADDITIONAL AUTHORIZATIONS.—

17 “(A) RESEARCH.—Of amounts authorized
18 to be appropriated under paragraph (1) for fis-
19 cal year 2012, the Secretary shall allocate for
20 each of the activities and projects described in
21 subparagraphs (A) through (F) of paragraph
22 (1) an amount equal to 63 percent of the
23 amount allocated for fiscal year 2009 under
24 each such subparagraph.

25 “(B) UNIVERSITY CENTERS PROGRAM.—

1 “(i) FISCAL YEAR 2012.—Of the
2 amounts allocated under subparagraph
3 (A)(i) for the university centers program
4 under section 5506 for fiscal year 2012,
5 the Secretary shall allocate for each pro-
6 gram described in clauses (i) through (iii)
7 and (v) through (viii) of paragraph (2)(A)
8 an amount equal to 63 percent of the
9 amount allocated for fiscal year 2009
10 under each such clause.

11 “(ii) FUNDING.—If the Secretary de-
12 termines that a project or activity de-
13 scribed in paragraph (2) received sufficient
14 funds in fiscal year 2011, or a previous fis-
15 cal year, to carry out the purpose for
16 which the project or activity was author-
17 ized, the Secretary may not allocate any
18 amounts under clause (i) for the project or
19 activity for fiscal year 2012 or any subse-
20 quent fiscal year.”.

21 (d) ADMINISTRATION.—Section 5338(e)(7) of title
22 49, United States Code, is amended to read as follows:

23 “(7) \$98,713,000 for fiscal year 2012.”.

1 **SEC. 12307. AMENDMENTS TO SAFETEA-LU.**

2 (a) **CONTRACTED PARATRANSIT PILOT.**—Section
3 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amend-
4 ed by striking “2011 and the period beginning on October
5 1, 2011, and ending on March 31, 2012,” and inserting
6 “2012”.

7 (b) **PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-**
8 **GRAM.**—Section 3011 of SAFETEA-LU (49 U.S.C. 5309
9 note; 119 Stat. 1588) is amended—

10 (1) in subsection (c)(5) by striking “2011 and
11 the period beginning on October 1, 2011, and ending
12 on March 31, 2012” and inserting “2012”; and

13 (2) in the second sentence of subsection (d) by
14 striking “2011 and the period beginning on October
15 1, 2011, and ending on March 31, 2012,” and in-
16 serting “2012”.

17 (c) **ELDERLY INDIVIDUALS AND INDIVIDUALS WITH**
18 **DISABILITIES PILOT PROGRAM.**—Section 3012(b)(8) of
19 SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593)
20 is amended by striking “March 31, 2012” and inserting
21 “September 30, 2012”.

22 (d) **OBLIGATION CEILING.**—Section 3040(8) of
23 SAFETEA-LU (119 Stat. 1639) is amended to read as
24 follows:

1 “(8) \$10,458,278,000 for fiscal year 2012, of
2 which not more than \$8,360,565,000 shall be from
3 the Mass Transit Account.”.

4 (e) PROJECT AUTHORIZATIONS FOR NEW FIXED
5 GUIDEWAY CAPITAL PROJECTS.—Section 3043 of
6 SAFETEA-LU (119 Stat. 1640) is amended—

7 (1) in subsection (b), in the matter preceding
8 paragraph (1), by striking “2011 and the period be-
9 ginning on October 1, 2011, and ending on March
10 31, 2012,” and inserting “2012”; and

11 (2) in subsection (c), in the matter preceding
12 paragraph (1), by striking “2011 and the period be-
13 ginning on October 1, 2011, and ending on March
14 31, 2012,” and inserting “2012”.

15 (f) ALLOCATIONS FOR NATIONAL RESEARCH AND
16 TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-
17 LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

18 (1) in subsection (b) by striking “fiscal year or
19 period” and inserting “fiscal year”; and

20 (2) by striking subsection (c)(2) and inserting
21 the following:

22 “(2) for fiscal year 2012, in amounts equal to
23 63 percent of the amounts allocated for fiscal year
24 2009 under each of paragraphs (2), (3), (5), and (8)
25 through (25) of subsection (a).”.

1 **TITLE XIII—ADDITIONAL**
2 **TRANSPORTATION PROVISIONS**

3 **SEC. 13001. BUDGET RULE RELATING TO TRANSFERS FROM**
4 **THE GENERAL FUND OF THE TREASURY TO**
5 **THE HIGHWAY TRUST FUND THAT INCREASE**
6 **PUBLIC INDEBTEDNESS.**

7 For purposes of the Congressional Budget Act of
8 1974, the Balanced Budget and Emergency Deficit Con-
9 trol Act of 1985, the Rules of the House of Representa-
10 tives, or the Standing Rules of the Senate, a bill or joint
11 resolution, or an amendment thereto or conference report
12 thereon, or any Act that transfers funds from the general
13 fund of the Treasury to the Highway Trust Fund shall
14 be counted as new budget authority and outlays equal to
15 the amount of the transfer in the fiscal year the transfer
16 occurs.

17 **SEC. 13002. AUDIT OF UNION STATION REDEVELOPMENT**
18 **CORPORATION.**

19 The Inspector General of the Department of Trans-
20 portation, or an auditor determined by the Inspector Gen-
21 eral to meet the independence standards specified in the
22 Government Auditing Standards issued by the Comp-
23 troller General of the United States, shall once every 2
24 years conduct an audit of the accounts and operations of
25 the Union Station Redevelopment Corporation. The audit

1 of financial statements shall be conducted in accordance
2 with generally accepted auditing standards and, to the ex-
3 tent determined applicable by the Inspector General, the
4 Government Auditing Standards.

5 **SEC. 13003. PROHIBITION ON USE OF FUNDS.**

6 None of the funds appropriated or otherwise made
7 available under this Act, or the amendments made by this
8 Act, may be used for physical signage indicating that a
9 project is funded under this Act.

10 **TITLE XIV—KEYSTONE XL**
11 **PIPELINE**

12 **SEC. 14001. SHORT TITLE.**

13 This title may be cited as the “North American En-
14 ergy Access Act”.

15 **SEC. 14002. RESTRICTION.**

16 (a) IN GENERAL.—No person may construct, oper-
17 ate, or maintain the oil pipeline and related facilities de-
18 scribed in subsection (b) except in accordance with a per-
19 mit issued under this title.

20 (b) PIPELINE.—The pipeline and related facilities re-
21 ferred to in subsection (a) are those described in the Final
22 Environmental Impact Statement for the Keystone XL
23 Pipeline Project issued by the Department of State on Au-
24 gust 26, 2011, including any modified version of that pipe-
25 line and related facilities.

1 **SEC. 14003. PERMIT.**

2 (a) ISSUANCE.—

3 (1) BY FERC.—The Federal Energy Regulatory
4 Commission shall, not later than 30 days after re-
5 ceipt of an application therefor, issue a permit with-
6 out additional conditions for the construction, oper-
7 ation, and maintenance of the oil pipeline and re-
8 lated facilities described in section 14002(b), to be
9 implemented in accordance with the terms of the
10 Final Environmental Impact Statement described in
11 section 14002(b). The Commission shall not be re-
12 quired to prepare a Record of Decision under section
13 1505.2 of title 40 of the Code of Federal Regula-
14 tions with respect to issuance of the permit provided
15 for in this section.

16 (2) ISSUANCE IN ABSENCE OF FERC ACTION.—

17 If the Federal Energy Regulatory Commission has
18 not acted on an application for a permit described
19 in paragraph (1) within 30 days after receiving such
20 application, the permit shall be deemed to have been
21 issued under this title upon the expiration of such
22 30-day period.

23 (b) MODIFICATION.—

24 (1) IN GENERAL.—The applicant for or holder
25 of a permit described in subsection (a) may make a
26 substantial modification to the pipeline route or any

1 other term of the Final Environmental Impact
2 Statement described in section 14002(b) only with
3 the approval of the Federal Energy Regulatory Com-
4 mission. The Commission shall expedite consider-
5 ation of any such modification proposal.

6 (2) NEBRASKA MODIFICATION.—Within 30
7 days after the date of enactment of this Act, the
8 Federal Energy Regulatory Commission shall enter
9 into a memorandum of understanding with the State
10 of Nebraska for an effective and timely review under
11 the National Environmental Policy Act of 1969 of
12 any modification to the proposed pipeline route in
13 Nebraska as proposed by the applicant for the per-
14 mit described in subsection (a). Not later than 30
15 days after receiving approval of such proposed modi-
16 fication from the Governor of Nebraska, the Com-
17 mission shall complete consideration of and approve
18 such modification.

19 (3) ISSUANCE IN ABSENCE OF FERC ACTION.—
20 If the Federal Energy Regulatory Commission has
21 not acted on an application for approval of a modi-
22 fication described in paragraph (2) within 30 days
23 after receiving such application, such modification
24 shall be deemed to have been issued under this title
25 upon expiration of the 30-day period.

1 (4) CONSTRUCTION DURING CONSIDERATION OF
2 NEBRASKA MODIFICATION.—While any modification
3 of the proposed pipeline route in Nebraska is under
4 consideration pursuant to paragraph (2), the holder
5 of the permit issued under subsection (a) may com-
6 mence or continue with construction of any portion
7 of the pipeline and related facilities described in sec-
8 tion 14002(b) that is not within the State of Ne-
9 braska.

10 (c) NATIONAL ENVIRONMENTAL POLICY ACT OF
11 1969.—Except for actions taken under subsection (b)(1),
12 the actions taken pursuant to this title shall be taken with-
13 out further action under the National Environmental Pol-
14 icy Act of 1969 (42 U.S.C. 4321 et seq.).

15 **SEC. 14004. RELATION TO OTHER LAW.**

16 (a) GENERAL RULE.—Notwithstanding Executive
17 Order 13337 (3 U.S.C. 301 note), Executive Order 11423
18 (3 U.S.C. 301 note), section 301 of title 3, United States
19 Code, and any other Executive Order or provision of law,
20 no presidential permits shall be required for the construc-
21 tion, operation, and maintenance of the pipeline and re-
22 lated facilities described in section 14002(b) of this Act.

23 (b) APPLICABILITY.—Nothing in this title shall affect
24 the application to the pipeline and related facilities de-
25 scribed in section 14002(b) of—

1 (1) chapter 601 of title 49, United States Code;
2 or

3 (2) the authority of the Federal Energy Regu-
4 latory Commission to regulate oil pipeline rates and
5 services.

6 (c) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
7 The final environmental impact statement issued by the
8 Secretary of State on August 26, 2011, shall be considered
9 to satisfy all requirements of the National Environmental
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

11 **TITLE XV—AMERICAN ENERGY**
12 **AND INFRASTRUCTURE JOBS**
13 **FINANCING**

14 **SEC. 15001. SHORT TITLE.**

15 This title may be cited as the “American Energy and
16 Infrastructure Jobs Financing Act of 2012”.

17 **SEC. 15002. EXTENSION OF TRUST FUND EXPENDITURE AU-**
18 **THORITY.**

19 (a) HIGHWAY TRUST FUND.—Section 9503 of the
20 Internal Revenue Code of 1986 is amended—

21 (1) by striking “April 1, 2012” in subsections
22 (b)(6)(B), (c)(1), and (e)(3) and inserting “October
23 1, 2016”; and

24 (2) by striking “Surface Transportation Exten-
25 sion Act of 2011, Part II” in subsections (c)(1) and

1 (e)(3) and inserting “American Energy and Infra-
2 structure Jobs Act of 2012”.

3 (b) SPORT FISH RESTORATION AND BOATING TRUST
4 FUND.—Section 9504 of such Code is amended—

5 (1) by striking “Surface Transportation Exten-
6 sion Act of 2011, Part II” each place it appears in
7 subsection (b)(2) and inserting “American Energy
8 and Infrastructure Jobs Act of 2012”; and

9 (2) by striking “April 1, 2012” in subsection
10 (d)(2) and inserting “October 1, 2016”.

11 (c) LEAKING UNDERGROUND STORAGE TANK TRUST
12 FUND.—Paragraph (2) of section 9508(e) of such Code
13 is amended by striking “April 1, 2012” and inserting “Oc-
14 tober 1, 2016”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on April 1, 2012.

17 **SEC. 15003. 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 2018”:

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, 2018”:

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.—

10 (1) IN GENERAL.—Subsection (f) of section
11 4481 of such Code is amended by striking “2012”
12 and inserting “2018”.

13 (2) TAXABLE PERIOD.—Section 4482 of such
14 Code is amended—

15 (A) in subsection (c)(4)—

16 (i) by striking “July 1, 2012” each
17 place it appears and inserting “July 1,
18 2018”, and

19 (ii) by striking “September 30, 2012”
20 and inserting “September 30, 2018”.

21 (B) in subsection (d), by striking “Sep-
22 tember 30, 2012” and inserting “September 30,
23 2018”.

24 (c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1)
25 of such Code is amended—

1 (1) by striking “April 1, 2012” each place it
2 appears and inserting “October 1, 2018”;

3 (2) by striking “September 30, 2012” each
4 place it appears and inserting “September 30,
5 2018”; and

6 (3) by striking “July 1, 2012” and inserting
7 “January 1, 2019”.

8 (d) EXTENSION OF CERTAIN EXEMPTIONS.—Sec-
9 tions 4221(a) and 4483(i) of such Code are each amended
10 by striking “April 1, 2012” and inserting “October 1,
11 2018”.

12 (e) EXTENSION OF TRANSFERS OF CERTAIN
13 TAXES.—

14 (1) IN GENERAL.—Section 9503 of such Code
15 is amended—

16 (A) in subsection (b)—

17 (i) by striking “April 1, 2012” each
18 place it appears in paragraphs (1) and (2)
19 and inserting “October 1, 2018”;

20 (ii) by striking “APRIL 1, 2012” in the
21 heading of paragraph (2) and inserting
22 “OCTOBER 1, 2018”;

23 (iii) by striking “March 31, 2012” in
24 paragraph (2) and inserting “September
25 30, 2018”; and

1 (iv) by striking “January 1, 2013” in
2 paragraph (2) and inserting “July 1,
3 2019”; and

4 (B) in subsection (c)(2), by striking “Jan-
5 uary 1, 2013” and inserting “July 1, 2019”.

6 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
7 TRANSFERS.—

8 (A) IN GENERAL.—Paragraphs (3)(A)(i)
9 and (4)(A) of section 9503(c) of such Code are
10 each amended by striking “April 1, 2012” and
11 inserting “October 1, 2018”.

12 (B) CONFORMING AMENDMENTS TO LAND
13 AND WATER CONSERVATION FUND.—Section
14 201(b) of the Land and Water Conservation
15 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
16 amended—

17 (i) by striking “April 1, 2013” each
18 place it appears and inserting “October 1,
19 2019”; and

20 (ii) by striking “April 1, 2012” and
21 inserting “October 1, 2018”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on April 1, 2012.

1 **SEC. 15004. REVENUES FROM CERTAIN DOMESTIC ENERGY**
2 **LEASES APPROPRIATED TO HIGHWAY TRUST**
3 **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) **REVENUES FROM CERTAIN DOMESTIC EN-**
8 **ERGY LEASES.**—There are hereby appropriated to
9 the Highway Trust Fund amounts equivalent to the
10 net increase in Federal revenues from onshore and
11 offshore domestic energy leasing and production gen-
12 erated by reason of the enactment of title XVII of
13 the American Energy and Infrastructure Jobs Act of
14 2012.”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 subsection (a) shall apply to amounts received in the
17 Treasury after the date of the enactment of this Act.

18 **SEC. 15005. ALTERNATIVE TRANSPORTATION ACCOUNT.**

19 (a) **TERMINATION OF FUNDING FROM FUELS TAX**
20 **RECEIPTS; ONE-TIME APPROPRIATION.**—Paragraph (2)
21 of section 9503(e) of the Internal Revenue Code of 1986
22 is amended to read as follows:

23 “(2) **APPROPRIATION.**—

24 “(A) **IN GENERAL.**—Out of money in the
25 Treasury not otherwise appropriated, there is
26 hereby appropriated \$40,000,000,000 to the Al-

1 ternative Transportation Account. Any amount
2 appropriated under this paragraph shall remain
3 available without fiscal year limitation.

4 “(B) TRANSFER TO HIGHWAY ACCOUNT OF
5 2012 APPROPRIATED AMOUNTS BASED ON
6 FUELS TAX RECEIPTS.—Amounts transferred
7 on or before the date of the enactment of this
8 paragraph to the Mass Transit Account in the
9 Highway Trust Fund for fiscal year 2012 are
10 hereby transferred to the Highway Account of
11 the Highway Trust Fund (as defined in para-
12 graph (5)(B)).”.

13 (b) RENAMING OF MASS TRANSIT ACCOUNT.—

14 (1) IN GENERAL.—The text of subsection (e) of
15 section 9503 of the Internal Revenue Code of 1986
16 is amended by striking “Mass Transit Account”
17 each place it appears and inserting “Alternative
18 Transportation Account”.

19 (2) CONFORMING AMENDMENT.—The heading
20 for subsection (e) of section 9503 of such Code is
21 amended by striking “MASS TRANSIT ACCOUNT”
22 and inserting “ALTERNATIVE TRANSPORTATION AC-
23 COUNT”.

1 **TITLE XVI—FEDERAL EMPLOYEE**
2 **RETIREMENT**

3 **SEC. 16001. SHORT TITLE.**

4 This title may be cited as the “Securing Annuities
5 for Federal Employees Act of 2012”.

6 **SEC. 16002. RETIREMENT CONTRIBUTIONS.**

7 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

8 (1) INDIVIDUAL CONTRIBUTIONS.—Section
9 8334(e) of title 5, United States Code, is amended—

10 (A) by striking “(e) Each” and inserting
11 “(e)(1) Each”; and

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

13 “(2) Notwithstanding any other provision of this sub-
14 section, the applicable percentage of basic pay under this
15 subsection shall, for purposes of computing an amount—

16 “(A) for a period in calendar year 2013, 2014,
17 or 2015, be equal to the applicable percentage under
18 this subsection for the preceding calendar year (in-
19 cluding as increased under this paragraph, if appli-
20 cable), plus an additional 0.5 percentage point; and

21 “(B) for a period in any calendar year after
22 2015, be equal to the applicable percentage under
23 this subsection for calendar year 2015 (as deter-
24 mined under subparagraph (A)).”.

1 (2) GOVERNMENT CONTRIBUTIONS.—Section
2 8334(a)(1)(B) of title 5, United States Code, is
3 amended—

4 (A) in clause (i), by striking “Except as
5 provided in clause (ii),” and inserting “Except
6 as provided in clause (ii) or (iii),”; and

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

8 “(iii) The amount to be contributed under clause (i)
9 shall, with respect to a period in any year beginning after
10 December 31, 2012, be equal to—

11 “(I) the amount which would otherwise apply
12 under clause (i) with respect to such period, reduced
13 by

14 “(II) the amount by which, with respect to such
15 period, the withholding under subparagraph (A) ex-
16 ceeds the amount which would otherwise have been
17 withheld from the basic pay of the employee or elect-
18 ed official involved under subparagraph (A) based on
19 the percentage applicable under subsection (c) for
20 calendar year 2012.”.

21 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
22 Section 8422(a)(3) of title 5, United States Code, is
23 amended—

24 (1) by striking “(3) The” and inserting “(3)(A)
25 The”; and

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

2 “(B) Notwithstanding any other provision of this
3 paragraph, the applicable percentage under this para-
4 graph shall, for purposes of computing any amount—

5 “(i) for a period in calendar year 2013, 2014,
6 or 2015, be equal to the applicable percentage under
7 this paragraph for the preceding calendar year (in-
8 cluding as increased under this subparagraph, if ap-
9 plicable), plus an additional 0.5 percentage point;
10 and

11 “(ii) for a period in any calendar year after
12 2015, be equal to the applicable percentage under
13 this paragraph for calendar year 2015 (as deter-
14 mined under clause (i)).”.

15 **SEC. 16003. AMENDMENTS RELATING TO SECURE ANNUITY**
16 **EMPLOYEES.**

17 (a) DEFINITION OF SECURE ANNUITY EMPLOYEE.—
18 Section 8401 of title 5, United States Code, is amended—

19 (1) in paragraph (35), by striking “and” at the
20 end;

21 (2) in paragraph (36), by striking the period
22 and inserting “; and”; and

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

24 “(37) the term ‘secure annuity employee’ means
25 an employee or Member who—

1 “(A) first becomes subject to this chapter
2 after December 31, 2012; and

3 “(B) at the time of first becoming subject
4 to this chapter, does not have at least 5 years
5 of civilian service creditable under the Civil
6 Service Retirement System or any other retire-
7 ment system for Government employees.”.

8 (b) INDIVIDUAL CONTRIBUTIONS.—Section
9 8422(a)(3) of title 5, United States Code (as amended by
10 section 16002(b)) is further amended—

11 (1) in subparagraph (B) (as added by section
12 16002(b)), in the matter before clause (i), by strik-
13 ing “this paragraph, the” and inserting “this para-
14 graph and except in the case of a secure annuity em-
15 ployee, the”; and

16 (2) by adding after subparagraph (B) (as so
17 added) the following:

18 “(C) Notwithstanding any other provision of this
19 paragraph, in the case of a secure annuity employee, the
20 applicable percentage under this paragraph shall—

21 “(i) in the case of a secure annuity employee
22 who is an employee, Congressional employee, or
23 Member, be equal to 10.2 percent; and

24 “(ii) in the case of a secure annuity employee
25 who is a law enforcement officer, firefighter, member

1 of the Capitol Police, member of the Supreme Court
2 Police, air traffic controller, nuclear materials cou-
3 rier, or customs and border protection officer, be
4 equal to 10.7 percent.”.

5 (c) AVERAGE PAY.—Section 8401(3) of title 5,
6 United States Code, is amended—

7 (1) by striking “(3)” and inserting “(3)(A)”;

8 and

9 (2) by adding “except that” after the semicolon;

10 and

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

12 “(B) in the case of a secure annuity employee,
13 the term ‘average pay’ has the meaning determined
14 applying subparagraph (A)—

15 “(i) by substituting ‘5 consecutive years’
16 for ‘3 consecutive years’; and

17 “(ii) by substituting ‘5 years’ for ‘3
18 years’.”.

19 (d) COMPUTATION OF BASIC ANNUITY.—Section
20 8415 of title 5, United States Code, is amended—

21 (1) by striking subsections (a) through (e) and
22 inserting the following:

23 “(a) Except as otherwise provided in this section, the
24 annuity of an employee retiring under this subchapter is—

1 “(1) in the case of an employee other than a se-
2 cure annuity employee, 1 percent of that individual’s
3 average pay multiplied by such individual’s total
4 service; and

5 “(2) in the case of an employee who is a secure
6 annuity employee, 0.7 percent of that individual’s
7 average pay multiplied by such individual’s total
8 service.

9 “(b)(1) The annuity of a Member, or former Member
10 with title to a Member annuity, retiring under this sub-
11 chapter is computed under subsection (a)(1), except that
12 if the individual has had at least 5 years of service as a
13 Member or Congressional employee, or any combination
14 thereof, so much of the annuity as is computed with re-
15 spect to either such type of service (or a combination
16 thereof), not exceeding a total of 20 years, shall be com-
17 puted by multiplying 1.7 percent of the individual’s aver-
18 age pay by the years of such service.

19 “(2) The annuity of a Member, or former Member
20 with title to a Member annuity, retiring under this sub-
21 chapter is, if the individual is or was a secure annuity em-
22 ployee, computed—

23 “(A) under subsection (a)(2); and

24 “(B) disregarding paragraph (1) of this sub-
25 section.

1 “(c)(1) The annuity of a Congressional employee, or
2 former Congressional employee, retiring under this sub-
3 chapter is computed under subsection (a)(1), except that
4 if the individual has had at least 5 years of service as a
5 Congressional employee or Member, or any combination
6 thereof, so much of the annuity as is computed with re-
7 spect to either such type of service (or a combination
8 thereof), not exceeding a total of 20 years, shall be com-
9 puted by multiplying 1.7 percent of the individual’s aver-
10 age pay by the years of such service.

11 “(2) The annuity of a Congressional employee, or
12 former Congressional employee, retiring under this sub-
13 chapter is, if the individual is or was a secure annuity em-
14 ployee, computed—

15 “(A) under subsection (a)(2); and

16 “(B) disregarding paragraph (1) of this sub-
17 section.

18 “(d) The annuity of an employee retiring under sub-
19 section (d) or (e) of section 8412 or under subsection (a),
20 (b), or (c) of section 8425 is—

21 “(1) in the case of an individual other than a
22 secure annuity employee—

23 “(A) 1.7 percent of that individual’s aver-
24 age pay multiplied by so much of such individ-

1 ual's total service as does not exceed 20 years;
2 plus

3 “(B) 1 percent of that individual's average
4 pay multiplied by so much of such individual's
5 total service as exceeds 20 years; and

6 “(2) in the case of an individual who is a secure
7 annuity employee—

8 “(A) 1.4 percent of that individual's aver-
9 age pay multiplied by so much of such individ-
10 ual's total service as does not exceed 20 years;
11 plus

12 “(B) 0.7 percent of that individual's aver-
13 age pay multiplied by so much of such individ-
14 ual's total service as exceeds 20 years.

15 “(e) The annuity of an air traffic controller or former
16 air traffic controller retiring under section 8412(a) is com-
17 puted under subsection (a)(1), except that if the individual
18 has had at least 5 years of service as an air traffic con-
19 troller as defined by section 2109(1)(A)(i), so much of the
20 annuity as is computed with respect to such type of service
21 shall be computed—

22 “(1) in the case of an individual other than a
23 secure annuity employee, by multiplying 1.7 percent
24 of the individual's average pay by the years of such
25 service; and

1 “(2) in the case of an individual who is a secure
2 annuity employee, by multiplying 1.4 percent of the
3 individual’s average pay by the years of such serv-
4 ice.”; and

5 (2) in subsection (h)—

6 (A) in paragraph (1), by striking “sub-
7 section (a)” and inserting “subsection (a)(1)”;
8 and

9 (B) in paragraph (2), in the matter fol-
10 lowing subparagraph (B), by striking “or cus-
11 toms and border protection officer” and insert-
12 ing “customs and border protection officer, or
13 secure annuity employee.”.

14 **SEC. 16004. ANNUITY SUPPLEMENT.**

15 Section 8421(a) of title 5, United States Code, is
16 amended—

17 (1) in paragraph (1), by striking “paragraph
18 (3)” and inserting “paragraphs (3) and (4)”;

19 (2) in paragraph (2), by striking “paragraph
20 (3)” and inserting “paragraphs (3) and (4)”; and

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

22 “(4)(A) Except as provided in subparagraph (B), no
23 annuity supplement under this section shall be payable in
24 the case of an individual whose entitlement to annuity is

1 based on such individual's separation from service after
2 December 31, 2012.

3 “(B) Nothing in this paragraph applies in the case
4 of an individual separating under subsection (d) or (e) of
5 section 8412.”.

6 **SEC. 16005. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF**
7 **PAYMENTS FOR ACCRUED OR ACCUMULATED**
8 **LEAVE.**

9 (a) AMENDMENTS RELATING TO CSRS.—Section
10 8351(b) of title 5, United States Code, is amended—

11 (1) by striking paragraph (2)(A) and inserting
12 the following:

13 “(2)(A) An employee or Member may contribute to
14 the Thrift Savings Fund in any pay period any amount
15 of such employee's or Member's basic pay for such pay
16 period, and may contribute (by direct transfer to the
17 Fund) any part of any payment that the employee or
18 Member receives for accumulated and accrued annual or
19 vacation leave under sections 5551 or 5552. Notwith-
20 standing section 2105(e), in this paragraph the term ‘em-
21 ployee’ includes an employee of the United States Postal
22 Service or of the Postal Regulatory Commission.”;

23 (2) by striking subparagraph (B) of paragraph
24 (2); and

1 (3) by redesignating subparagraph (C) of para-
2 graph (2) as subparagraph (B).

3 (b) AMENDMENTS RELATING TO FERS.—Section
4 8432(a) of title 5, United States Code, is amended—

5 (1) by striking paragraphs (1) and (2) and in-
6 serting the following:

7 “(1) An employee or Member—

8 “(A) may contribute to the Thrift Savings
9 Fund in any pay period, pursuant to an election
10 under subsection (b), any amount of such employee’s
11 or Member’s basic pay for such pay period; and

12 “(B) may contribute (by direct transfer to the
13 Fund) any part of any payment that the employee
14 or Member receives for accumulated and accrued an-
15 nual or vacation leave under sections 5551 or 5552.

16 “(2) Contributions made under paragraph (1)(A)
17 pursuant to an election under subsection (b) shall, with
18 respect to each pay period for which such election remains
19 in effect, be made in accordance with a program of regular
20 contributions provided in regulations prescribed by the
21 Executive Director.”; and

22 (2) by adding at the end the following new
23 paragraph:

24 “(4) Notwithstanding section 2105(e), in this sub-
25 section the term ‘employee’ includes an employee of the

1 United States Postal Service or of the Postal Regulatory
2 Commission.”.

3 (c) REGULATIONS.—The Executive Director of the
4 Federal Retirement Thrift Investment Board shall pro-
5 mulgate regulations to carry out the amendments made
6 by this section.

7 (d) EFFECTIVE DATE.—The amendments made by
8 subsections (a) and (b) shall take effect one year after the
9 date of the enactment of this section, or upon such earlier
10 date as may be established by the Executive Director of
11 the Federal Retirement Thrift Investment Board under
12 the regulations promulgated pursuant to subsection (c).

13 **SEC. 16006. COORDINATION WITH OTHER RETIREMENT SYS-**
14 **TEMS.**

15 (a) FOREIGN SERVICE.—For provisions of law re-
16 quiring maintenance of existing conformity—

17 (1) between the Civil Service Retirement Sys-
18 tem and the Foreign Service Retirement System,
19 and

20 (2) between the Federal Employees’ Retirement
21 System and the Foreign Service Pension System,
22 see section 827 of the Foreign Service Act of 1980 (22
23 U.S.C. 4067).

24 (b) CLARDS.—

1 (1) COMPATIBILITY WITH CSRS.—For provi-
2 sions of law relating to maintenance of existing con-
3 formity between the Civil Service Retirement System
4 and the Central Intelligence Agency Retirement and
5 Disability System, see section 292 of the Central In-
6 telligence Agency Retirement Act (50 U.S.C. 2141).

7 (2) APPLICABILITY OF FERS.—For provisions
8 of law providing for the application of the Federal
9 Employees' Retirement System with respect to em-
10 ployees of the Central Intelligence Agency, see title
11 III of the Central Intelligence Agency Retirement
12 Act (50 U.S.C. 2151 and following).

13 (c) TVA.—Section 3 of the Tennessee Valley Author-
14 ity Act of 1933 (16 U.S.C. 831b) is amended by adding
15 at the end the following:

16 “(c) The chief executive officer shall prescribe any
17 regulations which may be necessary in order to carry out
18 the purposes of the Securing Annuities for Federal Em-
19 ployees Act of 2012 with respect to any defined benefit
20 plan covering employees of the Tennessee Valley Author-
21 ity.”.

1 **TITLE XVII—NATURAL**
2 **RESOURCES**
3 **Subtitle A—Oil Shale Leasing**

4 **SEC. 17001. SHORT TITLE.**

5 This subtitle may be cited as the “Protecting Invest-
6 ment in Oil Shale the Next Generation of Environmental,
7 Energy, and Resource Security Act” or the “PIONEERS
8 Act”.

9 **SEC. 17002. EFFECTIVENESS OF OIL SHALE REGULATIONS,**
10 **AMENDMENTS TO RESOURCE MANAGEMENT**
11 **PLANS, AND RECORD OF DECISION.**

12 (a) REGULATIONS.—Notwithstanding any other law
13 or regulation to the contrary, the final regulations regard-
14 ing oil shale management published by the Bureau of
15 Land Management on November 18, 2008 (73 Fed. Reg.
16 69,414) are deemed to satisfy all legal and procedural re-
17 quirements under any law, including the Federal Land
18 Policy and Management Act of 1976 (43 U.S.C. 1701 et
19 seq.), the Endangered Species Act of 1973 (16 U.S.C.
20 1531 et seq.), the National Environmental Policy Act of
21 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act
22 of 2005 (Public Law 109–58), and the Secretary of the
23 Interior shall implement those regulations, including the
24 oil shale leasing program authorized by the regulations,
25 without any other administrative action necessary.

1 (b) AMENDMENTS TO RESOURCE MANAGEMENT
2 PLANS AND RECORD OF DECISION.—Notwithstanding
3 any other law or regulation to the contrary, the November
4 17, 2008 U.S. Bureau of Land Management Approved Re-
5 source Management Plan Amendments/Record of Decision
6 for Oil Shale and Tar Sands Resources to Address Land
7 Use Allocations in Colorado, Utah, and Wyoming and
8 Final Programmatic Environmental Impact Statement are
9 deemed to satisfy all legal and procedural requirements
10 under any law, including the Federal Land Policy and
11 Management Act of 1976 (43 U.S.C. 1701 et seq.), the
12 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
13 the National Environmental Policy Act of 1969 (42 U.S.C.
14 4321 et seq.), and the Energy Policy Act of 2005 (Public
15 Law 109–58), and the Secretary of the Interior shall im-
16 plement the oil shale leasing program authorized by the
17 regulations referred to in subsection (a) in those areas cov-
18 ered by the resource management plans amended by such
19 amendments, and covered by such record of decision, with-
20 out any other administrative action necessary.

21 **SEC. 17003. OIL SHALE LEASING.**

22 (a) ADDITIONAL RESEARCH AND DEVELOPMENT
23 LEASE SALES.—The Secretary of the Interior shall hold
24 a lease sale within 180 days after the date of enactment
25 of this Act offering an additional 10 parcels for lease for

1 research, development, and demonstration of oil shale re-
2 sources, under the terms offered in the solicitation of bids
3 for such leases published on January 15, 2009 (74 Fed.
4 Reg. 10).

5 (b) **COMMERCIAL LEASE SALES.**—No later than Jan-
6 uary 1, 2016, the Secretary of the Interior shall hold no
7 less than 5 separate commercial lease sales in areas con-
8 sidered to have the most potential for oil shale develop-
9 ment, as determined by the Secretary, in areas nominated
10 through public comment. Each lease sale shall be for an
11 area of not less than 25,000 acres, and in multiple lease
12 blocs.

13 **SEC. 17004. POLICIES REGARDING BUYING, BUILDING, AND**
14 **WORKING FOR AMERICA.**

15 (a) **CONGRESSIONAL INTENT.**—It is the intent of the
16 Congress that—

17 (1) this subtitle will support a healthy and
18 growing United States domestic energy sector that,
19 in turn, helps to reinvigorate American manufac-
20 turing, transportation, and service sectors by em-
21 ploying the vast talents of United States workers to
22 assist in the development of energy from domestic
23 sources;

24 (2) to ensure a robust oil shale industry and en-
25 sure that the benefits of development support local

1 communities, under this subtitle, the Secretary of
2 the Interior shall make every effort to promote the
3 development of oil shale in a manner that will sup-
4 port the long-term commercial development of oil
5 shale, and shall take into consideration the socio-
6 economic impacts, infrastructure requirements, and
7 fiscal stability for local communities located within
8 areas containing oil shale resources; and

9 (3) the Congress will monitor the deployment of
10 personnel and material onshore to encourage the de-
11 velopment of American technology and manufac-
12 turing to enable United States workers to benefit
13 from this subtitle through good jobs and careers, as
14 well as the establishment of important industrial fa-
15 cilities to support expanded access to American re-
16 sources.

17 (b) REQUIREMENT.—The Secretary of the Interior
18 shall when possible, and practicable, encourage the use of
19 United States workers and equipment manufactured in
20 the United States in all construction related to mineral
21 resource development under this subtitle.

1 **Subtitle B—Offshore Oil and Gas**
2 **Leasing**

3 **SEC. 17101. SHORT TITLE.**

4 This subtitle may be cited as the “Energy Security
5 and Transportation Jobs Act”.

6 **PART 1—EXPANDING OFFSHORE ENERGY**

7 **DEVELOPMENT**

8 **SEC. 17201. OUTER CONTINENTAL SHELF LEASING PRO-**
9 **GRAM.**

10 Section 18(a) of the Outer Continental Shelf Lands
11 Act (43 U.S.C. 1344(a)) is amended by adding at the end
12 the following:

13 “(5)(A) In each oil and gas leasing program
14 under this section, the Secretary shall make avail-
15 able for leasing and conduct lease sales including—

16 “(i) at least 50 percent of the available un-
17 leased acreage within each outer Continental
18 Shelf planning area considered to have the larg-
19 est undiscovered, technically recoverable oil and
20 gas resources (on a total btu basis) based upon
21 the most recent national geologic assessment of
22 the outer Continental Shelf, with an emphasis
23 on offering the most geologically prospective
24 parts of the planning area; and

1 “(ii) any State subdivision of an outer
2 Continental Shelf planning area that the Gov-
3 ernor of the State that represents that subdivi-
4 sion requests be made available for leasing.

5 “(B) In this paragraph the term ‘available un-
6 leased acreage’ means that portion of the outer Con-
7 tinental Shelf that is not under lease at the time of
8 a proposed lease sale, and that has not otherwise
9 been made unavailable for leasing by law.

10 “(6)(A) In the 2012–2017 5-year oil and gas
11 leasing program, the Secretary shall make available
12 for leasing any outer Continental Shelf planning
13 areas that—

14 “(i) are estimated to contain more than
15 2,500,000,000 barrels of oil; or

16 “(ii) are estimated to contain more than
17 7,500,000,000,000 cubic feet of natural gas.

18 “(B) To determine the planning areas described
19 in subparagraph (A), the Secretary shall use the
20 document entitled ‘Minerals Management Service
21 Assessment of Undiscovered Technically Recoverable
22 Oil and Gas Resources of the Nation’s Outer Conti-
23 nental Shelf, 2006’.”.

1 **SEC. 17202. DOMESTIC OIL AND NATURAL GAS PRODUC-**
2 **TION GOAL.**

3 Section 18(b) of the Outer Continental Shelf Lands
4 Act (43 U.S.C. 1344(b)) is amended to read as follows:

5 “(b) DOMESTIC OIL AND NATURAL GAS PRODUC-
6 TION GOAL.—

7 “(1) IN GENERAL.—In developing a 5-year oil
8 and gas leasing program, and subject to paragraph
9 (2), the Secretary shall determine a domestic stra-
10 tegic production goal for the development of oil and
11 natural gas as a result of that program. Such goal
12 shall be—

13 “(A) the best estimate of the possible in-
14 crease in domestic production of oil and natural
15 gas from the outer Continental Shelf;

16 “(B) focused on meeting domestic demand
17 for oil and natural gas and reducing the de-
18 pendence of the United States on foreign en-
19 ergy; and

20 “(C) focused on the production increases
21 achieved by the leasing program at the end of
22 the 15-year period beginning on the effective
23 date of the program.

24 “(2) 2012–2017 PROGRAM GOAL.—For pur-
25 poses of the 2012–2017 5-year oil and gas leasing
26 program, the production goal referred to in para-

1 graph (1) shall be an increase by 2027, from the lev-
2 els of oil and gas produced as of the date of enact-
3 ment of this paragraph, of—

4 “(A) no less than 3,000,000 barrels in the
5 amount of oil produced per day; and

6 “(B) no less than 10,000,000,000 cubic
7 feet in the amount of natural gas produced per
8 day.

9 “(3) REPORTING.—The Secretary shall report
10 annually, beginning at the end of the 5-year period
11 for which the program applies, to the Committee on
12 Natural Resources of the House of Representatives
13 and the Committee on Energy and Natural Re-
14 sources of the Senate on the progress of the pro-
15 gram in meeting the production goal. The Secretary
16 shall identify in the report projections for production
17 and any problems with leasing, permitting, or pro-
18 duction that will prevent meeting the goal.”.

19 **PART 2—CONDUCTING PROMPT OFFSHORE**
20 **LEASE SALES**

21 **SEC. 17301. REQUIREMENT TO CONDUCT PROPOSED OIL**
22 **AND GAS LEASE SALE 216 IN THE CENTRAL**
23 **GULF OF MEXICO.**

24 (a) IN GENERAL.—The Secretary of the Interior shall
25 conduct offshore oil and gas Lease Sale 216 under section

1 8 of the Outer Continental Shelf Lands Act (43 U.S.C.
2 1337) as soon as practicable, but not later than 4 months
3 after the date of enactment of this Act.

4 (b) ENVIRONMENTAL REVIEW.—For the purposes of
5 that lease sale, the Environmental Impact Statement for
6 the 2007–2012 5 Year Outer Continental Shelf Plan and
7 the Multi-Sale Environmental Impact Statement are
8 deemed to satisfy the requirements of the National Envi-
9 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

10 **SEC. 17302. REQUIREMENT TO CONDUCT PROPOSED OIL**
11 **AND GAS LEASE SALE 220 ON THE OUTER**
12 **CONTINENTAL SHELF OFFSHORE VIRGINIA.**

13 (a) IN GENERAL.—Notwithstanding the inclusion of
14 Lease Sale 220 in the Proposed Outer Continental Shelf
15 Oil & Gas Leasing Program 2012–2017, the Secretary
16 shall conduct offshore oil and gas Lease Sale 220 under
17 section 8 of the Outer Continental Shelf Lands Act (43
18 U.S.C. 1337) as soon as practicable, but not later than
19 one year after the date of enactment of this Act.

20 (b) REQUIREMENT TO MAKE REPLACEMENT LEASE
21 BLOCKS AVAILABLE.—

22 (1) IN GENERAL.—For each lease block in a
23 proposed lease sale under this section for which the
24 Secretary of Defense, in consultation with the Sec-
25 retary of the Interior, under the Memorandum of

1 Agreement referred to in subsection (c)(2), issues a
2 statement proposing deferral from a lease offering
3 due to defense-related activities that are irreconcil-
4 able with mineral exploration and development, the
5 Secretary of the Interior, in consultation with the
6 Secretary of Defense, shall make available in the
7 same lease sale two other lease blocks in the Virginia
8 lease sale planning area that are acceptable for oil
9 and gas exploration and production in order to miti-
10 gate conflict.

11 (2) VIRGINIA LEASE SALE PLANNING AREA DE-
12 FINED.—In this subsection the term “Virginia lease
13 sale planning area” means the area of the outer
14 Continental Shelf (as that term is defined in the
15 Outer Continental Shelf Lands Act (33 U.S.C. 1331
16 et seq.)) that is bounded by—

17 (A) a northern boundary consisting of a
18 straight line extending from the northernmost
19 point of Virginia’s seaward boundary to the
20 point on the seaward boundary of the United
21 States exclusive economic zone located at 37 de-
22 grees 17 minutes 1 second North latitude, 71
23 degrees 5 minutes 16 seconds West longitude;
24 and

1 (B) a southern boundary consisting of a
2 straight line extending from the southernmost
3 point of Virginia's seaward boundary to the
4 point on the seaward boundary of the United
5 States exclusive economic zone located at 36 de-
6 grees 31 minutes 58 seconds North latitude, 71
7 degrees 30 minutes 1 second West longitude.

8 (c) BALANCING MILITARY AND ENERGY PRODUC-
9 TION GOALS.—

10 (1) JOINT GOALS.—In recognition that the
11 Outer Continental Shelf oil and gas leasing program
12 and the domestic energy resources produced there-
13 from are integral to national security, the Secretary
14 of the Interior and the Secretary of Defense shall
15 work jointly in implementing this section in order to
16 ensure achievement of the following common goals:

17 (A) Preserving the ability of the Armed
18 Forces of the United States to maintain an op-
19 timum state of readiness through their contin-
20 ued use of the Outer Continental Shelf.

21 (B) Allowing effective exploration, develop-
22 ment, and production of our Nation's oil, gas,
23 and renewable energy resources.

24 (2) PROHIBITION ON CONFLICTS WITH MILI-
25 TARY OPERATIONS.—No person may engage in any

1 exploration, development, or production of oil or nat-
2 ural gas off the coast of Virginia that would conflict
3 with any military operation, as determined in ac-
4 cordance with the Memorandum of Agreement be-
5 tween the Department of Defense and the Depart-
6 ment of the Interior on Mutual Concerns on the
7 Outer Continental Shelf signed July 20, 1983, and
8 any revision or replacement for that agreement that
9 is agreed to by the Secretary of Defense and the
10 Secretary of the Interior after that date but before
11 the date of issuance of the lease under which such
12 exploration, development, or production is con-
13 ducted.

14 **SEC. 17303. REQUIREMENT TO CONDUCT OIL AND GAS**
15 **LEASE SALE 222 IN THE CENTRAL GULF OF**
16 **MEXICO.**

17 (a) IN GENERAL.—The Secretary shall conduct off-
18 shore oil and gas Lease Sale 222 under section 8 of the
19 Outer Continental Shelf Lands Act (43 U.S.C. 1337) by
20 as soon as practicable, but not later than September 1,
21 2012.

22 (b) ENVIRONMENTAL REVIEW.—For the purposes of
23 that lease sale, the Environmental Impact Statement for
24 the 2007–2012 5 Year Outer Continental Shelf Plan and
25 the Multi-Sale Environmental Impact Statement are

1 deemed to satisfy the requirements of the National Envi-
2 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

3 **SEC. 17304. LEASE SALE OFFSHORE CALIFORNIA WITH NO**
4 **NEW OFFSHORE IMPACT.**

5 (a) SOUTHERN CALIFORNIA LEASE SALE.—The Sec-
6 retary shall offer for sale leases of tracts in the Southern
7 California Planning Area in the Santa Maria and Santa
8 Barbara/Ventura Basins in accordance with section 8 of
9 the Outer Continental Shelf Lands Act (43 U.S.C. 1337)
10 as soon as practicable, but not later than July 1, 2014.

11 (b) USE OF EXISTING STRUCTURES OR ONSHORE-
12 BASED DRILLING.—Leases offered for sale under this sec-
13 tion shall include such terms and conditions as are nec-
14 essary to require that development and production may
15 occur only from existing offshore infrastructure or from
16 onshore-based drilling.

17 (c) RELATIONSHIP TO LEASING PROGRAM.—Areas
18 shall be offered for lease under this section notwith-
19 standing the omission of the Southern California Planning
20 Area from any outer Continental Shelf leasing program
21 under section 18 of the Outer Continental Shelf Lands
22 Act (43 U.S.C. 1344).

23 (d) RELATIONSHIP TO STATE COASTAL ZONE MAN-
24 AGEMENT PROGRAM.—Section 307(c) of the Coastal Zone
25 Management Act of 1972 (16 U.S.C. 1456(c)) shall not

1 apply to lease sales under this section and activities con-
2 ducted under leases issued in such sales, including explo-
3 ration, development, and production.

4 (e) ENVIRONMENTAL IMPACT STATEMENT REQUIRE-
5 MENT.—

6 (1) IN GENERAL.—Before conducting the first
7 lease sale under this section, the Secretary shall pre-
8 pare an environmental impact statement for the
9 lease sales required under this section, under section
10 102 of the National Environmental Policy Act of
11 1969 (42 U.S.C. 4332).

12 (2) ACTIONS TO BE CONSIDERED.—

13 (A) IN GENERAL.—Notwithstanding sec-
14 tion 102 of the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4332), in such state-
16 ment—

17 (i) the Secretary is not required to
18 identify nonleasing alternative courses of
19 action or to analyze the environmental ef-
20 fects of such alternative courses of action;
21 and

22 (ii) the Secretary shall only—

23 (I) identify a preferred action for
24 leasing and not more than one alter-
25 native leasing proposal; and

1 (II) analyze the environmental ef-
2 fects and potential mitigation meas-
3 ures for such preferred action and
4 such alternative leasing proposal.

5 (B) DEADLINE.—The identification of the
6 preferred action and related analysis for the
7 first lease sale under this subtitle shall be com-
8 pleted within 18 months after the date of enact-
9 ment of this Act.

10 (3) CONSIDERATION OF PUBLIC COMMENTS.—
11 In preparing such statement, the Secretary shall
12 only consider public comments that specifically ad-
13 dress the Secretary's preferred action and that are
14 filed within 20 days after publication of an environ-
15 mental analysis.

16 (4) COMPLIANCE.—Compliance with this sub-
17 section is deemed to satisfy all requirements for the
18 analysis and consideration of the environmental ef-
19 fects of proposed leasing under this section.

20 **SEC. 17305. REQUIREMENT TO CONDUCT OIL AND GAS**
21 **LEASE SALE 214 IN THE NORTH ALEUTIAN**
22 **BASIN OFFSHORE ALASKA.**

23 (a) IN GENERAL.—The Secretary of the Interior shall
24 conduct the lease sale formerly known as Lease Sale 214,
25 for the tracts located in the North Aleutian Basin Outer

1 Continental Shelf Planning Area, not later than 1 year
2 after the date of enactment of this Act.

3 (b) RELATIONSHIP TO LEASING PROGRAM.—Areas
4 shall be offered for lease under this section notwith-
5 standing inclusion of areas referred to in subsection (a)
6 in the Proposed Outer Continental Shelf Oil & Gas Leas-
7 ing Program 2012–2017.

8 **SEC. 17306. ADDITIONAL LEASES.**

9 Section 18 of the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1344) is amended by adding at the end the
11 following:

12 “(i) ADDITIONAL LEASE SALES.—In addition to
13 lease sales in accordance with a leasing program in effect
14 under this section, the Secretary may hold lease sales for
15 areas identified by the Secretary to have the greatest po-
16 tential for new oil and gas development as a result of local
17 support, new seismic findings, or nomination by interested
18 persons.”.

19 **SEC. 17307. DEFINITIONS.**

20 In this part:

21 (1) The term “Environmental Impact State-
22 ment for the 2007–2012 5 Year Outer Continental
23 Shelf Plan” means the Final Environmental Impact
24 Statement for Outer Continental Shelf Oil and Gas

1 Leasing Program: 2007–2012 (April 2007) prepared
2 by the Secretary.

3 (2) The term “Multi-Sale Environmental Im-
4 pact Statement” means the Environmental Impact
5 Statement for Proposed Western Gulf of Mexico
6 Outer Continental Shelf Oil and Gas Lease Sales
7 204, 207, 210, 215, and 218, and Proposed Central
8 Gulf of Mexico Outer Continental Shelf Oil and Gas
9 Lease Sales 205, 206, 208, 213, 216, and 222 (Sep-
10 tember 2008) prepared by the Secretary.

11 (3) The term “Secretary” means the Secretary
12 of the Interior.

13 **PART 3—LEASING IN NEW OFFSHORE AREAS**

14 **SEC. 17401. LEASING IN THE EASTERN GULF OF MEXICO.**

15 Section 104 of division C of the Tax Relief and
16 Health Care Act of 2006 (Public Law 109–432; 120 Stat.
17 3003) is repealed.

18 **SEC. 17402. REFORMING OIL AND GAS LEASING IN THE**
19 **EASTERN GULF OF MEXICO.**

20 (a) REFORMING ADMINISTRATIVE BOUNDARIES.—
21 Effective July 1, 2012, for purposes of administering the
22 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
23 seq.) the boundary between the Central Gulf of Mexico
24 Outer Continental Shelf Planning Area and the Eastern

1 Gulf of Mexico Outer Continental Shelf Planning Area
2 shall be 86 degrees, 41 minutes west longitude.

3 (b) EXTENDING THE MORATORIUM.—Effective dur-
4 ing the period beginning on the date of enactment of this
5 Act and ending June 30, 2025, the Secretary of the Inte-
6 rior shall not offer for leasing, preleasing, or any related
7 activity any area in the Eastern Gulf of Mexico Outer
8 Continental Shelf Planning Area except as required under
9 subsection (c).

10 (c) LIMITED NEW LEASING IN THE EASTERN GULF
11 OF MEXICO.—

12 (1) IN GENERAL.—Notwithstanding the Pro-
13 posed Outer Continental Shelf Oil & Gas Leasing
14 Program 2012–2017, the Secretary shall conduct
15 planning and leasing for one lease sale in the East-
16 ern Gulf of Mexico Outer Continental Shelf Planning
17 Area in each of 2013, 2014, and 2015. Each lease
18 sale shall only consist of 50 contiguous Outer Conti-
19 nental Shelf lease blocks in those areas the Sec-
20 retary considers to have the greatest potential for oil
21 and gas after issuing a request for, receiving, and
22 considering public comment. In reviewing potential
23 areas for such leasing, the Secretary shall focus on
24 those areas for which there are known quantities of
25 hydrocarbons that can be conventionally produced

1 using existing or reasonably foreseeable technology,
2 and for which oil and gas exploration, development,
3 production, and marketing could be carried out in
4 an expeditious manner.

5 (2) LEASE CONDITIONS.—In addition to such
6 requirements as otherwise apply, each lease sale
7 under this subsection shall be subject to the fol-
8 lowing:

9 (A) The Secretary may include limits on
10 permanent surface occupancy on any lease
11 block if surface occupancy is incompatible with
12 military operations.

13 (B) The Secretary may include limits on
14 drilling schedules and surface occupancy to ac-
15 commodate defense activities on a short-term or
16 seasonal basis. Such limits shall be treated as
17 administrative suspensions of a lease term.

18 (C) The Secretary may limit permanent
19 surface infrastructure on any Outer Continental
20 Shelf lease block that is closer than 12 nautical
21 miles to the coast of any State, unless that in-
22 frastructure is approved by the State.

23 (d) REQUIREMENT TO MAKE REPLACEMENT LEASE
24 BLOCKS AVAILABLE.—For each lease block in a proposed
25 lease sale under this section for which the Secretary of

1 Defense, in consultation with the Secretary of the Interior,
2 under the Memorandum of Agreement referred to in sub-
3 section (e)(2) issues a statement proposing deferral from
4 a lease offering due to defense-related activities that are
5 irreconcilable with mineral exploration and development,
6 the Secretary of the Interior, in consultation with the Sec-
7 retary of Defense, shall make available in the same lease
8 sale two other lease blocks in the same Outer Continental
9 Shelf planning area that are acceptable for oil and gas
10 exploration and production in order to mitigate conflict.

11 (e) BALANCING MILITARY AND ENERGY PRODUC-
12 TION GOALS.—

13 (1) JOINT GOALS.—In recognition that the
14 Outer Continental Shelf oil and gas leasing program
15 and the domestic energy resources produced there-
16 from are integral to national security, the Secretary
17 of the Interior and the Secretary of Defense shall
18 work jointly in implementing this section in order to
19 ensure achievement of the goals of—

20 (A) preserving the ability of the Armed
21 Forces of the United States to maintain an op-
22 timum state of readiness through their contin-
23 ued use of the Outer Continental Shelf; and

1 (B) allowing effective exploration, develop-
2 ment, and production of our Nation's oil, gas,
3 and renewable energy resources.

4 (C) recognizing the Outer Continental
5 Shelf oil and gas leasing program is an integral
6 part of the Nation's energy security program to
7 develop domestic oil and gas resources.

8 (2) PROHIBITION ON CONFLICTS WITH MILI-
9 TARY OPERATIONS.—No person may engage in any
10 exploration, development, or production of oil or nat-
11 ural gas in the Eastern Gulf of Mexico Outer Conti-
12 nental Shelf Planning Area that would conflict with
13 any military operation, as determined in accordance
14 with the Memorandum of Agreement between the
15 Department of Defense and the Department of the
16 Interior on Mutual Concerns on the Outer Conti-
17 nental Shelf signed July 20, 1983, and any revision
18 or replacement for that agreement that is agreed to
19 by the Secretary of Defense and the Secretary of the
20 Interior after that date but before the date of
21 issuance of the lease under which such exploration,
22 development, or production is conducted.

1 **SEC. 17403. AREAS ADDED TO CENTRAL GULF OF MEXICO**
2 **PLANNING AREA.**

3 The Secretary shall conduct an offshore oil and gas
4 lease sale under section 8 of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1337) for the areas added to the
6 Central Gulf of Mexico Outer Continental Shelf Planning
7 Area as a result of the enactment of section 17402(a) as
8 soon as practicable, but not later than the first lease sale
9 under such section after the date of the enactment of this
10 Act in which any area in such planning area is made avail-
11 able for leasing.

12 **SEC. 17404. APPLICATION OF OUTER CONTINENTAL SHELF**
13 **LANDS ACT WITH RESPECT TO TERRITORIES**
14 **OF THE UNITED STATES.**

15 Section 2 of the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1331) is amended—

17 (1) in paragraph (a), by inserting after “con-
18 trol” the following: “or lying within the United
19 States’ exclusive economic zone and the Continental
20 Shelf adjacent to any territory of the United
21 States”; and

22 (2) in paragraph (p), by striking “and” after
23 the semicolon at the end;

24 (3) in paragraph (q), by striking the period at
25 the end and inserting “; and”; and

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

1 “(r) The term ‘State’ includes each territory of the
2 United States.”.

3 **PART 4—OUTER CONTINENTAL SHELF REVENUE**

4 **SHARING**

5 **SEC. 17501. DISPOSITION OF OUTER CONTINENTAL SHELF**
6 **REVENUES TO COASTAL STATES.**

7 (a) IN GENERAL.—Section 9 of the Outer Conti-
8 nental Shelf Lands Act (43 U.S.C. 1338) is amended—

9 (1) in the existing text—

10 (A) in the first sentence, by striking “All
11 rentals,” and inserting the following:

12 “(c) DISPOSITION OF REVENUE UNDER OLD
13 LEASES.—All rentals,”; and

14 (B) in subsection (c) (as designated by the
15 amendment made by subparagraph (A) of this
16 paragraph), by striking “for the period from
17 June 5, 1950, to date, and thereafter” and in-
18 serting “in the period beginning June 5, 1950,
19 and ending on the date of enactment of the En-
20 ergy Security and Transportation Jobs Act”;

21 (2) by adding after subsection (c) (as so des-
22 ignated) the following:

23 “(d) DEFINITIONS.—In this section:

24 “(1) COASTAL STATE.—The term ‘coastal
25 State’ includes a territory of the United States.

1 “(2) NEW LEASING REVENUES.—The term ‘new
2 leasing revenues’—

3 “(A) means amounts received by the
4 United States as bonuses, rents, and royalties
5 under leases for oil and gas, wind, tidal, or
6 other energy exploration, development, and pro-
7 duction on areas of the outer Continental Shelf
8 that are authorized to be made available for
9 leasing as a result of enactment of the Energy
10 Security and Transportation Jobs Act; and

11 “(B) does not include amounts received by
12 the United States under any lease of an area lo-
13 cated in the boundaries of the Central Gulf of
14 Mexico and Western Gulf of Mexico Outer Con-
15 tinental Shelf Planning Areas on the date of
16 the enactment of the Energy Security and
17 Transportation Jobs Act, including a lease
18 issued before, on, or after such date of enact-
19 ment.”; and

20 (3) by inserting before subsection (c) (as so
21 designated) the following:

22 “(a) PAYMENT OF NEW LEASING REVENUES TO
23 COASTAL STATES.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), of the amount of new leasing revenues re-

1 ceived by the United States each fiscal year, 37.5
2 percent shall be allocated and paid in accordance
3 with subsection (b) to coastal States that are af-
4 fected States with respect to the leases under which
5 those revenues are received by the United States.

6 “(2) PHASE-IN.—Paragraph (1) shall be ap-
7 plied—

8 “(A) with respect to new leasing revenues
9 under leases awarded under the first leasing
10 program under section 18(a) that takes effect
11 after the date of enactment of the Energy Secu-
12 rity and Transportation Jobs Act, by sub-
13 stituting ‘12.5 percent’ for ‘37.5 percent’; and

14 “(B) with respect to new leasing revenues
15 under leases awarded under the second leasing
16 program under section 18(a) that takes effect
17 after the date of enactment of the Energy Secu-
18 rity and Transportation Jobs Act, by sub-
19 stituting ‘25 percent’ for ‘37.5 percent’.

20 “(b) ALLOCATION OF PAYMENTS.—

21 “(1) IN GENERAL.—The amount of new leasing
22 revenues received by the United States with respect
23 to a leased tract that are required to be paid to
24 coastal States in accordance with this subsection
25 each fiscal year shall be allocated among and paid

1 to coastal States that are within 200 miles of the
2 leased tract, in amounts that are inversely propor-
3 tional to the respective distances between the point
4 on the coastline of each such State that is closest to
5 the geographic center of the lease tract, as deter-
6 mined by the Secretary.

7 “(2) MINIMUM AND MAXIMUM ALLOCATION.—
8 The amount allocated to a coastal State under para-
9 graph (1) each fiscal year with respect to a leased
10 tract shall be—

11 “(A) in the case of a coastal State that is
12 the nearest State to the geographic center of
13 the leased tract, not less than 25 percent of the
14 total amounts allocated with respect to the
15 leased tract;

16 “(B) in the case of any other coastal State,
17 not less than 10 percent, and not more than 15
18 percent, of the total amounts allocated with re-
19 spect to the leased tract; and

20 “(C) in the case of a coastal State that is
21 the only coastal State within 200 miles of a
22 least tract, 100 percent of the total amounts al-
23 located with respect to the leased tract.

24 “(3) ADMINISTRATION.—Amounts allocated to
25 a coastal State under this subsection—

1 “(A) shall be available to the coastal State
2 without further appropriation;

3 “(B) shall remain available until expended;
4 and

5 “(C) shall be in addition to any other
6 amounts available to the coastal State under
7 this Act.

8 “(4) USE OF FUNDS.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), a coastal State may use
11 funds allocated and paid to it under this sub-
12 section for any purpose as determined by the
13 laws of that State.

14 “(B) RESTRICTION ON USE FOR MATCH-
15 ING.—Funds allocated and paid to a coastal
16 State under this subsection may not be used as
17 matching funds for any other Federal pro-
18 gram.”.

19 (b) LIMITATION ON APPLICATION.—This section and
20 the amendment made by this section shall not affect the
21 application of section 105 of the Gulf of Mexico Energy
22 Security Act of 2006 (title I of division C of Public Law
23 109–432; (43 U.S.C. 1331 note)), as in effect before the
24 enactment of this Act, with respect to revenues received
25 by the United States under oil and gas leases issued for

1 tracts located in the Western and Central Gulf of Mexico
2 Outer Continental Shelf Planning Areas, including such
3 leases issued on or after the date of the enactment of this
4 Act.

5 **PART 5—MISCELLANEOUS PROVISIONS**

6 **SEC. 17601. POLICIES REGARDING BUYING, BUILDING, AND**
7 **WORKING FOR AMERICA.**

8 (a) CONGRESSIONAL INTENT.—It is the intent of the
9 Congress that—

10 (1) this subtitle will support a healthy and
11 growing United States domestic energy sector that,
12 in turn, helps to reinvigorate American manufac-
13 turing, transportation, and service sectors by em-
14 ploying the vast talents of United States workers to
15 assist in the development of energy from domestic
16 sources; and

17 (2) the Congress will monitor the deployment of
18 personnel and material onshore and offshore to en-
19 courage the development of American technology
20 and manufacturing to enable United States workers
21 to benefit from this subtitle through good jobs and
22 careers, as well as the establishment of important in-
23 dustrial facilities to support expanded access to
24 American resources.

1 (b) REQUIREMENT.—The Secretary of the Interior
2 shall when possible, and practicable, encourage the use of
3 United States workers and equipment manufactured in
4 the United States in all construction related to mineral
5 and renewable energy resource development on the Outer
6 Continental Shelf under this subtitle.

7 **SEC. 17602. REGULATIONS.**

8 Section 30(a) of the Outer Continental Shelf Lands
9 Act (43 U.S.C. 1356(a)) is amended by striking “shall
10 issue regulations which” and inserting “shall issue regula-
11 tions that shall be supplemental to, complementary with,
12 and under no circumstances a substitution for the provi-
13 sions of the Constitution and laws of the United States
14 extended to the subsoil and seabed of the outer Conti-
15 nental Shelf by section 4(a)(1), except insofar as such laws
16 would otherwise apply to individuals who have extraor-
17 dinary ability in the sciences, arts, education, or business,
18 which has been demonstrated by sustained national or
19 international acclaim, and that”.

20 **Subtitle C—Alaska Coastal Plain**
21 **Oil and Gas Leasing**

22 **SEC. 17701. SHORT TITLE.**

23 This subtitle may be cited as the “Alaskan Energy
24 for American Jobs Act”.

1 **SEC. 17702. DEFINITIONS.**

2 In this subtitle:

3 (1) **COASTAL PLAIN.**—The term “Coastal
4 Plain” means that area described in appendix I to
5 part 37 of title 50, Code of Federal Regulations.

6 (2) **PEER REVIEWED.**—The term “peer re-
7 viewed” means reviewed—

8 (A) by individuals chosen by the National
9 Academy of Sciences with no contractual rela-
10 tionship with, or those who have no application
11 for a grant or other funding pending with, the
12 Federal agency with leasing jurisdiction; or

13 (B) if individuals described in subpara-
14 graph (A) are not available, by the top individ-
15 uals in the specified biological fields, as deter-
16 mined by the National Academy of Sciences.

17 (3) **SECRETARY.**—The term “Secretary”, except
18 as otherwise provided, means the Secretary of the
19 Interior or the Secretary’s designee.

20 **SEC. 17703. LEASING PROGRAM FOR LANDS WITHIN THE**
21 **COASTAL PLAIN.**

22 (a) **IN GENERAL.**—The Secretary shall take such ac-
23 tions as are necessary—

24 (1) to establish and implement, in accordance
25 with this subtitle and acting through the Director of
26 the Bureau of Land Management in consultation

1 with the Director of the United States Fish and
2 Wildlife Service, a competitive oil and gas leasing
3 program that will result in the exploration, develop-
4 ment, and production of the oil and gas resources of
5 the Coastal Plain; and

6 (2) to administer the provisions of this subtitle
7 through regulations, lease terms, conditions, restric-
8 tions, prohibitions, stipulations, and other provisions
9 that ensure the oil and gas exploration, development,
10 and production activities on the Coastal Plain will
11 result in no significant adverse effect on fish and
12 wildlife, their habitat, subsistence resources, and the
13 environment, including, in furtherance of this goal,
14 by requiring the application of the best commercially
15 available technology for oil and gas exploration, de-
16 velopment, and production to all exploration, devel-
17 opment, and production operations under this sub-
18 title in a manner that ensures the receipt of fair
19 market value by the public for the mineral resources
20 to be leased.

21 (b) REPEAL OF EXISTING RESTRICTION.—

22 (1) REPEAL.—Section 1003 of the Alaska Na-
23 tional Interest Lands Conservation Act (16 U.S.C.
24 3143) is repealed.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents in section 1 of such Act is amended by
3 striking the item relating to section 1003.

4 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
5 TAIN OTHER LAWS.—

6 (1) COMPATIBILITY.—For purposes of the Na-
7 tional Wildlife Refuge System Administration Act of
8 1966 (16 U.S.C. 668dd et seq.), the oil and gas
9 leasing program and activities authorized by this
10 section in the Coastal Plain are deemed to be com-
11 patible with the purposes for which the Arctic Na-
12 tional Wildlife Refuge was established, and no fur-
13 ther findings or decisions are required to implement
14 this determination.

15 (2) ADEQUACY OF THE DEPARTMENT OF THE
16 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
17 STATEMENT.—The “Final Legislative Environ-
18 mental Impact Statement” (April 1987) on the
19 Coastal Plain prepared pursuant to section 1002 of
20 the Alaska National Interest Lands Conservation
21 Act (16 U.S.C. 3142) and section 102(2)(C) of the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4332(2)(C)) is deemed to satisfy the require-
24 ments under the National Environmental Policy Act
25 of 1969 that apply with respect to prelease activities

1 under this subtitle, including actions authorized to
2 be taken by the Secretary to develop and promulgate
3 the regulations for the establishment of a leasing
4 program authorized by this subtitle before the con-
5 duct of the first lease sale.

6 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
7 TIONS.—Before conducting the first lease sale under
8 this subtitle, the Secretary shall prepare an environ-
9 mental impact statement under the National Envi-
10 ronmental Policy Act of 1969 with respect to the ac-
11 tions authorized by this subtitle that are not re-
12 ferred to in paragraph (2). Notwithstanding any
13 other law, the Secretary is not required to identify
14 nonleasing alternative courses of action or to analyze
15 the environmental effects of such courses of action.
16 The Secretary shall only identify a preferred action
17 for such leasing and a single leasing alternative, and
18 analyze the environmental effects and potential miti-
19 gation measures for those two alternatives. The
20 identification of the preferred action and related
21 analysis for the first lease sale under this subtitle
22 shall be completed within 18 months after the date
23 of enactment of this Act. The Secretary shall only
24 consider public comments that specifically address
25 the Secretary's preferred action and that are filed

1 within 20 days after publication of an environmental
2 analysis. Notwithstanding any other law, compliance
3 with this paragraph is deemed to satisfy all require-
4 ments for the analysis and consideration of the envi-
5 ronmental effects of proposed leasing under this sub-
6 title.

7 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
8 ITY.—Nothing in this subtitle shall be considered to ex-
9 pand or limit State and local regulatory authority.

10 (e) SPECIAL AREAS.—

11 (1) IN GENERAL.—The Secretary, after con-
12 sultation with the State of Alaska, the city of
13 Kaktovik, and the North Slope Borough, may des-
14 ignate up to a total of 45,000 acres of the Coastal
15 Plain as a Special Area if the Secretary determines
16 that the Special Area is of such unique character
17 and interest so as to require special management
18 and regulatory protection. The Secretary shall des-
19 ignate as such a Special Area the Sadlerochit Spring
20 area, comprising approximately 4,000 acres.

21 (2) MANAGEMENT.—Each such Special Area
22 shall be managed so as to protect and preserve the
23 area's unique and diverse character including its
24 fish, wildlife, and subsistence resource values.

1 (3) EXCLUSION FROM LEASING OR SURFACE
2 OCCUPANCY.—The Secretary may exclude any Spe-
3 cial Area from leasing. If the Secretary leases a Spe-
4 cial Area, or any part thereof, for purposes of oil
5 and gas exploration, development, production, and
6 related activities, there shall be no surface occu-
7 pancy of the lands comprising the Special Area.

8 (4) DIRECTIONAL DRILLING.—Notwithstanding
9 the other provisions of this subsection, the Secretary
10 may lease all or a portion of a Special Area under
11 terms that permit the use of horizontal drilling tech-
12 nology from sites on leases tracts located outside the
13 Special Area.

14 (f) LIMITATION ON CLOSED AREAS.—The Sec-
15 retary's sole authority to close lands within the Coastal
16 Plain to oil and gas leasing and to exploration, develop-
17 ment, and production is that set forth in this subtitle.

18 (g) REGULATIONS.—

19 (1) IN GENERAL.—The Secretary shall pre-
20 scribe such regulations as may be necessary to carry
21 out this subtitle, including regulations relating to
22 protection of the fish and wildlife, their habitat, sub-
23 sistence resources, and environment of the Coastal
24 Plain, by no later than 15 months after the date of
25 enactment of this Act.

1 (2) REVISION OF REGULATIONS.—The Sec-
2 retary shall, through a rule making conducted in ac-
3 cordance with section 553 of title 5, United States
4 Code, periodically review and, if appropriate, revise
5 the regulations issued under subsection (a) to reflect
6 a preponderance of the best available scientific evi-
7 dence that has been peer reviewed and obtained by
8 following appropriate, documented scientific proce-
9 dures, the results of which can be repeated using
10 those same procedures.

11 **SEC. 17704. LEASE SALES.**

12 (a) IN GENERAL.—Lands may be leased under this
13 subtitle to any person qualified to obtain a lease for depos-
14 its of oil and gas under the Mineral Leasing Act (30
15 U.S.C. 181 et seq.).

16 (b) PROCEDURES.—The Secretary shall, by regula-
17 tion and no later than 180 days after the date of enact-
18 ment of this Act, establish procedures for—

19 (1) receipt and consideration of sealed nomina-
20 tions for any area of the Coastal Plain for inclusion
21 in, or exclusion (as provided in subsection (c)) from,
22 a lease sale;

23 (2) the holding of lease sales after such nomina-
24 tion process; and

1 (3) public notice of and comment on designa-
2 tion of areas to be included in, or excluded from, a
3 lease sale.

4 (c) LEASE SALE BIDS.—Lease sales under this sub-
5 title may be conducted through an Internet leasing pro-
6 gram, if the Secretary determines that such a system will
7 result in savings to the taxpayer, an increase in the num-
8 ber of bidders participating, and higher returns than oral
9 bidding or a sealed bidding system.

10 (d) SALE ACREAGES AND SCHEDULE.—

11 (1) The Secretary shall offer for lease under
12 this subtitle those tracts the Secretary considers to
13 have the greatest potential for the discovery of hy-
14 drocarbons, taking into consideration nominations
15 received pursuant to subsection (b)(1).

16 (2) The Secretary shall offer for lease under
17 this subtitle no less than 50,000 acres for lease
18 within 22 months after the date of the enactment of
19 this Act.

20 (3) The Secretary shall offer for lease under
21 this subtitle no less than an additional 50,000 acres
22 at 6-, 12-, and 18-month intervals following offering
23 under paragraph (2).

24 (4) The Secretary shall conduct four additional
25 sales under the same terms and schedule no later

1 than two years after the date of the last sale under
2 paragraph (3), if sufficient interest in leasing exists
3 to warrant, in the Secretary's judgment, the conduct
4 of such sales.

5 (5) The Secretary shall evaluate the bids in
6 each sale and issue leases resulting from such sales,
7 within 90 days after the date of the completion of
8 such sale.

9 **SEC. 17705. GRANT OF LEASES BY THE SECRETARY.**

10 (a) IN GENERAL.—The Secretary may grant to the
11 highest responsible qualified bidder in a lease sale con-
12 ducted under section 17704 any lands to be leased on the
13 Coastal Plain upon payment by the such bidder of such
14 bonus as may be accepted by the Secretary.

15 (b) SUBSEQUENT TRANSFERS.—No lease issued
16 under this subtitle may be sold, exchanged, assigned, sub-
17 let, or otherwise transferred except with the approval of
18 the Secretary. Prior to any such approval the Secretary
19 shall consult with, and give due consideration to the views
20 of, the Attorney General.

21 **SEC. 17706. LEASE TERMS AND CONDITIONS.**

22 (a) IN GENERAL.—An oil or gas lease issued under
23 this subtitle shall—

24 (1) provide for the payment of a royalty of not
25 less than 12½ percent in amount or value of the

1 production removed or sold under the lease, as de-
2 termined by the Secretary under the regulations ap-
3 plicable to other Federal oil and gas leases;

4 (2) provide that the Secretary may close, on a
5 seasonal basis, portions of the Coastal Plain to ex-
6 ploratory drilling activities as necessary to protect
7 caribou calving areas and other species of fish and
8 wildlife based on a preponderance of the best avail-
9 able scientific evidence that has been peer reviewed
10 and obtained by following appropriate, documented
11 scientific procedures, the results of which can be re-
12 peated using those same procedures;

13 (3) require that the lessee of lands within the
14 Coastal Plain shall be fully responsible and liable for
15 the reclamation of lands within the Coastal Plain
16 and any other Federal lands that are adversely af-
17 fected in connection with exploration, development,
18 production, or transportation activities conducted
19 under the lease and within the Coastal Plain by the
20 lessee or by any of the subcontractors or agents of
21 the lessee;

22 (4) provide that the lessee may not delegate or
23 convey, by contract or otherwise, the reclamation re-
24 sponsibility and liability to another person without
25 the express written approval of the Secretary;

1 (5) provide that the standard of reclamation for
2 lands required to be reclaimed under this subtitle
3 shall be, as nearly as practicable, a condition capable
4 of supporting the uses which the lands were capable
5 of supporting prior to any exploration, development,
6 or production activities, or upon application by the
7 lessee, to a higher or better use as certified by the
8 Secretary;

9 (6) contain terms and conditions relating to
10 protection of fish and wildlife, their habitat, subsist-
11 ence resources, and the environment as required
12 pursuant to section 17703(a)(2);

13 (7) provide that the lessee, its agents, and its
14 contractors use best efforts to provide a fair share,
15 as determined by the level of obligation previously
16 agreed to in the 1974 agreement implementing sec-
17 tion 29 of the Federal Agreement and Grant of
18 Right of Way for the Operation of the Trans-Alaska
19 Pipeline, of employment and contracting for Alaska
20 Natives and Alaska Native corporations from
21 throughout the State;

22 (8) prohibit the export of oil produced under
23 the lease; and

24 (9) contain such other provisions as the Sec-
25 retary determines necessary to ensure compliance

1 with this subtitle and the regulations issued under
2 this subtitle.

3 (b) **NEGOTIATED LABOR AGREEMENTS.**—The Sec-
4 retary, as a term and condition of each lease under this
5 subtitle, shall require that the lessee and its agents and
6 contractors negotiate to obtain an agreement for the em-
7 ployment of laborers and mechanics on production, main-
8 tenance, and construction under the lease.

9 **SEC. 17707. POLICIES REGARDING BUYING, BUILDING, AND**
10 **WORKING FOR AMERICA.**

11 (a) **CONGRESSIONAL INTENT.**—It is the intent of the
12 Congress that—

13 (1) this subtitle will support a healthy and
14 growing United States domestic energy sector that,
15 in turn, helps to reinvigorate American manufac-
16 turing, transportation, and service sectors by em-
17 ploying the vast talents of United States workers to
18 assist in the development of energy from domestic
19 sources; and

20 (2) the Congress will monitor the deployment of
21 personnel and material onshore and offshore to en-
22 courage the development of American technology
23 and manufacturing to enable United States workers
24 to benefit from this subtitle through good jobs and
25 careers, as well as the establishment of important in-

1 industrial facilities to support expanded access to
2 American resources.

3 (b) REQUIREMENT.—The Secretary of the Interior
4 shall when possible, and practicable, encourage the use of
5 United States workers and equipment manufactured in
6 the United States in all construction related to mineral
7 development on the Coastal Plain.

8 **SEC. 17708. COASTAL PLAIN ENVIRONMENTAL PROTEC-**
9 **TION.**

10 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
11 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
12 The Secretary shall, consistent with the requirements of
13 section 17703, administer this subtitle through regula-
14 tions, lease terms, conditions, restrictions, prohibitions,
15 stipulations, and other provisions that—

16 (1) ensure the oil and gas exploration, develop-
17 ment, and production activities on the Coastal Plain
18 will result in no significant adverse effect on fish
19 and wildlife, their habitat, and the environment;

20 (2) require the application of the best commer-
21 cially available technology for oil and gas explo-
22 ration, development, and production on all new ex-
23 ploration, development, and production operations;
24 and

1 (3) ensure that the maximum amount of sur-
2 face acreage covered by production and support fa-
3 cilities, including airstrips and any areas covered by
4 gravel berms or piers for support of pipelines, does
5 not exceed 10,000 acres on the Coastal Plain for
6 each 100,000 acres of area leased.

7 (b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—
8 The Secretary shall also require, with respect to any pro-
9 posed drilling and related activities, that—

10 (1) a site-specific analysis be made of the prob-
11 able effects, if any, that the drilling or related activi-
12 ties will have on fish and wildlife, their habitat, sub-
13 sistence resources, and the environment;

14 (2) a plan be implemented to avoid, minimize,
15 and mitigate (in that order and to the extent prac-
16 ticable) any significant adverse effect identified
17 under paragraph (1); and

18 (3) the development of the plan shall occur
19 after consultation with the agency or agencies hav-
20 ing jurisdiction over matters mitigated by the plan.

21 (c) **REGULATIONS TO PROTECT COASTAL PLAIN**
22 **FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,**
23 **AND THE ENVIRONMENT.**—Before implementing the leas-
24 ing program authorized by this subtitle, the Secretary
25 shall prepare and promulgate regulations, lease terms,

1 conditions, restrictions, prohibitions, stipulations, and
2 other measures designed to ensure that the activities un-
3 dertaken on the Coastal Plain under this subtitle are con-
4 ducted in a manner consistent with the purposes and envi-
5 ronmental requirements of this subtitle.

6 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
7 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
8 proposed regulations, lease terms, conditions, restrictions,
9 prohibitions, and stipulations for the leasing program
10 under this subtitle shall require compliance with all appli-
11 cable provisions of Federal and State environmental law,
12 and shall also require the following:

13 (1) Standards at least as effective as the safety
14 and environmental mitigation measures set forth in
15 items 1 through 29 at pages 167 through 169 of the
16 “Final Legislative Environmental Impact State-
17 ment” (April 1987) on the Coastal Plain.

18 (2) Seasonal limitations on exploration, develop-
19 ment, and related activities, where necessary, to
20 avoid significant adverse effects during periods of
21 concentrated fish and wildlife breeding, denning,
22 nesting, spawning, and migration based on a prepon-
23 derance of the best available scientific evidence that
24 has been peer reviewed and obtained by following
25 appropriate, documented scientific procedures, the

1 results of which can be repeated using those same
2 procedures.

3 (3) That exploration activities, except for sur-
4 face geological studies, be limited to the period be-
5 tween approximately November 1 and May 1 each
6 year and that exploration activities shall be sup-
7 ported, if necessary, by ice roads, winter trails with
8 adequate snow cover, ice pads, ice airstrips, and air
9 transport methods, except that such exploration ac-
10 tivities may occur at other times if the Secretary
11 finds that such exploration will have no significant
12 adverse effect on the fish and wildlife, their habitat,
13 and the environment of the Coastal Plain.

14 (4) Design safety and construction standards
15 for all pipelines and any access and service roads,
16 that—

17 (A) minimize, to the maximum extent pos-
18 sible, adverse effects upon the passage of mi-
19 gratory species such as caribou; and

20 (B) minimize adverse effects upon the flow
21 of surface water by requiring the use of cul-
22 verts, bridges, and other structural devices.

23 (5) Prohibitions on general public access and
24 use on all pipeline access and service roads.

1 (6) Stringent reclamation and rehabilitation re-
2 quirements, consistent with the standards set forth
3 in this subtitle, requiring the removal from the
4 Coastal Plain of all oil and gas development and
5 production facilities, structures, and equipment upon
6 completion of oil and gas production operations, ex-
7 cept that the Secretary may exempt from the re-
8 quirements of this paragraph those facilities, struc-
9 tures, or equipment that the Secretary determines
10 would assist in the management of the Arctic Na-
11 tional Wildlife Refuge and that are donated to the
12 United States for that purpose.

13 (7) Appropriate prohibitions or restrictions on
14 access by all modes of transportation.

15 (8) Appropriate prohibitions or restrictions on
16 sand and gravel extraction.

17 (9) Consolidation of facility siting.

18 (10) Appropriate prohibitions or restrictions on
19 use of explosives.

20 (11) Avoidance, to the extent practicable, of
21 springs, streams, and river systems; the protection
22 of natural surface drainage patterns, wetlands, and
23 riparian habitats; and the regulation of methods or
24 techniques for developing or transporting adequate
25 supplies of water for exploratory drilling.

1 (12) Avoidance or minimization of air traffic-re-
2 lated disturbance to fish and wildlife.

3 (13) Treatment and disposal of hazardous and
4 toxic wastes, solid wastes, reserve pit fluids, drilling
5 muds and cuttings, and domestic wastewater, includ-
6 ing an annual waste management report, a haz-
7 ardous materials tracking system, and a prohibition
8 on chlorinated solvents, in accordance with applica-
9 ble Federal and State environmental law.

10 (14) Fuel storage and oil spill contingency plan-
11 ning.

12 (15) Research, monitoring, and reporting re-
13 quirements.

14 (16) Field crew environmental briefings.

15 (17) Avoidance of significant adverse effects
16 upon subsistence hunting, fishing, and trapping by
17 subsistence users.

18 (18) Compliance with applicable air and water
19 quality standards.

20 (19) Appropriate seasonal and safety zone des-
21 ignations around well sites, within which subsistence
22 hunting and trapping shall be limited.

23 (20) Reasonable stipulations for protection of
24 cultural and archeological resources.

1 (21) All other protective environmental stipula-
2 tions, restrictions, terms, and conditions deemed
3 necessary by the Secretary.

4 (e) CONSIDERATIONS.—In preparing and promul-
5 gating regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations under this section, the Sec-
7 retary shall consider the following:

8 (1) The stipulations and conditions that govern
9 the National Petroleum Reserve-Alaska leasing pro-
10 gram, as set forth in the 1999 Northeast National
11 Petroleum Reserve-Alaska Final Integrated Activity
12 Plan/Environmental Impact Statement.

13 (2) The environmental protection standards
14 that governed the initial Coastal Plain seismic explo-
15 ration program under parts 37.31 to 37.33 of title
16 50, Code of Federal Regulations.

17 (3) The land use stipulations for exploratory
18 drilling on the KIC–ASRC private lands that are set
19 forth in appendix 2 of the August 9, 1983, agree-
20 ment between Arctic Slope Regional Corporation and
21 the United States.

22 (f) FACILITY CONSOLIDATION PLANNING.—

23 (1) IN GENERAL.—The Secretary shall, after
24 providing for public notice and comment, prepare
25 and update periodically a plan to govern, guide, and

1 direct the siting and construction of facilities for the
2 exploration, development, production, and transpor-
3 tation of Coastal Plain oil and gas resources.

4 (2) OBJECTIVES.—The plan shall have the fol-
5 lowing objectives:

6 (A) Avoiding unnecessary duplication of fa-
7 cilities and activities.

8 (B) Encouraging consolidation of common
9 facilities and activities.

10 (C) Locating or confining facilities and ac-
11 tivities to areas that will minimize impact on
12 fish and wildlife, their habitat, and the environ-
13 ment.

14 (D) Utilizing existing facilities wherever
15 practicable.

16 (E) Enhancing compatibility between wild-
17 life values and development activities.

18 (g) ACCESS TO PUBLIC LANDS.—The Secretary
19 shall—

20 (1) manage public lands in the Coastal Plain
21 subject to section 811 of the Alaska National Inter-
22 est Lands Conservation Act (16 U.S.C. 3121); and

23 (2) ensure that local residents shall have rea-
24 sonable access to public lands in the Coastal Plain
25 for traditional uses.

1 **SEC. 17709. EXPEDITED JUDICIAL REVIEW.**

2 (a) FILING OF COMPLAINT.—

3 (1) DEADLINE.—Subject to paragraph (2), any
4 complaint seeking judicial review—

5 (A) of any provision of this subtitle shall
6 be filed by not later than 1 year after the date
7 of enactment of this Act; or

8 (B) of any action of the Secretary under
9 this subtitle shall be filed—

10 (i) except as provided in clause (ii),
11 within the 90-day period beginning on the
12 date of the action being challenged; or

13 (ii) in the case of a complaint based
14 solely on grounds arising after such period,
15 within 90 days after the complainant knew
16 or reasonably should have known of the
17 grounds for the complaint.

18 (2) VENUE.—Any complaint seeking judicial re-
19 view of any provision of this subtitle or any action
20 of the Secretary under this subtitle may be filed only
21 in the United States Court of Appeals for the Dis-
22 trict of Columbia.

23 (3) LIMITATION ON SCOPE OF CERTAIN RE-
24 VIEW.—Judicial review of a Secretarial decision to
25 conduct a lease sale under this subtitle, including
26 the environmental analysis thereof, shall be limited

1 to whether the Secretary has complied with this sub-
2 title and shall be based upon the administrative
3 record of that decision. The Secretary's identifica-
4 tion of a preferred course of action to enable leasing
5 to proceed and the Secretary's analysis of environ-
6 mental effects under this subtitle shall be presumed
7 to be correct unless shown otherwise by clear and
8 convincing evidence to the contrary.

9 (b) **LIMITATION ON OTHER REVIEW.**—Actions of the
10 Secretary with respect to which review could have been
11 obtained under this section shall not be subject to judicial
12 review in any civil or criminal proceeding for enforcement.

13 (c) **LIMITATION ON ATTORNEYS' FEES AND COURT**
14 **COSTS.**—No person seeking judicial review of any action
15 under this subtitle shall receive payment from the Federal
16 Government for their attorneys' fees and other court costs,
17 including under any provision of law enacted by the Equal
18 Access to Justice Act (5 U.S.C. 504 note).

19 **SEC. 17710. TREATMENT OF REVENUES.**

20 Notwithstanding any other provision of law, 50 per-
21 cent of the amount of bonus, rental, and royalty revenues
22 from Federal oil and gas leasing and operations author-
23 ized under this subtitle shall be deposited in the Treasury.

1 **SEC. 17711. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

2 (a) IN GENERAL.—The Secretary shall issue rights-
3 of-way and easements across the Coastal Plain for the
4 transportation of oil and gas produced under leases under
5 this subtitle—

6 (1) except as provided in paragraph (2), under
7 section 28 of the Mineral Leasing Act (30 U.S.C.
8 185), without regard to title XI of the Alaska Na-
9 tional Interest Lands Conservation Act (16 U.S.C.
10 3161 et seq.); and

11 (2) under title XI of the Alaska National Inter-
12 est Lands Conservation Act (30 U.S.C. 3161 et
13 seq.), for access authorized by sections 1110 and
14 1111 of that Act (16 U.S.C. 3170 and 3171).

15 (b) TERMS AND CONDITIONS.—The Secretary shall
16 include in any right-of-way or easement issued under sub-
17 section (a) such terms and conditions as may be necessary
18 to ensure that transportation of oil and gas does not result
19 in a significant adverse effect on the fish and wildlife, sub-
20 sistence resources, their habitat, and the environment of
21 the Coastal Plain, including requirements that facilities be
22 sited or designed so as to avoid unnecessary duplication
23 of roads and pipelines.

24 (c) REGULATIONS.—The Secretary shall include in
25 regulations under section 17703(g) provisions granting

1 rights-of-way and easements described in subsection (a)
2 of this section.

3 **SEC. 17712. CONVEYANCE.**

4 In order to maximize Federal revenues by removing
5 clouds on title to lands and clarifying land ownership pat-
6 terns within the Coastal Plain, the Secretary, notwith-
7 standing section 1302(h)(2) of the Alaska National Inter-
8 est Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall
9 convey—

10 (1) to the Kaktovik Inupiat Corporation the
11 surface estate of the lands described in paragraph 1
12 of Public Land Order 6959, to the extent necessary
13 to fulfill the Corporation's entitlement under sec-
14 tions 12 and 14 of the Alaska Native Claims Settle-
15 ment Act (43 U.S.C. 1611 and 1613) in accordance
16 with the terms and conditions of the Agreement be-
17 tween the Department of the Interior, the United
18 States Fish and Wildlife Service, the Bureau of
19 Land Management, and the Kaktovik Inupiat Cor-
20 poration dated January 22, 1993; and

21 (2) to the Arctic Slope Regional Corporation
22 the remaining subsurface estate to which it is enti-
23 tled pursuant to the August 9, 1983, agreement be-

1 tween the Arctic Slope Regional Corporation and the
2 United States of America.

