

108TH CONGRESS  
1ST SESSION

# S. 1072

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MAY 15, 2003

Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Safe, Accountable, Flexible, and Efficient Transportation  
6 Equity Act of 2003”.

7       (b) **TABLE OF CONTENTS.**—The table of contents of  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

### Subtitle A—Funding

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionments.
- Sec. 1104. Minimum guarantee.
- Sec. 1105. Revenue aligned budget authority.

### Subtitle B—New Programs

- Sec. 1201. Infrastructure performance and maintenance program.
- Sec. 1202. Clarify federal-aid eligibility for certain security projects.
- Sec. 1203. Future of the Interstate Highway System.
- Sec. 1204. Military vehicle access (oversize and overweight vehicles; relief from tolls).
- Sec. 1205. Freight transportation gateways; freight intermodal connections.
- Sec. 1206. Authority for alternative time-saving procedures for critical transportation security projects.

### Subtitle C—Finance

- Sec. 1301. Federal share.
- Sec. 1302. Transfer of highway and transit funds.
- Sec. 1303. State infrastructure bank pilot program.
- Sec. 1304. Transportation Infrastructure Finance and Innovation Act (TIFIA) Amendments.
- Sec. 1305. International registration plan and international fuel tax agreement facilitation.
- Sec. 1306. Commercialized rest area pilot projects.
- Sec. 1307. Highway use tax evasion projects.

### Subtitle D—Program Efficiencies and Improvements—Safety

- Sec. 1401. National highway safety goal; national Blue Ribbon Commission on Highway Safety.
- Sec. 1402. Highway Safety Improvement Program.
- Sec. 1403. Operation lifesaver.
- Sec. 1404. Highway safety programs; certification of public road mileage.

### Subtitle E—Program Efficiencies and Improvements—Planning

- Sec. 1501. Metropolitan planning.
- Sec. 1502. Statewide planning.
- Sec. 1503. State planning and research.
- Sec. 1504. Critical real property acquisition.
- Sec. 1505. Planning capacity building initiative.

### Subtitle F—Program Efficiencies and Improvements—Environment

- Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.
- Sec. 1602. Efficient environmental reviews for project decisionmaking.
- Sec. 1603. Assumption of responsibility for categorical exclusions.
- Sec. 1604. Section 4(f) policy on lands, wildlife and waterfowl refuges, and historic sites.
- Sec. 1605. National Scenic Byways Program.
- Sec. 1606. Recreational Trails Program.
- Sec. 1607. Exemption of the Interstate System.

- Sec. 1608. Modifications to NHS/STP for invasive species, wetlands, brownfields, and environmental restoration.
- Sec. 1609. Standards.
- Sec. 1610. Use of HOV lanes.
- Sec. 1611. Bicycle transportation and pedestrian walkways.
- Sec. 1612. Transportation, energy, and environment.
- Sec. 1613. Idling reduction facilities in interstate rights-of-way.
- Sec. 1614. Appropriation for transportation purposes of lands or interest in lands owned by the United States.
- Sec. 1615. Toll programs.
- Sec. 1616. Ozone standards, particulate matter standards, and regional haze program.
- Sec. 1617. Indemnification on certain railbanked projects.

Subtitle G.—Program Efficiencies and Improvements—Operations

- Sec. 1701. Transportation systems management and operations.
- Sec. 1702. Real-Time System Management Information Program.
- Sec. 1703. Intelligent transportation systems performance incentive program.
- Sec. 1704. Commercial vehicle information systems and networks deployment.

Subtitle H.—Program Efficiencies and Improvements—Federal-Aid Stewardship

- Sec. 1801. Surface Transportation System Performance Pilot Program.
- Sec. 1802. Stewardship and oversight.
- Sec. 1803. Emergency relief.
- Sec. 1804. Federal Lands Highways Program.
- Sec. 1805. Appalachian Development Highway System.
- Sec. 1806. Multi-State Corridor Planning Program.
- Sec. 1807. Border Planning, Operations, and Technology Program.
- Sec. 1808. Territorial Highway Program amendments.
- Sec. 1809. Future interstate system routes.
- Sec. 1810. Donations and credits.
- Sec. 1811. Disadvantaged business enterprises.
- Sec. 1812. Highway Bridge Program.
- Sec. 1813. Design-build.
- Sec. 1814. International ferries.
- Sec. 1815. Assumption of responsibility for transportation enhancements, recreational trails, and Transportation and Community and System Preservation Program projects.
- Sec. 1816. Transportation, Community, and System Preservation Program.
- Sec. 1817. Program efficiencies—Finance.

Subtitle I.—Technical Corrections to Title 23, U.S.C.

- Sec. 1901. Repeal or update of obsolete text.
- Sec. 1902. Clarification of date.
- Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1904. Inclusion of “Buy America” requirements in title 23.
- Sec. 1905. Technical amendments to 23 U.S.C. 140—Nondiscrimination.
- Sec. 1906. Federal share payable for projects for elimination of hazards of railway-highway crossings.

TITLE II—HIGHWAY SAFETY

- Sec. 2001. Highway safety programs.
- Sec. 2002. Highway safety research and development.
- Sec. 2003. Emergency medical services.
- Sec. 2004. State traffic safety information system improvements.
- Sec. 2005. Authorization of appropriations.
- Sec. 2006. Repeal of obsolete provisions of title 23.

#### TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

- Sec. 3001. Short title.
- Sec. 3002. Updated terminology; amendments to title 49, United States Code.
- Sec. 3003. Policies, findings, and purposes.
- Sec. 3004. Definitions.
- Sec. 3005. Metropolitan planning.
- Sec. 3006. Statewide planning.
- Sec. 3007. Planning programs.
- Sec. 3008. Private enterprise participation.
- Sec. 3009. Urbanized Area Public Transportation Formula Grants Program.
- Sec. 3010. Formula grants for other than urbanized areas.
- Sec. 3011. New Freedom program.
- Sec. 3012. Major capital investment program.
- Sec. 3013. Research, development, demonstration, and deployment projects.
- Sec. 3014. Cooperative research grant program.
- Sec. 3015. National research programs.
- Sec. 3016. National Transit Institute.
- Sec. 3017. Bus testing facility.
- Sec. 3018. Bicycle facilities.
- Sec. 3019. Suspended light rail technology pilot project.
- Sec. 3020. General provisions on assistance.
- Sec. 3021. Special provisions for capital projects.
- Sec. 3022. Contract requirements.
- Sec. 3023. Human resources programs.
- Sec. 3024. Project management oversight and review.
- Sec. 3025. Project review.
- Sec. 3026. Investigations of safety and security risk.
- Sec. 3027. State safety oversight.
- Sec. 3028. Sensitive security information.
- Sec. 3029. Terrorist attacks and other acts of violence against public transportation systems.
- Sec. 3030. Controlled substances and alcohol misuse testing.
- Sec. 3031. Employee protective arrangements.
- Sec. 3032. Administrative procedures.
- Sec. 3033. Reports and audits.
- Sec. 3034. Apportionments of appropriations for formula grants.
- Sec. 3035. Apportionments based on fixed guideway factors.
- Sec. 3036. Authorizations.
- Sec. 3037. National parks and public lands legacy project.
- Sec. 3038. Over-the-road bus accessibility program.
- Sec. 3039. Formula grants for special needs of elderly individuals and individuals with disabilities.
- Sec. 3040. Job access and reverse commute.

#### TITLE IV—MOTOR CARRIER SAFETY

- Sec. 4001. Authorization of appropriations.
- Sec. 4002. Motor carrier safety grants.

- Sec. 4003. Hobbs Act.
- Sec. 4004. Penalty for denial of access to records.
- Sec. 4005. Medical review board and medical examiners.
- Sec. 4006. Enforcement of household goods regulations.
- Sec. 4007. Registration of commercial motor carriers, freight forwarders, and brokers.
- Sec. 4008. Financial responsibility for private motor carriers.
- Sec. 4009. Increased penalties for out-of-service violations and false records.
- Sec. 4010. Elimination of commodity and service exemptions.
- Sec. 4011. Intrastate operations of interstate motor carriers.
- Sec. 4012. Authority to stop commercial motor vehicles.
- Sec. 4013. Pattern of safety violations by motor carrier management.
- Sec. 4014. Motor carrier research and technology program.
- Sec. 4015. International cooperation.
- Sec. 4016. Performance and Registration Information System Management (PRISM).
- Sec. 4017. Information systems and data analysis.
- Sec. 4018. Outreach and education.

## TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

### Subtitle A—Funding

- Sec. 5101. Authorization of appropriations.

### Subtitle B—Research, Technology, and Education

- Sec. 5201. Research, technology, and education.
- Sec. 5202. Surface transportation environment and planning cooperative research program.
- Sec. 5203. Long-term bridge performance program; innovative bridge research and deployment program.
- Sec. 5204. Technology deployment.
- Sec. 5205. Training and education.
- Sec. 5206. Advanced travel forecasting procedures program.

### Subtitle C—Multimodal Research Programs; Scholarship Opportunities

- Sec. 5301. University transportation research.
- Sec. 5302. Multimodal research program.
- Sec. 5303. Commercial remote sensing products.
- Sec. 5304. Transportation scholarship opportunities program.

### Subtitle D—Transportation Data and Analysis

- Sec. 5401. Bureau of transportation statistics.

### Subtitle E—Intelligent Transportation Systems Research

- Sec. 5501. Short title.
- Sec. 5502. Goals and purposes.
- Sec. 5503. General authorities and requirements.
- Sec. 5504. National architecture and standards.
- Sec. 5505. Research and development.
- Sec. 5506. Use of funds.
- Sec. 5507. Definitions.
- Sec. 5508. Repeal.

TITLE VI—TRANSPORTATION PLANNING; INTERMODAL  
FACILITIES

- Sec. 6001. Transportation planning.  
Sec. 6002. Intermodal passenger facilities.

TITLE VII—MISCELLANEOUS

Subtitle A—Railroads

- Sec. 7101. Rail corridor planning.  
Sec. 7102. High speed rail authorizations.

Subtitle B—Miscellaneous Technical Corrections to Title 49

- Sec. 7201. Correction of obsolete references to Interstate Commerce Commission.

Subtitle C—Hazardous Material Transportation

- Sec. 7301. Definitions.  
Sec. 7302. Representations and tampering with hazardous material packaging.  
Sec. 7303. Hazardous material transportation safety and security.  
Sec. 7304. Administrative authority for transportation service and infrastructure assurance research.  
Sec. 7305. Postal Service Civil Penalty Authority.  
Sec. 7306. Registration.  
Sec. 7307. Shipping paper retention.  
Sec. 7308. Planning and training grants.  
Sec. 7309. Enforcement.  
Sec. 7310. Penalties.  
Sec. 7311. Emergency waiver of preemption.  
Sec. 7312. Judicial review.

Subtitle D—Sanitary Food Transportation

- Sec. 7401. Short title.  
Sec. 7402. Responsibilities of the Secretary of Health and Human Services.  
Sec. 7403. Department of Transportation Requirements.  
Sec. 7404. Effective date of the subtitle.

Subtitle E—Sport Fishing and Boating Safety

- Sec. 7501. Sport fish restoration account amendments.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING  
GUARANTEE AND BUDGET OFFSETS

- Sec. 8101. Discretionary spending categories.  
Sec. 8102. Level of obligation limitations.  
Sec. 8103. Effectiveness of title.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

- Sec. 9001. Short title; amendment of 1986 Code.  
Sec. 9002. Extension of highway-related taxes and trust fund.  
Sec. 9003. Extension of tax benefits for alcohol fuels.  
Sec. 9004. Private activity bonds for surface transportation infrastructure.  
Sec. 9005. All alcohol fuel taxes transferred to highway trust fund.

- Sec. 9006. Transfer from highway trust fund to boat safety account.
- Sec. 9007. Extension of small-engine fuel taxes transferred to sport fish restoration account.
- Sec. 9008. Technical correction.
- Sec. 9009. Transfer by registered pipeline, vessel, or barge required for fuel tax exemption of bulk transfers to registered terminals or refineries; display of registration requirement.
- Sec. 9010. Returns filed electronically.
- Sec. 9011. Civil penalty for refusal of entry.
- Sec. 9012. Requirement of tax payment decal; elimination of installment payments of highway use tax.
- Sec. 9013. Additional rules regarding inspections of records.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) METROPOLITAN PLANNING ORGANIZA-  
 4 TION.—The term “metropolitan planning organiza-  
 5 tion” has the meaning such term has under section  
 6 5203(b) of title 49, United States Code, as added by  
 7 section 6001 of this Act.

8 (2) SECRETARY.—The term “Secretary” means  
 9 the Secretary of Transportation.

10 (3) TRANSPORTATION EQUITY ACT FOR THE  
 11 21ST CENTURY.—The term “Transportation Equity  
 12 Act for the 21st Century” means the Transportation  
 13 Equity Act for the 21st Century, Public Law 105–  
 14 178, as amended by the TEA 21 Restoration Act,  
 15 title IX of Public Law 105–206.

1                   **TITLE I—FEDERAL-AID**  
2                                   **HIGHWAYS**  
3                                   **Subtitle A—Funding**

4   **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

5           (a) IN GENERAL.—The following sums are author-  
6 ized to be appropriated out of the Highway Trust Fund  
7 (other than the Mass Transit Account):

8                   (1) INTERSTATE MAINTENANCE PROGRAM.—

9           For the Interstate maintenance program under sec-  
10 tion 119 of title 23, United States Code,  
11 \$4,100,000,000 for fiscal years 2004 and 2005,  
12 \$4,200,000,000 for fiscal year 2006,  
13 \$4,400,000,000 for fiscal year 2007,  
14 \$4,500,000,000 for fiscal year 2008, and  
15 \$4,700,000,000 for fiscal year 2009.

16                   (2) NATIONAL HIGHWAY SYSTEM.—For the Na-

17 tional Highway System under section 103 of such  
18 title \$5,000,000,000 for fiscal years 2004 and 2005,  
19 \$5,100,000,000 for fiscal year 2006,  
20 \$5,200,000,000 for fiscal year 2007,  
21 \$5,400,000,000 for fiscal year 2008, and  
22 \$5,500,000,000 for fiscal year 2009.

23                   (3) BRIDGE PROGRAM.—For the bridge pro-

24 gram under section 144 of such title \$3,400,000,000  
25 for fiscal year 2004, \$3,500,000,000 for fiscal year



1 2005, \$3,700,000,000 for fiscal year 2006,  
2 \$3,800,000,000 for fiscal year 2007,  
3 \$3,900,000,000 for fiscal year 2008, and  
4 \$4,000,000,000 for fiscal year 2009.

5 (4) SURFACE TRANSPORTATION PROGRAM.—  
6 For the surface transportation program under sec-  
7 tion 133 of such title \$5,102,000,000 for fiscal year  
8 2004, \$5,202,000,000 for fiscal year 2005,  
9 \$5,402,000,000 for fiscal year 2006,  
10 \$5,514,000,000 for fiscal year 2007,  
11 \$5,714,000,000 for fiscal year 2008, and  
12 \$5,807,000,000 for fiscal year 2009.

13 (5) CONGESTION MITIGATION AND AIR QUALITY  
14 IMPROVEMENT PROGRAM.—For the congestion miti-  
15 gation and air quality improvement program under  
16 section 149 of such title \$1,100,000,000 for fiscal  
17 year 2004, \$1,462,000,000 for fiscal year 2005,  
18 \$1,500,000,000 for fiscal year 2006,  
19 \$1,600,000,000 for fiscal years 2007 through 2009.

20 (6) HIGHWAY SAFETY IMPROVEMENT PRO-  
21 GRAM.—For the highway safety improvement pro-  
22 gram under section 150 of such title \$1,000,000,000  
23 for fiscal year 2004, \$1,100,000,000 for fiscal year  
24 2005, \$1,200,000,000 for fiscal year 2006,  
25 \$1,300,000,000 for fiscal year 2007,

1       \$1,400,000,000 for fiscal year 2008, and  
2       \$1,500,000,000 for fiscal year 2009.

3           (7) APPALACHIAN DEVELOPMENT HIGHWAY  
4       SYSTEM PROGRAM.—For the Appalachian develop-  
5       ment highway system program under section 201 of  
6       the Appalachian Regional Development Act of 1965  
7       (40 U.S.C. App.) \$450,000,000 for each of fiscal  
8       years 2004 through 2009.

9           (8) RECREATIONAL TRAILS PROGRAM.—For the  
10      recreational trails program under section 206 of  
11      such title \$60,000,000 for each of fiscal years 2004  
12      through 2009.

13          (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

14           (A) INDIAN RESERVATION ROADS.—For  
15      Indian reservation roads under section 204 of  
16      such title \$333,000,000 for each of fiscal years  
17      2004 through 2009.

18           (B) RECREATION ROADS.—For recreation  
19      roads under section 204 of such title  
20      \$50,000,000 for each of fiscal years 2004  
21      through 2009.

22           (C) PARK ROADS AND PARKWAYS.—For  
23      park roads and parkways under section 204 of  
24      such title, \$300,000,000 for fiscal year 2004,  
25      \$310,000,000 for fiscal year 2005, and

1           \$320,000,000 for each of fiscal years 2006  
2           through 2009.

3           (D) REFUGE ROADS.—For refuge roads  
4           under section 204 of such title \$30,000,000 for  
5           each of fiscal years 2004 through 2009.

6           (E) FOREST HIGHWAYS.—For forest high-  
7           ways under section 204 of such title  
8           \$200,000,000 for each of fiscal years 2004  
9           through 2009.

10          (F) SAFETY.—For safety under section  
11          204 of such title \$40,000,000 for each of fiscal  
12          years 2004 through 2009.

13          (10) MULTI-STATE CORRIDOR PLANNING PRO-  
14          GRAM.—For the multi-state corridor planning pro-  
15          gram under section 1806 of this Act \$76,500,000  
16          for fiscal year 2004 and \$84,000,000 for each of fis-  
17          cal years 2005 through 2009.

18          (11) BORDER PLANNING, OPERATIONS, AND  
19          TECHNOLOGY PROGRAM.—For the border planning,  
20          operations, and technology program under section  
21          1807 of this Act \$76,500,000 for fiscal year 2004  
22          and \$84,000,000 for each of fiscal years 2005  
23          through 2009.

24          (12) NATIONAL SCENIC BYWAYS PROGRAM.—  
25          For the national scenic byways program under sec-

1 tion 162 of title 23, United States Code,  
2 \$31,500,000 for each of fiscal years 2004 through  
3 2009.

4 (13) INTELLIGENT TRANSPORTATION SYSTEMS  
5 PERFORMANCE INCENTIVE PROGRAM.—For carrying  
6 out the intelligent transportation systems perform-  
7 ance incentive program under section 1703 of this  
8 Act, \$135,000,000 for each of fiscal years 2004  
9 through 2009.

10 (14) HIGHWAY USE TAX EVASION PROJECTS.—  
11 For highway use tax evasion projects under section  
12 143 of such title, \$26,550,000 for fiscal year 2004,  
13 \$54,500,000 for each of fiscal years 2005 and 2006,  
14 \$44,500,000 for fiscal year 2007, and \$11,000,000  
15 for each of fiscal years 2008 and 2009.

16 (15) COMMERCIAL VEHICLE INFORMATION SYS-  
17 TEMS AND NETWORKS DEPLOYMENT.—For carrying  
18 out the Commercial Vehicle Information Systems  
19 and Networks Deployment program under section  
20 1704 of this Act, \$25,000,000 for each of fiscal  
21 years 2004 through 2009.

22 (16) INFRASTRUCTURE PERFORMANCE AND  
23 MAINTENANCE PROGRAM.—For carrying out the in-  
24 frastructure performance and maintenance program

1 under section 1201 of this Act, \$1,000,000,000 for  
2 each of fiscal years 2004 through 2009.

3 **SEC. 1102. OBLIGATION CEILING.**

4 (a) GENERAL LIMITATION.—Notwithstanding any  
5 other provision of law, but subject to subsections (f) and  
6 (g), the obligations for Federal-aid highway and highway  
7 safety construction programs shall not exceed—

- 8 (1) \$29,293,948,000 for fiscal year 2004;
- 9 (2) \$30,265,000,000 for fiscal year 2005;
- 10 (3) \$31,326,000,000 for fiscal year 2006;
- 11 (4) \$32,257,000,000 for fiscal year 2007;
- 12 (5) \$33,104,000,000 for fiscal year 2008; and
- 13 (6) \$33,903,000,000 for fiscal year 2009.

14 (b) EXCEPTIONS.—The limitations under subsection  
15 (a) shall not apply to obligations under—

- 16 (1) section 125 of title 23, United States Code;
- 17 (2) section 147 of the Surface Transportation  
18 Assistance Act of 1978;
- 19 (3) section 9 of the Federal-Aid Highway Act  
20 of 1981;
- 21 (4) sections 131(b) and 131(j) of the Surface  
22 Transportation Assistance Act of 1982;
- 23 (5) sections 149(b) and 149(c) of the Surface  
24 Transportation and Uniform Relocation Assistance  
25 Act of 1987;

1           (6) sections 1103 through 1108 of the Inter-  
2 modal Surface Transportation Efficiency Act of  
3 1991;

4           (7) section 157 of title 23, United States Code,  
5 as in effect on the day before the date of enactment  
6 of the Transportation Equity Act for the 21st Cen-  
7 tury;

8           (8) section 105 of title 23, United States Code  
9 (but, for each of fiscal years 2004 through 2009),  
10 only in an amount equal to \$639,000,000 per fiscal  
11 year; and

12           (9) for Federal-aid highway programs for which  
13 obligation authority was made available under the  
14 Transportation Equity Act for the 21st Century or  
15 subsequent public laws for multiple years or to re-  
16 main available until used, but only to the extent that  
17 such obligation authority has not lapsed or been  
18 used.

19           (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—  
20 For each of fiscal years 2004 through 2009, the Secretary  
21 shall—

22           (1) reserve obligation authority provided by  
23 subsection (a) for such fiscal year for amounts au-  
24 thorized for administrative expenses, programs fund-  
25 ed from the administrative takedown authorized by

1 section 104(a) of title 23, United States Code, the  
2 infrastructure performance and maintenance pro-  
3 gram, and for each of the programs that are allo-  
4 cated by the Secretary under this Act and title 23,  
5 United States Code;

6 (2) reserve the obligation authority provided by  
7 subsection (a) less the amounts reserved under para-  
8 graph (1) for section 201 of the Appalachian Re-  
9 gional Development Act of 1965, and  
10 \$2,000,000,000 for such fiscal year under section  
11 105 of such title (relating to minimum guarantee);  
12 and

13 (3) distribute the obligation authority provided  
14 by subsection (a) less the aggregate amounts not re-  
15 served under paragraph (1) and (2) for Federal-aid  
16 highway and highway safety construction programs  
17 (other than the minimum guarantee program, but  
18 only to the extent that amounts apportioned for the  
19 minimum guarantee program for such fiscal year ex-  
20 ceed \$2,639,000,000, and the Appalachian develop-  
21 ment highway system program) that are apportioned  
22 by the Secretary under this Act and title 23, United  
23 States Code, in the ratio that—

1 (A) sums authorized to be appropriated for  
2 such programs that are apportioned to each  
3 State for such fiscal year, bear to

4 (B) the total of the sums authorized to be  
5 appropriated for such programs that are appor-  
6 tioned to all States for such fiscal year.

7 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-  
8 THORITY.—Notwithstanding subsection (c), the Secretary  
9 shall, after August 1 of each of fiscal years 2004 through  
10 2009, revise a distribution of the obligation authority  
11 made available under subsection (c) if a State will not obli-  
12 gate the amount distributed during that fiscal year and  
13 redistribute sufficient amounts to those States able to obli-  
14 gate amounts in addition to those previously distributed  
15 during that fiscal year, giving priority to those States hav-  
16 ing large unobligated balances of funds apportioned under  
17 sections 104 and 144 of title 23, United States Code.

18 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO  
19 TRANSPORTATION RESEARCH PROGRAMS.—Obligation  
20 limitations imposed by subsection (a) shall apply to trans-  
21 portation research programs carried out under chapter 5  
22 of title 23, United States Code, and under title V of this  
23 Act; except that obligation authority made available for  
24 such programs under such limitations shall remain avail-  
25 able for a period of 3 fiscal years and shall be in addition



1 to the amount of any limitation imposed on obligations  
2 for Federal-aid highway and highway safety construction  
3 programs for future fiscal years.

4 (f) SPECIAL RULE.—Obligation authority distributed  
5 for a fiscal year under subsection (c)(2) for a section set  
6 forth in subsection (c)(2) shall remain available until used  
7 for obligation of funds for such section and shall be in  
8 addition to the amount of any limitation imposed on obli-  
9 gations for Federal-aid highway and highway safety con-  
10 struction programs for future fiscal years.

11 (g) ADJUSTMENT IN OBLIGATION LIMIT.—Limita-  
12 tions on obligations imposed by subsection (a) for a fiscal  
13 year shall be adjusted by an amount equal to the amount  
14 determined pursuant to section 251(b)(1)(B) of the Bal-  
15 anced Budget and Emergency Deficit Control Act of 1985  
16 for such fiscal year, as amended by this Act. Any such  
17 adjustment shall be distributed in accordance with this  
18 section.

19 (h) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-  
20 TIVE EXPENSES.—Notwithstanding any other provision of  
21 law, the total amount of all obligations under section  
22 104(a) of title 23, United States Code, shall not exceed—

- 23 (1) \$350,000,000 for fiscal year 2004;
- 24 (2) \$380,000,000 for fiscal year 2005;
- 25 (3) \$400,000,000 for fiscal year 2006;

1 (4) \$420,000,000 for fiscal year 2007;

2 (5) \$440,000,000 for fiscal year 2008; and

3 (6) \$460,000,000 for fiscal year 2009.

4 **SEC. 1103. APPORTIONMENTS.**

5 (a) ADMINISTRATIVE EXPENSES.—Section 104(a) of  
6 title 23, United States Code, as amended by this Act, is  
7 further amended in paragraph (1) by striking “1 1/6” and  
8 inserting “1.4”.

9 (b) METROPOLITAN PLANNING.—Section 104(f) of  
10 title 23, United States Code, is amended—

11 (1) in paragraph (1), by striking “not to ex-  
12 ceed”; and by striking “authorized under this title”  
13 and inserting “identified in such subsection, except  
14 for the Federal lands highway program and the Ap-  
15 palachian development highway program”;

16 (2) in paragraph (2), by striking “per centum”  
17 and inserting “percent”;

18 (3) in paragraph (3), by striking “These funds  
19 shall be matched in accordance with section 120(b)  
20 unless the Secretary determines that the interests of  
21 the Federal-aid highway program would be best  
22 served without such matching.” and inserting “Any  
23 funds that are not used to carry out section 134 of  
24 this title may be made available by a metropolitan

1 planning organization to the State to fund activities  
2 under section 135.”; and

3 (4) by adding the following after paragraph (5):

4 “(6) FEDERAL SHARE.—Funds apportioned to  
5 a State under this subsection shall be matched in ac-  
6 cordance with section 120(b) unless the Secretary  
7 determines that the interests of the Federal-aid  
8 highway program would be best served without such  
9 matching.”.

10 (c) STATE DEFINED.—Section 1103(n) of the Trans-  
11 portation Equity Act for the 21st Century (Public Law  
12 105–178) is repealed.

13 (d) EXECUTIVE OFFICE COMPLEX.—Section 104 of  
14 title 23, United States Code, is amended by adding after  
15 subsection (q), as added by this Act, the following:

16 “(r) EXECUTIVE OFFICE COMPLEX.—On October 1  
17 of each fiscal year for fiscal years 2004 through 2009,  
18 the Secretary, after making the deductions authorized by  
19 subsections (a) and (f), shall set aside \$2,000,000 for each  
20 of fiscal years 2004 through 2006, \$14,000,000 for each  
21 of fiscal years 2007 and 2008, and \$7,000,000 for fiscal  
22 year 2009 of the remaining funds authorized to be appro-  
23 priated under subsection (b)(3) for the preferred option  
24 determined by a study for highway access near the Execu-  
25 tive Office complex.”.

1 (e) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title  
2 23, United States Code, is amended by striking  
3 “\$18,800,000 for each of fiscal years 1998 through 2002  
4 for the Alaska Highway” and substituting “\$18,800,000  
5 for each of fiscal years 2004 through 2009 for the Alaska  
6 Highway”.

7 **SEC. 1104. MINIMUM GUARANTEE.**

8 Section 105 of title 23, United States Code, is  
9 amended to read as follows:

10 **“§ 105. Minimum guarantee**

11 “(a) GENERAL RULE.—For each of fiscal years 2004  
12 through 2009, the Secretary shall allocate among the  
13 States amounts sufficient to ensure that each State’s per-  
14 centage of the total apportionments for such fiscal year  
15 of Interstate maintenance, national highway system,  
16 bridge, congestion mitigation and air quality improvement,  
17 surface transportation, highway safety improvement, min-  
18 imum guarantee, Appalachian development highway sys-  
19 tem, infrastructure performance and maintenance, and  
20 recreational trails programs shall equal the percentage  
21 listed for each State in subsection (b). The minimum  
22 amount allocated to a State listed in subsection (b) under  
23 this section for a fiscal year shall be \$1,000,000.

1       “(b) STATE PERCENTAGES.—The percentage re-  
 2       ferred to in subsection (a) for a State shall be determined  
 3       in accordance with the following table:

<b>“States:</b>	<b>Percentage:</b>
Alabama .....	2.0269
Alaska .....	1.1915
Arizona .....	1.5581
Arkansas .....	1.3214
California .....	9.1962
Colorado .....	1.1673
Connecticut .....	1.5186
Delaware .....	0.4424
District of Columbia .....	0.3956
Florida .....	4.6176
Georgia .....	3.5104
Hawaii .....	0.5177
Idaho .....	0.7718
Illinois .....	3.3819
Indiana .....	2.3588
Iowa .....	1.2020
Kansas .....	1.1717
Kentucky .....	1.7365
Louisiana .....	1.5900
Maine .....	0.5263
Maryland .....	1.5087
Massachusetts .....	1.8638
Michigan .....	3.1535
Minnesota .....	1.4993
Mississippi .....	1.2186
Missouri .....	2.3615
Montana .....	0.9929
Nebraska .....	0.7768
Nevada .....	0.7248
New Hampshire .....	0.5163
New Jersey .....	2.5816
New Mexico .....	0.9884
New York .....	5.1628
North Carolina .....	2.8298
North Dakota .....	0.6553
Ohio .....	3.4257
Oklahoma .....	1.5419
Oregon .....	1.2183
Pennsylvania .....	4.9887
Rhode Island .....	0.5958
South Carolina .....	1.5910
South Dakota .....	0.7149
Tennessee .....	2.2646
Texas .....	7.2131
Utah .....	0.7831
Vermont .....	0.4573
Virginia .....	2.5627

<b>“States:</b>	<b>Percentage:</b>
Washington .....	1.7875
West Virginia .....	1.1319
Wisconsin .....	1.9916
Wyoming .....	0.6951.

1       “(c) SPECIAL RULE.—The Secretary shall allocate to  
 2 Puerto Rico \$1,000,000 for each of fiscal years 2004  
 3 through 2009. Such amounts shall be subject to the provi-  
 4 sions in paragraph (d) of this section.

5       “(d) TREATMENT OF FUNDS.—

6               “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-  
 7 retary shall apportion 50 percent of the amounts  
 8 made available under this section so that the amount  
 9 apportioned to each State under this paragraph for  
 10 each program referred to in subsection (a) (other  
 11 than metropolitan planning, minimum guarantee,  
 12 Appalachian development highway system, infra-  
 13 structure performance and maintenance, and rec-  
 14 reational trails programs) is equal to the amount de-  
 15 termined by multiplying the amount to be appor-  
 16 tioned under this paragraph by the ratio that—

17                       “(A) the amount of funds apportioned to  
 18 each State for each program referred to in sub-  
 19 section (a) (other than metropolitan planning,  
 20 minimum guarantee, Appalachian development  
 21 highway system, infrastructure performance  
 22 and maintenance, and recreational trails pro-  
 23 grams) for a fiscal year; bears to

1           “(B) the total amount of funds appor-  
2           tioned to each State for all such programs for  
3           such fiscal year.

4           “(2) REMAINING DISTRIBUTION.—The Sec-  
5           retary shall allocate the remainder of funds made  
6           available under this section to the States for use in  
7           accordance with section 133; except that require-  
8           ments of paragraphs (1) and (2) of section 133(d)  
9           shall not apply to amounts apportioned pursuant to  
10          this paragraph.

11          “(e) AUTHORIZATION.—There are authorized to be  
12          appropriated out of the Highway Trust Fund (other than  
13          the Mass Transit Account) such sums as may be necessary  
14          to carry out this section for each of fiscal years 2004  
15          through 2009.

16          “(f) GUARANTEE OF 90.5 PERCENTAGE RETURN.—

17                 “(1) IN GENERAL.—Before making any appor-  
18                 tionment under this title for each of fiscal years  
19                 2004 through 2009, the Secretary shall adjust the  
20                 percentages in the table in subsection (b) to reflect  
21                 the estimated percentage of estimated tax payments  
22                 attributable to highway users in each State paid into  
23                 the Highway Trust Fund (other than the Mass  
24                 Transit Account) in the latest fiscal year for which  
25                 data is available, to ensure that no State’s percent-

1 age return from such Trust Fund is less than 90.5  
2 percent of the State's percentage contribution.

3 “(2) CONFORMING ADJUSTMENTS.—After mak-  
4 ing any adjustments under paragraph (1) for a fiscal  
5 year, the Secretary shall adjust the remaining per-  
6 centages in the table set forth in subsection (b) to  
7 ensure that the total of the percentages in the table,  
8 as adjusted, do not exceed 100 percent for such fis-  
9 cal year.

10 “(3) LIMITATION ON ADJUSTMENTS.—After  
11 making any adjustments under paragraph (2) for a  
12 fiscal year, the Secretary shall determine whether or  
13 not any State's percentage return from the Highway  
14 Trust Fund (other than the Mass Transit Account)  
15 is less than 90.5 percent of the State's percentage  
16 contribution to the Highway Trust fund as a result  
17 of such adjustments and shall adjust the percentages  
18 in the table for such fiscal year accordingly. Adjust-  
19 ments of the percentages in the table under this  
20 paragraph may not result in the total of such per-  
21 centages exceeding 100 percent.

22 “(4) RATE OF RETURN.—A State's percentage  
23 return for such fiscal year shall be in the ratio  
24 that—



1           “(A) the quotient obtained by dividing the  
2 total amount of funds apportioned to each  
3 State, except Puerto Rico, for the current fiscal  
4 year for Interstate maintenance, national high-  
5 way system, bridge, congestion mitigation and  
6 air quality improvement, surface transportation,  
7 minimum guarantee, highway safety improve-  
8 ment, Appalachian development highway sys-  
9 tem, infrastructure performance and mainte-  
10 nance, and recreational trails programs by the  
11 total amount of funds apportioned for such pro-  
12 grams in all States, except Puerto Rico, for the  
13 current fiscal year; bears to

14           “(B) the quotient obtained by dividing the  
15 estimated tax payments attributable to highway  
16 users in each State paid into the Highway  
17 Trust Fund (other than the Mass Transit Ac-  
18 count) in the latest fiscal year for which data  
19 are available by the estimated tax payments at-  
20 tributable to highway users in all States paid  
21 into the Highway Trust Fund (other than the  
22 Mass Transit Account) for such fiscal year.”.

1 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA)**2 **AMENDMENTS.**

3 Section 110 of title 23, United States Code, is  
4 amended—

5 (1) in subsections (a)(1) and (a)(2), by striking  
6 “2000” and inserting “2006”;

7 (2) in subsection (a)(2), by striking “the suc-  
8 ceeding” and inserting “that”, and by striking “and  
9 the motor carrier safety grant program”;

10 (3) in subsection (b)(1)(A), by striking “and  
11 the motor carrier safety grant program” and by  
12 striking “, the Transportation Equity Act for the  
13 21st Century, and subchapter I of chapter 311 of  
14 title 49” after “under this title” and insert “and the  
15 Safe, Accountable, Flexible, and Efficient Transpor-  
16 tation Equity Act of 2003”;

17 (4) in subsection (c), by inserting “the highway  
18 safety improvement program,” after “the surface  
19 transportation program,”; and

20 (5) by striking subsections (e), (f), and (g).

21 **Subtitle B—New Programs**22 **SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE**23 **PROGRAM.**

24 (a) ESTABLISHMENT.—The Secretary shall establish  
25 and implement an Infrastructure Performance and Main-  
26 tenance Program in accordance with this section.

1 (b) ELIGIBLE PROJECTS.—

2 (1) IN GENERAL.—A State may obligate funds  
3 apportioned to it under this section only for highway  
4 projects eligible under the Interstate Maintenance  
5 Program, the National Highway System Program,  
6 and the Surface Transportation Program that will—

7 (A) cost-effectively preserve, maintain, or  
8 otherwise extend the useful life of existing high-  
9 way infrastructure elements; or

10 (B) provide operational improvements, in-  
11 cluding traffic management and intelligent  
12 transportation system strategies and limited ca-  
13 pacity enhancements, at points of recurring  
14 highway congestion.

15 (2) TRANSFER PROHIBITION.—Notwithstanding  
16 sections 104 and 126 of title 23, United States  
17 Code, funds apportioned under this section shall not  
18 be transferred to another Federal agency or pro-  
19 gram.

20 (c) APPORTIONMENT OF INFRASTRUCTURE PER-  
21 FORMANCE AND MAINTENANCE PROGRAM FUNDS.—

22 (1) IN GENERAL.—On October 1 of each fiscal  
23 year the Secretary shall apportion to the States the  
24 funds authorized to be appropriated to carry out this  
25 section in accordance with the following formula:

1 (A) 25 percent of the apportionments in  
2 the ratio that—

3 (i) the total lane miles of Federal-aid  
4 highways in each State; bears to

5 (ii) the total lane miles of Federal-aid  
6 highways in all States.

7 (B) 40 percent of the apportionments in  
8 the ratio that—

9 (i) the total vehicle miles traveled on  
10 lanes on Federal-aid highways in each  
11 State; bears to

12 (ii) the total vehicle miles traveled on  
13 lanes on Federal-aid highways in all  
14 States.

15 (C) 35 percent of the apportionments in  
16 the ratio that—

17 (i) the estimated tax payments attrib-  
18 utable to highway users in each State paid  
19 into the Highway Trust Fund (other than  
20 the Mass Transit Account) in the latest  
21 fiscal year for which data are available;  
22 bears to

23 (ii) the estimated tax payments attrib-  
24 utable to highway users in all States paid  
25 into the Highway Trust Fund (other than

1                   the Mass Transit Account) in the latest  
2                   fiscal year for which data are available.

3                   (2)   MINIMUM    APPORTIONMENT.—Notwith-  
4                   standing paragraph (1), each State shall receive a  
5                   minimum of  $\frac{1}{2}$  of 1 percent of the funds appor-  
6                   tioned under this paragraph.

7                   (d) CONTRACT AUTHORITY.—Funds authorized to be  
8                   appropriated under section 1101(a)(16) of this Act to  
9                   carry out this section shall be available for obligation in  
10                  the same manner as if such funds were apportioned under  
11                  chapter 1 of title 23, United States Code, except that such  
12                  funds shall remain available for obligation only as provided  
13                  in subsection (e); shall not be subject to any deduction  
14                  or set aside requirement; and shall not be transferred to  
15                  another Federal agency or program in accordance with  
16                  subsection (b)(2).

17                  (e) PERIOD OF AVAILABILITY.—

18                  (1) OBLIGATION WITHIN 6 MONTHS.—Funds  
19                  apportioned to a State under this section must be  
20                  obligated by such State within 6 months of the date  
21                  of apportionment. Any amounts that remain unobli-  
22                  gated at the end of that period shall be reappor-  
23                  tioned in accordance with subsection (f).

24                  (2) ONE YEAR.—All funds apportioned or re-  
25                  apportioned under this section shall remain available

1 for obligation until the last day of the fiscal year in  
2 which they are apportioned. Any amounts appor-  
3 tioned that remain unobligated at the end of the fis-  
4 cal year shall lapse.

5 (f) REDISTRIBUTION OF APPORTIONED FUNDS AND  
6 OBLIGATION AUTHORITY.—Six months after the date of  
7 apportionment or as soon thereafter as feasible in each  
8 fiscal year, the Secretary shall withdraw any funds appor-  
9 tioned to a State under this section that remain unobli-  
10 gated, along with an equal amount of obligation authority  
11 provided for the use of such funds pursuant to section  
12 1102(c) of this Act, and shall reapportion such funds and  
13 redistribute such obligation authority to those States that  
14 have fully obligated all amounts apportioned under this  
15 section in such fiscal year and that demonstrate they are  
16 able to obligate additional amounts for projects eligible  
17 under this section before the end of the fiscal year. The  
18 calculation and distribution of funds under section 105 of  
19 title 23, United States Code, shall not be adjusted as a  
20 result of the reapportionment of funds under this sub-  
21 section.

22 (g) FEDERAL SHARE PAYABLE.—The Federal share  
23 payable for a project funded under this section shall be  
24 determined in accordance with the provisions of section  
25 120 of title 23, United States Code.

1 (h) STATE DEFINED.—In this section, the term  
2 “State” has the meaning such term has under section  
3 101(a) of title 23, United States Code.

4 **SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECU-**  
5 **RITY PROJECTS.**

6 Section 101 of title 23, United States Code, is  
7 amended—

8 (1) by striking the word “and” at the end of  
9 paragraph (a)(3)(G);

10 (2) by striking the period at the end of para-  
11 graph (a)(3)(H) and inserting “; and”;

12 (3) by adding the following at the end of para-  
13 graph (a)(3)(H):

14 (I) improvements directly re-  
15 lated to homeland security for detec-  
16 tion, preparedness, prevention, re-  
17 sponse, and recovery.”; and

18 (4) by inserting the words “protection and”  
19 after the words “means the” and by inserting “, se-  
20 cure,” after the word “safe” in section (a)(14).

21 **SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.**

22 (a) DECLARATION OF POLICY.—Section 101 of title  
23 23, United States Code, is amended by striking subsection  
24 (b) and inserting the following:

1       “(b) It is hereby declared to be in the national inter-  
2 est to accelerate the construction and reconstruction of the  
3 Federal-aid highway systems since many of such high-  
4 ways, or portions thereof, are in fact inadequate to meet  
5 the needs of local and interstate commerce and national  
6 and civil defense.

7       “‘It is further declared that it is in the national inter-  
8 est to preserve and enhance the Dwight D. Eisenhower  
9 National System of Interstate and Defense Highways  
10 (hereafter referred to as the “Interstate System”) to meet  
11 the nation’s needs for the 21st Century. Urban and long  
12 distance personal travel and freight movement demands  
13 continue to grow. Travel demand patterns will remain dy-  
14 namic. Continued planning for and investment in the  
15 Interstate System is critical to assure it adequately meets  
16 the changing travel demands of the future. The Interstate  
17 System must be safe, efficient, and reliable and must en-  
18 sure national and interregional personal mobility, the flow  
19 of interstate commerce, and travel movements essential for  
20 national security. To the maximum extent possible, actions  
21 under this title should address congestion and freight  
22 transportation to provide for a strong and vigorous na-  
23 tional economy. Special emphasis should be devoted to  
24 providing safe and efficient access for the type and size



1 of commercial and military vehicles that access designated  
 2 National Highway System intermodal freight terminals.

3 “The Interstate System is further declared to be the  
 4 nation’s premiere highway system, essential for the na-  
 5 tion’s economic vitality, national security, and general wel-  
 6 fare. The Secretary is directed to take appropriate actions  
 7 to preserve and enhance the Interstate System to meet  
 8 the needs of the 21st Century.”.

9 **SEC. 1204. MILITARY VEHICLE ACCESS (OVERSIZE AND**  
 10 **OVERWEIGHT VEHICLES; RELIEF FROM**  
 11 **TOLLS).**

12 (a) PROCEDURES ON MILITARY VEHICLE ACCESS.—  
 13 The Secretary of Transportation is authorized to issue, in  
 14 consultation with the Secretary of Defense and the Sec-  
 15 retary of Homeland Security, procedures and orders that  
 16 will expedite the highway movement of all marked military  
 17 vehicles and convoys. The procedures shall specifically ad-  
 18 dress the expedited movement of marked military vehicles,  
 19 including the establishment of temporary vehicle size and  
 20 weight limits in excess of Federal and local maximum lim-  
 21 its, expedited oversize/overweight permits, and exemptions  
 22 from payment of local tolls and expedited movement  
 23 through toll facilities.

24 (b) PREEMPTION.—A law, regulation, order, ruling,  
 25 provision, or other requirement of a State, territory, In-

1 dian tribe, or political subdivision thereof, which covers the  
 2 vehicles and movements described in paragraph (a) and  
 3 which is not consistent with the procedures or related limi-  
 4 tations established by the Secretary under that paragraph,  
 5 is preempted. The Secretaries of Transportation, Home-  
 6 land Security, and Defense, may request the Attorney  
 7 General to bring a civil action seeking appropriate relief  
 8 respecting the effect of such laws, regulations, orders, rul-  
 9 ings, provisions or other requirements in any court of com-  
 10 petent jurisdiction. Nothing in this section shall be con-  
 11 strued as limiting claims or remedies otherwise available  
 12 under law or equity.

13 (c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE  
 14 ACT.—A procedure established by the Secretary under  
 15 paragraph (a) shall be exempt from the provisions of 5  
 16 U.S.C. 553.

17 **SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS;**  
 18 **FREIGHT INTERMODAL CONNECTIONS.**

19 (a) FREIGHT TRANSPORTATION GATEWAYS.—Chap-  
 20 ter 3 of title 23, United States Code, is amended by add-  
 21 ing after section 324 the following new section:

22 **“§ 325. Freight transportation gateways**

23 “(a) IN GENERAL.—

24 “(1) ESTABLISHMENT.—The Secretary shall es-  
 25 tablish a freight transportation gateways program to

1 improve productivity, security, and safety of freight  
2 transportation gateways, while mitigating congestion  
3 and community impacts in the area of such gate-  
4 ways.

5 “(2) PURPOSES.—The purposes of the freight  
6 transportation gateways program shall be—

7 “(A) to facilitate and support multimodal  
8 freight transportation initiatives at the State  
9 and local levels in order to improve freight  
10 transportation gateways and mitigate the im-  
11 pact of congestion on the environment in the  
12 area of such gateways;

13 “(B) to provide capital funding to address  
14 infrastructure and freight operational needs at  
15 freight transportation gateways;

16 “(C) to encourage adoption of new financ-  
17 ing strategies to leverage State, local, and pri-  
18 vate investment in freight transportation gate-  
19 ways; and

20 “(D) to support military mobilization and  
21 readiness.

22 “(b) STATE RESPONSIBILITIES.—

23 “(1) PROJECT DEVELOPMENT PROCESS.—Each  
24 State shall ensure that intermodal freight transpor-  
25 tation, trade facilitation, and economic development

1 needs are adequately addressed and fully integrated  
2 into the project development process, including  
3 transportation planning, through final design and  
4 construction of freight related transportation  
5 projects.

6 “(2) FREIGHT TRANSPORTATION COORDINATOR  
7 POSITION.—Each State shall designate a freight  
8 transportation coordinator. The coordinator shall be  
9 responsible for fostering public and private sector  
10 collaboration needed to implement complex solutions  
11 to freight transportation and freight transportation  
12 gateway problems, including coordination of metro-  
13 politan and statewide transportation activities with  
14 trade and economic interests and coordination with  
15 other States, local Department of Defense officials,  
16 local Department of Homeland Security officials,  
17 agencies, and organizations to find regional solutions  
18 to freight transportation problems. The coordinator  
19 shall also be responsible for advancing freight pro-  
20 fessional capacity building programs for the State.

21 “(c) INNOVATIVE FINANCE.—States and localities  
22 are encouraged to adopt innovative financing strategies for  
23 freight transportation gateway improvements, including  
24 new user fees; modifications to existing user fees, includ-  
25 ing trade facilitation charges; revenue options that incor-

1 porate private sector investment; and a blending of Fed-  
 2 eral-aid and innovative finance programs. The Secretary  
 3 shall provide technical assistance to States and localities  
 4 with respect to such strategies.

5 “(d) INTERMODAL FREIGHT TRANSPORTATION  
 6 PROJECTS.—

7 “(1) USE OF SURFACE TRANSPORTATION PRO-  
 8 GRAM FUNDS.—A State may obligate funds appor-  
 9 tioned to it under section 104(b)(3) of this title for  
 10 publicly owned intermodal freight transportation  
 11 projects that provide community and highway bene-  
 12 fits by addressing economic, congestion, security,  
 13 safety, and environmental issues associated with  
 14 freight transportation gateways.

15 “(2) ELIGIBLE PROJECTS.—Projects eligible for  
 16 funding under this section—

17 “(A) may include publicly-owned inter-  
 18 modal freight transfer facilities, access to such  
 19 facilities, and operational improvements for  
 20 such facilities (including capital investment for  
 21 Intelligent Transportation Systems), except that  
 22 projects located within the boundaries of port  
 23 terminals shall only include the transportation  
 24 infrastructure modifications necessary to facili-

1           tate direct intermodal access into and out of  
2           such port; and

3                   “(B) may involve the combining of private  
4           and public sector funds.”.

5           (b) ELIGIBILITY FOR SURFACE TRANSPORTATION  
6 PROGRAM FUNDS.—Section 133(b) of title 23, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing new paragraph:

9                   “(15) Intermodal freight transportation projects  
10          in accordance with section 325(d)(2) of this title.”.

11          (c) FREIGHT INTERMODAL CONNECTIONS TO  
12 NHS.—Section 103(b) of such title, is amended by adding  
13 at the end the following new paragraph:

14                   “(7) FREIGHT INTERMODAL CONNECTIONS TO  
15          THE NHS—

16                   “(A) FUNDING SET-ASIDE.—Of the funds  
17          apportioned to a State in each fiscal year under  
18          section 104(b)(1) of this title, an amount deter-  
19          mined in accordance with subparagraph (B) of  
20          this paragraph shall only be available to such  
21          State to be obligated for projects on—

22                           “(i) National Highway System routes  
23                           connecting to intermodal freight terminals  
24                           identified according to criteria set forth in  
25                           the report to Congress entitled “Pulling

1 Together: The National Highway System  
2 and its Connections to Major Intermodal  
3 Terminals” dated May 24, 1996, ref-  
4 erenced in paragraph (1) of this sub-  
5 section, and any modifications to these  
6 connections consistent with paragraph (4)  
7 of this subsection, and

8 “(ii) Strategic Highway Network  
9 (STRAHNET) connectors to strategic  
10 military deployment ports.

11 “(B) DETERMINATION OF AMOUNT.—The  
12 amount of funds for each State in a fiscal year  
13 that shall be set aside pursuant to subpara-  
14 graph (A) of this paragraph shall be—

15 “(i) equal to the total amount of  
16 funds apportioned to such State under sec-  
17 tion 104(b)(1) of this title multiplied by  
18 the percentage of miles that routes set  
19 forth in subparagraph (A) of this para-  
20 graph constitute of the total miles on the  
21 National Highway System in such State,  
22 or

23 “(ii) two percent of the annual appor-  
24 tionment to the State of funds under  
25 104(b)(1), whichever is greater.

1           “(C) EXEMPTION FROM SET-ASIDE.—In  
2           any fiscal year, a State may obligate the funds  
3           otherwise set aside by this paragraph on any  
4           project which is both eligible under paragraph  
5           (6) of this subsection and located in such State  
6           on a segment of the National Highway System  
7           set forth in paragraph (2) of this subsection if  
8           such State certifies and the Secretary concurs  
9           that—

10                   “(i) the routes described in subpara-  
11                   graph (A) of this paragraph are in good  
12                   condition and provide an adequate level of  
13                   service for military vehicle and civilian  
14                   commercial vehicle use, and

15                   “(ii) significant needs on such routes  
16                   are being met or do not exist.”.

17           (d) DEFINITIONS AND DECLARATION OF POLICY.—  
18           Section 101(a) of such title is amended by redesignating  
19           paragraphs (11) through (37) as paragraphs (12) through  
20           (38), respectively, and inserting new paragraph (11) as  
21           follows:

22                   “(11) FREIGHT TRANSPORTATION GATEWAY.—  
23                   The term ‘freight transportation gateway’ means a  
24                   nationally or regionally significant transportation  
25                   port of entry or hub for domestic and global trade,



1 military mobilization, and includes freight inter-  
2 modal and Strategic Highway Network connections  
3 that provide access to and from these gateways.”.

4 (e) FEDERAL SHARE PAYABLE.—Section 120 of such  
5 title is amended by adding at the end the following new  
6 subsection:

7 “(m) INCREASED FEDERAL SHARE FOR CONNEC-  
8 TORS.—On National Highway System intermodal freight  
9 connections and Strategic Highway Network connectors to  
10 strategic military deployment ports described in section  
11 103(b)(7), the Federal share may be up to 90 percent of  
12 the total cost of the project.”.

13 (f) LENGTH LIMITATIONS.—Section 31111(e) of title  
14 49, United States Code, is amended by adding at the end  
15 “In the interests of economic competitiveness, security,  
16 and intermodal connectivity, States shall update these  
17 qualifying highways within three years of enactment of the  
18 Safe, Accountable, Flexible, and Efficient Transportation  
19 Equity Act of 2003 to include Strategic Highway Network  
20 connectors to strategic military deployment ports and Na-  
21 tional Highway System intermodal freight connections  
22 serving military and commercial truck traffic going to  
23 major intermodal terminals as described in section  
24 103(b)(7).”.

1 (g) CONFORMING AMENDMENT.—The analysis of  
2 chapter 3 of title 23 is amended by adding at the end  
3 the following:

“325. Freight transportation gateways.”.

4 **SEC. 1206. AUTHORITY FOR ALTERNATIVE TIME-SAVING**  
5 **PROCEDURES FOR CRITICAL TRANSPOR-**  
6 **TATION SECURITY PROJECTS.**

7 (a) Critical, time sensitive highway and public trans-  
8 portation security projects are projects that are necessary  
9 to address an imminent threat to the security of a trans-  
10 portation facility or to repair damage to a transportation  
11 facility caused by a terrorist attack against the United  
12 States. Such projects shall be identified by the Secretary  
13 in consultation with the owner-operator of the facility and  
14 with the Secretary of Homeland Security.

15 (b) The Secretary of Transportation shall develop  
16 and implement expedited procedures for critical, time-sen-  
17 sitive highway and public transportation security projects.  
18 These procedures shall address planning, environmental  
19 review, public involvement, acquisition of rights-of-way,  
20 and contracting, and they shall be developed with the con-  
21 currence of other affected Federal agencies whose authori-  
22 ties will be affected by the procedures and in consultation  
23 with any other Federal agencies that the Secretary deter-  
24 mines have an interest in the procedures. For the limited  
25 purpose of expediting interim measures needed to address

1 an imminent threat to the security of a transportation fa-  
2 cility, the Secretary may provide that these procedures are  
3 exclusive of any other statute relating to planning, envi-  
4 ronmental reviews, public involvement, acquisition of  
5 right-of-way, and contracting, so long as the Secretary de-  
6 termines that such measures are necessary for the protec-  
7 tion of the public and receives the concurrence of any  
8 other Federal agency responsible for administering such  
9 statutes. The Secretary shall issue rules establishing these  
10 procedures within one year of the enactment of this law.

## 11 **Subtitle C—Finance**

### 12 **SEC. 1301. FEDERAL SHARE.**

13 Section 120 of title 23, United States Code, is  
14 amended—

15 (1) in subsection (a), by striking “shall be 90  
16 percent” and all that follows through the end of the  
17 subsection and inserting “shall not exceed 90 per-  
18 cent of the total cost of the project.”;

19 (2) in subsection (b), by striking “shall be” and  
20 all that follows through the end of the subsection  
21 and inserting “shall not exceed 80 percent of the  
22 total cost of the project.”; and

23 (3) by striking subsection (d) and inserting the  
24 following:

1       “(d) INCREASED FEDERAL SHARE.—The Federal  
 2 share payable under (a) and (b) may be increased in the  
 3 case of any State containing nontaxable Indian lands, pub-  
 4 lic lands (both reserved and unreserved), national forests,  
 5 and national parks and monuments. The Federal share  
 6 for any project subject to this section shall be increased  
 7 by a percentage of the remaining cost equal to the percent-  
 8 age that the area of all such lands in a State is of its  
 9 total area not to exceed 95 percent of the total cost of  
 10 the project. These rates shall be revised as needed based  
 11 on data provided by the Federal agencies responsible for  
 12 maintaining the data.”.

13 **SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

14       Section 104(m) of title 23, as redesignated by this  
 15 Act, is amended to read as follows:

16       “(m) TRANSFER OF HIGHWAY AND TRANSIT  
 17 FUNDS.—

18               “(1) TRANSFER OF HIGHWAY FUNDS FOR  
 19 TRANSIT PROJECTS.—Funds made available for  
 20 transit projects or transportation planning under  
 21 this title may be transferred to and administered by  
 22 the Secretary in accordance with chapter 53 of title  
 23 49, except that the provisions of this title relating to  
 24 the non-Federal share shall apply to the transferred  
 25 funds.

1           “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-  
2           WAY PROJECTS.—Funds made available for highway  
3           projects or transportation planning under chapter 53  
4           of title 49 may be transferred to and administered  
5           by the Secretary in accordance with this title, except  
6           that the provisions of such chapter relating to the  
7           non-Federal share shall apply to the transferred  
8           funds.

9           “(3) TRANSFER OF HIGHWAY FUNDS TO OTHER  
10          FEDERAL AGENCIES.—Except as provided in para-  
11          graphs (1) and (2), when an expenditure is specifi-  
12          cally authorized in Federal-aid highway legislation,  
13          as a line item in an appropriation act, or when a  
14          State transportation department consents to a trans-  
15          fer of funds under this title that are derived from  
16          the Highway Trust Fund (other than the Mass  
17          Transit account), such funds may be transferred to  
18          another Federal agency subject to subparagraphs  
19          (A), (B), (C), and (D) of this paragraph—

20                 “(A) if the Secretary determines, after  
21                 consultation with the State transportation de-  
22                 partment as appropriate, that another Federal  
23                 agency should carry out a project with funds  
24                 made available under this title or any other act

1           that are derived from Highway Trust Fund  
2           (other than the Mass Transit account);

3           “(B) the project will be administered by  
4           the Federal agency under its procedures, and  
5           such funds shall not be deemed to be an aug-  
6           mentation of that agency’s appropriations;

7           “(C) such other Federal agency agrees to  
8           accept the transfer of funds and to administer  
9           those funds; and

10          “(D) the provisions of this title or the acts  
11          referred to above relating to the non-Federal  
12          share shall apply to the transferred funds, ex-  
13          cept where the Secretary determines that it is  
14          in the best interest of the United States that  
15          such share be waived.

16          “(4) TRANSFER OF FUNDS AMONG STATES OR  
17          TO THE FEDERAL HIGHWAY ADMINISTRATION.—The  
18          Secretary may, at the request of a State, transfer  
19          funds apportioned or allocated to such State to an-  
20          other State or to the Federal Highway Administra-  
21          tion for the purpose of funding a specific project or  
22          projects. The funds transferred shall be used for the  
23          same purpose and in the same manner for which  
24          they were authorized. Such transfer shall have no ef-  
25          fect on any apportionment formula used to dis-

1       tribute funds to the States under sections 104, 105,  
 2       or 144. Funds that are apportioned or allocated to  
 3       a State under section 104(b)(3) and attributed to  
 4       urbanized areas of a State with a population of over  
 5       200,000 individuals under section 133(d)(2) may be  
 6       transferred under this subsection only if the metro-  
 7       politan planning organization designated for the  
 8       area concurs, in writing, with the transfer request.

9               “(5) **TRANSFER OF OBLIGATION AUTHORITY.**—  
 10       Obligation authority shall be transferred in the same  
 11       manner and amount as the funds for the projects  
 12       are transferred under this section.”.

13   **SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PRO-**  
 14               **GRAM.**

15       (a) **DEFINITIONS.**—In this section, the following defi-  
 16       nitions apply:

17               (1) **CAPITAL PROJECT.**—The term “capital  
 18       project” has the meaning such term has under sec-  
 19       tion 5302 of title 49, United States Code.

20               (2) **OTHER ASSISTANCE.**—The term “other as-  
 21       sistance” includes any use of funds in an infrastruc-  
 22       ture bank—

23                       (A) to provide credit enhancements;

24                       (B) to serve as a capital reserve for bond  
 25       or debt instrument financing;

1 (C) to subsidize interest rates;

2 (D) to ensure the issuance of letters of  
3 credit and credit instruments;

4 (E) to finance purchase and lease agree-  
5 ments with respect to transit projects;

6 (F) to provide bond or debt financing in-  
7 strument security; and

8 (G) to provide other forms of debt financ-  
9 ing and methods of leveraging funds that are  
10 approved by the Secretary and that relate to  
11 the project with respect to which such assist-  
12 ance is being provided.

13 (3) STATE.—The term “State” has the mean-  
14 ing such term has under section 101 of title 23,  
15 United States Code.

16 (4) CAPITALIZATION.—The term “capitaliza-  
17 tion” means the process used for depositing funds as  
18 initial capital into a State Infrastructure Bank to es-  
19 tablish the infrastructure bank.

20 (5) COOPERATIVE AGREEMENT.—The term “co-  
21 operative agreement” means the written consent be-  
22 tween a State and the Secretary which sets forth the  
23 manner in which the State Infrastructure Bank will  
24 be administered.



1           (6) LOAN.—The term “loan” means any form  
2 of direct financial assistance from the State Infra-  
3 structure Bank, required to be repaid over a period  
4 of time, which is provided to a project sponsor for  
5 all or part of project costs.

6           (7) GUARANTEE.—The term “guarantee”  
7 means a contract or contracts entered into by the  
8 State Infrastructure Bank in which the State Infra-  
9 structure Bank agrees to take responsibility for all  
10 or a portion of a project sponsor’s financial obliga-  
11 tions for a project under specified conditions.

12           (8) INITIAL ASSISTANCE.—The term “initial as-  
13 sistance” means the first round of State Infrastruc-  
14 ture Bank funds that must be loaned or used for  
15 credit enhancement for purposes limited to highway  
16 construction under title 23 or transit capital projects  
17 under title 49.

18           (9) LEVERAGE.—The term “leverage” means a  
19 financial structure used to increase State Infrastruc-  
20 ture Bank funds through debt issuance. A State In-  
21 frastructure Bank is considered leveraged if its total  
22 potential liabilities exceed its equity.

23 (b) PILOT PROGRAM.—

24           (1) COOPERATIVE AGREEMENTS.—Subject to  
25 the provisions of this section, the Secretary may

1 enter into cooperative agreements with up to five  
2 States, including States that entered into coopera-  
3 tive agreements under section 1511 of the Transpor-  
4 tation Equity Act for the 21st Century, as amended,  
5 for the establishment of State infrastructure banks  
6 for making loans and providing other forms of credit  
7 assistance to public and private entities carrying out  
8 or proposing to carry out projects eligible for assist-  
9 ance under this section.

10 (2) APPLICATION.—To participate in the pilot  
11 program, a State shall submit an application to the  
12 Secretary.

13 (3) SELECTION CRITERIA.—In evaluating appli-  
14 cations for participation in the pilot program, the  
15 Secretary shall establish selection criteria that shall  
16 include—

17 (A) the State’s ability to provide non-Fed-  
18 eral funds to capitalize the bank;

19 (B) the existence of State enabling legisla-  
20 tion that clearly allows for full State Infrastruc-  
21 ture Bank participation;

22 (C) the State’s strategy for encouraging  
23 non-Federal repayment sources from project  
24 sponsors;

1 (D) the amount of Federal funds the State  
2 will commit to the State Infrastructure Bank as  
3 a percentage of its Federal-aid apportionments;

4 (E) the State's eligibility under section  
5 1511 of the Transportation Equity Act for the  
6 21st Century, as amended; and

7 (F) the State's past experience with a  
8 State Infrastructure Bank, including the pro-  
9 gram established under section 1511 of the  
10 Transportation Equity Act for the 21st Cen-  
11 tury, as amended, or comparable financing  
12 mechanisms.

13 (4) TERMINATION OF COOPERATIVE AGREE-  
14 MENT.—If a State that has been selected for this  
15 pilot program does not fund its State Infrastructure  
16 Bank within 90 days after execution of the coopera-  
17 tive agreement, the Secretary may terminate the co-  
18 operative agreement and may select another State to  
19 participate in the pilot program in accordance with  
20 this subsection.

21 (c) INTERSTATE COMPACTS.—Congress grants con-  
22 sent to 2 or more of the States, entering into a cooperative  
23 agreement under subsection (b)(1) with the Secretary for  
24 the establishment of a multi-state infrastructure bank, to

1 enter into an interstate compact establishing such bank  
2 in accordance with this section.

3 (d) FUNDING.—

4 (1) HIGHWAY ACCOUNT.—Subject to subsection  
5 (i), the Secretary may permit a State entering into  
6 a cooperative agreement under this section to con-  
7 tribute not to exceed—

8 (A) 10 percent of the funds apportioned to  
9 the State for each of fiscal years 2004 through  
10 2009 under each of sections 104(b)(1),  
11 104(b)(3), 104(b)(4), and 144, of title 23,  
12 United States Code, and

13 (B) 10 percent of the funds allocated to  
14 the State for each of such fiscal years under  
15 section 105 of such title into the highway ac-  
16 count of the infrastructure bank established by  
17 the State. Federal funds contributed to such ac-  
18 count under this paragraph shall constitute for  
19 purposes of this section a capitalization grant  
20 for the highway account of the infrastructure  
21 bank.

22 (2) TRANSIT ACCOUNT.—Subject to subsection  
23 (i), the Secretary may permit a State entering into  
24 a cooperative agreement under this section, and any  
25 other Federal transit grant recipient, to contribute

1 not to exceed 10 percent of the funds made available  
2 to the State or other Federal transit grant recipient  
3 in each of fiscal years 2004 through 2009 for capital  
4 projects under sections 5307, 5309, and 5311 of  
5 title 49, United States Code, into the transit account  
6 of the infrastructure bank established by the State.  
7 Federal funds contributed to such account under  
8 this paragraph shall constitute for purposes of this  
9 section a capitalization grant for the transit account  
10 of the infrastructure bank.

11 (3) SPECIAL RULE FOR URBANIZED AREAS OF  
12 OVER 200,000.—Funds that are attributed to ur-  
13 banized areas of States with urbanized populations  
14 of over 200,000 under section 133(d)(2) of title 23,  
15 as amended by this Act, may be used to provide as-  
16 sistance with respect to a project only if the metro-  
17 politan planning organization designated for such  
18 area concurs, in writing, with the provision of such  
19 assistance.

20 (4) DISCONTINUANCE OF FUNDING.—If the  
21 Secretary determines that a State is not imple-  
22 menting the State Infrastructure Bank in accord-  
23 ance with the cooperative agreement, the Secretary  
24 may prohibit a State from contributing additional  
25 Federal funds to its State Infrastructure Bank.

1           (e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE  
2 BANKS.—An infrastructure bank established under this  
3 section may make loans or provide other credit assistance  
4 to a public or private entity in an amount equal to all  
5 or part of the cost of carrying out a project eligible for  
6 assistance under this section. The amount of any loan or  
7 other credit assistance provided for such project may be  
8 subordinated to any other debt financing for the project.  
9 Initial assistance provided with respect to a project from  
10 Federal funds contributed to an infrastructure bank under  
11 this section may not be made in the form of a grant

12           (f) QUALIFYING PROJECTS.—Subject to paragraph  
13 (e), funds in an infrastructure bank established under this  
14 section may be used only to provide assistance with respect  
15 to projects eligible for assistance under title 23, United  
16 States Code, for capital projects (as defined in section  
17 5302 of title 49, United States Code), or for any other  
18 project related to surface transportation that the Sec-  
19 retary determines to be appropriate.

20           (g) INFRASTRUCTURE BANK REQUIREMENTS.—In  
21 order to establish an infrastructure bank under this sec-  
22 tion, each State establishing the bank shall—

23                   (1) contribute, at a minimum, into each account  
24                   of the bank from non-Federal sources an amount  
25                   equal to 25 percent of the amount of each capitaliza-

1        tion grant made to the State and contributed to the  
2        bank, except that if the contribution is into the high-  
3        way account of the bank and the State has a lower  
4        non-Federal share under section 120(d) of title 23,  
5        as amended by this Act, such percentage shall be ad-  
6        justed by the Secretary to correspond with such  
7        lower non-Federal share. The non-Federal share  
8        must be in the form of cash;

9            (2) ensure that the bank maintains on a con-  
10        tinuing basis an investment grade rating on its debt  
11        or has a sufficient level of bond or debt financing in-  
12        strument insurance to maintain the viability of the  
13        bank;

14            (3) ensure that investment income generated by  
15        funds contributed to an account of the bank will  
16        be—

17            (A) credited to the account;

18            (B) available for use in providing loans  
19        and other assistance to projects eligible for as-  
20        sistance from the account; and

21            (C) invested in United States Treasury se-  
22        curities, bank deposits, or such other financing  
23        instruments as the Secretary may approve to  
24        earn interest to enhance the leveraging of  
25        projects assisted by the bank;

1           (4) ensure that any loan from the bank will  
2           bear interest at or below market interest rates, as  
3           determined by the State, to make feasible the project  
4           that is the subject of the loan;

5           (5) ensure that repayment of any loan from the  
6           bank will commence not later than 5 years after the  
7           project has been completed or, in the case of a high-  
8           way project, the facility has opened to traffic, which-  
9           ever is later;

10          (6) ensure that the term for repaying any loan  
11          will not exceed 30 years after the date of the first  
12          payment on the loan under paragraph (5); and

13          (7) require the bank to make an annual report  
14          to the Secretary on its status, and to make such  
15          other reports as the Secretary may require by guide-  
16          lines.

17          (h) SECRETARIAL REQUIREMENTS.—In admin-  
18          istering this section, the Secretary shall—

19                 (1) issue guidelines to ensure that all require-  
20                 ments of title 23, United States Code, or title 49,  
21                 United States Code, that would otherwise apply to  
22                 funds made available under such title and projects  
23                 assisted with such funds apply to—



1 (A) funds made available under such title  
2 and contributed to an infrastructure bank es-  
3 tablished under this section; and

4 (B) projects assisted by the bank through  
5 the use of such funds; except to the extent that  
6 the Secretary determines that any requirement  
7 of such title (other than sections 113 and 114  
8 of title 23 and section 5333 of title 49), is not  
9 consistent with the objectives of this section;  
10 and

11 (2) specify procedures and guidelines for estab-  
12 lishing, operating, and providing assistance from the  
13 bank.

14 (i) APPLICABILITY OF FEDERAL LAW TO REPAY-  
15 MENTS.—The requirements of title 23 and title 49, United  
16 States Code, shall apply to projects financed from repay-  
17 ments to an infrastructure bank from projects assisted by  
18 the bank. Such repayments shall be considered to be Fed-  
19 eral funds for the purpose of this subsection.

20 (j) UNITED STATES NOT OBLIGATED.—The con-  
21 tribution of Federal funds into an infrastructure bank es-  
22 tablished under this section shall not be construed as a  
23 commitment, guarantee, or obligation on the part of the  
24 United States to any third party, nor shall any third party  
25 have any right against the United States for payment sole-

1 ly by virtue of the contribution. Any security or debt-fi-  
2 nancing instrument issued by the infrastructure bank  
3 shall expressly state that the security or instrument does  
4 not constitute a commitment, guarantee, or obligation of  
5 the United States.

6 (k) MANAGEMENT OF FEDERAL FUNDS.—Sections  
7 3335 and 6503 of title 31, United States Code, shall not  
8 apply to funds contributed under this section.

9 (l) PROGRAM ADMINISTRATION.—For each of fiscal  
10 years 2004 through 2009, a State may expend not to ex-  
11 ceed 2 percent of the Federal funds contributed to an in-  
12 frastructure bank established by the State under this sec-  
13 tion to pay the reasonable costs of administering the bank.  
14 This limitation shall not apply to non-Federal funds.

15 **SEC. 1304. TRANSPORTATION INFRASTRUCTURE FINANCE**  
16 **AND INNOVATION ACT (TIFIA) AMENDMENTS.**

17 (a) DEFINITIONS.—Section 181 of title 23, United  
18 States Code is amended—

19 (1) in paragraph (3), by striking “category”  
20 and “offered into the capital markets”;

21 (2) by striking paragraph (7) and redesignating  
22 paragraphs (8) through (15) as paragraphs (7)  
23 through (14) respectively;

24 (3) by amending paragraph (8)(D), as redesign-  
25 nated, to read as follows—

1           “(D) a public or private freight rail facil-  
 2           ity; an intermodal freight transfer facility; ac-  
 3           cess to such facilities; and service improvements  
 4           for such facilities including capital investment  
 5           for Intelligent Transportation Systems; or a  
 6           group of such projects with the common objec-  
 7           tive of improving the flow of goods, except that  
 8           projects located within the boundaries of port  
 9           terminals shall only include the transportation  
 10          infrastructure modifications necessary to facili-  
 11          tate direct intermodal access into and out of  
 12          such port. Such a project may involve the com-  
 13          bining of private and public sector funds, in-  
 14          cluding investment of public funds in private  
 15          sector facility improvements.”; and

16          (4) in paragraph (10), as redesignated, by  
 17          striking “bond” and inserting “credit”.

18          (b) DETERMINATION OF ELIGIBILITY AND PROJECT

19          SELECTION.—Section 182 of such title is amended—

20                 (1) in subsection (a)—

21                         (A) by striking paragraphs (1) and (2) and  
 22                         inserting the following:

23                         “(1) INCLUSION IN TRANSPORTATION PLANS  
 24                         AND PROGRAMS.—The project shall satisfy the appli-  
 25                         cable planning and programming requirements of

1 sections 134 and 135 at such time as an agreement  
2 to make available a Federal credit instrument is en-  
3 tered into under this subchapter.

4 “(2) APPLICATION.—A State, a local govern-  
5 ment, public authority, public-private partnership, or  
6 any other legal entity undertaking the project and  
7 authorized by the Secretary, shall submit a project  
8 application to the Secretary.”;

9 (B) in paragraph (3)(A)(i), by striking  
10 “\$100,000,000” and inserting “\$50,000,000”;  
11 and

12 (C) in paragraph (4), by striking “Project  
13 financing” and inserting “The Federal credit  
14 instrument” and by adding at the end of the  
15 sentence “that also secure the project obliga-  
16 tions”; and

17 (2) in subsection (b)(1), by striking “criteria”  
18 after “eligibility” and inserting “requirements” and  
19 in subsection (b)(2)(B) by inserting “, which may be  
20 the Federal credit instrument,” after “obligations”.

21 (c) SECURED LOANS.—Section 183 of such title is  
22 amended—

23 (1) in subsection (a)—

1 (A) by striking “of any project selected  
2 under section 182.” at the end of paragraph  
3 (1);

4 (B) by inserting “of any project selected  
5 under section 182” after “costs” in paragraphs  
6 (1)(A) and (1)(B); and

7 (C) in paragraph (4), by striking “fund-  
8 ing” and inserting “execution” and by inserting  
9 a period in place of the comma after “receiving  
10 an investment grade rating” and striking all  
11 that follows to the end of the paragraph;  
12 (2) in subsection (b)—

13 (A) by inserting “the lesser of” after “ex-  
14 ceed” and “or the amount of the senior project  
15 obligations” after “costs”;

16 (B) by inserting “that also secure the sen-  
17 ior project obligations” in paragraph (3)(A)(i)  
18 after “sources”; and

19 (C) by striking “marketable” in paragraph  
20 (4); and

21 (3) in subsection (c), by striking paragraph (3)  
22 and redesignating paragraphs (4) and (5) as para-  
23 graphs (3) and (4) respectively;

24 (d) LINES OF CREDIT.—Section 184 of such title is  
25 amended—

1 (1) in subsection (b)—

2 (A) in paragraph (3), by striking the  
3 comma after “interest” and by striking “any  
4 debt service reserve fund, and any other avail-  
5 able reserve”, and by inserting “but not includ-  
6 ing reasonably required financing reserves”;

7 (B) in paragraph (4), by striking “market-  
8 able”; by striking “on which” after “date” and  
9 inserting “of execution of”; and by striking “is  
10 obligated” after “credit” and inserting “agree-  
11 ment”; and

12 (C) in paragraph (5)(A)(i), by inserting  
13 “that also secure the senior project obligations”  
14 after “sources”; and

15 (2) in subsection (c)—

16 (A) in paragraph (2) by striking “sched-  
17 uled”, by inserting “be scheduled to” after  
18 “shall”, and by striking “be fully repaid, with  
19 interest,” and inserting “to conclude, with full  
20 repayment of principle and interest,”; and

21 (B) by striking paragraph (3).

22 (e) PROGRAM ADMINISTRATION.—Section 185 of  
23 such title is amended to read as follows:

1 **“§ 185. Program administration**

2       “(a) REQUIREMENT.—The Secretary shall establish  
3 a uniform system to service the Federal credit instruments  
4 made available under this subchapter.

5       “(b) FEES.—The Secretary may establish fees at a  
6 level to cover all or a portion of the costs to the Federal  
7 government of servicing the Federal credit instruments.

8       “(c) SERVICER.—The Secretary may identify a finan-  
9 cial entity to assist the Secretary in servicing the Federal  
10 credit instruments. The servicer—

11           “(1) shall act as the agent for the Secretary;  
12       and

13           “(2) shall receive a servicing fee, subject to ap-  
14       proval by the Secretary.

15       “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-  
16 retary may retain the services of expert firms, including  
17 counsel, in the field of municipal and project finance to  
18 assist in the underwriting and servicing of Federal credit  
19 instruments.”.

20       (f) FUNDING.—Section 188 of such title is amended  
21 to read as follows:

22 **“§ 188. Funding**

23       “(a) FUNDING.—

24           “(1) IN GENERAL.—There are authorized to be  
25       appropriated from the Highway Trust Fund (other  
26       than the Mass Transit Account) \$130,000,000 for

1 each of fiscal years 2004 through 2009 to carry out  
2 this subchapter.

3 “(2) ADMINISTRATIVE COSTS.—From funds  
4 made available under paragraph (1), the Secretary  
5 may use, for the administration of this subchapter,  
6 not more than \$3,000,000 for each of fiscal years  
7 2004 through 2009.

8 “(3) AVAILABILITY.—Amounts made available  
9 under paragraph (1) shall remain available until ex-  
10 pended.

11 “(b) CONTRACT AUTHORITY.—

12 “(1) IN GENERAL.—Notwithstanding any other  
13 provision of law, approval by the Secretary of a Fed-  
14 eral credit instrument that uses funds made avail-  
15 able under this subchapter shall be deemed to be ac-  
16 ceptance by the United States of a contractual obli-  
17 gation to fund the Federal credit investment.

18 “(2) AVAILABILITY.—Amounts authorized  
19 under this section for a fiscal year shall be available  
20 for obligation on October 1 of the fiscal year.

21 “(c) LIMITATIONS ON CREDIT AMOUNTS.—For each  
22 of fiscal years 2004 through 2009, principal amounts of  
23 Federal credit instruments made available shall be limited  
24 to \$2,600,000,000.”.

25 (g) Section 189 of such title is repealed.



1 (h) CONFORMING AMENDMENTS.—The analysis of  
2 chapter 1 of title 23 is amended by—

3 (1) revising the item relating to section 185 to  
4 read as follows:

“185. Program administration.”;

5 and

6 (2) striking the item relating to section 189.

7 **SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND**  
8 **INTERNATIONAL FUEL TAX AGREEMENT FA-**  
9 **CILITATION.**

10 The Secretary may provide assistance to any State  
11 that is participating in the International Registration Plan  
12 and International Fuel Tax Agreement, as provided in sec-  
13 tions 31704 and 31705 of title 49, United States Code,  
14 and that serves as a base jurisdiction for motor carriers  
15 that are domiciled in Mexico, to help the State with ad-  
16 ministration needs resulting from serving as a base juris-  
17 diction for motor carriers from Mexico.

18 **SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.**

19 (a) IN GENERAL.—The Secretary shall permit the  
20 States to conduct pilot projects to acquire, construct, oper-  
21 ate, convert, and maintain rest areas along Interstate  
22 highways in their States in accordance with subsection (b).

23 (b) COMMERCIAL OPERATIONS.—

24 (1) ELIGIBILITY.—Notwithstanding section 111  
25 of title 23 United States Code, and the project

1 agreements required by section 111(a) and executed  
2 between the States and the Federal Highway Ad-  
3 ministration, the Secretary shall permit the rest  
4 areas in the pilot projects to include commercial op-  
5 erations that provide goods, services, and informa-  
6 tion that benefit the traveling public and the com-  
7 mercial motor carrier industry, and as deemed ap-  
8 propriate by the States, including—

9 (A) commercial advertising and displays if  
10 such advertising and media displays are—

11 (i) exhibited solely within any facility  
12 constructed in the rest area; and

13 (ii) not legible from the main traveled  
14 way;

15 (B) programs to provide commercial vehi-  
16 cle operators with special services designed to  
17 enhance motor carrier and highway safety; and

18 (C) State promotional or tourism-oriented  
19 items.

20 (2) PRIVATE OPERATORS.—The States may  
21 permit such commercial operations to be run by a  
22 private operator.

23 (c) PARTICIPATION.—Participation in this pilot  
24 project is limited to those proposals submitted to the Sec-

1 retary for approval during the one year period after the  
2 date of enactment of this Act.

3 (d) PROPOSALS.—

4 (1) The State proposals shall at a minimum—

5 (A) describe the types of goods, services  
6 and information to be provided;

7 (B) demonstrate that the proposed  
8 project(s) helps implement the strategies devel-  
9 oped in the “Study of Adequacy of Parking Fa-  
10 cilities” prepared pursuant to section 4027 of  
11 the Transportation Equity Act for the 21st  
12 Century;

13 (C) contain a review and update of the in-  
14 dividual State action plans for addressing com-  
15 mercial truck parking shortages; and

16 (D) prepare a plan for evaluating the re-  
17 sults of the pilot project(s) in that State.

18 (2) The Secretary must determine that com-  
19 mercial rest area projects being advanced under this  
20 pilot program will meet all of the design standards  
21 applicable to rest areas on the Interstate system.

22 (e) LIMITATION ON USE OF REVENUES.—Any reve-  
23 nues received by a State from the commercial operations  
24 in a rest area under this section that are in excess of  
25 amounts required for the proper operation and mainte-

1 nance of the rest area shall be used by the State for  
2 projects eligible under title 23, United States Code.

3 (f) CONSIDERATIONS.—The Secretary shall consider  
4 the benefit to the traveling public and the impact on local  
5 businesses in carrying out this section.

6 (g) VENDING MACHINES.—If vending machines are  
7 placed in a pilot project, the State shall give priority to  
8 vending machines operated through the State licensing  
9 agency designated under the Randolph-Sheppard Act.

10 **SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.**

11 (a) ELIGIBLE ACTIVITIES.—Section 143(b) of title  
12 23, United States Code, is amended as follows:

13 (1) INTERGOVERNMENTAL ENFORCEMENT EF-  
14 FORTS.—Paragraph (2) is amended by inserting a  
15 comma after “Secretary” and adding “except that  
16 for each of fiscal years 2004 through 2009,  
17 \$2,000,000 shall be available only to carry out inter-  
18 governmental enforcement efforts, including research  
19 and training”.

20 (2) CONDITIONS ON FUNDS ALLOCATED TO IN-  
21 TERNAL REVENUE SERVICE.—Paragraph (3) is  
22 amended by inserting a comma after “subsection”  
23 and adding “except as otherwise provided in this  
24 section”.

1           (3) LIMITATION ON USE OF FUNDS.—Para-  
2 graph (4) is amended—

3           (A) by striking “and” at the end of sub-  
4 paragraph (F);

5           (B) by striking the period at the end of  
6 subparagraph (G) and inserting a semicolon;  
7 and

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

9           “(H) to support efforts between States and  
10 tribes to address issues related to state motor  
11 fuel taxes; and

12           “(I) to analyze and implement programs to  
13 reduce tax evasion associated with foreign im-  
14 ported fuel.”.

15           (4) REPORTS.—The following new paragraph is  
16 added at the end:

17           “(9) REPORTS.—The Internal Revenue Service  
18 and States shall submit to the Secretary annual re-  
19 ports that describe the projects, examinations, and  
20 criminal investigations funded by and carried out  
21 under this section. The reports must specify the an-  
22 nual yield estimated for each project funded under  
23 this section.”.

24           (b) EXCISE FUEL REPORTING SYSTEM.—Section  
25 143(c) of such title is amended—

1           (1) in paragraph (1) by striking “Not later  
2 than August 1, 1998,” and inserting “Not later  
3 than 90 days after enactment of the Safe, Account-  
4 able, Flexible, and Efficient Transportation Equity  
5 Act of 2003,”; by striking “development” and insert-  
6 ing “completion, operation,”; by striking “an excise  
7 fuel reporting system” and inserting “the excise  
8 summary terminal activity reporting system”; and  
9 by striking “(in this subsection referred to as the  
10 “system”)”;

11           (2) in paragraph (2)—

12           (A) by striking “the system” each place it  
13 appears and inserting “the excise summary ter-  
14 minal activity reporting system”;

15           (B) in subparagraph (A), by striking “de-  
16 velop” and inserting “complete”;

17           (C) by striking “and” at the end of sub-  
18 paragraph (B);

19           (D) by striking the period at the end of  
20 subparagraph (C) and inserting “; and”; and

21           (E) by adding at the end the following new  
22 subparagraph:

23           “(D) the Commissioner of the Internal  
24 Revenue Service shall submit and the Secretary  
25 shall approve a budget and project plan for the

1 completion, operation, and maintenance of the  
2 excise summary terminal activity reporting sys-  
3 tem.”; and

4 (3) by amending paragraph (3) to read as fol-  
5 lows:

6 “(3) FUNDING.—Of the amounts made avail-  
7 able to carry out this section for each of fiscal years  
8 2004 through 2009, the Secretary shall make funds  
9 available to the Internal Revenue Service to com-  
10 plete, operate, and maintain the excise summary ter-  
11 minal activity reporting system in accordance with  
12 this subsection.”.

13 (c) REGISTRATION SYSTEM AND ELECTRONIC DATA-  
14 BASE.—Section 143 as amended by this Act is further  
15 amended by adding at the end the following new sub-  
16 sections:

17 “(d) PIPELINE, VESSEL, AND BARGE REGISTRATION  
18 SYSTEM.—

19 “(1) IN GENERAL.—Not later than 90 days  
20 after enactment of the Safe, Accountable, Flexible,  
21 and Efficient Transportation Equity Act of 2003,  
22 the Secretary shall enter into a memorandum of un-  
23 derstanding with the Commissioner of the Internal  
24 Revenue Service for the purposes of the develop-  
25 ment, operation, and maintenance of a registration

1 system for pipelines, vessels, and barges, and opera-  
2 tors of such pipelines, vessels, and barges, that make  
3 bulk transfers of taxable fuel.

4 “(2) ELEMENTS OF MEMORANDUM OF UNDER-  
5 STANDING.—The memorandum of understanding  
6 shall provide that—

7 “(A) the Internal Revenue Service shall de-  
8 velop and maintain the registration system  
9 through contracts;

10 “(B) the Commissioner of the Internal  
11 Revenue Service shall submit and the Secretary  
12 shall approve a budget and project plan for de-  
13 velopment, operation, and maintenance of the  
14 registration system;

15 “(C) the registration system shall be under  
16 the control of the Internal Revenue Service; and

17 “(D) the registration system shall be made  
18 available for use by appropriate State and Fed-  
19 eral revenue, tax, and law enforcement authori-  
20 ties, subject to section 6103 of the Internal  
21 Revenue Code of 1986.

22 “(3) FUNDING.—Of the amounts made avail-  
23 able to carry out this section for each of fiscal years  
24 2004 through 2009, the Secretary shall make funds  
25 available to the Internal Revenue Service to com-



1       plete, operate, and maintain a registration system  
2       for pipelines, vessels, and barges, and operators of  
3       such pipelines, vessels, and barges, that make bulk  
4       transfers of taxable fuel in accordance with this sub-  
5       section.

6       “(e) HEAVY VEHICLE USE TAX PAYMENT DATA-  
7       BASE.—

8               “(1) IN GENERAL.—Not later than 90 days  
9       after enactment of the Safe, Accountable, Flexible,  
10       and Efficient Transportation Equity Act of 2003,  
11       the Secretary shall enter into a memorandum of un-  
12       derstanding with the Commissioner of the Internal  
13       Revenue Service for the purposes of the establish-  
14       ment, operation, and maintenance of an electronic  
15       database of heavy vehicle highway use tax payments.

16               “(2) ELEMENTS OF MEMORANDUM OF UNDER-  
17       STANDING.—The memorandum of understanding  
18       shall provide that—

19                       “(A) the Internal Revenue Service shall es-  
20       tablish and maintain the electronic database  
21       through contracts;

22                       “(B) the Commissioner of the Internal  
23       Revenue Service shall submit and the Secretary  
24       shall approve a budget and project plan for es-

1           tabishment, operation, and maintenance of the  
2           electronic database;

3           “(C) the electronic database shall be under  
4           the control of the Internal Revenue Service; and

5           “(D) the electronic database shall be made  
6           available for use by appropriate State and Fed-  
7           eral revenue, tax, and law enforcement authori-  
8           ties, subject to section 6103 of the Internal  
9           Revenue Code of 1986.

10          “(3) FUNDING.—Of the amounts made avail-  
11          able to carry out this section for each of fiscal years  
12          2004 through 2009, the Secretary shall make funds  
13          available to the Internal Revenue Service to estab-  
14          lish, operate, and maintain an electronic database of  
15          heavy vehicle highway use tax payments in accord-  
16          ance with this subsection.

17          “(f) REPORTS.—By March 30 and September 30 of  
18          each year, the Internal Revenue Service shall provide re-  
19          ports to the Secretary on the status of the Internal Rev-  
20          enue Service projects funded under this section related to  
21          the excise summary terminal activity reporting system; the  
22          pipeline, vessel, and barge registration system; and the  
23          heavy vehicle use tax electronic database.”.

24          (d) ALLOCATIONS.—Of the amounts authorized to be  
25          appropriated under section 1101(a)(14) of this Act for

1 Highway Use Tax Evasion Projects for each of fiscal years  
2 2004 through 2009, \$4,500,000 shall be allocated to the  
3 States, and for fiscal year 2004, \$20,050,000 shall be allo-  
4 cated to the Internal Revenue Service, of which  
5 \$10,500,000 shall be dedicated to the excise summary ter-  
6 minal activity reporting system, for each of fiscal years  
7 2005 and 2006, \$48,000,000 shall be allocated to the In-  
8 ternal Revenue Service, of which \$4,500,00 shall be dedi-  
9 cated to the excise summary terminal activity reporting  
10 system, for fiscal year 2007, \$38,000,000 shall be allo-  
11 cated to the Internal Revenue Service, of which \$4,500,00  
12 shall be dedicated to the excise summary terminal activity  
13 reporting system, and for each of fiscal years 2008 and  
14 2009, \$4,500,000 shall be allocated to the Internal Rev-  
15 enue Service, which shall be used for the excise summary  
16 terminal activity reporting system.

17 **Subtitle D—Program Efficiencies**  
18 **and Improvements—Safety**

19 **SEC. 1401. NATIONAL HIGHWAY SAFETY GOAL; NATIONAL**  
20 **BLUE RIBBON COMMISSION ON HIGHWAY**  
21 **SAFETY.**

22 (a) NATIONAL HIGHWAY SAFETY GOAL.—Section  
23 101 of title 23, United States Code, is amended by adding  
24 at the end the following new subsection:

1       “(f) It is hereby declared to be in the national interest  
2 that the number of deaths attributable to traffic accidents  
3 on America’s highways be significantly reduced. To  
4 achieve this goal, a national initiative targeted at saving  
5 lives through improved engineering, education, enforce-  
6 ment, and emergency response in cooperation with new  
7 and existing State and local safety programs is hereby au-  
8 thorized.”.

9       (b) NATIONAL BLUE RIBBON COMMISSION ON HIGH-  
10 WAY SAFETY.—

11           (1) ESTABLISHMENT.—The Secretary shall es-  
12 tablish a National Blue Ribbon Commission on  
13 Highway Safety (hereinafter in this section referred  
14 to as “the Commission”).

15           (2) MEMBERSHIP.—

16           (A) COMPOSITION.—The Commission shall  
17 be composed of 15 members as follows—

18                   (i) the Secretary or the Secretary’s  
19 delegate;

20                   (ii) the Administrators of the Federal  
21 Highway Administration; the National  
22 Highway Traffic Safety Administration;  
23 the Federal Motor Carrier Safety Adminis-  
24 tration; and the Federal Railroad Adminis-

1                   tration, or the Administrators' delegates;  
2                   and

3                   (iii) 10 members appointed by the  
4                   Secretary from among individuals who rep-  
5                   resent the interests of States and political  
6                   subdivisions of States, the safety commu-  
7                   nity, public health, and State and local law  
8                   enforcement agencies, and who have been  
9                   nominated by the Committee on Environ-  
10                  ment and Public Works and the Committee  
11                  on Commerce, Science and Transportation  
12                  of the United States Senate and the Com-  
13                  mittee on Transportation and Infrastruc-  
14                  ture of the United States House of Rep-  
15                  resentatives.

16                  (B) APPOINTMENT.—The Secretary shall  
17                  select the individuals to be appointed under this  
18                  subsection on the basis of their knowledge, ex-  
19                  pertise, or experience related to highway safety.  
20                  Half of the appointments shall be made from  
21                  nominees submitted by the Committee on Envi-  
22                  ronment and Public Works and the Committee  
23                  on Commerce, Science and Transportation of  
24                  the Senate and the other half from the nomi-  
25                  nees submitted by the Committee on Transpor-

1           tation and Infrastructure of the House of Rep-  
2           representatives. Each of these committees shall  
3           nominate 20 individuals qualified to serve on  
4           the Commission.

5           (C) TERMS.—The term of each member of  
6           the Commission shall be 6 years. Any vacancy  
7           shall be filled in the manner the original ap-  
8           pointment was made. The vacancy does not af-  
9           fect the Commission’s powers.

10          (3) FUNCTION.—The Commission, to carry out  
11          the direction of Congress, under section 101(f) of  
12          title 23, United States Code as amended by this Act,  
13          that the number of deaths attributable to traffic ac-  
14          cidents on America’s highways be significantly re-  
15          duced, shall—

16                (A) oversee a comprehensive study evalu-  
17                ating the Nation’s highway safety needs over  
18                the next three decades in the areas of engineer-  
19                ing, education, enforcement, and emergency re-  
20                sponse and, based on such study, make specific  
21                recommendations to the Secretary for an  
22                achievable national goal for the reduction of  
23                highway fatalities and for the funding necessary  
24                to achieve such goal;

1 (B) assist in developing a national con-  
2 sensus in support of such goal; and

3 (C) advise, consult with, and make rec-  
4 ommendations to, the Secretary to assist in  
5 identifying specific measures for achieving the  
6 national highway safety goal.

7 (4) SPECIFIC MATTERS TO BE ADDRESSED.—

8 The national highway safety goal study conducted by  
9 the Commission shall examine the roles of highway  
10 infrastructure, drivers, and vehicles in fatalities on  
11 all public roads; identify high risk areas and activi-  
12 ties associated with the greatest numbers of highway  
13 fatalities; examine the roles of various levels of gov-  
14 ernment agencies and non-governmental organiza-  
15 tions in reducing highway fatalities and recommend  
16 ways to strengthen highway safety partnerships; and  
17 identify measures that will save the most lives both  
18 long term and short term. The study shall consider,  
19 among other things, the findings, conclusions, and  
20 recommendations of highway safety studies and re-  
21 search conducted by the Transportation Research  
22 Board, including studies related to implementation  
23 of the American Association of State Highway and  
24 Transportation Officials' Strategic Highway Safety  
25 Plan.

1 (5) REPORTS TO CONGRESS.—

2 (A) INITIAL REPORT.—Not later than Sep-  
3 tember 30, 2006, the Commission shall trans-  
4 mit to Congress an initial report on the results  
5 of the national highway safety goal study, in-  
6 cluding recommendations and such legislative  
7 recommendations as the President judges nec-  
8 essary and expedient for an achievable national  
9 goal for the reduction of highway fatalities and  
10 for preliminary strategies to be implemented to  
11 achieve such goal.

12 (B) FINAL REPORT.—Not later than Feb-  
13 ruary 1, 2009, the Commission shall transmit  
14 to Congress a final report on the results of the  
15 national highway safety goal study, including  
16 recommendations and such legislative rec-  
17 ommendations as the President judges nec-  
18 essary and expedient for a comprehensive plan  
19 with specific strategies to achieve the fatality  
20 reduction goal recommended in the initial re-  
21 port and for the level of funding necessary to  
22 implement such fatality reduction plan and  
23 strategies.

24 (6) TERMINATION OF COMMISSION.—The Com-  
25 mission shall terminate on the 180th day following



1 the date of transmittal of the final report to Con-  
2 gress under paragraph (5)(B) of this subsection. By  
3 the 180th day, all records and papers of the Com-  
4 mission shall be delivered to the Administrator of  
5 the General Services Administration for deposit in  
6 the National Archives.

7 (7) AUTHORIZATION OF APPROPRIATIONS.—  
8 There are authorized to be appropriated out of the  
9 Highway Trust Fund (other than the Mass Transit  
10 Account) up to \$3,000,000 for fiscal year 2004,  
11 \$1,000,000 for fiscal year 2005, \$1,000,000 for fis-  
12 cal year 2006, \$1,000,000 for fiscal year 2007,  
13 \$500,000 for fiscal year 2008, and \$500,000 for fis-  
14 cal year 2009 for the purposes of carrying out this  
15 subsection.

16 (8) APPLICABILITY OF TITLE 23.—Funds au-  
17 thorized by this subsection shall be available for obli-  
18 gation in the same manner as if such funds were ap-  
19 portioned under chapter 1 of title 23, United States  
20 Code, except that the Federal share of the cost of  
21 the study and the Commission under this section  
22 shall be 100 percent, and such funds shall remain  
23 available until expended.

1 **SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM;**  
2 **FLEXIBILITY FOR SAFETY INITIATIVES.**

3 (a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of  
4 title 23, United States Code, is amended by inserting the  
5 following new section after section 149:

6 **“§ 150. Highway Safety Improvement Program**

7 “(a) ESTABLISHMENT.—The Secretary shall estab-  
8 lish and implement a highway safety improvement pro-  
9 gram in accordance with this section, in order to signifi-  
10 cantly reduce fatalities and serious injuries on the Na-  
11 tion’s roadway system.

12 “(b) PROGRAM.—

13 “(1) STATE RESPONSIBILITIES.—To receive  
14 funds under this section, each State shall have a  
15 process in place that identifies and analyzes highway  
16 safety problems and opportunities and will produce  
17 a program of projects for funding under this section  
18 based on this analysis. Such process and program of  
19 projects shall be known as the Highway Safety Im-  
20 provement Program. The statewide program shall  
21 identify hazardous locations, sections, and elements  
22 including roadside obstacles, railway-highway cross-  
23 ing needs, and unmarked or poorly marked roads  
24 that may constitute a danger to motorists, bicyclists,  
25 pedestrians, and other highway users. States shall  
26 also have crash data systems and the ability to per-

1 form safety problem identification and counter-  
2 measure analysis.

3 “(2) PROGRAM ADMINISTRATION.—The Sec-  
4 retary shall establish implementing guidelines for  
5 this program, which shall include at a minimum the  
6 following components:

7 “(A) STRATEGIC APPROACH TO HIGHWAY  
8 SAFETY.—Each State shall, as appropriate,  
9 adopt strategic and performance-based goals for  
10 its Highway Safety Improvement Program.  
11 This statewide program shall address safety  
12 problems and opportunities on all roadways  
13 within the State, focus resources on areas of  
14 greatest need, and be complementary to the  
15 programs developed in response to section 402  
16 of this title.

17 “(B) DATA IMPROVEMENT PROGRAM.—  
18 Each State shall, as appropriate, advance its  
19 capabilities for traffic records data collection,  
20 analysis, and integration with other sources of  
21 safety data such as roadway inventories. Such  
22 a data improvement program shall be com-  
23plementary to the programs supported by sec-  
24tions 402 and 412 of this title; include all pub-  
25lic roads; and contain provisions to identify haz-

1           ardous locations, sections, and elements on  
2           these public roads that constitute a danger to  
3           motorists, bicyclists, and pedestrians.

4           “(C) PROGRAM OF IMPROVEMENTS.—Each  
5           State shall determine priorities for the correc-  
6           tion of hazardous roadway locations, sections,  
7           and elements, including railway-highway cross-  
8           ing improvements, as identified through crash  
9           data analysis; identify opportunities for pre-  
10          venting the development of such hazardous con-  
11          ditions; and establish and implement a schedule  
12          of safety improvement projects for hazard cor-  
13          rection and hazard prevention.

14          “(D) EVALUATION.—Each State shall, as  
15          appropriate, establish an evaluation process to  
16          analyze and assess results achieved by safety  
17          improvement projects carried out in accordance  
18          with procedures and criteria established by this  
19          section, and such information shall be used in  
20          setting priorities for safety improvement  
21          projects.

22          “(c) REPORTS.—Each State shall report to the Sec-  
23          retary on progress being made to implement safety im-  
24          provement projects under this section and the effective-

1 ness of such improvements. The Secretary shall establish  
2 the content and schedule for such reports.

3 “(d) ELIGIBLE PROJECTS.—

4 “(1) IN GENERAL.—A State may obligate funds  
5 apportioned to it under this section for any safety  
6 improvement project on any public road or publicly-  
7 owned bicycle or pedestrian pathway or trail.

8 “(2) SAFETY IMPROVEMENT PROJECT.—For  
9 purposes of this section the term ‘safety improve-  
10 ment project’ means a project that corrects or im-  
11 proves a hazardous roadway location or feature, or  
12 proactively addresses highway safety problems, in-  
13 cluding: intersection improvements, pavement and  
14 shoulder widening, installation of rumble strips and  
15 other warning devices, improving skid resistance, im-  
16 provements for pedestrian or bicyclist safety, rail-  
17 way-highway crossing safety, traffic calming, elimi-  
18 nation of roadside obstacles, improving highway  
19 signage and pavement marking, installing priority  
20 control systems for emergency vehicles at signalized  
21 intersections, installing traffic control or warning de-  
22 vices at locations with high accident potential, safety  
23 conscious planning, and improving crash data collec-  
24 tion and analysis.

1       “(e) FUNDING.—Sums authorized to be appropriated  
2 to carry out this section shall be apportioned in accordance  
3 with section 104(b)(5).

4       “(f) FEDERAL SHARE.—The Federal share payable  
5 on account of any project carried out under this section  
6 shall be 90 percent of the cost thereof.

7       “(g) USE OF FUNDS.—Beginning in fiscal year 2005  
8 and for each fiscal year thereafter, 10 percent of the funds  
9 available to a State to carry out the highway safety im-  
10 provement program established in accordance with this  
11 section shall be obligated for projects under section 402  
12 of this title, unless by October 1 of the fiscal year in which  
13 funds become available to a State the State has enacted  
14 a primary safety belt law or the State demonstrates that  
15 the safety belt use rate in that State meets or exceeds  
16 90 percent. A State subject to the provisions of this sub-  
17 section must have in place or adopt a strategic highway  
18 safety plan in accordance with section 151 of this title.  
19 Activities funded under this subsection shall be consistent  
20 with such a plan.

21       “(h) USE OF OTHER FUNDING FOR SAFETY.—Noth-  
22 ing in this section shall be interpreted to prohibit the use  
23 of funds made available under other sections of this title  
24 for highway safety improvement projects, and States are  
25 to be encouraged to address the full scope of their safety

1 needs and opportunities by using other funds unless provi-  
2 sions exist that prohibit such use.”.

3 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-  
4 PROVEMENT PROGRAM FUNDS.—Section 104 of such title  
5 is amended—

6 (1) by inserting in subsection (a) “the Highway  
7 Safety Improvement Program under section 150,”  
8 after “section 204,”;

9 (2) by inserting in subsection (b) “the Highway  
10 Safety Improvement Program,” after “Improvement  
11 Program,”; and

12 (3) by adding at the end of subsection (b) the  
13 following new paragraph:

14 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-  
15 GRAM.—

16 “(A) IN GENERAL.—For the Highway  
17 Safety Improvement Program, in accordance  
18 with the following formula:

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

21 “(I) the total lane miles of Fed-  
22 eral-aid highways in each State; bears  
23 to

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

1                   “(ii) 40 percent of the apportionments  
2                   in the ratio that—

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

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

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

11                  “(I) the estimated tax payments  
12                  attributable to highway users in each  
13                  State paid into the Highway Trust  
14                  Fund (other than the Mass Transit  
15                  Account) in the latest fiscal year for  
16                  which data are available; bears to

17                  “(II) the estimated tax payments  
18                  attributable to highway users in all  
19                  States paid into the Highway Trust  
20                  Fund (other than the Mass Transit  
21                  Account) in the latest fiscal year for  
22                  which data are available.

23                  “(B) MINIMUM APPORTIONMENT.—Not-  
24                  withstanding subparagraph (A), each State



1           shall receive a minimum of  $\frac{1}{2}$  of 1 percent of  
2           the funds apportioned under this paragraph.”.

3           (c) FLEXIBILITY FOR SAFETY INITIATIVES.—Chap-  
4   ter 1 of such title, as amended by this Act, is further  
5   amended—

6           (1) by repealing section 152;

7           (2) by redesignating section 151 as section 152;

8           and

9           (3) by inserting the following new section 151  
10   after section 150:

11   **“§ 151. Flexibility for safety initiatives**

12       “(a) IN GENERAL.—As provided in this section, a  
13   State that develops and implements a strategic highway  
14   safety plan and comprehensive safety planning process  
15   shall have the flexibility to use funds available under sec-  
16   tion 150 of this title, the Highway Safety Improvement  
17   Program, for title 23 safety purposes not otherwise eligible  
18   under such section, including funding for public aware-  
19   ness, education, and enforcement.

20       “(b) STRATEGIC HIGHWAY SAFETY PLAN.—To qual-  
21   ify for flexible safety funding as provided under this sec-  
22   tion, the State strategic highway safety plan must—

23           “(1) be based on a collaborative process that in-  
24       cludes the State Department of Transportation, the  
25       Governor’s Representative for Highway Safety, per-

1       sons responsible for administering section 130 of  
2       this title at the State level, and other major State  
3       and local safety stakeholders, including Operation  
4       Lifesaver;

5           “(2) address engineering, education, enforce-  
6       ment, and emergency services elements of highway  
7       safety;

8           “(3) consider the results of existing State  
9       transportation and highway safety planning proc-  
10      esses; and

11          “(4) be certified by the Secretary, in consulta-  
12      tion with the Federal Highway Administration and  
13      the National Highway Traffic Safety Administra-  
14      tion, as based on a comprehensive, collaborative  
15      process, and effective analyses of State crash data.

16      “(c) SAFETY ACTIVITIES CONSISTENT WITH  
17      PLAN.—To qualify for the flexible use of funds available  
18      under sections 150 and 402(k) in accordance with this sec-  
19      tion, activities must be consistent with the State strategic  
20      highway safety plan.

21      “(d) OTHER TRANSPORTATION AND HIGHWAY SAFE-  
22      TY PLANS.—Nothing in this section shall require a State  
23      to revise existing State processes, plans, or programs.

24      “(e) FLEXIBLE FUNDING.—A State that receives  
25      funds under section 150 shall use such funds for projects

1 eligible under such section, except that up to 50 percent  
 2 of such funds may be used for activities eligible for assist-  
 3 ance under section 402 of this title that are consistent  
 4 with the State’s strategic highway safety plan and not oth-  
 5 erwise eligible for assistance under section 150.”.

6 (d) ELIMINATION OF SURFACE TRANSPORTATION  
 7 PROGRAM SET-ASIDE.—Section 133(d) of such title is  
 8 amended by striking paragraph (1) and by redesignating  
 9 paragraphs (2) through (5) as paragraphs (1) through  
 10 (4), respectively.

11 (e) CONFORMING AMENDMENTS.—

12 (1) The analysis for chapter 1 of such title is  
 13 amended—

14 (A) by striking the item relating to section  
 15 152;

16 (B) by renumbering “151. National bridge  
 17 inspection program.” as “152”; and

18 (C) by inserting after the item relating to  
 19 section 149 the following:

“150. Highway Safety Improvement Program.  
 “151. Flexibility for safety initiatives.”.

20 (2) Section 130 of such title is amended—

21 (A) by striking subsections (e) and (f) and  
 22 redesignating subsections (g) through (j) as (e)  
 23 through (h), respectively; and

1 (B) in subsection (f), as redesignated by  
2 this Act, by striking “authorized to be appro-  
3 priated to carry out this section” and inserting  
4 “made available as provided under section 150  
5 of this title to carry out this section”.

6 (3) Section 154(c)(3) of such title is amended  
7 by striking “152” and inserting “150”.

8 (4) Section 164(b)(3) of such title is amended  
9 by striking “152” and inserting “150”.

10 (5) Section 409 of such title is amended by  
11 striking “152” and inserting “150”.

12 **SEC. 1403. OPERATION LIFESAVER.**

13 Section 104(d)(1) of title 23, United States Code, is  
14 amended by striking “\$500,000” and inserting  
15 “\$600,000”.

16 **SEC. 1404. HIGHWAY SAFETY PROGRAMS; CERTIFICATION**  
17 **OF PUBLIC ROAD MILEAGE.**

18 Section 402(c) of title 23, United States Code, is  
19 amended by striking in the fifth sentence “the Governor  
20 of”.

1     **Subtitle E—Program Efficiencies**  
2             **and Improvements—Planning**

3     **SEC. 1501. METROPOLITAN PLANNING.**

4             Section 134 of title 23, United States Code, is  
5 amended by striking subsections (a) through (o) and in-  
6 serting the following:

7             “Metropolitan planning shall be carried out in ac-  
8 cordance with section 5203 of title 49, United States  
9 Code.”.

10    **SEC. 1502. STATEWIDE PLANNING.**

11            Section 135 of title 23, United States Code, is  
12 amended by striking subsections (a) through (i) and in-  
13 serting the following:

14            “Statewide planning shall be carried out in accord-  
15 ance with section 5204 of title 49, United States Code.”.

16    **SEC. 1503. STATE PLANNING AND RESEARCH.**

17            (a) **STATE PLANNING AND RESEARCH.**—Chapter 5  
18 of title 23, United States Code, is amended by striking  
19 section 505.

20            (b) **CONFORMING AMENDMENT.**—The analysis for  
21 chapter 5 of such title is amended by striking the item  
22 related to section 505.

23            (c) **APPORTIONMENT.**—Section 104 of title 23,  
24 United States Code, is amended—

1           (1) by redesignating subsections (i), (j), (k),  
2           and (l) as subsections (k), (l), (m), and (n), respec-  
3           tively; and

4           (2) by inserting after subsection (h) the fol-  
5           lowing:

6           “(i) STATE PLANNING AND RESEARCH.—

7           “(1) IN GENERAL.—Two and ½ percent of the  
8           sums apportioned to a State for each fiscal year  
9           under this section (other than subsections (f) and  
10          (h)) and under sections 105 and 144 of this title  
11          shall be available for expenditure by the State, in  
12          consultation with the Secretary, only for the fol-  
13          lowing purposes:

14                 “(A) Engineering and economic surveys  
15                 and investigations.

16                 “(B) The planning of future highway and  
17                 local public transportation systems, the plan-  
18                 ning of the financing of such systems, and met-  
19                 ropolitan and statewide planning under sections  
20                 134 and 135 of this title, including freight  
21                 planning, safety planning, transportation sys-  
22                 tems management and operations planning,  
23                 transportation-related land use planning, and  
24                 transportation-related growth management ac-  
25                 tivities within these planning processes and

1 planning capacity building activities described  
2 in section 104(j) of this title.

3 “(C) Development and implementation of  
4 infrastructure management and traffic moni-  
5 toring systems under section 303 of this title  
6 and for asset management activities.

7 “(D) Studies of the economy, safety, and  
8 convenience of highway and local public trans-  
9 portation systems and the desirable regulation  
10 and equitable taxation of their use.

11 “(E) Research, development, and tech-  
12 nology transfer activities necessary in connec-  
13 tion with the planning, design, construction,  
14 management, maintenance, regulation, and tax-  
15 ation of the use of highway, local public trans-  
16 portation, and intermodal transportation sys-  
17 tems.

18 “(F) Study, research, and training on the  
19 engineering standards and construction mate-  
20 rials, including accreditation of inspection and  
21 testing, for highway, local public transportation,  
22 and intermodal transportation systems.

23 “(2) MINIMUM EXPENDITURES ON RESEARCH,  
24 DEVELOPMENT, AND TECHNOLOGY TRANSFER AC-  
25 TIVITIES.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), not less than 20 percent of the  
3 funds subject to paragraph (1) for a fiscal year  
4 shall be expended by the State for research, de-  
5 velopment, and technology transfer activities  
6 described in paragraph (1), relating to highway,  
7 local public transportation, and intermodal  
8 transportation systems.

9           “(B) WAIVERS.—The Secretary may waive  
10 the application of subparagraph (A) with re-  
11 spect to a State for a fiscal year if the State  
12 certifies to the Secretary for the fiscal year that  
13 the funds described in subparagraph (A) are  
14 not needed for research, development, and tech-  
15 nology transfer and the Secretary accepts such  
16 certification.

17           “(C) NONAPPLICABILITY OF ASSESS-  
18 MENT.—Funds expended under subparagraph  
19 (A) shall not be considered to be part of the ex-  
20 tramural budget of the agency for the purpose  
21 of section 9 of the Small Business Act (15  
22 U.S.C. 638).

23           “(3) MINIMUM EXPENDITURES FOR IMPROVING  
24 THE QUALITY OF COLLECTION AND REPORTING OF  
25 STRATEGIC SURFACE TRANSPORTATION DATA.—



1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), not less than 20 percent of the  
3 funds subject to paragraph (1) for a fiscal year  
4 shall be expended by the State to improve the  
5 collection and reporting of strategic surface  
6 transportation data to provide critical informa-  
7 tion about the extent, condition, use, perform-  
8 ance, and financing of the Nation’s highways  
9 (including intermodal connectors) for passenger  
10 and freight movement.

11           “(B) WAIVERS.—The Secretary may waive  
12 the application of subparagraph (A) with re-  
13 spect to a State for a fiscal year if the State  
14 certifies to the Secretary for the fiscal year that  
15 the State is collecting and reporting strategic  
16 data consistent with quality assurance guide-  
17 lines developed cooperatively with the States  
18 and the Secretary approves such certification.  
19 If such waiver is approved, the funds may be  
20 used for the activities described in paragraph  
21 (1) of this subsection.

22           “(4) FEDERAL SHARE.—The Federal share of  
23 the cost of a project carried out using funds subject  
24 to paragraph (1) shall be matched in accordance  
25 with section 120(b) unless the Secretary determines

1 that the interests of the Federal-aid highway pro-  
2 gram would be best served without such matching.

3 “(5) ADMINISTRATION OF SUMS.—Funds sub-  
4 ject to paragraph (1) shall be combined and admin-  
5 istered by the Secretary as a single fund and shall  
6 be available for obligation for the same period as  
7 funds apportioned under section 104(b)(1).”.

8 **SEC. 1504. CRITICAL REAL PROPERTY ACQUISITION.**

9 Section 108 of title 23, United States Code, is  
10 amended by adding at the end the following:

11 “(d) CRITICAL REAL PROPERTY ACQUISITION.—

12 “(1) Subject to paragraph (2), funds appor-  
13 tioned to a State under this title may be used to  
14 participate in the payment of costs incurred in the  
15 acquisition of real property that is deemed critical,  
16 as determined under paragraph (2), for any project  
17 proposed for funding under this title, prior to the  
18 completion of any required environmental reviews for  
19 property acquisition.

20 “(2) The Federal share payable of the costs de-  
21 scribed in paragraph (1) shall be eligible for reim-  
22 bursement out of funds apportioned to a State under  
23 this title if, prior to acquisition, the State dem-  
24 onstrates to the Secretary, and the Secretary deter-  
25 mines, that the property is offered for sale on the

1 open market, that the State will comply fully with  
2 the Uniform Relocation Assistance and Real Prop-  
3 erty Acquisition Policies Act in acquiring the prop-  
4 erty, and that immediate acquisition of the property  
5 is critical because either—

6 “(A) normal appraisal techniques show  
7 that the property’s value is increasing signifi-  
8 cantly;

9 “(B) there is an imminent threat of devel-  
10 opment or redevelopment of the property; or

11 “(C) the property is necessary for the im-  
12 plementation of the goals as stated in the  
13 project proposal.

14 “(3) An acquisition undertaken pursuant to this  
15 section shall be considered to be an exempt project  
16 under section 176 of the Clean Air Act and its im-  
17 plementing regulations.

18 “(4) No project development activity may be  
19 undertaken on property acquired in accordance with  
20 paragraph (2) until any required environmental re-  
21 views for the project have been completed.

22 “(5) The number of critical acquisitions associ-  
23 ated with a project shall be limited and shall not af-  
24 fect the consideration of project alternatives during  
25 the environmental review process.

1           “(6) Section 156 (e) of this title shall not apply  
2           to the sale, use or lease of any property acquired in  
3           accordance with paragraph (2).”.

4 **SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.**

5           Section 104 of title 23, United States Code, is  
6           amended by inserting after subsection (i), as added by this  
7           Act, the following:

8           “(j) PLANNING CAPACITY BUILDING INITIATIVE.—

9           “(1) IN GENERAL.—The Secretary shall estab-  
10          lish a planning capacity building initiative to support  
11          enhancements in transportation planning, in order  
12          to—

13                 “(A) strengthen metropolitan and state-  
14                 wide transportation planning under chapter 52  
15                 of title 49;

16                 “(B) enhance tribal capacity to conduct  
17                 joint transportation planning under Chapter 2  
18                 of this title; and

19                 “(C) participate in the metropolitan and  
20                 statewide transportation planning programs  
21                 under chapter 52 of title 49.

22           “(2) PRIORITY.—The Secretary shall give pri-  
23          ority to planning practices and processes that sup-  
24          port homeland security planning, performance based  
25          planning, safety planning, operations planning,

1 freight planning, and integration of environment and  
2 planning.

3 “(3) USE OF FUNDS.—Funds authorized for  
4 this program may be used for research, program de-  
5 velopment, information collection and dissemination,  
6 and technical assistance. The Secretary may use  
7 these funds independently or make grants to, or  
8 enter into contracts, cooperative agreements, and  
9 other transactions, with a Federal agency, State  
10 agency, local agency, federally recognized Indian  
11 tribal government or tribal consortium, authority,  
12 association, nonprofit or for-profit corporation, or in-  
13 stitution of higher education, to carry out the pur-  
14 poses of this subsection.

15 “(4) SET-ASIDE.—On October 1 of each fiscal  
16 year, the Secretary, after making the deductions au-  
17 thorized by subsections (a) and (f) of section 104 of  
18 this title, shall set aside \$20,000,000 of the remain-  
19 ing funds authorized for the Surface Transportation  
20 Program to carry out the requirements of this sub-  
21 section.

22 “(5) FEDERAL SHARE.—The Federal share of  
23 the cost of an activity carried out using such funds  
24 shall be up to 100 percent, and such funds shall re-  
25 main available until expended.

1           “(6) ADMINISTRATION.—This initiative shall be  
2           administered by the Federal Highway Administra-  
3           tion in cooperation with the Federal Transit Admin-  
4           istration.”.

5           **Subtitle F—Program Efficiencies**  
6           **and Improvements—Environment**

7           **SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY IM-**  
8           **PROVEMENT PROGRAM.**

9           (a) ELIGIBLE PROJECTS.—Section 149(b) of title 23,  
10          United States Code, is amended—

11           (1) in the first paragraph, by inserting “and,  
12           the project or program will reduce emissions to con-  
13           tribute to the attainment or maintenance of the Na-  
14           tional Ambient Air Quality Standard for which the  
15           area is or was designated nonattainment,” after  
16           “December 31, 1997,”;

17           (2) in subsection (1)(A), by striking “(other  
18           than clause (xvi) of such section)”;

19           (3) in paragraph (1)(A)(ii), by inserting “by  
20           providing new or enhanced transportation facilities  
21           or services to further reduce emissions” after  
22           “area”;

23           (4) in paragraph (1)(B), by inserting “or” at  
24           the end after “section;”;

1 (5) in paragraph (2), by inserting “or program”  
2 after “and the project”, and by striking “have air  
3 quality benefits;” and inserting “reduce emissions;  
4 or”;

5 (6) in paragraph (3), by—

6 “(A) inserting “if” after “(3)”;

7 “(B) striking “contribute to the attain-  
8 ment of a national ambient air quality stand-  
9 ard” and inserting “reduce emissions”;

10 “(C) striking the comma after “traveled”  
11 and inserting “or”; and

12 “(D) inserting “through technological im-  
13 provements such as anti-idling equipment and  
14 diesel retrofits for trucks, school buses, transit  
15 buses and other vehicles” after “consumption,”;

16 (7) in paragraph (4), by inserting “if the  
17 project or program is” after “(4)”, and by striking  
18 “contribute to the attainment of a national ambient  
19 air quality standard” and inserting “reduce emis-  
20 sions”;

21 (8) in paragraph (5), by striking “that are eli-  
22 gible for assistance under this section on the day be-  
23 fore the date of enactment of this paragraph” and  
24 inserting “that will reduce emissions”; and

1           (9) in the final unnumbered paragraph, by  
2           striking the second sentence.

3           (b) STATES RECEIVING MINIMUM APPORTION-  
4           MENT.—Section 149(c) of such title is amended in para-  
5           graphs (1) and (2) by inserting “OR MAINTENANCE”  
6           after “NONATTAINMENT” in the heading of each para-  
7           graph.

8           (c) SELECTION OF PROJECTS.—Section 149 of such  
9           title is amended by adding at the end the following new  
10          paragraph:

11          “(f) INTERAGENCY CONSULTATION.—The Secretary  
12          shall encourage States and metropolitan planning organi-  
13          zations to consult with State and local air quality agencies  
14          in nonattainment and maintenance areas on the estimated  
15          emissions reductions from proposed congestion mitigation  
16          and air quality improvement programs and projects.”.

17          (d) EVALUATION AND ASSESSMENT OF PROJECTS.—  
18          Section 149 of such title is amended by adding at the end  
19          the following new paragraph:

20          “(g) EVALUATION AND ASSESSMENT OF  
21          PROJECTS.—

22                  “(1) EVALUATION AND ASSESSMENT.—The  
23          Secretary, in consultation with the Administrator of  
24          the Environmental Protection Agency, shall evaluate  
25          and assess a representative sample of projects fund-



1 ed under the Congestion Mitigation and Air Quality  
2 Improvement Program for their actual impact on  
3 emissions, and congestion levels and to assure effective  
4 program implementation. Using appropriate assessments  
5 of CMAQ-funded projects, and results from other research,  
6 the Secretary shall maintain a cumulative database on these  
7 impacts for broad dissemination.  
8

9 “(2) FUNDING.—Funds set aside under section  
10 104(o) of this title shall be available to carry out  
11 this subsection.”

12 (e) FUNDING FOR EVALUATION AND ASSESSMENT OF  
13 PROJECTS.—Section 104 of such title is amended by adding  
14 at the end the following new subsection:

15 “(o) CONGESTION MITIGATION AND AIR QUALITY  
16 IMPROVEMENT PROGRAM EVALUATION AND ASSESSMENT  
17 OF PROJECTS.—Before making apportionments under  
18 subsection (b)(2) of this section for a fiscal year, the Secretary  
19 shall deduct 0.5 percent from the amount to be apportioned  
20 for such fiscal year for the purpose of carrying  
21 out the requirements of section 149(g) of this title.”

22 (f) APPORTIONMENTS.—Section 104(b) of such title  
23 is amended—

24 (1) in paragraph (2)(B), by striking “or” after  
25 “ozone” and inserting a comma, and by inserting “,

1 or fine particulate matter (PM-2.5)” after “carbon  
2 monoxide”;

3 (2) by amending paragraph (2)(B)(i) to read as  
4 follows:

5 “(i) 1.0 if at the time of the appor-  
6 tionment, the area is a maintenance  
7 area;”;

8 (3) in paragraph (2)(B)(vi), by striking “or”  
9 after the semicolon;

10 (4) in paragraph (2)(B)(vii), by inserting “for  
11 ozone” after “maintenance area”, and striking “for  
12 ozone” after “section 149(b)” and inserting “or for  
13 PM-2.5”;

14 (5) by adding at the end of paragraph (2)(B)  
15 two new clauses to read as follows:

16 “(viii) 1.0 if, at the time of appor-  
17 tionment, any county, not designated as a non-  
18 attainment or maintenance area under the  
19 1-hour ozone standard, is designated as  
20 nonattainment under the 8-hour ozone  
21 standard; or

22 “(ix) 1.2 if, at the time of appor-  
23 tionment, the area is not a nonattainment or  
24 maintenance area as described in section  
25 149(b) for ozone or carbon monoxide, but

1 is an area designated nonattainment under  
2 the PM-2.5 standard.”;

3 (6) by amending paragraph (2)(C) to read as  
4 follows:

5 “(C) ADDITIONAL ADJUSTMENT FOR CAR-  
6 BON MONOXIDE AREAS.—If, in addition to  
7 being designated as a nonattainment or mainte-  
8 nance area for ozone as described in section  
9 149(b), any county within the area was also  
10 classified under subpart 3 of part D of title I  
11 of such Act (42 U.S.C. 7512 et seq.) as a non-  
12 attainment or maintenance area described in  
13 section 149(b) for carbon monoxide, the weight-  
14 ed nonattainment or maintenance area popu-  
15 lation of the county, as determined under  
16 clauses (i) through (vi) of subparagraph (B),  
17 shall be further multiplied by a factor of 1.2.”;  
18 and

19 (7) by redesignating paragraphs (2)(D) and  
20 (2)(E) as (2)(E) and (2)(F) and inserting after  
21 paragraph (2)(C) a new paragraph (2)(D) to read as  
22 follows:

23 “(D) ADDITIONAL ADJUSTMENT FOR PM  
24 2.5 AREAS.—If, in addition to being designated  
25 as a nonattainment or maintenance area for

1 ozone, carbon monoxide or both as described in  
2 section 149(b), any county within the area was  
3 also designated under the PM-2.5 standard as  
4 a nonattainment or maintenance area, the  
5 weighted nonattainment or maintenance area  
6 population of those counties shall be further  
7 multiplied by a factor of 1.2.”.

8 **SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR**  
9 **PROJECT DECISIONMAKING.**

10 (a) POLICY AND PURPOSE.—

11 (1) POLICY.—The Enlibra principles, as ini-  
12 tially developed by the Western Governors Associa-  
13 tion and adopted by the National Governors Associa-  
14 tion, represent a sound basis for interaction among  
15 the Federal, State, local governments, and tribes on  
16 environmental matters and should be followed to the  
17 maximum extent practicable in the development of  
18 highway construction and public transit improve-  
19 ments. These principles are:

20 (A) Assign responsibilities at the right  
21 level.

22 (B) Use collaborative processes to break  
23 down barriers and find solutions.

24 (C) Move to a performance-based system.

1 (D) Separate subjective choices from objec-  
2 tive data gathering.

3 (E) Pursue economic incentives whenever  
4 appropriate.

5 (F) Ensure environmental understanding.

6 (G) Make sure environmental decisions are  
7 fully informed.

8 (H) Use appropriate geographic bound-  
9 aries for environmental problems.

10 (2) PURPOSE.—The purpose of this section is  
11 to reduce delays in the delivery of highway construc-  
12 tion and public transit projects arising from the en-  
13 vironmental review process, while continuing to en-  
14 sure the protection of the human and natural envi-  
15 ronment.

16 (b) COORDINATED ENVIRONMENTAL REVIEW PROC-  
17 ESS.—

18 (1) DEVELOPMENT AND IMPLEMENTATION.—  
19 The Secretary shall develop and implement a coordi-  
20 nated environmental review process for highway con-  
21 struction and public transit projects that require—

22 (A) the preparation of an environmental  
23 impact statement or environmental assessment  
24 under the National Environmental Policy Act of  
25 1969 (42 U.S.C. 4321 et seq.), except that the

1 Secretary may decide not to apply this section  
2 to the preparation of an environmental assess-  
3 ment under such Act; or

4 (B) the conduct of any other environ-  
5 mental review or analysis, rendering of an opin-  
6 ion, or issuance of an environmental permit, li-  
7 cense, or approval under Federal law.

8 (2) MEMORANDUM OF UNDERSTANDING.—

9 (A) IN GENERAL.—The coordinated envi-  
10 ronmental review process may be specified for a  
11 particular project, class of projects, or program  
12 and shall ensure that, whenever practicable (as  
13 specified in this section), all environmental re-  
14 views, analyses, opinions, and any permits, li-  
15 censes, or approvals that must be issued or  
16 made by any Federal agency for the project  
17 concerned shall be conducted concurrently and  
18 completed within a cooperatively determined  
19 time period. Such process for a project, class of  
20 projects, or program may be incorporated into  
21 a memorandum of understanding between the  
22 Department of Transportation and affected  
23 Federal agencies (and, where appropriate, State  
24 and local agencies and federally recognized  
25 tribes).

1 (B) ESTABLISHMENT OF TIME PERIODS.—

2 In establishing the time period referred to in  
3 subparagraph (A), and any time periods for re-  
4 view within such period, the Department and all  
5 such agencies shall take into account their re-  
6 spective resources and statutory commitments.

7 (c) ELEMENTS OF COORDINATED ENVIRONMENTAL  
8 REVIEW PROCESS.—For each project, the coordinated en-  
9 vironmental review process established under this section  
10 shall provide, at a minimum, for the following elements:

11 (1) FEDERAL AGENCY IDENTIFICATION.—The  
12 Secretary shall, at the earliest possible time, identify  
13 all potential Federal agencies that—

14 (A) have jurisdiction by law over or special  
15 expertise related to environmental-related issues  
16 that may be affected by the project and the  
17 analysis of which would be part of any environ-  
18 mental document required by the National En-  
19 vironmental Policy Act of 1969 (42 U.S.C.  
20 4321 et seq.); or

21 (B) may be required by Federal law to  
22 independently—

23 (i) conduct an environmental-related  
24 review or analysis for the project;

- 1 (ii) determine whether to issue a per-  
2 mit, license, or approval for the project; or  
3 (iii) render an opinion on the environ-  
4 mental impact of the project.

5 (2) TIME LIMITATIONS AND CONCURRENT RE-  
6 VIEW.—If requested by the project sponsor, the Sec-  
7 retary and the head of each Federal agency identi-  
8 fied under paragraph (1)—

9 (A)(i) shall jointly develop and establish  
10 time periods for review for—

11 (I) all Federal agency comments with  
12 respect to any environmental documents  
13 required by the National Environmental  
14 Policy Act of 1969 (42 U.S.C. 4321 et  
15 seq.) for the project; and

16 (II) all other independent Federal  
17 agency environmental analyses, reviews,  
18 opinions, and decisions on any permits, li-  
19 censes, and approvals that must be issued  
20 or made for the project; such that each  
21 such Federal agency's review shall be un-  
22 dertaken and completed within such estab-  
23 lished time periods for review; or



1           (ii) may enter into an agreement to estab-  
2           lish such time periods for review with respect to  
3           a class of projects or programs; and

4           (B) shall ensure, in establishing such time  
5           periods for review, that the conduct of any such  
6           analysis or review, rendering of such opinion,  
7           and the issuance of such decision is undertaken  
8           concurrently with all other environmental re-  
9           views for the project, including the reviews re-  
10          quired by the National Environmental Policy  
11          Act of 1969 (42 U.S.C. 4321 et seq.); except  
12          that such review may not be concurrent if the  
13          affected Federal agency can demonstrate that  
14          such concurrent review would result in a signifi-  
15          cant adverse impact to the environment or sub-  
16          stantively alter the operation of Federal law or  
17          would not be possible without information de-  
18          veloped as part of the environmental review  
19          process.

20          (3) FACTORS TO BE CONSIDERED.—Time peri-  
21          ods for review established under this section shall be  
22          consistent with the time periods established by the  
23          Council on Environmental Quality under sections  
24          1501.8 and 1506.10 of title 40, Code of Federal  
25          Regulations.

1           (4) EXTENSIONS.—The Secretary shall extend  
2           any time periods for review under this section if,  
3           upon good cause shown, the Secretary and any Fed-  
4           eral agency concerned determine that additional time  
5           for analysis and review is needed. Any memorandum  
6           of understanding shall be modified to incorporate  
7           any mutually agreed-upon extensions.

8           (d) CLARIFICATION REGARDING ENVIRONMENTAL  
9           IMPACT STATEMENTS PREPARED BY STATE AND LOCAL  
10          TRANSPORTATION AGENCIES.—Any project sponsor that  
11          is a State or local governmental entity eligible to receive  
12          funds under this Act, chapter I of title 23, United States  
13          Code; or chapter 53 of title 49, United States Code, may,  
14          at the discretion of the Secretary, serve as a joint lead  
15          agency with the Department for purposes of preparing any  
16          environmental document under the National Environ-  
17          mental Policy Act of 1969, as amended (42 U.S.C. 4321,  
18          et seq.), and may prepare any such environmental docu-  
19          ments required in support of any action or approval by  
20          the Secretary, provided that the Department furnishes  
21          guidance in such preparation and independently evaluates  
22          such document, and provided that the document is ap-  
23          proved and adopted by the Secretary prior to the Sec-  
24          retary taking any subsequent action or making any ap-  
25          proval based on such document, whether or not the Sec-

1 retary's action or approval results in Federal funding. The  
2 Secretary shall ensure that the project sponsor complies  
3 with all design and mitigation commitments made jointly  
4 by the Secretary and the project sponsor in such environ-  
5 mental document, or that the document is appropriately  
6 supplemented if project changes become necessary. Any  
7 such environmental document prepared in accordance with  
8 this subsection may be adopted or used by any Federal  
9 agency making any approval to the same extent that such  
10 Federal agency could adopt or use a document prepared  
11 by another Federal agency.

12 (e) DISPUTE RESOLUTION.—When the Secretary de-  
13 termines that a Federal agency which is subject to a time  
14 period under this section for its environmental review has  
15 failed to complete its review, analysis, opinion, or decision  
16 on issuing any permit, license, or approval within the es-  
17 tablished time period or within any agreed-upon extension  
18 to such time period, the Secretary may, after notice and  
19 consultation with such agency, close the record on the  
20 matter before the Secretary. If the Secretary finds, after  
21 timely compliance with this section, that an environmental  
22 issue related to the project over which an affected Federal  
23 agency has jurisdiction under Federal law has not been  
24 resolved, the Secretary and the head of the Federal agency  
25 shall resolve the matter not later than 30 days after the

1 date of the finding by the Secretary. The dispute resolu-  
2 tion procedures established pursuant to this subsection  
3 may be initiated by the Secretary or by the Governor of  
4 any State in which a highway construction or public tran-  
5 sit project is located, or by the head of any Federal agency  
6 subject to the time period under this subsection.

7 (f) PARTICIPATION OF STATE AGENCIES.—For any  
8 project eligible for assistance under chapter 1 of title 23,  
9 United States Code, a State, under State law, may require  
10 that all State agencies that have jurisdiction by State or  
11 Federal law over environmental-related issues that may be  
12 affected by the project, or that are required to issue any  
13 environmental-related reviews, analyses, opinions, or de-  
14 terminations on issuing any permits, licenses, or approvals  
15 for the project, be subject to the coordinated environ-  
16 mental review process established under this section unless  
17 the Secretary determines that a State agency's participa-  
18 tion would not be in the public interest. If a State wishes  
19 to participate in the review process, the State must require  
20 all such State agencies with jurisdiction by law to be sub-  
21 ject to and comply with the review process to the same  
22 extent as a Federal agency.

23 (g) ASSISTANCE TO AFFECTED STATE AND FEDERAL  
24 AGENCIES.—

1           (1) IN GENERAL.—The Secretary may approve  
2           a request by a State to provide funds made available  
3           under chapter 1 of title 23, United States Code, or  
4           for a public transit project made available under  
5           chapter 53 of title 49, United States Code, to the  
6           State for the project, class of projects, or program  
7           subject to the coordinated environmental review  
8           process established under this section, to affected  
9           Federal agencies, including the Department of  
10          Transportation, to State agencies participating in  
11          the coordinated environmental review process, and to  
12          federally recognized tribes, to provide the resources  
13          necessary to meet any time limits established under  
14          this section. The Secretary also may use funds made  
15          available under section 204 of title 23, United States  
16          Code, for the purposes specified under this sub-  
17          section.

18           (2) AMOUNTS.—Such requests under paragraph  
19          (1) shall be approved only—

20                   (A) for the additional amounts that the  
21                   Secretary determines are necessary for the af-  
22                   fected Federal agencies to meet the time limits  
23                   for environmental review; and

24                   (B) if such time limits are less than the  
25                   customary time necessary for such review.

1 (h) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

2 (1) JUDICIAL REVIEW.—Except as set forth  
3 under subsection (i), nothing in this section shall af-  
4 fect the reviewability of any final Federal agency ac-  
5 tion in a court of the United States.

6 (2) SAVINGS CLAUSE.—Nothing in this section  
7 shall affect the applicability of the National Environ-  
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
9 or any other Federal environmental statute or affect  
10 the responsibility of any Federal officer to comply  
11 with or enforce any such statute.

12 (i) LIMITATIONS ON CLAIMS.—Notwithstanding any  
13 other provision of law, a claim arising under Federal law  
14 seeking judicial review of a permit, license, or approval  
15 issued by a Federal agency for a highway construction or  
16 public transit project shall be barred unless it is filed with-  
17 in one hundred eighty days after the permit, license, or  
18 approval is final pursuant to the statute under which the  
19 agency action is taken, unless a shorter time is specified  
20 in the Federal law pursuant to which judicial review is  
21 allowed. Nothing in this subsection shall create a right to  
22 judicial review or place any limit on filing a claim that  
23 a person has violated the terms of a permit, license, or  
24 approval.

1 (j) REPEAL.—Section 1309 of the Transportation  
2 Equity Act for the 21st Century (Public Law 105–178;  
3 112 Stat. 232; June 9, 1998) is repealed.

4 **SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CAT-**  
5 **EGORICAL EXCLUSIONS.**

6 (a) GENERAL.—Section 138 of title 23, United  
7 States Code, is repealed and the following new section is  
8 inserted:

9 **”§ 138. Assumption of responsibility for categorical**  
10 **exclusions**

11 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—  
12 Upon mutual agreement, the Secretary may assign and  
13 a State may assume responsibility for determining wheth-  
14 er certain designated activities are included within classes  
15 of action identified in regulation by the Secretary that are  
16 categorically excluded from requirements for environ-  
17 mental assessments or environmental impact statements  
18 pursuant to regulations promulgated by the Council on  
19 Environmental Quality, or other successor law or regula-  
20 tion. Such determinations shall be made by a State pursu-  
21 ant to criteria established by the Secretary and only for  
22 types of activities specifically designated by the Secretary.  
23 Such criteria shall include provision for public availability  
24 of information consistent with the Freedom of Information  
25 Act (5 U.S.C. 552).

1           “(b) OTHER APPLICABLE FEDERAL LAWS.—Upon  
2 mutual agreement, the Secretary may assign and the  
3 State may assume some or all of the Department’s respon-  
4 sibilities for environmental review, consultation, or other  
5 related actions required under any Federal law applicable  
6 to activities that are classified by the Secretary as categor-  
7 ical exclusions, with the exception of government-to-gov-  
8 ernment consultation with Indian tribes, if the State also  
9 assumes decision-making authority under this section. The  
10 State shall assume this responsibility subject to the same  
11 procedural and substantive requirements as would be re-  
12 quired if that responsibility was carried out by the Depart-  
13 ment. When a State assumes such responsibility under a  
14 Federal law, it shall be solely responsible and solely liable  
15 for complying with and carrying out that law in lieu of  
16 the Department.

17           “(c) AGREEMENTS.—The Secretary and the State  
18 shall enter into a memorandum of understanding setting  
19 forth the responsibilities to be assigned under this section  
20 and the terms and conditions under which such assign-  
21 ments are to be made. Such memorandums of under-  
22 standing shall be established for periods of no more than  
23 three years. In the memorandum of understanding the  
24 State shall consent to accept the jurisdiction of the Fed-  
25 eral courts for the compliance, discharge, and enforcement



1 of any responsibility of the Secretary it may assume. The  
2 Secretary shall monitor the State department of transpor-  
3 tation's compliance with the memorandum of under-  
4 standing as well as the effectiveness of the delegation, and  
5 will take into account the State's performance in deciding  
6 whether and under what conditions to renew a memo-  
7 randum of understanding.

8       “(d) TERMINATION.—The Secretary may terminate  
9 any assumption of responsibility under this section upon  
10 a determination that a State is not adequately carrying  
11 out its assigned responsibilities.

12       “(e) STATE SUBJECT TO FEDERAL LAWS.—For pur-  
13 poses of assuming the Secretary's responsibilities under  
14 this section, the State agency signing the agreement in  
15 subsection (c) is deemed to be a Federal agency to the  
16 extent the State is carrying out the Secretary's respon-  
17 sibilities under the National Environmental Policy Act,  
18 under this title, and under any other Federal law.”.

19       (b) CONFORMING AMENDMENT.—The analysis of  
20 chapter 1 of title 23 is amended by striking “Preservation  
21 of parklands” in the item relating to section 138 and in-  
22 serting “Assumption of responsibility for categorical exclu-  
23 sions.”.

1 **SEC. 1604. SECTION 4(f) POLICY ON LANDS, WILDLIFE AND**  
2 **WATERFOWL REFUGES, AND HISTORIC SITES.**

3 Section 303 of title 49, United States Code, is  
4 amended to read as follows:

5 **§ 303. Policy on lands, wildlife and waterfowl refuges,**  
6 **and historic sites**

7 “(a) It is the policy of the United States Government  
8 that special effort should be made to preserve the natural  
9 beauty of the countryside and public park and recreation  
10 lands, wildlife and waterfowl refuges, and historic sites.

11 “(b) The Secretary of Transportation shall cooperate  
12 and consult, when appropriate, with the Secretaries of the  
13 Interior, Housing and Urban Development, and Agri-  
14 culture, and with the States, in developing transportation  
15 plans and programs that include measures to maintain or  
16 enhance the natural beauty of lands crossed by transpor-  
17 tation activities or facilities.

18 “(c)(1) The Secretary of Transportation may approve  
19 a transportation program or project requiring the use of  
20 publicly owned land of a public park, recreation area, or  
21 wildlife and waterfowl refuge of national, State, or local  
22 significance, or land of a historic site of national, State,  
23 or local significance (as determined by the Federal, State,  
24 or local officials having jurisdiction over the park, area,  
25 refuge or site) only if—

1           “(A) there is no feasible and prudent alter-  
2 native to using that land, and

3           “(B) the program or project includes all pos-  
4 sible planning to minimize harm to the park, recre-  
5 ation area, wildlife and waterfowl refuge, or historic  
6 site resulting from the use.

7           “(2) In making approvals under this subsection, the  
8 Secretary shall apply the following standards:

9           “(A) The Secretary may eliminate an alter-  
10 native as infeasible if the Secretary finds that the al-  
11 ternative cannot be implemented as a matter of  
12 sound engineering.

13           “(B) The Secretary shall consider the following  
14 when determining whether it would be prudent to  
15 avoid the use of land of a resource subject to preser-  
16 vation under this section:

17           “(i) The relative significance of the land of  
18 the resource being protected.

19           “(ii) The views of the official or officials  
20 with jurisdiction over the land.

21           “(iii) The relative severity of the adverse  
22 effects on the protected activities, attributes, or  
23 features that qualify a resource for protection.

24           “(iv) The ability to mitigate adverse ef-  
25 fects.

1           “(v) The magnitude of the adverse effects  
2           that would result from the selection of an alter-  
3           native that avoids the use of the land of the re-  
4           source.

5           “(C) A mitigation measure or mitigation alter-  
6           native under paragraph (c)(1)(B) of this section is  
7           possible if it is feasible and prudent. In evaluating  
8           the feasibility and prudence of a mitigation measure  
9           or mitigation alternative under paragraph (c)(1)(B)  
10          of this section, the Secretary shall be governed by  
11          the standards of paragraphs (c)(2)(A) and (B) of  
12          this subsection.

13          “(d) The requirements of this section do not apply  
14          to—

15                 “(1) a project for a park road, parkway, or ref-  
16                 uge road under section 204 of title 23; or

17                 “(2) a highway project on land administered by  
18                 an agency of the Federal government, when the pur-  
19                 pose of the project is to serve or enhance the values  
20                 for which the land would otherwise be protected  
21                 under this section, as jointly determined by the Sec-  
22                 retary of Transportation and the head of the appro-  
23                 priate Federal land managing agency.

24          “(e) The requirements of this section are deemed to  
25          be satisfied where the treatment of an historic site (other

1 than a National Historic Landmark) has been agreed  
2 upon in accordance with Section 106 of the National His-  
3 toric Preservation Act (16 U.S.C. 470f). The Secretary,  
4 in consultation with the Advisory Council on Historic  
5 Preservation, shall develop administrative procedures to  
6 review the implementation of this subsection to ensure  
7 that the objectives of the National Historic Preservation  
8 Act are being met.

9       “(f)(1) The Secretary may approve a request by a  
10 State to provide funds made available under chapter 1 of  
11 title 23, United States Code, to a State historic preserva-  
12 tion office, Tribal historic preservation office, or to the Ad-  
13 visory Council on Historic Preservation to provide the re-  
14 sources necessary to expedite the historic preservation re-  
15 view and consultation process under section 303 of title  
16 49 and under section 470f of title 16, United States Code.

17       “(2) The Secretary shall encourage States to provide  
18 such funding to State historic preservation officers, tribal  
19 historic preservation officers or the Advisory Council on  
20 Historic Preservation where the investment of such funds  
21 will accelerate completion of a project or classes of projects  
22 or programs by reducing delays in historic preservation  
23 review and consultation.

24       “(3) Such requests under paragraph (1) shall be ap-  
25 proved only for the additional amounts that the Secretary

1 determines are necessary for a State historic preservation  
2 office, tribal historic preservation office, or the Advisory  
3 Council on Historic Preservation to expedite the review  
4 and consultation process and only where the Secretary de-  
5 termines that such additional amounts will permit comple-  
6 tion of the historic preservation process in less than the  
7 time customarily required for such process.”.

8 **SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.**

9 (a) IN GENERAL.—Section 162 of title 23, United  
10 States Code, is amended—

11 (1) in subsection (a)(1), by inserting a comma  
12 after “Byways” and by striking “or All-American  
13 Roads” and inserting “All-American Roads, or one  
14 of America’s Byways”;

15 (2) in subsection (b)(1)(A), by inserting a  
16 comma after “Byways” and by striking “or All-  
17 American Roads,” and inserting “All-American  
18 Roads, or one of America’s Byways,”;

19 (3) in subsection (b)(2)(A), by inserting a  
20 comma after “Byway” and by striking “or All-Amer-  
21 ican Road” and inserting “All-American Road, or  
22 one of America’s Byways”;

23 (4) in subsection (b)(2)(B), by inserting a  
24 comma after “Byway” and by striking “or All-Amer-

1        ican Road” and inserting “All-American Road, or  
2        one of America’s Byways”; and

3            (5) in subsection (c)(4), by striking “passing  
4        lane,”.

5        (b) RESEARCH, TECHNICAL ASSISTANCE, MAR-  
6 KETING, AND PROMOTION.—Section 162 of such title is  
7 further amended—

8            (1) by redesignating subsections (d), (e), and  
9        (f) as subsections (e), (f), and (g), respectively;

10          (2) by inserting after subsection (c) the fol-  
11        lowing new subsection:

12        “(d) RESEARCH, TECHNICAL ASSISTANCE, MAR-  
13 KETING, AND PROMOTION.—

14            “(1) IN GENERAL.—The Secretary may carry  
15        out research, technical assistance, marketing, and  
16        promotion with respect to State scenic byways, Na-  
17        tional Scenic Byways, All-American Roads, or Amer-  
18        ica’s Byways.

19            “(2) COOPERATION, GRANTS, AND CON-  
20        TRACTS.—The Secretary may make grants to or  
21        enter into contracts, cooperative agreements, and  
22        other transactions with any Federal agency, State  
23        agency, authority, association, institution, for-profit  
24        or nonprofit corporation, organization, foreign coun-  
25        try, or person, including the center for national see-

1 nic byways in Duluth, Minnesota, to carry out the  
2 provisions of this subsection.

3 “(3) FUNDS.—The Secretary may use funds  
4 made available for the National Scenic Byways Pro-  
5 gram to carry out projects and activities under this  
6 subsection.

7 “(4) PRIORITY.—The Secretary shall give pri-  
8 ority to partnerships that leverage private, Federal  
9 , or other public funds for research, technical assist-  
10 ance, marketing and promotion.”; and

11 (3) by adding the following at the end of sub-  
12 section (g): “The Federal share of the cost of  
13 projects or activities under subsection (d) may be up  
14 to 100 percent.”.

15 **SEC. 1606. RECREATIONAL TRAILS PROGRAM.**

16 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—  
17 Section 104(h)(1) of title 23, United States Code, is  
18 amended by striking “research and technical assistance  
19 under the recreational trails program and for the adminis-  
20 tration of the National Recreational Trails Advisory Com-  
21 mittee” and inserting “research, technical assistance, and  
22 training under the recreational trails program”.

23 (b) RECREATIONAL TRAILS PROGRAM ADMINISTRA-  
24 TION.—Section 206 of title 23, United States Code, is  
25 amended—



1           (1) by striking subsection (c) and inserting the  
2 following:

3           “(c) STATE RESPONSIBILITIES.—

4           “(1) ELIGIBILITY.—To be eligible for appor-  
5 tionments under this section—

6           “(A) the Governor of the State shall des-  
7 ignate the State agency or agencies that will be  
8 responsible for administering apportionments  
9 made to the State under this section; and

10           “(B) the State shall establish a State rec-  
11 reational trail committee that—

12           “(i) has not less than 30 percent of  
13 its voting membership representing non-  
14 motorized recreational trail users,

15           “(ii) has not less than 30 percent of  
16 its voting membership representing motor-  
17 ized recreational trail users,

18           “(iii) must meet not less than once  
19 per Federal fiscal year in a publicly an-  
20 nounced public meeting, and

21           “(iv) must be used to develop state-  
22 wide trail program policy and to rate,  
23 rank, and recommend recreational trails  
24 program projects for funding.

1           “(2) OBLIGATION REQUIREMENT.—If a State  
2 does not meet the committee requirements within a  
3 fiscal year, it is not eligible for an apportionment in  
4 the following fiscal year.”;

5           (2) by striking subsection (d)(2) and inserting  
6 the following:

7           “(2) PERMISSIBLE USES.—Permissible uses of  
8 funds apportioned to a State for a fiscal year to  
9 carry out this section include—

10           “(A) maintenance and restoration of exist-  
11 ing recreational trails;

12           “(B) development and rehabilitation of  
13 trailside and trailhead facilities and trail link-  
14 ages for recreational trails;

15           “(C) purchase and lease of recreational  
16 trail construction and maintenance equipment;

17           “(D) construction of new recreational  
18 trails, except that, in the case of new rec-  
19 reational trails crossing Federal lands, con-  
20 struction of the trails shall be—

21           “(i) permissible under other law;

22           “(ii) necessary and recommended by a  
23 statewide comprehensive outdoor recreation  
24 plan that is required by the Land and  
25 Water Conservation Fund Act of 1965 (16

1 U.S.C. 460l-4 et seq.) and that is in ef-  
2 fect;

3 “(iii) approved by the administering  
4 agency of the State designated under sub-  
5 section (c)(1)(A); and

6 “(iv) approved by each Federal agency  
7 having jurisdiction over the affected lands  
8 under such terms and conditions as the  
9 head of the Federal agency determines to  
10 be appropriate, except that the approval  
11 shall be contingent on compliance by the  
12 Federal agency with all applicable laws, in-  
13 cluding the National Environmental Policy  
14 Act of 1969 (42 U.S.C. 4321 et. seq.), the  
15 Forest and Rangeland Renewable Re-  
16 sources Planning Act of 1974 (16 U.S.C.  
17 1600 et. seq.), and the Federal Land Pol-  
18 icy and Management Act of 1976 (43  
19 U.S.C. 1701 et. seq.);

20 “(E) acquisition of easements and fee sim-  
21 ple title to property for recreational trails or  
22 recreational trail corridors;

23 “(F) assessment of trail conditions for ac-  
24 cessibility and maintenance;

1           “(G) use of trail crews, youth conservation  
2 or service corps, or other appropriate means to  
3 carry out activities under this section;

4           “(H) operation of educational programs to  
5 promote safety and environmental protection as  
6 those objectives relate to the use of recreational  
7 trails, supporting non-law enforcement trail  
8 safety and trail use monitoring patrol pro-  
9 grams, and providing trail-related training, but  
10 in an amount not to exceed 5 percent of the ap-  
11 portionment made to the State for the fiscal  
12 year; and

13           “(I) payment of costs to the State incurred  
14 in administering the program, but in an amount  
15 not to exceed 7 percent of the apportionment  
16 made to the State for the fiscal year to carry  
17 out this section.”;

18           (3) by striking subsection (d)(3)(C) and insert-  
19 ing the following:

20           “(C) USE OF YOUTH CONSERVATION OR  
21 SERVICE CORPS.—A State shall make available  
22 not less than 10 percent of its apportionments  
23 for grants, cooperative agreements, or contracts  
24 with qualified youth conservation or service

1           corps to perform recreational trails program ac-  
2           tivities.”;

3           (4) in subsection (d)(3)(D), by striking  
4           “(2)(F)” and inserting “(2)(I)”;

5           (5) by amending subsection (f)—

6           (A) in paragraph (1)—

7           (i) by inserting “and the Federal  
8           share of the administrative costs of a  
9           State” after “project”; and

10          (ii) by striking “not exceed 80 per-  
11          cent” and inserting in its place “be deter-  
12          mined in accordance with section 120(b)”;

13          (B) in paragraph (2)(A), by striking “80  
14          percent of” and inserting “the amount deter-  
15          mined in accordance with section 120(b) for”;

16          (C) in paragraph (2)(B), by inserting  
17          “sponsoring the project” after “Federal agen-  
18          cy”;

19          (D) by striking paragraph (5);

20          (E) by redesignating paragraph (4) as  
21          paragraph (5), and by striking “80 percent”  
22          and inserting in its place “the Federal share as  
23          determined in accordance with section 120(b)”;  
24          and

25          (F) by inserting after paragraph (3)—

1           “(4) USE OF RECREATIONAL TRAILS PROGRAM  
2 FUNDS TO MATCH OTHER FEDERAL PROGRAM  
3 FUNDS.—Notwithstanding any other provision of  
4 law, funds made available under this section may be  
5 used toward the non-Federal matching share for  
6 other Federal program funds that are—

7           (A) expended in accordance with the re-  
8 quirements of the Federal program relating to  
9 activities funded and populations served; and

10           (B) expended on a project that is eligible  
11 for assistance under this section.”;

12           (6) by inserting after subsection (h)(1)(B) the  
13 following:

14           “(C) PLANNING AND ENVIRONMENTAL AS-  
15 SESSMENT COSTS INCURRED PRIOR TO PROJECT  
16 APPROVAL.—A project funded under sub-  
17 sections (d)(2)(A) through (H) may allow pre-  
18 approval planning and environmental compli-  
19 ance costs to be credited toward the non-Fed-  
20 eral share in accordance with subsection (f),  
21 limited to costs incurred less than 18 months  
22 prior to project approval.”; and

23           (7) by striking paragraph (h)(2) and inserting  
24 the following:

1           “(2) WAIVER OF HIGHWAY PROGRAM REQUIRE-  
2           MENTS.—A project funded under this section is in-  
3           tended to enhance recreational opportunity and is  
4           not considered a highway project. Projects funded  
5           under this section are not subject to sections 112,  
6           113, 114, 116, 134, 135, 217, or 301 of this title;  
7           or section 303 of title 49.”.

8   **SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.**

9           Subsection 103(c) of title 23, United States Code, is  
10          amended by inserting the following after paragraph (4):

11           “(5) EXEMPTION OF THE INTERSTATE SYS-  
12          TEM.—The Interstate Highway System, or any por-  
13          tion thereof, as designated pursuant to subsection  
14          103(c) of this title, shall not be considered an his-  
15          toric site of national, State or local significance for  
16          purposes of 49 U.S.C. 303, 16 U.S.C. 470f, or 16.  
17          U.S.C. 470h–2 by virtue of being listed as a re-  
18          source on, or eligible for listing in, the National Reg-  
19          ister of Historic Places. At the discretion of the Sec-  
20          retary, with the advice of the Department of the In-  
21          terior, individual elements of the Interstate Highway  
22          System may receive the protection of section 106 or  
23          section 110 of the National Historic Preservation  
24          Act (16 U.S.C. 470f and 470h–2).”.

1 **SEC. 1608. MODIFICATION TO NHS/STP FOR INVASIVE SPE-**  
2 **CIES, WETLANDS, BROWNFIELDS, AND ENVI-**  
3 **RONMENTAL RESTORATION.**

4 (a) MODIFICATIONS TO THE NHS FOR INVASIVE  
5 SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRON-  
6 MENTAL RESTORATION.—

7 (1) TECHNICAL CORRECTIONS.—Section 103

8 (b)(6) of title 23, United States Code, is amended  
9 in subparagraph (M)—

10 (A) by striking “1990” and inserting  
11 “2000”; and

12 (B) by striking “101–640” and inserting  
13 “106–541”.

14 (2) STATE RESPONSIBILITY.—Section 103

15 (b)(6) is further amended in subparagraph (M) by  
16 inserting “as determined by the State” after “to the  
17 maximum extent practicable”.

18 (3) ELIGIBLE PROJECTS FOR NHS.—Section

19 103 (b)(6) is further amended by adding at the end  
20 the following new subparagraphs:

21 “(Q) Environmental restoration and pollu-  
22 tion abatement to minimize or mitigate impacts  
23 of any transportation project funded under this  
24 title (including the retrofit or construction of  
25 storm water treatment systems to meet State  
26 and Federal National Pollutant Discharge



1 Elimination System requirements under Section  
2 402 of the Clean Water Act) to address water  
3 pollution or environmental degradation caused  
4 or contributed to by transportation facilities.  
5 When transportation facilities are undergoing  
6 reconstruction, rehabilitation, resurfacing, or  
7 restoration, the expenditure of funds under this  
8 section for any such environmental restoration  
9 or pollution abatement project shall not exceed  
10 20 percent of the total cost of the reconstruc-  
11 tion, rehabilitation, resurfacing, or restoration  
12 project.

13 “(R) In accordance with all applicable  
14 Federal law (including applicable Federal regu-  
15 lations), participation in the control of invasive  
16 plant species and the establishment of native  
17 species related to projects funded under this  
18 title, which may include participation in state-  
19 wide inventories of both invasive and desirable  
20 plant species and regional native plant habitat  
21 conservation and mitigation, and restoration  
22 plans. Contributions to the measures described  
23 in the preceding sentence may take place con-  
24 current with or in advance of project construc-  
25 tion; except that contributions in advance of

1 project construction may occur only if the ef-  
2 forts are consistent with all applicable require-  
3 ments of Federal law (including applicable Fed-  
4 eral regulations) and State transportation plan-  
5 ning processes.

6 “(S) Remediation associated with the con-  
7 struction of a project funded under this title on  
8 a brownfield site, as defined in 42 U.S.C.  
9 9601.”.

10 (b) MODIFICATIONS TO THE SURFACE TRANSPOR-  
11 TATION PROGRAM FOR INVASIVE SPECIES, WETLANDS,  
12 BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

13 (1) TECHNICAL CORRECTIONS.—Section 133

14 (b)(11) of title 23, is amended—

15 (A) by striking “1990” and inserting  
16 “2000”; and

17 (B) by striking “101–640” and inserting  
18 “106–541”;

19 (2) STATE RESPONSIBILITY.—Section 133

20 (b)(11) is further amended by inserting “determined  
21 by the State” after “to the maximum extent prac-  
22 ticable”.

23 (3) ELIGIBLE PROJECTS FOR SURFACE TRANS-  
24 PORTATION PROGRAM.—

1           (A) ENVIRONMENTAL RESTORATION AND  
2           POLLUTION ABATEMENT.—Section 133 of title  
3           23, United States Code, is amended by striking  
4           (b)(14) and inserting the following:

5           “(14) Environmental restoration and pollution  
6           abatement to minimize or mitigate impacts of any  
7           transportation project funded under this title (in-  
8           cluding the retrofit or construction of storm water  
9           treatment systems to meet State and Federal Na-  
10          tional Pollutant Discharge Elimination System re-  
11          quirements under Section 402 of the Clean Water  
12          Act) to address water pollution or environmental  
13          degradation caused or contributed to by transpor-  
14          tation facilities. When transportation facilities are  
15          undergoing reconstruction, rehabilitation, resur-  
16          facing, or restoration, the expenditure of funds  
17          under this section for any such environmental res-  
18          toration or pollution abatement project shall not ex-  
19          ceed 20 percent of the total cost of the reconstruc-  
20          tion, rehabilitation, resurfacing, or restoration  
21          project.”.

22           (B) INVASIVE SPECIES CONTROL AND  
23           BROWNFIELDS REMEDIATION EFFORTS.—Sec-  
24           tion 133(b) of such title, as amended by this

1 Act, is further amended by adding at the end  
2 the following new paragraphs:

3 “(16) In accordance with all applicable Federal  
4 law (including regulations), participation in the con-  
5 trol of invasive plant species and the establishment  
6 of native species related to projects funded under  
7 this title, which may include participation in state-  
8 wide inventories of both invasive and desirable plant  
9 species and regional native plant habitat conserva-  
10 tion and mitigation, and restoration plans. Contribu-  
11 tions to the measures described in the preceding sen-  
12 tence may take place concurrent with or in advance  
13 of project construction; except that contributions in  
14 advance of project construction may occur only if the  
15 efforts are consistent with all applicable require-  
16 ments of Federal law (including regulations) and  
17 State transportation planning processes.

18 “(17) Remediation associated with the con-  
19 struction of a project funded under this title on a  
20 brownfield site, as defined in 42 U.S.C. 9601.”.

21 **SEC. 1609. STANDARDS.**

22 (a) IN GENERAL.—Section 109(a) of title 23 of the  
23 United States Code is amended by—

24 (1) striking “and” at the end of paragraph (1);

1           (2) striking the period at the end of paragraph  
2           (2) and inserting “; and”; and

3           (3) adding the following paragraph at the end  
4           of subsection (a):

5           “(3) consider the preservation, historic, scenic,  
6           natural environment, and community values.”.

7           (b) CONTEXT SENSITIVE DESIGN.—Section 109 of  
8           such title is amended by striking subsection (p) and insert-  
9           ing the following:

10          “(p) CONTEXT SENSITIVE DESIGN.—

11           “(1) The Secretary shall encourage States to  
12           design projects funded under title 23 to—

13           “(A) allow for the preservation of environ-  
14           mental, scenic, community, and/or historic val-  
15           ues;

16           “(B) ensure safe use of the facility for  
17           both passenger and freight movement;

18           “(C) provide for consideration of the con-  
19           text of the locality;

20           “(D) encourage access for other modes of  
21           transportation; and

22           “(E) comply with subsection (a).

23           “(2) Notwithstanding subsections (b) and (c),  
24           the Secretary may approve a project for the Na-  
25           tional Highway System if the project is designed to

1 achieve the criteria of subparagraphs (A) through  
2 (E).”.

3 **SEC. 1610. USE OF HOV LANES.**

4 Section 102 of title 23, United States Code, is  
5 amended by striking subsection (a) and inserting the fol-  
6 lowing:

7 “(a) HIGH OCCUPANCY VEHICLE (HOV) PASSENGER  
8 REQUIREMENTS.—

9 “(1) IN GENERAL.—A State transportation de-  
10 partment or other responsible local agencies shall es-  
11 tablish the occupancy requirements of vehicles oper-  
12 ating in HOV facilities; except that no fewer than 2  
13 occupants per vehicle may be required, unless other-  
14 wise provided in paragraph (2).

15 “(2) EXCEPTIONS TO HOV OCCUPANCY RE-  
16 QUIREMENTS.—

17 “(A) MOTORCYCLES.—Motorcycles shall  
18 not be considered single occupant vehicles and  
19 shall be allowed to use HOV facilities, except  
20 that upon certification by the responsible agen-  
21 cy to the Secretary, the agency may restrict  
22 such use by motorcycles if such use would cre-  
23 ate a safety hazard.

24 “(B) LOW EMISSION AND ENERGY-EFFI-  
25 CIENT VEHICLES.—

1           “(i) Responsible agencies shall have  
2           the option of allowing qualifying low emis-  
3           sion and energy-efficient vehicles to use  
4           HOV facilities if they do not satisfy the es-  
5           tablished occupancy requirements.

6           “(ii) Responsible agencies that allow  
7           qualifying low emission and energy-effi-  
8           cient vehicles to use HOV facilities shall—

9                   “(I) establish a program that ad-  
10                  dresses how such qualifying vehicles  
11                  are selected and certified;

12                  “(II) establish requirements for  
13                  labeling qualifying vehicles and proce-  
14                  dures for enforcing such vehicles;

15                  “(III) continuously monitor,  
16                  evaluate, and report on performance;  
17                  and

18                  “(IV) establish the policies and  
19                  procedures that will limit or restrict  
20                  the use of such vehicles as necessary,  
21                  to ensure that the performance of in-  
22                  dividual facilities or the entire system  
23                  does not become seriously degraded.

24           “(iii) As used in this subparagraph,  
25           the term “low emission and energy-effi-

1           cient vehicles” means vehicles that have  
2           been certified—

3                   “(I) by the Administrator of the  
4                   Environmental Protection Agency to  
5                   have a 45-mile-per-gallon or greater  
6                   fuel economy highway rating; or are  
7                   defined as an alternative fuel vehicle  
8                   under section 301(2) of the Energy  
9                   Policy Act of 1992 (42 U.S.C.  
10                  13211(2)); and

11                  “(II) as meeting Tier II emission  
12                  level established in regulations pre-  
13                  scribed by the Administrator of the  
14                  Environmental Protection Agency  
15                  under section 202(i) of the Clean Air  
16                  Act (42 U.S.C. 7521(i)) for that make  
17                  and model year vehicle.

18                  “(C) BICYCLES.—Responsible agencies  
19                  shall have the option of allowing bicycles on  
20                  surface street HOV facilities when there is in-  
21                  sufficient space within the roadway or public  
22                  right-of-way to establish and designate a bicycle  
23                  lane.

24                  “(D) TOLLING OF VEHICLES.—Responsible  
25                  agencies may permit vehicles, in addition to



1 those vehicles described in paragraphs (A), (B),  
2 and (E) that do not satisfy the established oc-  
3 cupancy requirements, to use an HOV facility  
4 only if they charge such vehicles a toll. The au-  
5 thority of an agency to impose a toll shall be  
6 subject to section 129 of this title. Any agency  
7 electing to toll such vehicles shall also—

8 “(i) establish a program that address-  
9 es how motorists can enroll and partici-  
10 pate;

11 “(ii) develop, manage, and maintain a  
12 system that will automatically collect the  
13 tolls that vehicles must pay;

14 “(iii) continuously monitor, evaluate,  
15 and report on performance;

16 “(iv) establish the policies and proce-  
17 dures for varying the toll that is charged  
18 to manage the demand to use the subject  
19 facilities and enforcing violations; and

20 “(v) establish procedures that will  
21 limit or restrict the use of such vehicles as  
22 necessary, to ensure that the performance  
23 of individual facilities or the entire system  
24 does not become seriously degraded.

1           “(E) DESIGNATED PUBLIC TRANSPOR-  
2 TATION VEHICLES.—

3           “(i) In this subparagraph, the term  
4 “designated public transportation vehicles”  
5 means vehicles that provide designated  
6 public transportation, as defined under  
7 section 12141 of title 42, and that are  
8 owned or operated by a public entity or  
9 that are operating under contract to a pub-  
10 lic entity.

11           “(ii) Responsible agencies may permit  
12 designated public transportation vehicles to  
13 use HOV facilities if they do not satisfy  
14 the established occupancy requirements.

15           “(iii) Any agency that permits des-  
16 ignated public transportation vehicles to  
17 use HOV facilities if they do not satisfy  
18 the established occupancy requirements  
19 shall—

20           “(I) establish requirements for  
21 clearly and identifiably labeling vehi-  
22 cles operating under contract to the  
23 public entity with the name of the  
24 public entity on all sides of the vehi-  
25 cle;

1           “(II) establish the policies and  
2           procedures to ensure that vehicles op-  
3           erating under contract to the public  
4           entity are in compliance with the la-  
5           beling requirement under subclause  
6           (I) of this clause;

7           “(III) continuously monitor,  
8           evaluate, and report on performance;  
9           and

10           “(IV) establish the policies and  
11           procedures that will limit or restrict  
12           the use of such vehicles as necessary,  
13           to ensure that the performance of in-  
14           dividual facilities or the entire system  
15           does not become seriously degraded.

16           “(3) HOV FACILITY MANAGEMENT, OPERATION,  
17           AND MONITORING.—Agencies that permit any of the  
18           exceptions specified in paragraph (a)(2) shall be re-  
19           sponsible for the following:

20           “(A) PERFORMANCE MONITORING, EVAL-  
21           UATION, AND REPORTING.—Responsible agen-  
22           cies shall be required to establish, manage, and  
23           support a performance monitoring, evaluation,  
24           and reporting program if they permit any of the  
25           exceptions specified in paragraph (a)(2). This

1 program shall continuously monitor, assess, and  
2 report on the impacts that any of these specific  
3 types of allowed vehicles may have on the oper-  
4 ation of individual HOV facilities and the entire  
5 HOV system.

6 “(B) OPERATION OF HOV FACILITY OR  
7 SYSTEM.—Responsible agencies shall limit or  
8 discontinue permitting any of the exceptions  
9 specified in paragraph (a)(2), if the presence of  
10 any of these specific types of allowed vehicles  
11 seriously degrades the operation of individual  
12 HOV facilities or the entire HOV system. For  
13 purposes of this section, “seriously degraded”  
14 means that an HOV facility located on a free-  
15 way, or similar type of roadway, fails to main-  
16 tain a minimum average operating speed of at  
17 least 45 miles per hour 90 percent of the time  
18 over a consecutive six-month period during  
19 weekday peak travel periods. For HOV facilities  
20 on other types of roadways, the minimum aver-  
21 age operating speed, performance threshold,  
22 and associated time period shall be established  
23 based on the conditions unique to each roadway  
24 and agreed to by the responsible agencies.”.

1 **SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN**  
2 **WALKWAYS.**

3 (a) IN GENERAL.—Section 217 of title 23, United  
4 States Code, is amended—

5 (1) in subsection (a), by inserting “pedestrian  
6 and” after “safe”;

7 (2) in subsection (e), by striking “bicycles”  
8 each time it appears and inserting “pedestrians or  
9 bicyclists” in each instance;

10 (3) by striking subsection (f) and inserting the  
11 following:

12 “(f) FEDERAL SHARE.—The Federal share of the  
13 construction of bicycle transportation facilities and pedes-  
14 trian walkways and for carrying out nonconstruction  
15 projects related to safe pedestrian and bicycle use shall  
16 be determined in accordance with section 120(b).”;

17 (4) in subsection (j), by inserting after para-  
18 graph (4) the following:

19 “(5) SHARED USE PATH.—The term “shared  
20 use path” means a multi-use trail or other path,  
21 physically separated from motorized vehicular traffic  
22 by an open space or barrier, either within a highway  
23 right-of-way or within an independent right-of-way,  
24 and usable for transportation purposes. Shared use  
25 paths may be used by pedestrians, bicyclists, skat-

1       ers, equestrians, and other nonmotorized users.”;  
2       and

3               (5) by adding after subsection (j) the following:

4       “(k) USER FEES.—At the option of each State, a  
5 shared use path funded under this section is not subject  
6 to the provisions of 23 U.S.C. 301, provided that the  
7 shared use path is not within a highway right-of-way, and  
8 the income received from user fees is used for ongoing  
9 maintenance and operation of shared use paths within the  
10 State.

11       “(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

12               “(1) IN GENERAL.—The Secretary shall make  
13 grants to a national, not-for-profit organization en-  
14 gaged in promoting bicycle and pedestrian safety  
15 to—

16                       “(A) operate a national bicycle and pedes-  
17 trian clearinghouse;

18                       “(B) develop information and educational  
19 programs; and

20                       “(C) disseminate techniques and strategies  
21 for improving bicycle and pedestrian safety.

22       “(2) FUNDING.—Funds provided under section  
23 104(p) of this title shall be available to carry out the  
24 provisions of this section.



1 (b) CONTENTS.—The program to be carried out  
2 under this section shall include, but not be limited to, re-  
3 search designed to—

4 (1) identify, develop and evaluate strategies to  
5 improve energy efficiency and reduce greenhouse gas  
6 emissions from transportation sources; and

7 (2) identify and evaluate the potential effects of  
8 climate changes on the nation’s transportation sys-  
9 tems, and strategies to address these effects;

10 (c) PROJECT SELECTION.—Activities to be under-  
11 taken in this program will be determined by an internal  
12 steering committee established by the Secretary of Trans-  
13 portation. This intermodal committee shall include rep-  
14 resentatives from the Office of the Secretary and oper-  
15 ating administrations within the Department of Transpor-  
16 tation as designated by the Secretary.

17 (d) GRANTS, COOPERATIVE AGREEMENTS AND CON-  
18 TRACTS.—The Secretary may carry out this program inde-  
19 pendently or by making grants to, or entering into con-  
20 tracts, cooperative agreements, and other transactions,  
21 with a Federal agency, State agency, local agency, author-  
22 ity, association, nonprofit or for-profit corporation, or in-  
23 stitution of higher education.

24 (e) FUNDING.—

25 (1) HIGHWAY ACCOUNT.—



1 (A) FUNDING.—There is authorized to be  
2 appropriated from the Highway Trust Fund  
3 (other than the Mass Transit Account) to carry  
4 out this section \$3,600,000 for fiscal year  
5 2004, \$2,200,000 for fiscal year 2005,  
6 \$2,200,000 for fiscal year 2006, \$2,200,000 for  
7 fiscal year 2007, \$2,700,000 for fiscal year  
8 2008, and \$2,700,000 for fiscal year 2009.

9 (B) CONTRACT AUTHORITY.—Funds au-  
10 thorized from the Highway Trust Fund (other  
11 than the Mass Transit Account) to carry out  
12 this Section shall be available for obligation in  
13 the same manner as if the funds were appor-  
14 tioned under Chapter 1 of Title 23, United  
15 States Code, except that the Federal share of  
16 the cost of a project or activity carried out  
17 using such funds shall not exceed 100 percent  
18 and such funds shall remain available until ex-  
19 pended.

20 (2) MASS TRANSIT ACCOUNT.—

21 (A) FUNDING.—There is authorized to be  
22 appropriated from the Mass Transit Account of  
23 the Highway Trust Fund to carry out this sec-  
24 tion \$400,000 for fiscal year 2004, \$300,000  
25 for fiscal year 2005, \$300,000 for fiscal year

1           2006, \$300,000 for fiscal year 2007, \$300,000  
2           for fiscal year 2008, and \$300,000 for fiscal  
3           year 2009.

4           (B) CONTRACT AUTHORITY.—A grant or  
5           contract that is financed with amounts paid  
6           under this subparagraph from the Mass Transit  
7           Account is a contractual obligation of the  
8           United States Government to pay the Govern-  
9           ment’s share of the cost of the project.

10          (3) AIRPORT AND AIRWAY TRUST FUND.—  
11          There is authorized to be appropriated from the  
12          Airport and Airway Trust Fund to carry out  
13          this section \$500,000 for fiscal year 2005,  
14          \$500,000 for fiscal year 2006, and \$500,000  
15          for fiscal year 2007.

16 **SEC. 1613. IDLING REDUCTION FACILITIES IN INTERSTATE**  
17 **RIGHTS-OF-WAY.**

18          Section 111 of Title 23 of the United States Code  
19 is hereby amended by adding at the end the following:

20          “(d) IDLING REDUCTION FACILITIES IN INTERSTATE  
21 RIGHTS-OF-WAY.—Notwithstanding the prohibition on  
22 commercial establishments set forth in subsection (a), any  
23 State may permit electrification or other idling reduction  
24 facilities and equipment, for use by motor vehicles used  
25 for commercial purposes, to be placed in rest and recre-

1 ation areas, and in safety rest areas, constructed or lo-  
 2 cated on rights-of-way of the Interstate System in such  
 3 State, and may charge, or permit charges for the use of  
 4 such facilities. The exclusive purpose of such facilities or  
 5 technologies shall be to enable operators of such vehicles  
 6 to turn off their engines while parked and still have heat-  
 7 ing, air conditioning, electricity, and communication serv-  
 8 ices in the vehicle.”.

9 **SEC. 1614. APPROPRIATION FOR TRANSPORTATION PUR-**  
 10 **POSES OF LANDS OR INTEREST IN LANDS**  
 11 **OWNED BY THE UNITED STATES.**

12 (a) IN GENERAL.—Section 317 of title 23, United  
 13 States Code, is amended to read as follows:

14 **“§ 317. Appropriation for transportation purposes of**  
 15 **lands or interest in lands owned by the**  
 16 **United States**

17 “(a) IN GENERAL.—If the Secretary determines that  
 18 any part of the lands or interests in land owned by the  
 19 United States are reasonably necessary for any project ad-  
 20 ministered under this title or as a source for materials  
 21 for such a project, the Secretary is authorized to file with  
 22 the Secretary of the Department supervising the adminis-  
 23 tration of such lands or interests in lands a description  
 24 and a map showing the portion of such lands or interests  
 25 in lands which it is necessary to appropriate. The Sec-

1   retary of such Department shall have a period of up to  
2   four months to review the proposed appropriation and to  
3   designate reasonable mitigation measures necessary to  
4   protect the adjacent federal lands from adverse environ-  
5   mental impacts, or to certify that the proposed appropria-  
6   tion is contrary to the purposes for which such lands or  
7   materials have been reserved. If no such certification is  
8   received, the Secretary may appropriate and transfer such  
9   lands or interests in lands to the State transportation de-  
10  partment, or its nominee, subject to such reasonable miti-  
11  gation measures designated above. If at any time the need  
12  for such lands or materials for transportation purposes  
13  shall no longer exist, notice of the fact shall be given by  
14  the State transportation department to the Secretary and  
15  the Secretary of the Department from which they had  
16  been appropriated. Such lands or materials may, at the  
17  discretion of the Secretary of the Department from which  
18  they had been appropriated or its designee, revert to the  
19  United States, under the control of such Secretary, or its  
20  designee. Unless otherwise instructed by the Secretary,  
21  prior to any such reversion the State transportation de-  
22  partment shall restore the land to its former condition.

23       “(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.—  
24  Notwithstanding any other provision of law, the acquisi-  
25  tion and use of land under this section may proceed irre-

1 spective of any prior deed restrictions or other encum-  
 2 brances that were imposed as a condition on the receipt  
 3 of Federal funds.”.

4 (b) CONFORMING AMENDMENT.—The analysis for  
 5 chapter 3 of such title is revised by amending the item  
 6 relating to section 317 to read as follows:

“317. Appropriation for transportation purposes of lands or interest in lands  
 owned by the United States.”.

7 **SEC. 1615. TOLL PROGRAMS.**

8 (a) INTERSTATE SYSTEM RECONSTRUCTION AND RE-  
 9 HABILITATION PILOT PROGRAM.—Sec. 1216(b) of the  
 10 Transportation Equity Act for the 21st Century is amend-  
 11 ed—

12 (1) in paragraph (1), by striking “that could  
 13 not otherwise be adequately maintained or function-  
 14 ally improved without the collection of tolls”;

15 (2) in paragraph (3), by striking subparagraph  
 16 (C) and inserting the following:

17 “(C) An analysis demonstrating that fi-  
 18 nancing the reconstruction or rehabilitation of  
 19 the facility with the collection of tolls under this  
 20 pilot program is the most efficient, economical,  
 21 or expeditious way to advance the project.”; and  
 22 (3) in paragraph (4),

23 (A) by striking subparagraph (A) and in-  
 24 serting the following:

1           “(A) the State’s analysis showing that fi-  
2           nancing the reconstruction or rehabilitation of  
3           this facility with the collection of tolls under  
4           this program is the most efficient, economical,  
5           or expeditious way to advance the project is  
6           reasonable;”;

7           (B) by striking subparagraph (B) and in-  
8           serting the following:

9           “(B) the facility needs reconstruction or  
10          rehabilitation;”;

11          (C) by striking subparagraph (C); and

12          (D) by redesignating subparagraphs (D)  
13          and (E) as subparagraphs (C) and (D), respec-  
14          tively.

15          (b) VARIABLE TOLL PRICING PROGRAM.—

16           (1) ESTABLISHMENT.—The Secretary, notwith-  
17           standing sections 129 and 301 of title 23, United  
18           States Code, may permit a State or public authority  
19           to toll any highway, bridge, or tunnel, including fa-  
20           cilities on the Interstate System, to manage existing  
21           high levels of congestion or reduce emissions in a  
22           nonattainment area or maintenance area.

23           (2) BASIC PROGRAM.—The following conditions  
24           apply to any variable toll pricing program estab-  
25           lished under this section:

## 1 (A) LIMITATION ON USE OF REVENUES.—

2 All toll revenues received from the operation of  
3 the toll facility shall be used first for debt serv-  
4 ice, reasonable return on investment of any pri-  
5 vate financing, and the costs necessary for  
6 proper operation and maintenance of the toll fa-  
7 cility (including reconstruction, resurfacing, res-  
8 toration, and rehabilitation). If the State or  
9 public authority certifies annually that the  
10 tolled facility is being adequately maintained,  
11 then the State or public authority may use any  
12 excess toll revenues for projects eligible for Fed-  
13 eral assistance under title 23, United States  
14 Code.

15 (B) AGREEMENT.—Before the Secretary  
16 may permit tolling under this subsection, and  
17 for each facility that may be tolled, the Sec-  
18 retary and the State or public authority must  
19 enter into an agreement providing for the con-  
20 ditions in subparagraphs (A) and (C) of this  
21 paragraph. The agreement shall terminate upon  
22 the decision of the State or public authority to  
23 discontinue its variable tolling program for that  
24 facility. If there is any debt outstanding on the  
25 facility at the time the decision is made to dis-

1 continue the program, the facility may continue  
2 to be tolled in accordance with the terms of the  
3 agreement until the debt is retired.

4 (C) REQUIREMENTS.—

5 (i) VARIABLE PRICE REQUIREMENT.—

6 The Secretary shall require, for each facil-  
7 ity that may be tolled under this sub-  
8 section, that the tolls vary in price accord-  
9 ing to time of day, as appropriate, to man-  
10 age congestion or to improve air quality.

11 (ii) HOV PASSENGER REQUIRE-

12 MENTS.—In addition to the exceptions to  
13 the high occupancy vehicle passenger re-  
14 quirements established under section  
15 102(a)(2) of title 23, United States Code,  
16 a State may permit vehicles with fewer  
17 than 2 occupants to operate in high occu-  
18 paney vehicle lanes as part of a variable  
19 toll pricing program established under this  
20 subsection.

21 (D) LIMITATION ON FEDERAL SHARE.—

22 The Federal share payable for projects on the  
23 tolled facility, including projects to install toll  
24 collection facilities, shall be a percentage deter-



1           mined by the State but shall not exceed 80 per-  
2           cent.

3           (3) ELIGIBILITY.—To be eligible to participate  
4           in the program, a State or public authority shall  
5           provide to the Secretary—

6                   (A) a description of the congestion or air  
7                   quality problems sought to be addressed under  
8                   this program;

9                   (B) an identification of the goals sought to  
10                  be achieved and the performance measures that  
11                  would be used to gauge the success made to-  
12                  ward reaching those goals; and

13                  (C) such other information as the Sec-  
14                  retary may require.

15           (4) DEFINITIONS.—

16                   (A) MAINTENANCE AREA.—The term  
17                   “maintenance area” has the same meaning  
18                   given the term under section 101 of title 23,  
19                   United States Code.

20                   (B) NONATTAINMENT AREA.—The term  
21                   “nonattainment area” has the same meaning  
22                   given the term under section 7501 of title 42,  
23                   United States Code.

24           (c) REPEAL.—Section 1012(b) of the Intermodal  
25           Surface Transportation Efficiency Act, as amended by

1 section 1216(a) of the Transportation Equity Act for the  
 2 21st Century, is repealed. Notwithstanding the repeal of  
 3 section 1012(b), the Secretary shall monitor and allow any  
 4 value pricing program established under a cooperative  
 5 agreement in effect on the date of enactment of this Act  
 6 to continue.

7 **SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER**  
 8 **STANDARDS, AND REGIONAL HAZE PRO-**  
 9 **GRAM.**

10 (a) **TITLE.**—The heading of title VI of the Transpor-  
 11 tation Equity Act for the 21st Century (Public Law 105–  
 12 178; 112 Stat. 463; June 9, 1998) is amended to read  
 13 as follows:

14 **“TITLE VI—OZONE STANDARDS,**  
 15 **PARTICULATE MATTER**  
 16 **STANDARDS, AND REGIONAL**  
 17 **HAZE PROGRAM”**

18 (b) **FINDINGS AND PURPOSE.**—Section 6101 of such  
 19 Act is amended to read as follows:

20 **“§ 6101. Findings and Purpose**

21 “(a) The Congress finds that—

22 “(1) the fine particle (PM–2.5) standards pro-  
 23 mulgated by the Administrator of the Environmental  
 24 Protection Agency (referred to in this title as “Ad-

1        administrator”) in July 1997 were established to pro-  
2        tect the public health and welfare;

3                “(2) there is a continuing need for PM–2.5 air  
4        quality monitoring data;

5                “(3) with three years of PM–2.5 air quality  
6        monitoring data for all areas expected to be available  
7        by 2003 it is important to move forward to des-  
8        ignate areas as attainment or nonattainment and  
9        proceed with implementation of these standards;

10               “(4) it will be beneficial to States to develop  
11        and submit implementation plans for the PM–2.5  
12        standards and the regional haze program at the  
13        same time; and

14               “(5) Western States that participated in the  
15        Grand Canyon Visibility Transport Commission  
16        should be permitted to submit plans in 2003 to im-  
17        plement recommendations set forth in the Commis-  
18        sion’s report.

19        “(b) The purposes of this title are—

20               “(1) to ensure the availability of PM–2.5 air  
21        quality monitoring data;

22               “(2) to establish a deadline for the designation  
23        of areas for the PM–2.5 standards; and

24               “(3) to ensure that States are able to develop  
25        PM–2.5 and regional haze implementation plans at

1 the same time for all areas within a State, while  
2 continuing to allow nine Western States the option  
3 of submitting regional haze plans in 2003 to imple-  
4 ment regional haze requirements based on the 1996  
5 recommendations of the Grand Canyon Visibility  
6 Transport Commission.”.

7 (c) PARTICULATE MATTER AND REGIONAL HAZE.—

8 (1) The heading of section 6102 of the Trans-  
9 portation Equity Act for the 21st Century is amend-  
10 ed to read as follows:

11 **“§ 6102. Particulate matter and regional haze pro-  
12 grams”**

13 (2) Section 6102(c) of such Act is amended to  
14 read as follows:

15 “(c)(1) The Governors shall be required to submit  
16 designations referred to in section 107(d)(1) of the Clean  
17 Air Act (42 U.S.C. 7407(d)(1)) for each area following  
18 promulgation of the July 1997 PM–2.5 national ambient  
19 air quality standard by September 30, 2003, based on air  
20 quality monitoring data collected in accordance with any  
21 applicable Federal reference methods for the relevant  
22 areas. Only data from the monitoring network designated  
23 in subsection (a) and other Federal reference method PM–  
24 2.5 monitors shall be considered for such designations.  
25 Nothing in the previous sentence shall be construed as af-

1 fecting the Governor’s authority to designate an area ini-  
2 tially as nonattainment, and the Administrator’s authority  
3 to promulgate the designation of an area as nonattain-  
4 ment, under section 107(d)(1) of the Clean Air Act, based  
5 on its contribution to ambient air quality in a nearby non-  
6 attainment area.

7 “(2)(A) Each State shall submit, for the entire State,  
8 the State implementation plan revisions to meet the re-  
9 quirements promulgated by the Administrator under sec-  
10 tion 169B(e)(1) of the Clean Air Act (42 U.S.C.  
11 7492(e)(1)) (hereinafter in this paragraph referred to as  
12 ‘the regional haze requirements’) by 3 years after the date  
13 the Administrator promulgates the designations referred  
14 to in subsection (d) for such State.

15 “(B) The provisions of subparagraph (A) of this  
16 paragraph shall not preclude the implementation of the  
17 agreements and recommendations set forth in the Grand  
18 Canyon Visibility Transport Commission Report dated  
19 June 1996. These provisions shall not preclude the sub-  
20 mission of State implementation plan revisions by the  
21 States of Arizona, California, Colorado, Idaho, Nevada,  
22 New Mexico, Oregon, Utah, or Wyoming by December 31,  
23 2003, for implementation of the regional haze require-  
24 ments as they apply to such States. Each of the aforemen-  
25 tioned States submitting such plan revisions shall also

1 submit statewide implementation plan revisions, as re-  
2 quired under subparagraph (A), to address, as necessary,  
3 any additional mandatory Class I Federal areas not ad-  
4 dressed by the revisions submitted pursuant to the pre-  
5 ceding sentence.”.

6 (3) Section 169B(e)(2) of the Clean Air Act  
7 (42 U.S.C. 7492(e)(2)) is repealed.

8 (4) Section 6102(d) of the Transportation Eq-  
9 uity Act for the 21st Century is amended to read as  
10 follows:

11 “(d) Notwithstanding any other provision of law, the  
12 Administrator shall promulgate the designations referred  
13 to in subsection (d) of section 107 of the Clean Air Act  
14 for each area of each State for the July 1997 PM-2.5  
15 national ambient air quality standards by December 31,  
16 2004.”.

17 (d) CONFORMING AMENDMENT.—Section 1(b) of the  
18 Transportation Equity Act for the 21st Century is amend-  
19 ed in the Table of Contents—

20 (1) in the heading for title VI, by striking  
21 “OZONE AND PARTICULATE MATTER  
22 STANDARDS” and inserting “OZONE STAND-  
23 ARDS, PARTICULATE MATTER STANDARDS,  
24 AND REGIONAL HAZE PROGRAM”; and

1           (2) in the item relating to section 6102, by  
2           striking “monitoring program” and inserting “and  
3           regional haze programs”.

4 **SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED**  
5 **PROJECTS.**

6           Where, pursuant to a final judgment, a Federal court  
7 finds the United States liable by operation of section 8(d)  
8 the National Trails System Act (enacted by section 208  
9 of Pub. L. 98–11, 97 Stat. 48) (16 U.S.C. 1247(d)), for  
10 a taking of property under the Fifth Amendment to the  
11 United States Constitution, a State that has received  
12 funds, after the date of enactment of this Act, under a  
13 Federal-aid highway program established under title 23,  
14 United States Code, and that has used a portion of those  
15 funds to acquire, develop, maintain or improve a railroad  
16 right-of-way that is the subject of the judgment, shall in-  
17 demnify the United States up to the lesser amount of the  
18 judgment awarded (including attorney fees) or the Fed-  
19 eral-aid highway program funds received in connection  
20 with that railroad right-of-way.

1     **Subtitle G—Program Efficiencies**  
2     **and Improvements—Operations**

3     **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND**  
4             **OPERATIONS.**

5             (a) DEFINITIONS.—Section 101(a) of title 23, United  
6 States Code, is amended—

7                 (1) in paragraph (3)—

8                     (A) by inserting “and intermodal oper-  
9                     ations to enhance security” after “program” in  
10                     the first sentence; and

11                     (B) in subparagraph (G), by striking “traf-  
12                     fic control systems,”;

13                 (2) in paragraph (18), as redesignated by this  
14 Act, by inserting “costs incurred by transportation  
15 agencies attributed to operation of technology used  
16 to monitor critical transportation infrastructure for  
17 security purposes,” after “rent,” and by inserting  
18 “transportation systems management and operations  
19 and” after “with”;

20                 (3) in paragraph (19)(A)(i), as redesignated by  
21 this Act, by inserting—

22                     (A) “transportation system management  
23                     and operations, including,” after “for”;

24                     (B) “and transportation security” after  
25                     “installation of traffic”; and



1 (C) “equipment and programs for trans-  
2 portation response to manmade and natural dis-  
3 asters,” after “incident management pro-  
4 grams,”;

5 (4) by redesignating paragraphs (39) and (40),  
6 as redesignated by this Act, as paragraphs (40) and  
7 (41), respectively; and

8 (5) by inserting new paragraph (39) after para-  
9 graph (38), as follows:

10 “(39) TRANSPORTATION SYSTEMS MANAGE-  
11 MENT AND OPERATIONS.—The term ‘transportation  
12 systems management and operations’ means an inte-  
13 grated program to optimize the performance of ex-  
14 isting infrastructure through the implementation of  
15 multi- and intermodal, cross-jurisdictional systems,  
16 services, and projects designed to preserve capacity  
17 and improve security, safety, and reliability of Fed-  
18 eral-aid highways. Transportation systems manage-  
19 ment and operations includes regional operations  
20 collaboration and coordination activities between  
21 transportation and public safety agencies, and im-  
22 provements such as traffic detection and surveil-  
23 lance, arterial management, freeway management,  
24 demand management, work zone management, emer-  
25 gency management, electronic toll collection, auto-

1 mated enforcement, traffic incident management,  
2 roadway weather management, traveler information  
3 services, commercial vehicle operations, traffic con-  
4 trol, freight management, and coordination of high-  
5 way, rail, transit, bicycle, and pedestrian oper-  
6 ations.”.

7 (b) CONGESTION MITIGATION AND AIR QUALITY IM-  
8 PROVEDMENT PROGRAM ELIGIBILITY.—Section 149(b)(5)  
9 of such title is amended by inserting “improve transpor-  
10 tation systems management and operations,” after “inter-  
11 sections,”.

12 (c) SURFACE TRANSPORTATION PROGRAM ELIGI-  
13 BILITY.—Section 133(b) of such title, as amended by sec-  
14 tion 1608 of this Act, is further amended by adding at  
15 the end the following:

16 “(17) Regional transportation operations col-  
17 laboration and coordination activities that are asso-  
18 ciated with regional improvements, such as traffic  
19 incident management, technology deployment, emer-  
20 gency management and response, traveler informa-  
21 tion, and regional congestion relief.”.

22 (d) TRANSPORTATION SYSTEMS MANAGEMENT AND  
23 OPERATIONS.—Chapter 1 of such title, as amended by  
24 this Act, is further amended by inserting the following new  
25 section after section 164:

1 **“§ 165. Transportation systems management and op-**  
2 **erations**

3 “(a) AUTHORITY.—To ensure efficient and effective  
4 transportation systems management and operations on  
5 Federal-aid highways, through collaboration, coordination,  
6 and real-time information sharing, at a regional level, be-  
7 tween transportation system managers and operators,  
8 public safety officials, and the general public, and to man-  
9 age and operate Federal-aid highways in a coordinated  
10 manner to preserve the capacity and maximize the per-  
11 formance of existing highway and transit facilities for  
12 travelers and carriers, the Secretary of Transportation  
13 may—

14 “(1) encourage transportation system man-  
15 agers, operators, public safety officials, and trans-  
16 portation planners within an urbanized area, who  
17 are actively engaged in and responsible for con-  
18 ducting the day-to-day management, operations,  
19 public safety, and planning of transportation facili-  
20 ties and services, to collaborate and coordinate on a  
21 regional level in a continuous and sustained manner,  
22 for improved transportation systems management  
23 and operations, including, at a minimum—

24 “(A) developing a regional concept of oper-  
25 ations that defines a regional strategy shared  
26 by all transportation and public safety partici-

1 pants for how the regions' systems should be  
2 managed, operated, and measured;

3 "(B) sharing of information among opera-  
4 tors, service providers, public safety officials,  
5 and the general public; and

6 "(C) guiding in a regionally-coordinated  
7 manner, the implementation of regional trans-  
8 portation system management and operations  
9 initiatives including emergency evacuation and  
10 response, traffic incident management, tech-  
11 nology deployment, and traveler information  
12 systems delivery, in a manner consistent with  
13 and integrated into the ongoing Metropolitan  
14 and Statewide transportation planning proc-  
15 esses and regional intelligent transportation  
16 system architecture, if required; and

17 "(2) encourage States to establish a system of  
18 basic real-time monitoring capability for the surface  
19 transportation system and provide the capability and  
20 means to share that data among agencies (highways,  
21 transit, public safety), jurisdictions (including states,  
22 cities, counties, metropolitan planning organiza-  
23 tions), private-sector entities; and the traveling pub-  
24 lic.

1       “(b) EXECUTION.—To support the successful execu-  
2 tion of transportation systems management and oper-  
3 ations activities, the Secretary may undertake the fol-  
4 lowing:

5           “(1) Assist and cooperate with other Federal  
6 departments and agencies, State and local govern-  
7 ments, metropolitan planning organizations, private  
8 industry, and other interested parties to improve re-  
9 gional collaboration and real-time information shar-  
10 ing between transportation system managers and op-  
11 erators, public safety officials, emergency managers,  
12 and general public to increase security, safety, and  
13 reliability of our Federal-aid highways.

14           “(2) Issue, if necessary, new guidance or regu-  
15 lations for the procurement of transportation system  
16 management and operations facilities, equipment,  
17 and services, including but not limited to equipment  
18 procured in preparation for manmade or natural dis-  
19 asters and emergencies, system hardware, software,  
20 and software integration services. In developing such  
21 guidelines, the Secretary may consider innovative  
22 procurement methods that support the timely and  
23 streamlined execution of transportation system man-  
24 agement and operations programs and projects.



1 (A) establish a nationwide system of basic  
2 real-time information for managing and oper-  
3 ating our surface transportation system;

4 (B) identify longer range real-time high-  
5 way and transit monitoring needs and develop  
6 plans and strategies for meeting those needs;  
7 and

8 (C) provide the capability and means to  
9 share that data with state and local govern-  
10 ments, and the traveling public.

11 (b) DATA EXCHANGE FORMATS.—Within one year of  
12 enactment of this Act, the Secretary shall establish data  
13 exchange formats to ensure that the data provided by  
14 highway and transit monitoring systems, including state-  
15 wide incident reporting systems can readily be exchanged  
16 across jurisdictional boundaries, facilitating nationwide  
17 availability of information.

18 (c) STATEWIDE INCIDENT REPORTING SYSTEM.—  
19 Within 2 years of enactment of this legislation, each State  
20 shall establish a statewide incident reporting system.

21 (d) REGIONAL INTELLIGENT TRANSPORTATION SYS-  
22 TEM ARCHITECTURE.—

23 (1) As State and local governments develop or  
24 update their regional ITS architectures, as specified  
25 in section 940.9 of title 23, Code of Federal Regula-

1 tions (Regional ITS Architecture), they shall explic-  
2 itly address their real-time highway and transit in-  
3 formation needs and the systems needed to meet  
4 those needs. This specific incorporation of informa-  
5 tion needs should address coverage, monitoring sys-  
6 tems, data fusion and archiving, and methods of ex-  
7 changing or sharing this information.

8 (2) States are encouraged to incorporate the  
9 data exchange formats developed by the Secretary to  
10 ensure that the data provided by highway and tran-  
11 sit monitoring systems can readily be exchanged  
12 across state and local governments, and with the  
13 traveling public.

14 (e) ELIGIBILITY.—

15 (1) USE OF SURFACE TRANSPORTATION PRO-  
16 GRAM FUNDS.—Subject to project approval by the  
17 Secretary, a State may obligate funds apportioned to  
18 it under section 104(b)(3) of title 23, United States  
19 Code, for activities related to the planning and de-  
20 ployment of real-time monitoring elements.

21 (2) USE OF NATIONAL HIGHWAY SYSTEM  
22 FUNDS.—Subject to project approval by the Sec-  
23 retary, a State may obligate funds apportioned to it  
24 under section 104(b)(1) of title 23, United States



1 Code, for activities related to the planning and de-  
2 ployment of real-time monitoring elements.

3 (3) USE OF STATE PLANNING AND RESEARCH  
4 FUNDS.—Subject to project approval by the Sec-  
5 retary, a State may obligate funds available under  
6 section 104(i) of title 23, United States Code, as  
7 amended by section 1503 of this Act, for activities  
8 related to the planning of real-time monitoring ele-  
9 ments.

10 (f) DEFINITION.—In this section, the term “state-  
11 wide incident reporting system” means a statewide system  
12 for facilitating the real-time electronic reporting of inci-  
13 dents to a central location for use in monitoring the event,  
14 providing accurate traveler information, and responding to  
15 the incident as appropriate.

16 **SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PER-**  
17 **FORMANCE INCENTIVE PROGRAM.**

18 (a) IN GENERAL.—The Secretary shall establish a  
19 comprehensive incentive program to accelerate the integra-  
20 tion and interoperability of intelligent transportation sys-  
21 tems in order to improve the performance of the surface  
22 transportation system in metropolitan and rural areas.

23 (b) DEFINITIONS.—

24 (1) INTELLIGENT TRANSPORTATION SYS-  
25 TEMS.—The term “intelligent transportation sys-

1       tems” has the meaning given the term under section  
2       5507 of this Act.

3           (2) NATIONAL HIGHWAY SYSTEM.—The term  
4       “National Highway System” means the Federal-aid  
5       highway system described in section 103(b) of title  
6       23, United States Code.

7           (3) REGION.—The term “region” means any  
8       geographic area that identifies the boundaries of the  
9       regional Intelligent Transportation Systems architec-  
10      ture and is defined by the needs of the participating  
11      agencies and their stakeholders for the purposes of  
12      improving surface transportation operations. A re-  
13      gion may include a metropolitan planning area, a  
14      corridor, a State, or multiple states.

15       (c) GOAL.—The goal of the intelligent transportation  
16      systems performance incentive program is to reduce traffic  
17      congestion, improve transportation system reliability, pro-  
18      vide better customer service to users of the highway sys-  
19      tem, and improve safety and security by providing finan-  
20      cial incentives to transportation agencies to invest in  
21      proactively monitoring and managing the performance of  
22      the transportation system.

23       (d) PURPOSE.—The purpose of the intelligent trans-  
24      portation systems performance incentive program is to  
25      support the deployment and integration of intelligent

1 transportation systems based on the performance of these  
2 systems in improving the management and operation of  
3 their surface transportation systems.

4 (e) REGULATIONS.—

5 (1) ISSUANCE.—The Secretary of Transpor-  
6 tation shall issue regulations establishing a funding  
7 formula for the distribution of funds under this sec-  
8 tion.

9 (2) BASIS FOR FUNDING FORMULA.—The fund-  
10 ing formula shall be based on criteria that reflect  
11 each State's—

12 (A) reductions in delay due to incidents;

13 (B) improvements in the operation and  
14 safety of signalized intersections;

15 (C) reductions in delay and improvements  
16 in safety of work zones on the National High-  
17 way System;

18 (D) improvements in the efficiency and re-  
19 liability of transit services;

20 (E) overall improvement in integrated re-  
21 gional transportation operations;

22 (F) improvements in the quality and avail-  
23 ability of traveler information;

24 (G) improved crash notification; and

1 (H) improvements in the safety and pro-  
2 ductivity of commercial vehicle operations on  
3 the National Highway System.

4 (3) EFFECTIVE DATE.—The funding formula  
5 shall take effect in the fiscal year established by the  
6 Secretary in the regulations.

7 (4) APPORTIONMENT PHASE-IN.—The funding  
8 formula shall provide for the apportionment of funds  
9 in the following manner:

10 (A) FIRST FISCAL YEAR.—In the first fis-  
11 cal year that the funding formula is in effect,  
12 50 percent of the sums authorized to be appro-  
13 priated for expenditure on the intelligent trans-  
14 portation systems performance incentive pro-  
15 gram for that fiscal year shall be apportioned  
16 according to the funding formula developed  
17 under this subsection and 50 percent of the  
18 amount shall be apportioned in accordance with  
19 the formula set forth in section 104(b)(1)(A)(i)  
20 through (iv) of title 23, United States Code.

21 (B) SECOND FISCAL YEAR.—In the second  
22 fiscal year the funding formula is in effect, 75  
23 percent of the sums authorized to be appro-  
24 priated for expenditure on the intelligent trans-  
25 portation systems performance incentive pro-

1           gram for that fiscal year shall be apportioned  
2           according to the funding formula developed  
3           under this subsection and 25 percent of the  
4           amount shall be apportioned in accordance with  
5           the formula set forth in section 104(b)(1)(A)(i)  
6           through (iv) of title 23, United States Code.

7           (C) THIRD AND SUBSEQUENT FISCAL  
8           YEARS.—In the third and subsequent fiscal  
9           years, the sums authorized to be appropriated  
10          for expenditure on the intelligent transportation  
11          systems performance incentive program shall be  
12          apportioned according to the funding formula  
13          developed under this subsection.

14       (f) FUNDING.—

15           (1) APPLICABILITY OF TITLE 23, UNITED  
16          STATES CODE.—Funds authorized to be appro-  
17          priated under section 1101(a)(13) of this Act shall  
18          be available for obligation in the same manner and  
19          to the same extent as if such funds were apportioned  
20          under chapter 1 of title 23, United States Code, ex-  
21          cept that such funds shall remain available until ex-  
22          pended.

23           (2) FEDERAL SHARE.—The Federal share pay-  
24          able under section 120(b) of title 23, United States

1 Code, shall apply to any project carried out under  
2 this section.

3 (g) APPORTIONMENTS.—The Secretary shall appor-  
4 tion the sums authorized to be appropriated for expendi-  
5 ture on the intelligent transportation systems performance  
6 incentive program among the States in accordance with  
7 the formula set forth in section 104(b)(1)(A)(i) through  
8 (iv) of title 23, United States Code, until the fiscal year  
9 established by the regulation under subsection (e)(3).

10 (h) USE OF FUNDS.—Amounts apportioned under  
11 this section shall be used for projects involving planning,  
12 deployment, integration, and operation of intelligent trans-  
13 portation systems, or any other project or activity de-  
14 signed to further improve system operations. Funds ap-  
15 portioned to each State under this section should be made  
16 available for projects in metropolitan planning areas, cor-  
17 ridors, and other regions as appropriate to improve oper-  
18 ations.

19 **SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS**  
20 **AND NETWORKS DEPLOYMENT.**

21 (a) IN GENERAL.—The Secretary shall carry out a  
22 Commercial Vehicle Information Systems and Networks  
23 program to—

24 (1) improve the safety and productivity of com-  
25 mercial vehicles and drivers; and

1           (2) reduce costs associated with commercial ve-  
2           hicle operations and Federal and State commercial  
3           vehicle regulatory requirements.

4           (b) PURPOSE.—The program shall advance the tech-  
5           nological capability and promote the deployment of intel-  
6           ligent transportation system applications for commercial  
7           vehicle operations, including commercial vehicle, commer-  
8           cial driver, and carrier-specific information systems and  
9           networks.

10          (c) CORE DEPLOYMENT GRANTS.—

11           (1) IN GENERAL.—The Secretary shall make  
12           grants to eligible States for the core deployment of  
13           Commercial Vehicle Information Systems and Net-  
14           works.

15           (2) ELIGIBILITY.—To be eligible for a core de-  
16           ployment grant under this section, a State—

17           (A) shall have a Commercial Vehicle Infor-  
18           mation Systems and Networks program plan  
19           and a top level system design approved by the  
20           Secretary;

21           (B) shall certify to the Secretary that its  
22           Commercial Vehicle Information Systems and  
23           Networks deployment activities, including hard-  
24           ware procurement, software and system devel-  
25           opment, and infrastructure modifications, are

1 consistent with the national intelligent transpor-  
2 tation systems and Commercial Vehicle Infor-  
3 mation Systems and Networks architectures  
4 and available standards, and promote interoper-  
5 ability and efficiency to the extent practicable;  
6 and

7 (C) shall agree to execute interoperability  
8 tests developed by the Federal Motor Carrier  
9 Safety Administration to verify that its systems  
10 conform with the national intelligent transpor-  
11 tation systems architecture, applicable stand-  
12 ards, and protocols for Commercial Vehicle In-  
13 formation Systems and Networks.

14 (3) AMOUNT OF GRANTS.—The maximum ag-  
15 gregate amount a State may receive under this sec-  
16 tion for the core deployment of Commercial Vehicle  
17 Information Systems and Networks may not exceed  
18 \$2,500,000 million, including funds received under  
19 sections 4001(e) and 5001(a)(5) and (6) of the  
20 Transportation Equity Act for the 21st Century for  
21 the core deployment of Commercial Vehicle Informa-  
22 tion Systems and Networks.

23 (4) USE OF FUNDS.—Funds from a grant  
24 under this subsection may only be used for the core  
25 deployment of Commercial Vehicle Information Sys-



1       tems and Networks. Eligible States that have either  
2       completed the core deployment of Commercial Vehi-  
3       cle Information Systems and Networks or complete  
4       such deployment before core deployment grant funds  
5       are expended, may use the remaining core deploy-  
6       ment grant funds for the expanded deployment of  
7       Commercial Vehicle Information Systems and Net-  
8       works in their State.

9       (d) EXPANDED DEPLOYMENT GRANTS.—

10           (1) IN GENERAL.—For each fiscal year, from  
11       the funds remaining after the Secretary has made  
12       core deployment grants under subsection (c) of this  
13       section, the Secretary may make grants to each eli-  
14       gible State, upon request, for the expanded deploy-  
15       ment of Commercial Vehicle Information Systems  
16       and Networks.

17           (2) ELIGIBILITY.—Each State that has com-  
18       pleted the core deployment of Commercial Vehicle  
19       Information Systems and Networks is eligible for an  
20       expanded deployment grant.

21           (3) AMOUNT OF GRANTS.—Each fiscal year, the  
22       Secretary may distribute funds available for ex-  
23       panded deployment grants equally among the eligible  
24       States, but not to exceed \$1 million per State.

1           (4) USE OF FUNDS.—A State may use funds  
2           from a grant under this subsection only for the ex-  
3           panded deployment of Commercial Vehicle Informa-  
4           tion Systems and Networks.

5           (e) FEDERAL SHARE.—The Federal share of the cost  
6           of a project payable from funds made available to carry  
7           out this section shall not exceed 50 percent. The total Fed-  
8           eral share of the cost of a project payable from all eligible  
9           sources shall not exceed 80 percent.

10          (f) APPLICABILITY OF TITLE 23, UNITED STATES  
11          CODE.—Funds authorized to be appropriated under sec-  
12          tion 1101(a)(15) of this Act shall be available for obliga-  
13          tion in the same manner and to the same extent as if such  
14          funds were apportioned under chapter 1 of title 23, United  
15          States Code, except that such funds shall remain available  
16          until expended.

17          (g) DEFINITIONS.—In this section, the following defi-  
18          nitions apply:

19                (1) COMMERCIAL VEHICLE INFORMATION SYS-  
20                TEMS AND NETWORKS.—The term “Commercial Ve-  
21                hicle Information Systems and Networks” means the  
22                information systems and communications networks  
23                that provide the capability to—

24                        (A) improve the safety of commercial vehi-  
25                        cle operations;

1 (B) increase the efficiency of regulatory in-  
2 spection processes to reduce administrative bur-  
3 dens by advancing technology to facilitate in-  
4 spections and increase the effectiveness of en-  
5 forcement efforts;

6 (C) advance electronic processing of reg-  
7 istration information, driver licensing informa-  
8 tion, fuel tax information, inspection and crash  
9 data, and other safety information;

10 (D) enhance the safe passage of commer-  
11 cial vehicles across the United States and  
12 across international borders; and

13 (E) promote the communication of infor-  
14 mation among the States and encourage  
15 multistate cooperation and corridor develop-  
16 ment.

17 (2) COMMERCIAL VEHICLE OPERATIONS.—The  
18 term “commercial vehicle operations”—

19 (A) means motor carrier operations and  
20 motor vehicle regulatory activities associated  
21 with the commercial movement of goods, includ-  
22 ing hazardous materials, and passengers; and

23 (B) with respect to the public sector, in-  
24 cludes the issuance of operating credentials, the  
25 administration of motor vehicle and fuel taxes,

1           and roadside safety and border crossing inspec-  
2           tion and regulatory compliance operations.

3           (3) CORE DEPLOYMENT.—The term “core de-  
4           ployment” means the deployment of systems in a  
5           State necessary to provide the State with the fol-  
6           lowing capabilities:

7                   (A) Safety information exchange to—

8                           (i) electronically collect and transmit  
9                           commercial vehicle and driver inspection  
10                          data at a majority of inspection sites;

11                          (ii) connect to the Safety and Fitness  
12                          Electronic Records (SAFER) system for  
13                          access to interstate carrier and commercial  
14                          vehicle data, summaries of past safety per-  
15                          formance, and commercial vehicle creden-  
16                          tials information; and

17                          (iii) exchange carrier data and com-  
18                          mercial vehicle safety and credentials infor-  
19                          mation within the State and connect to  
20                          Safety and Fitness Electronic Records  
21                          (SAFER) for access to interstate carrier  
22                          and commercial vehicle data.

23                   (B) Interstate credentials administration  
24                   to—

1 (i) perform end-to-end processing, in-  
2 cluding carrier application, jurisdiction ap-  
3 plication processing, and credential  
4 issuance, of at least the International Reg-  
5 istration Plan (IRP) and International  
6 Fuel Tax Agreement (IFTA) credentials  
7 and extend this processing to other creden-  
8 tials, including intrastate, titling, oversize/  
9 overweight, carrier registration, and haz-  
10 ardous materials;

11 (ii) connect to the International Reg-  
12 istration Plan (IRP) and International  
13 Fuel Tax Agreement (IFTA) clearing-  
14 houses; and

15 (iii) have at least 10 percent of the  
16 transaction volume handled electronically  
17 and have the capability to add more car-  
18 riers and to extend to branch offices where  
19 applicable.

20 (C) Roadside electronic screening to elec-  
21 tronically screen transponder-equipped commer-  
22 cial vehicles at a minimum of one fixed or mo-  
23 bile inspection sites and to replicate this screen-  
24 ing at other sites.

1 (4) EXPANDED DEPLOYMENT.—The term “ex-  
2 panded deployment” means the deployment of sys-  
3 tems in a State that exceed the requirements of an  
4 core deployment of Commercial Vehicle Information  
5 Systems and Networks, improve safety and the pro-  
6 ductivity of commercial vehicle operations, and en-  
7 hance transportation security.

8 **Subtitle H—Program Efficiencies**  
9 **and Improvements—Federal-Aid**  
10 **Stewardship**

11 **SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORM-**  
12 **ANCE PILOT PROGRAM.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—The Secretary shall establish  
15 and implement a Surface Transportation System  
16 Performance Pilot Program. Subject to this section,  
17 a State may assume some or all, as the Secretary  
18 and State may agree, of the Secretary’s responsibil-  
19 ities under title 23, United States Code, or assume  
20 all or some, as they may agree, of the Secretary’s re-  
21 sponsibilities under any Federal law, for projects  
22 constructed with Federal funds under this pilot pro-  
23 gram.

24 (2) OBLIGATION OF FUNDS.—States partici-  
25 pating in this pilot program may obligate funds

1 under sections 104(b)(1), 104(b)(3), 104(b)(4),  
2 104(b)(5), 105, and 144(e) of title 23, United States  
3 Code, for any purpose for which Federal funds may  
4 be obligated by a State under title 23. However, the  
5 State shall reserve 10 percent of the funds appor-  
6 tioned under section 104(b)(3) in each fiscal year for  
7 transportation enhancement activities as specified in  
8 section 133(d)(1), as amended by this Act.

9 (3) PURPOSE.—The purpose of this perform-  
10 ance pilot program is to demonstrate the benefits of  
11 performance-based management and to determine  
12 how such an approach can be best incorporated into  
13 an effective Federally-assisted, State administered  
14 Federal-aid highway program. The Secretary shall  
15 work closely with potential pilot States to determine  
16 ways to build into program-level oversight perform-  
17 ance measures that reflect both State and national  
18 interests and to apply them with specific measure-  
19 ment of program effectiveness.

20 (b) STATE PARTICIPATION.—

21 (1) NUMBER OF PARTICIPATING STATES.—The  
22 Secretary may permit up to five States to participate  
23 in the performance pilot program established under  
24 subsection (a).

1           (2) APPLICATION.—To participate in the per-  
2           formance pilot program, a State shall submit an ap-  
3           plication to the Secretary that contains, at a min-  
4           imum, the following:

5                   (A) A description of the State’s long-term  
6                   and short-term transportation goals.

7                   (B) A description of how the State will ad-  
8                   dress any areas of national strategic impor-  
9                   tance, as may be determined by the Secretary,  
10                  in reaching its goals. The areas of national  
11                  strategic importance must include the following:  
12                  national security, interstate commerce, mobility,  
13                  safety, and environmental stewardship.

14                  (C) A description of the performance  
15                  measures under which the State’s progress and  
16                  success toward reaching its goals would be  
17                  measured.

18                  (D) A description of how funding will be  
19                  distributed equitably across the State, including  
20                  to urbanized areas with populations in excess of  
21                  200,000. This would include addressing how  
22                  local units of government would be consulted in  
23                  the process of program development and imple-  
24                  mentation.



1           (E) Evidence of the State’s notice and so-  
2           licitation of public comment and copies of com-  
3           ments received from such solicitation.

4           (F) Such other information as the Sec-  
5           retary may require.

6           (3) PUBLIC NOTICE.—Each State that submits  
7           an application under this subsection, shall give pub-  
8           lic notice of its intent to participate in the pilot pro-  
9           gram at least 20 days prior to submitting its appli-  
10          cation to the Secretary. The State shall provide no-  
11          tice and solicit public comment by publishing the en-  
12          tire application in accordance with the State’s public  
13          notice law.

14          (4) SELECTION CRITERIA.—The Secretary may  
15          approve the application of a State under this section  
16          only if the application demonstrates how the State  
17          plans to address the areas of national strategic im-  
18          portance as identified in subsection (b)(2)(B). The  
19          Secretary will prioritize the selection of applications  
20          based on the degree to which the applicant’s pro-  
21          posed goals address the areas of national strategic  
22          importance, the State’s ability to manage and mon-  
23          itor its programs on a performance basis, the State’s  
24          commitment to conduct the required evaluations,

1 and the degree to which the application otherwise  
2 proposes to achieve the purposes of this section.

3 (c) PROGRAM ELEMENTS.—

4 (1) STATE AGREEMENT TO ASSUME SEC-  
5 RETARY'S RESPONSIBILITIES.—

6 (A) ASSIGNMENT AND ASSUMPTION OF RE-  
7 SPONSIBILITIES.—The Secretary and a State  
8 may agree, as provided in this section, that the  
9 Secretary will assign and the State will assume  
10 some or all of the responsibilities of the Sec-  
11 retary under any Federal law or requirement,  
12 except for the responsibilities relating to Feder-  
13 ally recognized tribes, with respect to any  
14 project constructed with federal funds under  
15 this pilot program. The State shall assume  
16 these responsibilities subject to the same proce-  
17 dural and substantive requirements as would be  
18 required if such responsibilities were carried out  
19 by the Secretary. When a State assumes such  
20 responsibilities under a Federal law, the State  
21 shall be solely responsible and solely liable for  
22 complying with and carrying out that law in  
23 lieu of the Secretary and shall submit a certifi-  
24 cation as provided in subsection (f)(1).

1 (B) FEDERAL ROLE OF STATE.—For pur-  
2 poses of assuming the Secretary’s responsibil-  
3 ities under a Surface Transportation System  
4 Performance Pilot Program, to the extent the  
5 State is carrying out the Secretary’s respon-  
6 sibilities under the National Environmental Pol-  
7 icy Act, title 23, United States Code, or any  
8 other Federal law, the State shall be deemed to  
9 be a Federal agency under such laws, and shall  
10 agree that its transportation department, or  
11 any other State agency carrying out a responsi-  
12 bility of the Secretary under this section, shall  
13 be subject to such Federal laws to the same ex-  
14 tent that a Federal agency would be subject to  
15 such laws.

16 (C) STATE CERTIFICATION OF ASSUMP-  
17 TION OF RESPONSIBILITIES.—Whenever a State  
18 assumes any of the Secretary’s responsibilities  
19 under a Federal law, the State shall certify that  
20 it has laws and regulations that—

21 (i) authorize the State to take the ac-  
22 tions necessary to carry out the respon-  
23 sibilities being assumed; and

24 (ii) are comparable to the Federal  
25 Freedom of Information Act and that any

1 decision regarding the public availability of  
2 a document under those laws is reviewable  
3 by a court of competent authority.

4 (2) OTHER FEDERAL AGENCY VIEWS.—If a  
5 State assumes a responsibility of the Secretary  
6 under paragraph (1) of this subsection that would  
7 have required the Secretary to consult with another  
8 Federal agency, the Secretary shall solicit the views  
9 of such Federal agency prior to entering into or re-  
10 newing any program agreement.

11 (3) MAINTENANCE OF EFFORT.—The Secretary  
12 shall not make any apportionment to a State partici-  
13 pating in this performance pilot program in any fis-  
14 cal year under sections 104(b)(1), 104(b)(3),  
15 104(b)(4), 104(b)(5), 105, and 144(e) of title 23,  
16 United States Code, unless the State enters into  
17 such agreements with the Secretary as the Secretary  
18 may require to ensure that the State will maintain  
19 its non-Federal transportation capital expenditures  
20 in any fiscal year at or above the average level of  
21 such expenditures for the preceding three fiscal  
22 years.

23 (4) FEDERAL SHARE PAYABLE.—The Federal  
24 share payable under this performance pilot program  
25 for a project funded with apportionments under sec-

1 tions 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5),  
2 105, and 144(e) of title 23, United States Code,  
3 may be up to 100 percent; except that, the Federal  
4 share payable for transportation enhancements  
5 under section 133(d)(1), shall be determined in ac-  
6 cordance with title 23, United States Code.

7 (d) PROGRAM AGREEMENT.—

8 (1) IN GENERAL.—Each year prior to making  
9 any apportionments to a participating State, the  
10 Secretary shall enter into an agreement with the  
11 State establishing its performance goals and per-  
12 formance measures.

13 (2) AGREEMENT CONCERNING PARTICIPATING  
14 STATE'S RESPONSIBILITIES.—The Secretary shall  
15 enter into one or more agreements with a State se-  
16 lected for participation in this pilot program con-  
17 cerning which, if any, Federal laws or requirements  
18 the State will carry out under subsection (c). The  
19 program agreement between the Secretary and the  
20 State shall specify management responsibilities, in-  
21 cluding the role of the State in relation to other  
22 Federal agencies.

23 (3) GOALS.—The Secretary and participating  
24 State shall agree, based on the State's priorities and  
25 the areas of national strategic importance as deter-

1       mined by the Secretary, on the long-term and short-  
2       term goals to be achieved using the State's appor-  
3       tionments under the program.

4           (4) PERFORMANCE MEASURES.—The Secretary  
5       and the State shall mutually establish the perform-  
6       ance measures that the State must meet relating to  
7       the goals identified in paragraph (3) of this sub-  
8       section. Continued participation in the pilot program  
9       is contingent on the State meeting these perform-  
10      ance measures. If a State fails to meet the agreed  
11      upon performance measures in two consecutive  
12      years, the Secretary shall terminate a State's par-  
13      ticipation in the pilot program.

14          (5) COMPLIANCE.—If a participating State fails  
15      to comply with any provision of this section, the Sec-  
16      retary shall take such actions as necessary to ensure  
17      compliance. Corrective actions may include termi-  
18      nation of the State's participation in the pilot pro-  
19      gram.

20          (e) LIMITATIONS ON AGREEMENTS.—

21           (1) CIVIL RIGHTS.—Nothing in this section  
22      shall be construed as relieving the Secretary from  
23      any of the Secretary's responsibilities under title VI  
24      of the Civil Rights Act of 1964 (42 U.S.C. 2000d,  
25      et seq.).

1           (2) MAJOR PROJECTS.—Nothing in this section  
2 shall be construed as relieving the Secretary from  
3 any of the Secretary’s responsibilities with respect to  
4 major projects under section 106(h) of title 23,  
5 United States Code.

6           (3) STATEWIDE AND METROPOLITAN PLAN-  
7 NING.—Nothing in this section shall be construed as  
8 relieving the Secretary from any of the Secretary’s  
9 responsibilities under the Statewide and metropoli-  
10 tan planning requirements of sections 134 and 135  
11 of title 23, United States Code.

12           (4) REGULATORY RESPONSIBILITIES.—Nothing  
13 in this section shall be construed to allow a State to  
14 assume any of the Secretary’s rulemaking authority  
15 under any Federal law.

16           (f) STATE REPORTING AND ACCOUNTABILITY.—A  
17 State participating in this pilot program shall make the  
18 following reports to the Secretary. A State may combine  
19 reports as appropriate.

20           (1) STATE CERTIFICATION PRIOR TO OBLIGA-  
21 TION OF FUNDS.—As a prerequisite to the Sec-  
22 retary’s agreement that a State will fulfill or assume  
23 any of the Secretary’s responsibilities, and prior to  
24 the obligation of any money under this pilot program

1 in any fiscal year, the participating State shall pro-  
2 vide, and annually renew, a certification that—

3 (A) is in a form acceptable to the Sec-  
4 retary;

5 (B) is executed by the Governor or the  
6 State's top-ranking transportation official  
7 charged with the responsibility for highway con-  
8 struction;

9 (C) specifies that the State will fully carry  
10 out any of the responsibilities it may assume;

11 (D) specifies that the State consents to as-  
12 sume the status of the Secretary under any re-  
13 sponsibility it may assume; and

14 (E) expressly consents on behalf of the  
15 State and himself or herself to accept the juris-  
16 diction of the Federal courts for the compli-  
17 ance, discharge, and enforcement of any respon-  
18 sibility of the Secretary it may assume.

19 (2) END OF FISCAL YEAR STATE CERTIFI-  
20 CATION.—At the end of each fiscal year in which a  
21 State obligates funds under this pilot program, the  
22 State shall certify that it obligated such funds only  
23 for projects that would otherwise be eligible for as-  
24 sistance under title 23. Such certification shall also  
25 specify that the State reserved for obligation the



1 amounts specified in section 133(d)(1) of such title  
2 as amended by this Act.

3 (3) FISCAL ACCOUNTABILITY.—Each State  
4 shall provide an annual accounting for the obliga-  
5 tions in a manner determined by the Secretary in  
6 such a way as to provide a basis for evaluating the  
7 effect of the pilot program expenditures.

8 (4) ANNUAL STATE ASSESSMENT.—Each State  
9 will provide to the Secretary a narrative report at  
10 the end of each year describing the benefits of the  
11 pilot program to the State and any suggestions for  
12 improving the pilot program.

13 (g) TERMINATION.—This pilot program shall termi-  
14 nate six years following enactment of this Act. Funding  
15 obligated under the pilot program shall continue to be ad-  
16 ministered under the terms of the pilot program until  
17 those funds have been expended.

18 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

19 (a) Section 106 of title 23, United States Code, is  
20 amended—

21 (1) by striking subsection (e) and inserting the  
22 following:

23 “(e) VALUE ENGINEERING ANALYSIS.—

24 “(1) ANALYSIS.—For all projects on the Na-  
25 tional Highway System with an estimated total cost

1 of \$25,000,000 or more, and any project the Sec-  
2 retary deems appropriate, the State shall provide a  
3 value engineering analysis or other cost reduction  
4 analysis. For major projects as identified in sub-  
5 section (h) of this section, more than one such anal-  
6 ysis may be required.

7 “(2) DEFINITION.—In this subsection, the term  
8 “value engineering analysis” means a systematic  
9 process of review and analysis of a project during its  
10 design phase by a multidisciplined team of persons  
11 not involved in the project in order to provide sug-  
12 gestions for reducing the total cost of the project  
13 and providing a project of equal or better quality.  
14 Such suggestions may include combining or elimi-  
15 nating otherwise inefficient use of expensive parts of  
16 the original proposal design for the project and total  
17 redesign of the proposed project using different tech-  
18 nologies, materials, or methods so as to accomplish  
19 the original purpose of the project.”; and

20 (2) by striking subsections (g) and (h) and in-  
21 serting the following:

22 “(g) OVERSIGHT PROGRAM.—

23 “(1) IN GENERAL.—The Secretary shall estab-  
24 lish an oversight program to monitor the effective  
25 and efficient use of funds authorized by this title. At

1 a minimum, the program shall be responsive to all  
2 areas related to financial integrity and project deliv-  
3 ery.

4 “(2) FINANCIAL INTEGRITY.—

5 “(A) FINANCIAL MANAGEMENT SYS-  
6 TEMS.—The Secretary shall perform annual re-  
7 views that address elements of the State trans-  
8 portation departments’ financial management  
9 systems that affect projects approved under  
10 subsection (a). Risk assessment procedures  
11 shall be used to identify review areas.

12 “(B) PROJECT COSTS.—The Secretary  
13 shall develop minimum standards for estimating  
14 project costs, and shall periodically evaluate the  
15 States’ practices for estimating project costs,  
16 awarding contracts, and reducing project costs.

17 “(C) RESPONSIBILITY OF THE STATES.—  
18 The States are responsible for determining that  
19 subrecipients of Federal funds have sufficient  
20 accounting controls to properly manage Federal  
21 funds. The Secretary shall periodically review  
22 the States’ monitoring of subrecipients.

23 “(3) PROJECT DELIVERY.—The Secretary shall  
24 perform annual reviews that address elements of the  
25 States’ project delivery system, which includes one

1 or more activities that are involved in the life cycle  
2 of a project from its conception to its completion.  
3 Risk assessment procedures will be used to identify  
4 review areas.

5 “(4) RESPONSIBILITY OF THE STATES.—The  
6 States are responsible for determining that sub-  
7 recipients of Federal funds have adequate project  
8 delivery systems for projects approved under this  
9 section. The Secretary shall periodically review the  
10 States’ monitoring of subrecipients.

11 “(5) SPECIFIC OVERSIGHT RESPONSIBIL-  
12 ITIES.—Nothing in this section shall affect or dis-  
13 charge any oversight responsibility of the Secretary  
14 specifically provided for under this title or other  
15 Federal law. In addition, the Secretary shall retain  
16 full oversight responsibilities for the design and con-  
17 struction of all Appalachian development highways  
18 under section 201 of the Appalachian Regional De-  
19 velopment Act of 1965 (40 U.S.C. App.).

20 “(h) MAJOR PROJECTS.—

21 “(1) IN GENERAL.—Notwithstanding any other  
22 provision in this section, a recipient of Federal fi-  
23 nancial assistance for a project under this title with  
24 an estimated total cost of \$1,000,000,000 or more,  
25 or any other project in the discretion of the Sec-

1       retary, shall submit to the Secretary a project man-  
2       agement plan and an annual financial plan.

3           “(2) PROJECT MANAGEMENT PLAN.—The  
4       project management plan shall document the proce-  
5       dures and processes in place to provide timely infor-  
6       mation to the project decision makers to effectively  
7       manage the scope, costs, schedules, and quality, and  
8       the Federal requirements of the project, and the role  
9       of the agency leadership and management team in  
10      the delivery of the project.

11          “(3) FINANCIAL PLAN.—The financial plan  
12      shall be based on detailed estimates of the cost to  
13      complete the project. Annual updates shall be sub-  
14      mitted based on reasonable assumptions, as deter-  
15      mined by the Secretary, of future increases in the  
16      cost to complete the project.

17          “(i) OTHER PROJECTS.—A recipient of Federal fi-  
18      nancial assistance for a project under this title that re-  
19      ceives \$100,000,000 or more in Federal assistance for  
20      such project, and that is not covered by subsection (h)  
21      of this section, shall prepare an annual financial plan. An-  
22      nual financial plans prepared under this subsection shall  
23      be made available to the Secretary for review upon the  
24      Secretary’s request.”.

25          (b) Section 114(a) of such title is amended—



1           “(B) suspend any contractor or subcon-  
2           tractor upon their indictment for criminal or  
3           civil offenses involving fraud, subject to the ap-  
4           proval of the Attorney General. The Secretary  
5           shall have authority to exclude non-affiliated  
6           subsidiaries of the debarred business entity,  
7           subject to the approval of the Attorney General.

8           “(2) Upon a finding that mandatory debarment  
9           or suspension of a contractor or subcontractor under  
10          subsection (1), above, would be contrary to the na-  
11          tional security interests of the U.S., the Secretary  
12          may waive the debarment or suspension.

13          “(b) SHARING OF MONETARY RECOVERIES.—

14           “(1) Notwithstanding any other provision of  
15          law, monetary judgments accruing to the Federal  
16          government from judgments in Federal criminal  
17          prosecutions and civil judgments pertaining to fraud  
18          in highway and transit programs shall be shared  
19          with the State or local transit agency involved. The  
20          State or local transit agency shall use these funds  
21          for transportation infrastructure and oversight ac-  
22          tivities related to programs authorized under titles  
23          23 and 49.

24           “(2) The amount of recovered funds to be  
25          shared with the affected State or local transit agen-

1 cy shall be determined by the Attorney General in  
2 consultation with the Secretary. These funds shall be  
3 considered Federal funds, to be used in compliance  
4 with other relevant Federal transportation laws and  
5 regulations.

6 “(3) The requirement for sharing of funds de-  
7 scribed in subparagraph (1), above, shall not be in  
8 effect in circumstances wherein the State or local  
9 transit agency is found by the Department of Jus-  
10 tice, in consultation with the Secretary, to have been  
11 involved or negligent with respect to the fraudulent  
12 activities.”.

13 (e) The analysis for chapter 3 of title 49 is amended  
14 by revising the entry for item 307 to read as follows:

“307. Contractor suspension and debarment policy; sharing fraud monetary re-  
coveries.”.

15 **SEC. 1803. EMERGENCY RELIEF.**

16 Section 125(c)(1) of title 23, United States Code, is  
17 amended by striking “\$100,000,000” and inserting  
18 “\$200,000,000”.

19 **SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.**

20 (a) DEFINITIONS.—Section 101(a) of title 23, United  
21 States Code, is amended—

22 (1) in paragraph (7), by striking “public lands  
23 highway” and inserting “recreation roads, public  
24 Forest Service roads”;



1           (2) by striking paragraph (8) and inserting the  
2 following:

3           “(8) NATIONAL FOREST SYSTEM ROADS AND  
4 TRAILS.—The term ‘National Forest System roads  
5 and trails’ means forest roads or trails under the ju-  
6 risdiction of the Forest Service.”;

7           (3) by striking paragraph (10) and inserting  
8 the following:

9           “(10) FOREST ROAD OR TRAIL.—The term ‘for-  
10 est road or trail’ means a road or trail wholly or  
11 partly within, or adjacent to, and serving National  
12 Forest System lands that is necessary for the protec-  
13 tion, administration, use, and development of its re-  
14 sources. There are four types of forest roads:

15           “(A) CLASSIFIED FOREST ROAD.—The  
16 term ‘classified forest road’ means a forest road  
17 that the Forest Service determines to be needed  
18 for long-term motor vehicle access, including  
19 State roads, county roads, privately owned  
20 roads, National Forest System roads, and other  
21 roads authorized by the Forest Service.

22           “(B) UNCLASSIFIED FOREST ROAD.—The  
23 term ‘unclassified forest road’ means a forest  
24 road not managed by the Forest Service as part  
25 of the forest transportation system.

1           “(C) TEMPORARY FOREST ROAD.—The  
2           term ‘temporary forest road’ means a forest  
3           road that is authorized by the Forest Service  
4           through contract, permit, lease, other written  
5           authorization, or emergency operation not in-  
6           tended to be a part of the forest transportation  
7           system and not necessary for long-term re-  
8           source management.

9           “(D) PUBLIC FOREST SERVICE ROAD.—  
10          The term ‘Public Forest Service Road’ means a  
11          classified forest road that is open to public trav-  
12          el for which title and maintenance responsibility  
13          is vested in the United States government and  
14          which has been designated a public road by the  
15          Forest Service.”;

16          (4) in paragraph (26), as redesignated by this  
17          Act, by striking “unappropriated or unreserved”;  
18          and

19          (5) by striking paragraph (27), as redesignated  
20          by this Act, by redesignating paragraph (28) as  
21          (27), and by inserting the following new paragraph:

22          “(28) RECREATION ROADS.—The term ‘recre-  
23          ation roads’ means those public roads that provide  
24          access to museums, lakes, reservoirs, visitors cen-  
25          ters, gateways to major wilderness areas, public uses

1 areas, recreation and historic sites and for which  
2 title is vested in the United States Government.”.

3 (b) FEDERAL SHARE PAYABLE.—

4 (1) Section 120(k) of such title is amended by  
5 striking “Federal-aid highway”.

6 (2) Sections 120(k) and 120(l) of such title are  
7 amended by striking “section 104” each time it ap-  
8 pears, and inserting in its place “this title and chap-  
9 ter 53 of title 49”.

10 (c) PAYMENTS TO FEDERAL AGENCIES FOR FED-  
11 ERAL-AID PROJECTS.—Section 132 of such title is amend-  
12 ed by striking the first two sentences and inserting the  
13 following: “Where a proposed Federal-aid project is to be  
14 undertaken by a Federal agency pursuant to an agreement  
15 between a State and such Federal agency, the State may  
16 (1) direct the Secretary to transfer the funds for the Fed-  
17 eral share of the project directly to the Federal agency,  
18 or (2) make a deposit with or payment to such Federal  
19 agency as may be required in fulfillment of the State’s  
20 obligation under such agreement for the work undertaken  
21 or to be undertaken by such Federal agency; the Sec-  
22 retary, upon execution of a project agreement with such  
23 State for the proposed Federal-aid project, may reimburse  
24 the State out of the appropriate appropriations for the es-  
25 timated Federal share, under the provisions of this title,

1 of the State's obligation so deposited or paid by such  
2 State.”.

3 (d) ALLOCATIONS.—Section 202 of such title is  
4 amended—

5 (1) in subsection (a), by inserting “and grass-  
6 lands” after “national forests” in the first sentence;

7 (2) by striking subsection (b) and inserting the  
8 following:

9 “(b) On October 1 of each fiscal year, the Secretary  
10 shall allocate the sums authorized to be appropriated for  
11 such fiscal year for forest highways, after making the  
12 transfer of funds provided for in subsection 204(g) of this  
13 title, for each fiscal year as is provided in section 134 of  
14 the Federal-Aid Highway Act of 1987, and with respect  
15 to these allocations the Secretary shall give equal consider-  
16 ation to projects that provide access to and within the Na-  
17 tional Forest System, as identified by the Secretary of Ag-  
18 riculture through renewable resource and land use plan-  
19 ning and the impact of such planning on existing transpor-  
20 tation facilities.”; and

21 (3) in subsection (d)—

22 (A) in paragraph (1), by striking “1999”  
23 in the heading and within paragraph (1) and  
24 inserting “2005”;

1 (B) in paragraph (2), by striking “2000”  
2 in the heading and within paragraphs (2)(A),  
3 (2)(B), and (2)(D) and inserting “2005”, and  
4 by striking “1999” in paragraph (2)(B) and in-  
5 serting “2004” at each place it appears;

6 (C) in paragraph (3)(A), by inserting “this  
7 chapter and section 125(e) of” after “under”,  
8 and by adding “and the approved Indian res-  
9 ervation road transportation improvement pro-  
10 gram” after “Act”; and

11 (D) in paragraph (4)(D), by striking the  
12 sentence after “Approval Requirement.” and in-  
13 serting: “Funds for preliminary engineering for  
14 Indian reservation road bridge projects under  
15 this subsection may be made available by the  
16 Secretary upon request by a tribe or by the Sec-  
17 retary of the Interior. Funds for construction  
18 and construction engineering shall be made  
19 available only after approval of the plans, speci-  
20 fications, and estimates by the Secretary.”.

21 (e) PLANNING AND AGENCY COORDINATION.—Sec-  
22 tion 204 of such title is amended—

23 (1) in subsection (a), by inserting “refuge  
24 roads,” after “parkways,”;

1           (2) in subsection (b), by striking “appropriate  
2           contracts” in the second sentence and inserting “ap-  
3           propriate agreements”;

4           (3) in subsection (k)—

5                 (A) by striking “(2), (5),” and inserting  
6                 “(2), (3), (5),”;

7                 (B) by striking “and” after the semicolon  
8                 at the end of paragraph (1)(B);

9                 (C) by striking the period after “improve-  
10                 ments” at the end of paragraph (1)(C) and in-  
11                 serting a semicolon;

12                 (D) by adding after paragraph (1)(C) the  
13                 following new subparagraphs:

14                         “(D) maintenance of public roads in Na-  
15                         tional Fish hatcheries under Fish and Wildlife  
16                         Service jurisdiction;

17                         “(E) the non-Federal share of the cost of  
18                         any project funded under this title or chapter  
19                         53 of title 49 that provides access to or within  
20                         a wildlife refuge; and

21                         “(F) maintenance and improvement of rec-  
22                         reational trails, but such expenditures on trails  
23                         are limited to 5 percent of available funding per  
24                         fiscal year.”.

25           (f) SAFETY.—

1           (1) ALLOCATIONS.—Section 202 of such title is  
2           amended by adding at the end the following:

3           “(f) SAFETY.—On October 1 of each fiscal year, the  
4           Secretary shall allocate the sums authorized to be appro-  
5           priated for such fiscal year for safety as follows: 10 per-  
6           cent to the Bureau of Reclamation, 15 percent to the Bu-  
7           reau of Indian Affairs, 15 percent to the Bureau of Land  
8           Management, 15 percent to the Forest Service, 5 percent  
9           to the Fish and Wildlife Service, 15 percent to Military  
10          Traffic Management Command, 15 percent to the Na-  
11          tional Park Service, and 10 percent to the U.S. Army  
12          Corps of Engineers. The Secretary, from time to time,  
13          may adjust the percentage of safety funds allocated to the  
14          Federal agencies listed above based on the outputs of  
15          agency safety management systems, other safety need  
16          analyses or/studies, and the use of previously allocated  
17          safety funds.”.

18          (2) AVAILABILITY OF FUNDS.—Section 203 of  
19          such title is amended in the first sentence by insert-  
20          ing “safety,” after “refuge roads,” at each place it  
21          appears.

22          (3) USE OF FUNDING.—Section 204 is amended  
23          by adding at the end the following:

24          “(1) SAFETY ACTIVITIES.—

1           “(1) IN GENERAL.—Not withstanding any other  
2 provision of this title, funds made available for safe-  
3 ty shall be used by the Secretary and the Secretary  
4 of the appropriate Federal land management agency  
5 only to pay the cost of transportation safety im-  
6 provement projects, elimination of high accident lo-  
7 cations, protection or elimination of at-grade rail-  
8 way-highway crossings, collection of safety informa-  
9 tion, transportation planning, bridge inspections, de-  
10 velopment and operation of safety management sys-  
11 tems, highway safety education programs, and other  
12 eligible safety activities authorized in Chapter 4 of  
13 this title.

14           “(2) CONTRACTS.—In carrying out paragraph  
15 (1), the Secretary and the Secretary of the appro-  
16 priate Federal land management agency, as appro-  
17 priate, may enter into contracts or agreements with  
18 a State, subdivision of a State, or Indian tribe.

19           “(3) EXCEPTION.—Funds allocated to the Bu-  
20 reau of Reclamation for the purposes described in  
21 this subsection are exempted from the cost-share re-  
22 quirements of Public Law 89–72, The Federal  
23 Water Recreation Act.”.

24           (g) RECREATION ROADS.—



1           (1) AUTHORIZATIONS.—Section 201 of such  
2 title is amended by striking “public lands highways”  
3 and inserting “recreation roads”.

4           (2) ALLOCATIONS.—Section 202 of such title,  
5 as amended by this section, is further amended by  
6 adding at the end the following:

7           “(g) RECREATION ROADS.—On October 1 of each fis-  
8 cal year, the Secretary, after making the transfer provided  
9 for in subsection 204(i) of this title, shall allocate the  
10 sums authorized to be appropriated for such fiscal year  
11 for recreation roads as follows: 6 percent to the Bureau  
12 of Reclamation, 6 percent to the U.S. Army Corps of En-  
13 gineers, 10 percent to the Bureau of Land Management,  
14 10 percent to the Military Traffic Management Command,  
15 and 68 percent to the Forest Service. Recreation road  
16 funds shall be allocated to projects and activities according  
17 to the relative needs of each area served by these roads  
18 as indicated in the approved transportation improvement  
19 programs for each agency. The Secretary, from time to  
20 time, may adjust the percentage of recreation road funds  
21 allocated to the Federal agencies listed above based on the  
22 outputs of agency management systems, other need anal-  
23 yses/or studies, and the use of previously allocated recre-  
24 ation road funds.”.

1           (3) AVAILABILITY OF FUNDS.—Section 203 of  
2 such title is amended by striking “public lands high-  
3 ways” and inserting “recreation roads” at each  
4 place it appears.

5           (4) USE OF FUNDING.—Section 204 of such  
6 title, as amended by this section, is further amended  
7 by adding at the end the following:

8           “(m) RECREATION ROADS.—

9           “(1) IN GENERAL.—Notwithstanding any other  
10 provision of this title, funds made available for  
11 recreation roads shall be used by the Secretary and  
12 the Secretary of the appropriate Federal land man-  
13 agement agency only to pay the cost of—

14                   “(A) maintenance or improvements of ex-  
15 isting recreation roads;

16                   “(B) maintenance and improvements of eli-  
17 gible projects described in paragraphs (1), (2),  
18 (3), (5), and (6) of subsection (h) that are lo-  
19 cated in or adjacent to Federal land areas  
20 under the jurisdiction of the Departments of  
21 Agriculture, Defense, or the Interior;

22                   “(C) transportation planning and adminis-  
23 trative costs associated with such maintenance  
24 and improvements; and

1           “(D) the non-Federal share of the cost of  
2           any project funded under this title or chapter  
3           53 of title 49 that provides access to or within  
4           Federal land areas under the jurisdiction of the  
5           Departments of Agriculture, Defense, or the In-  
6           terior.

7           “(2) CONTRACTS.—In carrying out paragraph  
8           (1), the Secretary and the Secretary of the appro-  
9           priate Federal land management agency, as appro-  
10          priate, may enter into contracts or agreements with  
11          a State or civil subdivision of a State or Indian tribe  
12          as is determined advisable.

13          “(3) NEW ROADS.—No funds available under  
14          this section shall be used to pay the cost of the de-  
15          sign or construction of new recreation roads.

16          “(4) COMPLIANCE WITH OTHER ENVIRON-  
17          MENTAL LAWS.—Maintenance and improvement  
18          projects which are funded under this subsection and  
19          are consistent with or have been identified in a land  
20          use plan for the Federal area do not require any ad-  
21          ditional environmental reviews or assessments under  
22          the National Environmental Policy Act if the Fed-  
23          eral agency that promulgated the land use plan ana-  
24          lyzed the specific proposal under the National Envi-  
25          ronmental Policy Act and there are no significant

1 changes to the proposal bearing on environmental  
2 concerns and no significant new information.

3 “(5) EXCEPTION.—Funds allocated to the Bu-  
4 reau of Reclamation for the purposes described in  
5 this subsection are exempted from the cost-share re-  
6 quirements of Public Law 89–72, The Federal  
7 Water Recreation Act.”.

8 (h) CONFORMING AMENDMENTS.—

9 (1) Sections 120(e) and 125(e) of title 23,  
10 United States Code, are amended by inserting  
11 “recreation roads,” after “public lands highways,”  
12 each place the words appear.

13 (2) Sections 120(e), 125(e), 201, 202(a), 203,  
14 section 205 in the heading and in subsections (a)  
15 and (d), and the analysis for chapter 2 of such title  
16 are amended by striking “forest development roads”  
17 and inserting “National Forest System roads” each  
18 place the words appear.

19 (3) Section 204(a)(1) is amended by striking  
20 “public lands highways” and inserting “recreation  
21 roads, forest highways”, section 204(b) is amended  
22 by striking “public lands highways” and inserting  
23 “recreation roads”, and section 204(i) is amended  
24 by striking “public lands highways” and inserting

1 “recreation roads and forest highways” each place  
2 the words appear.

3 (4) Section 217(c) is amended by striking “pub-  
4 lic lands highways” and inserting “refuge roads”.

5 **SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**  
6 **TEM.**

7 (a) APPORTIONMENT.—The Secretary shall appor-  
8 tion funds made available by section 1101(a)(7) of this  
9 Act for fiscal years 2004 through 2009 among the States  
10 based on the latest available cost to complete estimate for  
11 the Appalachian development highway system under sec-  
12 tion 201 of the Appalachian Regional Development Act  
13 of 1965 prepared by the Appalachian Regional Commis-  
14 sion. Such funds shall be available to construct highways  
15 and access roads under section 201 of the Appalachian  
16 Regional Development Act of 1965.

17 (b) APPLICABILITY OF TITLE 23.—Funds authorized  
18 by section 1101(a)(7) of this Act for the Appalachian de-  
19 velopment highway system shall be available for obligation  
20 in the same manner as if such funds were apportioned  
21 under chapter 1 of title 23, United States Code, except  
22 that the Federal share of the cost of any project under  
23 this section shall be determined in accordance with such  
24 section 201 and such funds shall remain available until  
25 expended.

1 (c) USE OF TOLL CREDITS.—Section 120(j)(1) of  
2 title 23, United States Code is amended by adding “and  
3 the Appalachian development highway system program  
4 under section 201 of the Appalachian Regional Develop-  
5 ment Act of 1965” following “(other than the emergency  
6 relief program authorized by section 125”.

7 **SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.**

8 (a) ESTABLISHMENT AND PURPOSE.—The Secretary  
9 shall establish and implement a program to support and  
10 encourage multi-state transportation planning, provide for  
11 streamlined transportation project development, and facili-  
12 tate transportation decision-making.

13 (b) ELIGIBLE RECIPIENTS.—State transportation de-  
14 partments and metropolitan planning organizations are el-  
15 igible to receive and administer funds provided under this  
16 program.

17 (c) ELIGIBLE ACTIVITIES.—The Secretary shall  
18 make allocations under this program for multi-state high-  
19 way and multi-state multi-modal planning studies.

20 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.—  
21 All studies funded under this program shall be consistent  
22 with the continuing, cooperative, and comprehensive plan-  
23 ning processes required by sections 134 and 135 of title  
24 23, United States Code.

1 (e) SELECTION CRITERIA.—The Secretary shall se-  
2 lect projects based on—

3 (1) the existence and significance of signed and  
4 binding multi-jurisdictional agreements;

5 (2) endorsement of the study by elected State  
6 and local representatives;

7 (3) prospects for early completion of the study;  
8 and

9 (4) whether the projects to be studied are lo-  
10 cated on corridors identified by section 1105(c) of  
11 the Intermodal Surface Transportation Efficiency  
12 Act of 1991, as amended (Public Law 102-240; 105  
13 Stat. 2032).

14 (f) PROGRAM PRIORITIES.—In administering the pro-  
15 gram, the Secretary shall—

16 (1) encourage and enable States and other ju-  
17 risdictions to work together to develop plans for  
18 multi-modal and multi-jurisdictional transportation  
19 decision-making; and

20 (2) give priority to studies that emphasize  
21 multi-modal planning, including planning for oper-  
22 ational improvements that increase mobility, freight  
23 productivity, access to marine ports, safety, and se-  
24 curity while enhancing the environment.

1 (g) FEDERAL SHARE.—The Federal share payable,  
2 using funds from all Federal sources, for any study carried  
3 out under this section shall not exceed 80 percent of the  
4 total cost of such study, except that the share of funds  
5 from the Highway Trust Fund (other than the Mass Tran-  
6 sit Account) shall not exceed 50 percent of the total cost  
7 of such study.

8 (h) APPLICABILITY OF TITLE 23 U.S.C.—Funds au-  
9 thorized to be appropriated under section 1101(a)(10) of  
10 this Act to carry out this section shall be available for obli-  
11 gation in the same manner as if such funds were appor-  
12 tioned under chapter 1 of title 23, United States Code.

13 **SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECH-**  
14 **NOLOGY PROGRAM.**

15 (a) ESTABLISHMENT AND PURPOSE.—The Secretary  
16 shall establish and implement a program to support co-  
17 ordination and improvement in bi-national transportation  
18 planning, operations, efficiency, information exchange,  
19 safety, and security for the United States borders with  
20 Canada and Mexico.

21 (b) ELIGIBLE RECIPIENTS.—State transportation de-  
22 partments and metropolitan planning organizations at or  
23 near an international land border in the States of Alaska,  
24 Arizona, California, Idaho, Maine, Michigan, Minnesota,  
25 Montana, New Hampshire, New Mexico, New York, North



1 Dakota, Texas, Vermont and Washington, are eligible to  
2 receive and administer funds allocated under this pro-  
3 gram.

4 (c) ELIGIBLE ACTIVITIES.—

5 (1) IN GENERAL.—The Secretary shall make al-  
6 locations under the program established in this sec-  
7 tion for activities at or near international land bor-  
8 ders in the States listed in subsection (b).

9 (2) SPECIFIC ACTIVITIES.—The activities eligi-  
10 ble for funding under this program are—

11 (A) highway and multi-modal planning or  
12 environmental studies;

13 (B) cross-border Port of Entry and safety  
14 inspection improvements, including operational  
15 enhancements and technology applications;

16 (C) technology and information exchange  
17 activities; and

18 (D) right-of-way acquisition, design, and  
19 construction, where needed to add the enhance-  
20 ments or applications described in subpara-  
21 graphs (B) and (C), or to decrease air pollution  
22 emissions from vehicles or inspection facilities  
23 at border crossings.

24 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

25 All studies and projects funded under this program shall

1 be consistent with the continuing, cooperative, and com-  
2 prehensive planning processes required by sections 134  
3 and 135 of title 23, United States Code. All regionally  
4 significant projects that are part of such applications must  
5 be on the transportation plans and program required by  
6 sections 134 and 135 of title 23, United States Code.

7 (e) SELECTION CRITERIA.—The Secretary shall se-  
8 lect projects based on—

9 (1) expected benefits, including air quality ben-  
10 efits, of the project in relation to its costs;

11 (2) prospects for early completion of the study  
12 or project;

13 (3) endorsement of the project by formally con-  
14 stituted bi-national organizations with both Federal  
15 and State or provincial representation;

16 (4) the existence and significance of signed and  
17 binding multi-jurisdictional agreements;

18 (5) contributions of other title 23 funds and  
19 non-title 23 funds above the minimum required; and

20 (6) the extent to which the project benefits are  
21 multi-modal.

22 (f) PROGRAM PRIORITIES.—In administering the pro-  
23 gram, the Secretary shall emphasize multi-modal plan-  
24 ning; infrastructure improvements; and operational im-  
25 provements that increase safety, security, freight move-

1 ment, or highway access to rail, marine, and air services  
2 while enhancing the environment.

3 (g) FEDERAL SHARE.—The Federal share payable on  
4 account of any project carried out under this section shall  
5 not exceed 80 percent of the total cost of such project.

6 (h) APPLICABILITY OF TITLE 23 U.S.C.—Funds au-  
7 thorized to be appropriated under section 1101(1)(11) of  
8 this Act to carry out this section shall be available for obli-  
9 gation in the same manner as if such funds were appor-  
10 tioned under chapter 1 of title 23, United States Code.

11 (i) ALLOCATION OF FUNDS.—No individual project  
12 whose scope of work is limited to information exchange  
13 shall receive an allocation greater than \$500,000 in a sin-  
14 gle year.

15 (j) PROJECTS IN CANADA OR MEXICO.—Projects in  
16 Canada or Mexico proposed by one or more border States  
17 that directly and predominantly facilitate cross border ve-  
18 hicle and commercial cargo movements at the inter-  
19 national gateways or ports of entry into the border re-  
20 gion(s) of such State(s), may be constructed using funds  
21 allocated under this program provided that, prior to the  
22 obligation of such funds, Canada or Mexico, or the polit-  
23 ical subdivision thereof responsible for the operation of the  
24 facility to be constructed, has provided assurances satis-  
25 factory to the Secretary that any facility constructed

1 under this subsection will be constructed to standards  
2 equivalent to those in the United States and properly  
3 maintained and used over the useful life of the facility for  
4 the purpose for which the Secretary allocated funds to  
5 such project.

6 (k) SET-ASIDE.—The Secretary shall set-aside  
7 \$47,000,000 of the funds authorized for fiscal year 2004  
8 under section 1101(a)(11) of this Act for construction of  
9 State border safety inspection facilities in the States of  
10 Arizona, California, New Mexico, and Texas.

11 (l) TRANSFER OF FUNDS TO THE GENERAL SERV-  
12 ICES ADMINISTRATION.—

13 (1) STATE FUNDS.—At the request of a State,  
14 funds allocated under this section may be trans-  
15 ferred to the General Services Administration for the  
16 purpose of funding a specific project or projects if  
17 the Secretary determines, after consultation with the  
18 State transportation department as appropriate, that  
19 the General Services Administration should carry  
20 out the project or projects and the General Services  
21 Administration agrees to accept the transfer of  
22 funds and to administer those funds. The State shall  
23 provide the 20 percent non-Federal share of the  
24 project cost, as required under subsection (g) of this  
25 section, directly to the General Services Administra-

1       tion. Funds so transferred or provided shall not be  
2       deemed to be an augmentation of the General Serv-  
3       ices Administration's appropriations and shall be ad-  
4       ministered under that agency's procedures, except  
5       the transferred funds shall be available for obligation  
6       in the same manner as if such funds were appor-  
7       tioned under chapter 1 of title 23, United States  
8       Code. Obligation authority shall be transferred to  
9       the General Services Administration in the same  
10      manner and amount as the allocated funds trans-  
11      ferred for the projects.

12           (2) DIRECT TRANSFER OF AUTHORIZED  
13      FUNDS.—In addition to allocations to States and  
14      metropolitan planning organizations as provided in  
15      subsection (b), the Secretary may transfer funds  
16      made available to carry out this section to the Gen-  
17      eral Services Administration for construction of  
18      transportation infrastructure projects at or near the  
19      border in the States identified in subsection (b), if  
20      the Secretary determines that such transfer is nec-  
21      essary to effectively carry out the purposes of this  
22      program and the General Services Administration  
23      agrees to accept the transfer of funds and to admin-  
24      ister those funds. Funds so transferred shall not be  
25      deemed to be an augmentation of the General Serv-



1 Northern Mariana Islands that have been designated  
2 by the Governor and approved by the Secretary as  
3 provided in section 215 of this title.”.

4 (b) FUNDING.—Section 104(b)(1)(A) of title 23,  
5 United States Code, is amended by striking “to the Virgin  
6 Islands, Guam, American Samoa, and the Commonwealth  
7 of Northern Mariana Islands” and inserting “for the terri-  
8 torial highway program authorized under section 215 of  
9 this title”.

10 (c) ELIGIBLE PROJECTS.—Section 103(b)(6)(P) of  
11 title 23, United States Code, is amended to read as fol-  
12 lows:

13 “(P) Projects eligible for assistance under the  
14 territorial highway program as provided in section  
15 215 of this title.”.

16 (d) TERRITORIAL HIGHWAY PROGRAM.—Chapter 2  
17 of title 23, United States Code, is amended by striking  
18 section 215 and inserting the following:

19 **“§ 215. Territorial highway program**

20 “(a) IN GENERAL.—Recognizing the mutual benefits  
21 that will accrue to the Virgin Islands, Guam, American  
22 Samoa, and the Commonwealth of the Northern Mariana  
23 Islands, and to the United States from the improvement  
24 of highways in such territories of the United States, the  
25 Secretary is authorized to assist each such territorial gov-

1 ernment in a program for the construction and improve-  
2 ment of a system of arterial and collector highways, and  
3 necessary inter-island connectors designated by the Gov-  
4 ernor of such territory and approved by the Secretary.  
5 Federal financial assistance shall be granted under this  
6 section in accordance with section 120(h) of this title.

7       “(b) TECHNICAL ASSISTANCE.—In order to continue  
8 a long-range highway development program, the Secretary  
9 is authorized to provide technical assistance to the terri-  
10 torial governments to enable them to, on a continuing  
11 basis, engage in highway planning, conduct environmental  
12 evaluations, administer right-of-way acquisition and relo-  
13 cation assistance programs, and design, construct, oper-  
14 ate, and maintain a system of arterial and collector high-  
15 ways, including necessary inter-island connectors. The  
16 technical assistance to be provided and the terms for shar-  
17 ing information among the territories shall be set forth  
18 in the agreement required by subsection (d) of this section.

19       “(c) APPLICABILITY OF CHAPTER 1.—The provisions  
20 of chapter 1 of this title (other than provisions related to  
21 the apportionment and allocation of funds) shall apply to  
22 funds authorized to be appropriated for the territorial  
23 highway program, except as determined by the Secretary  
24 to be inconsistent with the needs of the territories and the  
25 intent of the territorial highway program. The specific sec-



1 tions of chapter 1 that are applicable to each territory and  
2 the extent of their applicability shall be identified in the  
3 agreement provided for in subsection (d) of this section.

4 “(d) AGREEMENT.—

5 “(1) Except as provided in paragraph (3) of  
6 this subsection, no part of the appropriations au-  
7 thorized for the territorial highway program shall be  
8 available for obligation or expenditure with respect  
9 to any territory until the Governor enters into a new  
10 agreement with the Secretary, within 12 months  
11 after the effective date of this Act, providing that  
12 the government of such territory shall—

13 “(A) implement the territorial highway  
14 program in accordance with the appropriate  
15 provisions of chapter 1 of this title, as provided  
16 for in subsection (c) of this section;

17 “(B) design and construct a system of ar-  
18 terial and collector highways, including nec-  
19 essary interisland connectors, built in accord-  
20 ance with standards appropriate for each terri-  
21 tory and approved by the Secretary;

22 “(C) provide for the maintenance of facili-  
23 ties constructed or operated under provisions of  
24 this section in a condition to adequately serve  
25 the needs of present and future traffic; and

1           “(D) implement standards for traffic oper-  
2           ations and uniform traffic control devices that  
3           are approved by the Secretary.

4           “(2) The new agreement required by paragraph  
5           (1) of this subsection also shall specify the kind of  
6           technical assistance to be provided, include appro-  
7           priate provisions regarding information sharing  
8           among the territories, and delineate the oversight  
9           role and responsibilities of the territories and the  
10          Secretary. The agreement shall be re-evaluated every  
11          two years and modified as appropriate.

12          “(3) Agreements in effect on the effective date  
13          of this Act shall continue in force until replaced, as  
14          required by paragraph (1) of this subsection, and  
15          appropriations authorized for the program shall be  
16          available for obligation or expenditure while the  
17          agreements are in place.

18          “(e) PERMISSIBLE USES OF FUNDS.—

19                 “(1) Funds made available for the territorial  
20                 highway program may be used only for—

21                         “(A) eligible surface transportation pro-  
22                         gram projects described in section 133(b) of  
23                         this title;

1           “(B) cost effective preventive maintenance  
2 consistent with the requirements of section 116  
3 of this title;

4           “(C) ferry boats, terminal facilities, and  
5 approaches, as provided for in section 129(b)  
6 and (c) of this title;

7           “(D) engineering and economic surveys  
8 and investigations for the planning of future  
9 highway programs and the financing thereof;

10           “(E) studies of the economy, safety, and  
11 convenience of highway usage and the desirable  
12 regulation and equitable taxation thereof; and

13           “(F) research and development, necessary  
14 in connection with the planning, design, and  
15 maintenance of the highway system, and the  
16 regulation and taxation of their use.

17           “(2) None of the appropriations authorized for  
18 the territorial highway program shall be obligated or  
19 expended for routine maintenance.

20           “(f) LOCATION OF PROJECTS.—Except as provided  
21 in subsection (b)(1) of section 133 of this title, territorial  
22 highway projects (other than those described in subsection  
23 (b)(3) and (4) of section 133 of this title) may not be  
24 undertaken on roads functionally classified as local.”.

1 (h) CONFORMING AMENDMENTS.—The analysis of  
2 chapter 2 of title 23 is amended by revising the item relat-  
3 ing to section 215 to read as follows:

“215. Territorial highway program.”.

4 **SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.**

5 (a) WRITTEN AGREEMENT OF STATES.—Section  
6 103(c)(4)(B)(ii) of title 23, United States Code, is amend-  
7 ed by striking “12” and inserting “25”.

8 (b) REMOVAL OF DESIGNATION.—Section  
9 103(c)(4)(B)(iii)(I) of such title is amended—

10 (1) by striking “in the agreement between the  
11 Secretary and the State or States”; and

12 (2) by adding at the end the following: “An  
13 agreement entered into under clause (ii) prior to the  
14 enactment of the Safe, Accountable, Flexible, and  
15 Efficient Transportation Equity Act of 2003 shall be  
16 deemed to include the 25 year time limitation, not-  
17 withstanding an earlier construction completion date  
18 in that agreement.”.

19 **SEC. 1810. DONATIONS AND CREDITS.**

20 Section 323 of title 23, United States Code, is  
21 amended by—

22 (1) inserting “or a local government from offer-  
23 ing to donate funds, materials or services performed  
24 by local government employees,” after “services” in  
25 the first sentence of subsection (c); and

1 (2) striking subsection (e).

2 **SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.**

3 (a) GENERAL RULE.—Except to the extent that the  
4 Secretary determines otherwise, not less than 10 percent  
5 of the amounts made available for any program under ti-  
6 tles I, III, and V of this Act shall be expended with small  
7 business concerns owned and controlled by socially and  
8 economically 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 such term  
13 has under section 3 of the Small Business Act (15  
14 U.S.C. 632); except that such 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 \$17,420,000, as adjusted by the Secretary for in-  
20 flation.

21 (2) SOCIALLY AND ECONOMICALLY DISADVAN-  
22 TAGED INDIVIDUALS.—The term “socially and eco-  
23 nomically disadvantaged individuals” has the mean-  
24 ing such term has under section 8(d) of the Small  
25 Business Act (15 U.S.C. 637(d)) and relevant sub-

1 contracting regulations promulgated pursuant there-  
2 to; except that women shall be presumed to be so-  
3 cially and economically disadvantaged individuals for  
4 purposes of this section.

5 (c) ANNUAL LISTING OF DISADVANTAGED BUSINESS  
6 ENTERPRISES.—Each State shall annually survey and  
7 compile a list of the small business concerns referred to  
8 in subsection (a) and the location of such concerns in the  
9 State and notify the Secretary, in writing, of the percent-  
10 age of such concerns which are controlled by women, by  
11 socially and economically disadvantaged individuals (other  
12 than women), and by individuals who are women and are  
13 otherwise socially and economically disadvantaged individ-  
14 uals.

15 (d) UNIFORM CERTIFICATION.—The Secretary shall  
16 establish minimum uniform criteria for State governments  
17 to use in certifying whether a concern qualifies for pur-  
18 poses of this subsection. Such minimum uniform criteria  
19 shall include, but not be limited to, on-site visits, personal  
20 interviews, licenses, analysis of stock ownership, listing of  
21 equipment, analysis of bonding capacity, listing of work  
22 completed, resume of principal owners, financial capacity,  
23 and type of work preferred.

24 (e) COMPLIANCE WITH COURT ORDERS.—Nothing in  
25 this section limits the eligibility of an entity or person to

1 receive funds made available under titles I, III, and V of  
2 this Act, if the entity or person is prevented, in whole or  
3 in part, from complying with subsection (a) because a  
4 Federal court issues a final order in which the court finds  
5 that the requirement of subsection (a), or the program es-  
6 tablished under subsection (a), is unconstitutional.

7 **SEC. 1812. HIGHWAY BRIDGE PROGRAM.**

8 (a) PROGRAM NAME.—Section 144 of title 23, United  
9 States Code, is amended in the section heading by striking  
10 “replacement and rehabilitation”.

11 (b) IN GENERAL.—Section 144(a) of such title is  
12 amended to read as follows:

13 “(a) Congress hereby finds and declares it to be in  
14 the vital interest of the Nation that a highway bridge pro-  
15 gram be established to enable the several States to im-  
16 prove the condition of their bridges through replacement,  
17 rehabilitation, and systematic preventative maintenance  
18 on highway bridges over waterways, other topographical  
19 barriers, other highways, or railroads when the States and  
20 the Secretary find that a bridge is unsafe because of struc-  
21 tural deficiencies, physical deterioration, or functional ob-  
22 solescence.”.

23 (c) SCOUR COUNTERMEASURES.—Section 144(d) of  
24 such title is amended to read as follows:

1           “(d) Whenever any State or States make application  
2 to the Secretary for assistance in replacing or rehabili-  
3 tating a highway bridge which the priority system estab-  
4 lished under subsections (b) and (c) of this section shows  
5 to be eligible, the Secretary may approve Federal partici-  
6 pation in replacing such bridge with a comparable facility  
7 or in rehabilitating such bridge. Whenever any State  
8 makes application to the Secretary for assistance in paint-  
9 ing, seismic retrofit, or preventative maintenance of, or in-  
10 stalling scour countermeasures or applying calcium mag-  
11 nesium acetate, sodium acetate/formate, or other environ-  
12 mentally acceptable, minimally corrosive anti-icing and de-  
13 icing compositions to, the structure of a highway bridge,  
14 the Secretary may approve Federal participation in the  
15 painting, seismic retrofit, or preventative maintenance of,  
16 or installation of scour countermeasures or application of  
17 acetate or sodium acetate/formate or such anti-icing or de-  
18 icing composition to, such structure. The Secretary shall  
19 determine the eligibility of highway bridges for replace-  
20 ment or rehabilitation for each State based upon the un-  
21 safe highway bridges in such State, except that a State  
22 may carry out a project for preventative maintenance on  
23 a bridge, seismic retrofit of a bridge, or installing scour  
24 countermeasures to a bridge under this section without re-



1 gard to whether the bridge is eligible for replacement or  
2 rehabilitation under this section.”.

3 (d) APPORTIONMENT FORMULA.—Section 144(e) of  
4 such title is amended—

5 (1) in the third sentence by striking “square  
6 footage” and inserting “area”;

7 (2) in the fourth sentence by striking “by the  
8 total cost of any highway bridges constructed under  
9 subsection (m) in such State, relating to replacement  
10 of destroyed bridges and ferryboat services, and,”  
11 and by striking “1997” and inserting “2003”; and

12 (3) by striking “the Federal-aid primary sys-  
13 tem” and inserting “Federal-aid highways”.

14 (e) DISCRETIONARY BRIDGE PROGRAM.—Section  
15 144(g) of such title is amended—

16 (1) by striking “SET ASIDES.” in the heading  
17 of (g) and all that follows through paragraph (2)(B);

18 (2) by striking “(3)” and redesignating para-  
19 graph (3) as subsection (g); and

20 (3) in subsection (g), as redesignated, by—

21 (A) striking “nor more than 35 percent”;

22 (B) striking “1987” and inserting “2004”;

23 (D) striking “2003” and inserting “2009”;

24 and

1                   (E) striking “paint” and inserting “per-  
2                   form systematic preventative maintenance”.

3           (f) INVENTORIES AND REPORTS.—Section 144(i) of  
4 such title is amended—

5                   (1) in paragraph (3), by striking “and”;

6                   (2) in paragraph (4), by striking “section.” and  
7 inserting “section; and”; and

8                   (3) after paragraph (4), by striking “Such re-  
9 ports shall be submitted to such committees bienni-  
10 ally at the same time as the report required by sec-  
11 tion 307(f)(1) of this title is submitted to Con-  
12 gress.” and inserting the following:

13                   “(5) submit reports required by this subsection  
14 to such committees biennially at the same time as  
15 the report required by section 502(g) of this title.”.

16           (g) OFF-SYSTEM BRIDGE PROGRAM.—Section  
17 144(n) of such title is amended by inserting “general engi-  
18 neering” between “all” and “standards”.

19           (h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of  
20 such title is amended—

21                   (1) in paragraph (3), by striking “title (includ-  
22 ing this section)” and inserting “section” and by in-  
23 serting “200 percent of” after “shall not exceed”;  
24 and

1           (2) in paragraph (4), by inserting “200 percent  
2           of” after “not to exceed”, and by striking “title” at  
3           the end of the paragraph and inserting “section”.

4           (i) WATER RESOURCES PROJECTS.—Section 144 of  
5           such title is further amended by adding at the end the  
6           following:

7           “(r) Notwithstanding any other provision of law, any  
8           bridge funded under this title shall not be considered a  
9           ‘water resources project’ as that term is used in the Wild  
10          and Scenic Rivers Act (16 U.S.C. 1271–1287).”.

11          (j) CONFORMING AMENDMENT.—The analysis for  
12          chapter 1 of title 23 is amended in the item relating to  
13          section 144 by striking “replacement and rehabilitation”.

14          **SEC. 1813. DESIGN-BUILD.**

15          Section 112(b)(3) of title 23, United States Code, is  
16          amended by striking subparagraph (C) and inserting the  
17          following in its place:

18                       “(C) QUALIFIED PROJECTS.—A qualified  
19                       project is a project under this chapter for which  
20                       the Secretary has approved the use of design-  
21                       build contracting under criteria specified in reg-  
22                       ulations issued by the Secretary.”.

23          **SEC. 1814. INTERNATIONAL FERRIES.**

24          Section 129(c)(5) of title 23, United States Code, is  
25          amended—

1 (1) by striking “and” the first place it appears  
2 in the first sentence, and inserting a comma;

3 (2) by adding “, and the islands that comprise  
4 a territory of the United States” after “Puerto  
5 Rico” in the first sentence; and

6 (3) by adding “operations between the islands  
7 which comprise a territory of the United States,”  
8 after “Puerto Rico,” in the second sentence.

9 **SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANS-**  
10 **PORTATION ENHANCEMENTS, REC-**  
11 **REATIONAL TRAILS, AND TRANSPORTATION**  
12 **AND COMMUNITY AND SYSTEM PRESERVA-**  
13 **TION PROGRAM PROJECTS.**

14 (a) IN GENERAL.—Chapter 1 of title 23, United  
15 States Code, as amended by this Act, is further amended  
16 by inserting the following new section after section 165:

17 **“§ 166. Assumption of responsibility for transpor-**  
18 **tation enhancements, recreational trails,**  
19 **and transportation, community, and sys-**  
20 **tem preservation program projects**

21 **“(a) ASSUMPTION OF SECRETARY’S RESPONSIBIL-**  
22 **ITIES UNDER APPLICABLE FEDERAL LAWS.—**

23 **“(1) IN GENERAL.—**Upon mutual agreement  
24 the Secretary may assign, and the State may as-  
25 sume, any of the Secretary’s responsibilities (except

1 responsibilities relating to Federally recognized  
2 tribes) for environmental reviews, consultation, deci-  
3 sion-making or other actions under any Federal law  
4 applicable to projects that—

5 “(A) are funded under section 104(h) or  
6 section 167 of this title; or

7 “(B) meet the definition of a transpor-  
8 tation enhancement activity as set forth in sec-  
9 tion 101(a)(38) of this title.

10 “(2) LIMITATIONS.—The State shall assume  
11 these responsibilities subject to the same procedural  
12 and substantive requirements as would be required  
13 if such responsibilities were carried out by the Sec-  
14 retary. When a State assumes any responsibility  
15 under a Federal law pursuant to this section, it as-  
16 sents to Federal jurisdiction and shall be solely re-  
17 sponsible and solely liable for complying with and  
18 carrying out that law in lieu of the Secretary.

19 “(b) AGREEMENTS.—The Secretary and the State  
20 shall enter into a memorandum of understanding setting  
21 forth the responsibilities to be assigned under this section  
22 and the terms and conditions under which such assign-  
23 ments are to be made. In the memorandum of under-  
24 standing the State shall consent to accept the jurisdiction  
25 of the Federal courts for the compliance, discharge, and

1 enforcement of any responsibility of the Secretary it may  
2 assume. Such memoranda of understanding shall be estab-  
3 lished for periods of no more than three years. The Sec-  
4 retary shall review and determine compliance with the  
5 memorandum of understanding and the laws assigned by  
6 it to the State on an annual basis for the first three years  
7 of the agreement and, subsequently, on a periodic basis  
8 to be determined by mutual agreement but no longer than  
9 every three years.

10       “(c) TERMINATION.—The Secretary may terminate  
11 any assignment of responsibility under this section upon  
12 a determination that a State is not adequately meeting  
13 the terms and conditions of the memorandum of under-  
14 standing.

15       “(d) STATE DEFINED.—For the recreational trails  
16 program, “State” means the State agency designated by  
17 the Governor of the State in accordance with section  
18 206(e)(1) of this title.

19       “(e) PRESERVATION OF PUBLIC INTEREST CONSID-  
20 ERATION.—Nothing contained in this section shall be con-  
21 strued to limit the requirements under any applicable law  
22 providing for the consideration and preservation of the  
23 public interest, including public participation and commu-  
24 nity values in transportation decision-making.

1       “(f) STATE SUBJECT TO FEDERAL LAWS.—For pur-  
 2 poses of assuming the Secretary’s responsibilities under  
 3 this section, the State agency signing the agreement in  
 4 subsection (c) is deemed to be a Federal agency to the  
 5 extent the State is carrying out the Secretary’s respon-  
 6 sibilities under the National Environmental Policy Act,  
 7 under this title, and under any other Federal law.”.

8       (b) CONFORMING AMENDMENT.—The analysis for  
 9 chapter 1 of title 23, United States Code, as amended by  
 10 this Act, is further amended by inserting after the item  
 11 relating to section 165 the following:

“166. Assumption of responsibility for transportation enhancements, rec-  
 recreational trails, and transportation and community and system  
 preservation program projects.”.

12 **SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM**  
 13 **PRESERVATION PROGRAM.**

14       (a) TRANSPORTATION, COMMUNITY, AND SYSTEM  
 15 PRESERVATION PROGRAM.—Chapter 1 of title 23, United  
 16 States Code, as amended by this Act, is further amended  
 17 by inserting the following new section after section 166:  
 18 **“§ 167. Transportation, community, and system pres-**  
 19 **ervation program**

20       “(a) ESTABLISHMENT AND PURPOSE.—The Sec-  
 21 retary shall establish a comprehensive program to inves-  
 22 tigate and address the relationships between transpor-  
 23 tation and community and system preservation and iden-  
 24 tify private sector-based initiatives. Through this program,

1 the Secretary shall facilitate the planning, development,  
2 and implementation of strategies by States, metropolitan  
3 planning organizations, federally-recognized tribes, and  
4 local governments to integrate transportation, community,  
5 and system preservation plans and practices that address  
6 one or more of the following:

7           “(1) Improve the efficiency of the transpor-  
8           tation system.

9           “(2) Reduce the impacts of transportation on  
10          the environment.

11          “(3) Reduce the need for costly future invest-  
12          ments in public infrastructure.

13          “(4) Provide efficient access to jobs, services,  
14          and centers of trade.

15          “(5) Examine development patterns and iden-  
16          tify strategies to encourage private sector develop-  
17          ment patterns which achieve the goals identified in  
18          paragraphs (1) through (4).

19          “(b) FUNDING.—Funds authorized to be apportioned  
20          under section 104(q) of this title shall be available to carry  
21          out the provisions of this section.”.

22          (b) Section 104 of such title is amended by adding  
23          after subsection (p), as added by this Act, the following:

24          “(q) TRANSPORTATION, COMMUNITY, AND SYSTEM  
25          PRESERVATION PROGRAM.—



1           “(1) SET-ASIDE.—On October 1 of each fiscal  
2 year for fiscal years 2004 through 2009, the Sec-  
3 retary, after making the deductions authorized by  
4 subsections (a) and (f), shall set aside \$26,000,000  
5 of the remaining funds authorized to be apportioned  
6 under subsection (b)(3) for carrying out the Trans-  
7 portation, Community, and System Preservation  
8 Program under section 167 of this chapter.

9           “(2) APPORTIONMENT.—

10           “(A) From amounts set aside under para-  
11 graph (1), the Secretary shall apportion  
12 \$500,000 each fiscal year to each State, includ-  
13 ing the District of Columbia and Puerto Rico,  
14 to carryout the provisions of section 167.

15           “(B) A State shall also make funds appor-  
16 tioned under this subsection available to metro-  
17 politan planning organizations, federally recog-  
18 nized tribes, and local governments in a manner  
19 and amounts to be determined by the State to  
20 carryout the provisions of section 167.”.

21           (c) CONFORMING AMENDMENT.—The analysis for  
22 chapter 1 of title 23, United States Code, as amended by  
23 this Act, is further amended by inserting after the item  
24 relating to section 166 the following:

“167. Transportation, community, and system preservation program.”.

1 **SEC. 1817. PROGRAM EFFICIENCIES—FINANCE.**

2 Section 115 of title 23, United States Code, is  
3 amended—

4 (1) by striking “(a)” and all that follows  
5 through subsection (a)(1)(B);

6 (2) by striking subsection (b);

7 (3) by redesignating subsection (c) as sub-  
8 section (d);

9 (4) by redesignating subsections (a)(2),  
10 (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),  
11 and (c)(2) respectively; and

12 (5) by inserting after the section heading the  
13 following:

14 “(a) The Secretary may authorize a State to proceed  
15 with a project authorized under this title without the aid  
16 of Federal funds in accordance with all procedures and  
17 all requirements applicable to such a project, except inso-  
18 far as such procedures and requirements limit the State  
19 to implementation of projects with the aid of Federal  
20 funds previously apportioned or allocated to it or limit a  
21 State to implementation of a project with obligation au-  
22 thority previously allocated to it.

23 “(b) The Secretary, upon the request of the State and  
24 execution of a project agreement, may obligate the Federal  
25 share, or a portion of the Federal share, of the cost of

1 a project authorized under this section from any category  
2 of funds for which the project is eligible.”.

3 **Subtitle I—Technical Corrections**  
4 **to Title 23, United States Code**

5 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

6 (a) LETTING OF CONTRACTS.—Section 112 of title  
7 23, United States Code, is amended—

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

9 (2) by redesignating subsection (g) as sub-  
10 section (f).

11 (b) FRINGE AND CORRIDOR PARKING FACILITIES.—  
12 Section 137(a) of title 23, United States Code, is amended  
13 in the first sentence by striking “on the Federal-aid urban  
14 system” and inserting “on a Federal-aid highway”.

15 (c) REPEAL OF OBSOLETE SECTIONS OF TITLE  
16 23.—

17 (1) PRIORITY PRIMARY ROUTES.—Section 147  
18 of title 23, United States Code, is repealed.

19 (2) DEVELOPMENT OF A NATIONAL SCENIC  
20 AND RECREATIONAL HIGHWAY.—Section 148 of title  
21 23, United States Code, is repealed.

22 (3) ACCESS HIGHWAYS TO PUBLIC RECREATION  
23 AREAS ON CERTAIN LAKES.—Section 155 of title 23,  
24 United States Code, is repealed.

1           (4) CONFORMING AMENDMENTS.—The analysis  
2           for chapter 1 of title 23, United States Code, is  
3           amended by striking the items relating to sections  
4           147, 148, and 155.

5 **SEC. 1902. CLARIFICATION OF DATE.**

6           Section 109(g) of title 23, United States Code, is  
7           amended in the first sentence by striking “the day of en-  
8           actment of the Federal-Aid Highway Act of 1970” and  
9           inserting “December 31, 1970,”.

10 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

11           (a) IN GENERAL.—Section 154 of the Federal-Aid  
12           Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)  
13           is—  
14           is—

15           (1) transferred to title 23, United States Code;

16           (2) redesignated as section 321;

17           (3) moved to appear after section 320 of that  
18           title; and

19           (4) amended by striking the section heading  
20           and inserting the following:

21 **“§ 321. Signs identifying funding sources”.**

22           (b) CONFORMING AMENDMENT.—The analysis for  
23           chapter 3 of title 23, United States Code, is amended by  
24           inserting after the item relating to section 320 the fol-  
25           lowing:

“321. Signs identifying funding sources.”.

1 **SEC. 1904. INCLUSION OF “BUY AMERICA” REQUIREMENTS**

2 **IN TITLE 23.**

3 (a) IN GENERAL.—Section 165 of the Highway Im-  
4 provement Act of 1982 (23 U.S.C. 101 note; 96 Stat.  
5 2136) is—

6 (1) transferred to title 23, United States Code;

7 (2) redesignated as section 313;

8 (3) moved to appear after section 312 of that  
9 title; and

10 (4) amended by striking the section heading  
11 and inserting the following:

12 **“§ 313. Buy America”.**

13 (b) CONFORMING AMENDMENTS.—

14 (1) The analysis for chapter 3 of title 23, United  
15 States Code, is amended by inserting after the item  
16 relating to section 320 the following:

“313. Buy America.”.

17 (2) Section 313 of title 23, United States Code  
18 (as added by subsection (a)), is amended—

19 (A) in subsection (a), by striking “any  
20 funds authorized to be appropriated by this Act  
21 or by any Act amended by this Act or, after the  
22 date of enactment of this Act, any funds au-  
23 thorized to be appropriated to carry out this  
24 Act, title 23, United States Code, or the Sur-  
25 face Transportation Assistance Act of 1978”

1 and inserting “any funds authorized to be ap-  
2 propriated to carry out the Surface Transpor-  
3 tation Assistance Act of 1982 (96 Stat. 2097)  
4 or this title”;

5 (B) in subsection (b), by redesignating  
6 paragraph (4) as paragraph (3);

7 (C) in subsection (d), by striking “this Act,  
8 the Surface Transportation Assistance Act of  
9 1978, or title 23, United States Code,” and in-  
10 sserting “the Surface Transportation Assistance  
11 Act of 1982 (96 Stat. 2097) or this title”;

12 (D) by striking subsection (e); and

13 (E) by redesignating subsections (f) and  
14 (g) as subsections (e) and (f), respectively.

15 **SEC. 1905. TECHNICAL AMENDMENTS TO 23 UNITED STATES**

16 **CODE 140 (NONDISCRIMINATION).**

17 (a) Section 140(a) of title 23, United States Code,  
18 is amended as follows:

19 (1) At the beginning of the second sentence,  
20 strike the word “He” and insert in its place the  
21 words “The Secretary”.

22 (2) In the first sentence, strike “subsection (a)  
23 of section 105” and insert in its place “section  
24 135”.

1           (3) In the third sentence, strike the phrase  
2           “where he considers it necessary” and insert in its  
3           place the phrase “where necessary”.

4           (4) The last sentence is amended to read as fol-  
5           lows: “The Secretary shall periodically obtain from  
6           the Secretary of Labor and the respective State  
7           transportation departments information which will  
8           enable the Secretary to judge compliance with the  
9           requirements of this section and the Secretary of  
10          Labor shall render to the Secretary such assistance  
11          and information as the Secretary shall deem nec-  
12          essary to carry out the equal employment oppor-  
13          tunity program required hereunder.”.

14          (b) Section 140(b) of title 23, United States Code,  
15          is amended as follows:

16               (1) In the first sentence, strike the words  
17               “highway construction” and insert “surface trans-  
18               portation”;

19               (2) In the second sentence, strike the phrase  
20               “as he may deem necessary” and insert in its place  
21               the phrase “as necessary”, and strike the phrase  
22               “not to exceed \$2,500,000 for the transition quarter  
23               ending September 30, 1976, and”.

24               (3) In the fourth sentence, strike the phrase  
25               “shall not be not be applicable to contracts” and in-

1       sert in its place the phrase “shall not be applicable  
2       to contracts”.

3       (c) The second sentence of section 140(c) of title 23,  
4 United States Code, is amended by striking the phrase  
5 “the Secretary shall deduct such sums as he may deem  
6 necessary,” and inserting in its place the phrase “the Sec-  
7 retary shall deduct such sums as necessary.”.

8       (d) Section 140(d) of title 23, United States Code,  
9 is amended by striking from its catchline the words “and  
10 contracting”.

11 **SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR**  
12                   **ELIMINATION OF HAZARDS OF RAILWAY-**  
13                   **HIGHWAY CROSSINGS.**

14       Section 120(e) of title 23, United States Code, is  
15 amended by amending the first sentence of subsection (c)  
16 to read as follows: “The Federal share payable on account  
17 of any project for traffic control signalization; safety rest  
18 areas; pavement marking; commuter carpooling and van-  
19 pooling; rail-highway crossing closure; projects for elimi-  
20 nation of hazards of railway-highway crossings, as identi-  
21 fied in section 2604 of Public Law 106–246 (114 Stat.  
22 511, 559); or installation of traffic signs, traffic lights,  
23 guardrails, impact attenuators, concrete barrier  
24 endtreatments, breakaway utility poles, or priority control  
25 systems for emergency vehicles or transit vehicles at sig-



1 nalized intersections may amount to 100 percent of the  
2 cost of construction of such projects; except that not more  
3 than 10 percent of all sums apportioned for all the Fed-  
4 eral-aid systems for any fiscal year in accordance with sec-  
5 tion 104 of this title shall be used under this subsection.”.

## 6 **TITLE II—HIGHWAY SAFETY**

### 7 **SEC. 2001. HIGHWAY SAFETY PROGRAMS.**

8 (a) PERFORMANCE GRANTS.—Section 402 (k) of title  
9 23, United States Code, is amended to read as follows:

10 “(k) PERFORMANCE GRANTS.—In addition to other  
11 grants authorized by this section, the Secretary shall make  
12 grants in accordance with this subsection. Funds author-  
13 ized to carry out this subsection in a fiscal year shall be  
14 subject to a deduction not to exceed 5 percent for the nec-  
15 essary costs of administering this subsection.

16 “(1) GENERAL PERFORMANCE GRANTS.—On or  
17 before December 31, 2003, and on or before each  
18 December 31 thereafter through December 31,  
19 2008, the Secretary shall make grants to States  
20 based upon the performance of their highway safety  
21 programs in the following categories: (i) motor vehi-  
22 cle crash fatalities; (ii) alcohol-related crash fatali-  
23 ties; and (iii) motorcycle, bicycle, and pedestrian  
24 crash fatalities.

1           “(A) DETERMINATIONS BY THE SEC-  
2           RETARY.—The Secretary, through a rulemaking  
3           proceeding, shall determine—

4                   “(i) measures for calculating and  
5                   scoring performance in each category  
6                   under this paragraph, using the data for  
7                   the most recent calendar year for which  
8                   the data are available from—

9                           “(I) fatality data provided by the  
10                           National Highway Traffic Safety Ad-  
11                           ministration; and

12                           “(II) vehicle miles traveled deter-  
13                           mined by the Federal Highway Ad-  
14                           ministration.

15                   “(ii) goals for achievement and annual  
16                   progress in each category under this para-  
17                   graph that reflect the potential of each  
18                   goal to save lives; and

19                           “(iii) a weighting system for all of the  
20                           goals that reflects the relative potential of  
21                           each goal to save lives.

22           “(B) AMOUNT OF GRANTS.—The Secretary  
23           shall determine the amount of funds available  
24           to a State in a fiscal year for grants under this  
25           paragraph, based on the State’s achievement or

1 annual progress in each of the categories under  
2 this paragraph, using the measures, goals and  
3 weighting system established under this para-  
4 graph, the amount appropriated to carry out  
5 the grants for such fiscal year, and the ratio  
6 that the funds apportioned to the State under  
7 section 402(c) for such fiscal year bears to the  
8 funds apportioned under section 402(c) for such  
9 fiscal year to all the States that qualify for a  
10 grant for such fiscal year.

11 “(2) SAFETY BELT PERFORMANCE GRANTS.

12 “(A) PRIMARY SAFETY BELT USE LAW.—

13 “(i) For fiscal years 2004 and 2005,  
14 the Secretary shall make a grant to each  
15 State that enacted, and is enforcing, a pri-  
16 mary safety belt use law for all passenger  
17 motor vehicles that became effective by De-  
18 cember 31, 2002.

19 “(ii) For each of fiscal years 2004  
20 through 2009, the Secretary shall, after  
21 making grants under paragraph (2)(A)(i)  
22 of this subsection, make a one-time grant  
23 to each State that either enacts for the  
24 first time after December 31, 2002, and  
25 has in effect a primary safety belt use law

1 for all passenger motor vehicles, or, in the  
2 case of a State that does not have such a  
3 primary safety belt use law, has a State  
4 safety belt use rate in the preceding fiscal  
5 year of at least 90 percent, as measured  
6 under criteria determined by the Secretary.

7 “(iii) Of the funds authorized for  
8 grants under this subsection,  
9 \$100,000,000 in each of fiscal years 2004  
10 through 2009 shall be available for grants  
11 under this paragraph. The amount of a  
12 grant available to a State in each of fiscal  
13 years 2004 and 2005 under paragraph  
14 (2)(A)(i) of this subsection shall be equal  
15 to one-half of the amount of funds appor-  
16 tioned to the State under subsection (c) of  
17 this section for fiscal year 2003. The  
18 amount of a grant available to a State in  
19 fiscal year 2004 or in a subsequent fiscal  
20 year under paragraph (2)(A)(ii) of this  
21 subsection shall be equal to five times the  
22 amount apportioned to the State for fiscal  
23 year 2003 under subsection (c). Notwith-  
24 standing subsection (d) of this section, the  
25 Federal share payable for grants under

1           this paragraph shall be 100 percent. If the  
2           total amount of grants under paragraph  
3           (2)(A)(ii) for a fiscal year exceeds the  
4           amount of funds available in the fiscal  
5           year, grants shall be made to each eligible  
6           State, in the order in which its primary  
7           safety belt use law became effective or its  
8           safety belt use rate reached 90 percent,  
9           until the funds for the fiscal year are ex-  
10          hausted. A State that does not receive a  
11          grant for which it is eligible in a fiscal year  
12          shall receive the grant in the succeeding  
13          fiscal year so long as its law remains in ef-  
14          fect or its safety belt use rate remains at  
15          or above 90 percent. If the total amount of  
16          grants under this paragraph for a fiscal  
17          year is less than the amount available in  
18          the fiscal year, the Secretary shall use any  
19          funds that exceed the total amount for  
20          grants under paragraph (2)(B) of this sub-  
21          section.

22          “(B) SAFETY BELT USE RATE.—

23                 “(i) On or before December 31, 2003,  
24                 and on or before each December 31 there-  
25                 after through December 31, 2008, the Sec-

1           retary shall make grants to States based  
2           upon their safety belt use rate in the pre-  
3           ceding fiscal year.

4           “(ii) The Secretary, through a rule-  
5           making, shall determine measures for cal-  
6           culating and scoring the performance for  
7           safety belt use rates, using data for the  
8           most recent calendar year for which State  
9           safety belt use rate data are available from  
10          observational safety belt surveys conducted  
11          in accordance with criteria established by  
12          the Secretary.

13          “(iii) Of the funds authorized for  
14          grants under this subsection, \$25,000,000  
15          for fiscal year 2004, \$27,000,000 for fiscal  
16          year 2005, \$29,000,000 for fiscal year  
17          2006, \$31,000,000 for fiscal year 2007,  
18          \$34,000,000 for fiscal year 2008, and  
19          \$36,000,000 for fiscal year 2009 shall be  
20          available for safety belt use rate grants  
21          under this paragraph. The Secretary shall  
22          determine the amount of funds available to  
23          a State in a fiscal year based on the  
24          State’s achievement or annual progress in  
25          its safety belt use rate, the amount appro-

1            pried to carry out the grants for such  
2            fiscal year, and the ratio that the funds  
3            apportioned to the State under section  
4            402(c) for such fiscal year bears to the  
5            funds apportioned under section 402(c) for  
6            such fiscal year to all the States that qual-  
7            ify for a grant for such fiscal year. Not-  
8            withstanding subsection (d) of this section,  
9            the Federal share payable for grants under  
10           this paragraph shall be 100 percent.

11           “(C) DEFINITION.—In this paragraph,  
12           passenger motor vehicle means a passenger car,  
13           pickup truck, van, minivan, or sport utility ve-  
14           hicle, with a gross vehicle weight rating of less  
15           than 10,000 pounds.

16           “(3) USE OF GRANTS.—A State allocated an  
17           amount for a grant under paragraph (1)(A) of this  
18           subsection shall use the amount for activities eligible  
19           for assistance under this section, except that it may  
20           use up to 50 percent of the amount for activities eli-  
21           gible under section 150 of this title and consistent  
22           with the State’s strategic highway safety plan under  
23           section 151 of this title that are not otherwise eligi-  
24           ble for assistance under this section. A State allo-  
25           cated an amount for a grant under paragraph (2)(A)

1 of this subsection may use the amount for activities  
2 eligible for assistance under this section or for activi-  
3 ties eligible under section 150 of this title and con-  
4 sistent with the State’s strategic highway safety plan  
5 under section 151 of this title that are not otherwise  
6 eligible for assistance under this section. A State al-  
7 located an amount for a grant under paragraph  
8 (2)(B) of this subsection, including any amount  
9 transferred under paragraph (2)(A) of this sub-  
10 section, shall use the amount for safety belt use pro-  
11 grams eligible for assistance under this section, ex-  
12 cept that it may use up to 50 percent of the amount  
13 for activities eligible under section 150 of this title  
14 and consistent with the State’s strategic highway  
15 safety plan under section 151 of this title that are  
16 not otherwise eligible for assistance under this sec-  
17 tion.”.

18 (b) IMPAIRED DRIVING GRANTS.—Section 402 of  
19 title 23, United States Code, is amended by adding at the  
20 end the following subsection:

21 “(1)(1) IMPAIRED DRIVING GRANTS.—In addition to  
22 other grants authorized by this section and subject to the  
23 provisions of this subsection, the Secretary shall design  
24 and implement a discretionary grant program to develop,  
25 demonstrate, and evaluate comprehensive State programs



1 to reduce impaired driving in States with a high number  
2 of alcohol-related fatalities and a high rate of alcohol-re-  
3 lated fatalities relative to vehicle miles traveled and popu-  
4 lation.

5 “(2) PROCEDURE.—The Secretary shall establish a  
6 procedure for submitting grant applications under this  
7 subsection, and shall select from among the applicants the  
8 States to participate in the program.

9 “(3) USE OF GRANTS.—A grant to a State under this  
10 subsection shall be used only to carry out the State’s pro-  
11 gram under paragraph (1).

12 “(4) ADMINISTRATIVE EXPENSES.—Funds author-  
13 ized to be appropriated to carry out this subsection in a  
14 fiscal year shall be subject to a deduction not to exceed  
15 10 percent for the costs of evaluating the programs and  
16 administering the provisions of this subsection.

17 “(5) FEDERAL SHARE.—Notwithstanding subsection  
18 (d) of this section, the Federal share payable for a grant  
19 under this subsection shall be—

20 “(A) 100 percent in the first and second fiscal  
21 years in which the State receives a grant;

22 “(B) 75 percent in the third and fourth fiscal  
23 years in which the State receives a grant; and

24 “(C) 50 percent in the fifth and sixth fiscal  
25 years in which the State receives a grant.”.

1 **SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOP-**  
2 **MENT.**

3 Section 403(a) (Authority of the Secretary) of title  
4 23, United States Code, is amended by adding the fol-  
5 lowing paragraphs at the end:

6 “(4) EMERGENCY MEDICAL SERVICES.—In ad-  
7 dition to the authority provided under this sub-  
8 section, the Secretary is authorized to use funds ap-  
9 propriated to carry out this section to enhance co-  
10 ordination among Federal agencies involved with  
11 State, local, tribal, and community-based emergency  
12 medical services. In exercising this authority, the  
13 Secretary may coordinate with State and local gov-  
14 ernments, the Bureau of Indian Affairs on behalf of  
15 Indian tribes, private industry, and other interested  
16 parties; collect and exchange emergency medical  
17 services data and information; examine emergency  
18 medical services needs, best practices, and related  
19 technology; and develop emergency medical services  
20 standards and guidelines, and plans for the assess-  
21 ment of emergency medical services systems.

22 “(5) INTERNATIONAL COOPERATION.—In addi-  
23 tion to the authority provided under this subsection,  
24 the Secretary is authorized to use funds appro-  
25 priated to carry out this section to participate and  
26 cooperate in international activities to enhance high-

1 way safety by such means as exchanging safety in-  
 2 formation; conducting safety research; and exam-  
 3 ining safety needs, best practices, and new tech-  
 4 nology.

5 “(6) NATIONAL MOTOR VEHICLE CRASH CAUSA-  
 6 TION SURVEY.—In addition to the authority pro-  
 7 vided under this subsection, the Secretary is author-  
 8 ized to use funds appropriated to carry out this sec-  
 9 tion to develop and conduct a nationally representa-  
 10 tive survey to collect on-scene motor vehicle crash  
 11 causation data.”.

12 **SEC. 2003. EMERGENCY MEDICAL SERVICES.**

13 (a) FEDERAL COORDINATION AND ENHANCED SUP-  
 14 PORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 of  
 15 title 23, United States Code, is amended by revising sec-  
 16 tion 407 to read as follows:

17 **“§ 407. Federal coordination and enhanced support of**  
 18 **emergency medical services**

19 “(a) FEDERAL INTERAGENCY COMMITTEE ON EMER-  
 20 GENCY MEDICAL SERVICES.—

21 “(1) IN GENERAL.—The Secretary of Transpor-  
 22 tation and the Secretary of Homeland Security  
 23 through the Under Secretary for Emergency Pre-  
 24 paredness and Response, in consultation with the  
 25 Secretary of Health and Human Services, shall es-

1        establish a Federal Interagency Committee on Emer-  
2        gency Medical Services (referred to as the ‘Inter-  
3        agency Committee on EMS’) that shall—

4                “(A) assure coordination among the Fed-  
5                eral agencies involved with State, local, tribal or  
6                regional emergency medical services and 9–1–1  
7                systems;

8                “(B) identify State, local, tribal or regional  
9                emergency medical services and 9–1–1 needs;

10                “(C) recommend new or expanded pro-  
11                grams, including grant programs, for improving  
12                State, local, tribal or regional emergency med-  
13                ical services and implementing improved EMS  
14                communications technologies, including wireless  
15                E9–1–1;

16                “(D) identify ways to streamline the proc-  
17                ess through which Federal agencies support  
18                State, local, tribal or regional emergency med-  
19                ical services;

20                “(E) assist State, local, tribal or regional  
21                emergency medical services in setting priorities  
22                based on identified needs; and

23                “(F) advise, consult with and make rec-  
24                ommendations on matters relating to the imple-  
25                mentation of the coordinated State emergency

1           medical services program established under sub-  
2           section (b) of this section.

3           “(2) MEMBERSHIP.—The membership of the  
4           Interagency Committee on EMS shall consist of the  
5           following officials, or their designees:

6                   “(A) Administrator, National Highway  
7                   Traffic Safety Administration.

8                   “(B) Director, Preparedness Division,  
9                   Emergency Preparedness and Response Direc-  
10                  torate, Department of Homeland Security.

11                  “(C) Administrator, Health Resources and  
12                  Services Administration.

13                  “(D) Director, Centers for Disease Control  
14                  and Prevention.

15                  “(E) Administrator, United States Fire  
16                  Administration, Emergency Preparedness and  
17                  Response Directorate, Department of Homeland  
18                  Security.

19                  “(F) Director, Center for Medicare and  
20                  Medicaid Services.

21                  “(G) Undersecretary of Defense for Per-  
22                  sonnel and Readiness, Department of Defense.

23                  “(H) Assistant Secretary for Public Health  
24                  Emergency Preparedness, Department of  
25                  Health and Human Services.

1           “(I) Director, Indian Health Service, De-  
2           partment of Health and Human Services.

3           “(J) Chief, Wireless Telecom Bureau, Fed-  
4           eral Communications Commission.

5           “(K) A representative of any other Federal  
6           agency identified by the Secretary of Transpor-  
7           tation or the Secretary of Homeland Security  
8           through the Under Secretary for Emergency  
9           Preparedness and Response, in consultation  
10          with the Secretary of Health and Human Serv-  
11          ices, as having a significant role in the purposes  
12          of the Interagency Committee on EMS.

13          “(3) ADMINISTRATION.—The National Highway  
14          Traffic Safety Administration, in cooperation with  
15          the Director, Preparedness Division, Emergency  
16          Preparedness and Response Directorate, Depart-  
17          ment of Homeland Security, shall provide adminis-  
18          trative support to the Interagency Committee on  
19          EMS, including scheduling meetings, setting agen-  
20          das, keeping minutes and records, and producing re-  
21          ports.

22          “(4) LEADERSHIP.—The members of the Inter-  
23          agency Committee on EMS shall select a chairperson  
24          of the Committee annually.

1           “(5) MEETINGS.—The Interagency Committee  
2 on EMS shall meet as frequently as determined nec-  
3 essary by the chairperson of the Committee.

4           “(6) ANNUAL REPORTS.—The Interagency  
5 Committee on EMS shall prepare an annual report  
6 to Congress on the Committee’s activities, actions,  
7 and recommendations.

8           “(b) COORDINATED NATIONWIDE EMERGENCY MED-  
9 ICAL SERVICES PROGRAM.—

10           “(1) GENERAL AUTHORITY.—The Secretary of  
11 Transportation, through the Administrator of the  
12 National Highway Traffic Safety Administration, is  
13 authorized and directed to cooperate with other Fed-  
14 eral departments and agencies, and may assist State  
15 and local governments and EMS organizations, both  
16 fire-based and otherwise, private industry, and other  
17 interested parties, to ensure the development and  
18 implementation of a coordinated nationwide emer-  
19 gency medical services program designed to  
20 strengthen transportation safety and public health  
21 and to implement improved EMS communication  
22 systems including 9–1–1. For the purposes of this  
23 section, the term ‘State’ means any one of the fifty  
24 States, the District of Columbia, Puerto Rico, the  
25 Virgin Islands, Guam, American Samoa, the Com-

1 monwealth of the Northern Mariana Islands, and  
2 the Secretary of the Interior on behalf of Indian  
3 Tribes.

4 “(2) COORDINATED STATE EMERGENCY MED-  
5 ICAL SERVICES PROGRAM.—Each State shall estab-  
6 lish a program, approved by the Secretary, to coordi-  
7 nate the emergency medical services and resources  
8 deployed throughout the State, so as to ensure im-  
9 proved EMS communication systems including 9–1–  
10 1, utilization of established best practices in system  
11 design and operations, implementation of quality as-  
12 surance programs, and incorporation of data collec-  
13 tion and analysis programs that facilitate system de-  
14 velopment and data linkages with other systems and  
15 programs useful to emergency medical services.

16 “(3) ADMINISTRATION OF STATE PROGRAMS.—  
17 The Secretary may not approve a coordinated State  
18 emergency medical services program under this sub-  
19 section unless the program—

20 “(A) provides that the Governor of the  
21 State is responsible for its administration  
22 through a State office of emergency medical  
23 services that has adequate powers and is suit-  
24 ably equipped and organized to carry out such



1 program and coordinates such program with the  
2 highway safety office of the State; and

3 “(B) authorizes political subdivisions of the  
4 State to participate in and receive funds under  
5 such program, consistent with goal of achieving  
6 statewide coordination of emergency medical  
7 services and 9–1–1 activities.

8 “(4) USE OF FUNDS; ADMINISTRATIVE EX-  
9 PENSES; APPORTIONMENTS.—Funds authorized to  
10 be appropriated to carry out this subsection shall be  
11 used to aid the States in conducting coordinated  
12 emergency medical services and 9–1–1 programs  
13 that are in accordance with the provisions of para-  
14 graph (2). Such funds shall be subject to a deduc-  
15 tion not to exceed 10 percent for the necessary costs  
16 of administering the provisions of this subsection,  
17 and the remainder shall be apportioned among the  
18 States. Such funds shall be apportioned as follows:  
19 75 percent in the ratio that the population of each  
20 State bears to the total population of all the States,  
21 as shown by the latest available Federal census, and  
22 25 percent in the ratio that the public road mileage  
23 in each State bears to the total public road mileage  
24 in all States. For the purpose of this subsection, a  
25 ‘public road’ means any road under the jurisdiction

1 of and maintained by a public authority and open  
2 to public travel. Public road mileage as used in this  
3 subsection shall be determined as of the end of the  
4 calendar year prior to the year in which the funds  
5 are apportioned and shall be certified to by the Gov-  
6 ernor of the State and subject to approval by the  
7 Secretary. The annual apportionment to each State  
8 shall not be less than one-half of 1 percent of the  
9 total apportionment, except that the apportionment  
10 to the Secretary of the Interior on behalf of Indian  
11 tribes shall not be less than three-fourths of 1 per-  
12 cent of the total apportionment, and the apportion-  
13 ments to the Virgin Islands, Guam, American  
14 Samoa, and the Commonwealth of the Northern  
15 Mariana Islands shall not be less than one-quarter  
16 of 1 percent of the total apportionment.

17 “(5) CONTRACT AUTHORITY.—The provisions  
18 contained in section 402(d) of this chapter shall  
19 apply to this subsection.

20 “(6) FEDERAL SHARE.—The Federal share of  
21 the cost of a project or program funded under this  
22 subsection shall be 80 percent.

23 “(7) APPLICATION IN INDIAN COUNTRY.—

24 “(A) USE OF TERMS.—For the purpose of  
25 application of this subsection in Indian country,

1 the terms ‘State’ and ‘Governor of the State’  
2 include the Secretary of the Interior and the  
3 term ‘political subdivisions of the State’ in-  
4 cludes an Indian tribe.

5 “(B) INDIAN COUNTRY DEFINED.—In this  
6 subsection, the term ‘Indian country’ means—

7 “(i) all land within the limits of any  
8 Indian reservation under the jurisdiction of  
9 the United States, notwithstanding the  
10 issuance of any patent and including  
11 rights-of-way running through the reserva-  
12 tion;

13 “(ii) all dependent Indian commu-  
14 nities within the borders of the United  
15 States, whether within the original or sub-  
16 sequently acquired territory thereof and  
17 whether within or without the limits of a  
18 State; and

19 “(iii) all Indian allotments, the Indian  
20 titles to which have not been extinguished,  
21 including rights-of-way running through  
22 such allotments.”.

23 (b) The item relating to section 407 in the analysis  
24 of chapter 4 of title 23, United States Code, is amended  
25 to read as follows:

“407. Federal coordination and enhanced support of emergency medical services.”.

1 **SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM**  
 2 **IMPROVEMENTS.**

3 (a) Chapter 4 of title 23, United States Code, is  
 4 amended by adding the following section:

5 **“§412. State traffic safety information system im-**  
 6 **provements**

7 “(a) GENERAL AUTHORITY.—

8 “(1) AUTHORITY TO MAKE GRANTS.—Subject  
 9 to the requirements of this section, the Secretary  
 10 shall make grants to States that adopt and imple-  
 11 ment effective programs to—

12 “(A) improve the timeliness, accuracy,  
 13 completeness, uniformity, integration and acces-  
 14 sibility of the safety data of the State that is  
 15 needed to identify priorities for national, State,  
 16 and local highway and traffic safety programs;

17 “(B) evaluate the effectiveness of efforts to  
 18 make such improvements;

19 “(C) link these State data systems, includ-  
 20 ing traffic records, with other data systems  
 21 within the State, such as systems that contain  
 22 medical, roadway and economic data; and

23 “(D) improve the compatibility and inter-  
 24 operability of the data systems of the State

1 with national data systems and data systems of  
2 other States and enhance the ability of the Sec-  
3 retary to observe and analyze national trends in  
4 crash occurrences, rates, outcomes, and cir-  
5 cumstances. Recipient States may use such  
6 grants only to implement such programs.

7 “(2) MODEL DATA ELEMENTS.—The Secretary,  
8 in consultation with States and other appropriate  
9 parties, shall determine the model data elements  
10 necessary to observe and analyze State and national  
11 trends in crash occurrences, rates, outcomes, and  
12 circumstances. In order to become eligible for a  
13 grant under this section, a State shall certify to the  
14 Secretary the State’s adoption and use of such  
15 model data elements.

16 “(3) MAINTENANCE OF EFFORT.—No grant  
17 may be made to a State under this section in any  
18 fiscal year unless the State enters into such agree-  
19 ments with the Secretary as the Secretary may re-  
20 quire ensuring that the State will maintain its ag-  
21 gregate expenditures from all other sources for high-  
22 way safety data programs at or above the average  
23 level of such expenditures in the 2 fiscal years pre-  
24 ceding the date of enactment of this Act.

1           “(4) FEDERAL SHARE.—The Federal share of  
2 the cost of adopting and implementing in a fiscal  
3 year a program of a State pursuant to paragraph  
4 (1) shall not exceed 80 percent.

5           “(b) FIRST-YEAR GRANTS.—

6           “(1) ELIGIBILITY.—To be eligible for a first-  
7 year grant under this section in a fiscal year, a  
8 State must demonstrate to the satisfaction of the  
9 Secretary that the State has—

10           “(A) established a highway safety data and  
11 traffic records coordinating committee with a  
12 multidisciplinary membership that includes,  
13 among others, managers, collectors, and users  
14 of traffic records and public health and injury  
15 control data systems; and

16           “(B) developed a multiyear highway safety  
17 data and traffic records system strategic plan  
18 that addresses existing deficiencies in the  
19 State’s highway safety data and traffic records  
20 system and is approved by the highway safety  
21 data and traffic records coordinating committee  
22 and—

23           “(i) specifies how existing deficiencies  
24 in the State’s highway safety data and  
25 traffic records system were identified;

1           “(ii) prioritizes, based on the identi-  
2           fied highway safety data and traffic  
3           records system deficiencies, the highway  
4           safety data and traffic records system  
5           needs and goals of the State, including the  
6           activities under subsection (a)(1);

7           “(iii) identifies performance-based  
8           measures by which progress toward those  
9           goals will be determined;

10           “(iv) specifies how the grant funds  
11           and any other funds of the State will be  
12           used to address needs and goals identified  
13           in the multiyear plan; and

14           “(v) includes a current report on the  
15           progress in implementing the multiyear  
16           plan that documents progress toward the  
17           specified goals.

18           “(2) GRANT AMOUNTS.—The amount of a first-  
19           year grant to a State for a fiscal year shall equal an  
20           amount determined by multiplying—

21           “(A) the amount appropriated to carry out  
22           this section for such fiscal year; by—

23           “(B) the ratio that the funds apportioned  
24           to the State under section 402 of this chapter  
25           for fiscal year 2003 bears to the funds appor-

1           tioned to all States under section 402 for fiscal  
2           year 2003;  
3           except that no State eligible for a grant under this  
4           section shall receive less than \$300,000.

5           “(c) SUCCEEDING-YEAR GRANTS.—

6           “(1) ELIGIBILITY.—A State shall be eligible for  
7           a grant under this subsection in a fiscal year suc-  
8           ceeding the first fiscal year in which the State re-  
9           ceives a grant under subsection (b) if the State, to  
10          the satisfaction of the Secretary—

11           “(A) submits an updated multiyear plan  
12          that meets the requirements of subsection  
13          (b)(1)(B);

14           “(B) certifies that its highway safety data  
15          and traffic records coordinating committee con-  
16          tinues to operate and supports the multiyear  
17          plan;

18           “(C) specifies how the grant funds and any  
19          other funds of the State will be used to address  
20          needs and goals identified in the multiyear plan;

21           “(D) demonstrates measurable progress to-  
22          ward achieving the goals and objectives identi-  
23          fied in the multiyear plan; and

24           “(E) includes a current report on the  
25          progress in implementing the multiyear plan.



1           “(2) GRANT AMOUNTS.—The amount of a suc-  
 2           ceeding year grant made to a State for a fiscal year  
 3           under this paragraph shall equal an amount deter-  
 4           mined by multiplying—

5                   “(A) the amount appropriated to carry out  
 6                   this section for such fiscal year; by

7                   “(B) the ratio that the funds apportioned  
 8                   to the State under section 402 for fiscal year  
 9                   2003 bears to the funds apportioned to all  
 10                  States under section 402 for fiscal year 2003;  
 11                  except that no State eligible for a grant under  
 12                  this paragraph shall receive less than \$500,000.

13           “(d) ADMINISTRATIVE EXPENSES.—Funds author-  
 14           ized to be appropriated to carry out this section in a fiscal  
 15           year shall be subject to a deduction not to exceed 5 percent  
 16           for the necessary costs of administering the provisions of  
 17           this section.

18           “(e) APPLICABILITY OF CHAPTER 1.—The provisions  
 19           contained in section 402(d) shall apply to this section.”.

20           (b) The analysis of chapter 4 of title 23, United  
 21           States Code, is amended by inserting the following at the  
 22           end:

          “412. State traffic safety information system improvements.”.

23   **SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.**

24           (a) IN GENERAL.—The following sums are author-  
 25           ized to be appropriated out of the Highway Trust Fund

1 (other than the Mass Transit Account) for the National  
2 Highway Traffic Safety Administration:

3 (1) CONSOLIDATED STATE HIGHWAY SAFETY  
4 PROGRAMS.—

5 (A) To carry out the State and Community  
6 Highway Safety Grant Program under section  
7 402 of title 23, United States Code, except for  
8 subsections (k) and (l), \$162,000,000 for fiscal  
9 year 2004, \$167,000,000 for fiscal year 2005,  
10 \$172,000,000 for fiscal year 2006,  
11 \$177,000,000 for fiscal year 2007,  
12 \$183,000,000 for fiscal year 2008, and  
13 \$189,000,000 for fiscal year 2009.

14 (B) To carry out the performance grant  
15 programs under subsection (k) of section 402 of  
16 title 23, United States Code, \$175,000,000 for  
17 fiscal year 2004, \$179,000,000 for fiscal year  
18 2005, \$183,000,000 for fiscal year 2006,  
19 \$189,000,000 for fiscal year 2007,  
20 \$195,000,000 for fiscal year 2008, and  
21 \$201,000,000 for fiscal year 2009.

22 (C) To carry out the impaired driving  
23 grants under subsection (l) of section 402 of  
24 title 23, United States Code, \$50,000,000 for  
25 each of fiscal years 2004 through 2009.

1           (2) HIGHWAY SAFETY RESEARCH AND DEVEL-  
2           OPMENT.—To carry out the highway safety research  
3           and development program under section 403 of title  
4           23, United States Code, \$88,452,000 for fiscal year  
5           2004, \$90,000,000 for fiscal year 2005,  
6           \$92,000,000 for fiscal year 2006, \$94,000,000 for  
7           fiscal year 2007, \$96,000,000 for fiscal year 2008,  
8           and \$99,000,000 for fiscal year 2009.

9           (3) EMERGENCY MEDICAL SERVICES GRANTS.—  
10          To carry out section 407 of title 23, United States  
11          Code, \$10,000,000 for each of fiscal years 2004  
12          through 2009.

13          (4) STATE TRAFFIC SAFETY INFORMATION SYS-  
14          TEM IMPROVEMENTS GRANTS.—To carry out section  
15          412 of title 23, United States Code, \$50,000,000 for  
16          each of fiscal years 2004 through 2009.

17          (5) NATIONAL DRIVER REGISTER.—To carry  
18          out chapter 303 (National Driver Register) of title  
19          49, United States Code, \$3,600,000 for fiscal year  
20          2004, and \$4,000,000 for each of fiscal years 2005  
21          through 2009.

22          (b) ALLOCATIONS.—

23                 (1) EMERGENCY MEDICAL SERVICES ACTIVI-  
24                 TIES.—Out of amounts appropriated pursuant to  
25                 subsection (a)(2), the Secretary may use \$2,226,000

1 in each fiscal year to carry out paragraph (4) of sec-  
2 tion 403(a) of title 23, United States Code.

3 (2) INTERNATIONAL COOPERATION ACTIVI-  
4 TIES.—Out of amounts appropriated pursuant to  
5 subsection (a)(2), the Secretary may use \$200,000  
6 in each fiscal year to carry out paragraph (5) of sec-  
7 tion 403(a) of title 23, United States Code.

8 (3) NATIONAL MOTOR VEHICLE CRASH CAUSA-  
9 TION SURVEY.—Out of the amounts appropriated  
10 pursuant to subsection (a)(2), the Secretary may use  
11 \$10,000,000 in each fiscal year to carry out para-  
12 graph (6) of section 403(a) of title 23, United  
13 States Code.

14 (c) APPLICABILITY OF TITLE 23.—(1) Amounts  
15 made available under subsection (a)(2) shall be available  
16 for obligation in the same manner as if such funds were  
17 apportioned under chapter 1 of title 23, United States  
18 Code.

19 (2) Notwithstanding section 402(d) of title 23,  
20 United States Code, the funds authorized by subsection  
21 (a)(1) that are apportioned or allocated in a State shall  
22 remain available for obligation in that State for a period  
23 of two years after the last day of the fiscal year for which  
24 the funds are authorized. Any amounts so apportioned or

1 allocated that remain unobligated at the end of that period  
2 shall lapse.

3 **SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.**

4 (a) REPEAL OF OBSOLETE PROVISIONS.—Sections  
5 406 and 408 of title 23, United States Code, are repealed.

6 (b) CONFORMING AMENDMENT.—The items relating  
7 to sections 406 and 408 in the analysis of chapter 4 of  
8 title 23, United States Code, are deleted.

9 **TITLE III—FEDERAL TRANSIT**  
10 **ADMINISTRATION PROGRAMS**

11 **SEC. 3001. SHORT TITLE.**

12 This title may be cited as the “Federal Public Trans-  
13 portation Act of 2003”.

14 **SEC. 3002. UPDATED TERMINOLOGY; AMENDMENTS TO**  
15 **TITLE 49, UNITED STATES CODE.**

16 (a) UPDATED TERMINOLOGY.—Chapter 53 of title  
17 49, United States Code, including the chapter analysis,  
18 is amended by striking “mass” each place it appears be-  
19 fore “transportation” and inserting “public”, except in  
20 sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and  
21 5323(a)(1)(B).

22 (b) AMENDMENTS TO TITLE 49.—Except as other-  
23 wise specifically provided, whenever in this title an amend-  
24 ment or repeal is expressed in terms of an amendment  
25 to, or repeal of, a section or other provision of law, the

1 reference shall be considered to be made to a section or  
2 other provision of title 49, United States Code.

3 **SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.**

4 (a) IN GENERAL.—Section 5301(a) is amended to  
5 read as follows:

6 “(a) DEVELOPMENT AND REVITALIZATION OF PUB-  
7 LIC TRANSPORTATION SYSTEMS.—It is in the economic  
8 interest of the United States to foster the development and  
9 revitalization of public transportation systems that maxi-  
10 mize the efficient, secure, and safe mobility of individuals,  
11 and minimize environmental impacts and reliance on for-  
12 eign oil.”.

13 (b) PRESERVING THE ENVIRONMENT.—Section  
14 5301(e) is amended by—

15 (1) striking “an urban” and inserting “a”; and

16 (2) striking “under sections 5309 and 5310 of  
17 this title”.

18 (c) GENERAL PURPOSES.—Section 5301(f) is amend-  
19 ed—

20 (1) in paragraph (1) by—

21 (A) striking “mass” after “improved” and  
22 inserting “public”; and

23 (B) striking “public and private mass  
24 transportation companies and inserting “both

1 public transportation companies and private  
2 companies engaged in public transportation”;

3 (2) in paragraphs (2) and (3) by—

4 (A) striking “urban mass” after  
5 “areawide” and inserting “public”, and

6 (B) striking “public and private mass  
7 transportation companies” and inserting “both  
8 public transportation companies and private  
9 companies engaged in public transportation”;  
10 and

11 (3) in paragraph (5), by striking “urban mass”  
12 and inserting “public”.

13 **SEC. 3004. DEFINITIONS.**

14 (a) IN GENERAL.—Section 5302 is amended to read  
15 as follows:

16 **“§ 5302. Definitions**

17 “(a) IN GENERAL.—In this chapter, the following  
18 definitions apply:

19 “(1) ‘access to jobs project’ means a project re-  
20 lating to the development and maintenance of trans-  
21 portation services designed to transport welfare re-  
22 cipients and low-income individuals to and from jobs  
23 and activities related to their employment, includ-  
24 ing—

1           “(A) transportation projects to finance  
2           planning, capital and operating costs of pro-  
3           viding access to jobs under this chapter;

4           “(B) promoting public transportation by  
5           low-income workers;

6           “(C) promoting the use of transit vouchers  
7           for welfare recipients and low-income individ-  
8           uals; and

9           “(D) promoting the use of employer-pro-  
10          vided transportation, including the transit pass  
11          benefit program under section 132 of the Inter-  
12          nal Revenue Code of 1986.

13          “(1a) ‘capital project’ means a project for—

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



1           “(B) rehabilitating a bus;

2           “(C) remanufacturing a bus;

3           “(D) overhauling rail rolling stock;

4           “(E) preventive maintenance;

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

10           “(G) a public transportation improvement  
11           that enhances economic development or incor-  
12           porates private investment, including commer-  
13           cial and residential development, pedestrian and  
14           bicycle access to a public transportation facility,  
15           and the renovation and improvement of historic  
16           transportation facilities, because the improve-  
17           ment enhances the effectiveness of a public  
18           transportation project and is related physically  
19           or functionally to that public transportation  
20           project, or establishes new or enhanced coordi-  
21           nation between public transportation and other  
22           transportation, and provides a fair share of rev-  
23           enue for public transportation that will be used  
24           for public transportation—

1           “(i) including property acquisition,  
2           demolition of existing structures, site prep-  
3           aration, utilities, building foundations,  
4           walkways, open space, safety and security  
5           equipment and facilities (including light-  
6           ing, surveillance and related intelligent  
7           transportation system applications), facili-  
8           ties that incorporate community services  
9           such as daycare or health care, and a cap-  
10          ital project for, and improving, equipment  
11          or a facility for an intermodal transfer fa-  
12          cility or transportation mall, except that a  
13          person making an agreement to occupy  
14          space in a facility under this subparagraph  
15          shall pay a reasonable share of the costs of  
16          the facility through rental payments and  
17          other means; and

18           “(ii) excluding construction of a com-  
19          mercial revenue-producing facility or a part  
20          of a public facility not related to public  
21          transportation; and

22           “(H) the introduction of new technology,  
23          through innovative or improved products, into  
24          public transportation;

1           “(I) the provision of nonfixed route para-  
2 transit transportation services in accordance  
3 with section 223 of the Americans with Disabil-  
4 ities Act of 1990, but only for grant recipients  
5 that are in compliance with applicable require-  
6 ments of that Act, including both fixed route  
7 and demand responsive service, and only for  
8 amounts not to exceed 10 percent of such re-  
9 cipient’s annual formula apportionment under  
10 sections 5307 and 5311;

11           “(J) crime prevention and security—

12           “(i) including—

13           “(I) projects to refine and de-  
14 velop security and emergency response  
15 plans;

16           “(II) projects aimed at detecting  
17 chemical and biological agents in pub-  
18 lic transportation;

19           “(III) the conduct of emergency  
20 response drills with public transpor-  
21 tation agencies and local first re-  
22 sponse agencies; or

23           “(IV) security training for public  
24 transportation employees; but,

1           “(ii) excluding all expenses related to  
2           operations, except for such expenses in-  
3           curred in the provisions of activities under  
4           clauses (III) and (IV) of this subpara-  
5           graph; or

6           “(K) establishment of a debt service re-  
7           serve made up of deposits with a bondholders’  
8           trustee in a non-interest bearing account for  
9           the purpose of assuring timely payment of prin-  
10          cipal and interest on bonds issued by a grant  
11          recipient for purposes of financing an eligible  
12          project under this chapter; and

13          “(L) remediation associated with construc-  
14          tion of a capital project as described this para-  
15          graph on a brownfield site as defined in 42  
16          U.S.C. 9601.

17          “(2) ‘chief executive officer of a State’ includes  
18          the designee of the chief executive officer.

19          “(3) ‘emergency regulation’ means a regula-  
20          tion—

21                 “(A) that is effective temporarily before  
22                 the expiration of the otherwise specified periods  
23                 of time for public notice and comment under  
24                 section 5334(e); and

1           “(B) prescribed by the Secretary as the re-  
2           sult of a finding that a delay in the effective  
3           date of the regulation—

4                   “(i) would injure seriously an impor-  
5                   tant public interest;

6                   “(ii) would frustrate substantially leg-  
7                   islative policy and intent; or

8                   “(iii) would damage seriously a person  
9                   or class without serving an important pub-  
10                  lic interest.

11           “(4) ‘fixed guideway’ means a public transpor-  
12           tation facility—

13                   “(A) using and occupying a separate right-  
14                   of-way or rail for the exclusive use of public  
15                   transportation and other high occupancy vehi-  
16                   cles; or

17                   “(B) using a fixed catenary system and a  
18                   right-of-way usable by other forms of transpor-  
19                   tation.

20           “(5) ‘individual with a disability’ means an in-  
21           dividual who, because of illness, injury, age, con-  
22           genital malfunction, or other incapacity or tem-  
23           porary or permanent disability (including an indi-  
24           vidual who is a wheelchair user or has semiambu-  
25           latory capability), cannot use effectively, without

1 special facilities, planning, or design, public trans-  
2 portation service or a public transportation facility.

3 “(6) ‘local governmental authority’ includes—

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

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

7 “(C) an Indian tribe; and

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

10 “(7) ‘mass transportation’ means public trans-  
11 portation.

12 “(7a) ‘mobility management’ means an activity  
13 or project that involves one or more of the following  
14 goals:

15 “(A) Addressing public transportation cus-  
16 tomer needs.

17 “(B) Tailoring public transportation serv-  
18 ices to specific market niches.

19 “(C) Managing public transportation de-  
20 mand.

21 “(D) Land use compatibility with public  
22 transportation services.

23 “(E) Improving coordination among public  
24 transportation providers and other transpor-  
25 tation service providers.

1           “(8) ‘net project cost’ means the part of a  
2 project that reasonably cannot be financed from rev-  
3 enues.

4           “(9) ‘new bus model’ means a bus model (in-  
5 cluding a model using alternative fuel)—

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

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

12           “(10) ‘public transportation’ means transpor-  
13 tation by a conveyance that provides regular and  
14 continuing general or special transportation to the  
15 public, but does not include school bus, charter, or  
16 sightseeing transportation.

17           “(10a) ‘recipient’ means an entity that receives  
18 Federal transit program assistance directly from the  
19 Federal government.

20           “(11) ‘regulation’ means any part of a state-  
21 ment of general or particular applicability of the  
22 Secretary designed to carry out, interpret, or pre-  
23 scribe law or policy in carrying out this chapter.

24           “(11a) ‘reverse commute project’ means a pub-  
25 lic transportation project designed to transport resi-

1 dents of urban areas, urbanized areas, and areas  
2 other than urbanized areas to suburban employment  
3 opportunities, including any projects to—

4 “(A) subsidize the costs associated with  
5 adding reverse commute bus, train, carpool, van  
6 routes, or service from urban areas, urbanized  
7 areas, and areas other than urbanized areas, to  
8 suburban workplaces;

9 “(B) subsidize the purchase or lease by a  
10 nonprofit organization or public agency of a van  
11 or bus dedicated to shuttling employees from  
12 their residences to a suburban workplace; or

13 “(C) otherwise facilitate the provision of  
14 public transportation services to suburban em-  
15 ployment opportunities.

16 “(12) ‘Secretary’ means the Secretary of Trans-  
17 portation.

18 “(13) ‘State’ means a State of the United  
19 States, the District of Columbia, Puerto Rico, the  
20 Northern Mariana Islands, Guam, American Samoa,  
21 and the Virgin Islands, except as defined in section  
22 5305 of this title.

23 “(13a) ‘subrecipient’ means an entity that re-  
24 ceives Federal transit program assistance indirectly



1 through a recipient, rather than directly from the  
2 Federal government.

3 “(14) ‘transit’ means public transportation.

4 “(15) ‘transit enhancement’ means, with re-  
5 spect to any project or an area to be served by a  
6 project, projects that are designed to enhance public  
7 transportation service or use and that are physically  
8 or functionally related to transit facilities. Eligible  
9 projects are—

10 “(A) historic preservation, rehabilitation,  
11 or operation of historic public transportation  
12 buildings, structures, or facilities (including his-  
13 toric bus or railroad facilities);

14 “(B) bus shelters;

15 “(C) landscaping and other scenic beautifi-  
16 cation, including tables, benches, trash recep-  
17 tacles, and street lights;

18 “(D) public art;

19 “(E) pedestrian access or walkways;

20 “(F) bicycle access, including bicycle stor-  
21 age facilities and installing equipment for trans-  
22 porting bicycles on public transportation vehi-  
23 cles;

24 “(G) transit connections to parks within  
25 the recipient’s transit service area;

1 “(H) signage; and

2 “(I) enhanced access for individuals with  
3 disabilities to public transportation.

4 “(16) [reserved]

5 “(17) ‘urbanized area’ means an area encom-  
6 passing a population of at least 50,000 people that  
7 has been defined and designated in the latest decen-  
8 nial census as an ‘urbanized area’ by the Secretary  
9 of Commerce.

10 “(18) ‘welfare recipient’ means an individual  
11 who receives or received aid or assistance under a  
12 State or tribal program funded under part A of title  
13 IV of the Social Security Act (whether in effect be-  
14 fore or after the effective date of the amendments  
15 made by title I of the Personal Responsibility and  
16 Work Opportunity Reconciliation Act of 1996 (Pub-  
17 lic Law 104–193; 110 Stat. 2110)) at any time dur-  
18 ing the 3-year period before the date on which the  
19 applicant applies for a grant under this section.

20 “(b) AUTHORITY TO MODIFY ‘INDIVIDUAL WITH A  
21 DISABILITY’.—The Secretary may by regulation modify  
22 the definition of the term ‘individual with a disability’ in  
23 subsection (a)(5) as it applies to section 5307(d)(1)(D).”.

24 (b) CONFORMING AMENDMENT.—Section 5321 is re-  
25 pealed.

1 **SEC. 3005. METROPOLITAN PLANNING.**

2 The text of section 5303 is amended to read as fol-  
3 lows: “Grants made under sections 5307, 5308, 5309,  
4 5310, 5311, 5316, and 5317 shall be carried out in ac-  
5 cordance with the metropolitan planning provisions of  
6 chapter 52 of this title.”.

7 **SEC. 3006. STATEWIDE PLANNING.**

8 (a) SECTION HEADING.—Section 5304 is amended by  
9 striking the section heading and inserting the following:  
10 **“§ 5304. Statewide planning”.**

11 (b) The text of section 5304 is amended to read as  
12 follows: “Grants made under sections 5307, 5308, 5309,  
13 5310, 5311, 5316, and 5317 shall be carried out in ac-  
14 cordance with the statewide planning provisions of chapter  
15 52 of this title.”.

16 (c) CONFORMING AMENDMENT.—The item relating  
17 to section 5304 in the table of sections for chapter 53 is  
18 amended to read as follows:

“5304. Statewide planning.”.

19 **SEC. 3007. PLANNING PROGRAMS.**

20 (a) IN GENERAL.—Section 5305 is amended to read  
21 as follows:

22 **“§ 5305. Planning programs**

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

1           “(1) ‘State’ means a State of the United  
2 States, the District of Columbia, and Puerto Rico,  
3 and

4           “(2) ‘planning emphasis area’ means priority  
5 themes identified by the Secretary for consideration  
6 in sections 5303 and 5304 of this title.

7           “(b) GENERAL AUTHORITY.—Under criteria the Sec-  
8 retary establishes, the Secretary may make grants to  
9 States, authorities of the States, metropolitan planning or-  
10 ganizations, and local governmental authorities, or may  
11 make agreements with other departments, agencies, and  
12 instrumentalities of the Government, or may enter into  
13 contracts with private non-profit or for-profit entities for  
14 development of, transportation plans and programs and  
15 to plan, engineer, design, and evaluate a public transpor-  
16 tation project and for other technical studies, including—

17           “(1) studies related to management, planning,  
18 operations, capital requirements, and economic feasi-  
19 bility;

20           “(2) evaluating previously financed projects;

21           “(3) peer reviews and exchanges of technical  
22 data, information, assistance, and related activities  
23 in support of planning and environmental analyses  
24 among metropolitan planning organizations and  
25 other transportation planners; and,

1           “(4) other similar and related activities prelimi-  
2           nary to and in preparation for constructing, acquir-  
3           ing, or improving the operation of facilities and  
4           equipment.

5           “(c) PURPOSE.—To the extent practicable, the Sec-  
6           retary shall ensure that amounts appropriated or made  
7           available under section 5338 of this title to carry out this  
8           section and sections 5303 and 5304 of this title are used  
9           to support balanced and comprehensive transportation  
10          planning that considers the relationships among land use  
11          and all transportation modes, without regard to the pro-  
12          grammatic source of the planning amounts.

13          “(d) METROPOLITAN PLANNING PROGRAM.—

14                 “(1) The Secretary shall apportion 80 percent  
15                 of the amount made available under subsection  
16                 (h)(2)(A) of this section to States to carry out sec-  
17                 tions 5303 and 5306 of this title in a ratio equal to  
18                 the population in urbanized areas in each State di-  
19                 vided by the total population in urbanized areas in  
20                 all States, as shown by the latest available decennial  
21                 census of population. A State may not receive less  
22                 than .5 percent of the amount apportioned under  
23                 this paragraph.

24                 “(2) Amounts apportioned to a State under  
25                 paragraph (1) of this subsection shall be made avail-

1       able promptly after allocation to metropolitan plan-  
2       ning organizations in the State designated under  
3       this section under a formula—

4               “(A) the State develops in cooperation with  
5       the metropolitan planning organizations;

6               “(B) the Secretary of Transportation ap-  
7       proves; and

8               “(C) that considers population in urban-  
9       ized areas and provides an appropriate distribu-  
10       tion for urbanized areas to carry out the coop-  
11       erative processes described in this section.

12              “(3) The Secretary shall apportion 20 percent  
13       of the amount made available under subsection  
14       (h)(2)(A) of this section to States to supplement al-  
15       locations made under paragraph (1) of this sub-  
16       section for metropolitan planning organizations.  
17       Amounts under this paragraph shall be allocated  
18       under a formula that reflects the additional cost of  
19       carrying out planning, programming, and project se-  
20       lection responsibilities under sections 5303 and 5306  
21       of this title in complex metropolitan planning areas.

22       “(e) STATE PLANNING AND RESEARCH PROGRAM.—

23              “(1) The amounts made available pursuant to  
24       subsection (h)(2)(B) of this section shall be appor-  
25       tioned to States for grants and contracts to carry

1 out sections 5303–5306, 5315, and 5322 of this  
2 title. The amounts shall be apportioned so that each  
3 State receives an amount equal to the population in  
4 urbanized areas in the State, divided by the popu-  
5 lation in urbanized areas in all States, as shown by  
6 the latest available decennial census. However, a  
7 State must receive at least .5 percent of the amount  
8 apportioned under this subsection.

9 “(2) A State, as the State considers appro-  
10 priate, may authorize part of the amount made  
11 available under this subsection to be used to supple-  
12 ment amounts available under subsection (d) of this  
13 section.

14 “(f) PLANNING CAPACITY BUILDING PROGRAM.—

15 “(1) The Secretary shall establish a Planning  
16 Capacity Building Program to support and fund in-  
17 novative practices and enhancements in transpor-  
18 tation planning. The purpose of this program shall  
19 be to promote activities that support and strengthen  
20 the planning processes required under this section  
21 and sections 5303 and 5304 of this chapter.

22 “(2) Funding available under subsection (h)(1)  
23 of this section to carry out this subsection will sup-  
24 port—

1           “(A) incentive grants to state, metropoli-  
2           tan planning organizations, and public trans-  
3           portation operators; and

4           “(B) research, information dissemination,  
5           and technical assistance.

6           “(3) The Secretary may use the funds for the  
7           purpose described in paragraph (2)(B) independ-  
8           ently or make grants to, or enter into contracts, co-  
9           operative agreements, and other transactions, with a  
10          Federal agency, State agency, local governmental  
11          authority, association, nonprofit or for-profit entity,  
12          or institution of higher education, to carry out the  
13          purposes of this subsection.

14          “(4) The program shall be administered by the  
15          Federal Transit Administration in cooperation with  
16          the Federal Highway Administration.

17          “(g) GOVERNMENT’S SHARE OF COSTS.—

18                 “(1) Amounts made available to carry out sub-  
19                 sections (d), (e) and (f) of this section may not ex-  
20                 ceed 80 percent of the costs of the activity unless  
21                 the Secretary of Transportation decides it is in the  
22                 interests of the Government not to require a State  
23                 or local match.

24                 “(2) When there are planning emphasis areas  
25                 funded under a grant or contract financed under



1       this section, the Secretary may establish a Govern-  
2       ment share consistent with the planning emphasis  
3       area benefit.

4       “(h) ALLOCATION OF FUNDS.—Of the funds made  
5       available by or appropriated to carry out this section  
6       under section 5338(a)(2)(A) and (B) and 5338(b)(3)(A)  
7       and (B) of this title for fiscal years 2004 through 2009,

8               “(1) \$5,000,000 shall be available for the plan-  
9       ning capacity building program under subsection (f)  
10       of this section; and

11              “(2) of the remaining amount,

12                      “(A) 82.72 percent shall be available for  
13       metropolitan planning program under sub-  
14       section (d) of this section; and

15                      “(B) 17.28 percent shall be available to  
16       carry out subsections (b) and (e) of this section.

17       “(i) AVAILABILITY OF AMOUNTS.—An amount ap-  
18       portioned under this section that remains available for 3  
19       years after the fiscal year in which the amount is appor-  
20       tioned shall be reapportioned among the States.”.

21       (b) CONFORMING AMENDMENT.—The item relating  
22       to section 5305 in the table of sections for chapter 53 is  
23       amended to read as follows:

“5305. Planning programs.”.

1 **SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.**

2 (a) SECTION HEADING.—Section 5306 is amended by  
3 striking the section heading and inserting the following:

4 **“§ 5306. Private enterprise participation in metro-**  
5 **politan planning and statewide plan-**  
6 **ning”.**

7 (b) CONFORMING AMENDMENT.—The item relating  
8 to section 5306 in the table of sections for chapter 53 is  
9 amended to read as follows:

“5306. Private enterprise participation in metropolitan planning and statewide  
planning.”.

10 **SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION**  
11 **FORMULA GRANTS PROGRAM.**

12 (a) SECTION HEADING.—Section 5307 is amended by  
13 striking the section heading and inserting the following:

14 **“§ 5307. Urbanized area public transportation for-**  
15 **mula grants program”.**

16 (b) TECHNICAL AMENDMENTS.—Section 5307 is  
17 amended by—

18 (1) striking subsections (h), (j) and (k); and

19 (2) redesignating subsections (i), (l), (m), and  
20 (n) as subsections (h), (i), (j), and (k), respectively.

21 (c) DEFINITIONS.—Section 5307(a) is amended to  
22 read as follows:

23 “(a) DEFINITIONS.—In this section:

24 “(1) ‘designated recipient’ means—

1           “(A) an entity designated, consistent with  
2           the planning process under sections 5303–5306  
3           of this title, by the chief executive officer of a  
4           State, responsible local officials, and publicly  
5           owned operators of public transportation to re-  
6           ceive and apportion amounts under sections  
7           5336 and 5337 of this title that are attrib-  
8           utable to transportation management areas es-  
9           tablished under section 5303 of this title; or

10           “(B) a State or regional authority if the  
11           authority is responsible under the laws of a  
12           State for a capital project and for financing  
13           and directly providing public transportation.

14           “(2) ‘subrecipient’ means a State or local gov-  
15           ernmental authority, a nonprofit organization, or a  
16           private operator of public transportation service that  
17           may receive a Federal transit program grant indi-  
18           rectly through a recipient, rather than directly from  
19           the Federal government.”.

20           (d) GENERAL AUTHORITY.—Section 5307(b) is  
21 amended—

22           (1) by striking paragraph (1) and inserting a  
23           new paragraph (1) as follows:

24           “(1) The Secretary of Transportation may  
25           make grants under this section for—

- 1           “(A) capital projects;
- 2           “(B) planning and mobility management;
- 3           “(C) transit enhancements; and
- 4           “(D) operating costs of equipment and fa-
- 5           cilities for use in public transportation in an ur-
- 6           banized area with a population of less than
- 7           200,000.”;
- 8           (2) by striking paragraphs (2) and (4);
- 9           (3) by redesignating paragraph (3) as para-
- 10          graph (2); and
- 11          (4) in redesignated paragraph (2), by striking
- 12          “5305(a)” and inserting “5303”.
- 13          (e) GRANT RECIPIENT REQUIREMENTS.—Section
- 14          5307(d) is amended—
- 15               (1) in paragraph (1)(A), by inserting “, includ-
- 16               ing safety and security aspects of the program”
- 17               after “capacity”;
- 18               (2) in paragraph (1)(E), by striking everything
- 19               that appears after “section” and inserting “the re-
- 20               cipient will comply with section 5323 and 5325 of
- 21               this title”;
- 22               (3) in paragraph (1)(H), by striking “5310(a)–
- 23               (d)”;
- 24               (4) by striking paragraph (1)(I);

1           (5) by redesignating paragraph (1)(J) as para-  
2 graph (1)(I); and

3           (6) by adding at the end of subsection (f)(1),  
4 as redesignated, the following:

5                   “(J) with a population of at least 200,000  
6 in its urbanized area will expend one percent of  
7 the amount the recipient receives each fiscal  
8 year under this section for transit enhancement  
9 activities described in section 5302(a)(15) of  
10 this title.”.

11       (f) GOVERNMENT’S SHARE OF COSTS.—Section  
12 5307(e), is amended—

13           (1) in the first sentence, by striking “(including  
14 associated capital maintenance items)”; and

15           (2) in the fourth sentence, by striking “that are  
16 more than the amount of those revenues in the fiscal  
17 year that ended September 30, 1985” and inserting  
18 “and amounts received under a service agreement  
19 with a State or local social service agency or a pri-  
20 vate social service organization”.

21       (g) UNDERTAKING PROJECTS IN ADVANCE.—Section  
22 5307(g) is amended by striking paragraph (4).

23       (h) REVIEWS, AUDITS, AND EVALUATIONS.—Section  
24 5307(h), as redesignated, is amended in paragraph (1) (A)  
25 by striking “shall” and inserting “may”.

1 (i) RELATIONSHIP TO OTHER LAWS.—Section  
2 5307(k), as redesignated, is amended to read as follows:

3 “(k)(1) Sections 5301, 5302, 5303, 5304, 5306,  
4 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330,  
5 5331, 5332, 5333 and 5335” of this title apply to this  
6 section and to a grant made under this section. Except  
7 as provided in this section, no other provision of this chap-  
8 ter applies to this section or to a grant made under this  
9 section.

10 “(2) The provision of assistance under this chapter  
11 shall not be construed as bringing within the application  
12 of chapter 15, title 5, U.S.C., any nonsupervisory em-  
13 ployee of a public transportation system (or any other  
14 agency or entity performing related functions) to which  
15 such chapter is otherwise inapplicable.”.

16 (j) CONFORMING AMENDMENTS.—

17 (1) The item relating to section 5307 in the  
18 table of sections for chapter 53 is amended to read  
19 as follows:

“5307. Urbanized area public transportation formula grants program.”.

20 (2) Section 3037 of the Transportation Equity  
21 Act for the 21st Century, Public Law 105–178, as  
22 amended, is repealed.

1 **SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBAN-**  
2 **IZED AREAS.**

3 (a) DEFINITIONS.—Section 5311(a) is amended to  
4 read as follows:—

5 “(a) DEFINITIONS.—In this section—

6 “(1) ‘recipient’ means a State that receives a  
7 Federal transit program grant directly from the  
8 Federal government.

9 “(2) ‘subrecipient’ means a State or local gov-  
10 ernmental authority, a nonprofit organization, or a  
11 private operator of public transportation service that  
12 may receive a Federal transit program grant indi-  
13 rectly through a recipient, rather than directly from  
14 the Federal government.”.

15 (b) GENERAL AUTHORITY.—Section 5311(b) is  
16 amended—

17 (1) by revising paragraph (1) to read as follows:

18 “(1) Except as provided in paragraph (2) of  
19 this subsection, the Secretary may make grants to  
20 areas other than urbanized areas under this section  
21 for the following:

22 “(A) public transportation capital projects;

23 “(B) operating costs of equipment and fa-  
24 cilities for use in public transportation; and

25 “(C) the acquisition of public transpor-  
26 tation services.”;

1           (2) by redesignating paragraph (2) as para-  
2           graph (3) and inserting a new paragraph (2), as fol-  
3           lows:

4           “(2) A project eligible for a grant under this  
5           section shall be included in a State program for pub-  
6           lic transportation service projects, including agree-  
7           ments with private providers of public transportation  
8           service. The program shall be submitted annually to  
9           the Secretary. The Secretary may approve the pro-  
10          gram only if the Secretary finds that the program  
11          provides a fair distribution of amounts in the State,  
12          including Indian reservations, and the maximum fea-  
13          sible coordination of public transportation service as-  
14          sisted under this section with transportation service  
15          assisted by other federal sources.”;

16          (3) In paragraph (3), as redesignated, by in-  
17          serting “use not more than 2 percent of the amount  
18          made available to carry out this section to” before  
19          “make”; and

20          (4) by adding after paragraph (3) the following:

21          “(4) Of the amount available to carry out para-  
22          graph (3), not more than 15 percent may be used  
23          to carry out projects of a national scope, with the re-  
24          maining balance provided to the States.”.



1 (c) APPORTIONING AMOUNTS.—Subsection (c) is  
2 amended to read as follows:

3 “(c) APPORTIONMENTS.—

4 “(1) The amounts made available under section  
5 5338(a)(2)(K) shall be apportioned as follows:

6 “(A) For each eligible State in accordance  
7 with paragraph (2) of this subsection:

8 “(i) \$2,500,000 in fiscal year 2004.

9 “(ii) Three percent in fiscal year  
10 2005.

11 “(iii) Five percent in fiscal year 2006.

12 “(iv) Seven percent in fiscal year  
13 2007.

14 “(v) Nine percent in fiscal year 2008.

15 “(vi) Ten percent in every fiscal year  
16 thereafter.

17 “(B) Remaining amounts shall be appor-  
18 tioned to each State in accordance with para-  
19 graph (3) of this subsection.

20 “(2)(A) Of the amounts to be apportioned  
21 under paragraph (1)(A) of this subsection, the Sec-  
22 retary may use the following amounts to make  
23 grants to establish data collection systems capable of  
24 collecting the data in subparagraph (C) of this para-  
25 graph:

1           “(i) 100 percent in fiscal year 2004.

2           “(ii) \$1,500,000 in fiscal year 2005.

3           “(iii) \$500,000 in fiscal year 2006.

4           “(B) Amounts under subparagraph (A) of this  
5 paragraph not obligated within three years following  
6 the end of the fiscal year in which those amounts be-  
7 came available shall be available for apportionment  
8 under subparagraph (C) of this paragraph.

9           “(C) The remaining amounts to be apportioned  
10 under paragraph (1)(A) of this subsection shall be  
11 apportioned by a formula determined by the Sec-  
12 retary that distributes funds based on increases in  
13 public transportation patronage in other-than-urban-  
14 ized areas.

15           “(D) In apportioning funds under subpara-  
16 graph (C) of this paragraph, the Secretary may con-  
17 sider the efficiency of service provision in the non-  
18 urbanized areas in the State.

19           “(3) Each State shall receive an amount equal  
20 to the remaining amount apportioned multiplied by  
21 a ratio equal to the population of areas other than  
22 urbanized areas in a State divided by the population  
23 of all areas other than urbanized areas in the United  
24 States, as shown by the most recent Federal govern-  
25 ment decennial census of population.”.

1 (d) USE FOR ADMINISTRATIVE, PLANNING, AND  
2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended by  
3 striking—

4 (1) “Use for administration and technical as-  
5 sistance. (1)” and inserting “Use for administration,  
6 planning, and technical assistance.”; and

7 (2) “to a recipient” after “technical assist-  
8 ance”; and

9 (3) paragraph (2).

10 (e) INTERCITY BUS TRANSPORTATION.—Section  
11 5311(f) is amended—

12 (1) in paragraph (1), by striking “after Sep-  
13 tember 30, 1993,”; and

14 (2) by inserting at the beginning of paragraph  
15 (2) “After consultation with affected intercity bus  
16 service providers,”.

17 (f) GOVERNMENT’S SHARE OF COSTS.—Section  
18 5311(g) is amended to read as follows:

19 “(g) GOVERNMENT’S SHARE OF COSTS.—

20 “(1) A grant for a capital project under this  
21 section may not exceed 80 percent of the net capital  
22 costs of the project, as determined by the Secretary.

23 A grant made under this section for operating as-  
24 sistance may not exceed 50 percent of the net oper-

1       ating costs of the project, as determined by the Sec-  
2       retary. The remainder—

3               “(A) may be provided from an undistrib-  
4               uted cash surplus, a replacement or deprecia-  
5               tion cash fund or reserve, a service agreement  
6               with a State or local social service agency or a  
7               private social service organization, or new cap-  
8               ital; and

9               “(B) may be derived from amounts appro-  
10              priated to or made available to a department or  
11              agency of the Federal government (other than  
12              the Department of Transportation, except for  
13              Federal Land Highway funds) that are eligible  
14              to be expended for transportation.

15             “(2) A state carrying out a program of oper-  
16             ating assistance under this section may not limit the  
17             level or extent of use of the Government grant for  
18             the payment of operating expenses.

19             “(3) For purposes of paragraph (2)(B) of this  
20             section, the prohibitions on the use of funds for  
21             matching requirements under section  
22             403(a)(5)(c)(vii) of the Social Security Act shall not  
23             apply to federal or state funds to be used for trans-  
24             portation purposes.”.

1 (g) INDIAN RESERVATION RURAL TRANSIT PRO-  
2 GRAM.—Section 5311(h) is amended to read as follows:

3 “(h) INDIAN RESERVATION RURAL TRANSIT PRO-  
4 GRAM.—

5 “(1) In this subsection, the term ‘Indian tribe’  
6 has the meaning given the term in section 4 of the  
7 Indian Self-Determination and Education Assistance  
8 Act (25 U.S.C. 450b).

9 “(2)(A) The Secretary shall establish and carry  
10 out through the States a program to provide grants  
11 to Indian tribes to operate, maintain, and establish  
12 rural transit programs on reservations or other land  
13 under the jurisdiction of the Indian tribes.

14 “(B) The state may waive or reduce the  
15 amount of local share required for these grants.

16 “(3) Notwithstanding any other provision of  
17 law, for each fiscal year, of the amount made avail-  
18 able to carry out this section under section  
19 5338(a)(2)(K) for the fiscal year, the Secretary shall  
20 make available \$10,000,000 to carry out this sub-  
21 section.

22 “(4) Of the funds made available pursuant to  
23 paragraph (3) of this subsection,

24 “(A) \$9,500,000 shall be apportioned to  
25 the states based on a ratio equal to the tribal

1 population in each state divided by the total  
2 tribal population in all states, as shown by the  
3 latest decennial census of population for alloca-  
4 tion to existing Indian tribal rural transit pro-  
5 grams and to plan and establish new Indian  
6 tribe rural transit programs;

7 “(B) prior to distribution by states of in-  
8 state amounts to Indian tribes, each State may  
9 use up to 5 percent for state administration;

10 “(C) amounts apportioned to a state under  
11 paragraph (A) of this subsection shall be dis-  
12 tributed to Indian tribes in the state based on  
13 an allocation plan—

14 “(i) the state develops in cooperation  
15 with Indian tribes;

16 “(ii) the Secretary approves; and

17 “(iii) that provides an appropriate dis-  
18 tribution for funding the needs of existing  
19 and new Indian Reservation Rural Transit  
20 Systems; and

21 “(D) \$500,000 shall be available to the  
22 Secretary to provide technical assistance, in-  
23 cluding best practices and outreach, to the  
24 states and tribes through grants, contracts, or  
25 other arrangements and shall be in addition to

1           and not in lieu of other funds available for  
2           these purposes.

3           “(5) An amount apportioned to the states  
4           under this subsection—

5                   “(A) remains available for 3 years after  
6           the fiscal year in which the amount was appor-  
7           tioned; and

8                   “(B) shall be reapportioned among the  
9           states if unobligated at the end of the 3-year  
10          period.”.

11          (h) RELATIONSHIP TO OTHER LAWS.—Section  
12          5311(j) is amended to read as follows:

13          “(j) RELATIONSHIP TO OTHER LAWS.—

14                   “(1) Except as provided in subparagraphs (2)  
15           and (3) of this subsection, a grant under this section  
16           is subject to the requirements of 5307 to the extent  
17           the Secretary considers appropriate.

18                   “(2) Sections 5323(a)(1)(D) and 5333(b) of  
19           this title shall apply, provided that the Secretary of  
20           Labor shall utilize a Special Warranty that provides  
21           a fair and equitable arrangement to protect the in-  
22           terest of employees.

23                   “(3) The Secretary may waive the applicability  
24           of the Special Warranty under paragraph (2) for

1 private non-profit subrecipients on a case-by-case  
2 basis as the Secretary deems appropriate.

3 “(4) This subsection does not affect or dis-  
4 charge a responsibility of the Secretary under a law  
5 of the United States.”.

6 **SEC. 3011. NEW FREEDOM PROGRAM.**

7 (a) Chapter 53 of title 49, United States Code, is  
8 amended by inserting after section 5316 the following:

9 **“§ 5317. New Freedom program**

10 “(a) DEFINITIONS.—In this section—

11 “(1) ‘recipient’ means a State that receives a  
12 grant under this section directly.

13 “(2) ‘subrecipient’ means a State or local gov-  
14 ernmental authority, a nonprofit organization, or a  
15 private operator of public transportation service that  
16 may receive a grant under this section indirectly  
17 through a recipient, rather than directly from the  
18 Federal government.”.

19 “(b) GENERAL AUTHORITY.—

20 “(1) The Secretary of Transportation may pro-  
21 vide grants to recipients for new transportation serv-  
22 ices and transportation alternatives beyond those re-  
23 quired by the Americans with Disabilities Act of  
24 1990 (42 U.S.C. 12101 et seq.), including motor ve-  
25 hicle programs that assist persons with disabilities



1 with transportation to and from jobs and employ-  
2 ment support services.

3 “(2) A recipient may use not more than 15 per-  
4 cent of the amounts apportioned under this section  
5 to administer, plan, and provide technical assistance  
6 for a project funded under this section.

7 “(c) APPORTIONMENTS.—

8 “(1) The Secretary shall apportion amounts  
9 made available under section 5338(a)(2)(H) of this  
10 title under a formula the Secretary administers.

11 “(2) The recipient may transfer any funds ap-  
12 portioned to it under this subsection to sections  
13 5311(e) or 5336. Any funds transferred pursuant to  
14 this subsection shall be made available only for eligi-  
15 ble projects selected under this section.

16 “(d) GRANT REQUIREMENTS.—

17 “(1) Except as provided in paragraphs (2) and  
18 (3) of this subsection, a grant under this section is  
19 subject to the requirements of 5307 to the extent  
20 the Secretary considers appropriate.

21 “(2) Section 5333(b) of this title shall apply,  
22 provided that the Secretary of Labor shall utilize a  
23 Special Warranty that provides a fair and equitable  
24 arrangement to protect the interest of employees.

1           “(3) The Secretary may waive the applicability  
2 of the Special Warranty under paragraph (2) for  
3 private non-profit subrecipients on a case-by-case  
4 basis as the Secretary deems appropriate.

5           “(4) A recipient of a grant under this section  
6 shall certify that allocations of the grant to sub-  
7 recipients are distributed on a fair and equitable  
8 basis.

9           “(e) COMPETITIVE PROCESS.—

10           “(1) The recipient shall conduct a statewide so-  
11 licitation for applications for grants under this sec-  
12 tion.

13           “(2) Subrecipients seeking to receive a grant  
14 under this section shall submit to the recipient an  
15 application in the form and in accordance with such  
16 requirements as the recipient shall establish.

17           “(3) Subrecipients submitting applications pur-  
18 suant to paragraph (2) shall be selected on a com-  
19 petitive basis.

20           “(f) COORDINATION.—

21           “(1) The Secretary shall coordinate activities  
22 under this section with related activities under pro-  
23 grams of other Federal departments and agencies.

24           “(2) A recipient that transfers funds to section  
25 5336 pursuant to subsection (c)(2) shall certify that

1 the project for which the funds are requested has  
2 been coordinated with private non-profit providers of  
3 services under this section.

4 “(3) A recipient of funds under this section  
5 shall certify that—

6 “(A) the projects selected were derived  
7 from a locally developed, coordinated public  
8 transit-human services transportation plan; and

9 “(B) the plan was developed through a  
10 process that included representatives of public,  
11 private, and nonprofit transportation and  
12 human services providers and participation by  
13 the public;

14 “(g) GOVERNMENT’S SHARE OF COSTS.—

15 “(1) A grant for a capital project under this  
16 section may not exceed 80 percent of the net capital  
17 costs of the project, as determined by the Secretary.  
18 A grant made under this section for operating as-  
19 sistance may not exceed 50 percent of the net oper-  
20 ating costs of the project, as determined by the Sec-  
21 retary. The remainder may be—

22 “(A) provided from an undistributed cash  
23 surplus, a replacement or depreciation cash  
24 fund or reserve, a service agreement with a

1 State or local social service agency or a private  
2 social service organization, or new capital; and

3 “(B) derived from amounts appropriated  
4 to or made available to a department or agency  
5 of the Federal government (other than the De-  
6 partment of Transportation, except for Federal  
7 Land Highway funds) that are eligible to be ex-  
8 pended for transportation.

9 “(2) A recipient carrying out a program of op-  
10 erating assistance under this section may not limit  
11 the level or extent of use of the Government grant  
12 for the payment of operating expenses.

13 “(3) For purposes of paragraph (1)(B) of this  
14 section, the prohibitions on the use of funds for  
15 matching requirements under section  
16 403(a)(5)(c)(vii) of the Social Security Act shall not  
17 apply to federal or state funds to be used for trans-  
18 portation purposes.”.

19 (b) CONFORMING AMENDMENT.—The table of sec-  
20 tions for chapter 53 is amended after the item relating  
21 to section 5316 by adding the following:

“5317. New Freedom program.”.

22 **SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.**

23 (a) MAJOR CAPITAL INVESTMENT PROGRAM.—Sec-  
24 tion 5309 is amended to read as follows:

1 **“§ 5309. Major capital investment grants**

2 “(a) GENERAL AUTHORITY.—

3 “(1) The Secretary of Transportation may  
4 make grants under this section to State and local  
5 governmental authorities to assist them and their  
6 subrecipients in financing capital projects for—

7 “(A) new fixed guideway systems, exten-  
8 sions to existing fixed guideway systems, and  
9 related project activities;

10 “(B) the capital costs of coordinating pub-  
11 lic transportation with other transportation;

12 “(C) the introduction of new technology,  
13 through innovative or improved products, into  
14 public transportation; or

15 “(D) the development of corridors to sup-  
16 port public transportation, including protecting  
17 rights of way through acquisition, construction  
18 of dedicated bus and high occupancy vehicle  
19 lanes or park and ride lots, or other capital im-  
20 provements that the Secretary may decide  
21 would result in increased public transportation  
22 usage in the corridor.

23 “(2) The Secretary shall require that a grant  
24 under this subsection be subject to the terms, condi-  
25 tions, requirements, and provisions the Secretary de-  
26 cides are necessary or appropriate for the purposes

1 of this section, including requirements for the dis-  
2 position of net increases in value of real property re-  
3 sulting from the project assisted under this section.

4 “(b) PROJECT AS PART OF APPROVED PROGRAM OF  
5 PROJECTS.—

6 “(1) The Secretary may not approve a grant for  
7 a project under this section unless the Secretary  
8 finds that the project is part of an approved trans-  
9 portation plan and program of projects required  
10 under sections 5303–5306 of this title, and that the  
11 applicant has or will have the legal, financial, and  
12 technical capacity to carry out the project (including  
13 safety and security aspects of the project), satisfac-  
14 tory continuing control over the use of the equip-  
15 ment or facilities, and the capability and willingness  
16 to maintain the equipment or facilities.

17 “(2) An applicant that has submitted a certifi-  
18 cation required by section 5307(d)(1) (A)–(C) and  
19 (H) of this title shall provide sufficient information  
20 upon which the Secretary can make the findings re-  
21 quired by this subsection.

22 “(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT  
23 GRANTS OF \$75,000,000 OR MORE.—

24 “(1) A project financed under this subsection  
25 shall be carried out through a full funding grant

1 agreement. The Secretary shall enter into a full  
2 funding grant agreement based on the evaluations  
3 and ratings required under this subsection. The Sec-  
4 retary shall not enter into a full funding grant  
5 agreement for a project unless that project is au-  
6 thorized for final design and construction and has  
7 been rated as ‘medium,’ ‘medium-high,’ or ‘high,’ as  
8 defined in this subsection.

9 “(2) The Secretary may approve a grant under  
10 this section for a major capital project only if the  
11 Secretary makes the following determinations, based  
12 upon evaluations and considerations as set forth  
13 below:

14 “(A) The Secretary may approve a grant  
15 under this section for a major capital project  
16 only if the Secretary determines that the pro-  
17 posed project is—

18 “(i) based on the results of an alter-  
19 natives analysis and preliminary engineer-  
20 ing;

21 “(ii) justified based on a comprehen-  
22 sive review of its mobility improvements,  
23 environmental benefits, cost effectiveness,  
24 operating efficiencies, transit supportive  
25 policies and existing land use; and

1           “(iii) supported by an acceptable de-  
2           gree of local financial commitment, includ-  
3           ing evidence of stable and dependable fi-  
4           nancing sources to construct the project,  
5           and maintain, and operate the entire pub-  
6           lic transportation system.

7           “(B) Before making the determinations re-  
8           quired by paragraph (2)(A), the Secretary shall  
9           first analyze, evaluate, and consider the fol-  
10          lowing factors:

11           “(i) In evaluating a project for pur-  
12           poses of making the finding required by  
13           paragraph (2)(A)(i), the Secretary shall  
14           analyze and consider the results of the al-  
15           ternatives analysis and preliminary engi-  
16           neering for the project.

17           “(ii) In evaluating a project for pur-  
18           poses of making the finding required by  
19           paragraph (2)(A)(ii), the Secretary shall—

20           “(I) consider the direct and indi-  
21           rect costs of relevant alternatives;

22           “(II) consider factors such as  
23           congestion relief, improved mobility,  
24           air pollution, noise pollution, energy  
25           consumption, and all associated ancil-



1 lary and mitigation costs necessary to  
2 carry out each alternative analyzed,  
3 and recognize reductions in local in-  
4 frastructure costs achieved through  
5 compact land use development;

6 “(III) identify and consider pub-  
7 lic transportation supportive existing  
8 land use policies and future patterns,  
9 and the cost of suburban sprawl;

10 “(IV) consider the degree to  
11 which the project increases the mobil-  
12 ity of the public transportation de-  
13 pendent population or promotes eco-  
14 nomic development;

15 “(V) consider population density  
16 and current transit ridership in the  
17 corridor;

18 “(VI) consider the technical ca-  
19 pability of the grant recipient to con-  
20 struct the project;

21 “(VII) adjust the project jus-  
22 tification to reflect differences in local  
23 land, construction, and operating  
24 costs; and

1                   “(VIII) consider other factors  
2                   that the Secretary determines appro-  
3                   priate to carry out this chapter.

4                   “(iii) In evaluating a project under  
5                   paragraph (2)(A)(iii), the Secretary shall  
6                   require that—

7                   “(I) the proposed project plan  
8                   provides for the availability of contin-  
9                   gency amounts that the Secretary de-  
10                  termines to be reasonable to cover un-  
11                  anticipated cost increases;

12                  “(II) each proposed local source  
13                  of capital and operating financing is  
14                  stable, reliable, and available within  
15                  the proposed project timetable; and

16                  “(III) local resources are avail-  
17                  able to operate the overall proposed  
18                  public transportation system (includ-  
19                  ing essential feeder bus and other  
20                  services necessary to achieve the pro-  
21                  jected ridership levels) without requir-  
22                  ing a reduction in existing public  
23                  transportation services to operate the  
24                  proposed project.

1           “(iv) In assessing the stability, reli-  
2           ability, and availability of proposed sources  
3           of local financing under paragraph  
4           (2)(A)(iii), the Secretary shall consider—

5                   “(I) existing grant commitments;

6                   “(II) the degree to which financ-  
7           ing sources are dedicated to the pur-  
8           poses propose;

9                   “(III) any debt obligation that  
10           exists or is proposed by the recipient  
11           for the proposed project or other pub-  
12           lic transportation purpose; and

13                   “(IV) the extent to which the  
14           project has a local financial commit-  
15           ment that exceeds the required non-  
16           Federal share of the cost of the  
17           project.

18           “(3) A proposed project may advance from al-  
19           ternatives analysis to preliminary engineering, and  
20           may advance from preliminary engineering to final  
21           design and construction, only if the Secretary finds  
22           that the project meets the requirements of this sec-  
23           tion and there is a reasonable likelihood that the  
24           project will continue to meet such requirements. In  
25           making the findings, the Secretary shall evaluate

1 and rate the project as ‘high,’ ‘medium-high,’ ‘me-  
2 dium,’ ‘low-medium,’ or ‘low,’ based on the results of  
3 alternatives analysis, the project justification cri-  
4 teria, and the degree of local financial commitment,  
5 as required under this subsection. In rating the  
6 projects, the Secretary shall provide, in addition to  
7 the overall project rating, individual ratings for each  
8 of the criteria established by regulation.

9 “(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT  
10 GRANTS LESS THAN \$75,000,000.—If the assistance pro-  
11 vided under this section is less than \$75,000,000, the  
12 project shall be subject to the requirements set forth in  
13 subsection (c) of this section only to the extent the Sec-  
14 retary determines appropriate.

15 “(e) PREVIOUSLY ISSUED LETTER OF INTENT OR  
16 FULL FUNDING GRANT AGREEMENT.—Subsections (c)  
17 and (d) of this section do not apply to projects for which  
18 the Secretary has issued a letter of intent or entered into  
19 a full funding grant agreement before the date of enact-  
20 ment of the Federal Public Transportation Act of 2003.

21 “(f) LETTERS OF INTENT, FULL FUNDING GRANT  
22 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-  
23 MENTS.—

24 “(1)(A) The Secretary may issue a letter of in-  
25 tent to an applicant announcing an intention to obli-

1 gate, for a major capital project under this section,  
2 an amount from future available budget authority  
3 specified in law that is not more than the amount  
4 stipulated as the financial participation of the Sec-  
5 retary in the project. When a letter is issued for  
6 fixed guideway projects, the amount shall be suffi-  
7 cient to complete at least an operable segment.

8 “(B) At least 30 days before issuing a letter  
9 under subparagraph (A) of this paragraph or enter-  
10 ing into a full funding grant agreement, the Sec-  
11 retary shall notify in writing the Committee on  
12 Transportation and Infrastructure of the House of  
13 Representatives and the Committee on Banking,  
14 Housing, and Urban Affairs of the Senate and the  
15 House and Senate Committees on Appropriations of  
16 the proposed letter or agreement. The Secretary  
17 shall include with the notification a copy of the pro-  
18 posed letter or agreement as well as the evaluations  
19 and ratings for the project.

20 “(C) The issuance of a letter is deemed not to  
21 be an obligation under sections 1108(c) and (d),  
22 1501, and 1502(a) of title 31, U.S.C., or an admin-  
23 istrative commitment.

1           “(D) An obligation or administrative commit-  
2           ment may be made only when amounts are appro-  
3           priated.

4           “(2)(A) The Secretary may make a full funding  
5           grant agreement with an applicant. The agreement  
6           shall—

7                   “(i) establish the terms of participation by  
8                   the United States Government in a project  
9                   under this section;

10                   “(ii) establish the maximum amount of  
11                   Government financial assistance for the project;

12                   “(iii) cover the period of time for com-  
13                   pleting the project, including a period extending  
14                   beyond the period of an authorization; and

15                   “(iv) make timely and efficient manage-  
16                   ment of the project easier according to the law  
17                   of the United States.

18           “(B) An agreement under this paragraph obli-  
19           gates an amount of available budget authority speci-  
20           fied in law and may include a commitment, contin-  
21           gent on amounts to be specified in law in advance  
22           for commitments under this paragraph, to obligate  
23           an additional amount from future available budget  
24           authority specified in law. The agreement shall state  
25           that the contingent commitment is not an obligation

1 of the Government. Interest and other financing  
2 costs of efficiently carrying out a part of the project  
3 within a reasonable time are a cost of carrying out  
4 the project under a full funding grant agreement,  
5 except that eligible costs may not be more than the  
6 cost of the most favorable financing terms reason-  
7 ably available for the project at the time of bor-  
8 rowing. The applicant shall certify, in a way satis-  
9 factory to the Secretary, that the applicant has  
10 shown reasonable diligence in seeking the most fa-  
11 vorable financing terms. The amount stipulated in  
12 an agreement under this paragraph for a fixed  
13 guideway project shall be sufficient to complete at  
14 least an operable segment.

15 “(3)(A) The Secretary may make an early sys-  
16 tems work agreement with an applicant if a record  
17 of decision under the National Environmental Policy  
18 Act of 1969 (42 U.S.C. 4321 et seq.) has been  
19 issued on the project and the Secretary finds there  
20 is reason to believe—

21 “(i) a full funding grant agreement for the  
22 project will be made; and

23 “(ii) the terms of the work agreement will  
24 promote ultimate completion of the project  
25 more rapidly and at less cost.

1           “(B) A work agreement under this paragraph  
2 obligates an amount of available budget authority  
3 specified in law and shall provide for reimbursement  
4 of preliminary costs of carrying out the project, in-  
5 cluding land acquisition, timely procurement of sys-  
6 tem elements for which specifications are decided,  
7 and other activities the Secretary decides are appro-  
8 priate to make efficient, long-term project manage-  
9 ment easier. A work agreement shall cover the pe-  
10 riod of time the Secretary considers appropriate.  
11 The period may extend beyond the period of current  
12 authorization. Interest and other financing costs of  
13 efficiently carrying out the work agreement within a  
14 reasonable time are a cost of carrying out the agree-  
15 ment, except that eligible costs may not be more  
16 than the cost of the most favorable financing terms  
17 reasonably available for the project at the time of  
18 borrowing. The applicant shall certify, in a way sat-  
19 isfactory to the Secretary, that the applicant has  
20 shown reasonable diligence in seeking the most fa-  
21 vorable financing terms. If an applicant does not  
22 carry out the project for reasons within the control  
23 of the applicant, the applicant shall repay all Gov-  
24 ernment payments made under the work agreement



1 plus reasonable interest and penalty charges the  
2 Secretary establishes in the agreement.

3 “(4)(A) The total estimated amount of future  
4 obligations of the Government and contingent com-  
5 mitments to incur obligations covered by all out-  
6 standing letters of intent, full funding grant agree-  
7 ments, and early systems work agreements may be  
8 not more than the greater of the amount authorized  
9 under section 5338(b) of this title for major capital  
10 investment projects or an amount equivalent to the  
11 last 3 fiscal years of funding authorized under sec-  
12 tion 5338(b)(3)(C) for major capital investment  
13 projects, less an amount the Secretary reasonably  
14 estimates is necessary for grants under this section  
15 not covered by a letter. The total amount covered by  
16 new letters and contingent commitments included in  
17 full funding grant agreements and early systems  
18 work agreements may be not more than a limitation  
19 specified in law.

20 “(B) Future obligations of the Government and  
21 contingent commitments made against the contin-  
22 gent commitment authority under section 3032(g)(2)  
23 of the Intermodal Surface Transportation Efficiency  
24 Act of 1991, Public Law 102–240, as amended, for  
25 the San Francisco BART to the Airport project for

1 fiscal years 2002, 2003, 2004, 2005 and 2006 shall  
2 be charged against section 3032(g)(2) of that Act.

3 “(g) GOVERNMENT’S SHARE OF NET PROJECT  
4 COST.—

5 “(1) Based on engineering studies, studies of  
6 economic feasibility, and information on the expected  
7 use of equipment or facilities, the Secretary shall es-  
8 timate the net project cost. A grant for the project  
9 shall be for 50 percent of the net capital project  
10 cost, unless the grant recipient requests a lower  
11 grant percentage.

12 “(2) The remainder—

13 “(A) shall be from an undistributed cash  
14 surplus, a replacement or depreciation cash  
15 fund or reserve, or new capital; and

16 “(B) may include up to 30 percent from  
17 amounts appropriated to or made available to a  
18 department or agency of the Federal Govern-  
19 ment that are eligible to be expended for trans-  
20 portation.

21 “(3) In addition to amounts allowed pursuant  
22 to paragraph (1) of this subsection, a planned exten-  
23 sion to a fixed guideway system may include the cost  
24 of rolling stock previously purchased if the applicant  
25 satisfies the Secretary that only amounts other than

1 amounts of the Government were used and that the  
2 purchase was made for use on the extension. A re-  
3 fund or reduction of the remainder may be made  
4 only if a refund of a proportional amount of the  
5 grant of the Government is made at the same time.

6 “(4) The prohibitions on the use of funds for  
7 matching requirements under section  
8 403(a)(5)(C)(vii) of the Social Security Act shall not  
9 apply to amounts allowed pursuant to paragraph (2)  
10 of this subsection.

11 “(5) This subsection does not apply to projects  
12 for which the Secretary of Transportation has issued  
13 a letter of intent or entered into a full funding grant  
14 agreement before the date of enactment of the Fed-  
15 eral Public Transportation Act of 2003.

16 “(h) FISCAL CAPACITY CONSIDERATIONS.—If the  
17 Secretary gives priority consideration to financing projects  
18 that include more than the non-Government share re-  
19 quired under subsection (g) of this section, the Secretary  
20 may also give consideration to ‘high,’ ‘medium-high,’ or  
21 ‘medium’ projects sponsored by grant applicants and State  
22 and local governments of constrained fiscal capacity in se-  
23 lecting projects for full funding grant agreements.

24 “(i) PRELIMINARY ENGINEERING.—Not more than 8  
25 percent of the amounts made available in each fiscal year

1 to carry out this section may be available for preliminary  
2 engineering.

3 “(j) UNDERTAKING PROJECTS IN ADVANCE.—

4 “(1) The Secretary may pay the Government’s  
5 share of the net capital project cost to a State or  
6 local governmental authority that carries out any  
7 part of a project described in this section without  
8 the aid of amounts of the Government and according  
9 to all applicable procedures and requirements if—

10 “(A) the State or local governmental au-  
11 thority applies for the payment;

12 “(B) the Secretary approves the payment;  
13 and

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

18 “(2) The cost of carrying out part of a project  
19 includes the amount of interest earned and payable  
20 on bonds issued by the State or local governmental  
21 authority to the extent proceeds of the bonds are ex-  
22 pended in carrying out the part. However, the  
23 amount of interest under this paragraph may not be  
24 more than the most favorable interest terms reason-  
25 ably available for the project at the time of bor-

1 rowing. The applicant shall certify, in a manner sat-  
2 isfactory to the Secretary, that the applicant has  
3 shown reasonable diligence in seeking the most fa-  
4 vorable financial terms.

5 “(3) The Secretary shall consider changes in  
6 capital project cost indices when determining the es-  
7 timated cost under paragraph (2) of this subsection.

8 “(k) USE OF DEOBLIGATED AMOUNTS.—An amount  
9 available under this section that is deobligated may be  
10 used for any purpose under this section.

11 “(l) REPORTS.—

12 “(1) Not later than the first Monday in Feb-  
13 ruary of each year, the Secretary shall submit to the  
14 Committee on Transportation and Infrastructure of  
15 the House of Representatives and the Committee on  
16 Banking, Housing, and Urban Affairs of the Senate,  
17 as well as the Subcommittee on Transportation of  
18 the Committees on Appropriations of both Houses,  
19 a report that may include—

20 “(A) an allocation of amounts to be avail-  
21 able to finance grants for capital investment  
22 projects among applicants for these amounts;

23 “(B) an assessment of projects for funding  
24 based on the evaluations and ratings and on ex-

1           isting commitments and anticipated funding  
2           levels for the next 3 fiscal years; and

3                   “(C) detailed ratings and evaluations on  
4           each project listed.

5           “(2) The Secretary shall submit a report to  
6           Congress on the first Monday in February, the first  
7           Monday in June, and the first Monday in October  
8           each year that includes—

9                   “(A) a summary of the ratings of all appli-  
10           cant’s capital investment projects;

11                   “(B) detailed ratings and evaluations on  
12           each applicant project with significant changes  
13           to the finance or project proposal or has com-  
14           pleted alternatives or preliminary engineering  
15           since the date of the last report; and

16                   “(C) all relevant information that support  
17           the evaluation and rating of each updated  
18           project, including a summary of each updated  
19           project’s financial plan.

20           “(m) PROJECT DEFINED.—In this section, the term  
21           ‘major capital investment project’ with respect to a new  
22           fixed guideway system or extension to an existing fixed  
23           guideway system, means a minimum operable segment of  
24           the project.”.

1 **SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**  
2 **AND DEPLOYMENT PROJECTS.**

3 (a) IN GENERAL.—Section 5312 is amended—

4 (1) in subsection (a)—

5 (A) by striking “or contracts” and insert-  
6 ing “, contracts, cooperative agreements, or  
7 other transactions”;

8 (B) by striking “help reduce urban trans-  
9 portation needs,”;

10 (C) by striking “urban” each place it ap-  
11 pears; and

12 (D) by striking “and demonstration  
13 projects related” and inserting “, demonstration  
14 or deployment projects, or evaluation of tech-  
15 nology of national significance”;

16 (2) by striking subsections (b) and (c);

17 (3) by redesignating subsections (d) and (e) as  
18 (b) and (c), respectively.

19 (4) in subsection (b)(2), as redesignated, by  
20 striking “other agreements” and inserting “other  
21 transactions”;

22 (5) in subsection (b)(3), as redesignated, by  
23 striking “50” and inserting “80”;

24 (6) in subsection (b)(4), by adding the following  
25 sentence at the end: “The evaluation criteria shall

1 include consideration of a share of consortium con-  
 2 tributions to the overall research costs.”;

3 (7) in subsection (c)(2), as redesignated, by  
 4 striking “and” and inserting “or” before “private”;  
 5 and

6 (8) in subsections (b)(5) and (c)(3), as redesign-  
 7 nated, by striking “within the Mass Transit Account  
 8 of the Highway Trust Fund”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 5312 is amended by striking the  
 11 section heading and inserting the following:

12 **“§ 5312. Research, development, demonstration, and**  
 13 **deployment projects”.**

14 (2) The item relating to section 5312 in the  
 15 table of sections is amended to read as follows:

“§ 5312. Research, development, demonstration, and deployment projects.”.

16 **SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.**

17 (a) IN GENERAL.—Section 5313 is amended—

18 (1) in subsection (a) by—

19 (A) striking “(1)”;

20 (B) striking “paragraphs (1) and (2)(C)(ii)  
 21 of section 5338(d) and inserting  
 22 “5338(a)(2)(F)(iii)(I) and (III)”;

23 (C) striking “(2)” and inserting “(b) Fed-  
 24 eral Assistance.—”;

25 (2) by striking subsection (b); and



1           (3) in subsection (c), by striking “subsection  
2           (a) of”.

3           (b) CONFORMING AMENDMENTS.—

4           (1) Section 5313 is amended by striking the  
5           section heading and inserting the following:

6           **“§ 5313. Cooperative research program”.**

7           (2) The item relating to section 5313 in the  
8           table of sections is amended to read as follows:

          “5313. Cooperative research program.”.

9           **SEC. 3015. NATIONAL RESEARCH PROGRAMS.**

10          (a) IN GENERAL.—Section 5314 is amended—

11           (1) in the section heading, by striking “plan-  
12           ning and”;

13           (2) in subsection (a)(1), by—

14                (A) striking “subsections (d) and (h)(7) of  
15                section 5338” and inserting “section  
16                5338(a)(2)(F)”;

17                (B) striking “and contracts” and inserting  
18                “, contracts, cooperative agreements, or other  
19                transactions”; and

20                (C) striking “5317,”;

21           (3) in the first sentence of subsection (a)(3), by  
22           striking all that follows “chapter”;

23           (4) by striking subsection (a)(4)(B);

24           (5) by redesignating subsection (a)(4)(C) as  
25           subsection (a)(4)(B); and

1           (6) in subsection (b), by striking “or contract”  
2           and all that follows in the first sentence, and insert-  
3           ing “, contract, cooperative agreement, or other  
4           transaction under subsection (a) of this section or  
5           section 5312.”

6           (b) CONFORMING AMENDMENTS.—The item relating  
7           to section 5314 in the table of sections is amended to read  
8           as follows:

“5314. National research programs.”.

9           **SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

10          Section 5315 is amended—

11           (1) in subsection (a)—

12                (A) by striking “public mass transpor-  
13                tation” and inserting “public transportation”  
14                each place it appears;

15                (B) by striking “mass” after “Govern-  
16                ment-aid” and inserting “public”; and

17                (C) in paragraphs (1), (6), (7), and (10)  
18                by striking “mass” each place it appears before  
19                “transportation” and inserting “public”;

20           (2) by striking subsection (b);

21           (3) by redesignating subsections (c) and (d) as  
22           subsections (b) and (c), respectively; and

23           (4) in subsection (c), as redesignated, by strik-  
24           ing “mass” each place it appears.

1 **SEC. 3017. BUS TESTING FACILITY.**

2 Section 5318 is amended—

3 (1) by revising subsection (a) to read as follows:

4 “(a) FACILITY.—The Secretary of Transportation  
5 shall maintain one facility for testing a new bus model  
6 for maintainability, reliability, safety, performance (in-  
7 cluding braking performance), structural integrity, fuel  
8 economy, emissions, and noise.”;

9 (2) in subsection (d), by striking “section  
10 5309(m)(1)(C)” and inserting section 5338(a)(2)(I);  
11 and

12 (3) by revising subsection (e) to read as follows:

13 “(e) ACQUIRING NEW BUS MODELS.—Amounts ap-  
14 propriated or made available under this chapter may be  
15 obligated or expended to acquire a new bus model only  
16 if a bus of that model has been tested at the facility main-  
17 tained by the Secretary under subsection (a).”.

18 **SEC. 3018. BICYCLE FACILITIES.**

19 Section 5319 is amended by striking “5309(h),” and  
20 inserting “ 5309(g),”.

21 **SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT**  
22 **PROJECT.**

23 Section 5320 is repealed.

24 **SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.**

25 Section 5323 is amended—

26 (1) In paragraph (a)(1) by—

1 (A) striking “private mass transportation  
2 company” each place it appears and inserting  
3 “private company engaged in public transpor-  
4 tation”;

5 (B) striking “mass transportation equip-  
6 ment or a mass transportation facility” and in-  
7 serting “a public transportation facility or  
8 equipment”; and

9 (C) striking “mass transportation com-  
10 pany” and inserting “public transportation  
11 company”;

12 (2) in subsection (a)(1)(B), by striking “private  
13 mass transportation companies” and inserting “pri-  
14 vate companies engaged in public transportation”;

15 (3) in subsection (b)—

16 (A) in paragraph (1)—

17 (i) by striking “or loan”; and

18 (ii) by striking “a certificate of the  
19 applicant” and inserting “in the environ-  
20 mental record for the project evidence”;  
21 and

22 (B) in subparagraph (A) of paragraph (1),  
23 by striking “a public hearing with adequate  
24 prior notice” and inserting “public review and  
25 comment on the project”

1 (C) by amending subparagraph (B) of  
2 paragraph (1) to read as follows:

3 “(B) held a public hearing on the project  
4 if it affects significant economic, social, or envi-  
5 ronmental interests;”;

6 (4) in paragraph (2), by striking the last sen-  
7 tence;

8 (5) by revising subsection (c) to read as follows:

9 “(c) NEW TECHNOLOGY.—A grant for financial as-  
10 sistance under this chapter for new technology, including  
11 innovative or improved products, techniques, or methods  
12 is subject to the requirements of section 5309 of this title  
13 to the extent the Secretary considers appropriate.”;

14 (6) in subsection (d)—

15 (A) by revising paragraph (2) to read as  
16 follows:

17 “(2) The Secretary may waive paragraph (1) of  
18 this subsection if the Secretary finds that the provi-  
19 sion of intercity charter bus transportation service  
20 by the applicant, governmental authority, or publicly  
21 owned operator is necessary to meet the transpor-  
22 tation needs of the elderly and individuals with dis-  
23 abilities.”; and

24 (B) by adding at the end the following  
25 paragraph:

1           “(3) On receiving a complaint about a violation  
2 of the agreement required under paragraph (1), the  
3 Secretary shall investigate and decide whether a vio-  
4 lation has occurred. If the Secretary decides that a  
5 violation has occurred, the Secretary shall correct  
6 the violation under terms of the agreement. In addi-  
7 tion to any remedy specified in the agreement, the  
8 Secretary shall bar a recipient or an operator from  
9 receiving Federal transit assistance in an amount  
10 the Secretary deems appropriate.”;

11           (7) by striking subsection (e);

12           (8) by redesignating subsection (f) as (e);

13           (9) in subsection (e), as redesignated—

14           (A) by revising paragraph (2) to read as  
15 follows:

16           “(2) The Secretary may waive paragraph (1) of  
17 this subsection if the Secretary finds that the provi-  
18 sion of schoolbus transportation by the applicant,  
19 governmental authority, or publicly owned operator  
20 is necessary to meet the transportation needs of stu-  
21 dents with disabilities.”; and

22           (B) by adding at the end the following  
23 paragraph:

24           “(3) If the Secretary finds that an applicant,  
25 governmental authority, or publicly owned operator

1 has violated the agreement required under para-  
2 graph (1) of this subsection, the Secretary shall bar  
3 a recipient or an operator from receiving Federal  
4 transit assistance in an amount the Secretary deems  
5 appropriate.”;

6 (10) by revising subsection (f) to read as fol-  
7 lows:

8 “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL  
9 SHARE.—

10 “(1) Notwithstanding any other provision of  
11 law, a recipient of assistance under sections 5307 or  
12 5309 of this chapter, may use the proceeds from the  
13 issuance of revenue bonds as part of the local  
14 matching funds for a capital project.

15 “(2) The Secretary may reimburse an eligible  
16 recipient for deposits of bond proceeds in a debt  
17 service reserve that recipient established pursuant to  
18 section 5302(a)(1a)(K) of this title from amounts  
19 made available to the recipient under sections 5307  
20 or 5309 of this title.”;

21 (11) in subsection (g), by—

22 (A) striking “(f)” and inserting “(e)”;

23 (B) striking “103(e)(4) and” in the first  
24 and second sentence and inserting “133”; and

1                   (C) striking (f)(1)(C) and inserting  
2                   “(e)(1)(C)”;

3                   (12) by revising subsection (h) to read as fol-  
4                   lows:

5                   “(h) TRANSFER OF LANDS OR INTERESTS IN LANDS  
6 OWNED BY THE UNITED STATES.—

7                   “(1) If the Secretary determines that any part  
8                   of the lands or interests in lands owned by the  
9                   United States and made available as a result of a  
10                  military base closure is necessary for transit pur-  
11                  poses eligible under this chapter, including corridor  
12                  preservation, the Secretary shall file with the Sec-  
13                  retary of the Department supervising the adminis-  
14                  tration of such lands or interests in lands a map  
15                  showing the portion of such lands or interests in  
16                  lands which is desired to be transferred for public  
17                  transportation purposes.

18                  “(2) If within four months after such filing, the  
19                  Secretary of such Department shall not have cer-  
20                  tified to the Secretary that the proposed appropria-  
21                  tion of such land is contrary to the public interest  
22                  or inconsistent with the purposes for which such  
23                  land has been reserved, or shall have agreed to the  
24                  appropriation and transfer under conditions which  
25                  the Secretary of such Department deems necessary



1 for the adequate protection and utilization of the re-  
2 serve, then such land and materials may be appro-  
3 priated and transferred to a State, or local govern-  
4 ment, or public transportation operator for such  
5 purposes and subject to the conditions so specified.

6 “(3) If at any time such lands are no longer  
7 needed for public transportation purposes, notice  
8 shall be given by the State, or local government, or  
9 public transportation operator that received the  
10 land, to the Secretary, and such lands shall imme-  
11 diately revert to the control of the Secretary of the  
12 Department from which the land was originally  
13 transferred.”;

14 (13) in subsection (j)—

15 (A) by revising paragraph (1) to read as  
16 follows:

17 “(1)(A) The Secretary may obligate an amount  
18 that may be appropriated to carry out this chapter  
19 for a project only if the steel, iron, rolling stock, and  
20 components and subcomponents of the rolling stock  
21 used in the project are produced in the United  
22 States.

23 “(B) When procuring rolling stock (including  
24 train control, communication, and traction power  
25 equipment) under this chapter—

1           “(i) the cost of components and subcompo-  
2           nents produced in the United States shall be  
3           more than 60 percent of the cost of all compo-  
4           nents of the rolling stock; and

5           “(ii) final assembly of the rolling stock  
6           shall occur in the United States.

7           “(C) In this subsection, labor costs involved in  
8           final assembly are not included in calculating the  
9           cost of components.”;

10          (B) in paragraph (2)(B)—

11                 (i) by striking “and goods” and in-  
12                 serting “rolling stock, and the components  
13                 and subcomponents of rolling stock”; and

14                 (ii) by adding “or” at the end;

15          (C) by striking paragraph (2)(C);

16          (D) by redesignating paragraph (2)(D) as  
17          paragraph (2)(C);

18          (E) by striking paragraph (3) and redesign-  
19          ating paragraphs (4), (5), (6), and (7) as  
20          paragraphs (3), (4), (5), and (6), respectively;

21          (F) in paragraph (4), as redesignated, by  
22          striking “Intermodal Surface Transportation  
23          Efficiency Act of 1991 (Public Law 102–240,  
24          105 Stat. 1914” and inserting “Safe, Account-

1           able, Flexible, and Efficient Transportation Eq-  
2           uity Act of 2003”;

3           (14) by revising subsection (l) to read as fol-  
4           lows:

5           “(l) RELATIONSHIP TO OTHER LAWS.—Section 1001  
6 of title 18, U.S.C., applies to a certificate, submission, or  
7 statement provided under this chapter. The Secretary may  
8 terminate financial assistance under this chapter and seek  
9 reimbursement directly, or by offsetting amounts, avail-  
10 able under this chapter, when a false or fraudulent state-  
11 ment or related act within the meaning of section 1001  
12 is made in connection with a Federal transit program.”;

13           (15) in subsection (m), by inserting at the end  
14           the following: “Requirements to perform preaward  
15           and postdelivery reviews of rolling stock purchases to  
16           ensure compliance with subsection (j) of this section  
17           do not apply to private nonprofit organizations or to  
18           grantees serving areas with fewer than one million  
19           people.”;

20           (16) in subsection (o) by striking “the Trans-  
21           portation Infrastructure Finance and Innovation Act  
22           of 1998” and inserting “23 U.S.C. 188”.

23 **SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

24           (a) IN GENERAL.—Section 5324 is amended to read  
25 as follows:

1 **§ 5324. Special provisions for capital projects**

2       “(a) REAL PROPERTY AND RELOCATION SERV-  
3 ICES.—Whenever real property is acquired and furnished  
4 as a required contribution incident to a project, the Sec-  
5 retary may not approve the application for financial assist-  
6 ance unless the applicant has made all payments and pro-  
7 vided all assistance and assurances as are required of a  
8 State agency under Sections 210 and 305 of the Uniform  
9 Relocation Assistance and Real Property Acquisition Poli-  
10 cies Act, as amended (Uniform Act). The Secretary must  
11 be advised of specific references to any State law that are  
12 believed to be an exception to Sections 301 or 302 of the  
13 Uniform Act.

14       “(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

15               “(1) The Secretary may participate in the ac-  
16 quisition of real property prior to completion of the  
17 environmental reviews for any project that may use  
18 the property if the Secretary determines that exter-  
19 nal market forces are jeopardizing the potential use  
20 of the property for the project, given any of the fol-  
21 lowing conditions—

22                       “(A) there are offers on the open real es-  
23 tate market to convey that property for a use  
24 or uses incompatible with the project under  
25 study;

1           “(B) there is an imminent threat of devel-  
2           opment or redevelopment of the property for  
3           use or uses incompatible with the project under  
4           study;

5           “(C) recent appraisals reflect a rapid in-  
6           crease in the fair market value of the property;

7           “(D) the property, because it is located  
8           near an existing transportation facility, is likely  
9           to be developed, but also likely to be needed for  
10          a future transportation improvement; or

11          “(E) the property owner can demonstrate  
12          that, for health, safety, or financial reasons, re-  
13          taining ownership of the property poses an  
14          undue hardship on the owner in comparison to  
15          other affected property owners and requests the  
16          acquisition to alleviate that hardship.

17          “(2) Property acquired in accordance with this  
18          subsection may not be developed in anticipation of  
19          the project until the Secretary has complied with the  
20          National Environmental Policy Act and the applica-  
21          ble provisions of the Department of Transportation  
22          Act for protection of publicly owned park lands,  
23          wildlife and waterfowl refuges, and historic sites.

24          “(3) The Secretary shall limit the size and  
25          number of properties acquired in accordance with

1 this subsection as necessary to avoid any prejudice  
2 to the Secretary's objective evaluation of project al-  
3 ternatives.

4 “(4) An acquisition undertaken pursuant to this  
5 section shall be considered to be an exempt project  
6 under section 176 of the Clear Air Act and its im-  
7 plementing regulations.

8 “(c) RAILROAD CORRIDOR PRESERVATION.—

9 “(1) The Secretary may assist an applicant in  
10 the acquisition of a pre-existing railroad right-of-way  
11 prior to completion of the environmental reviews for  
12 any project that may use the right-of-way if the ac-  
13 quisition is otherwise permitted under Federal law;  
14 furthermore, the Secretary may establish restrictions  
15 on such an acquisition as the Secretary deems nec-  
16 essary and appropriate.

17 “(2) Railroad right-of-way acquired in accord-  
18 ance with this subsection may not be developed in  
19 anticipation of the project until the Secretary has  
20 complied with the National Environmental Policy  
21 Act and the applicable provisions of the Department  
22 of Transportation Act for protection of publicly  
23 owned park lands, wildlife and waterfowl refuges,  
24 and historic sites.

1       “(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND  
2 ENVIRONMENTAL INTERESTS.—

3           “(1) In carrying out section 5301(e) of this  
4 chapter, the Secretary shall cooperate and consult  
5 with the Secretaries of the Interior, Housing and  
6 Urban Development, and the Administrator of the  
7 Environmental Protection Agency on each project  
8 that may have a substantial impact on the environ-  
9 ment.

10          “(2) In performing environmental reviews, the  
11 Secretary shall consider the public comments on a  
12 project submitted under section 5323(b) of this title  
13 and ensure that an adequate opportunity to present  
14 views was given to all parties having a significant  
15 economic, social, or environmental interest in the  
16 project, and that the project application includes a  
17 record of—

18           “(A) the environmental impact of the pro-  
19 posal;

20           “(B) adverse environmental effects that  
21 cannot be avoided;

22           “(C) alternatives to the proposal; and

23           “(D) irreversible and irretrievable impacts  
24 on the environment.

1           “(3)(A) The Secretary may approve an applica-  
2           tion for financial assistance for a capital project in  
3           accordance with this chapter only if the Secretary  
4           makes written findings, after reviewing the environ-  
5           mental record included with the project application,  
6           that—

7                   “(i) an adequate opportunity to present  
8                   views was given to all parties having a signifi-  
9                   cant economic, social, or environmental interest;

10                   “(ii) the preservation and enhancement of  
11                   the environment and the interest of the commu-  
12                   nity in which the project is located were consid-  
13                   ered; and

14                   “(iii) no adverse environmental effect is  
15                   likely to result from the project, or no feasible  
16                   and prudent alternative to the effect exists and  
17                   all reasonable steps have been taken to mini-  
18                   mize the effect.

19           “(B) The Secretary’s findings under subpara-  
20           graph (A) of this paragraph shall be made a matter  
21           of public record.”.

22           (b) CONFORMING AMENDMENT.—The item relating  
23           to section 5324 in the table of sections for chapter 53 is  
24           amended to read as follows:

“5324. Special provisions for capital projects.”.



1 **SEC. 3022. CONTRACT REQUIREMENTS.**

2 (a) IN GENERAL.—Section 5325 is amended—

3 (1) by revising subsection (a) to read as follows:

4 “(a) COMPETITION.—Recipients of Federal assist-  
5 ance under this chapter shall conduct all procurement  
6 transactions in a manner providing full and open competi-  
7 tion as determined by the Secretary.”;

8 (2) by revising subsection (b) to read as follows:

9 “(b) ARCHITECTURAL, ENGINEERING, AND DESIGN  
10 CONTRACTS.—A contract or requirement for program  
11 management, architectural engineering, construction man-  
12 agement, a feasibility study, and preliminary engineering,  
13 design, architectural, engineering, surveying, mapping, or  
14 related services for a project for which Federal assistance  
15 is provided under this chapter shall be awarded in the  
16 same way as a contract for architectural and engineering  
17 services is negotiated under chapter 11 of title 40, U.S.C.,  
18 or an equivalent qualifications-based requirement of a  
19 State. This subsection does not apply to the extent a State  
20 has adopted or adopts by law a formal procedure for pro-  
21 curing those services. When awarding such contracts, re-  
22 cipients of assistance under this chapter shall maximize  
23 efficiencies of administration by accepting non-disputed  
24 audits conducted by other governmental agencies as fol-  
25 lows:

1           “(1) Any contract or subcontract awarded  
2 under this chapter shall be performed and audited in  
3 compliance with cost principles contained in the  
4 Federal Acquisition Regulation, part 31 of title 48,  
5 Code of Federal Regulations.

6           “(2) Instead of performing its own audits, a re-  
7 cipient of funds under a contract or subcontract  
8 awarded under this chapter shall accept indirect cost  
9 rates established in accordance with the Federal Ac-  
10 quisition Regulations for one-year applicable ac-  
11 counting periods by a cognizant Federal or State  
12 government agency, if such rates are not currently  
13 under dispute.

14           “(3) Once a firm’s indirect cost rates are ac-  
15 cepted under this paragraph, the recipient of the  
16 funds shall apply such rates for the purposes of con-  
17 tract estimation, negotiation, administration, report-  
18 ing, and contract payment, and shall not be limited  
19 by administrative or de facto ceilings.

20           “(4) A recipient of funds requesting or using  
21 the cost and rate data described in paragraph (3)  
22 shall notify any affected firm before such request or  
23 use. Such data shall be confidential and shall not be  
24 accessible or provided, in whole or in part by the  
25 group of agencies sharing cost data under this para-

1 graph, except by written permission of the audited  
2 firm. If prohibited by law, such cost and rate data  
3 shall not be disclosed under any circumstances.”;

4 (3) by inserting new subsections (d) through  
5 (h), after subsection (c), to read as follows:

6 “(d) DESIGN-BUILD SYSTEM PROJECTS.—

7 “(1) ‘design-build system project’ means a  
8 project under which a recipient enters into a con-  
9 tract with a seller, firm, or consortium of firms to  
10 design and build a public transportation system or  
11 an operable segment thereof that meets specific per-  
12 formance criteria. Such project may also include an  
13 option to finance, or operate for a period of time,  
14 the system or segment or any combination of design-  
15 ing, building, operating, or maintaining such system  
16 or segment.

17 “(2) Government financial assistance under this  
18 chapter may be made available for the capital costs  
19 of a design-build system project after the recipient  
20 complies with Government requirements.

21 “(e) MULTIYEAR ROLLING STOCK.—

22 “(1) A recipient procuring rolling stock with  
23 Government financial assistance under this chapter  
24 may make a multiyear contract, including options, to

1 buy not more than 5 years of requirements for roll-  
2 ing stock and replacement parts.

3 “(2) The Secretary shall allow a recipient to act  
4 on a cooperative basis to procure rolling stock in  
5 compliance with this subsection and other Govern-  
6 ment procurement requirements.

7 “(f) ACQUIRING ROLLING STOCK.—A recipient of fi-  
8 nancial assistance under this chapter may enter into a  
9 contract to expend that assistance to acquire rolling  
10 stock—

11 “(1) based on—

12 “(A) initial capital costs; or

13 “(B) performance, standardization, life  
14 cycle costs, and other factors; or

15 “(2) with a party selected through a competi-  
16 tive procurement process.

17 “(g) EXAMINATION OF THE RECORDS.—Upon re-  
18 quest, the Secretary and the Comptroller General, or any  
19 of their representatives, shall have access to and the right  
20 to examine and inspect all records, documents, papers, in-  
21 cluding contracts, related to a projects for which a grant  
22 is made under this chapter.

23 “(h) GRANT PROHIBITIONS.—A grant may not be  
24 used to support a procurement that uses an exclusionary  
25 or discriminatory specification.”.

1 (b) CONFORMING AMENDMENTS.—Chapter 53 of  
2 title 49, United States Code, is amended by—

3 (1) repealing section 5326; and

4 (2) striking “5326. Special Procurements.” in  
5 the table of sections for chapter 53.

6 **SEC. 3023. HUMAN RESOURCE PROGRAMS.**

7 (a) IN GENERAL.—Section 5322 is amended—

8 (1) by inserting “(a) IN GENERAL.—” before  
9 the beginning of the first sentence of the section;  
10 and

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

12 “(b) GRANTS TO HIGHER LEARNING INSTITU-  
13 TIONS.—

14 “(1) The Secretary (or the Secretary of Hous-  
15 ing and Urban Development when required by sec-  
16 tion 5334(i) of this title) may make grants to non-  
17 profit institutions of higher learning—

18 “(A) to conduct competent research and  
19 investigations into the theoretical or practical  
20 problems of urban transportation; and

21 “(B) to train individuals to conduct fur-  
22 ther research or obtain employment in an orga-  
23 nization that plans, builds, operates, or man-  
24 ages an urban transportation system.

1           “(2) Research and investigations under this  
2 subsection include—

3                   “(A) the design and use of urban public  
4 transportation systems and urban roads and  
5 highways;

6                   “(B) the interrelationship between various  
7 modes of urban and interurban transportation;

8                   “(C) the role of transportation planning in  
9 overall urban planning;

10                  “(D) public preferences in transportation;

11                  “(E) the economic allocation of transpor-  
12 tation resources; and

13                  “(F) the legal, financial, engineering, and  
14 esthetic aspects of urban transportation.

15           “(3) When making a grant under this sub-  
16 section, the Secretary shall give preference to an in-  
17 stitution that brings together knowledge and exper-  
18 tise in the various social science and technical dis-  
19 ciplines related to urban transportation problems.

20           “(c) FELLOWSHIPS.—

21                   “(1) The Secretary may make grants to States,  
22 local governmental authorities, and operators of pub-  
23 lic transportation systems to provide fellowships to  
24 train personnel employed in managerial, technical,

1 and professional positions in the mass transportation  
2 field.

3 “(2) A fellowship under this subsection may be  
4 for not more than one year of training in an institu-  
5 tion that offers a program applicable to the public  
6 transportation industry. The recipient of the grant  
7 shall select an individual on the basis of dem-  
8 onstrated ability and for the contribution the indi-  
9 vidual reasonably can be expected to make to an ef-  
10 ficient public transportation operation. A grant for  
11 a fellowship may not be more than the lesser of  
12 \$65,000 or 75 percent of—

13 “(A) tuition and other charges to the fel-  
14 lowship recipient;

15 “(B) additional costs incurred by the train-  
16 ing institution and billed to the grant recipient;  
17 and

18 “(C) the regular salary of the fellowship  
19 recipient for the period of the fellowship to the  
20 extent the salary is actually paid or reimbursed  
21 by the grant recipient.

22 “(d) OTHER GRANTS.—The Secretary may make  
23 grants to State and local governmental authorities for  
24 projects that will use innovative techniques and methods  
25 in managing and providing public transportation.”.

1 **SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND RE-**  
2 **VIEW.**

3 (a) PROJECT MANAGEMENT PLAN REQUIRE-  
4 MENTS.—Section 5327(a) is amended—

5 (1) by striking “and” at the end of paragraph  
6 11;

7 (2) in paragraph 12, by striking the “.” and in-  
8 serting “; and”; and

9 (3) by adding after paragraph (12) the fol-  
10 lowing:

11 “(13) safety and security management.”.

12 (b) LIMITATIONS ON USE OF AVAILABLE  
13 AMOUNTS.—Section 5327(c) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “.5” and inserting “1”;

16 (B) by striking “5307, 5309, or 5311 of  
17 this title, an interstate transfer mass transpor-  
18 tation project under section 103(e)(4) of title  
19 23 as in effect on September 30, 1991,” and in-  
20 serting “5307–5311, 5316, or 5317 of this  
21 title,”;

22 (C) by striking “to make a contract”;

23 (D) by striking “a major project” and in-  
24 serting “major projects”; and



1 (E) by striking “section 5307, 5309, 5311,  
2 or 103(e)(4)” and inserting “sections 5307–  
3 5311, 5316, 5317,”;

4 (2) in paragraph (2), by inserting “and secu-  
5 rity” after “safety”; and

6 (3) by redesignating paragraph (3) as (4) and  
7 inserting a new paragraph (3), as follows:

8 “(3) The Secretary shall deduct a sum in an  
9 amount that the Secretary determines necessary to  
10 administer this section from the amounts made  
11 available under paragraph (1) of this subsection.  
12 These funds shall be in addition to any other funds  
13 made available for these purposes, and shall remain  
14 available until expended.”.

15 **SEC. 3025. PROJECT REVIEW.**

16 Section 5328 is repealed.

17 **SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY**  
18 **RISK.**

19 (a) IN GENERAL.—Section 5329 is amended to read  
20 as follows:

21 **“§ 5329. Investigation of safety and security risks**

22 “The Secretary may conduct investigations into safe-  
23 ty and security risks associated with a condition in equip-  
24 ment, a facility, or an operation financed under this chap-  
25 ter to establish the nature and extent of the condition and

1 how to eliminate, mitigate, or correct it. If the Secretary  
2 establishes that a safety or security risk warrants further  
3 protective measures, the Secretary shall require the local  
4 governmental authority receiving amounts under this  
5 chapter to submit a plan for eliminating, mitigating, or  
6 correcting it. Any such plan relating to security risks shall  
7 be developed in consultation with the Secretary of Home-  
8 land Security. Financial assistance under this chapter, in  
9 an amount to be determined by the Secretary, may be  
10 withheld until a plan is approved and carried out.”.

11 (b) CONFORMING AMENDMENT.—The item relating  
12 to section 5329 in the table of sections for chapter 53 is  
13 amended to read as follows:

“5329. Investigation of safety and security risks.”.

14 **SEC. 3027. STATE SAFETY OVERSIGHT.**

15 (a) IN GENERAL.—Section 5330 is amended—

16 (1) by striking the heading “Withholding  
17 Amounts for Noncompliance with Safety Require-  
18 ments” and inserting “State Safety Oversight”;

19 (2) in subsection (a), by striking the text and  
20 inserting the following “This section applies only  
21 to—

22 “(1) States that have rail fixed guideway public  
23 transportation systems not subject to regulation by  
24 the Federal Railroad Administration; and

1           “(2) States that are designing rail fixed guide-  
2           way public transportation systems that will not be  
3           subjected to regulation by the Federal Railroad Ad-  
4           ministration.”;

5           (3) in subsection (d) by inserting “shall ensure  
6           uniform safety standards and enforcement and”  
7           after “affected States”; and

8           (4) by striking subsection (f).

9           (b) CONFORMING AMENDMENT.—The item relating  
10          to section 5330 in the table of sections for chapter 53 is  
11          amended to read as follows:

          “5330. State safety oversight.”.

12       **SEC. 3028. SENSITIVE SECURITY INFORMATION.**

13          Section 40119(b) is amended—

14               (1) in paragraph (1)(C) by striking “transpor-  
15               tation safety” and inserting “the safety of transpor-  
16               tation facilities or infrastructure, or transportation  
17               employees”; and

18               (2) by adding at the end a new paragraph (3),  
19               to read as follows:

20                       “(3) A State or local government may not  
21                       enact, enforce, prescribe, issue, or continue in effect  
22                       any law, regulation, standard, or order to the extent  
23                       it is inconsistent with this section or regulations pre-  
24                       scribed under this section.”.

1 **SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**  
2 **LENCE AGAINST PUBLIC TRANSPORTATION**  
3 **SYSTEMS.**

4 (a) IN GENERAL.—Section 1993 of title 18, U.S.C.,  
5 is amended—

6 (1) by striking “mass” in each place it appears  
7 before “transportation” and inserting “public”;

8 (2) in subsection (a)(5), by inserting “control-  
9 ling,” after “operating”; and

10 (3) in subsection (c)(5), by striking  
11 “5302(a)(7)” and inserting “5302(a)”.

12 (b) CONFORMING AMENDMENT.—The item related to  
13 section 1993 in the table of contents for chapter 97 of  
14 title 18, U.S.C. is amended to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation  
systems.”.

15 **SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MIS-**  
16 **USE TESTING.**

17 (a) DEFINITIONS.—Section 5331(a)(3) is amended  
18 by inserting after “title” the following: “, or sections  
19 2303a, 7101(i), 7302(e) of title 46, United States Code.  
20 The Secretary may also decide that a form of public trans-  
21 portation is covered adequately, for employee alcohol and  
22 controlled substances testing purposes, under the alcohol  
23 and controlled substance statutes or regulations of an

1 agency within the Department of Transportation or other  
2 Federal agency.”.

3 (b) REGULATIONS.—Section 5331(f) is amended by  
4 striking paragraph (3).

5 **SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

6 Section 5333(b)(1) is amended by striking “5318(d),  
7 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)”  
8 each place it appears and inserting “5316–5318,  
9 5323(a)(1), (b), and (c), 5337, and 5338(b)(3)(C)”.

10 **SEC. 3032. ADMINISTRATIVE PROCEDURES.**

11 Section 5334 is amended—

12 (1) in subsection (a),

13 (A) by striking “and” at the end of para-  
14 graph (9);

15 (B) by striking the period at the end of  
16 paragraph (10) and inserting “; and”; and

17 (C) by inserting after paragraph (10) the  
18 following:

19 “(11) issue regulations as necessary to carry  
20 out the purposes of this chapter.”;

21 (2) by redesignating subsections (b), (c), (d),  
22 (e), (f), (g), (h), (i), and (j) as subsections (c), (d),  
23 (e), (f), (g), (h), (i), (j), and (k);

24 (3) by adding a new subsection (b) after sub-  
25 section (a), to read as follows:

1           “(b) PROHIBITIONS AGAINST REGULATING OPER-  
 2   ATIONS AND CHARGES.—Except as directed by the Presi-  
 3   dent for purposes of national defense or in the event of  
 4   a national or regional emergency, the Secretary may not  
 5   regulate the operation, routes, or schedules of a public  
 6   transportation system for which a grant is made under  
 7   this chapter, nor may the Secretary regulate the rates,  
 8   fares, tolls, rentals, or other charges prescribed by any  
 9   public or private transportation provider; provided, how-  
 10   ever, that nothing in this subsection shall prevent the Sec-  
 11   retary from requiring a recipient of funds under this chap-  
 12   ter to comply with the terms and conditions of its Federal  
 13   assistance agreement.”; and

14           (4) in subsection (j)(1), as redesignated,  
 15           (A) by striking “carry” and inserting “ad-  
 16           vise and assist the Secretary in carrying”; and  
 17           (B) by striking “and (b)(1)” and insert  
 18           “5322(b)(1)”.

19 **SEC. 3033. REPORTS AND AUDITS.**

20           Section 5335 is amended—

21           (1) in subsection (a), by—  
 22           (A) striking “(1)”; and  
 23           (B) striking “(2)” and inserting “(b) RE-  
 24           PORTING AND UNIFORM SYSTEMS.—”; and  
 25           (2) by striking subsection (b).

1 **SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR**  
2 **FORMULA GRANTS.**

3 (a) IN GENERAL.—Section 5336 is amended by—

4 (1) striking subsection (d);

5 (2) striking subsection (k);

6 (3) redesignating subsections (a) through (e) as  
7 subsections (b) through (d), respectively; and

8 (4) adding a new subsection (a) as follows:

9 “(a) APPORTIONMENT OF ALLOCATIONS.—Of the  
10 amounts allocated under section 5338(a)(2)(P) of this  
11 title—

12 “(1) the following percentages shall be appor-  
13 tioned to each urbanized area in accordance with  
14 subsection (k) of this section:

15 “(A) One percent in fiscal year 2004.

16 “(B) Three percent in fiscal year 2005.

17 “(C) Five percent in fiscal year 2006.

18 “(D) Seven percent in fiscal year 2007.

19 “(E) Nine percent in fiscal year 2008.

20 “(F) Ten percent in every fiscal year  
21 thereafter.

22 “(2) the remaining portion shall be apportioned  
23 to each urbanized area in accordance with sub-  
24 sections (b) through (d) of this section.”.

25 (b) BASED ON URBANIZED AREA POPULATION.—

26 Subsection (b), as redesignated, is amended—

1 (1) by striking “Of the amount made available  
2 or appropriated under section 5338(a) of this title”  
3 and inserting “Of the amount to be apportioned  
4 under subsection (a)(2) of this section”; and

5 (2) in paragraph (2), by striking “subsections  
6 (b) and (c)” and inserting “subsections (c) and (d)”.

7 (c) BASED ON FIXED GUIDEWAY REVENUE VEHI-  
8 CLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—  
9 Subsection (c)(2), as redesignated, is amended by striking  
10 “subsection (a)(2)” and inserting “subsection (b)(2)”.

11 (d) BASED ON BUS REVENUE VEHICLE-MILES AND  
12 PASSENGER-MILES.—Subsection (d), as redesignated, is  
13 amended by striking “subsection (a)(2)” and inserting  
14 “subsection (b)(2)”.

15 (e) DATE OF APPORTIONMENT.—Subsection (e)(1) is  
16 amended by striking “subsections (a) and (h)(2) of section  
17 5338” and inserting “section 5338(a)(2)(P)”.

18 (f) TRANSFERS OF APPORTIONMENTS.—Subsection  
19 (g) is amended by striking “subsection (a)(1)” and insert-  
20 ing “subsection (b)(1)” each time it appears.

21 (g) APPORTIONMENT BASED ON INCENTIVE FAC-  
22 TORS.—Section 5336 is amended by adding a new sub-  
23 section (k) as follows:

24 “(k) APPORTIONMENT BASED ON INCENTIVE FAC-  
25 TORS.—



1           “(1) Of the amounts apportioned under sub-  
2           section (a)(1) of this section, the Secretary may use  
3           the following amounts to make grants to establish  
4           data collection systems capable of collecting the data  
5           in paragraph (3) of this subsection:

6                   “(A) \$25,000,000 in fiscal year 2004.

7                   “(B) \$15,000,000 in fiscal year 2005.

8                   “(C) \$5,000,000 in fiscal year 2006.

9           “(2) Amounts under paragraph (1) of this sub-  
10          section not obligated within three years following the  
11          end of the fiscal year in which those amounts be-  
12          came available shall be available for apportionment  
13          under paragraph (3) of this subsection.

14          “(3) The remaining amounts to be apportioned  
15          under subsection (a)(1) of this section shall be ap-  
16          portioned by a formula determined by the Secretary  
17          that distributes funds based on increases in public  
18          transportation patronage.

19          “(4) In apportioning funds under this sub-  
20          section, the Secretary may consider the efficiency of  
21          service provision in the urbanized area.

22          “(5) The Secretary shall not apportion any  
23          amounts under this subsection to an urbanized area  
24          that experiences a significant decline, as determined  
25          by the Secretary, in public transportation patronage

1 by elderly individuals, individuals with disabilities, or  
 2 low income persons.”.

3 **SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY**  
 4 **FACTORS.**

5 (a) SECTION HEADING.—Section 5337 is amended by  
 6 striking the section heading and inserting the following:  
 7 “§ 5337. Apportionment based on fixed guideway fac-  
 8 tors”.

9 (b) DISTRIBUTION.—The text of subsection 5337(a)  
 10 before the first colon is amended to read as follows:  
 11 “Amounts made available under section 5338(a)(2)(N) of  
 12 this title are apportioned as follows:”.

13 (c) IN GENERAL.—Section 5337 is amended by—

14 (1) striking “section 5336(b)(2)(A)” each place  
 15 it appears and inserting “section 5336(c)(2)(A)”;

16 (2) striking subsection (e); and

17 (3) redesignating subsection (f) as subsection  
 18 (e).

19 (d) CONFORMING AMENDMENT.—The item relating  
 20 to section 5337 in the table of sections for chapter 53 is  
 21 amended to read as follows:

“5337. Apportionment based on fixed guideway factors.”.

22 **SEC. 3036. AUTHORIZATIONS.**

23 The text of section 5338 is amended to read as fol-  
 24 lows:

25 “(a) FORMULA GRANTS AND RESEARCH.—

1           “(1) There shall be available from the Mass  
2 Transit Account of the Highway Trust Fund to  
3 carry out sections 5305, 5307, 5308, 5310–5318,  
4 5322, 5335, 5505, and 5570–5575 of this title, and  
5 section 3038 of Public Law 105–178—

6           “(A) \$5,615,406,000 for fiscal year 2004;

7           “(B) \$5,727,714,000 for fiscal year 2005;

8           “(C) \$5,846,851,000 for fiscal year 2006;

9           “(D) \$5,978,405,000 for fiscal year 2007;

10          “(E) \$6,126,071,000 for fiscal year 2008;

11          and

12          “(F) \$6,274,935,000 for fiscal year 2009.

13          “(2) Of the aggregate of amounts made avail-  
14 able under this subsection for a fiscal year,

15          “(A) 1.25 percent shall be available to  
16 carry out section 5305 in the fiscal year 2004;

17          “(B) 2 percent shall be available to carry  
18 out section 5305 in fiscal years 2005 through  
19 2009;

20          “(C) the following amounts shall be avail-  
21 able to carry out section 5335—

22                  “(i) \$3,500,000 in fiscal year 2004;

23                  “(ii) \$3,700,000 in fiscal year 2005;

24                  “(iii) \$3,900,000 in fiscal year 2006;

25                  “(iv) \$4,100,000 in fiscal year 2007;

1                   “(v) \$4,300,000 in fiscal year 2008;

2                   and

3                   “(vi) \$4,500,000 in fiscal year 2009;

4                   “(D) \$4,849,950 shall be available for  
5 grants to the Alaska Railroad for improvements  
6 to its passenger operations in lieu of receiving  
7 an apportionment under section 5336 of this  
8 title;

9                   “(E) \$6,950,000 shall be available to carry  
10 out section 3038 of the Transportation Equity  
11 Act for the 21st Century, as amended;

12                   “(F) the following amounts shall be avail-  
13 able to carry out transit cooperative research  
14 programs under section 5313, the National  
15 Transit Institute under section 5315, and na-  
16 tional research programs under sections 5312,  
17 5313, 5314, and 5322:

18                   “(i) \$43,750,000 in fiscal year 2004;

19                   “(ii) 0.779 percent in fiscal years  
20 2005 through 2009; and

21                   “(iii) Of the amount made available  
22 by this paragraph:

23                   “(I) 18.85 percent shall be avail-  
24 able for carrying out transit coopera-

1           tive research programs under section  
2           5313;

3           “(II) 9.14 percent shall be avail-  
4           able to carry out programs under the  
5           National Transit Institute under sec-  
6           tion 5315, including not more than  
7           \$1,000,000 shall be available to carry  
8           out section 5315(a)(16); and

9           “(III) the remainder shall be  
10          available for carrying out national re-  
11          search programs under sections 5312,  
12          5313, 5314, and 5322;

13          “(G) \$30,000,000 shall be available to  
14          carry out section 5316 for each fiscal year 2005  
15          through 2009, based on need and supported by  
16          transportation financial feasibility studies and  
17          planning analyses;

18          “(H) the following amounts shall be avail-  
19          able for the New Freedom program under sec-  
20          tion 5317 of this title:

21                  “(i) \$145,000,000 in fiscal year 2004;

22                  and

23                  “(ii) 2.582 percent in fiscal years  
24                  2005 through 2009;

1           “(I) the following amounts shall be avail-  
2           able to carry out section 5318:

3                   “(i) \$3,000,000 in fiscal year 2004;  
4           and

5                   “(ii) 0.061 percent in fiscal years  
6           2005 through 2009;

7           “(J) \$6,000,000 shall be available to carry  
8           out section 5505 of this title;

9           “(K) 6.4 percent shall be available to pro-  
10          vide financial assistance for other than urban-  
11          ized areas under section 5311;

12          “(L) 1.55 percent shall be available to pro-  
13          vide financial assistance for services for elderly  
14          persons and persons with disabilities under sec-  
15          tion 5310;

16          “(M) the following amounts shall be avail-  
17          able to provide financial assistance for job ac-  
18          cess and reverse commute projects under sec-  
19          tion 5308:

20                   “(i) \$150,000,000 in fiscal year 2004;  
21          and

22                   “(ii) 2.671 percent in fiscal years  
23          2005 through 2009;

24          “(N) the following amounts shall be avail-  
25          able to provide financial assistance for urban-

1            ized areas under section 5307 and apportioned  
2            in accordance with section 5337:

3                    “(i) \$1,214,400,000 in fiscal year  
4                    2004; and

5                    “(ii) 21.626 percent in fiscal years  
6                    2005 through 2009; and

7                    “(O) \$75,000,000 shall be available to  
8                    carry out sections 5570 through 5575 in fiscal  
9                    years 2005 through 2009.

10                   “(P) The remaining amount shall be avail-  
11                   able to provide financial assistance for urban-  
12                   ized areas under section 5307 and apportioned  
13                   in accordance with section 5336.

14           “(b) MAJOR CAPITAL INVESTMENT PROGRAM  
15 GRANTS.—

16                   “(1) There shall be available from the Mass  
17                   Transit Account of the Highway Trust Fund to  
18                   carry out sections 5305 and 5309—

19                    “(A) \$320,594,000 for fiscal year 2004;

20                    “(B) \$327,006,000 for fiscal year 2005;

21                    “(C) \$333,808,000 for fiscal year 2006;

22                    “(D) \$341,318,000 for fiscal year 2007;

23                    “(E) \$349,749,000 for fiscal year 2008;

24                    and

25                    “(F) \$358,248,000 for fiscal year 2009.

1           “(2) In addition to amounts made available  
2 under paragraph (1), there are authorized to be ap-  
3 propriated to carry out sections 5305 and 5309—

4                   “(A) \$1,213,500,000 for fiscal year 2004;

5                   “(B) \$1,236,192,000 for fiscal year 2005;

6                   “(C) \$1,261,287,000 for fiscal year 2006;

7                   “(D) \$1,289,162,000 for fiscal year 2007;

8                   “(E) \$1,321,907,000 for fiscal year 2008;

9           and

10                   “(F) \$1,355,219,000 for fiscal year 2009.

11           “(3) Of the amounts made available by and ap-  
12 propriated under this subsection for a fiscal year,

13                   “(A) 1.25 percent shall be available to  
14 carry out section 5305 in the fiscal year 2004;

15                   “(B) 2 percent shall be available to carry  
16 out section 5305 in fiscal years 2005 through  
17 2009; and

18                   “(C) the remaining amount shall be avail-  
19 able to carry out Major Capital Investment  
20 Grants under section 5309 of this title.

21           “(c) ADMINISTRATION.—There are authorized to be  
22 appropriated to carry out section 5334—

23                   “(A) \$76,500,000 for fiscal year 2004;

24                   “(B) \$77,931,000 for fiscal year 2005;

25                   “(C) \$79,513,000 for fiscal year 2006;



1           “(D) \$81,270,000 for fiscal year 2007;

2           “(E) \$83,334,000 for fiscal year 2008; and

3           “(F) \$85,434,000 for fiscal year 2009.

4           “(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

5           “(1) A grant or contract approved by the Sec-  
6           retary, that is financed with amounts made available  
7           under subsections (a), (b)(1), or (e) is a contractual  
8           obligation of the United States Government to pay  
9           the Government’s share of the cost of the project.

10          “(2) A grant or contract, approved by the Sec-  
11          retary, that is financed with amounts made available  
12          under subsections (b)(2) or (c) is a contractual obli-  
13          gation of the Government to pay the Government’s  
14          share of the cost of the project only to the extent  
15          that amounts are provided in advance in an appro-  
16          priations Act.

17          “(e) REVENUE ALIGNED BUDGET AUTHORITY.—

18          “(1) On October 15 of fiscal year 2006 and  
19          each fiscal year thereafter, the Secretary shall pro-  
20          rate an amount of funds equal to the amount deter-  
21          mined pursuant to section 251(b)(1)(C) of the Bal-  
22          anced Budget and Emergency Deficit Control Act of  
23          1985 in a portion equal to the amount available to  
24          each Federal transit program for which funds are  
25          available from the Mass Transit Account of the

1 Highway Trust Fund under subsections (a) and (b)  
2 of this section.

3 “(2) AUTHORIZATION OF APPROPRIATIONS.—  
4 There are authorized to be appropriated from the  
5 Mass Transit Account of the Highway Trust Fund  
6 such sums as may be necessary to carry out this  
7 subsection for fiscal years beginning after September  
8 30, 2005.

9 “(f) AVAILABILITY OF AMOUNTS.—Amounts made  
10 available by or appropriated under subsections (a), (b),  
11 and (e) shall remain available until expended.”.

12 **SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY**  
13 **PROJECT.**

14 (a) IN GENERAL.—Chapter 53 is amended by insert-  
15 ing after section 5315 the following:

16 **“§5316. National parks and public lands Legacy**  
17 **Project**

18 “(a) IN GENERAL.—

19 “(1) The Secretary of Transportation, in con-  
20 sultation with the Secretary of the Interior, may  
21 make a grant or enter into a contract, cooperative  
22 agreement, interagency agreement, intra-agency  
23 agreement, or other transaction to carry out a quali-  
24 fied project under this section to enhance the protec-  
25 tion of America’s National Parks and public lands

1 and increase the enjoyment of those visiting the  
2 parks and public lands by ensuring access to all, in-  
3 cluding the disabled, improving conservation and  
4 park and public land opportunities in urban areas  
5 through partnering with state and local govern-  
6 ments, and improving park and public land trans-  
7 portation infrastructure.

8 “(2) A grant, cooperative agreement, inter-  
9 agency agreement, intra-agency agreement, or other  
10 transaction for a qualified project under this section  
11 shall be available to finance the leasing of equipment  
12 and facilities for use in public transportation, sub-  
13 ject to any regulation that the Secretary may pre-  
14 scribe limiting the grant or agreement to leasing ar-  
15 rangements that are more cost-effective than pur-  
16 chase or construction.

17 “(b) DEFINITIONS.—In this section—

18 “(1) ‘eligible area’ means any federally owned  
19 or managed park, refuge, or recreational area that  
20 is open to the general public, including—

21 “(A) a unit of the National Park System;

22 “(B) a unit of the National Wildlife Ref-  
23 uge System;

24 “(C) a recreational area managed by the  
25 Bureau of Land Management; and

1           “(D) a recreation area managed by the  
2           Bureau of Reclamation.

3           “(2) ‘Federal land management agency’ means  
4           a Federal agency that manages an eligible area.

5           “(3) ‘public transportation’ means transpor-  
6           tation by bus, rail, or any other publicly or privately  
7           owned conveyance that provides to the public general  
8           or special service on a regular basis, including sight-  
9           seeing service.

10          “(4) ‘qualified participant’ means—

11               “(A) a Federal land management agency;  
12               or

13               “(B) a State, tribal, or local governmental  
14               authority with jurisdiction over land in the vi-  
15               cinity of an eligible area acting with the consent  
16               of the Federal land management agency, alone  
17               or in partnership with a Federal land manage-  
18               ment agency or other Governmental or non-  
19               governmental participant.

20          “(5) ‘qualified project’ means a planning or  
21          capital project in or in the vicinity of an eligible area  
22          that—

23               “(A) is an activity described in section  
24               5302, 5303, or 5304;

25               “(B) involves—

1           “(i) the purchase of rolling stock that  
2           incorporates clean fuel technology or the  
3           replacement of buses of a type in use on  
4           the date of enactment of this section with  
5           clean fuel vehicles; or

6           “(ii) the deployment of public trans-  
7           portation vehicles that introduce innovative  
8           technologies or methods;

9           “(C) relates to the capital costs of coordi-  
10          nating the Federal land management agency  
11          public transportation systems with other public  
12          transportation systems;

13          “(D) provides a nonmotorized transpor-  
14          tation system (including the provision of facili-  
15          ties for pedestrians, bicycles, and nonmotorized  
16          watercraft);

17          “(E) provides waterborne access within or  
18          in the vicinity of an eligible area, as appropriate  
19          to and consistent with this section; or

20          “(F) is any other public transportation  
21          project that—

22                  “(i) enhances the environment;

23                  “(ii) prevents or mitigates an adverse  
24                  impact on a natural resource;

1 “(iii) improves Federal land manage-  
2 ment agency resource management;

3 “(iv) improves visitor mobility and ac-  
4 cessibility and the visitor experience;

5 “(v) reduces congestion and pollution  
6 (including noise pollution and visual pollu-  
7 tion); or

8 “(vi) conserves a natural, historical,  
9 or cultural resource (excluding rehabilita-  
10 tion or restoration of a non-transportation  
11 facility).

12 “(6) ‘Secretary’ means the Secretary of Trans-  
13 portation.

14 “(c) LIMITATION ON USE OF AVAILABLE  
15 AMOUNTS.—

16 “(1) The Secretary, in consultation with the  
17 Secretary of the Interior, may use not more than 10  
18 percent of the amount made available for a fiscal  
19 year under section 5338(a)(2)(G) to carry out plan-  
20 ning, research, and technical assistance under this  
21 section, including the development of technology ap-  
22 propriate for use in a qualified project.

23 “(2) Amounts made available under this sub-  
24 section are in addition to amounts otherwise avail-  
25 able to the Secretary to carry out planning, re-

1 search, and technical assistance under this title or  
2 any other provision of law.

3 “(3) No qualified project shall receive more  
4 than 12 percent of the total amount made available  
5 to carry out this section under section  
6 5338(a)(2)(G) for any fiscal year.

7 “(d) PLANNING PROCESS.—In undertaking a quali-  
8 fied project under this section,

9 “(1) if the qualified participant is a Federal  
10 land management agency—

11 “(A) the Secretary, in cooperation with the  
12 Secretary of the Interior, shall develop trans-  
13 portation planning procedures that are con-  
14 sistent with—

15 “(i) the metropolitan planning provi-  
16 sions under section 5303 of this title;

17 “(ii) the statewide planning provisions  
18 under section 5304 of this title; and

19 “(iii) the public participation require-  
20 ments under section 5307(e); and

21 “(B) in the case of a qualified project that  
22 is at a unit of the National Park system, the  
23 planning process shall be consistent with the  
24 general management plans of the unit of the  
25 National Park system; and

1           “(2) if the qualified participant is a State or  
2 local governmental authority, or more than one  
3 State or local governmental authority in more than  
4 one State, the qualified participant shall—

5           “(A) comply with the metropolitan plan-  
6 ning provisions under section 5303 of this title;

7           “(B) comply with the statewide planning  
8 provisions under section 5304 of this title;

9           “(C) comply with the public participation  
10 requirements under section 5307(e) of this title;

11 and

12           “(D) consult with the appropriate Federal  
13 land management agency during the planning  
14 process.

15           “(e) COST SHARING.—

16           “(1) The Secretary, in cooperation with the  
17 Secretary of the Interior, shall establish the share of  
18 assistance to be provided under this section to a  
19 qualified participant.

20           “(2) In establishing the share of assistance to  
21 be provided under this section, the Secretary shall  
22 consider—

23           “(A) visitation levels and the revenue de-  
24 rived from user fees in the eligible area in  
25 which the qualified project is carried out;



1           “(B) the extent to which the qualified par-  
2           ticipant coordinates with a public transpor-  
3           tation authority or private entity engaged in  
4           public transportation;

5           “(C) private investment in the qualified  
6           project, including the provision of contract serv-  
7           ices, joint development activities, and the use of  
8           innovative financing mechanisms;

9           “(D) the clear and direct benefit to the  
10          qualified participant; and

11          “(E) any other matters that the Secretary  
12          considers appropriate to carry out this section.

13          “(3) Notwithstanding any other provision of  
14          law, Federal funds appropriated to any Federal land  
15          management agency may be counted toward the re-  
16          mainder of the cost of a qualified project.

17          “(f) SELECTION OF QUALIFIED PROJECTS.—

18                 “(1) The Secretary of the Interior, after con-  
19                 sultation with and in cooperation with the Secretary,  
20                 shall determine the final selection and funding of an  
21                 annual program of qualified projects in accordance  
22                 with this section.

23                 “(2) In determining whether to include a  
24                 project in the annual program of qualified projects,  
25                 the Secretary of the Interior shall consider—

1           “(A) the justification for the qualified  
2 project, including the extent to which the quali-  
3 fied project would conserve resources, prevent  
4 or mitigate adverse impact, and enhance the en-  
5 vironment;

6           “(B) the location of the qualified project,  
7 to ensure that the selected qualified projects—

8                   “(i) are geographically diverse nation-  
9 wide; and

10                   “(ii) include qualified projects in eligi-  
11 ble areas located in both urban areas and  
12 rural areas;

13           “(C) the size of the qualified project, to  
14 ensure that there is a balanced distribution;

15           “(D) the historical and cultural signifi-  
16 cance of a qualified project;

17           “(E) safety;

18           “(F) the extent to which the qualified  
19 project would-

20                   “(i) enhance livable communities;

21                   “(ii) reduce pollution (including noise  
22 pollution, air pollution, and visual pollu-  
23 tion);

24                   “(iii) reduce congestion; and

1                   “(iv) improve the mobility of people in  
2                   the most efficient manner; and

3                   “(G) any other matters that the Secretary  
4                   considers appropriate to carry out this section,  
5                   including-

6                   “(i) visitation levels;

7                   “(ii) the use of innovative financing or  
8                   joint development strategies; and

9                   “(iii) coordination with gateway com-  
10                  munities.

11               “(g) QUALIFIED PROJECTS CARRIED OUT IN AD-  
12 VANCE.—

13               “(1) When a qualified participant carries out  
14               any part of a qualified project without assistance  
15               under this section in accordance with all applicable  
16               procedures and requirements, the Secretary, in con-  
17               sultation with the Secretary of the Interior, may pay  
18               the share of the net capital project cost of a quali-  
19               fied project if—

20               “(A) the qualified participant applies for  
21               the payment;

22               “(B) the Secretary approves the payment;  
23               and

24               “(C) before carrying out that part of the  
25               qualified project, the Secretary approves the

1 plans and specifications in the same manner as  
2 plans and specifications are approved for other  
3 projects assisted under this section.

4 “(2)(A) The cost of carrying out part of a  
5 qualified project under paragraph (1) includes the  
6 amount of interest earned and payable on bonds  
7 issued by a State or local governmental authority, to  
8 the extent that proceeds of the bond are expended  
9 in carrying out that part.

10 “(B) The rate of interest under this paragraph  
11 may not exceed the most favorable rate reasonably  
12 available for the qualified project at the time of bor-  
13 rowing.

14 “(C) The qualified participant shall certify, in  
15 a manner satisfactory to the Secretary, that the  
16 qualified participant has exercised reasonable dili-  
17 gence in seeking the most favorable interest rate.

18 “(h) RELATIONSHIP TO OTHER LAWS.—

19 “(1) A qualified participant under this section  
20 is subject to the requirements of section 5307 of this  
21 title to the extent the Secretary considers appro-  
22 priate.

23 “(2) Section 5333(b) of this title shall apply,  
24 provided that the Secretary of Labor shall utilize a

1 Special Warranty that provides a fair and equitable  
2 arrangement to protect the interest of employees.

3 “(3) The Secretary may waive the applicability  
4 of the Special Warranty under paragraph (B) for  
5 private non-profit subrecipients on a case-by-case  
6 basis as the Secretary deems appropriate

7 “(4) A qualified participant under this section  
8 is subject to any other terms, conditions, require-  
9 ments, and provisions that the Secretary determines  
10 to be appropriate to carry out this section, including  
11 requirements for the distribution of proceeds on dis-  
12 position of real property and equipment resulting  
13 from a qualified project assisted under this section.

14 “(5) If the amount of assistance anticipated to  
15 be required for a qualified project under this section  
16 is \$75,000,000 or more, the qualified participant  
17 shall prepare a project management plan in accord-  
18 ance with sections 5327(a) and (b) of this title.

19 “(i) ASSET MANAGEMENT.—The Secretary, in con-  
20 sultation with the Secretary of the Interior, may transfer  
21 the interest of the Department of Transportation in, and  
22 control over, all facilities and equipment acquired under  
23 this section to a qualified participant for use and dispo-  
24 sition in accordance with any property management regula-  
25 tions that the Secretary determines to be appropriate.

1 “(j) COORDINATION OF RESEARCH AND DEPLOY-  
2 MENT OF NEW TECHNOLOGIES.—

3 “(1) The Secretary, in cooperation with the  
4 Secretary of the Interior, may undertake, or make  
5 grants, cooperative agreements, contracts (including  
6 agreements with departments, agencies, and instru-  
7 mentalities of the Federal Government) or other  
8 transactions for research, development, and deploy-  
9 ment of new technologies in eligible areas that will—

10 “(A) conserve resources;

11 “(B) prevent or mitigate adverse environ-  
12 mental impact;

13 “(C) improve visitor mobility, accessibility,  
14 and enjoyment; and

15 “(D) reduce pollution (including noise pol-  
16 lution and visual pollution).

17 “(2) The Secretary may request and receive ap-  
18 propriate information from any source.

19 “(3) Grants, cooperative agreements, contracts  
20 or other transactions under paragraph (1) shall be  
21 awarded from amounts allocated under subsection  
22 (c)(1).”.

23 (b) CONFORMING AMENDMENTS.—The table of sec-  
24 tions for chapter 53 is amended by inserting after the item  
25 relating to section 5315 the following:

“5316. National parks and public lands Legacy Project.”.

1 **SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

2 (a) Section 3038 of the Transportation Equity Act  
3 for the 21st Century, Public Law 105–178, is amended—

4 (1) by striking the section heading and insert-  
5 ing the following: “OVER-THE-ROAD BUS AC-  
6 CESSIBILITY PROGRAM.”;

7 and

8 (2) by revising subsection (g) to read as follows:

9 “(g) FUNDING.—

10 “(1) Of the amounts made available by or ap-  
11 propriated under section 5338(a)(2)(E) in each fis-  
12 cal year, 75 percent shall be available for operators  
13 of over-the-road buses used substantially or exclu-  
14 sively in intercity, fixed-route over-the-road bus serv-  
15 ice to finance the incremental capital and training  
16 costs of the Department of Transportation’s final  
17 rule regarding accessibility of over-the-road buses.  
18 Such amounts shall remain available until expended.

19 “(2) Of the amounts made available by or ap-  
20 propriated under section 5338(a)(2)(E) in each fis-  
21 cal year, 25 percent shall be available for operators  
22 of other over-the-road bus service to finance the in-  
23 cremental capital and training costs of the Depart-  
24 ment of Transportation’s final rule regarding acces-  
25 sibility of over-the-road buses. Such amounts shall  
26 remain available until expended.”.

1 (b) CONFORMING AMENDMENTS.—The item relating  
 2 to section 3038 in the table of sections for the Transpor-  
 3 tation Equity Act for the 21st Century is amended to read  
 4 as follows:

“Over-the-road bus accessibility program.”.

5 **SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF EL-**  
 6 **DERLY INDIVIDUALS AND INDIVIDUALS WITH**  
 7 **DISABILITIES.**

8 (a) IN GENERAL.—Section 5310 is amended to read  
 9 as follows:

10 “(a) GENERAL AUTHORITY.—

11 “(1) The Secretary may make grants to a State  
 12 under this section for capital public transportation  
 13 projects planned, designed, and carried out to meet  
 14 the special needs of elderly individuals and individ-  
 15 uals with disabilities. A State may then allocate the  
 16 funds to—

17 “(A) a private non-profit organization; or

18 “(B) a governmental authority—

19 “(i) approved by the State to coordi-  
 20 nate services for elderly individuals and in-  
 21 dividuals with disabilities; or

22 “(ii) that certifies that there are not  
 23 any nonprofit organizations readily avail-  
 24 able in the area to provide the services de-  
 25 scribed under this paragraph.



1           “(2) A capital public transportation project  
2 under this section may include acquiring public  
3 transportation services as an eligible capital expense.

4           “(3) A State may use not more than 15 percent  
5 of the amounts apportioned under this section to ad-  
6 minister, plan and provided technical assistance for  
7 a project funded under this section.

8           “(b) APPORTIONMENTS.—

9           “(1) The Secretary shall apportion amounts  
10 made available under section 5338(a)(2)(M) of this  
11 title under a formula the Secretary administers that  
12 considers the number of elderly individuals and indi-  
13 viduals with disabilities in each State.

14           “(2) The recipient may transfer any funds ap-  
15 portioned to it under this subsection to sections  
16 5311(e) or 5336. Any funds transferred pursuant to  
17 this subsection shall be made available only for eligi-  
18 ble projects selected under this section.

19           “(c) GOVERNMENT’S SHARE.—A grant for a capital  
20 project under this section may not exceed 80 percent of  
21 the net capital costs of the project, as determined by the  
22 Secretary. The remainder—

23           “(1) may be provided from an undistributed  
24 cash surplus, a replacement or depreciation cash  
25 fund or reserve, a service agreement with a State or

1 local social service agency or a private social service  
2 organization, or new capital; and

3 “(2) may be derived from amounts appropriated  
4 to or made available to a department or agency of  
5 the Federal government (other than the Department  
6 of Transportation, except for Federal Land Highway  
7 funds) that are eligible to be expended for transpor-  
8 tation.

9 “(3) For purposes of paragraph (2), the prohi-  
10 bitions on the use of funds for matching require-  
11 ments under section 403(a)(5)(c)(vii) of the Social  
12 Security Act shall not apply to federal or state funds  
13 to be used for transportation purposes.

14 “(d) GRANT REQUIREMENTS.—

15 “(1) A recipient of a grant under this section  
16 is subject to all requirements of a grant under sec-  
17 tion 5307 of this title to the extent the Secretary  
18 considers appropriate.”.

19 “(2) A recipient that transfers funds to section  
20 5336 pursuant to subsection (b)(2) shall certify that  
21 the project for which the funds are requested has  
22 been coordinated with private non-profit providers of  
23 services under this section.

24 “(3) A recipient of funds under this section  
25 shall certify that—

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

4           “(B) the plan was developed through a  
5           process that included representatives of public,  
6           private, and nonprofit transportation and  
7           human services providers and participation by  
8           the public;

9           “(4) A recipient of a grant under this section  
10          shall certify that allocations of the grant to sub-  
11          recipients are distributed on a fair and equitable  
12          basis.

13          “(e) STATE PROGRAM OF PROJECTS.—Amounts  
14          made available to carry out this subsection may be used  
15          for transportation projects to assist in providing transpor-  
16          tation services for elderly individuals and individuals with  
17          disabilities that are included in a State program of  
18          projects. A program shall be submitted annually to the  
19          Secretary for approval and shall contain an assurance that  
20          the program provides for maximum feasible coordination  
21          of transportation services assisted under this section with  
22          transportation services assisted by other United States  
23          Government sources.

24          “(f) LEASING VEHICLES.—Vehicles acquired under  
25          this section may be leased to local governmental authori-

1 ties to improve transportation services designed to meet  
 2 the special needs of elderly individuals and individuals  
 3 with disabilities.

4 “(g) **HOMEBOUND INDIVIDUALS.**—Public transpor-  
 5 tation service providers receiving assistance under this sec-  
 6 tion or 5311(c) of this title may coordinate and assist in  
 7 regularly providing meal delivery service for homebound  
 8 individuals if the delivery service does not conflict with  
 9 providing public transportation service or reduce service  
 10 to public transportation passengers.

11 “(h) **TRANSFERS OF FACILITIES AND EQUIPMENT.**—  
 12 With the consent of the recipient currently having a facil-  
 13 ity or equipment acquired with assistance under this sec-  
 14 tion, a State may transfer the facility or equipment to any  
 15 recipient eligible to receive assistance under this chapter  
 16 if the facility or equipment will continue to be used as  
 17 required under this section.

18 “(i) **FARES NOT REQUIRED.**—This chapter does not  
 19 require that elderly individuals and individuals with dis-  
 20 abilities be charged a fare.”.

21 **SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.**

22 (a) Section 5308 is amended to read as follows:

23 **“§ 5308. Formula grants for job access and reverse**  
 24 **commute projects**

25 “(a) **DEFINITIONS.**—In this section,

1           “(1) ‘recipient’ means a State that receives a  
2 grant under this section directly; and

3           “(2) ‘subrecipient’ means a State or local public  
4 authority, a nonprofit organization, or a private op-  
5 erator of public transportation service that may re-  
6 ceive a grant under this section indirectly through a  
7 recipient, rather than directly from the Federal Gov-  
8 ernment.”.

9           “(b) GENERAL AUTHORITY.—

10           “(1) The Secretary may make grants to a re-  
11 cipient under this section for access to jobs and re-  
12 verse commute projects to a recipient.

13           “(2) A recipient may use not more than 15 per-  
14 cent of the amounts apportioned under this section  
15 to administer, plan, and provide technical assistance  
16 for a project funded under this section.

17           “(c) APPORTIONMENTS.—

18           “(1) The Secretary shall apportion amounts  
19 made available under section 5338(a)(2)(M) of this  
20 title under a formula the Secretary administers that  
21 considers the number of low income people in each  
22 State.

23           “(2) The recipient may transfer any funds ap-  
24 portioned to it under this subsection to sections  
25 5311(e) or 5336. Any apportionment transferred

1 pursuant to this subsection shall be made available  
2 for eligible job access and reverse commute projects  
3 under this section.

4 “(d) GRANT REQUIREMENTS.—

5 “(1) A grant under this section is subject to the  
6 requirements of 5307 to the extent the Secretary  
7 considers appropriate.

8 “(2) Section 5333(b) of this title shall apply,  
9 provided that the Secretary of Labor shall utilize a  
10 Special Warranty that provides a fair and equitable  
11 arrangement to protect the interest of employees.

12 “(3) The Secretary may waive the applicability  
13 of the Special Warranty under paragraph (2) for  
14 private non-profit subrecipients on a case-by-case  
15 basis as the Secretary deems appropriate.

16 “(4) A recipient of a grant under this section  
17 shall certify that allocations of the grant to sub-  
18 recipients are distributed on a fair and equitable  
19 basis.

20 “(e) COMPETITIVE PROCESS.—

21 “(1) The recipient shall conduct a statewide so-  
22 licitation for applications for grants under this sec-  
23 tion.

24 “(2) Subrecipients seeking to receive a grant  
25 under this section shall submit to the recipient an

1 application in the form and in accordance with such  
2 requirements as the recipient shall establish.

3 “(3) Subrecipients submitting applications pur-  
4 suant to paragraph (2) shall be selected on a com-  
5 petitive basis.

6 “(f) COORDINATION.—

7 “(1) The Secretary shall coordinate activities  
8 under this section with related activities under pro-  
9 grams of other Federal departments and agencies.

10 “(2) A recipient that transfers funds to section  
11 5336 pursuant to subsection (c)(2) shall certify that  
12 the project for which the funds are requested has  
13 been coordinated with private non-profit providers of  
14 services under this section.

15 “(3) A recipient of funds under this section  
16 shall certify that—

17 “(A) the projects selected were derived  
18 from a locally developed, coordinated public  
19 transit-human services transportation plan; and

20 “(B) the plan was developed through a  
21 process that included representatives of public,  
22 private, and nonprofit transportation and  
23 human services providers and participation by  
24 the public;

25 “(g) GOVERNMENT’S SHARE OF COSTS.—

1           “(1) A grant for a capital project under this  
2 section may not exceed 80 percent of the net capital  
3 costs of the project, as determined by the Secretary.  
4 A grant made under this section for operating as-  
5 sistance may not exceed 50 percent of the net oper-  
6 ating costs of the project, as determined by the Sec-  
7 retary. The remainder—

8           “(A) may be provided from an undistrib-  
9 uted cash surplus, a replacement or deprecia-  
10 tion cash fund or reserve, a service agreement  
11 with a State or local social service agency or a  
12 private social service organization, or new cap-  
13 ital; and

14           “(B) may be derived from amounts appro-  
15 priated to or made available to a department or  
16 agency of the Federal Government (other than  
17 the Department of Transportation, except for  
18 Federal Land Highway funds) that are eligible  
19 to be expended for transportation.

20           “(2) A recipient carrying out a program of op-  
21 erating assistance under this section may not limit  
22 the level or extent of use of the Government grant  
23 for the payment of operating expenses.

24           “(3) For purposes of paragraph (1)(B) of this  
25 section, the prohibitions on the use of funds for



1 matching requirements under section  
 2 403(a)(5)(c)(vii) of the Social Security Act shall not  
 3 apply to Federal or State funds to be used for trans-  
 4 portation purposes.”

5 (b) CONFORMING AMENDMENT.—The table of sec-  
 6 tions for chapter 53 is amended after the item relating  
 7 to section 5307 to read as follows:

“5308. Formula grants for job access and reverse commute projects.”.

8 **TITLE IV—MOTOR CARRIER**  
 9 **SAFETY**

10 **SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) ADMINISTRATIVE EXPENSES.—Section 31104 of  
 12 title 49, United States Code, is amended by adding the  
 13 following at the end:

14 “(i) ADMINISTRATIVE EXPENSES.—

15 “(1) There are authorized to be appropriated  
 16 from the Highway Trust Fund (other than the Mass  
 17 Transit Account) for the Secretary of Transpor-  
 18 tation to pay administrative expenses of the Federal  
 19 Motor Carrier Safety Administration—

20 “(A) \$224,406,000 for fiscal year 2004;

21 “(B) \$228,000,000 for fiscal year 2005;

22 “(C) \$233,000,000 for fiscal year 2006;

23 “(D) \$239,000,000 for fiscal year 2007;

24 “(E) \$244,000,000 for fiscal year 2008;

25 and

1                   “(F) \$250,000,000 for fiscal year 2009.

2                   “(2) The funds authorized by this subsection  
3 shall be used for personnel costs; administrative in-  
4 frastructure; rent; information technology; programs  
5 for research and technology, information manage-  
6 ment, regulatory development (including a medical  
7 review board and rules for medical examiners), per-  
8 formance and registration information system man-  
9 agement (PRISM), a study of driver availability and  
10 retention, and outreach and education; other oper-  
11 ating expenses and similar matters; and such other  
12 expenses as may from time to time become necessary  
13 to implement statutory mandates not funded from  
14 other sources.

15                   “(3) The amounts made available under this  
16 section shall remain available until expended.

17                   “(4) Authorizations from the Highway Trust  
18 Fund (other than the Mass Transit Account) to  
19 carry out subtitle IV, part B, and subtitle VI, part  
20 B, of this title, or the provisions of subtitle IV of the  
21 ‘Safe, Accountable, Flexible, and Efficient Transpor-  
22 tation Equity Act of 2003’, shall be available for ob-  
23 ligation on the date of their apportionment or alloca-  
24 tion or on October 1 of the fiscal year for which they  
25 are authorized, whichever occurs first.”.

1 (b) AMENDMENT TO TITLE 23.—Section 104(a)(1)  
2 of title 23, United States Code, is amended by—

3 (1) deleting subparagraph (B);

4 (2) deleting the designation “(A)” at the begin-  
5 ning of subparagraph (A) and redesignating sub-  
6 paragraphs (A)(i) and (ii) as subparagraphs (A) and  
7 (B), respectively; and

8 (3) deleting “; and” at the end of subparagraph  
9 (B), as so redesignated, and inserting a period.

10 (c) GRANT PROGRAMS.—There are authorized to be  
11 appropriated from the Highway Trust Fund (other than  
12 the Mass Transit Account) for the following Federal  
13 Motor Carrier Safety Administration programs—

14 (1) Commercial driver’s license/driver improve-  
15 ment program grants under section 4002(c)—

16 (A) \$22,000,000 for fiscal year 2004;

17 (B) \$22,000,000 for fiscal year 2005;

18 (C) \$23,000,000 for fiscal year 2006;

19 (D) \$23,000,000 for fiscal year 2007;

20 (E) \$24,000,000 for fiscal year 2008; and

21 (F) \$25,000,000 for fiscal year 2009.

22 (2) Border enforcement grants under section  
23 4002(b)—

24 (A) \$ 32,000,000 for fiscal year 2004;

25 (B) \$ 33,000,000 for fiscal year 2005;

- 1 (C) \$ 33,000,000 for fiscal year 2006;  
2 (D) \$ 34,000,000 for fiscal year 2007;  
3 (E) \$ 35,000,000 for fiscal year 2008; and  
4 (F) \$ 36,000,000 for fiscal year 2009.

5 (3) Performance and registration information  
6 system management (PRISM) grant program under  
7 section 4016—

- 8 (A) \$4,000,000 for fiscal year 2004;  
9 (B) \$4,000,000 for fiscal year 2005;  
10 (C) \$4,000,000 for fiscal year 2006;  
11 (D) \$4,000,000 for fiscal year 2007;  
12 (E) \$4,000,000 for fiscal year 2008; and  
13 (F) \$4,000,000 for fiscal year 2009.

14 (d) PERIOD OF AVAILABILITY.—The amounts made  
15 available under subsection (c) of this section shall remain  
16 available until expended.

17 (e) CONTRACT AUTHORITY.—Authorizations from  
18 the Highway Trust Fund (other than the Mass Transit  
19 Account) to carry out subsection (c) of this section shall  
20 be available for obligation on the date of their apportion-  
21 ment or allocation or on October 1 of the fiscal year for  
22 which they are authorized, whichever occurs first. Ap-  
23 proval by the Secretary of a grant with funds made avail-  
24 able under subsection (c) of this section imposes upon the  
25 United States Government a contractual obligation for

1 payment of the Government's share of costs incurred in  
2 carrying out the objectives of the grant.

3 **SEC. 4002. MOTOR CARRIER SAFETY GRANTS.**

4 (a) MOTOR CARRIER SAFETY ASSISTANCE PRO-  
5 GRAM.—

6 (1) Section 31102 of title 49, United States  
7 Code, is amended—

8 (A) in subsection (b)(1), by amending  
9 paragraph (A) to read as follows:

10 “(A) implements performance-based activi-  
11 ties.”;

12 (B) in subsection (b)(1), by deleting “and”  
13 at the end of paragraph (S), replacing the pe-  
14 riod at the end of paragraph (T) with a semi-  
15 colon, and adding new paragraphs (U) and (V),  
16 to read as follows:

17 “(U) provides that the State will include in  
18 the training manual for the licensing examina-  
19 tion to drive a non-commercial motor vehicle  
20 and a commercial motor vehicle, information on  
21 best practices for driving safely in the vicinity  
22 of commercial motor vehicles and in the vicinity  
23 of non-commercial vehicles, respectively; and

24 “(V) provides that the State will enforce  
25 the registration requirements of 49 U.S.C.

1 13902 by placing out of service any vehicle dis-  
2 covered to be operating without registration or  
3 beyond the scope of its registration.”; and

4 (C) by revising subsection (c) to read as  
5 follows:

6 “(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—  
7 A State may use amounts received under a grant under  
8 subsection (a) of this section for the following activities:

9 “(1) If the activities are carried out in conjunc-  
10 tion with an appropriate inspection of the commer-  
11 cial motor vehicle to enforce Government or State  
12 commercial motor vehicle safety regulations:

13 “(A) Enforcement of commercial motor ve-  
14 hicle size and weight limitations at locations  
15 other than fixed weight facilities, at specific lo-  
16 cations such as steep grades or mountainous  
17 terrains where the weight of a commercial  
18 motor vehicle can significantly affect the safe  
19 operation of the vehicle, or at ports where inter-  
20 modal shipping containers enter and leave the  
21 United States.

22 “(B) Detection of the unlawful presence of  
23 a controlled substance (as defined under section  
24 102 of the Comprehensive Drug Abuse Preven-  
25 tion and Control Act of 1970 (21 U.S.C. 802))

1 in a commercial motor vehicle or on the person  
2 of any occupant (including the operator) of the  
3 vehicle.

4 “(2) Documented enforcement of State traffic  
5 laws and regulations designed to promote the safe  
6 operation of commercial motor vehicles, including  
7 documented enforcement of such laws and regula-  
8 tions against non-commercial motor vehicles when  
9 necessary to promote the safe operation of commer-  
10 cial motor vehicles.”.

11 (2) Section 31103(b) of title 49, United States  
12 Code, is amended to read as follows:

13 “(b) OTHER ACTIVITIES.—

14 “(1) From the amounts designated under sec-  
15 tion 31104(f)(2), the Secretary may make a grant to  
16 a State agency, local government, or other person  
17 for the full cost of research, development, dem-  
18 onstration projects, public education, and other spe-  
19 cial activities and projects relating to commercial  
20 motor vehicle safety that are of benefit to all juris-  
21 dictions or designed to address national safety con-  
22 cerns and circumstances.

23 “(2) From the amounts designated under sec-  
24 tion 31104(f)(3), the Secretary may allocate safety

1 performance incentive funds to States without re-  
2 quiring a matching contribution from such States.

3 “(3) From the amounts designated under sec-  
4 tion 31104(f)(4), the Secretary may allocate new en-  
5 trant motor carrier audit funds to States and local  
6 governments without requiring a matching contribu-  
7 tion from such States or local governments. How-  
8 ever, the Secretary may withhold such funds from a  
9 State or local government that is unable to use gov-  
10 ernment employees to conduct new entrant motor  
11 carrier audits, and may instead utilize the funds di-  
12 rectly to conduct audits in those jurisdictions.”.

13 (3) Section 31104(a) of title 49, United States  
14 Code, is amended to read as follows:

15 “(a) IN GENERAL.—There are authorized to be ap-  
16 propriated from the Highway Trust Fund (other than the  
17 Mass Transit Account) to carry out section 31102:

18 “(1) Not more than \$164,594,000 for fiscal  
19 year 2004.

20 “(2) Not more than \$168,000,000 for fiscal  
21 year 2005.

22 “(3) Not more than \$172,000,000 for fiscal  
23 year 2006.

24 “(4) Not more than \$176,000,000 for fiscal  
25 year 2007.



1           “(5) Not more than \$180,000,000 for fiscal  
2 year 2008.

3           “(6) Not more than \$184,000,000 for fiscal  
4 year 2009.”.

5           (4) Section 31104(f) is amended by revising  
6 paragraph (2) and adding new paragraphs (3) and  
7 (4), to read as follows:

8           “(2) HIGH-PRIORITY ACTIVITIES.—The Sec-  
9 retary may designate up to 10 percent of amounts  
10 available for allocation under paragraph (1) for  
11 States, local governments, and other persons for car-  
12 rying out high priority activities and projects that  
13 improve commercial motor vehicle safety and compli-  
14 ance with commercial motor vehicle safety regula-  
15 tions, including activities and projects that are na-  
16 tional in scope, increase public awareness and edu-  
17 cation, or demonstrate new technologies. The  
18 amounts designated under this paragraph shall be  
19 allocated by the Secretary to State agencies, local  
20 governments, and other persons that use and train  
21 qualified officers and employees in coordination with  
22 State motor vehicle safety agencies. Allocations  
23 under this paragraph do not require a matching con-  
24 tribution from a State, local government, or other  
25 person.

1           “(3) SAFETY PERFORMANCE INCENTIVE PRO-  
 2           GRAMS.—The Secretary may designate up to 10 per-  
 3           cent of the amounts available for allocation under  
 4           paragraph (1) for safety performance incentive pro-  
 5           grams for States. The Secretary shall establish safe-  
 6           ty performance criteria to be used to distribute in-  
 7           centive program funds. Such criteria shall include,  
 8           at a minimum, reduction in the number and rate of  
 9           fatal accidents involving commercial motor vehicles.  
 10          Allocations under this paragraph do not require a  
 11          matching contribution from a State.

12           “(4) NEW ENTRANT AUDITS.—The Secretary  
 13          may designate up to \$17,000,000 of the amounts  
 14          available for allocation under paragraph (1) for au-  
 15          dits of new entrant motor carriers conducted pursu-  
 16          ant to section 210 of the Motor Carrier Safety Im-  
 17          provement Act of 1999, 113 Stat. 1764. Allocations  
 18          under this paragraph do not require a matching con-  
 19          tribution from a State or local government.”.

20          (b) GRANTS TO STATES FOR BORDER ENFORCE-  
 21          MENT.—Chapter 311 of title 49, United States Code, is  
 22          amended by revising section 31107 to read as follows:

23          “§ 31107. **Border enforcement grants**

24           “(a) GENERAL AUTHORITY.—From the funds au-  
 25          thorized by sections 4001(c)(2) of the Safe, Accountable,

1 Flexible, and Efficient Transportation Equity Act of  
2 2003, the Secretary may make a grant in a fiscal year  
3 to a State, except as otherwise provided in subsection (c),  
4 that shares a border with another country for carrying out  
5 border commercial motor vehicle safety programs and re-  
6 lated enforcement activities and projects.

7       “(b) MAINTENANCE OF EXPENDITURES.—Except as  
8 otherwise provided in subsection (c), the Secretary may  
9 make a grant to a State under this section only if the  
10 State agrees that the total expenditure of amounts of the  
11 State and political subdivisions of the State, exclusive of  
12 United States Government amounts, for carrying out bor-  
13 der commercial motor vehicle safety programs and related  
14 enforcement activities and projects will be maintained at  
15 a level at least equal to the average level of that expendi-  
16 ture by the State and political subdivisions of the State  
17 for the last two State or Federal fiscal years before Octo-  
18 ber 1, 2003.

19       “(c) GOVERNMENT SHARE.—The Secretary may  
20 make a grant to a State agency, local government, or other  
21 person for the full cost of research, development, dem-  
22 onstration projects, public education, and other special ac-  
23 tivities and projects relating to cross-border operations of  
24 commercial motor vehicles that are beneficial to all juris-

1 ditions or designed to address national safety concerns  
2 and circumstances.

3 “(d) AVAILABILITY OF AMOUNTS.—Amounts made  
4 available to a State under section 4001(c)(2) of the Safe,  
5 Accountable, Flexible, and Efficient Transportation Eq-  
6 uity Act of 2003 to carry out this section shall remain  
7 available until expended.

8 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-  
9 proval by the Secretary of a grant with funds made avail-  
10 able under section 4001(c)(2) of the Safe, Accountable,  
11 Flexible, and Efficient Transportation Equity Act of 2003  
12 imposes upon the United States Government contractual  
13 obligation for payment of the amount of the grant.”.

14 (c) GRANTS TO STATES FOR COMMERCIAL DRIVER’S  
15 LICENSE IMPROVEMENTS.—Chapter 313 of title 49,  
16 United States Code, is amended by adding new section  
17 31318 at the end, to read as follows:

18 “§ 31318. **Grants for commercial driver’s license pro-**  
19 **gram improvements**

20 “(a) GENERAL AUTHORITY.—From the funds au-  
21 thorized by section 4001(c)(1) of the Safe, Accountable,  
22 Flexible, and Efficient Transportation Equity Act of  
23 2003, the Secretary may make a grant to a State, except  
24 as otherwise provided in subsection (e), in a fiscal year  
25 to improve its implementation of the commercial driver’s

1 license program, providing the State is in substantial com-  
2 pliance with the requirements of section 31311 and this  
3 section. The Secretary shall establish criteria for the dis-  
4 tribution of grants and notify the States annually of such  
5 criteria.

6       “(b) CONDITIONS.—Except as otherwise provided in  
7 subsection (e), a State may use a grant under this section  
8 only for expenses directly related to its commercial driver’s  
9 license program, including, but not limited to, computer  
10 hardware and software, publications, testing, personnel,  
11 training, and quality control. The grant may not be used  
12 to rent, lease, or buy land or buildings. The Secretary may  
13 allocate the funds appropriated for such grants in a fiscal  
14 year among the eligible States whose applications for  
15 grants have been approved, under criteria that best serve  
16 the purposes of this section.

17       “(c) MAINTENANCE OF EXPENDITURES.—Except as  
18 otherwise provided in subsection (e), the Secretary may  
19 make a grant to a State under this section only if the  
20 State agrees that the total expenditure of amounts of the  
21 State and political subdivisions of the State, exclusive of  
22 United States Government amounts, for the operation of  
23 the commercial driver’s license program will be maintained  
24 at a level at least equal to the average level of that expend-

1 iture by the State and political subdivisions of the State  
2 for the last 2 fiscal years before October 1, 2003

3 “(d) GOVERNMENT SHARE.—Except as otherwise  
4 provided in subsection (e), the Secretary shall reimburse  
5 a State, from a grant made under this section, an amount  
6 that is not more than 80 percent of the costs incurred  
7 by the State in a fiscal year in implementing the commer-  
8 cial driver’s license improvements described in subsection  
9 (b). In determining those costs, the Secretary shall include  
10 in-kind contributions by the State. Amounts of the State  
11 required to be expended under subsection (e) may not be  
12 included as part of the share not provided by the United  
13 States Government.

14 “(e) HIGH-PRIORITY ACTIVITIES.—

15 “(1) The Secretary may make a grant to a  
16 State agency, local government, or other person for  
17 the full cost of research, development, demonstration  
18 projects, public education, or other special activities  
19 and projects relating to commercial driver licensing  
20 and motor vehicle safety that are of benefit to all ju-  
21 risdictions or designed to address national safety  
22 concerns and circumstances.

23 “(2) The Secretary may designate up to 10 per-  
24 cent of the amounts made available under section  
25 4001(e)(1) of the Safe, Accountable, Flexible, and

1       Efficient Transportation Equity Act of 2003 in a  
2       fiscal year for high-priority activities under sub-  
3       section (e)(1).

4       “(f) EMERGING ISSUES.—The Secretary may des-  
5       ignate up to 25 percent of the amounts made available  
6       under section 4001(c)(1) of the Safe, Accountable, Flexi-  
7       ble, and Efficient Transportation Equity Act of 2003 in  
8       a fiscal year for allocation to a State agency, local govern-  
9       ment, or other person at the discretion of the Secretary  
10      to address emerging issues relating to commercial driver’s  
11      license improvements.

12      “(g) GOVERNMENT SHARE.—Except as otherwise  
13      provided in subsections (e) and (f), all amounts available  
14      in a fiscal year to carry out this section shall be appor-  
15      tioned to States according to a formula prescribed by the  
16      Secretary.

17      “(h) DEDUCTION FOR ADMINISTRATIVE EX-  
18      PENSES.—On October 1 of each fiscal year or as soon  
19      after that date as practicable, the Secretary may deduct,  
20      from amounts made available under section 4001(c)(1) of  
21      the Safe, Accountable, Flexible, and Efficient Transpor-  
22      tation Equity Act of 2003 for that fiscal year, up to 1.25  
23      percent of those amounts for administrative expenses in-  
24      curred in carrying out this section in that fiscal year.

1       “(i) AVAILABILITY OF AMOUNTS.—Amounts made  
2 available to a State under section 4001(c)(1) of the Safe,  
3 Accountable, Flexible, and Efficient Transportation Eq-  
4 uity Act of 2003 to carry out this section shall remain  
5 available until expended.

6       “(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-  
7 proval by the Secretary of a grant with funds made avail-  
8 able under section 4001(c)(1) of the Safe, Accountable,  
9 Flexible, and Efficient Transportation Equity Act of 2003  
10 imposes upon the United States Government a contractual  
11 obligation for payment of the amount of the grant.”.

12       (d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—  
13 Subsections (a) and (b) of section 31314 of title 49,  
14 United States Code, are amended to read as follows:

15       “(a) FIRST FISCAL YEAR.—The Secretary of Trans-  
16 portation shall withhold up to 5 percent of the amount  
17 required to be apportioned to a State under section  
18 104(b)(1), (3), and (4) of title 23 on the first day of the  
19 fiscal year after the first fiscal year beginning after Sep-  
20 tember 30, 1992, throughout which the State does not  
21 comply substantially with a requirement of section  
22 31311(a) of this title.

23       “(b) SECOND FISCAL YEAR.—The Secretary shall  
24 withhold up to 10 percent of the amount required to be  
25 apportioned to a State under section 104(b)(1), (3), and



1 (4) of title 23 on the first day of each fiscal year after  
2 the 2d fiscal year beginning after September 30, 1992,  
3 throughout which the State does not comply substantially  
4 with a requirement of section 31311(a) of this title.”.

5 (e) CONFORMING AMENDMENTS—

6 (1) The table of sections at the beginning of  
7 chapter 311 of title 49, United States Code, is  
8 amended by—

9 (A) revising the heading of Subchapter I to  
10 read as follows:

11 “SUBCHAPTER I—GENERAL AUTHORITY AND  
12 STATE GRANTS”;

13 and

14 (B) revising the item relating to section  
15 31107 to read as follows:

“31107. Border enforcement grants.”.

16 (2) Chapter 311 of title 49, United States  
17 Code, is amended following the table of sections by  
18 striking—

19 “SUBCHAPTER I—STATE GRANTS”

20 and substituting—

21 “SUBCHAPTER I—GENERAL AUTHORITY AND  
22 STATE GRANTS”.

23 (3) The table of sections at the beginning of  
24 chapter 313 of title 49, United States Code, is

1       amended after the item relating to section 31317 by  
2       adding the following:

“31318. Grants for commercial driver’s license program improvements.”.

3       **SEC. 4003. HOBBS ACT.**

4       (a) Section 2342(3)(A) of title 28, United States  
5 Code, is amended to read as follows:

6               “(A) the Secretary of Transportation  
7               issued pursuant to section 2, 9, 37, or 41 of the  
8               Shipping Act, 1916 (46 U.S.C. App. 802, 803,  
9               808, 835, 839, and 841a) or pursuant to part  
10              B or C of subtitle IV of title 49 [49 U.S.C.  
11              chapters 131–161] or pursuant to subchapter  
12              III of chapter 311, chapter 313, and chapter  
13              315 of part B of subtitle VI of title 49; and”.

14      (b) Section 351(a) of title 49, United States Code,  
15 is amended to read as follows:

16              “(a) JUDICIAL REVIEW.—An action of the Secretary  
17 of Transportation in carrying out a duty or power trans-  
18 ferred under the Department of Transportation Act (Pub-  
19 lic Law 89–670, 80 Stat. 931), or an action of the Admin-  
20 istrator of the Federal Railroad Administration, Federal  
21 Motor Carrier Safety Administration, or the Federal Avia-  
22 tion Administration in carrying out a duty or power spe-  
23 cifically assigned to the Administrator by that Act, may  
24 be reviewed judicially to the same extent and in the same  
25 way as if the action had been an action by the department,

1 agency, or instrumentality of the United States Govern-  
2 ment carrying out the duty or power immediately before  
3 the transfer or assignment.”.

4 (c) Section 352 of title 49, United States Code, is  
5 amended to read as follows:

6 **“§ 352. Authority to carry out certain transferred du-  
7 ties and powers**

8 “In carrying out a duty or power transferred under  
9 the Department of Transportation Act (Public Law 89–  
10 670, 80 Stat. 931), the Secretary of Transportation and  
11 the Administrators of the Federal Railroad Administra-  
12 tion, the Federal Motor Carrier Safety Administration,  
13 and the Federal Aviation Administration have the same  
14 authority that was vested in the department, agency, or  
15 instrumentality of the United States Government carrying  
16 out the duty or power immediately before the transfer. An  
17 action of the Secretary or Administrator in carrying out  
18 the duty or power has the same effect as when carried  
19 out by the department, agency, or instrumentality.”.

20 **SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

21 Section 521(b)(2) of title 49, United States Code, is  
22 amended by adding new subparagraph (E) at the end, to  
23 read as follows:

24 “(E) COPYING OF RECORDS AND ACCESS  
25 TO EQUIPMENT, LANDS, AND BUILDINGS.—A

1 person subject to chapter 51 of subtitle III,  
2 Part B of Subtitle IV, or Part B of Subtitle VI  
3 of this title who fails to allow the Secretary, or  
4 an employee designated by the Secretary,  
5 promptly upon demand to inspect and copy any  
6 record or inspect and examine equipment,  
7 lands, buildings and other property in accord-  
8 ance with sections 504(c), 5121(c), and  
9 14122(b) of this title shall be liable to the  
10 United States for a civil penalty not to exceed  
11 \$500 for each offense, and each day the Sec-  
12 retary is denied the right to inspect and copy  
13 any record or inspect and examine equipment,  
14 lands, buildings and other property shall con-  
15 stitute a separate offense, except that the total  
16 of all civil penalties against any violator for all  
17 offenses related to a single violation shall not  
18 exceed \$5,000. It shall be a defense to such  
19 penalty that the records did not exist at the  
20 time of the Secretary's request or could not be  
21 timely produced without unreasonable expense  
22 or effort. Nothing herein amends or supersedes  
23 any remedy available to the Secretary under  
24 sections 502(d), 507(c), or other provision of  
25 this title.”.

1 **SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL EXAM-**  
2 **INERS.**

3 (a) **MEDICAL REVIEW BOARD.**—

4 (1) **ESTABLISHMENT AND FUNCTION.**—The  
5 Federal Motor Carrier Safety Administrator shall es-  
6 tablish a Medical Review Board as an advisory com-  
7 mittee to provide the Federal Motor Carrier Safety  
8 Administration with medical advice and rec-  
9 ommendations on driver qualification medical stand-  
10 ards and guidelines, medical examiner education,  
11 and medical research.

12 (2) **COMPOSITION.**—The Medical Review Board  
13 shall be appointed by the Secretary and shall consist  
14 of 5 members selected from medical institutions and  
15 private practice. The membership shall reflect exper-  
16 tise in a variety of specialties relevant to the func-  
17 tions of the Federal Motor Carrier Safety Adminis-  
18 tration.

19 (3) **TERMINATION DATE.**—The Medical Review  
20 Board shall remain in effect until September 30,  
21 2009.

22 (b) **MEDICAL EXAMINERS.**—Section 31136(a)(3) of  
23 title 49, United States Code, is amended to read as fol-  
24 lows:

25 “(3) the physical condition of operators of com-  
26 mercial motor vehicles is adequate to enable them to

1 operate the vehicles safely, and the periodic physical  
2 examinations required of such operators are per-  
3 formed by medical examiners who have received  
4 training in physical and medical examination stand-  
5 ards and are listed on a national registry maintained  
6 by the Department of Transportation;”.

7 **SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS REGU-**  
8 **LATIONS.**

9 (a) DISPUTE SETTLEMENT PROGRAM FOR HOUSE-  
10 HOLD GOODS CARRIERS.—

11 (1) Section 14708(a) of title 49, United States  
12 Code, is amended to read as follows:

13 “(a) SHIPPER ARBITRATION.—

14 “(1) As a condition of registration under sec-  
15 tion 13902 or 13903, a carrier providing transpor-  
16 tation of household goods subject to jurisdiction  
17 under subchapter I or III of chapter 135 must agree  
18 to offer in accordance with this section to shippers  
19 of household goods arbitration as a means of settling  
20 disputes between such carriers and shippers. How-  
21 ever, the carrier may not require the shipper to  
22 agree to use arbitration prior to the time that a dis-  
23 pute arises.

24 “(2) If the dispute involves a claim for \$5,000  
25 or less and the shipper requests arbitration, such ar-

1       bitration shall be binding on the parties. If the dis-  
2       pute involves a claim for more than \$5,000 and the  
3       shipper requests arbitration, such arbitration shall  
4       be binding on the parties only if the carrier agrees  
5       to arbitration.”.

6           (2) Subsection (b)(6) of section 14708 is de-  
7       leted, and subsections (b)(7) and (b)(8) are redesign-  
8       nated as subsections (b)(6) and (b)(7), respectively.

9       (b)(1) Chapter 147 of title 49, United States Code,  
10      is amended by adding new section 14710 at the end, to  
11      read as follows:

12      **“§ 14710. Enforcement by State attorneys general**

13           “(a) IN GENERAL.—A State, as *parens patriae*, may  
14      bring a civil action on behalf of its residents in an appro-  
15      priate district court of the United States to enforce this  
16      part, or a regulation or order of the Secretary or Board,  
17      as applicable, or to impose the civil penalties authorized  
18      by this part or such regulation or order, whenever the at-  
19      torney general of the State has reason to believe that the  
20      interests of the residents of the State have been or are  
21      being threatened or adversely affected by (1) a carrier or  
22      broker providing transportation subject to jurisdiction  
23      under subchapter I or III of chapter 135 of this title, or  
24      (2) a foreign motor carrier providing transportation reg-  
25      istered under section 13902 of this title, that is engaged

1 in household goods transportation that violates this part  
2 or a regulation or order of the Secretary or Board, as ap-  
3 plicable.

4 “(b) NOTICE.—The State shall serve prior written  
5 notice of any civil action under subsection (a) or (e)(2)  
6 upon the Secretary or Board, as applicable, and provide  
7 the Secretary or Board with a copy of its complaint, except  
8 that if it is not feasible for the State to provide such prior  
9 notice, the State shall serve such notice immediately upon  
10 instituting such action. Upon receiving a notice respecting  
11 a civil action, the Secretary or Board shall have the  
12 right—

13 “(1) to intervene in such action;

14 “(2) upon so intervening, to be heard on all  
15 matters arising therein; and

16 “(3) to file petitions for appeal.

17 “(c) CONSTRUCTION.—For purposes of bringing any  
18 civil action under subsection (a), nothing in this Act shall  
19 prevent an attorney general from exercising the powers  
20 conferred on the attorney general by the laws of such  
21 State to conduct investigations or to administer oaths or  
22 affirmations or to compel the attendance of witnesses or  
23 the production of documentary and other evidence.

24 “(d) VENUE; SERVICE OF PROCESS.—In a civil ac-  
25 tion brought under subsection (a) of this section—



1           “(1) trial is in the judicial district in which—

2                   “(A) the carrier, foreign motor carrier, or  
3 broker operates;

4                   “(B) the carrier, foreign motor carrier, or  
5 broker was authorized to provide transportation  
6 or service under this part when the violation oc-  
7 curred; or

8                   “(C) the offender is found;

9           “(2) process may be served without regard to  
10 the territorial limits of the district or of the State  
11 in which the action is instituted; and

12                   “(3) a person participating with a carrier or  
13 broker in a violation may be joined in the civil action  
14 without regard to the residence of the person.

15           “(e) ACTIONS BY OTHER STATE OFFICIALS.—

16                   “(1) Nothing contained in this section shall  
17 prohibit an authorized State official from proceeding  
18 in State court on the basis of an alleged violation of  
19 any criminal statute of such State.

20                   “(2) In addition to actions brought by an attor-  
21 ney general of a State under subsection (a), such an  
22 action may be brought by officers of such State who  
23 are authorized by the State to bring actions in such  
24 State on behalf of its residents.”.

1           (2) CONFORMING AMENDMENT.—The table of  
 2 sections at the beginning of chapter 147 of title 49,  
 3 United States Code, is amended by inserting after  
 4 the item relating to section 14709 the following:

“14710. Enforcement by State attorneys general.”.

5 **SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR CAR-**  
 6 **RIERS, FREIGHT FORWARDERS, AND BRO-**  
 7 **KERS.**

8           (a) Sections 13102(6), (7), (12) and (13) of title 49,  
 9 United States Code, are amended to read as follows:

10           “(6) FOREIGN MOTOR CARRIER.—The term  
 11 ‘foreign motor carrier’ means a person (including a  
 12 motor carrier of property but excluding a motor pri-  
 13 vate carrier)—

14           “(A)(i) that is domiciled in a contiguous  
 15 foreign country; or

16           “(ii) that is owned or controlled by persons  
 17 of a contiguous foreign country; and

18           “(B) in the case of a person that is not a  
 19 motor carrier of property, that provides inter-  
 20 state transportation of property by commercial  
 21 motor vehicle, as defined in section 31132(1) of  
 22 this title, under an agreement or contract en-  
 23 tered into with a motor carrier of property  
 24 (other than a motor private carrier or a motor

1 carrier of property described in subparagraph  
2 (A)).

3 “(7) FOREIGN MOTOR PRIVATE CARRIER.—The  
4 term ‘foreign motor private carrier’ means a person  
5 (including a motor private carrier but excluding a  
6 motor carrier of property)—

7 “(A)(i) that is domiciled in a contiguous  
8 foreign country; or

9 “(ii) that is owned or controlled by persons  
10 of a contiguous foreign country; and

11 “(B) in the case of a person that is not a  
12 motor private carrier, that provides interstate  
13 transportation of property by commercial motor  
14 vehicle, as defined in section 31132(1) of this  
15 title, under an agreement or contract entered  
16 into with a person (other than a motor carrier  
17 of property or a motor private carrier described  
18 in subparagraph (A)).”

19 “(12) MOTOR CARRIER.—The term ‘motor car-  
20 rier’ means a person providing transportation for  
21 compensation by commercial motor vehicle, as de-  
22 fined in section 31132(1) of this title.

23 “(13) MOTOR PRIVATE CARRIER.—The term  
24 ‘motor private carrier’ means a person, other than a  
25 motor carrier, transporting property by commercial

1 motor vehicle, as defined in section 31132(1) of this  
2 title, when—

3 “(A) the transportation is as provided in  
4 section 13501 of this title;

5 “(B) the person is the owner, lessee, or  
6 bailee of the property being transported; and

7 “(C) the property is being transported for  
8 sale, lease, rent, or bailment or to further a  
9 commercial enterprise.”.

10 (b) Section 13903(a) of title 49, United States Code,  
11 is amended to read as follows:

12 “(a) IN GENERAL.—

13 “(1) The Secretary of Transportation shall reg-  
14 ister a person to provide service subject to jurisdic-  
15 tion under subchapter III of chapter 135 as a  
16 freight forwarder of household goods if the Secretary  
17 finds that the person is fit, willing, and able to pro-  
18 vide the service and to comply with this part and ap-  
19 plicable regulations of the Secretary and the Board.

20 “(2) The Secretary may register a person to  
21 provide service subject to jurisdiction under sub-  
22 chapter III of chapter 135 as a freight forwarder if  
23 the Secretary finds that such registration is needed  
24 for the protection of shippers and that the person is  
25 fit, willing, and able to provide the service and to

1       comply with this part and applicable regulations of  
2       the Secretary and Board.”.

3       (c) Section 13904(a) of title 49, United States Code,  
4 is amended to read as follows:

5       “(a) IN GENERAL.—

6               “(1) The Secretary of Transportation shall reg-  
7       ister, subject to section 13906(b), a person to be a  
8       broker for transportation of household goods subject  
9       to jurisdiction under subchapter I of chapter 135, if  
10      the Secretary finds that the person is fit, willing,  
11      and able to be a broker for transportation of house-  
12      hold goods and to comply with this part and applica-  
13      ble regulations of the Secretary.

14              “(2) The Secretary may register, subject to sec-  
15      tion 13906(b), a person to be a broker for transpor-  
16      tation of other property subject to jurisdiction under  
17      subchapter I of chapter 135, if the Secretary finds  
18      that such registration is needed for the protection of  
19      shippers and that the person is fit, willing, and able  
20      to be a broker for transportation and to comply with  
21      this part and applicable regulations of the Sec-  
22      retary.”.

1 **SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE**  
2 **MOTOR CARRIERS.**

3 (a)(1) Section 31138(a) of title 49, United States  
4 Code, is amended to read as follows:

5 “(a) GENERAL REQUIREMENT.—The Secretary of  
6 Transportation shall prescribe regulations to require min-  
7 imum levels of financial responsibility sufficient to satisfy  
8 liability amounts established by the Secretary covering  
9 public liability and property damage for the transportation  
10 of passengers by motor vehicle in the United States be-  
11 tween a place in a State and—

12 “(1) a place in another State;

13 “(2) another place in the same State through a  
14 place outside of that State; or

15 “(3) a place outside the United States.”.

16 (2) Section 31138(c) of title 49, United States Code,  
17 is amended by adding paragraph (4) at the end, to read  
18 as follows:

19 “(4) The Secretary may require a person, other  
20 than a motor carrier as defined in section 13102(12)  
21 of this title, transporting passengers by motor vehi-  
22 cle to file with the Secretary the evidence of finan-  
23 cial responsibility specified in subsection (c)(1) of  
24 this section in an amount not less than that required  
25 by this section, and the laws of the State or States  
26 in which the person is operating, to the extent appli-

1 cable. The amount of the financial responsibility  
2 must be sufficient to pay, not more than the amount  
3 of the financial responsibility, for each final judg-  
4 ment against the person for bodily injury to, or  
5 death of, an individual resulting from the negligent  
6 operation, maintenance, or use of motor vehicles, or  
7 for loss or damage to property, or both.”.

8 (b)(1) Section 31139(b)(1) of title 49, United States  
9 Code, is amended to read as follows:

10 “(b) GENERAL REQUIREMENTS AND MINIMUM  
11 AMOUNT.—

12 “(1) The Secretary of Transportation shall pre-  
13 scribe regulations to require minimum levels of fi-  
14 nancial responsibility sufficient to satisfy liability  
15 amounts established by the Secretary covering public  
16 liability, property damage, and environmental res-  
17 toration for the transportation of property by motor  
18 vehicle in the United States between a place in a  
19 State and—

20 “(A) a place in another State;

21 “(B) another place in the same State  
22 through a place outside of that State; or

23 “(C) a place outside the United States.”.

24 (2) Subsections (c) through (g) of section 31139 of  
25 title 49, United States Code, are redesignated as sub-

1 sections (d) through (h), and new subsection (c) is in-  
 2 serted after subsection (b), to read as follows:

3       “(c) **FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-**  
 4 **BILITY.**—The Secretary may require a motor private car-  
 5 rier, as defined in section 13102 of this title, to file with  
 6 the Secretary the evidence of financial responsibility speci-  
 7 fied in subsection (b) of this section in an amount not  
 8 less than that required by this section, and the laws of  
 9 the State or States in which the motor private carrier is  
 10 operating, to the extent applicable. The amount of the fi-  
 11 nancial responsibility must be sufficient to pay, not more  
 12 than the amount of the financial responsibility, for each  
 13 final judgment against the motor private carrier for bodily  
 14 injury to, or death of, an individual resulting from neg-  
 15 ligent operation, maintenance, or use of motor vehicles,  
 16 or for loss or damage to property, or both.”.

17 **SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE**  
 18 **VIOLATIONS AND FALSE RECORDS.**

19       (a) Section 521(b)(2)(B) of title 49, United States  
 20 Code, is amended to read as follows:

21       “(B) **RECORDKEEPING AND REPORTING VIOLA-**  
 22 **TIONS.**—A person required to make a report to the Sec-  
 23 retary, answer a question, or make, prepare, or preserve  
 24 a record under section 504 of this title or under any regu-  
 25 lation issued by the Secretary pursuant to subchapter III



1 of chapter 311 (except sections 31138 and 31139) or sec-  
2 tion 31502 of this title about transportation by motor car-  
3 rier, motor carrier of migrant workers, or motor private  
4 carrier, or an officer, agent, or employee of that person—

5           “(i) who does not make that report, does not  
6 specifically, completely, and truthfully answer that  
7 question in 30 days from the date the Secretary re-  
8 quires the question to be answered, or does not  
9 make, prepare, or preserve that record in the form  
10 and manner prescribed by the Secretary, shall be lia-  
11 ble to the United States for a civil penalty in an  
12 amount not to exceed \$1,000 for each offense, and  
13 each day of the violation shall constitute a separate  
14 offense, except that the total of all civil penalties as-  
15 sessed against any violator for all offenses related to  
16 any single violation shall not exceed \$10,000; or

17           “(ii) who knowingly falsifies, destroys, muti-  
18 lates, or changes a required report or record, know-  
19 ingly files a false report with the Secretary, know-  
20 ingly makes or causes or permits to be made a false  
21 or incomplete entry in that record about an oper-  
22 ation or business fact or transaction, or knowingly  
23 makes, prepares, or preserves a record in violation of  
24 a regulation or order of the Secretary, shall be liable  
25 to the United States for a civil penalty in an amount

1 not to exceed \$10,000 for each violation, if any such  
2 action can be shown to have misrepresented a fact  
3 that constitutes a violation other than a reporting or  
4 recordkeeping violation.”.

5 (b) Section 31310(i)(2) of title 49, United States  
6 Code, is amended to read as follows:

7 “(2) The Secretary shall prescribe regulations estab-  
8 lishing sanctions and penalties related to violations of out-  
9 of-service orders by individuals operating commercial  
10 motor vehicles. The regulations shall require at least  
11 that—

12 “(A) an operator of a commercial motor vehicle  
13 found to have committed a first violation of an out-  
14 of-service order shall be disqualified from operating  
15 such a vehicle for at least 180 days and liable for  
16 a civil penalty of at least \$2,500;

17 “(B) an operator of a commercial motor vehicle  
18 found to have committed a second violation of an  
19 out-of-service order shall be disqualified from oper-  
20 ating such a vehicle for at least 2 years and not  
21 more than 5 years and liable for a civil penalty of  
22 at least \$5,000;

23 “(C) an employer that knowingly allows or re-  
24 quires an employee to operate a commercial motor  
25 vehicle in violation of an out-of-service order shall be

1       liable for a civil penalty of not more than \$25,000;  
2       and

3               “(D) an employer that knowingly and willfully  
4       allows or requires an employee to operate a commer-  
5       cial motor vehicle in violation of an out-of-service  
6       order shall, upon conviction, be subject for each of-  
7       fense to imprisonment for a term not to exceed one  
8       year or a fine under title 18, United States Code, or  
9       both.”.

10 **SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE EX-**  
11 **EMPTIONS.**

12       (a) Section 13506(a) of title 49, United States Code,  
13 is amended—

14               (1) by deleting paragraphs (2), (6), (11), (12),  
15       (13), and (15); and

16               (2) by redesignating paragraphs (3), (4), (5),  
17       (7), (8), (9), (10), and (14) as paragraphs (2), (3),  
18       (4), (5), (6), (7), (8), and (9), respectively.

19       (b) The first sentence of section 13507 of title 49,  
20 United States Code, is amended to read as follows: “A  
21 motor carrier of property providing transportation exempt  
22 from jurisdiction under paragraph (6) of section 13506(a)  
23 may transport property under such paragraph in the same  
24 vehicle and at the same time as property which the carrier

1 is authorized to transport under a registration issued  
2 under section 13902(a).”.

3 **SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE**  
4 **MOTOR CARRIERS.**

5 (a) Subsection (a) of section 31144 of title 49, United  
6 States Code, is amended to read as follows:

7 “(a) IN GENERAL.—The Secretary shall—

8 “(1) determine whether an owner or operator is  
9 fit to operate safely commercial motor vehicles, uti-  
10 lizing among other things the accident record of an  
11 owner or operator operating in interstate commerce  
12 and the accident record and safety inspection record  
13 of such owner or operator in operations that affect  
14 interstate commerce;

15 “(2) periodically update such safety fitness de-  
16 terminations;

17 “(3) make such final safety fitness determina-  
18 tions readily available to the public; and

19 “(4) prescribe by regulation penalties for viola-  
20 tions of this section consistent with section 521.”.

21 (b) Subsection (c) of section 31144 of title 49, United  
22 States Code, is amended by adding new paragraph (5) at  
23 the end, to read as follows:

24 “(5) TRANSPORTATION AFFECTING INTERSTATE  
25 COMMERCE.—Owners or operators of commercial motor

1 vehicles prohibited from operating in interstate commerce  
2 pursuant to paragraphs (1) through (3) of this section  
3 may not operate any commercial motor vehicle that affects  
4 interstate commerce until the Secretary determines that  
5 such owner or operator is fit.”.

6 (c) Subsections (d) and (e) of section 31144 of title  
7 49, United States Code, are redesignated as subsections  
8 (e) and (f), respectively, and new subsection (d) is added  
9 after subsection (c), to read as follows:

10 “(d) DETERMINATION OF UNFITNESS BY A STATE.—  
11 If a State that receives Motor Carrier Safety Assistance  
12 Program funds pursuant to section 31102 of this title de-  
13 termines, by applying the standards prescribed by the Sec-  
14 retary under subsection (b) of this section, that an owner  
15 or operator of commercial motor vehicles that has its prin-  
16 cipal place of business in that State and operates in intra-  
17 state commerce is unfit under such standards and pro-  
18 hibits the owner or operator from operating such vehicles  
19 in the State, the Secretary shall prohibit the owner or op-  
20 erator from operating such vehicles in interstate commerce  
21 until the State determines that the owner or operator is  
22 fit.”.

1 **SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR VE-**  
2 **HICLES.**

3 (a) Chapter 2 of title 18, United States Code, is  
4 amended by adding at the end new section 38, to read  
5 as follows:

6 **“§ 38. Commercial motor vehicles required to stop for**  
7 **inspections**

8 “(a) A driver of a commercial motor vehicle, as de-  
9 fined in 49 U.S.C. 31132(1), shall stop and submit to in-  
10 spection of the vehicle, driver, cargo, and required records  
11 when directed to do so by a uniformed special agent of  
12 the Federal Motor Carrier Safety Administration, Depart-  
13 ment of Transportation, at or in the vicinity of an inspec-  
14 tion site. The driver shall not leave the inspection site until  
15 authorized to do so by an agent.

16 “(b) A driver of a commercial motor vehicle, as de-  
17 fined in subsection (a), who knowingly fails to stop for  
18 inspection when directed to do so by a uniformed special  
19 agent of the Federal Motor Carrier Safety Administration  
20 at or in the vicinity of an inspection site, or leaves the  
21 inspection site without authorization, shall be fined under  
22 this title or imprisoned not more than one year, or both.”.

23 (b) Chapter 203 of title 18, United States Code, is  
24 amended by adding at the end new section 3064, to read  
25 as follows:

1 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**  
 2 **ministration**

3 “Uniformed special agents of the Federal Motor Car-  
 4 rier Safety Administration may direct a driver of a com-  
 5 mercial motor vehicle, as defined in 49 U.S.C. 31132(1),  
 6 to stop for inspection of the vehicle, driver, cargo, and re-  
 7 quired records at or in the vicinity of an inspection site.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) The table of sections at the beginning of  
 10 chapter 2 of title 18, United States Code, is amend-  
 11 ed by inserting after the item relating to section 37  
 12 the following:

“38. Commercial motor vehicles required to stop for inspections.”.

13 (2) The table of sections at the beginning of  
 14 chapter 203 of title 18, United States Code, is  
 15 amended by inserting after the item relating to sec-  
 16 tion 3063 the following:

“3064. Powers of the Federal Motor Carrier Safety Administration.”.

17 **SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR**  
 18 **CARRIER MANAGEMENT.**

19 (a) Section 31135 of title 49, United States Code,  
 20 is amended by designating the existing text as subsection  
 21 “(a) IN GENERAL.—” and adding new subsections (b),  
 22 (c), (d), and (e), to read as follows:

23 “(b) PATTERN OF NONCOMPLIANCE.—If an officer of  
 24 a motor carrier engages in a pattern or practice of avoid-

1 ing compliance, or masking or otherwise concealing non-  
2 compliance, with regulations on commercial motor vehicle  
3 safety prescribed under this subchapter, the Secretary  
4 may suspend, amend, or revoke any part of the motor car-  
5 rier's registration under section 13905 of this title.

6       “(c) LIST OF PROPOSED OFFICERS.—Each person  
7 seeking registration as a motor carrier under section  
8 13902 of this title shall submit a list of the proposed offi-  
9 cers of the motor carrier. If the Secretary determines that  
10 any of the proposed officers has previously engaged in a  
11 pattern or practice of avoiding compliance, or masking or  
12 otherwise concealing non-compliance, with regulations on  
13 commercial motor vehicle safety prescribed under this  
14 chapter, the Secretary may deny the person's application  
15 for registration as a motor carrier under section  
16 13902(a)(3).

17       “(d) REGULATIONS.—The Secretary shall by regula-  
18 tion establish standards to implement subsections (b) and  
19 (c).

20       “(e) DEFINITIONS.—In this section —

21               “(1) ‘motor carrier’ has the same meaning as in  
22 section 13102(12) of this title; and

23               “(2) ‘officer’ means an owner, chief executive  
24 officer, chief operating officer, chief financial officer,  
25 safety director, vehicle maintenance supervisor and



1 driver supervisor of a motor carrier, regardless of  
2 the title attached to those functions.”.

3 (b) Section 13902(a)(1)(B) of title 49, United States  
4 Code, is amended to read as follows:

5 “(B) any safety regulations imposed by the  
6 Secretary; the duties of employers and employ-  
7 ees established by the Secretary under section  
8 31135; and the safety fitness requirements es-  
9 tablished by the Secretary under section 31144;  
10 and”.

11 **SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY**  
12 **PROGRAM.**

13 (a) IN GENERAL.—Title 49, United States Code, is  
14 amended by repealing section 31108 and inserting the fol-  
15 lowing new section, to read as follows:

16 **“§ 31108. Motor carrier research and technology pro-**  
17 **gram**

18 “(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY  
19 TRANSFER ACTIVITIES.—

20 “(1) The Secretary of Transportation shall es-  
21 tablish and carry out a motor carrier research and  
22 technology program. The Secretary may carry out  
23 research, development, technology, and technology  
24 transfer activities with respect to—

1           “(A) the causes of accidents, injuries and  
2           fatalities involving commercial motor vehicles;  
3           and

4           “(B) means of reducing the number and  
5           severity of accidents, injuries and fatalities in-  
6           volving commercial motor vehicles.

7           “(2) The Secretary may test, develop, or assist  
8           in testing and developing any material, invention,  
9           patented article, or process related to the research  
10          and technology program.

11          “(3) The Secretary may use the funds appro-  
12          priated to carry out this section for training or edu-  
13          cation of commercial motor vehicle safety personnel,  
14          including, but not limited to, training in accident re-  
15          construction and detection of controlled substances  
16          or other contraband, and stolen cargo or vehicles.

17          “(4) The Secretary may carry out this sec-  
18          tion—

19                 “(A) independently;

20                 “(B) in cooperation with other Federal de-  
21                 partments, agencies, and instrumentalities and  
22                 Federal laboratories; or

23                 “(C) by making grants to, or entering into  
24                 contracts, cooperative agreements, and other  
25                 transactions with, any Federal laboratory, State

1 agency, authority, association, institution, for-  
2 profit or non-profit corporation, organization,  
3 foreign country, or person.

4 “(5) The Secretary shall use funds made avail-  
5 able to carry out this section to develop, administer,  
6 communicate, and promote the use of products of re-  
7 search, technology, and technology transfer pro-  
8 grams under this section.

9 “(b) COLLABORATIVE RESEARCH AND DEVELOP-  
10 MENT.—

11 (1) To advance innovative solutions to problems  
12 involving commercial motor vehicle and motor car-  
13 rier safety, security, and efficiency, and to stimulate  
14 the deployment of emerging technology, the Sec-  
15 retary may carry out, on a cost-shared basis, col-  
16 laborative research and development with—

17 “(A) non-Federal entities, including State  
18 and local governments, foreign governments,  
19 colleges and universities, corporations, institu-  
20 tions, partnerships, and sole proprietorships  
21 that are incorporated or established under the  
22 laws of any State; and

23 “(B) Federal laboratories.

24 “(2) In carrying out this subsection, the Sec-  
25 retary may enter into cooperative research and de-

1        development agreements (as defined in section 12 of  
2        the Stevenson-Wydler Technology Innovation Act of  
3        1980 (15 U.S.C. 3710a)).

4            “(3)(A) The Federal share of the cost of activi-  
5        ties carried out under a cooperative research and de-  
6        velopment agreement entered into under this sub-  
7        section shall not exceed 50 percent, except that if  
8        there is substantial public interest or benefit, the  
9        Secretary may approve a greater Federal share.

10           “(B) All costs directly incurred by the non-Fed-  
11        eral partners, including personnel, travel, and hard-  
12        ware or software development costs, shall be credited  
13        toward the non-Federal share of the cost of the ac-  
14        tivities described in subparagraph (A).

15           “(4) The research, development, or use of a  
16        technology under a cooperative research and develop-  
17        ment agreement entered into under this subsection,  
18        including the terms under which the technology may  
19        be licensed and the resulting royalties may be dis-  
20        tributed, shall be subject to the Stevenson-Wydler  
21        Technology Innovation Act of 1980 (15 U.S.C. 3701  
22        et seq.).

23           “(5) Section 3705 of title 41, United States  
24        Code, shall not apply to a contract or agreement en-  
25        tered into under this section.

1       “(c) AVAILABILITY OF AMOUNTS.—The amounts  
2 made available under section 4001(b) of the Safe, Ac-  
3 countable, Flexible, and Efficient Transportation Equity  
4 Act of 2003 to carry out this section shall remain available  
5 until expended.

6       “(d) CONTRACT AUTHORITY.—Approval by the Sec-  
7 retary of a grant with funds made available under section  
8 4001(b) of the Safe, Accountable, Flexible, and Efficient  
9 Transportation Equity Act of 2003 to carry out this sec-  
10 tion imposes upon the United States Government a con-  
11 tractual obligation for payment of the Government’s share  
12 of costs incurred in carrying out the objectives of the  
13 grant.”.

14       (b) CONFORMING AMENDMENT.—The table of sec-  
15 tions at the beginning of chapter 311 of title 49, United  
16 States Code, is amended by revising the item relating to  
17 section 31108 to read as follows:

“31108. Motor carrier research and technology program.”.

18 **SEC. 4015. INTERNATIONAL COOPERATION.**

19       (a) Chapter 311 of title 49, United States Code, is  
20 amended by inserting at the end the following:

21       “SUBCHAPTER IV—MISCELLANEOUS  
22 **“§ 31161. International cooperation**

23       “The Secretary is authorized to use funds appro-  
24 priated under section 31104(i) of this title to participate  
25 and cooperate in international activities to enhance motor

1 carrier, driver, and highway safety by such means as ex-  
 2 changing information, conducting research; and examining  
 3 needs, best practices, and new technology.”.

4 (b) CLERICAL AMENDMENT.—The table of sections  
 5 at the beginning of chapter 311 of title 49, United States  
 6 Code, is amended by adding at the end the following:

“SUBCHAPTER IV—MISCELLANEOUS

“31161. International cooperation.”.

7 **SEC. 4016. PERFORMANCE AND REGISTRATION INFORMA-**  
 8 **TION SYSTEM MANAGEMENT (PRISM).**

9 (a) Paragraphs (2) and (3) of section 31106(b) of  
 10 title 49, United States Code, are amended to read as fol-  
 11 lows:

12 “(2) The program shall link Federal motor car-  
 13 rier safety information systems with State commer-  
 14 cial vehicle registration and licensing systems and  
 15 shall be designed to enable a State to—

16 “(A) determine the safety fitness of a  
 17 motor carrier or registrant when licensing or  
 18 registering the registrant or motor carrier or  
 19 while the license or registration is in effect; and

20 “(B) deny, suspend, or revoke the commer-  
 21 cial motor vehicle registrations of a motor car-  
 22 rier or registrant that has been issued an oper-  
 23 ations out-of-service order by the Secretary.

1           “(3) The Secretary shall require States, as a  
2           condition of participation in the program, to—

3                   “(A) comply with the uniform policies, pro-  
4                   cedures, and technical and operational stand-  
5                   ards prescribed by the Secretary under sub-  
6                   section (a)(4); and

7                   “(B) possess or seek the authority to deny,  
8                   suspend, or revoke commercial motor vehicle  
9                   registrations based on the issuance of an oper-  
10                  ations out-of-service order by the Secretary.”.

11           (b) DELETION.—Paragraph (4) of section 31106(b)  
12           of title 49, United States Code, is deleted.

13           (c) PERFORMANCE AND REGISTRATION INFORMA-  
14           TION SYSTEM MANAGEMENT GRANTS.—

15                   (1) Chapter 311 of title 49, United States  
16           Code, as amended by this Act, is further amended  
17           by adding a new section after section 31108, to read  
18           as follows:

19           **“§ 31109. Performance and Registration Information**  
20                           **System Management (PRISM)**

21                   “(a) IN GENERAL.—From the funds authorized by  
22           section 4001(c)(3) of the Safe, Accountable, Flexible, and  
23           Efficient Transportation Equity Act of 2003, the Sec-  
24           retary may make a grant in a fiscal year to a State to

1 implement the Performance and Registration Information  
2 System Management requirements of 49 U.S.C. 31106(b).

3 “(b) AVAILABILITY OF AMOUNTS.—Amounts made  
4 available to a State under section 4001(c)(3) of the Safe,  
5 Accountable, Flexible, and Efficient Transportation Eq-  
6 uity Act of 2003 to carry out this section shall remain  
7 available until expended.

8 “(c) SECRETARY’S APPROVAL.—Approval by the Sec-  
9 retary of a grant to a State under section 4001(c)(3) of  
10 the Safe, Accountable, Flexible, and Efficient Transpor-  
11 tation Equity Act of 2003 to carry out this section is a  
12 contractual obligation of the Government for payment of  
13 the amount of the grant.”.

14 (2) CONFORMING AMENDMENT.—The table of  
15 sections at the beginning of chapter 311 of title 49,  
16 United States Code, is amended after the item relat-  
17 ing to section 31108 by adding the following:

“31109. Performance and Registration Information System Management  
(PRISM).”.

18 **SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.**

19 The Secretary of Transportation shall carry out a  
20 program to improve the collection and analysis of safety  
21 data on, including crash causation involving, commercial  
22 motor vehicles.



1 **SEC. 4018. OUTREACH AND EDUCATION.**

2 (a) IN GENERAL.—The Secretary shall conduct an  
 3 outreach and education program to be administered by the  
 4 Federal Motor Carrier Safety Administration. The pro-  
 5 gram shall include expanded implementation of the “Share  
 6 the Road Safely” and “Safety is Good Business” pro-  
 7 grams. The Federal Motor Carrier Safety Administration  
 8 shall establish programs to directly educate the industry  
 9 and public about the requirements of new and existing  
 10 regulatory requirements. The Secretary, through the Fed-  
 11 eral Motor Carrier Safety Administration, may undertake  
 12 other outreach and education initiatives that may reduce  
 13 the number of accidents, injuries, and fatalities involving  
 14 commercial motor vehicles.

15 (b) LIKELY RISK FACTORS.—The Secretary, through  
 16 the Federal Motor Carrier Safety Administration, shall  
 17 conduct an outreach program to identify the practices of  
 18 commercial motor vehicle drivers that are most likely to  
 19 increase and decrease the risk of accidents.

20 **TITLE V—TRANSPORTATION**  
 21 **RESEARCH AND EDUCATION**  
 22 **Subtitle A—Funding**

23 **SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) IN GENERAL.—The following sums are author-  
 25 ized to be appropriated out of the Highway Trust Fund  
 26 (other than the Mass Transit Account):

1           (1) SURFACE TRANSPORTATION RESEARCH, DE-  
2           VELOPMENT AND DEPLOYMENT PROGRAM.—To  
3           carry out sections 502, 503, 506 and 507 of title 23,  
4           United States Code, and section 5206 of this Act re-  
5           lating to research, development, technology transfer,  
6           technology deployment, and application activities,  
7           \$199,000,000 for each of fiscal years 2004 through  
8           2009.

9           (2) TRAINING AND EDUCATION.—For carrying  
10          out section 504 of title 23, United States Code,  
11          \$26,000,000 for each of fiscal years 2004 through  
12          2009.

13          (3) BUREAU OF TRANSPORTATION STATIS-  
14          TICS.—For the Bureau of Transportation Statistics  
15          to carry out section 111 of title 49, United States  
16          Code, the following:

17                 (A) \$31,568,000 for fiscal year 2004.

18                 (B) \$32,199,000 for fiscal year 2005.

19                 (C) \$32,869,000 for fiscal year 2006.

20                 (D) \$33,609,000 for fiscal year 2007.

21                 (E) \$34,439,000 for fiscal year 2008.

22                 (F) \$35,276,000 for fiscal year 2009.

23          (4) UNIVERSITY TRANSPORTATION RE-  
24          SEARCH.—For carrying out section 5505 of title 49,

1 United States Code, \$26,500,000 for each of fiscal  
2 years 2004 through 2009.

3 (5) INTELLIGENT TRANSPORTATION SYSTEMS  
4 RESEARCH.—For carrying out the Intelligent Trans-  
5 portation Systems Act of 2003 under subtitle E of  
6 this title, \$121,000,000 for each of fiscal years 2004  
7 through 2009.

8 (b) COLLABORATIVE RESEARCH AND DEVELOP-  
9 MENT.—Section 502 of title 23, United States Code, is  
10 amended—

11 (1) by striking subsection (b)(3); and

12 (2) by redesignating subsections (b)(4) and  
13 (b)(5) as (b)(3) and (b)(4), respectively.

14 (c) APPLICABILITY OF TITLE 23, UNITED STATES  
15 CODE.—Funds authorized to be appropriated by sub-  
16 section (a) shall be available for obligation in the same  
17 manner as if such funds were apportioned under chapter  
18 1 of title 23, United States Code, except that the Federal  
19 share of the cost of a project or activity carried out using  
20 such funds shall be 100 percent unless otherwise deter-  
21 mined by the Secretary or specified otherwise in this Act,  
22 and such funds shall remain available until expended.

1 **Subtitle B—Research, Technology,**  
 2 **and Education**

3 **SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

4 (a) RESEARCH, TECHNOLOGY, AND EDUCATION.—

5 Title 23, United States Code, is amended—

6 (1) in the table of chapters by striking—

“5. Research and Technology ..... 501”;

7 and substituting—

“5. Research, Technology, and Education ..... 501”;

8 and

9 (2) by striking the heading—

10 “CHAPTER 5—RESEARCH AND TECHNOLOGY”

11 and inserting—

12 “CHAPTER 5—RESEARCH, TECHNOLOGY, AND  
 13 EDUCATION.”.

14 (b) STATEMENT OF PRINCIPLES GOVERNING RE-  
 15 SEARCH AND TECHNOLOGY INVESTMENTS.—Section 502  
 16 of title 23, United States Code, is amended—

17 (1) by redesignating subsections (a) through (g)  
 18 as subsections (b) through (h), respectively; and

19 (2) by inserting a new subsection (a) at the be-  
 20 ginning, to read as follows:

21 “(a) BASIC PRINCIPLES GOVERNING RESEARCH AND  
 22 TECHNOLOGY INVESTMENTS.—

23 “(1) COVERAGE.—Surface transportation re-  
 24 search and technology development (R&T) shall in-

1       clude all activities leading to technology development  
2       and transfer, as well as the introduction of new and  
3       innovative ideas, practices and approaches, through  
4       such mechanisms as field applications, education and  
5       training, and technical support.

6               “(2) FEDERAL RESPONSIBILITY.—Funding and  
7       conducting surface transportation research and tech-  
8       nology transfer activities shall be considered a basic  
9       responsibility of the Federal Government when—

10               “(A) the work is of national significance;

11               “(B) it supports research in which there is  
12       a clear public benefit and private sector invest-  
13       ment is less than optimal due to market failure;

14               “(C) it supports a Federal stewardship role  
15       in assuring that state and local governments  
16       use national resources efficiently; or

17               “(D) it presents the best means to support  
18       Federal policy goals compared to other policy  
19       alternatives.

20               “(3) ROLE.—Consistent with these Federal re-  
21       sponsibilities, the Secretary of Transportation  
22       shall—

23               “(A) conduct research;

1           “(B) support and facilitate research and  
2           technology transfer activities by state highway  
3           agencies;

4           “(C) share results of completed research;  
5           and

6           “(D) support and facilitate technology and  
7           innovation deployment.

8           “(4) PROGRAM CONTENT.—A surface transpor-  
9           tation research program shall include—

10           “(A) fundamental, long-term highway re-  
11           search;

12           “(B) research aimed at significant highway  
13           research gaps, and emerging issues with na-  
14           tional implications; and

15           “(C) research related to policy and plan-  
16           ning.

17           “(5) STAKEHOLDER INPUT.—Federally spon-  
18           sored surface transportation R&T activities shall ad-  
19           dress the needs of partners and stakeholders, and  
20           provide for stakeholder input in preparation of a  
21           strategic plan for surface transportation R&T.

22           “(6) COMPETITION.—To the greatest extent  
23           possible, investment decisions for surface transpor-  
24           tation R&T activities shall be based on the well-es-  
25           tablished principles of competition and merit review.

1           “(7) PERFORMANCE REVIEW.—Surface trans-  
2           portation R&T activities shall include a component  
3           of performance measurement.”.

4           (c) TRANSPORTATION POOLED FUND PROGRAM.—  
5           Section 502(b) of title 23, United States Code, as redesign-  
6           nated by this Act, is amended by inserting the following  
7           at the end:

8           “(6) POOLED FUNDING.—

9                   “(A) To promote effective utilization of  
10                  available resources, the Secretary may cooper-  
11                  ate with the States and other appropriate agen-  
12                  cies in funding research, development, and tech-  
13                  nology transfer activities of mutual interest on  
14                  a pooled funds basis.

15                   “(B) The Secretary may enter into con-  
16                  tracts, cooperative agreements, grants, and  
17                  other transactions as agent for all participating  
18                  parties in carrying out such research, develop-  
19                  ment, or technology transfer.”.

20           (d) OPERATIONS ELEMENTS IN RESEARCH ACTIVI-  
21           TIES.—Section 502 of title 23, United States Code, is  
22           amended—

23                   (1) in subsection (b)(1), as redesignated by this  
24                  Act, by striking subparagraphs (B) and (C) and in-  
25                  serting the following:

1           “(B) all phases of transportation planning  
2           and development (including construction, trans-  
3           portation system management and operations,  
4           modernization, development, design, mainte-  
5           nance, safety, financing, and traffic conditions);

6           “(C) freight security processes and proce-  
7           dures; and

8           “(D) the effect of State laws on the activi-  
9           ties described in subparagraphs (A) and (B).”;

10          (2) in subsection (d)(5)(C), as redesignated by  
11          this Act, by inserting “system management and”  
12          after “transportation”; and

13          (3) in subsection (d), as redesignated by this  
14          Act, by inserting at the end:

15          “(12) Investigation and development of various  
16          operational methodologies to reduce the occurrence  
17          and impact of recurrent congestion and non-recur-  
18          rent congestion, and increase transportation system  
19          reliability.

20          “(13) Investigate processes, procedures, and  
21          technologies to secure container and hazardous ma-  
22          terial transport, including the evaluation of regula-  
23          tions, liability, terrorist countermeasures, and the  
24          impact of good security practices on commerce and  
25          productivity.



1           “(14) Research, development, and technology  
2           transfer related to asset management.”.

3           (e) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-  
4           TER.—Section 502 of title 23, United States Code, is  
5           amended by inserting at the end the following:

6           “(i) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-  
7           TER.—

8           “(1) IN GENERAL.—The Secretary shall operate  
9           in the Federal Highway Administration a Turner-  
10          Fairbank Highway Research Center.

11          “(2) USES OF THE CENTER.—The Turner-  
12          Fairbank Highway Research Center shall support  
13          the—

14                 “(A) conduct of highway research and de-  
15                 velopment related to new highway technology;

16                 “(B) development of understandings, tools,  
17                 and techniques that provide solutions to com-  
18                 plex technical problems through the develop-  
19                 ment of economical and environmentally sen-  
20                 sitive designs, efficient and quality controlled  
21                 construction practices, and durable materials;  
22                 and

23                 “(C) development of innovative highway  
24                 products and practices.”.

1 (f) EXPLORATORY ADVANCED RESEARCH PRO-  
2 GRAM.—Section 502 of title 23, United States Code, is  
3 amended by striking subsection (e), as redesignated by  
4 this Act, and inserting the following:

5 “(e) EXPLORATORY ADVANCED RESEARCH.—

6 “(1) IN GENERAL.—The Secretary shall estab-  
7 lish an exploratory advanced research program, con-  
8 sistent with the surface transportation research and  
9 technology development strategic plan developed  
10 under section 508, that involves and draws upon  
11 basic research results to provide a better under-  
12 standing of problems and develop innovative solu-  
13 tions. The phrase “exploratory advanced research”  
14 conveys a more fundamental character, broader ob-  
15 jective, multi-disciplinary nature, and greater uncer-  
16 tainty in expected outcomes than found in problem-  
17 solving research. In carrying out the program, the  
18 Secretary shall strive to develop partnerships with  
19 the public and private sectors.

20 “(2) RESEARCH AREAS.—In carrying out the  
21 program, the Secretary may make grants and enter  
22 into cooperative agreements and contracts in such  
23 areas of surface transportation research and tech-  
24 nology as the Secretary determines appropriate, in-  
25 cluding the following:

1           “(A) Characterization of materials used in  
2 highway infrastructure, including analytical  
3 techniques, microstructure modeling, and the  
4 deterioration processes.

5           “(B) Assessing the effects of transpor-  
6 tation decisions on human health.

7           “(C) Development of surrogate measures  
8 of safety.

9           “(D) Environmental research.

10          “(E) Data acquisition techniques for sys-  
11 tem condition and performance monitoring.

12          “(F) System performance data and infor-  
13 mation processing needed to assess the day-to-  
14 day operational performance of the system in  
15 support of hour-to-hour operational decision  
16 making.”.

17          (g) AUTHORITY TO PURCHASE PROMOTIONAL  
18 ITEMS.—Section 503 of title 23, United States Code, as  
19 amended by this Act, is further amended by inserting the  
20 following at the end:

21          “(e) PROMOTIONAL AUTHORITY.—Funds authorized  
22 to be appropriated under this or any other Act for nec-  
23 essary expenses for administration and operation of the  
24 Federal Highway Administration shall be available to pur-  
25 chase promotional items of nominal value for use in the

1 recruitment of individuals and to promote the programs  
2 of the Federal Highway Administration.”.

3 (h) FACILITATING TRANSPORTATION RESEARCH AND  
4 TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section  
5 502(c) of title 23, United States Code, as redesignated  
6 by this Act, is amended by striking paragraph (2) and in-  
7 serting the following:

8 “(2) COOPERATION, GRANTS, CONTRACTS AND  
9 AGREEMENTS.—Notwithstanding any other provision  
10 of law, the Secretary may directly initiate contracts,  
11 cooperative research and development agreements  
12 (as defined in section 12 of the Stevenson-Wydler  
13 Technology Innovation Act of 1980 (15 U.S.C.  
14 3710a)), and other transactions to fund, and accept  
15 funds from, the National Research Council/ Trans-  
16 portation Research Board, American Association of  
17 State Highway and Transportation Officials, State  
18 Departments of Transportation, cities, and counties,  
19 and their agents to conduct joint transportation re-  
20 search and technology efforts.”.

21 (i) LONG-TERM PAVEMENT PERFORMANCE PRO-  
22 GRAM.—

23 (1) SURFACE TRANSPORTATION RESEARCH.—  
24 Chapter 5 of title 23, United States Code is amend-  
25 ed by adding after section 504 the following:

1 **“§ 505. Surface transportation research**

2       “(a) **AUTHORITY.**—The Secretary of Transportation  
3 shall complete the 20-year long-term pavement perform-  
4 ance program tests initiated under the strategic highway  
5 research program established under section 307(d) (as in  
6 effect on the day before the date of enactment of this sec-  
7 tion) and continued by the Intermodal Surface Transpor-  
8 tation Efficiency Act of 1991 and the Transportation Eq-  
9 uity Act For The 21st Century.

10       “(b) **GRANTS, COOPERATIVE AGREEMENTS, AND**  
11 **CONTRACTS.**—Under the program, the Secretary shall  
12 make grants and enter into cooperative agreements and  
13 contracts to—

14               “(1) monitor, material-test, and evaluate high-  
15 way test sections in existence as of the date of the  
16 grant, agreement, or contract;

17               “(2) analyze the data obtained in carrying out  
18 subparagraph (A); and

19               “(3) prepare products to fulfill program objec-  
20 tives and meet future pavement technology needs.”.

21       (2) **CONFORMING AMENDMENT.**—The analysis  
22 for chapter 5 of title 23 is amended by inserting  
23 after item 504 the following:

“505. Surface transportation research.”.

24       (j) **PROCUREMENT FOR RESEARCH, DEVELOPMENT,**  
25 **AND TECHNOLOGY TRANSFER ACTIVITIES.**—Section

1 502(b) of title 23, United States Code, as redesignated  
2 by this Act, is amended by striking paragraph (3) and in-  
3 serting the following:

4           “(3) COOPERATION, GRANTS, AND CON-  
5 TRACTS.—The Secretary may carry out research, de-  
6 velopment, and technology transfer activities related  
7 to transportation—

8                   “(A) independently;

9                   “(B) in cooperation with other Federal de-  
10 partments, agencies, and instrumentalities and  
11 Federal laboratories; or

12                   “(C) by making grants to, or entering into  
13 contracts, cooperative agreements, and other  
14 transactions with the following: the National  
15 Academy of Sciences, the American Association  
16 of State Highway and Transportation Officials,  
17 or any Federal laboratory, Federal agency,  
18 State agency, authority, association, institution,  
19 for-profit or nonprofit corporation, organiza-  
20 tion, foreign country, or person.”.

21           (k) INFRASTRUCTURE INVESTMENT NEEDS RE-  
22 PORT.—

23                   (1) TITLE 23 AMENDMENT.—Section 502(h)(1)  
24 of title 23, United States Code, as redesignated by  
25 this Act, is amended by striking “Not later than

1       January 31, 1999, and January 31 of every second  
 2       year thereafter,” and inserting “Not later than July  
 3       31, 2004, and July 31 of every second year there-  
 4       after,”.

5               (2) CONFORMING AMENDMENT TO TITLE 49,  
 6       UNITED STATES CODE.—Section 308(e)(1) of title  
 7       49, United States Code, is amended by striking “in  
 8       March 1998, and in March of each even-numbered  
 9       year thereafter” and inserting “not later than July  
 10      31, 2004, and July 31 of every second year there-  
 11     after,”.

12 **SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND**  
 13               **PLANNING COOPERATIVE RESEARCH PRO-**  
 14               **GRAM.**

15       (a) SURFACE TRANSPORTATION ENVIRONMENT AND  
 16       PLANNING COOPERATIVE RESEARCH PROGRAM.—Chap-  
 17       ter 5 of title 23, United States Code, is amended by strik-  
 18       ing section 507 and inserting the following:

19 **“§ 507. Surface transportation environment and plan-**  
 20               **ning cooperative research program**

21       “(a) ESTABLISHMENT.—The Secretary shall estab-  
 22       lish and support a collaborative, public-private surface  
 23       transportation environment and planning cooperative re-  
 24       search program.

1       “(b) AGREEMENT.—The Secretary shall enter into an  
2 agreement with the National Academy of Sciences or other  
3 organization to support and carry out administrative and  
4 management activities relating to the governance of the  
5 surface transportation environment and planning coopera-  
6 tive research program.

7       “(c) ADVISORY BOARD.—The organization described  
8 in subsection (b) shall select an advisory board drawn  
9 from core partners that represent environment, transpor-  
10 tation, and neutral interests, including the Department of  
11 Transportation, other Federal agencies, the States, local  
12 governments, nonprofit entities, academia, and the private  
13 sector.

14       “(d) GOVERNANCE.—The surface transportation en-  
15 vironment and planning cooperative research program es-  
16 tablished under this section shall include the following ad-  
17 ministrative and management elements:

18               “(1) NATIONAL RESEARCH AGENDA.—The advi-  
19 sory board, in consultation with core partners and  
20 other stakeholders, shall develop and periodically up-  
21 date a national research agenda for the surface  
22 transportation environment and planning cooperative  
23 research program. The national research agenda  
24 shall include a multi-year strategic plan.



1           “(2) STAKEHOLDER INVOLVEMENT.—Stake-  
2 holders may:

3           “(A) submit research proposals;

4           “(B) participate in merit reviews of re-  
5 search proposals and peer reviews of research  
6 products; and

7           “(C) receive research results.

8           “(3) OPEN COMPETITION AND PEER REVIEW OF  
9 RESEARCH PROPOSALS.—The organization described  
10 in subsection (b) may award research contracts and  
11 grants through open competition and merit review  
12 conducted on a regular basis.

13           “(4) EVALUATION OF RESEARCH.—

14           “(A) PEER REVIEW.—Research contracts  
15 and grants may allow peer review of the re-  
16 search results.

17           “(B) PROGRAMMATIC EVALUATIONS.—The  
18 organization described in subsection (b) may  
19 conduct periodic programmatic evaluations on a  
20 regular basis.

21           “(5) DISSEMINATION OF RESEARCH FIND-  
22 INGS.—The organization described in subsection (b)  
23 shall disseminate research findings to researchers,  
24 practitioners, and decision-makers, through con-  
25 ferences and seminars, field demonstrations, work-

1 shops, training programs, presentations, testimony  
2 to Government officials, world wide web, and publi-  
3 cations for the general public.

4 “(e) CONTENTS.—The national research agenda for  
5 the surface transportation environment and planning co-  
6 operative research program required under subsection  
7 (c)(2) shall include research in the following areas for the  
8 purposes cited:

9 “(1) HUMAN HEALTH.—Human health to es-  
10 tablish the links between transportation activities  
11 and human health; substantiate the linkages between  
12 exposure to concentration levels, emissions, and  
13 health impacts; examine the potential health impacts  
14 from the implementation and operation of transpor-  
15 tation infrastructure and services; develop strategies  
16 for avoidance and reduction of these impacts; and  
17 develop strategies to understand the economic value  
18 of health improvements; and for incorporating health  
19 considerations into valuation methods.

20 “(2) ECOLOGY AND NATURAL SYSTEMS.—Ecol-  
21 ogy and natural systems to measure transportation’s  
22 short- and long-term impact on natural systems; de-  
23 velop ecologically based performance measures; de-  
24 velop insight into both the spatial and temporal  
25 issues associated with transportation and natural

1 systems; study the relationship between highway  
2 density and ecosystem integrity, including the im-  
3 pacts of highway density on habitat integrity and  
4 overall ecosystem health; develop a rapid assessment  
5 methodology for use by transportation and regu-  
6 latory agencies in determining the relationship be-  
7 tween highway density and ecosystem integrity; and  
8 develop ecologically based performance techniques to  
9 evaluate the success of highway project mitigation  
10 and enhancement measures.

11 “(3) ENVIRONMENTAL AND SOCIOECONOMIC  
12 RELATIONSHIPS.—Environmental and socioeconomic  
13 relationships to understand differences in mobility,  
14 access, travel behavior, and travel preferences across  
15 socioeconomic groups; develop improved planning ap-  
16 proaches that better reflect and respond to commu-  
17 nity needs; improve evaluation methods for exam-  
18 ining the incidence of benefits and costs; examine  
19 the differential impacts of current methods of fi-  
20 nance and explore alternatives; understand the socio-  
21 economic implications of emerging land development  
22 patterns and new transportation technologies; de-  
23 velop cost-effective applications of technology that  
24 improve the equity of the transport system; and de-

1       velop improved methods for community involvement,  
2       collaborative planning, and conflict resolution.

3           “(4) EMERGING TECHNOLOGIES.—Emerging  
4       technologies to assist in the transition to environ-  
5       mentally benign fuels and vehicles for passengers  
6       and freight; develop responses to and demand for  
7       new technologies that could offer improved environ-  
8       mental performance; identify possible applications of  
9       Intelligent Transportation Systems technologies for  
10      environmental benefit; develop policy instruments  
11      that would encourage the development of beneficial  
12      new technologies in a cost-effective manner; and re-  
13      spond to the impact of new technologies.

14          “(5) LAND USE.—Land use to assess land con-  
15      sumption trends and contributing factors of trans-  
16      portation investment, housing policies, school qual-  
17      ity, and consumer preferences; incorporate impacts  
18      of transportation investments on location decision  
19      and land use; identify the costs and benefits of cur-  
20      rent development patterns and their transportation  
21      implications; determine the effect of the built envi-  
22      ronment on people’s willingness to walk, drive, or  
23      take public transportation; determine the roles of  
24      public policy and institutional arrangements in cur-  
25      rent and prospective land use and transportation

1 choices; and develop improved data, methods, and  
2 processes for considering land use, transportation,  
3 and the environment in an integrated, systematic  
4 fashion.

5 “(6) PLANNING AND PERFORMANCE MEAS-  
6 URES.—Planning and performance measures to im-  
7 prove understanding of travel needs and preferences;  
8 improve planning methods for system analysis, fore-  
9 casting, and decision making; expand information on  
10 consumer choice processes and travel and activity  
11 patterns for both local and long-distance trips and  
12 both passenger and freight transportation analysis  
13 of social, environmental, and economic benefits and  
14 cost of various transport options; develop tools for  
15 measuring and forecasting complex transportation  
16 decision for all modes and users; and develop per-  
17 formance measures and policy analysis approaches  
18 that can be used to determine effectiveness.

19 “(7) ADDITIONAL PRIORITIES.—Additional pri-  
20 orities to identify and address the emerging and fu-  
21 ture surface transportation research needs related to  
22 planning and environment.

23 “(f) FUNDING.—In addition to using funds author-  
24 ized for this section, the organization that administers this  
25 program may seek and accept additional funding sources

1 from public and private entities capable of attracting and  
 2 accepting funding from the United States Department of  
 3 Transportation (Federal Highway Administration, Fed-  
 4 eral Transit Administration, Federal Railroad Administra-  
 5 tion, Research and Special Programs Administration, and  
 6 the National Highway Traffic Safety Administration), En-  
 7 vironmental Protection Agency, Department of Energy,  
 8 Fish and Wildlife and other Federal environmental agen-  
 9 cies, States, local governments, nonprofit foundations, and  
 10 the private sector.”.

11 (b) CONFORMING AMENDMENT.—The analysis for  
 12 chapter 5 of title 23, United States Code, is amended by  
 13 striking the item related to section 507 and inserting the  
 14 following:

“507. Surface transportation environment and planning cooperative research  
 program.”.

15 **SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM;**  
 16 **INNOVATIVE BRIDGE RESEARCH AND DE-**  
 17 **PLOYMENT PROGRAM.**

18 (a) LONG-TERM BRIDGE PERFORMANCE PRO-  
 19 GRAM.—Section 502 of title 23, United States Code, is  
 20 amended by striking 502(g), as redesignated by this Act,  
 21 and inserting the following:

22 “(g) LONG-TERM BRIDGE PERFORMANCE PRO-  
 23 GRAM.—

1           “(1) AUTHORITY.—The Secretary shall estab-  
2           lish a 20 year long-term bridge performance pro-  
3           gram.

4           “(2) GRANTS, COOPERATIVE AGREEMENTS, AND  
5           CONTRACTS.—Under the program, the Secretary  
6           shall make grants and enter into cooperative agree-  
7           ments and contracts to—

8                   “(A) monitor, material-test, and evaluate  
9                   test bridges;

10                   “(B) analyze the data obtained in carrying  
11                   out subparagraph (A); and

12                   “(C) prepare products to fulfill program  
13                   objectives and meet future bridge technology  
14                   needs.”.

15           (b) INNOVATIVE BRIDGE RESEARCH AND DEPLOY-  
16           MENT PROGRAM.—

17                   (1) IN GENERAL.—Section 503(b) of title 23,  
18                   United States Code, is amended by striking  
19                   503(b)(1) and inserting:

20                   “(1) IN GENERAL.—The Secretary shall estab-  
21                   lish and carry out a program to promote, dem-  
22                   onstrate, evaluate, and document the application of  
23                   innovative designs, materials and construction meth-  
24                   ods in the construction, repair, and rehabilitation of  
25                   bridges and other highway structures.”.

1           (2) GOALS.—Section 503(b)(2) of such title is  
2 amended by striking 503(b)(2) and inserting:

3           “(2) GOALS.—The goals of the program shall  
4 include—

5                   “(A) the development of new, cost-effec-  
6 tive, innovative highway bridge applications;

7                   “(B) the development of construction tech-  
8 niques to increase safety and reduce construc-  
9 tion time and traffic congestion;

10                   “(C) the development of engineering design  
11 criteria for innovative products, materials, and  
12 structural systems for use in highway bridges  
13 and structures;

14                   “(D) the reduction of maintenance costs  
15 and life-cycle costs of bridges, including the  
16 costs of new construction, replacement, or reha-  
17 bilitation of deficient bridges;

18                   “(E) the development of highway bridges  
19 and structures that will withstand natural dis-  
20 asters and terrorist attacks;

21                   “(F) the documentation and wide dissemi-  
22 nation of objective evaluations of the perform-  
23 ance and benefits of these innovative designs,  
24 materials, and construction methods; and



1                   “(G) the effective transfer of resulting in-  
2                   formation and technology.”.

3 **SEC. 5204. TECHNOLOGY DEPLOYMENT.**

4           (a) **TECHNOLOGY DEPLOYMENT PROGRAM.**—Section  
5 503(a) of title 23, United States Code, is amended—

6                   (1) in the subsection heading, by striking “ini-  
7                   tiatives and partnerships”;

8                   (2) by striking paragraph (1) and inserting the  
9                   following:

10                   “(1) **ESTABLISHMENT.**—The Secretary shall  
11                   develop and administer a national technology deploy-  
12                   ment program.”.

13                   (3) by striking paragraph (7) and inserting the  
14                   following:

15                   “(7) **GRANTS, COOPERATIVE AGREEMENTS, AND**  
16                   **CONTRACTS.**—

17                   “(A) **IN GENERAL.**—Under the program,  
18                   the Secretary shall make grants to, and enter  
19                   into cooperative agreements and contracts with  
20                   States, other Federal agencies, universities and  
21                   colleges, private sector entities, and nonprofit  
22                   organizations to pay the Federal share of the  
23                   cost of research, development, and technology  
24                   transfer concerning innovative materials.

1           “(B) APPLICATIONS.—To receive a grant  
2           under this subsection, an entity described in  
3           subparagraph (A) shall submit an application to  
4           the Secretary. The application shall be in such  
5           form and contain such information as the Sec-  
6           retary may require. The Secretary shall select  
7           and approve the applications based on whether  
8           the project that is the subject of the grant  
9           meets the goals of the program described in  
10          paragraph (2).”;

11          (4) by striking paragraph (8);

12          (5) by redesignating paragraph (9) as para-  
13          graph (10); and

14          (6) by inserting after paragraph (7) the fol-  
15          lowing:

16          “(8) TECHNOLOGY AND INFORMATION TRANS-  
17          FER.—The Secretary shall ensure that the informa-  
18          tion and technology resulting from research con-  
19          ducted under paragraph (3) is made available to  
20          State and local transportation departments and  
21          other interested parties as specified by the Sec-  
22          retary.

23          “(9) FEDERAL SHARE.—The Federal share of  
24          the cost of a project under this section shall be de-  
25          termined by the Secretary.”.

1 (b) INNOVATIVE PAVEMENT RESEARCH AND DE-  
2 PLOYMENT PROGRAM.—Section 503 of title 23, United  
3 States Code, is amended by adding after subsection (b)  
4 the following:

5 “(c) INNOVATIVE PAVEMENT RESEARCH AND DE-  
6 PLOYMENT PROGRAM.—

7 “(1) IN GENERAL.—The Secretary shall estab-  
8 lish and implement a program to promote, dem-  
9 onstrate, support, and document the application of  
10 innovative pavement technologies, practices, per-  
11 formance, and benefits.

12 “(2) GOALS.—The goals of the innovative pave-  
13 ment research and deployment program shall in-  
14 clude—

15 “(A) the deployment of new, cost-effective  
16 innovative designs, materials, and practices to  
17 extend pavement life and performance and to  
18 improve customer satisfaction;

19 “(B) the reduction of initial costs and life-  
20 cycle costs of pavements, including the costs of  
21 new construction, replacement, maintenance,  
22 and rehabilitation;

23 “(C) the deployment of accelerated con-  
24 struction techniques to increase safety and re-

1           duce construction time and traffic disruption  
2           and congestion;

3           “(D) the deployment of engineering design  
4           criteria and specifications for innovative prac-  
5           tices, products, and materials for use in high-  
6           way pavements;

7           “(E) the deployment of new nondestructive  
8           and real time pavement evaluation technologies  
9           and techniques;

10          “(F) evaluation, refinement, and docu-  
11          mentation of the performance and benefits of  
12          innovative technologies deployed to improve life,  
13          performance, cost effectiveness, safety, and cus-  
14          tomer satisfaction;

15          “(G) effective technology transfer and in-  
16          formation dissemination to accelerate imple-  
17          mentation of innovative technologies and to im-  
18          prove life, performance, cost effectiveness, safe-  
19          ty, and customer satisfaction; and

20          “(H) the development of designs and mate-  
21          rials to reduce storm water runoff.”.

22          (c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—  
23          Section 503 of title 23, United States Code, as amended  
24          by this Act, is further amended by adding the following:

1       “(d) SAFETY INNOVATION DEPLOYMENT PRO-  
2 GRAM.—

3           “(1) IN GENERAL.—The Secretary shall estab-  
4 lish and implement a program to demonstrate the  
5 application of innovative technologies in highway  
6 safety.

7           “(2) GOALS.—The goals of the program shall  
8 include—

9           “(A) the deployment and evaluation of  
10 safety technologies and innovations at state and  
11 local levels; and

12           “(B) the deployment of best practices in  
13 training, management, design, and planning.

14           “(3) GRANTS, COOPERATIVE AGREEMENTS, AND  
15 CONTRACTS.—

16           “(A) IN GENERAL.—Under the program,  
17 the Secretary shall make grants to, and enter  
18 into cooperative agreements and contracts with  
19 States, other Federal agencies, universities and  
20 colleges, private sector entities, and nonprofit  
21 organizations for research, development, and  
22 technology transfer for innovative safety tech-  
23 nologies.

24           “(B) APPLICATIONS.—To receive a grant  
25 under this subsection, an entity described in

1           subparagraph (A) shall submit an application to  
2           the Secretary. The application shall be in such  
3           form and contain such information as the Sec-  
4           retary may require. The Secretary shall select  
5           and approve the applications based on whether  
6           the project that is the subject of the grant  
7           meets the goals of the program described in  
8           paragraph (2).

9           “(4) TECHNOLOGY AND INFORMATION TRANS-  
10          FER.—The Secretary shall take such action as is  
11          necessary to ensure that the information and tech-  
12          nology resulting from research conducted under  
13          paragraph (3) is made available to State and local  
14          transportation departments and other interested  
15          parties as specified by the Secretary.

16          “(5) FEDERAL SHARE.—The Federal share of  
17          the cost of a project under this section shall be de-  
18          termined by the Secretary.”.

19   **SEC. 5205. TRAINING AND EDUCATION.**

20          (a) NATIONAL HIGHWAY INSTITUTE.—Section  
21          504(a) of title 23, United States Code, is amended by  
22          striking paragraph (3) and inserting the following:

23          “(3) COURSES.—The Institute may develop and  
24          administer courses in modern developments, tech-  
25          niques, methods, regulations, management, and pro-

1 cedures in areas including surface transportation,  
2 environmental stewardship and streamlining, acqui-  
3 sition of rights-of-way, relocation assistance, engi-  
4 neering, safety, transportation system management  
5 and operations, construction, maintenance, contract  
6 administration, inspection, and highway finance.”.

7 (b) FEDERAL SHARE.—Section 504(b) of title 23,  
8 United States Code, is amended by adding at the end the  
9 following:

10 “(3) FEDERAL SHARE.—

11 “(A) GRANTS.—The grant funds author-  
12 ized to carry out this subsection may be used  
13 to cover up to 50 percent of the program costs  
14 relating to local technical assistance. Funds  
15 available for technology transfer and training  
16 purposes under this title and title 49 may be  
17 used to cover the remaining 50 percent of the  
18 program costs.

19 “(B) TRIBAL TECHNICAL ASSISTANCE  
20 CENTERS.—The Federal share of the cost of ac-  
21 tivities carried out by the tribal technical assist-  
22 ance centers under paragraph (b)(2)(D)(ii) of  
23 this subsection shall be 100 percent.”.

24 (c) SURFACE TRANSPORTATION WORKFORCE DE-  
25 VELOPMENT, TRAINING, AND EDUCATION.—Section 504

1 of title 23, United States Code, is amended by adding at  
2 the end the following:

3 “(d) SURFACE TRANSPORTATION WORKFORCE DE-  
4 VELOPMENT, TRAINING, AND EDUCATION.—

5 “(1) FUNDING.—Subject to project approval by  
6 the Secretary, a State may obligate funds appor-  
7 tioned to it under sections 104(b)(1), (3), and (4)  
8 and 144(e) of this title for surface transportation  
9 workforce development, training and education, in-  
10 cluding:

11 “(A) tuition and direct educational ex-  
12 penses, excluding salaries, in connection with  
13 the education and training of employees of  
14 State and local transportation agencies;

15 “(B) employee professional development;

16 “(C) student internships;

17 “(D) university or community college sup-  
18 port; or

19 “(E) education outreach activities to de-  
20 velop interest and promote participation in sur-  
21 face transportation careers.

22 “(2) FEDERAL SHARE.—The Federal share of  
23 the cost of activities carried out in accordance with  
24 this subsection shall be 100 percent.”.



1 (d) DEFINITIONS AND DECLARATION OF POLICY.—  
2 Section 101(a) of title 23, United States Code, as amend-  
3 ed by this Act, is further amended—

4 (1) in paragraph (3), by—

5 (A) striking “and” after subparagraph  
6 (H);

7 (B) striking the period after subparagraph  
8 (I) and inserting “; and”; and

9 (C) adding after subparagraph (I) the fol-  
10 lowing:

11 “(J) surface transportation workforce de-  
12 velopment, training, and education.”;

13 (2) by redesignating paragraphs (36) through  
14 (39), as redesignated by this Act, as paragraphs  
15 (37) through (40) respectively; and

16 (3) by adding after paragraph (35), as redesign-  
17 ated by this Act, the following:

18 “(36) SURFACE TRANSPORTATION WORKFORCE  
19 DEVELOPMENT, TRAINING, AND EDUCATION.—The  
20 term ‘surface transportation workforce development,  
21 training, and education’ means activities associated  
22 with surface transportation career awareness, stu-  
23 dent transportation career preparation, and training  
24 and professional development for surface transpor-  
25 tation workers.”.

1 **SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES**

2 **PROGRAM.**

3 (a) CONTINUATION AND ACCELERATION OF  
4 TRANSIMS DEPLOYMENT.—The Secretary shall accel-  
5 erate the deployment of the advanced transportation  
6 model known as the Transportation Analysis Simulation  
7 System (“TRANSIMS”), developed by the Los Alamos  
8 National Laboratory. The program shall assist State de-  
9 partments of transportation and metropolitan planning or-  
10 ganizations in the implementation of TRANSIMS, develop  
11 methods for TRANSIMS applications to transportation  
12 planning and air quality analysis, and provide training and  
13 technical assistance for the implementation of  
14 TRANSIMS. The program may support the development  
15 of methods to plan for the transportation response to  
16 chemical and biological terrorism and other security con-  
17 cerns.

18 (b) ELIGIBLE ACTIVITIES.—The Secretary shall use  
19 funds made available under section 5101(a)(1) of this Act  
20 to—

21 (1) provide funding to State departments of  
22 transportation and metropolitan planning organiza-  
23 tions serving transportation management areas des-  
24 igned under the metropolitan planning section of  
25 chapter 52 of title 49, United States Code, rep-

1       resenting a diversity of populations, geographic re-  
2       gions and analytic needs to implement TRANSIMS;

3           (2) develop methods to demonstrate a wide  
4       spectrum of TRANSIMS applications to support  
5       metropolitan and statewide transportation planning,  
6       including integrating highway and transit oper-  
7       ational considerations into the transportation plan-  
8       ning process; and

9           (3) provide training and technical assistance  
10      with respect to the implementation and application  
11      of TRANSIMS to States, local governments and  
12      Metropolitan Planning Organizations with responsi-  
13      bility for travel modeling.

14      (c) ALLOCATION OF FUNDS.—Not more than 75 per-  
15      cent of the funds made available to carry out this section  
16      may be allocated to activities described in subsection  
17      (b)(1).

18      **Subtitle C—Multimodal Research**  
19      **Programs; Scholarship Opportu-**  
20      **nities**

21      **SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.**

22      Section 5505 of title 49, United States Code, is re-  
23      vised to read as follows:

1 **“§ 5505. University transportation research**

2       “(a) UNIVERSITY INDUSTRY GOVERNMENT PART-  
3 NERSHIPS.—The Secretary of Transportation shall make  
4 grants to nonprofit institutions of higher learning to ad-  
5 dress transportation management and research and devel-  
6 opment matters, with special attention to increasing the  
7 number of highly skilled individuals entering the field of  
8 transportation.

9       “(b) OBJECTIVES.—

10           “(1) Each university receiving a grant under  
11 this section shall conduct the following programs  
12 and activities:

13                   “(A) Basic and applied research that sup-  
14 ports the Department’s transportation research  
15 agenda, the products of which are judged by  
16 peers or other experts in the field to advance  
17 the body of knowledge in transportation.

18                   “(B) An education program that includes  
19 multidisciplinary course work, faculty and stu-  
20 dent participation in research, and an oppor-  
21 tunity for practical experience.

22                   “(C) An ongoing program of technology  
23 transfer that makes the results of research and  
24 education activities broadly available to poten-  
25 tial users in a form that can be implemented,  
26 utilized, or otherwise applied.

1           “(2) Each university shall elect as its primary  
2 objective either subsection (b)(1)(A) or (b)(1)(B) of  
3 this section and shall direct at least 50 percent of  
4 total costs to the accomplishment thereof.

5           “(c) SELECTION OF GRANT RECIPIENTS.—

6           “(1) In order to be eligible to receive a grant  
7 under this section, a nonprofit institution of higher  
8 learning shall submit to the Secretary an application  
9 that is in such form and contains such information  
10 as the Secretary may require.

11           “(2) The Secretary shall select each recipient of  
12 a grant under this section through a competitive  
13 process in which applications are evaluated on the  
14 basis of the following:

15           “(A) The demonstrated research and ex-  
16 tension resources available to the applicant to  
17 carry out this section.

18           “(B) The capability of the applicant to  
19 provide leadership in making national and re-  
20 gional contributions to the solution of imme-  
21 diate and long-range transportation problems.

22           “(C) The applicant’s demonstrated com-  
23 mitment of at least \$200,000 in regularly-budg-  
24 eted institutional amounts each year to support

1 ongoing transportation research and education  
2 programs.

3 “(D) The amount of matching funds for  
4 which the applicant has obtained binding com-  
5 mitments.

6 “(E) Evidence of the applicant’s research  
7 and education partnerships with at least one  
8 private sector partner and at least one non-Fed-  
9 eral Government partner.

10 “(F) The applicant’s demonstrated ability  
11 to disseminate results of transportation re-  
12 search and education programs through na-  
13 tional and statewide or regionwide continuing  
14 education and capacity-building programs.

15 “(G) The strategic plan the applicant pro-  
16 poses to achieve the objectives of the grant  
17 and—

18 “(i) if the applicant’s primary objec-  
19 tive is subsection (b)(1)(A) of this section,  
20 the strategic plan shall include a research  
21 plan that addresses more than one mode of  
22 transportation; or

23 “(ii) if the applicant’s primary objec-  
24 tive is subsection (b)(1)(B) of this section,  
25 the strategic plan shall include an edu-

1 cation plan that addresses multimodal  
2 issues.

3 “(d) MAINTENANCE OF EFFORT.—In order to be eli-  
4 gible to receive a grant under this section, a recipient shall  
5 enter into an agreement with the Secretary to ensure that  
6 the recipient will maintain total expenditures from all  
7 other sources to carry out the objectives of a grant at a  
8 level at least equal to the average level of such expendi-  
9 tures in its 2 fiscal years prior to award of a grant under  
10 this section.

11 “(e) FEDERAL SHARE.—The Federal share of the  
12 costs of activities carried out using a grant made under  
13 this section shall not exceed 50 percent of costs. The non-  
14 Federal share may include funds provided to a recipient  
15 under section 503, or 104(i) of title 23, United States  
16 Code.

17 “(f) PROGRAM ADMINISTRATION.—

18 “(1) The Secretary shall conduct all grant man-  
19 agement and administration functions necessary to  
20 facilitate the research, education, training, and tech-  
21 nology transfer activities that grant recipients carry  
22 out under this section; to coordinate these activities  
23 among the grant recipients; to ensure that the re-  
24 sults of the research, education, training and tech-

1 nology transfer activities are widely disseminated;  
2 and to ensure the effective use of program resources.

3 “(2) At least annually and consistent with the  
4 plan developed under section 508 of title 23, United  
5 States Code, the Secretary shall review and evaluate  
6 programs the grant recipients carry out.

7 “(3) The Secretary may not use more than 1  
8 percent of amounts made available from Government  
9 sources to carry out this subsection.

10 “(g) USE OF TRANSPORTATION RESEARCH INFOR-  
11 MATION SERVICES (TRIS) DATABASES.—

12 (1) Recipients of awards under this section  
13 shall make use of the National Research Council  
14 (NRC), Transportation Research Board (TRB),  
15 Transportation Research Information Services  
16 (TRIS) online databases for the following purposes:

17 “(A) Program development and strategic  
18 planning.

19 “(B) Reporting of active R&T activities  
20 undertaken with funding provided here.

21 “(C) Input and dissemination of results  
22 and reports from completed research.

23 “(2) Recipients shall recommend a representa-  
24 tive to serve as liaison to the Transportation Re-  
25 search Board.



1       “(h) LIMITATION ON AVAILABILITY OF FUNDS.—  
2 Funds made available to carry out this program shall re-  
3 main available for obligation for a period of 2 years after  
4 the last day of the fiscal year for which such funds are  
5 authorized.”.

6 **SEC. 5302. MULTIMODAL RESEARCH PROGRAM.**

7       (a) IN GENERAL.—Section 5506 of title 49, United  
8 States Code, is revised to read as follows:

9 **“§ 5506. Multimodal research program**

10       “(a) PURPOSE.—The Secretary shall establish a pro-  
11 gram to encourage and promote the research, develop-  
12 ment, demonstration and testing of technologies that have  
13 multimodal transportation applications, and shall foster  
14 adoption of those technologies in transportation through  
15 demonstration and testing to remove impediments to an  
16 efficient, safe, and cost-effective national transportation  
17 system.

18       “(b) OTHER RESEARCH ACTIVITIES.—To ensure the  
19 activities performed pursuant to this section achieve the  
20 maximum benefit, the Secretary, the Secretary of Energy,  
21 the Administrator of the Environmental Protection Agen-  
22 cy, and other relevant Federal agencies shall coordinate  
23 their research, development and demonstration activities  
24 related to heavy-duty vehicle technologies and hydrogen  
25 transportation and refueling infrastructure. Nothing in

1 this section may be construed to authorize the Secretary  
2 to conduct research, development, demonstration or test-  
3 ing activities that the Secretary of Energy or the Adminis-  
4 trator of the Environmental Protection Agency is author-  
5 ized to conduct, or to modify the authorities of the Sec-  
6 retary of Energy or the Administrator of the Environ-  
7 mental Protection Agency.

8       “(c) ADVANCED HEAVY-DUTY VEHICLE TECH-  
9 NOLOGIES.—

10           “(1) The Secretary of Transportation shall con-  
11 duct research, development, demonstration and test-  
12 ing to integrate emerging multimodal heavy-duty ve-  
13 hicle technologies in order to provide seamless, safe,  
14 secure and efficient transportation.

15           “(2) There is authorized to be appropriated  
16 from the Highway Trust Fund (other than the Mass  
17 Transit Account) to carry out this paragraph  
18 \$24,000,000 for fiscal year 2005, \$25,000,000 for  
19 fiscal year 2006, \$23,000,000 for fiscal year 2007,  
20 \$18,000,000 for fiscal year 2008, and \$10,000,000  
21 for fiscal year 2009.

22           “(3) The funding made available under para-  
23 graph (2) of this subsection shall be available for ob-  
24 ligation in the same manner as if such funds were  
25 apportioned under chapter 1 of title 23 and shall be

1 subject to any obligation limitation imposed on  
2 funds for Federal-aid highways and highway safety  
3 construction programs.

4 “(d) HYDROGEN INFRASTRUCTURE SAFETY RE-  
5 SEARCH AND DEVELOPMENT.—

6 “(1) The Secretary of Transportation is author-  
7 ized to conduct research, development, demonstra-  
8 tion and testing on the safety aspects of hydrogen  
9 transportation and refueling infrastructure necessary  
10 to support the use of next generation vehicle tech-  
11 nologies.

12 “(2) To carry out this subsection, there is au-  
13 thorized to be appropriated \$1,000,000 for fiscal  
14 years 2004, \$15,000,000 for fiscal year 2005,  
15 \$13,000,000 for fiscal year 2006, \$11,000,000 for  
16 fiscal year 2007, \$9,000,000 for fiscal year 2008,  
17 and \$6,000,000 for fiscal year 2009.

18 “(e) GRANTS, COOPERATIVE AGREEMENTS, AND  
19 OTHER TRANSACTIONS.— The Secretary may enter into  
20 grants, cooperative agreements, and other transactions  
21 with Federal and other public agencies (including State  
22 and local governments) and private organizations and  
23 other persons to carry out this section.

1 “(f) COST SHARING.—At least 50 percent of the  
2 funding for projects authorized in this section must be  
3 provided by non-Federal sources.”.

4 (b) CONFORMING AMENDMENT.—The analysis of  
5 chapter 55 of title 49, United States Code, is amended  
6 by substituting the following for the item designated 5506:

“Sec. 5506. Multimodal research program.”.

7 **SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.**

8 Section 5113 of the Transportation Equity Act of the  
9 21st Century (23 U.S.C. 502 note) is amended by revising  
10 subsection (b) to read as follows:

11 “(b) PROGRAM.—

12 “(1) NATIONAL POLICY.—The Secretary shall  
13 establish and maintain a national policy for the use  
14 of commercial remote sensing products and spatial  
15 information technologies in national transportation  
16 infrastructure development and construction.

17 “(2) POLICY IMPLEMENTATION.—The Sec-  
18 retary shall develop new applications of commercial  
19 remote sensing products and spatial information  
20 technologies for the implementation of the national  
21 policy established and maintained under (b)(1) of  
22 this section.”.

1 **SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNI-**  
2 **TIES PROGRAM.**

3 (a) IN GENERAL.—(1) The Secretary may establish  
4 and implement a scholarship program for the purpose of  
5 attracting qualified students for transportation-related  
6 critical jobs.

7 (2) The Secretary may accomplish this objective by  
8 developing a program in partnership with appropriate non-  
9 governmental institutions.

10 (b) PARTICIPATION AND FUNDING.—An operating  
11 administration of the Department of Transportation and  
12 the Office of Inspector General of the Department of  
13 Transportation (DOT) may participate in the scholarship  
14 program. Notwithstanding any other law, the Secretary  
15 may use funds available to an operating administration  
16 or from the Office of Inspector General for the purpose  
17 of carrying out this provision.

18 **Subtitle D—Transportation Data**  
19 **and Analysis**

20 **SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.**

21 Section 111 of title 49, United States Code, is  
22 amended by deleting subsections (b) through (k) and in-  
23 serting the following new subsections, as follows:

24 “(b) DIRECTOR.—

1           “(1) The Bureau shall be headed by a Director,  
2           who shall be appointed by the President, by and  
3           with the advice and consent of the Senate.

4           “(2) The Director shall be appointed from  
5           among individuals who are qualified to serve by vir-  
6           tue of their training and experience in the collection,  
7           analysis and use of transportation data.

8           “(3) The Director shall report directly to the  
9           Secretary of Transportation.

10           “(4) The term of the Director shall be 4 years.  
11           The Director may continue to serve after the expira-  
12           tion of the term until a successor is appointed and  
13           confirmed.

14           “(c) RESPONSIBILITIES.—The Director of the Bu-  
15           reau shall serve as the Secretary’s senior advisor on data  
16           and statistics and be responsible for carrying out the fol-  
17           lowing duties:

18           “(1) Collecting, analyzing and disseminating  
19           data concerning the domestic and international  
20           movement of freight.

21           “(2) Collecting, analyzing and disseminating  
22           data concerning travel patterns for local and long-  
23           distance travel, at the local, State, national and  
24           international levels.

1           “(3) Developing, analyzing and disseminating  
2 information on the economics of transportation.

3           “(4) Building and disseminating the transpor-  
4 tation layer of the National Spatial Data Infrastruc-  
5 ture, including coordinating the development of  
6 transportation geospatial data standards, compiling  
7 intermodal geospatial data, and collecting geospatial  
8 data that is not being collected by others.

9           “(5) Developing, publishing and disseminating  
10 a comprehensive set of measures of investment, use,  
11 costs, performance and impacts of the national  
12 transportation system, including publishing an an-  
13 nual transportation statistics abstract; and identi-  
14 fying information needs and reviewing such needs at  
15 least annually with the Advisory Council on Trans-  
16 portation Statistics.

17           “(6) Conducting or supporting research relating  
18 to methods of gathering or analyzing transportation  
19 statistics and issuing guidelines for the collection of  
20 information by the Department in order to ensure  
21 that such information is accurate, relevant, com-  
22 parable, accessible and in a form that permits sys-  
23 tematic analysis.

24           “(d) COORDINATING COLLECTION OF INFORMA-  
25 TION.—The Director shall work with the operating admin-

1 istrations of the Department to establish and implement  
2 the Bureau's data programs and to improve the coordina-  
3 tion of information collection efforts with other Federal  
4 agencies.

5       “(e) SUPPORTING TRANSPORTATION DECISION-  
6 MAKING.—The Director shall ensure that the statistics  
7 compiled under this section are relevant for transportation  
8 policy, planning, and decision making by the Federal Gov-  
9 ernment, State and local governments, transportation-re-  
10 lated associations, private businesses, and the public. The  
11 Director shall provide, to the Department's other oper-  
12 ating administrations, technical assistance on collecting,  
13 compiling, analyzing and verifying transportation data  
14 and statistics and the design of surveys.

15       “(f) RESEARCH AND DEVELOPMENT GRANTS.—

16           (1) The Secretary may make grants to, or enter  
17 into cooperative agreements or contracts with, public  
18 and nonprofit private entities (including State trans-  
19 portation departments, metropolitan planning orga-  
20 nizations, and institutions of higher education) if the  
21 grants—

22           “(A) provide for an alternative means of  
23 accomplishing program-related research;

24           “(B) contribute to research and develop-  
25 ment of new methods of data collection; or



1                   “(C) improve the methods for sharing geo-  
2                   graphic data.

3                   “(2) Not more than \$500,000 of the amounts  
4                   made available to carry out this section in a fiscal  
5                   year may be used for Research and Development  
6                   Grants.

7                   “(g) TRANSPORTATION STATISTICS ANNUAL RE-  
8                   PORT.—By March 31 of each year, the Director shall  
9                   transmit to the President and Congress a report that in-  
10                  cludes information on the subjects covered by subsection  
11                  (c) of this section, documentation of the methods used to  
12                  obtain the information and ensure the quality of the statis-  
13                  tics presented in the report, and recommendations for im-  
14                  proving transportation statistical information.

15                  “(h) PROCEEDS OF DATA PRODUCT SALES.—Not-  
16                  withstanding section 3302 of title 31, United States Code,  
17                  funds received by the Bureau from the sale of data prod-  
18                  ucts, for necessary expenses incurred, may be credited to  
19                  the Highway Trust Fund (other than the Mass Transit  
20                  Account) for the purpose of reimbursing the Bureau for  
21                  the expenses.

22                  “(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—  
23                  Nothing in this section shall be construed to—

24                         “(1) authorize the Bureau to require any other  
25                         department or agency to collect data; or

1           “(2) reduce the authority of any other officer of  
2           the Department of Transportation to collect and dis-  
3           seminate data independently.

4           “(j) MANDATORY RESPONSE AUTHORITY FOR  
5 FREIGHT DATA COLLECTION.—Whoever, being the  
6 owner, official, agent, person in charge, or assistant to the  
7 person in charge, of any corporation, company, business,  
8 institution, establishment, or organization of any nature  
9 whatsoever, neglects or refuses, when requested by the Di-  
10 rector or other authorized officer, employee or contractor  
11 of the Bureau, to answer completely and correctly to the  
12 best of his/her knowledge all questions relating to the cor-  
13 poration, company, business, institution, establishment, or  
14 other organization, or to records or statistics in his/her  
15 official custody, contained in a data collection request pre-  
16 pared and submitted under the authority of subsection  
17 (c)(1), shall be fined not more than \$500; and if the indi-  
18 vidual willfully gives a false answer to a question, shall  
19 be fined not more than \$10,000.

20           “(k) PROHIBITION ON CERTAIN DISCLOSURES.—

21           “(1) An officer, employee or contractor of the  
22 Bureau may not—

23                   “(A) make any disclosure in which the  
24 data provided by an individual or organization  
25 under subsection (c) can be identified;

1           “(B) use the information provided under  
2 subsection (c) for a nonstatistical purpose; or

3           “(C) permit anyone other than an indi-  
4 vidual authorized by the Director to examine  
5 any individual report provided under subsection  
6 (c).

7           “(2)(A) No department, bureau, agency, officer,  
8 or employee of the United States (except the Direc-  
9 tor in carrying out this section) may require, for any  
10 reason, a copy of any report that has been filed  
11 under subsection (c) with the Bureau or retained by  
12 an individual respondent.

13           “(B) A copy of a report described in subpara-  
14 graph (A) that has been retained by an individual  
15 respondent or filed with the Bureau or any of its  
16 employees, contractors, or agents—

17           “(i) shall be immune from legal process;  
18 and

19           “(ii) shall not, without the consent of the  
20 individual concerned, be admitted as evidence or  
21 used for any purpose in any action, suit, or  
22 other judicial or administrative proceeding.

23           “(C) This subsection shall apply only to reports  
24 that permit information concerning an individual or

1 organization to be reasonably inferred by direct or  
2 indirect means.

3 “(3) In a case in which the Bureau is author-  
4 ized by statute to collect data or information for a  
5 nonstatistical purpose, the Director shall clearly dis-  
6 tinguish the collection of the data or information, by  
7 rule and on the collection instrument, so as to in-  
8 form a respondent that is requested or required to  
9 supply the data or information of the nonstatistical  
10 purpose.

11 “(l) DATA ACCESS.—The Director shall have access  
12 to transportation and transportation-related information  
13 in the possession of any Federal agency except informa-  
14 tion—

15 “(1) the disclosure of which to another Federal  
16 agency is expressly prohibited by law; or

17 “(2) the disclosure of which the agency so re-  
18 quested determines would significantly impair the  
19 discharge of authorities and responsibilities which  
20 have been delegated to, or vested by law, in such  
21 agency.

22 “(m) ADVISORY COUNCIL ON TRANSPORTATION STA-  
23 TISTICS.—

1           “(1) The Bureau of Transportation Statistics  
2 has an Advisory Council on Transportation Statis-  
3 tics.

4           “(2) It shall be the function of the advisory  
5 council established under this subsection to advise  
6 the Director of the Bureau of Transportation Statis-  
7 tics on transportation statistics and analyses, includ-  
8 ing whether or not the statistics and analysis dis-  
9 seminated by the Bureau of Transportation Statis-  
10 tics are of high quality and are based upon the best  
11 available objective information.

12           “(3) The advisory council established under this  
13 subsection shall be composed of not more than 6  
14 members appointed by the Director who are not offi-  
15 cers or employees of the United States and who have  
16 expertise in transportation data collection or analysis  
17 or application (except for 1 member who shall have  
18 expertise in economics and 1 member who shall have  
19 expertise in statistics).

20           “(4) The Federal Advisory Committee Act (5  
21 App. U.S.C.) shall apply to the advisory council es-  
22 tablished under this section, except that section 14  
23 of the Federal Advisory Committee Act shall not  
24 apply to the Advisory Committee established under  
25 this section.”.

1                   **Subtitle E—Intelligent**  
2   **Transportation Systems Research**

3 **SEC. 5501. SHORT TITLE.**

4           This subtitle may be cited as the “Intelligent Trans-  
5 portation Systems Act of 2003”.

6 **SEC. 5502. GOALS AND PURPOSES.**

7           (a) GOALS.—The goals of the intelligent transpor-  
8 tation system program include—

9                   (1) Enhancement of surface transportation effi-  
10           ciency and facilitation of intermodalism and inter-  
11           national trade to enable existing facilities to meet a  
12           significant portion of future transportation needs,  
13           including public access to employment, goods, and  
14           services, and to reduce regulatory, financial, and  
15           other transaction costs to public agencies and sys-  
16           tem users;

17                   (2) Achievement of national transportation  
18           safety goals, including the enhancement of safe oper-  
19           ation of motor vehicles and nonmotorized vehicles as  
20           well as improved emergency response to a crash,  
21           with particular emphasis on decreasing the number  
22           and severity of collisions;

23                   (3) Protection and enhancement of the natural  
24           environment and communities affected by surface  
25           transportation, with particular emphasis on assisting

1 State and local governments to achieve national en-  
2 vironmental goals;

3 (4) Accommodation of the needs of all users of  
4 surface transportation systems, including operators  
5 of commercial vehicles, passenger vehicles, and mo-  
6 torcycles, including individuals with disabilities; and

7 (5) Improvement of the Nation's ability to re-  
8 spond to security related or other man made emer-  
9 gencies and natural disasters and enhancement of  
10 national defense mobility.

11 (b) PURPOSES.—The Secretary shall implement ac-  
12 tivities under the intelligent system transportation pro-  
13 gram to, at a minimum—

14 (1) expedite, in both metropolitan and rural  
15 areas, deployment and integration of intelligent  
16 transportation systems for consumers of passenger  
17 and freight transportation;

18 (2) ensure that Federal, State, and local trans-  
19 portation officials have adequate knowledge of intel-  
20 ligent transportation systems for full consideration  
21 in the transportation planning process;

22 (3) improve regional cooperation and operations  
23 planning for effective intelligent transportation sys-  
24 tem deployment;

1           (4) promote the innovative use of private re-  
2 sources;

3           (5) facilitate, in cooperation with the motor ve-  
4 hicle industry, the introduction of a vehicle-based  
5 safety enhancing system;

6           (6) support the application of intelligent trans-  
7 portation systems that increase the safety and effi-  
8 ciency of commercial vehicle operations; and

9           (7) develop a workforce capable of developing,  
10 operating, and maintaining intelligent transportation  
11 systems.

12 **SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.**

13       (a) SCOPE.—Subject to the provisions of this subtitle,  
14 the Secretary shall conduct an ongoing intelligent trans-  
15 portation system program to research, develop, and oper-  
16 ationally test intelligent transportation systems and ad-  
17 vance nationwide deployment of such systems as a compo-  
18 nent of the surface transportation systems of the United  
19 States.

20       (b) POLICY.—Intelligent transportation system re-  
21 search projects and operational tests funded pursuant to  
22 this subtitle shall encourage and not displace public-pri-  
23 vate partnerships or private sector investment in such  
24 tests and projects.



1           (c) COOPERATION WITH GOVERNMENTAL, PRIVATE,  
2 AND EDUCATIONAL ENTITIES.—The Secretary shall carry  
3 out the intelligent transportation system program in co-  
4 operation with State and local governments and other pub-  
5 lic entities, the United States private sector, the Federal  
6 laboratories, and colleges and universities, including his-  
7 torically black colleges and universities and other minority  
8 institutions of higher education.

9           (d) CONSULTATION WITH FEDERAL OFFICIALS.—In  
10 carrying out the intelligent transportation system pro-  
11 gram, the Secretary, as appropriate, shall consult with the  
12 Secretary of Commerce, the Secretary of the Treasury, the  
13 Administrator of the Environmental Protection Agency,  
14 the Secretary of Homeland Security, the Director of the  
15 National Science Foundation, and the heads of other Fed-  
16 eral departments and agencies.

17           (e) TECHNICAL ASSISTANCE, TRAINING, AND INFOR-  
18 MATION.—The Secretary may provide technical assistance,  
19 training, and information to State and local governments  
20 seeking to implement, operate, maintain, or evaluate intel-  
21 ligent transportation system technologies and services.

22           (f) TRANSPORTATION PLANNING.—The Secretary  
23 may provide funding to support adequate consideration of  
24 transportation systems management and operations, in-

1 cluding intelligent transportation systems, within metro-  
2 politan and statewide transportation planning processes.

3 (g) INFORMATION CLEARINGHOUSE.—

4 (1) IN GENERAL.—The Secretary shall—

5 (A) maintain a repository for technical and  
6 safety data collected as a result of federally  
7 sponsored projects carried out under this sub-  
8 title; and

9 (B) on request, make that information (ex-  
10 cept for proprietary information and data)  
11 readily available to all users of the repository at  
12 an appropriate cost.

13 (2) AGREEMENT.—

14 (A) IN GENERAL.—The Secretary may  
15 enter into an agreement with a third party for  
16 the maintenance of the repository for technical  
17 and safety data under paragraph (1)(A) of this  
18 subsection.

19 (B) FEDERAL FINANCIAL ASSISTANCE.—If  
20 the Secretary delegates the responsibility, the  
21 entity to which the responsibility is delegated  
22 shall be eligible for Federal financial assistance  
23 under this section.

24 (h) ADVISORY COMMITTEES.—

1           (1) IN GENERAL.—In carrying out this subtitle,  
2 the Secretary may use one or more advisory commit-  
3 tees.

4           (2) APPLICABILITY OF FEDERAL ADVISORY  
5 COMMITTEE ACT.—Any advisory committee so used  
6 shall be subject to the Federal Advisory Committee  
7 Act (5 U.S.C. App.).

8           (i) EVALUATIONS.—

9           (1) GUIDELINES AND REQUIREMENTS.—

10           (A) IN GENERAL.—The Secretary shall  
11 issue guidelines and requirements for the eval-  
12 uation of operational tests and deployment  
13 projects carried out under this subtitle.

14           (B) OBJECTIVITY AND INDEPENDENCE.—

15 The guidelines and requirements issued under  
16 subparagraph (A) shall include provisions to en-  
17 sure the objectivity and independence of the  
18 evaluator so as to avoid any real or apparent  
19 conflict of interest or potential influence on the  
20 outcome by parties to any such test or deploy-  
21 ment project or by any other formal evaluation  
22 carried out under this subtitle.

23           (C) FUNDING.—The guidelines and re-  
24 quirements issued under subparagraph (A) shall  
25 establish evaluation funding levels based on the

1 size and scope of each test or project that en-  
2 sure adequate evaluation of the results of the  
3 test or project.

4 (2) SPECIAL RULE.—Any survey, questionnaire,  
5 or interview that the Secretary considers necessary  
6 to carry out the evaluation of any test, deployment  
7 project, or program assessment activity under this  
8 subtitle shall not be subject to chapter 35 of title 44.

9 (j) USE OF RIGHTS-OF-WAY.—Intelligent transpor-  
10 tation system projects specified in sections 5117(b)(3) and  
11 5117(b)(6) of the Transportation Equity Act for the 21st  
12 Century and involving privately owned intelligent trans-  
13 portation system components that are carried out using  
14 funds made available from the Highway Trust Fund shall  
15 not be subject to any law or regulation of a State or polit-  
16 ical subdivision of a State prohibiting or regulating com-  
17 mercial activities in the rights-of-way of a highway for  
18 which Federal-aid highway funds have been utilized for  
19 planning, design, construction, or maintenance, if the Sec-  
20 retary of Transportation determines that such use is in  
21 the public interest. Nothing in this subsection shall affect  
22 the authority of a State or political subdivision of a State  
23 to regulate highway safety.

24 **SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.**

25 (a) IN GENERAL.—

1           (1) DEVELOPMENT, IMPLEMENTATION, AND  
2 MAINTENANCE.—Consistent with section 12(d) of  
3 the National Technology Transfer and Advancement  
4 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),  
5 the Secretary shall develop, implement, and maintain  
6 a national architecture and supporting standards  
7 and protocols to promote the widespread use and  
8 evaluation of intelligent transportation system tech-  
9 nology as a component of the surface transportation  
10 systems of the United States.

11           (2) INTEROPERABILITY AND EFFICIENCY.—To  
12 the maximum extent practicable, the national archi-  
13 tecture shall promote interoperability among, and ef-  
14 ficiency of, intelligent transportation system tech-  
15 nologies implemented throughout the United States.

16           (3) USE OF STANDARDS DEVELOPMENT ORGA-  
17 NIZATIONS.—In carrying out this section, the Sec-  
18 retary may use the services of such standards devel-  
19 opment organizations as the Secretary determines to  
20 be appropriate.

21           (b) PROVISIONAL STANDARDS.—

22           (1) IN GENERAL.—If the Secretary finds that  
23 the development or balloting of an intelligent trans-  
24 portation system standard jeopardizes the timely  
25 achievement of the objectives identified in subsection

1 (a), the Secretary may establish a provisional stand-  
2 ard after consultation with affected parties, and  
3 using, to the extent practicable, the work product of  
4 appropriate standards development organizations.

5 (2) PERIOD OF EFFECTIVENESS.—A provisional  
6 standard established under paragraph (1) or (2)  
7 shall be published in the Federal Register and re-  
8 main in effect until the appropriate standards devel-  
9 opment organization adopts and publishes a stand-  
10 ard.

11 (c) CONFORMITY WITH NATIONAL ARCHITEC-  
12 TURE.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graphs (2) and (3), the Secretary shall ensure that  
15 intelligent transportation system projects carried out  
16 using funds made available from the Highway Trust  
17 Fund, including funds made available under this  
18 subtitle to deploy intelligent transportation system  
19 technologies, conform to the national architecture,  
20 applicable standards or provisional standards, and  
21 protocols developed under subsection (a).

22 (2) SECRETARY'S DISCRETION.—The Secretary  
23 may authorize exceptions to paragraph (1) for—

24 (A) projects designed to achieve specific re-  
25 search objectives outlined in the National ITS

1 Program Plan or the Surface Transportation  
2 Research and Development Strategic Plan de-  
3 veloped under section 508 of title 23, United  
4 States Code; or

5 (B) the upgrade or expansion of an intel-  
6 ligent transportation system in existence on the  
7 date of enactment of this subtitle, if the Sec-  
8 retary determines that the upgrade or expan-  
9 sion—

10 (i) would not adversely affect the  
11 goals or purposes of this subtitle;

12 (ii) is carried out before the end of  
13 the useful life of such system; and

14 (iii) is cost-effective as compared to  
15 alternatives that would meet the con-  
16 formity requirement of paragraph (1).

17 (3) EXCEPTIONS.—Paragraph (1) shall not  
18 apply to funds used for operation or maintenance of  
19 an intelligent transportation system in existence on  
20 the date of enactment of this subtitle.

21 **SEC. 5505. RESEARCH AND DEVELOPMENT.**

22 (a) IN GENERAL.—The Secretary shall carry out a  
23 comprehensive program of intelligent transportation sys-  
24 tem research, development, and operational tests of intel-  
25 ligent vehicles and intelligent infrastructure systems, and

1 other similar activities that are necessary to carry out this  
2 subtitle.

3 (b) PRIORITY AREAS.—Under the program, the Sec-  
4 retary shall give higher priority to funding projects that—

5 (1) enhance mobility and productivity through  
6 improved traffic management, incident management,  
7 transit management, freight management, road  
8 weather management, toll collection, traveler infor-  
9 mation, or highway operations systems;

10 (2) enhance safety through improved crash-  
11 avoidance and protection, crash and other notifica-  
12 tion, commercial vehicle operations, and infrastruc-  
13 ture-based or cooperative safety systems;

14 (3) enhance security through improved response  
15 to security related emergencies, and improved trans-  
16 portation security systems; and

17 (4) facilitate the integration of intelligent infra-  
18 structure, vehicle, and control technologies.

19 (c) FEDERAL SHARE.—The Federal share of the cost  
20 of operational tests and demonstrations under subsection  
21 (a) shall not exceed 80 percent.

22 **SEC. 5506. USE OF FUNDS.**

23 (a) OUTREACH AND PUBLIC RELATIONS LIMITA-  
24 TION.—



1           (1) IN GENERAL.—For each fiscal year, not  
2 more than \$5,000,000 of the funds made available  
3 to carry out this subtitle shall be used for intelligent  
4 transportation system outreach, public relations, dis-  
5 plays, scholarships, tours, and brochures.

6           (2) APPLICABILITY.—Paragraph (1) shall not  
7 apply to intelligent transportation system training or  
8 the publication or distribution of research findings,  
9 technical guidance, or similar documents.

10          (b) INFRASTRUCTURE DEVELOPMENT.—Funds made  
11 available to carry out this subtitle for operational tests—

12           (1) shall be used primarily for the development  
13 of intelligent transportation system infrastructure;  
14 and

15           (2) to the maximum extent practicable, shall  
16 not be used for the construction of physical highway  
17 and transit infrastructure unless the construction is  
18 incidental and critically necessary to the implemen-  
19 tation of an intelligent transportation system  
20 project.

21 **SEC. 5507. DEFINITIONS.**

22 In this subtitle, the following definitions apply:

23           (1) INCIDENT.— In this section, the term “inci-  
24 dent” means a crash, a natural disaster, work zone  
25 activity, special event, or other emergency road user

1 occurrence that adversely affects or impedes the nor-  
2 mal flow of traffic.

3 (2) INTELLIGENT TRANSPORTATION INFRA-  
4 STRUCTURE.—The term "intelligent transportation  
5 infrastructure" means fully integrated public sector  
6 intelligent transportation system components, as de-  
7 fined by the Secretary.

8 (3) INTELLIGENT TRANSPORTATION SYSTEM.—  
9 The term "intelligent transportation system" means  
10 electronics, communications, or information proc-  
11 essing used singly or in combination to improve the  
12 efficiency or safety of a surface transportation sys-  
13 tem.

14 (4) NATIONAL ARCHITECTURE.—The term "na-  
15 tional architecture" means the common framework  
16 for interoperability that defines—

17 (A) the functions associated with intel-  
18 ligent transportation system user services;

19 (B) the physical entities or subsystems  
20 within which the functions reside;

21 (C) the data interfaces and information  
22 flows between physical subsystems; and

23 (D) the communications requirements as-  
24 sociated with the information flows.

1           (5) PROJECT.—The term “project” means a  
2           undertaking to research, develop, or operationally  
3           test intelligent transportation systems or any other  
4           undertaking eligible for assistance under this sub-  
5           title.

6           (6) STANDARD.—The term “standard” means a  
7           document that—

8                   (A) contains technical specifications or  
9                   other precise criteria for intelligent transpor-  
10                  tation systems that are to be used consistently  
11                  as rules, guidelines, or definitions of character-  
12                  istics so as to ensure that materials, products,  
13                  processes, and services are fit for their pur-  
14                  poses; and

15                  (B) may support the national architecture  
16                  and promote—

17                          (i) the widespread use and adoption of  
18                          intelligent transportation system tech-  
19                          nology as a component of the surface  
20                          transportation systems of the United  
21                          States; and

22                          (ii) interoperability among intelligent  
23                          transportation system technologies imple-  
24                          mented throughout the States.

1           (7) STATE.—The term “State” has the mean-  
 2           ing given the term under section 101 of title 23,  
 3           United States Code.

4           (8) TRANSPORTATION SYSTEMS MANAGEMENT  
 5           AND OPERATIONS.—The term “transportation sys-  
 6           tems management and operations” has the meaning  
 7           given the term under section 101(a) of title 23,  
 8           United States Code, as amended by section 1701 of  
 9           this Act.

10 **SEC. 5508. REPEAL.**

11           The Transportation Equity Act for the 21st Century  
 12           is amended by striking subtitle C of title V.

13 **TITLE VI—TRANSPORTATION**  
 14 **PLANNING; INTERMODAL FA-**  
 15 **CILITIES**

16 **SEC. 6001. TRANSPORTATION PLANNING.**

17           (a) IN GENERAL.—Subtitle III of title 49, United  
 18           States Code, is amended by adding the following after  
 19           chapter 51:

20 **“CHAPTER 52—TRANSPORTATION PLANNING**

“Sec.  
 “5201. Policy.  
 “5202. Definitions.  
 “5203. Metropolitan transportation planning.  
 “5204. Statewide transportation planning.

21 **“§ 5201. Policy**

22           “(a) It is in the national interest to—

1           “(1) encourage and promote the safe and effi-  
2           cient management, operation, and development of  
3           surface transportation systems that will serve the  
4           mobility needs of people and freight and foster eco-  
5           nomic growth and development within and between  
6           States and urbanized areas, while minimizing trans-  
7           portation-related fuel consumption and air and water  
8           pollution through metropolitan and statewide trans-  
9           portation planning processes identified in this chap-  
10          ter;

11           “(2) encourage the continued improvement and  
12           evolution of the metropolitan and statewide trans-  
13           portation planning processes by metropolitan plan-  
14           ning organizations, State Departments of Transpor-  
15           tation, and public transit operators through the use  
16           of performance-based approaches in the development  
17           of transportation plans and investments as guided  
18           by the planning factors identified in subsection  
19           5203(f) and 5204(d) of this chapter; and

20           “(3) encourage private enterprise participation  
21           in projects and transportation services.

22           “(b) The provisions of sections 5203–5204 of this  
23           chapter shall be jointly administered by the Federal High-  
24           way and Federal Transit Administrators.

1 **“§ 5202. Definitions**

2 “(a) Unless otherwise specified in subsection (b), the  
3 definitions in section 101(a) of title 23 and section 5302  
4 of this title are applicable to this chapter.

5 “(b) As used in this chapter—

6 “(1) CONSULTATION.—The term ‘consultation’  
7 means that one party confers with another identified  
8 party in accordance with an established process and,  
9 prior to taking action(s), considers that party’s  
10 views and periodically informs that party about ac-  
11 tion(s) taken.

12 “(2) METROPOLITAN PLANNING AREA.—The  
13 term ‘metropolitan planning area’ means the geo-  
14 graphic area determined by agreement between the  
15 metropolitan planning organization and the Gov-  
16 ernor as defined in section 5203(c) of this title.

17 “(3) METROPOLITAN PLANNING ORGANIZATION  
18 (MPO).—The term ‘metropolitan planning organiza-  
19 tion’ means the Policy Board of the organization  
20 created as a result of the designation process defined  
21 in section 5203(b) of this title.

22 “(4) NON-METROPOLITAN AREA.—The term  
23 ‘non-metropolitan area’ means the geographic area  
24 outside designated metropolitan planning areas.

25 “(5) NON-METROPOLITAN LOCAL OFFICIAL.—  
26 The term ‘non-metropolitan local official’ means

1 elected and appointed officials of general purpose  
2 local government, in non-metropolitan areas, with ju-  
3 risdiction/responsibility for transportation.

4 “(6) URBANIZED AREA.—The term ‘urbanized  
5 area’ means a geographic area with a population of  
6 50,000 or more, as designated by the Bureau of the  
7 Census.

8 “(7) STATE.—The term ‘State’ means a State  
9 of the United States, the District of Columbia, and  
10 Puerto Rico.

11 **“§ 5203. Metropolitan transportation planning**

12 “(a) GENERAL REQUIREMENTS.—

13 “(1) DEVELOPMENT OF PLANS.—To accomplish  
14 the objectives stated in section 5201, metropolitan  
15 planning organizations designated under subsection  
16 (b) of this section, in cooperation with the State and  
17 public transportation operators, shall develop trans-  
18 portation plans for metropolitan planning areas of  
19 the State.

20 “(2) CONTENTS.—The plans for each metro-  
21 politan area shall provide for the development and  
22 integrated management and operation of transpor-  
23 tation systems and facilities (including pedestrian  
24 walkways and bicycle transportation facilities) that  
25 will function as an intermodal transportation system

1 for the metropolitan planning area and as an inte-  
2 gral part of an intermodal transportation system for  
3 the State and the United States.

4 “(3) PROCESS OF DEVELOPMENT.—The process  
5 for developing the plans shall provide for consider-  
6 ation of all modes of transportation and shall be  
7 continuing, cooperative, and comprehensive to the  
8 degree appropriate, based on the complexity of the  
9 transportation problems to be addressed.

10 “(4) PLANNING AND PROJECT DEVELOP-  
11 MENT.—The metropolitan planning organization, the  
12 State Department of Transportation, and the appro-  
13 priate public transportation provider shall agree  
14 upon the approaches that will be used to evaluate al-  
15 ternatives and identify transportation improvements  
16 that address the most complex problems and press-  
17 ing transportation needs in the metropolitan area.

18 “(b) DESIGNATION OF METROPOLITAN PLANNING  
19 ORGANIZATIONS.—

20 “(1) IN GENERAL.—To carry out the transpor-  
21 tation planning process required by this section, a  
22 metropolitan planning organization (MPO) shall be  
23 designated for each urbanized area with a population  
24 of more than 50,000 individuals—



1           “(A) by agreement between the Governor  
2           and units of general purpose local government  
3           that together represent at least 75 percent of  
4           the affected population (including the largest  
5           incorporated city (based on population) as  
6           named by the Bureau of the Census); or

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

9           “(2) STRUCTURE.—Each metropolitan planning  
10          organization that serves an area identified as a  
11          transportation management area, when designated  
12          or redesignated under this subsection, shall consist  
13          of—

14                 “(A) local elected officials;

15                 “(B) officials of public agencies that ad-  
16          minister or operate major modes of transpor-  
17          tation in the metropolitan area; and

18                 “(C) appropriate State officials.

19          “(3) LIMITATION ON STATUTORY CONSTRUC-  
20          TION.—Nothing in this subsection shall be construed  
21          to interfere with the authority, under any State law  
22          in effect on December 18, 1991, of a public agency  
23          with multimodal transportation responsibilities to—

1           “(A) develop plans and programs for adop-  
2           tion by a metropolitan planning organization;  
3           and

4           “(B) develop long-range capital plans, co-  
5           ordinate transit services and projects, and carry  
6           out other activities pursuant to State law.

7           “(4) CONTINUING DESIGNATION.—A designa-  
8           tion of a metropolitan planning organization under  
9           this subsection or any other provision of law shall  
10          remain in effect until the metropolitan planning or-  
11          ganization is redesignated under paragraph (5).

12          “(5) REDESIGNATION PROCEDURES.—A metro-  
13          politan planning organization may be redesignated  
14          by agreement between the Governor and units of  
15          general purpose local government that together rep-  
16          resent at least 75 percent of the existing planning  
17          area population (including the largest incorporated  
18          city (based on population) as named by the Bureau  
19          of the Census) as appropriate to carry out this sec-  
20          tion.

21          “(6) DESIGNATION OF MORE THAN 1 METRO-  
22          POLITAN PLANNING ORGANIZATION.—More than 1  
23          metropolitan planning organization may be des-  
24          ignated within an existing metropolitan planning  
25          area only if the Governor and the existing metropoli-

1 tan planning organization determine that the size  
2 and complexity of the existing metropolitan planning  
3 area make designation of more than 1 metropolitan  
4 planning organization for the area appropriate.

5 “(c) METROPOLITAN PLANNING AREA BOUND-  
6 ARIES.—

7 “(1) IN GENERAL.—For the purposes of this  
8 section, the boundaries of a metropolitan planning  
9 area shall be determined by agreement between the  
10 metropolitan planning organization and the Gov-  
11 ernor.

12 “(2) INCLUDED AREA.—Each metropolitan  
13 planning area—

14 “(A) shall encompass at least the existing  
15 urbanized area and the contiguous area ex-  
16 pected to become urbanized within a 20-year  
17 forecast period for the transportation plan; and

18 “(B) may encompass the entire metropoli-  
19 tan statistical area or consolidated metropolitan  
20 statistical area, as defined by the Office of  
21 Management and Budget.

22 “(3) IDENTIFICATION OF NEW URBANIZED  
23 AREAS WITHIN EXISTING PLANNING AREA BOUND-  
24 ARIES.—The designation by the Bureau of the Cen-  
25 sus of new urbanized areas within an existing metro-

1       politan planning area shall not require the redesi-  
2       gation of the existing metropolitan planning organi-  
3       zation.

4               “(4) EXISTING METROPOLITAN PLANNING  
5       AREAS IN NONATTAINMENT.—Notwithstanding para-  
6       graph (2), in the case of an urbanized area des-  
7       ignated as a nonattainment area for ozone or carbon  
8       monoxide under the Clean Air Act (42 U.S.C. 7401  
9       et seq.), the boundaries of the metropolitan planning  
10      area in existence as of the date of enactment of this  
11      paragraph shall be retained, except that the bound-  
12      aries may be adjusted by agreement of the Governor  
13      and affected metropolitan planning organizations in  
14      the manner described in subsection (c)(5).

15              “(5) NEW METROPOLITAN PLANNING AREAS IN  
16      NONATTAINMENT.—In the case of an urbanized area  
17      designated after the date of enactment of this para-  
18      graph in a nonattainment area for ozone or carbon  
19      monoxide, the boundaries of the metropolitan plan-  
20      ning area—

21                      “(A) shall be established in the manner de-  
22                      scribed in subsection (b)(1);

23                      “(B) shall encompass the areas described  
24                      in paragraph (c)(2)(A);

1           “(C) may encompass the areas described in  
2           paragraph (c)(2)(B); and

3           “(D) may address any nonattainment iden-  
4           tified under the Clean Air Act (42 U.S.C. 7401  
5           et seq.) for ozone or carbon monoxide.

6           “(d) COORDINATION IN MULTISTATE AREAS.—

7           “(1) IN GENERAL.—The Secretary shall encour-  
8           age each Governor with responsibility for a portion  
9           of a multistate metropolitan area and the appro-  
10          priate metropolitan planning organizations to pro-  
11          vide coordinated transportation planning for the en-  
12          tire metropolitan area.

13          “(2) INTERSTATE COMPACTS.—The consent of  
14          Congress is granted to any 2 or more States—

15                 “(A) to enter into agreements or compacts,  
16                 not in conflict with any law of the United  
17                 States, for cooperative efforts and mutual as-  
18                 sistance in support of activities authorized  
19                 under this section as the activities pertain to  
20                 interstate areas and localities within the States;  
21                 and

22                 “(B) to establish such agencies, joint or  
23                 otherwise, as the States may determine desir-  
24                 able for making the agreements and compacts  
25                 effective.

1           “(3) LAKE TAHOE REGION.—

2                   “(A) DEFINITION.—In this paragraph, the  
3 term ‘Lake Tahoe region’ has the meaning  
4 given the term ‘region’ in subdivision (a) of ar-  
5 ticle II of the Tahoe Regional Planning Com-  
6 pact, as set forth in the first section of Public  
7 Law 96–551 (94 Stat. 3234).

8                   “(B) TRANSPORTATION PLANNING PROC-  
9 ESS.—The Secretary shall—

10                   “(i) establish with the Federal land  
11 management agencies that have jurisdic-  
12 tion over land in the Lake Tahoe region a  
13 transportation planning process for the re-  
14 gion; and

15                   “(ii) coordinate the transportation  
16 planning process with the planning process  
17 required of State and local governments  
18 under this section and section 5204.

19                   “(C) INTERSTATE COMPACT.—

20                   “(i) IN GENERAL.—Subject to clause  
21 (ii), notwithstanding subsection (b), to  
22 carry out the transportation planning proc-  
23 ess required by this section, the consent of  
24 Congress is granted to the States of Cali-  
25 fornia and Nevada to designate a metro-

1           politan planning organization for the Lake  
2           Tahoe region, by agreement between the  
3           Governors of the States of California and  
4           Nevada and units of general purpose local  
5           government that together represent at  
6           least 75 percent of the affected population  
7           (including the central city or cities (as de-  
8           fined by the Bureau of the Census)), or in  
9           accordance with procedures established by  
10          applicable State or local law.

11           “(ii) INVOLVEMENT OF FEDERAL  
12          LAND MANAGEMENT AGENCIES.—

13           “(I) REPRESENTATION.—The  
14          policy board of a metropolitan plan-  
15          ning organization designated under  
16          clause (i) shall include a representa-  
17          tive of each Federal land management  
18          agency that has jurisdiction over land  
19          in the Lake Tahoe region.

20           “(II) FUNDING.—In addition to  
21          funds made available to the metropoli-  
22          tan planning organization under other  
23          provisions of title 23 and under chap-  
24          ter 53 of this title, not more than 1  
25          percent of the funds allocated under

1 section 202 of title 23 may be used to  
2 carry out the transportation planning  
3 process for the Lake Tahoe region  
4 under this subparagraph.

5 “(D) ACTIVITIES.—Highway projects in-  
6 cluded in transportation plans developed under  
7 this paragraph—

8 “(i) shall be selected for funding in a  
9 manner that facilitates the participation of  
10 the Federal land management agencies  
11 that have jurisdiction over land in the  
12 Lake Tahoe region; and

13 “(ii) may, in accordance with chapter  
14 2 of title 23, be funded using funds allo-  
15 cated under section 202 of title 23.

16 “(e) COORDINATION OF MPOS.—

17 “(1) NONATTAINMENT AREAS.—If more than 1  
18 metropolitan planning organization has authority  
19 within a metropolitan area or an area which is des-  
20 ignated as a nonattainment area for ozone or carbon  
21 monoxide under the Clean Air Act, each metropoli-  
22 tan planning organization shall consult with the  
23 other metropolitan planning organizations des-  
24 ignated for such area and the State in the coordina-  
25 tion of plans required by this section.



1           “(2) TRANSPORTATION IMPROVEMENTS LO-  
2           CATED IN MULTIPLE MPOS.—If a transportation im-  
3           provement, funded from the highway trust fund, is  
4           located within the boundaries of more than 1 metro-  
5           politan planning area, the metropolitan planning or-  
6           ganizations shall coordinate plans regarding the  
7           transportation improvement.

8           “(3) INTERREGIONAL AND INTERSTATE  
9           PROJECT IMPACTS.—Planning for NHS, commuter  
10          rail projects or other projects with substantial im-  
11          pacts outside a single metropolitan planning area or  
12          State shall be coordinated directly with the affected,  
13          contiguous MPOs and States.

14          “(4) COORDINATION WITH OTHER PLANNING  
15          PROCESSES.—The Secretary shall encourage each  
16          MPO to coordinate its planning process, to the max-  
17          imum extent practicable, with those officials respon-  
18          sible for other types of planning activities that are  
19          affected by transportation, including State and local  
20          planned growth, economic development, environ-  
21          mental protection, airport operations, and freight.  
22          The metropolitan planning process shall develop  
23          transportation plans with due consideration of, and  
24          in coordination with, other related planning activities  
25          within the metropolitan area. This should include

1 the design and delivery of transportation services  
2 within the metropolitan area that are provided by—

3 “(A) recipients of assistance under chapter  
4 53 of this title;

5 “(B) governmental agencies and nonprofit  
6 organizations (including representatives of the  
7 agencies and organizations) that receive Federal  
8 assistance from a source other than the Depart-  
9 ment of Transportation to provide non-emer-  
10 gency transportation services; and

11 “(C) recipients of assistance under section  
12 204 of title 23.

13 “(f) SCOPE OF PLANNING PROCESS.—

14 “(1) IN GENERAL.—The goals and objectives  
15 developed through the metropolitan planning process  
16 for a metropolitan planning area under this section  
17 shall address the following factors as they relate to  
18 the performance of the metropolitan area transpor-  
19 tation systems to—

20 “(A) support the economic vitality of the  
21 metropolitan area, especially by enabling global  
22 competitiveness, productivity, and efficiency, in-  
23 cluding through services provided by public and  
24 private operators;

1           “(B) increase the safety of the transpor-  
2           tation system for motorized and nonmotorized  
3           users;

4           “(C) increase the security of the transpor-  
5           tation system for motorized and nonmotorized  
6           users;

7           “(D) increase the accessibility and mobility  
8           of people and for freight, including through  
9           services provided by public and private opera-  
10          tors;

11          “(E) protect and enhance the environment,  
12          promote energy conservation, and promote con-  
13          sistency between transportation improvements  
14          and State and local planned growth and eco-  
15          nomic development patterns;

16          “(F) enhance the integration and  
17          connectivity of the transportation system,  
18          across and between modes, for people and  
19          freight, including through services provided by  
20          public and private operators;

21          “(G) promote efficient system management  
22          and operation; and

23          “(H) emphasize the preservation of the ex-  
24          isting transportation system, including services  
25          provided by public and private operators.

1           “(2) FAILURE TO CONSIDER FACTORS.—The  
2 failure to consider any factor specified in paragraph  
3 (1) shall not be reviewable by any court under title  
4 23 or this title, subchapter II of chapter 5 of title  
5 5, or chapter 7 of title 5 in any matter affecting a  
6 transportation plan, a transportation improvement  
7 plan, a project or strategy, or the certification of a  
8 planning process.

9           “(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

10           “(1) IN GENERAL.—Each metropolitan plan-  
11 ning organization shall prepare, and update at least  
12 every five years a transportation plan for its metro-  
13 politan planning area in accordance with the require-  
14 ments of this subsection.

15           “(2) TRANSPORTATION PLAN.—A transpor-  
16 tation plan under this section shall be in a form that  
17 the Secretary determines to be appropriate and shall  
18 contain, at a minimum, the following:

19           “(A) An identification of transportation fa-  
20 cilities (including but not necessarily limited to  
21 major roadways, transit, multimodal and inter-  
22 modal facilities, and intermodal connectors)  
23 that should function as an integrated metropoli-  
24 tan transportation system, giving emphasis to  
25 those facilities that serve important national

1 and regional transportation functions. In for-  
2 mulating the transportation plan, the metropoli-  
3 tan planning organization shall consider factors  
4 described in subsection (f) as such factors re-  
5 late to a 20-year forecast period.

6 “(B) A financial plan that demonstrates  
7 how the adopted transportation plan can be im-  
8 plemented, indicates resources from public and  
9 private sources that are reasonably expected to  
10 be made available to carry out the plan, and  
11 recommends any additional financing strategies  
12 for needed projects and programs. The financial  
13 plan may include, for illustrative purposes, ad-  
14 ditional projects that would be included in the  
15 adopted transportation plan if reasonable addi-  
16 tional resources beyond those identified in the  
17 financial plan were available. However, no illus-  
18 trative project may be advanced without an ac-  
19 tion of the Secretary. For the purpose of devel-  
20 oping the transportation plan, the metropolitan  
21 planning organization, transit operator and  
22 State shall cooperatively develop estimates of  
23 funds that will be available to support plan im-  
24 plementation.

1           “(C) Operational and management strate-  
2           gies to improve the performance of existing  
3           transportation facilities to relieve vehicular con-  
4           gestion and maximize the safety and mobility of  
5           people and goods.

6           “(D) Capital investment and other strate-  
7           gies to preserve the existing metropolitan trans-  
8           portation infrastructure and provide for  
9           multimodal capacity increases based on regional  
10          priorities and needs.

11          “(E) Proposed transportation and transit  
12          enhancement activities.

13          “(3) COORDINATION WITH CLEAN AIR ACT  
14          AGENCIES.—In metropolitan areas which are in  
15          nonattainment for ozone or carbon monoxide  
16          under the Clean Air Act, the metropolitan plan-  
17          ning organization shall coordinate the develop-  
18          ment of transportation plan with the process  
19          for development of the transportation control  
20          measures of the State implementation plan re-  
21          quired by the Clean Air Act.

22          “(4) TRANSPORTATION CONFORMITY.—

23          “(A) For the purposes of Section 7506 of  
24          title 42, United States Code, the transportation  
25          plan shall be considered to be a transportation

1 plan or a portion of a transportation plan, de-  
2 veloped pursuant to this section that extends  
3 for the longest of the following periods—

4 “(i) the first 10-year period of any  
5 such plan,

6 “(ii) the latest year in the area’s ap-  
7 plicable implementation plan which con-  
8 tains a motor vehicle emissions budget, or

9 “(iii) the completion date of a region-  
10 ally significant project, if the project re-  
11 quires approval before the subsequent con-  
12 formity determination.

13 “(B) A regional motor vehicle emissions  
14 analysis for the last year of the transportation  
15 plan shall be developed for information pur-  
16 poses only, if such year extends beyond the time  
17 frame established by subparagraph (A). The re-  
18 sults of the analysis shall be provided to in-  
19 volved governors, the Administrator of the En-  
20 vironmental Protection Agency, and the Sec-  
21 retary of the Department of Transportation,  
22 and should be considered by air quality and  
23 transportation planning agencies in subsequent  
24 updates of air quality and transportation plans.

1           The results of this analysis shall be made avail-  
2           able to the public.

3           “(5) PARTICIPATION BY INTERESTED PAR-  
4           TIES.—Before the approval of a transportation plan  
5           by the Governor and metropolitan planning organi-  
6           zation, each metropolitan planning organization shall  
7           provide citizens, affected public agencies, representa-  
8           tives of public transportation employees, freight  
9           shippers, providers of freight transportation services,  
10          private providers of transportation, representatives  
11          of users of public transit, representatives of users of  
12          pedestrian walkways and bicycle transportation fa-  
13          cilities, and other interested parties with a reason-  
14          able opportunity to comment on the transportation  
15          plan, in a manner that the Secretary deems appro-  
16          priate.

17          “(6) APPROVAL OF TRANSPORTATION PLAN.—

18                 “(A) Each transportation plan prepared by  
19                 a metropolitan planning organization shall be—

20                         “(i) approved by the MPO, and

21                         “(ii) submitted to the Governor for  
22                         approval of the first five years of the plan.

23                 “(B) The projects listed in the first five  
24                 years of the plan may be selected for advance-  
25                 ment consistent with the project selection re-



1           quirements. Major amendments (addition, dele-  
2           tion, or concept and scope change of a region-  
3           ally significant project) to this list would re-  
4           quire appropriate public involvement, financial  
5           planning, transportation conformity analyses  
6           and a finding by the FHWA and FTA that the  
7           amended plan was produced in a manner con-  
8           sistent with this section.

9           “(7) INCLUDED PROJECTS.—

10           “(A) PROJECTS UNDER CHAPTER 1 OF  
11           TITLE 23 AND CHAPTER 53 OF TITLE 49.—A  
12           transportation plan developed under this section  
13           for a metropolitan area shall include the  
14           projects and strategies within the area that are  
15           proposed for funding under chapter 1 of title  
16           23 and chapter 53 of title 49.

17           “(B) PROJECTS UNDER CHAPTER 2 OF  
18           TITLE 23—REGIONALLY SIGNIFICANT  
19           PROJECTS.—Regionally significant projects pro-  
20           posed for funding under chapter 2 of title 23  
21           shall be identified individually in the metropoli-  
22           tan transportation plan.

23           “(C) OTHER PROJECTS.—Projects pro-  
24           posed for funding under chapter 2 of title 23  
25           that are not determined to be regionally signifi-

1 cant shall be grouped in 1 line item or identi-  
2 fied individually in the metropolitan transpor-  
3 tation plan.

4 “(8) SELECTION OF PROJECTS.—

5 “(A) IN GENERAL.—Except as otherwise  
6 provided in subsection (h)(4) the selection of  
7 federally funded projects in metropolitan plan-  
8 ning areas shall be carried out, from the ap-  
9 proved transportation plan—

10 “(i) by—

11 “(I) in the case of projects under  
12 chapter 1 of title 23, the State;

13 “(II) in the case of projects  
14 under section 5307 of this title, the  
15 designated transit funding recipients;  
16 and

17 (III) in the case of projects under  
18 5308, 5310, 5311, and 5317, the  
19 State; and

20 “(ii) in cooperation with the metro-  
21 politan planning organization.

22 “(B) MODIFICATIONS TO PROJECT PRI-  
23 ORITY.—Notwithstanding any other provision of  
24 law, action by the Secretary shall not be re-  
25 quired to advance a project from the first five

1 years of the plan included in the approved  
2 transportation plan in place of another project  
3 in the same five-year period.

4 “(9) PUBLICATION.—

5 “(A) PUBLICATION OF TRANSPORTATION  
6 PLAN.—A transportation plan involving federal  
7 participation shall be published or otherwise  
8 made readily available by the metropolitan plan-  
9 ning organization for public review.

10 “(B) PUBLICATION OF ANNUAL LISTINGS  
11 OF PROJECTS.—An annual listing of projects,  
12 including investments in pedestrian walkways  
13 and bicycle transportation facilities, for which  
14 Federal funds have been obligated in the pre-  
15 ceding five years shall be published or otherwise  
16 made available by the cooperative effort of the  
17 State, transit operator and the metropolitan  
18 planning organization for public review. The  
19 listing shall be consistent with the funding cat-  
20 egories identified in the first five years of the  
21 transportation plan.

22 “(h) TRANSPORTATION MANAGEMENT AREAS.—

23 “(1) REQUIRED IDENTIFICATION.—The Sec-  
24 retary shall identify as a transportation management  
25 area each urbanized area (as defined by the Bureau

1 of the Census) with a population of over 200,000 in-  
2 dividuals.

3 “(2) TRANSPORTATION PLANS.—In a metropoli-  
4 tan planning area serving a transportation manage-  
5 ment area, transportation plans shall be based on a  
6 continuing and comprehensive transportation plan-  
7 ning process carried out by the metropolitan plan-  
8 ning organization in cooperation with the State and  
9 transit operators.

10 “(3) CONGESTION MANAGEMENT SYSTEM.—  
11 Within a metropolitan planning area serving a trans-  
12 portation management area, the transportation plan-  
13 ning process under this section shall address conges-  
14 tion management through a process that provides  
15 for effective management and operation, based on a  
16 cooperatively developed and implemented metropoli-  
17 tan-wide strategy, of new and existing transportation  
18 facilities eligible for funding under title 23 and chap-  
19 ter 53 of this title through the use of travel demand  
20 reduction and operational management strategies.  
21 The Secretary shall establish an appropriate phase-  
22 in schedule for compliance with the requirements of  
23 this section but no sooner than one-year after the  
24 identification of a transportation management area.

25 “(4) SELECTION OF PROJECTS.—

1           “(A) IN GENERAL.—All federally funded  
2 projects carried out within the boundaries of a  
3 metropolitan planning area serving a transpor-  
4 tation management area under title 23 (exclud-  
5 ing projects carried out on the National High-  
6 way System and projects carried out under the  
7 bridge program or the Interstate maintenance  
8 program) or under chapter 53 of this title shall  
9 be selected for implementation from the ap-  
10 proved transportation plan by the metropolitan  
11 planning organization designated for the area in  
12 consultation with the State and any affected  
13 public transit operator.

14           “(B) NATIONAL HIGHWAY SYSTEM  
15 PROJECTS.—Projects, carried out within the  
16 boundaries of a metropolitan planning area  
17 serving a transportation management area, on  
18 the National Highway System and projects car-  
19 ried out within such boundaries under the  
20 bridge program or the Interstate maintenance  
21 program under title 23 shall be selected for im-  
22 plementation from the approved transportation  
23 plan by the State in cooperation with the met-  
24 ropolitan planning organization designated for  
25 the area.

1           “(5) CERTIFICATION.—

2                   “(A) IN GENERAL.—The Secretary shall—

3                           “(i) ensure that the metropolitan  
4                           planning process of an MPO serving a  
5                           transportation management area is being  
6                           carried out in accordance with applicable  
7                           provisions of Federal law; and

8                           “(ii) subject to subparagraph (B), cer-  
9                           tify, not less often than once every 5 years  
10                          that the requirements of this paragraph  
11                          are met with respect to the metropolitan  
12                          planning process.

13                   “(B) REQUIREMENTS FOR CERTIFI-  
14                   CATION.—The Secretary may make the certifi-  
15                   cation under subparagraph (A) if—

16                           “(i) the transportation planning proc-  
17                           ess complies with the requirements of this  
18                           section and other applicable requirements  
19                           of Federal law; and

20                           “(ii) there is a transportation plan for  
21                           the metropolitan planning area that has  
22                           been approved by the metropolitan plan-  
23                           ning organization and the Governor.

24                   “(C) EFFECT OF FAILURE TO CERTIFY.—

1                   “(i) WITHHOLDING OF PROJECT  
2 FUNDS.—If a metropolitan planning pro-  
3 cess of an metropolitan planning organiza-  
4 tion serving a TMA is not certified, the  
5 Secretary may withhold a portion or all of  
6 the funds available to metropolitan plan-  
7 ning area of the metropolitan planning or-  
8 ganization for projects funded under title  
9 23 and chapter 53 of this title.

10                   “(ii) RESTORATION OF WITHHELD  
11 FUNDS.—The withheld funds shall be re-  
12 stored to the metropolitan planning area at  
13 such time as the metropolitan planning  
14 process is certified by the Secretary.

15                   “(D) REVIEW OF CERTIFICATION.—In  
16 making certification determinations under this  
17 paragraph, the Secretary shall provide for pub-  
18 lic involvement appropriate to the metropolitan  
19 area under review.

20                   “(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

21                   “(1) IN GENERAL.—Subject to paragraph (2),  
22 in the case of a metropolitan area not designated as  
23 a transportation management area under this sec-  
24 tion, the Secretary may provide for the development  
25 of an abbreviated transportation plan for the metro-

1       politan planning area that the Secretary determines  
2       is appropriate to achieve the purposes of this sec-  
3       tion, taking into account the complexity of transpor-  
4       tation problems in the area.

5               “(2) NONATTAINMENT AREAS.—The Secretary  
6       may not permit abbreviated plans for a metropolitan  
7       area that is in nonattainment for ozone or carbon  
8       monoxide under the Clean Air Act (42 U.S.C. 7401  
9       et seq.).

10       “(j) ADDITIONAL REQUIREMENTS FOR CERTAIN  
11 NONATTAINMENT AREAS.—

12               “(1) IN GENERAL.—Notwithstanding any other  
13       provisions of title 23 or chapter 53 of this title, for  
14       transportation management areas classified as non-  
15       attainment for ozone or carbon monoxide pursuant  
16       to the Clean Air Act, Federal funds may not be ad-  
17       vanced in such area for any highway project that  
18       will result in a significant increase in carrying ca-  
19       pacity for single-occupant vehicles unless the project  
20       is addressed through a congestion management proc-  
21       ess.

22               “(2) APPLICABILITY.—This subsection applies  
23       to a nonattainment area within the metropolitan  
24       planning area boundaries determined under sub-  
25       section (c).



1       “(k) LIMITATION ON STATUTORY CONSTRUCTION.—  
2 Nothing in this section shall be construed to confer on  
3 a metropolitan planning organization the authority to im-  
4 pose legal requirements on any transportation facility,  
5 provider, or project not eligible under title 23 or chapter  
6 53 of this title.

7       “(l) FUNDING.—Funds set aside under section 104(f)  
8 of title 23 or section 5305(h) of this title shall be available  
9 to carry out this section.

10       “(m) CONTINUATION OF CURRENT REVIEW PRAC-  
11 TICE.—Since plans described in this section are subject  
12 to a reasonable opportunity for public comment, individual  
13 projects included in plans are subject to review under the  
14 National Environmental Policy Act of 1969 (42 U.S.C.  
15 4321 et seq.), and decisions by the Secretary concerning  
16 plans described in this section have not been reviewed  
17 under such Act as of January 1, 1997, any decision by  
18 the Secretary concerning a plan described in this section  
19 shall not be considered to be a Federal action subject to  
20 review under the National Environmental Policy Act of  
21 1969 (42 U.S.C. 4321 et seq.).

22       “(n) RELATIONSHIP TO THE NEPA PROCESS.—

23               “(1) To expedite the planning and development  
24 of transportation improvements in compliance with  
25 this section and section 5204 and the National Envi-

1       ronmental Policy Act (42 U.S.C. 4321 et seq.), to  
2       facilitate compliance with the Clean Water Act (33  
3       U.S.C. 1251 et seq.) and other Federal environ-  
4       mental laws, and to fulfill the directive in section  
5       1308 of the Transportation Equity Act for the 21st  
6       Century, Public Law 105–206, to integrate the  
7       major investment study requirement into the trans-  
8       portation planning and National Environmental Pol-  
9       icy Act processes, the Secretary and heads of other  
10      Federal agencies shall presume that the results of  
11      studies developed as part of the planning process es-  
12      tablish the basis for an environmental assessment or  
13      impact statement, provided that such studies, pursu-  
14      ant to the provisions of this section—

15               “(A) are consistent with subsection (a)(4)  
16               of this section;

17               “(B) provided opportunities for citizens  
18               and interested parties to participate during the  
19               studies;

20               “(C) included consideration of an appro-  
21               priate range of alternatives, such as alternative  
22               modes, technologies, general alignments, and  
23               policies; and

24               “(D) considered the planning factors of  
25               subsection (f)(1).

1           “(2) The results of studies developed as part of  
2 the planning process and that are presumed to es-  
3 tablish the basis for an environmental assessment or  
4 impact statement, as described in subsection (1) of  
5 this section, include, but are not limited to—

6                   “(A) the purpose and need;

7                   “(B) the alternatives selected for evalua-  
8 tion in an environmental assessment or impact  
9 statement; and

10                  “(C) an assessment of environmental im-  
11 pacts related to development growth, including  
12 indirect and cumulative effects, that is con-  
13 sistent with local land use, growth management,  
14 or development plans.

15           “(3) The results of studies developed during the  
16 planning process may be appended to or incor-  
17 porated by reference in and used to substantiate an  
18 environmental assessment or impact statement.

19 **“§ 5204. Statewide transportation planning**

20           “(a) GENERAL REQUIREMENTS.—

21                   “(1) DEVELOPMENT OF PLANS AND PRO-  
22 GRAMS.—To accomplish the objectives stated in sec-  
23 tion 5201, each State shall develop a statewide  
24 transportation plan and a statewide Transportation

1 Improvement Program (STIP) for all areas of the  
2 State subject to section 5203.

3 “(2) CONTENTS.—The statewide transportation  
4 plan and the STIP developed for each State shall  
5 provide for the development and integrated manage-  
6 ment and operation of transportation systems and  
7 facilities (including pedestrian walkways and bicycle  
8 transportation facilities) that will function as an  
9 intermodal transportation system for the State and  
10 an integral part of an intermodal transportation sys-  
11 tem for the State and an integral part of an inter-  
12 modal transportation system for the United States.

13 “(3) PROCESS OF DEVELOPMENT.—The process  
14 for developing the statewide plan and the STIP shall  
15 provide for consideration of all modes of transpor-  
16 tation and the policies stated in section 5201, and  
17 shall be continuing, cooperative, and comprehensive  
18 to the degree appropriate, based on the complexity  
19 of the transportation problems to be addressed.

20 “(b) COORDINATION WITH METROPOLITAN PLAN-  
21 NING; STATE IMPLEMENTATION PLAN.—A State shall—

22 “(1) coordinate planning carried out under this  
23 section with the transportation planning activities  
24 carried out under section 5203 of this title for met-  
25 ropolitan areas of the State and with other related

1 Statewide planning activities such as trade and eco-  
2 nomic development and related multi-State planning  
3 efforts,

4 “(2) develop the transportation portion of the  
5 State implementation plan as required by the Clean  
6 Air Act (42 U.S.C. 7401 et seq.), and

7 “(3) participate in the integration of planning  
8 and environmental studies pursuant to section  
9 5203(n) of this chapter.

10 “(c) INTERSTATE AGREEMENTS.—The consent of  
11 Congress is granted to 2 or more States entering into  
12 agreements or compacts, not in conflict with any law of  
13 the United States, for cooperative efforts and mutual as-  
14 sistance in support of activities authorized under this sec-  
15 tion related to interstate areas and localities in the States  
16 and establishing authorities the States consider desirable  
17 for making the agreements and compacts effective.

18 “(d) SCOPE OF PLANNING PROCESS.—

19 “(1) IN GENERAL.—Each State shall carry out  
20 a statewide transportation planning process that  
21 provides for consideration of projects, strategies and  
22 implementing projects and services that will—

23 “(A) support the economic vitality of the  
24 United States, the States, non-metropolitan  
25 areas, and metropolitan areas, especially by en-

1 abling global competitiveness, productivity, and  
2 efficiency;

3 “(B) increase the safety of the transpor-  
4 tation system for motorized and non-motorized  
5 users;

6 “(C) increase the security of the transpor-  
7 tation system for motorized and nonmotorized  
8 users;

9 “(D) increase the accessibility and mobility  
10 of people and freight;

11 “(E) protect and enhance the environment,  
12 promote energy conservation, promote consist-  
13 ency between transportation improvements and  
14 State and local planned growth and economic  
15 development patterns, and improve the quality  
16 of life;

17 “(F) enhance the integration and  
18 connectivity of the transportation system,  
19 across and between modes throughout the  
20 State, for people and freight;

21 “(G) promote efficient system management  
22 and operation; and

23 “(H) emphasize the preservation of the ex-  
24 isting transportation system.

1           “(2) FAILURE TO CONSIDER FACTORS.—The  
2 failure to consider any factor specified in paragraph  
3 (1) of this subsection shall not be reviewable by any  
4 court under title 23 or this title, subchapter II of  
5 chapter 5 of title 5, or chapter 7 of title 5 in any  
6 matter affecting a statewide transportation plan, the  
7 STIP, a project or strategy, or the certification of  
8 a planning process.

9           “(e) ADDITIONAL REQUIREMENTS.—In carrying out  
10 planning under this section, each State shall consider, at  
11 a minimum—

12           “(1) with respect to non-metropolitan areas, the  
13 concerns of affected local officials with responsibility  
14 for transportation;

15           “(2) the concerns of Indian tribal governments  
16 and Federal land management agencies that have  
17 jurisdiction over land within the boundaries of the  
18 State; and

19           “(3) coordination of transportation plans, the  
20 STIP, and planning activities with related planning  
21 activities being carried out outside of metropolitan  
22 planning areas and between States;

23           “(f) STATEWIDE TRANSPORTATION PLAN.—

24           “(1) DEVELOPMENT.—Each State shall develop  
25 a statewide transportation plan, with a minimum

1 20-year forecast period, updated at least every five  
2 years, for all areas of the State, that provides for  
3 the development and implementation of the inter-  
4 modal transportation system of the State.

5 “(2) CONSULTATION WITH GOVERNMENTS.—

6 “(A) METROPOLITAN AREAS.—The state-  
7 wide transportation plan shall be developed for  
8 each metropolitan area in the State in coopera-  
9 tion with the metropolitan planning organiza-  
10 tion designated for the metropolitan area under  
11 section 5203.

12 “(B) NON-METROPOLITAN AREAS.—With  
13 respect to non-metropolitan areas, the statewide  
14 transportation plan shall be developed in con-  
15 sultation with affected non-metropolitan offi-  
16 cials with responsibility for transportation. The  
17 Secretary shall not review or approve the con-  
18 sultation process in each State.

19 “(C) INDIAN TRIBAL AREAS.—With respect  
20 to each area of the State under the jurisdiction  
21 of an Indian tribal government, the statewide  
22 transportation plan shall be developed in con-  
23 sultation with the tribal government and the  
24 Secretary of the Interior.



1           “(3) PARTICIPATION BY INTERESTED PAR-  
2           TIES.—In developing the statewide transportation  
3           plan, the State shall—

4                   “(A) provide citizens, affected public agen-  
5                   cies, representatives of public transportation  
6                   employees, freight shippers, private providers of  
7                   transportation, representatives of users of pub-  
8                   lic transportation, representatives of users of  
9                   pedestrian walkways and bicycle transportation  
10                  facilities, providers of freight transportation  
11                  services, and other interested parties with a  
12                  reasonable opportunity to comment on the pro-  
13                  posed plan; and

14                  “(B) identify transportation strategies nec-  
15                  essary to efficiently serve the mobility needs of  
16                  people.

17           “(4) FINANCIAL PLAN.—The statewide trans-  
18           portation plan may include a financial plan that  
19           demonstrates how the adopted statewide transpor-  
20           tation plan can be implemented, indicates resources  
21           from public and private sources that are reasonably  
22           expected to be made available to carry out the plan,  
23           and recommends any additional financing strategies  
24           for needed projects and programs. The financial  
25           plan may include, for illustrative purposes, addi-

1 tional projects that would be included in the adopted  
2 statewide transportation plan if reasonable addi-  
3 tional resources beyond those identified in the finan-  
4 cial plan were available.

5 “(5) SELECTION OF PROJECTS FROM ILLUS-  
6 TRATIVE LIST.—A State shall not be required to se-  
7 lect any project from the illustrative list of addi-  
8 tional projects included in the financial plan de-  
9 scribed in paragraph (4).

10 “(6) EXISTING SYSTEM.—The statewide trans-  
11 portation plan should include capital, operations and  
12 management strategies, investments, procedures,  
13 and other measures to ensure the preservation and  
14 most efficient use of the existing transportation sys-  
15 tem.

16 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT  
17 PROGRAM (STIP).—

18 “(1) DEVELOPMENT.—Each State shall develop  
19 a statewide transportation improvement program for  
20 all areas of the State.

21 “(2) CONSULTATION WITH GOVERNMENTS.—

22 “(A) METROPOLITAN AREAS.—With re-  
23 spect to each metropolitan area in the State,  
24 the program shall be developed in cooperation  
25 with the metropolitan planning organization

1 designated for the metropolitan area under sec-  
2 tion 5203.

3 “(B) NON-METROPOLITAN AREAS.—With  
4 respect to each non-metropolitan area in the  
5 State, the program shall be developed in con-  
6 sultation with affected non-metropolitan local  
7 officials with responsibility for transportation.  
8 The Secretary shall not review or approve the  
9 specific consultation process in the State.

10 “(C) INDIAN TRIBAL AREAS.—With respect  
11 to each 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 Inte-  
15 rior.

16 “(3) PARTICIPATION BY INTERESTED PAR-  
17 TIES.—In developing the program, the State shall  
18 provide citizens, affected public agencies, representa-  
19 tives of public transportation employees, freight  
20 shippers, private providers of transportation, pro-  
21 viders of freight transportation services, representa-  
22 tives of users of public transit, representatives of  
23 users of pedestrian walkways and bicycle transpor-  
24 tation facilities, and other interested parties with a

1 reasonable opportunity to comment on the proposed  
2 program.

3 “(4) INCLUDED PROJECTS.—

4 “(A) IN GENERAL.—A transportation im-  
5 provement program developed under this sub-  
6 section for a state shall include federally sup-  
7 ported surface transportation expenditures  
8 within the boundaries of the State. The pro-  
9 gram shall cover a minimum of five years, iden-  
10 tify projects by year, be fiscally constrained by  
11 year, and be updated at least every five years.  
12 An annual listing of projects for which funds  
13 have been obligated in the preceding five years  
14 in each metropolitan planning area shall be  
15 published or otherwise made available by the  
16 cooperative effort of the State, transit operator,  
17 and the metropolitan planning organization for  
18 public review. Regionally significant projects  
19 proposed for funding under chapter 2 of title  
20 23 shall be identified individually in the trans-  
21 portation improvement program. Other projects  
22 proposed for funding under chapter 2 of title  
23 23 that are not determined to be regionally sig-  
24 nificant shall be grouped in 1 line item or iden-  
25 tified individually. The listing shall be con-

1           sistent with the funding categories identified in  
2           the first five years of each metropolitan trans-  
3           portation plan.

4           “(B) CONSISTENCY WITH STATEWIDE  
5           TRANSPORTATION PLAN.—Each project shall  
6           be—

7                   “(i) consistent with the statewide  
8                   transportation plan developed under this  
9                   section for the State;

10                   “(ii) identical to the project or phase  
11                   of the project as described in each year of  
12                   the initial five years of an approved metro-  
13                   politan transportation plan; and

14                   “(iii) in conformance with the applica-  
15                   ble State air quality implementation plan  
16                   developed under the Clean Air Act (42  
17                   U.S.C. 7401 et seq.), if the project is car-  
18                   ried out in an area designated as non-  
19                   attainment for ozone or carbon monoxide  
20                   under that Act.

21           “(C) REQUIREMENT OF ANTICIPATED  
22           FULL FUNDING.—The STIP shall include a  
23           project, or an identified phase of a project, only  
24           if full funding can reasonably be anticipated to

1 be available for the project within the time pe-  
2 riod contemplated for completion of the project.

3 “(D) FINANCIAL PLAN.—The STIP may  
4 include a financial plan that demonstrates how  
5 the approved STIP can be implemented, indi-  
6 cates resources from public and private sources  
7 that are reasonably expected to be made avail-  
8 able to carry out the STIP, and recommends  
9 any additional financing strategies for needed  
10 projects and programs. The financial plan may  
11 include, for illustrative purposes, additional  
12 projects that would be included in the adopted  
13 transportation plan if reasonable additional re-  
14 sources beyond those identified in the financial  
15 plan were available.

16 “(E) SELECTION OF PROJECTS FROM IL-  
17 LUSTRATIVE LIST.—

18 “(i) NO REQUIRED SELECTION.—Not-  
19 withstanding subparagraph (D), a State  
20 shall not be required to select any project  
21 from the illustrative list of additional  
22 projects included in the financial plan  
23 under subparagraph (D).

24 “(ii) REQUIRED ACTION BY THE SEC-  
25 RETARY.—Action by the Secretary shall be

1 required for a State to select any project  
2 from the illustrative list of additional  
3 projects included in the financial plan  
4 under subparagraph (D) for inclusion in  
5 an approved STIP.

6 “(F) PRIORITIES.—The STIP shall reflect  
7 the priorities for programming and expendi-  
8 tures of funds, including transportation and  
9 transit enhancement activities, required by title  
10 23 and chapter 53 of this title, and transpor-  
11 tation control measures included in the State’s  
12 air quality implementation plan.

13 “(5) PROJECT SELECTION FOR AREAS OF LESS  
14 THAN 50,000 POPULATION.—Projects carried out in  
15 areas with populations of less than 50,000 individ-  
16 uals shall be selected, from the approved STIP (ex-  
17 cluding projects carried out on the National High-  
18 way System and projects carried out under the  
19 bridge program or the interstate maintenance pro-  
20 gram under title 23 or sections 5308, 5310, 5311,  
21 and 5317 of this title), by the State in cooperation  
22 with the affected non-metropolitan local officials  
23 with responsibility for transportation. Projects car-  
24 ried out in areas with populations of less than  
25 50,000 individuals on the National Highway System

1 or under the bridge program or the interstate main-  
2 tenance program under title 23 or under sections  
3 5308, 5310, 5311, and 5317 of this title shall be se-  
4 lected, from the approved statewide transportation  
5 improvement program, by the State in consultation  
6 with the affected local officials with responsibility for  
7 transportation.

8 “(6) STIP APPROVAL.—A STIP developed  
9 under this subsection shall be reviewed and based on  
10 a current Planning Finding approved at least every  
11 five years by the Secretary.

12 “(7) PLANNING FINDING.—A finding shall be  
13 made by the Secretary at least every five years that  
14 the transportation planning process(es) through  
15 which statewide transportation plans and programs  
16 are developed are consistent with this section and  
17 section 5203.

18 “(8) MODIFICATIONS TO PROJECT PRIORITY.—  
19 Notwithstanding any other provision of law, action  
20 by the Secretary shall not be required to advance a  
21 project included in the approved STIP in place of  
22 another project in the program.

23 “(h) FUNDING.—Funds set aside pursuant to section  
24 104(i) of title 23 and 5305(h) of this title shall be avail-  
25 able to carry out this section.



1       “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-  
2 GESTION MANAGEMENT SYSTEMS.—For purposes of this  
3 section and section 5203 of this title, State laws, rules  
4 or regulations pertaining to congestion management sys-  
5 tems or programs may constitute the congestion manage-  
6 ment system under section 5203(h)(3) if the Secretary  
7 finds that the State laws, rules or regulations are con-  
8 sistent with, and fulfill the intent of, the purposes of sec-  
9 tion 5203, as appropriate.

10       “(j) CONTINUATION OF CURRENT REVIEW PRAC-  
11 TICE.—Since the statewide transportation plan and the  
12 STIP described in this section are subject to a reasonable  
13 opportunity for public comment, since individual projects  
14 included in the statewide transportation plans and the  
15 STIP are subject to review under the National Environ-  
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and  
17 since decisions by the Secretary concerning statewide  
18 transportation plans or the STIP described in this section  
19 have not been reviewed under such Act as of January 1,  
20 1997, any decision by the Secretary concerning a metro-  
21 politan or statewide transportation plan or the STIP de-  
22 scribed in this section shall not be considered to be a Fed-  
23 eral action subject to review under the National Environ-  
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1       “(k) INTEGRATION OF PLANNING AND ENVIRON-  
2 MENTAL STUDIES.—Section 5203(n) of this chapter shall  
3 also apply to the planning process established under this  
4 section, except that the planning factors to be considered  
5 shall be those set forth in subsection (d) of this section.”.

6       (b) CONSISTENCY OF CONFORMITY TIMING WITH  
7 THE TRANSPORTATION PLAN.—Section 7506(e)(4) of title  
8 42, United States Code, is amended—

9           (1) in subparagraph (B)(ii) by striking “, but  
10 in no case shall such determinations for transpor-  
11 tation plans and programs be less frequent than  
12 every three years”, and inserting “but the frequency  
13 for making conformity determinations for transpor-  
14 tation plans must be consistent with subparagraph  
15 (E)”;

16           (2) by inserting after subparagraph (D) the fol-  
17 lowing:

18           “(E) The frequency for making conformity  
19 determinations on updated transportation plans  
20 shall be every five years, except when:

21           “(i) the metropolitan planning organi-  
22 zation chooses to update a transportation  
23 plan more frequently, or

24           “(ii) changes to the applicable imple-  
25 mentation plan trigger a new conformity

1 determination, as provided in regulations  
 2 promulgated by the Administrator pursu-  
 3 ant to subparagraph (A) above.”.

4 (c) CONFORMING CLARIFICATION.—Upon date of en-  
 5 actment of this Act, the references to “program” and “im-  
 6 provement program” in section 7506 of title 42, United  
 7 States Code, shall refer to the transportation plan devel-  
 8 oped pursuant to section 5203 of title 49, United States  
 9 Code.

10 (d) STREAMLINED STATE CONFORMITY RULE RE-  
 11 QUIREMENTS.—Section 7506(c)(4)(C) of title 42, United  
 12 States Code, is amended to read as follows:

13 “(C) Such procedures shall also include a  
 14 requirement that each State shall submit to the  
 15 Administrator and the Secretary of Transpor-  
 16 tation, within 24 months of such date of enact-  
 17 ment, a revision to its implementation plan that  
 18 includes criteria and procedures for consultation  
 19 in accordance with the Administrator’s criteria  
 20 and procedures for consultation required by  
 21 subparagraph (B)(i) of this paragraph.”.

22 (e) CONFORMING AMENDMENTS.—(1) The table of  
 23 chapters for title 49, United States Code, is amended by  
 24 inserting the following after the item relating to chapter  
 25 51:

“52. Transportation Planning ..... 5201”.



1           “(2) encouraging the development of an inte-  
2           grated system of public transportation information;  
3           and

4           “(3) providing intercity bus intermodal pas-  
5           senger facility grants.

6 **§ 5572. Definitions**

7           “In this subchapter—

8           “(1) ‘capital project’ means a project for—

9                   “(A) acquiring, constructing, improving, or  
10                  renovating an intermodal facility that is related  
11                  physically and functionally to intercity bus serv-  
12                  ice and establishes or enhances coordination be-  
13                  tween intercity bus service and transportation,  
14                  including aviation, commuter rail, intercity rail,  
15                  public transportation, seaports, and the Na-  
16                  tional Highway System, such as physical infra-  
17                  structure associated with private bus operations  
18                  at existing and new intermodal facilities, includ-  
19                  ing special lanes, curb cuts, ticket kiosks and  
20                  counters, baggage and package express storage,  
21                  employee parking, office space, security, and  
22                  signage; and

23                   “(B) establishing or enhancing coordina-  
24                  tion between intercity bus service and transpor-  
25                  tation, including aviation, commuter rail, inter-

1 city rail, public transportation, and the Na-  
2 tional Highway System through an integrated  
3 system of public transportation information.

4 “(2) ‘commuter service’ means service designed  
5 primarily to provide daily work trips within the local  
6 commuting area.

7 “(3) ‘intercity bus service’ means regularly  
8 scheduled bus service for the general public which  
9 operates with limited stops over fixed routes con-  
10 necting two or more urban areas not in close prox-  
11 imity, which has the capacity for transporting bag-  
12 gage carried by passengers, and which makes mean-  
13 ingful connections with scheduled intercity bus serv-  
14 ice to more distant points, if such service is available  
15 and may include package express service, if inci-  
16 dental to passenger transportation, but does not in-  
17 clude air, commuter, water or rail service.

18 “(4) ‘intermodal passenger facility’ means pas-  
19 senger terminal that does, or can be modified to, ac-  
20 commodate several modes of transportation and re-  
21 lated facilities, including some or all of the following:  
22 intercity rail, intercity bus, commuter rail, intra-city  
23 rail transit and bus transportation, airport limousine  
24 service and airline ticket offices, rent-a-car facilities,

1       taxi, private parking, and other transportation serv-  
2       ices.

3           “(5) ‘local governmental authority’ includes—

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

5                   “(B) an authority of at least one State or  
6       political subdivision of a State;

7                   “(C) an Indian tribe; and

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

10          “(6) ‘owner or operator of a public transpor-  
11       tation facility’ means an owner or operator of inter-  
12       city-rail, intercity-bus, commuter-rail, commuter-bus,  
13       rail-transit, bus-transit, or ferry services.

14          “(7) ‘recipient’ means a State or local govern-  
15       mental authority or a nonprofit organization that re-  
16       ceives a grant to carry out this section directly from  
17       the Federal government.

18          “(8) ‘Secretary’ means the Secretary of Trans-  
19       portation.

20          “(9) ‘state’ means a State of the United States,  
21       the District of Columbia, Puerto Rico, the Northern  
22       Mariana Islands, Guam, American Samoa, and the  
23       Virgin Islands.

24          “(10) ‘urban area’ means an area that includes  
25       a municipality or other built-up place that the Sec-

1       retary, after considering local patterns and trends of  
2       urban growth, decides is appropriate for a local pub-  
3       lic transportation system to serve individuals in the  
4       locality.

5       **“§ 5573. Assurance of access to intermodal passenger**  
6                   **facilities**

7       “Intercity buses and other modes of transportation  
8 shall, to the maximum extent practicable, have access to  
9 publicly funded intermodal passenger facilities including,  
10 but not limited to, those passenger facilities seeking fund-  
11 ing under section 5574.

12       **“§ 5574. Intercity bus intermodal passenger facility**  
13                   **grants**

14       “(a) GENERAL AUTHORITY.—The Secretary of  
15 Transportation may make grants under this section to re-  
16 cipients in financing a capital project, as defined in section  
17 5572 of this chapter, only if the Secretary finds that the  
18 proposed project is justified and has adequate financial  
19 commitment.

20       “(b) COMPETITIVE GRANT SELECTION.—The Sec-  
21 retary shall conduct a national solicitation for applications  
22 for grants under this section. Grantees shall be selected  
23 on a competitive basis.

24       “(c) SHARE OF NET PROJECT COSTS.—



1           “(1) A grant shall not exceed 50 percent of the  
2 net project cost, as determined by the Secretary.

3           “(2) The portion of the net costs of an eligible  
4 project that is not funded under this section shall be  
5 from an undistributed cash surplus, a replacement  
6 or depreciation cash fund or reserve, or new capital  
7 and may include up to 30 percent from amounts ap-  
8 propriated to or made available to a department or  
9 agency of the Federal government that are eligible  
10 to be expended for transportation.

11          “(d) REGULATIONS.—The Secretary may issue regu-  
12 lations necessary to carry out this section.

13 **“§ 5575. Funding**

14          “(a) MASS TRANSIT ACCOUNT.—

15           “(1) FUNDING.—To carry out this Subchapter,  
16 there is authorized to be appropriated for each of  
17 fiscal years 2005 through 2009 from the Mass Tran-  
18 sit Account of the Highway Trust Fund the amounts  
19 made available under section 5338(a)(2)(O) of this  
20 title.

21           “(2) CONTRACTUAL OBLIGATIONS.—A grant  
22 approved by the Secretary of Transportation that is  
23 financed with amounts made available under sub-  
24 section (a) of this section is a contractual obligation

1 of the United States Government to pay the Govern-  
 2 ment's share of the cost of the project.

3 “(b) HIGHWAY ACCOUNT.—

4 “(1) There is authorized to be appropriated  
 5 from the Highway Trust Fund (other than the Mass  
 6 Transit Account) to carry out this subchapter  
 7 \$10,000,000 for each of fiscal years 2005 through  
 8 2009.

9 “(2) The funding made available under para-  
 10 graph (1) of this subsection shall be available for ob-  
 11 ligation in the same manner as if such funds were  
 12 apportioned under chapter 1 of title 23 and shall be  
 13 subject to any obligation limitation imposed on  
 14 funds for Federal-aid highways and highway safety  
 15 construction programs.

16 “(c) PERIOD OF AVAILABILITY.—Amounts made  
 17 available by subsection (a) of this section shall remain  
 18 available until expended.”.

19 (b) CONFORMING AMENDMENT.—The table of con-  
 20 tents for chapter 55 of title 49, United States Code, is  
 21 amended by inserting the following at the end:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

“5573. Assurance of access to intermodal facilities.

“5574. Intercity bus intermodal facility grants.

“5575. Funding.”.

**TITLE VII—MISCELLANEOUS****Subtitle A—Railroads****3 SEC. 7101. RAIL CORRIDOR PLANNING.**

4 Section 26101(b)(1) of title 49, United States Code,  
5 is amended in the first sentence thereof by adding “(1)”  
6 after the word “determines” and by adding “or (2) that  
7 it is necessary to help promote an effective and efficient  
8 system of conventional speed intercity rail passenger oper-  
9 ations” after the word “improvements”.

**10 SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.**

11 Section 26104 of Title 49, United States Code, is re-  
12 vised to read as follows:

**13 “§ 26104. Authorization of appropriations**

14 “(a) There are authorized to be appropriated to the  
15 Secretary \$25,000,000 each year for fiscal years 2004  
16 through 2009 for carrying out section 26101 (including  
17 payment of administrative expenses related thereto).

18 “(b) There are authorized to be appropriated to the  
19 Secretary \$25,000,000 each year for fiscal years 2004  
20 through 2009 for carrying out section 26102 (including  
21 payment of administrative expenses related thereto).”

22 “(c) Funds made available under this section shall  
23 remain available until expended.”

1           **Subtitle B—Miscellaneous**  
2           **Technical Corrections to Title 49**

3   **SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO**  
4                           **INTERSTATE COMMERCE COMMISSION.**

5           (a) Except as otherwise provided, a reference in this  
6 section to an amendment to, or a repeal of, a section or  
7 other provision is deemed to be a reference to a section  
8 or other provision of title 49, United States Code.

9           (b)(1) Section 307 (Safety information and interven-  
10 tion in Interstate Commerce Commission proceedings) is  
11 repealed.

12           (2) The analysis of chapter 3 is amended by striking  
13 the item designated “307”.

14           (c) Subsections (d)(1)(C) and (e) of section 333 (Re-  
15 sponsibility for rail transportation unification and coordi-  
16 nation projects) are amended by striking “Interstate Com-  
17 merce Commission” and “Commission” each place the  
18 words appear and substituting “Surface Transportation  
19 Board” and “Board”, respectively.

20           (d) Section 10903(b)(2) is amended by striking  
21 “24706(c) of this title” and substituting “24706(c) of this  
22 title before May 31, 1998”.

23           (e) Section 13541(a) is amended by striking “finds  
24 that” and all that follows, and substituting—“finds that

1 the exemption is in the public interest and that the appli-  
2 cation of that provision—

3 “(1) is not necessary to carry out the transpor-  
4 tation policy of section 13101; and

5 “(2) is not needed to protect shippers from the  
6 abuse of market power or that the transaction or  
7 service is of limited scope.”.

8 (f)(1) Section 14704 (Rights and remedies of persons  
9 injured by carriers or brokers) is amended as follows:

10 (A) In subsection (a) —

11 (i) strike “IN GENERAL.—” and all that  
12 follows through “injured” and substitute “EN-  
13 FORCEMENT OF ORDER.—A person injured”;  
14 and

15 (ii) redesignate paragraph (2) as sub-  
16 section (b)(2); and

17 (B) In subsection (b), by striking “Liability and  
18 damages” and all that follows through “A carrier”  
19 and substitute “LIABILITY AND DAMAGES.—(1) A  
20 carrier”.

21 (2) Section 14705(c) is amended by striking  
22 “14704(b)” and substituting “14704(b)(2)”.

23 (g)(1) Subsection (c)(3) of section 24307 (Special  
24 transportation) is amended by striking “Interstate Com-

1 merce Commission” and substituting “Surface Transpor-  
2 tation Board”.

3 (2) Section 24308 (Use of facilities and providing  
4 services to Amtrak) is amended by striking “Interstate  
5 Commerce Commission” and “Commission” each place  
6 the words appear and substituting “Surface Transpor-  
7 tation Board” and “Board”, respectively.

8 (3) Section 24311 (Acquiring interests in property by  
9 eminent domain) is amended by striking “Interstate Com-  
10 merce Commission” and “Commission” each place the  
11 words appear and substituting “Surface Transportation  
12 Board” and “Board”, respectively.

13 (4) Section 24902 (Goals and requirements) is  
14 amended by striking “Interstate Commerce Commission”  
15 and “Commission” each place the words appear and sub-  
16 stituting “Surface Transportation Board” and “Board”,  
17 respectively.

18 (5) Section 24904 (General authority) is amended by  
19 striking “Interstate Commerce Commission” and “Com-  
20 mission” each place the words appear and substituting  
21 “Surface Transportation Board” and “Board”, respec-  
22 tively.

1       **Subtitle C—Hazardous Material**  
2                               **Transportation**

3       **SEC. 7301. DEFINITIONS.**

4           Section 5102 of title 49, United States Code, is  
5       amended by revising paragraph (1) to read as follows:

6                       “(1) ‘commerce’ means trade or transportation  
7           in the jurisdiction of the United States

8                               “(A) between a place in a State and a  
9           place outside of the State;

10                              “(B) that affects trade or transportation  
11           between a place in a State and a place outside  
12           of the State; or

13                              “(C) on a United States-registered air-  
14           craft.”

15       **SEC. 7302. REPRESENTATIONS AND TAMPERING WITH HAZ-**  
16                               **ARDOUS MATERIAL PACKAGING.**

17           Section 5103(b)(1) of title 49, United States Code,  
18       is amended by revising subparagraph (A) to read as fol-  
19       lows:

20                              “(A) apply to a person that—

21                                      “(i) transports a hazardous material  
22           in commerce;

23                                      “(ii) causes a hazardous material to  
24           be transported in commerce;

1 “(iii) manufactures, designs, inspects,  
2 tests, reconditions, marks, or repairs a  
3 packaging or packaging component rep-  
4 resented as qualified for use in trans-  
5 porting hazardous material in commerce;

6 “(iv) prepares, accepts, or rejects haz-  
7 ardous material for transportation in com-  
8 merce;

9 “(v) is responsible for the safety of  
10 transporting hazardous material in com-  
11 merce;

12 “(vi) certifies compliance with any re-  
13 quirement issued under this chapter;

14 “(vii) misrepresents whether it is en-  
15 gaged in any of the above activities; or

16 “(viii) performs any other act or func-  
17 tion relating to the transportation in com-  
18 merce of a hazardous material; and”.

19 **SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFE-**  
20 **TY AND SECURITY.**

21 (a) ENHANCED AUTHORITY TO DISCOVER HIDDEN  
22 SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121 of  
23 title 49, United States Code, is amended by revising sub-  
24 section (c) to read as follows:



1       “(c) INSPECTIONS AND INVESTIGATIONS.—(1) A des-  
2   ignated officer or employee of the Secretary may—

3               “(A) inspect and investigate, at a reason-  
4               able time and in a reasonable way, records and  
5               property related to a function described in sec-  
6               tion 5103(b)(1) of this chapter;

7               “(B) except for the packaging immediately  
8               adjacent to its hazardous material contents,  
9               gain access to, open, and examine a package of-  
10              fered for, or in, transportation when the officer  
11              or employee has an objectively reasonable and  
12              articulable belief that the package may contain  
13              a hazardous material;

14              “(C) remove from transportation a pack-  
15              age or related packages in a shipment offered  
16              for or in transportation, and for which such of-  
17              ficer or employee has an objectively reasonable  
18              and articulable belief that the package or pack-  
19              ages may pose an imminent hazard, and for  
20              which the officer or employee contempora-  
21              neously documents that belief in accordance  
22              with procedures established by the Secretary;

23              “(D) gather information from the offeror,  
24              carrier, packaging manufacturer or retester, or  
25              other person responsible for the package or

1 packages, to ascertain the nature and hazards  
2 of the contents of the package or packages;

3 “(E) as necessary, under terms and condi-  
4 tions specified by the Secretary, order the offer-  
5 or, carrier, packaging manufacturer or retester,  
6 or other person responsible for the package or  
7 packages to have the package or packages  
8 transported to, opened and the contents exam-  
9 ined and analyzed at a facility appropriate for  
10 the conduct of this activity; and

11 “(F) when safety might otherwise be com-  
12 promised, authorize properly qualified personnel  
13 to assist in the activities conducted under this  
14 subsection.

15 “(2) An officer or employee acting under this  
16 subsection shall display proper credentials when re-  
17 quested.

18 “(3) For instances when, as a result of the in-  
19 spection or investigation, an imminent hazard is not  
20 found to exist, the Secretary shall develop proce-  
21 dures to assist in the safe resumption of transpor-  
22 tation of the package or transport unit.”.

23 (b) EMERGENCY AUTHORITY FOR HAZARDOUS MA-  
24 TERIAL TRANSPORTATION.—Section 5121 is amended by  
25 striking subsection (e), redesignating subsection (d) as

1 subsection (e), and adding a new subsection (d) to read  
2 as follows:

3 “(d) EMERGENCY ORDERS.—

4 “(1) If, upon inspection, investigation, testing,  
5 or research, the Secretary determines that either a  
6 violation of a provision of this chapter or a regula-  
7 tion issued under this chapter, or an unsafe condi-  
8 tion or practice, constitutes or is causing an immi-  
9 nent hazard, the Secretary may issue or impose  
10 emergency restrictions, prohibitions, recalls, or out-  
11 of-service orders, without notice or the opportunity  
12 for a hearing, but only to the extent necessary to  
13 abate the imminent hazard.

14 “(2) The Secretary’s action under paragraph  
15 (1) of this subsection shall be in a written order de-  
16 scribing the violation, condition or practice that is  
17 causing the imminent hazard, and stating the re-  
18 strictions, prohibitions, recalls, or out-of-service or-  
19 ders issued or imposed. The order also shall describe  
20 the standards and procedures for obtaining relief  
21 from the emergency order.

22 “(3) After taking action under paragraph (1) of  
23 this subsection, the Secretary shall provide an oppor-  
24 tunity for review of that action under section 554 of

1 title 5, if a petition for review is filed within 20 cal-  
2 endar days after issuance of the order.

3 “(4) If a petition for review is filed and the re-  
4 view is not completed by the end of the 30-day pe-  
5 riod beginning on the date the petition was filed, the  
6 action will cease to be effective at the end of that  
7 period unless the Secretary determines in writing  
8 that the emergency situation still exists.

9 “(5) For purposes of this subsection, “out-of-  
10 service order” means a mandate that an aircraft,  
11 vessel, motor vehicle, train, railcar, locomotive, other  
12 vehicle, transport unit, transport vehicle, freight con-  
13 tainer, portable tank, or other package not be moved  
14 until specified conditions have been met.”

15 (c) SECURITY-SENSITIVE INFORMATION.—Section  
16 5121 is revised by adding a new subsection (f) to read  
17 as follows:

18 “(f) SECURITY-SENSITIVE INFORMATION.—

19 “(1) If the Secretary determines that particular  
20 information may reveal a vulnerability of a haz-  
21 ardous material to attack during transportation in  
22 commerce, or may facilitate the diversion of haz-  
23 ardous material during transportation in commerce  
24 for use in an attack on people or property, the infor-  
25 mation may be disclosed only—

1           “(A) to an owner, custodian, offeror or  
2 carrier of the hazardous material;

3           “(B) to an officer, employee or agent of a  
4 Federal, State, or local government, including a  
5 volunteer fire department, concerned with car-  
6 rying out transportation safety laws, protecting  
7 hazardous material during the course of trans-  
8 portation in commerce, protecting public safety,  
9 or national security issues, or enforcing federal  
10 laws designed to protect public health or the en-  
11 vironment; or

12           “(C) in an administrative or judicial pro-  
13 ceeding brought under this chapter, under other  
14 federal law designed to protect public health or  
15 the environment, or one that addresses terrorist  
16 actions or threats of such actions.

17           “(2) The Secretary may make a determination  
18 under subsection (1) of this section with respect to  
19 a category of information by regulation.

20           “(3) A release of information pursuant to a de-  
21 termination under subsection (1) of this section is  
22 not a release to the public within the meaning of 5  
23 U.S.C. 552.”.

1 (d) ENHANCEMENTS TO SECURITY RISK ASSESS-  
2 MENT AND EMERGENCY PREPAREDNESS.—Section 5121  
3 is amended by inserting the following after subsection (f):

4 “(g) AUTHORITY FOR GRANTS, COOPERATIVE  
5 AGREEMENTS, AND OTHER TRANSACTIONS.—The Sec-  
6 retary may enter into grants, cooperative agreements, and  
7 other transactions with a person, agency or instrumen-  
8 tality of the United States, a unit of State or local govern-  
9 ment, an Indian tribe, a foreign government (in coordina-  
10 tion with the Department of State), an educational institu-  
11 tion, or other entity to expand the risk assessment and  
12 emergency response capability with respect to hazardous  
13 materials security issues and to carry out this chapter.”.

14 (e) CARGO INSPECTION PROGRAM.—The Secretary of  
15 Transportation may randomly inspect cargo at U.S. Cus-  
16 toms ports of entry in order to determine the extent to  
17 which undeclared hazardous material is being offered for  
18 transportation in commerce. Under this program, an offi-  
19 cer or employee of the Secretary may open and inspect  
20 any cargo shipment at a U.S. Customs port of entry if  
21 that shipment has been randomly selected for inspection  
22 by a Department supervisor who is not on site. The De-  
23 partment of Transportation shall ensure that random in-  
24 spections under this program are coordinated in advance  
25 with the Department of Homeland Security and provide

1 for the effective handling and disposition of any violations  
2 found. The Secretary shall initiate such a program within  
3 one year after the date of enactment of this Act.”

4 **SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPOR-**  
5 **TATION SERVICE AND INFRASTRUCTURE AS-**  
6 **SURANCE RESEARCH.**

7 Section 112 of title 49, United States Code, is  
8 amended by adding the following new subsection to the  
9 end:

10 “(f) ADMINISTRATIVE AUTHORITY.—

11 “(1) GRANTS, COOPERATIVE AGREEMENTS, AND  
12 OTHER TRANSACTIONS.—The Administrator may  
13 enter into grants, cooperative agreements, and other  
14 transactions with Federal or other public agencies  
15 (including State and local governments) and private  
16 organizations and other persons to conduct research  
17 into transportation service and infrastructure assur-  
18 ance and to carry out research activities of the Ad-  
19 ministration.

20 “(2) PROHIBITION ON CERTAIN DISCLO-  
21 SURES.—If the Administrator determines that par-  
22 ticular information developed in research sponsored  
23 by the Administration may reveal a systemic vulner-  
24 ability of transportation service or infrastructure,  
25 the information may be disclosed only to a person

1 responsible for the security of the transportation  
2 service or infrastructure or with protecting public  
3 safety or to an officer, employee, or agent of a Fed-  
4 eral, State or local government unit whose need for  
5 the information in the performance of duties is con-  
6 curred in by the Administrator. A release of infor-  
7 mation subject to a determination under this section  
8 is not a release to the public within the meaning of  
9 5 U.S.C. 552.”.

10 **SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.**

11 (a) Section 3001 of title 39, United States Code, is  
12 amended by adding a new subsection (o) as follows:

13 “(o)(1) Except as permitted by law and Postal Serv-  
14 ice regulation, hazardous material is nonmailable.

15 “(2) For purposes of this section, the term ‘haz-  
16 ardous material’ means a substance or material the Sec-  
17 retary of Transportation designates under section 5103(a)  
18 of title 49.”.

19 (b) Chapter 30 of title 39, United States Code, is  
20 amended by adding a new section 3018 at the end as fol-  
21 lows:

22 **“Sec. 3018. Hazardous material; civil penalty**

23 “(a) REGULATIONS.—The Postal Service shall pre-  
24 scribe regulations for the safe transportation of hazardous  
25 material in the mail.



1       “(b) HAZARDOUS MATERIAL IN THE MAIL.—No per-  
2 son may—

3           “(1) mail or cause to be mailed a hazardous  
4 material that has been declared by statute or Postal  
5 Service regulation to be nonmailable;

6           “(2) mail or cause to be mailed a hazardous  
7 material in violation of any statute or Postal Service  
8 regulation restricting the time, place, or manner in  
9 which a hazardous material may be mailed; or

10          “(3) manufacture, distribute, or sell any con-  
11 tainer, packaging kit, or similar device that—

12           “(A) is represented, marked, certified, or  
13 sold by such person for use in the mailing of a  
14 hazardous material; and

15           “(B) fails to conform with any statute or  
16 Postal Service regulation setting forth stand-  
17 ards for a container, packaging kit, or similar  
18 device used for the mailing of a hazardous ma-  
19 terial.

20       “(c) CIVIL PENALTY.—

21           “(1) A person that knowingly violates this sec-  
22 tion or a regulation issued under this section is lia-  
23 ble to the Postal Service for a civil penalty of at  
24 least \$250 but not more than \$100,000 for each vio-

1 lation, and for any clean-up costs and damages. A  
2 person acts knowingly when—

3 “(A) the person has actual knowledge of  
4 the facts giving rise to the violation; or

5 “(B) a reasonable person acting in the cir-  
6 cumstances and exercising reasonable care  
7 would have that knowledge.

8 “(2) Knowledge by the person of the existence  
9 of a statutory provision, or a regulation or require-  
10 ment prescribed by the Postal Service is not an ele-  
11 ment of an offense under this section.

12 “(3) A separate violation occurs for each day a  
13 hazardous material, mailed or caused to be mailed in  
14 noncompliance with this section or a regulation  
15 issued under this section, is in the mail.

16 “(4) A separate violation occurs for each item  
17 containing a hazardous material that is mailed or  
18 caused to be mailed in noncompliance with this sec-  
19 tion or a regulation issued under this section.

20 “(d) HEARING REQUIREMENT.—The Postal Service  
21 may find that a person has violated this section or a regu-  
22 lation issued under this section only after notice and an  
23 opportunity for a hearing. Under this section, the Postal  
24 Service shall impose a penalty and recover clean-up costs

1 and damages by giving the person written notice of the  
2 amount of the penalty, clean-up costs, and damages.

3 “(e) PENALTY CONSIDERATIONS.—In determining  
4 the amount of a civil penalty under this section, the Postal  
5 Service shall consider—

6 “(1) the nature, circumstances, extent, and  
7 gravity of the violation;

8 “(2) with respect to the person who committed  
9 the violation, the degree of culpability, any history of  
10 prior violations, the ability to pay, and any effect on  
11 the ability to continue in business;

12 “(3) the impact on postal operations; and

13 “(4) other matters that justice requires.

14 “(f) CIVIL ACTIONS TO COLLECT.—

15 “(1) In accordance with section 409(d) of this  
16 title, a civil action may be commenced in an appro-  
17 priate district court of the United States to collect  
18 a civil penalty, clean-up costs, or damages assessed  
19 under this section. In such action, the validity,  
20 amount, and appropriateness of the civil penalty,  
21 clean-up costs, or damages shall not be subject to re-  
22 view.

23 “(2) The Postal Service may compromise the  
24 amount of a civil penalty, clean-up costs, or damages

1       assessed under this section before civil action is  
2       taken to collect the penalty, costs, or damages.

3       “(g) CIVIL JUDICIAL PENALTIES.—At the request of  
4 the Postal Service, the Attorney General may bring a civil  
5 action in an appropriate district court of the United States  
6 to enforce this chapter or a regulation prescribed or order  
7 issued under this chapter. The court may award appro-  
8 priate relief, including a temporary or permanent injunc-  
9 tion, punitive damages, and assessment of civil penalties  
10 considering the same penalty amounts and factors as pre-  
11 scribed for the Postal Service in an administrative case  
12 under this section.

13       “(h) DEPOSITING AMOUNTS COLLECTED.—Amounts  
14 collected under this section shall be paid into the Postal  
15 Service Fund established by section 2003 of this title.”.

16       (c) CONFORMING AMENDMENT.—The chapter anal-  
17 ysis for chapter 30 of title 39, United States Code, is  
18 amended by adding the following:

“3018. Hazardous material; civil penalty.”.

19 **SEC. 7306. REGISTRATION.**

20       (a) IN GENERAL.—Section 5108 of title 49, United  
21 States Code, is amended—

22               (1) by striking “class A or B explosive” in sub-  
23 section (a)(1)(B) and inserting “Division 1.1, 1.2, or  
24 1.3 explosive material”; and

1           (2) by revising subsection (a)(2)(B) to read as  
2 follows:

3           “(B) a person manufacturing, designing,  
4 inspecting, testing, reconditioning, marking, or  
5 repairing a packaging or packaging component  
6 represented as qualified for use in transporting  
7 a hazardous material in commerce.”.

8           (b) CLARIFICATION OF TITLE 18 EXEMPTION.—Sec-  
9 tion 845(a)(1) of title 18, United States Code, is amended  
10 to read as follows:

11           “(1) aspects of the transportation of explosive  
12 materials via railroad, water, highway, or air that  
13 pertain to safety, including security, and are regu-  
14 lated by the Department of Transportation or the  
15 Department of Homeland Security;”.

16 **SEC. 7307. SHIPPING PAPER RETENTION.**

17           Section 5110 of title 49, United States Code, is  
18 amended—

19           (1) in subsection (a), by striking “under sub-  
20 section (b) of this section” and inserting “by regula-  
21 tion”;

22           (2) by striking subsection (b) and redesignating  
23 subsections (c)–(e) as subsections (b)–(d); and

24           (3) by revising the first sentence in subsection  
25 (d), as redesignated, to read as follows: “The person

1 that provided the shipping paper and the carrier re-  
2 quired to keep it under this section shall retain the  
3 paper, or an electronic image of it, for a period of  
4 3 years after the shipping paper was provided to the  
5 carrier, to be accessible through their respective  
6 principal places of business.”.

7 **SEC. 7308. PLANNING AND TRAINING GRANTS.**

8 (a) Section 5116 of title 49, United States Code, is  
9 amended—

10 (1) in the second sentence of subsection (e), by  
11 striking “of the State or tribe under subsections  
12 (a)(2)(A) and (b)(2)(A)” and inserting “received by  
13 the State or tribe under subsections (a)(1) and  
14 (b)(1)”;

15 (2) revising subsection (f) to read as follows:

16 “(f) **MONITORING AND TECHNICAL ASSISTANCE.**—  
17 The Secretary of Transportation shall monitor public-sec-  
18 tor emergency response planning and training for an acci-  
19 dent or incident involving hazardous material. Considering  
20 the results of the monitoring, the Secretary shall provide  
21 technical assistance to a State, political subdivision of a  
22 State, or Indian tribe for carrying out emergency response  
23 training and planning for an accident or incident involving  
24 hazardous material and shall coordinate the assistance  
25 using the existing coordinating mechanisms of the Na-

1 tional Response Team and, for radioactive material, the  
2 Federal Radiological Preparedness Coordinating Com-  
3 mittee.”;

4 (3) in subsection (g), by striking “Government  
5 grant” and inserting “Federal financial assistance”;

6 (4) by revising subsection (i) to read as follows:

7 “(i) EMERGENCY PREPAREDNESS FUND.—The Sec-  
8 retary of the Treasury shall establish an Emergency Pre-  
9 paredness Fund account in the Treasury into which the  
10 Secretary of the Treasury shall deposit amounts the Sec-  
11 retary of Transportation transfers to the Secretary of the  
12 Treasury under section 5108(g)(2)(C) of this title. With-  
13 out further appropriation, amounts in the account are  
14 available—

15 “(1) to make grants under this section;

16 “(2) to monitor and provide technical assistance  
17 under subsection (f) of this section;

18 “(3) to publish and distribute the Emergency  
19 Response Guidebook;

20 “(4) to pay administrative costs of carrying out  
21 this section and sections 5108(g)(2) and 5115 of  
22 this title, except that not more than 10 percent of  
23 the amounts made available from the account in a  
24 fiscal year to carry out these sections may be used  
25 to pay those costs.”; and

1 “(5) by striking subsection (k).”.

2 (b) Chapter 51 is amended by—

3 (1) revising the section heading for section  
4 5116 to read “Planning and training grants; emer-  
5 gency preparedness fund”; and

6 (2) striking the item for section 5116 in the  
7 analysis of the chapter and inserting “5116. Plan-  
8 ning and training grants; emergency preparedness  
9 fund.”.

10 **SEC. 7309. ENFORCEMENT.**

11 Section 5122 of title 49, United States Code, is  
12 amended—

13 (1) in subsection (a), by revising the last sen-  
14 tence to read as follows: “The court may award ap-  
15 propriate relief, including a temporary or permanent  
16 injunction, punitive damages, and assessment of civil  
17 penalties considering the same penalty amounts and  
18 factors as prescribed for the Secretary in an admin-  
19 istrative case under section 5123 of this chapter.”;  
20 and

21 (2) in subparagraph (b)(1)(B), by striking “or  
22 ameliorate the” and inserting “or mitigate the”.

23 **SEC. 7310. PENALTIES.**

24 (a) Section 5123 of title 49, United States Code, is  
25 amended—



1 (1) by revising subsection (a) to read as follows:

2 “(a) PENALTY.—

3 “(1) A person that knowingly violates this chap-  
4 ter, or a regulation, order, special permit, or ap-  
5 proval issued under this chapter, is liable to the  
6 United States Government for a civil penalty of at  
7 least \$250 but not more than \$100,000 for each vio-  
8 lation.

9 “(2) Knowledge by the person of the existence  
10 of a statutory provision, or a regulation or require-  
11 ment prescribed by the Secretary is not an element  
12 of an offense under this section.

13 “(3) A separate violation occurs for each day  
14 the violation, committed by a person that transports  
15 or causes to be transported hazardous material, con-  
16 tinues”; and

17 (2) by redesignating subsections (b)–(g) as sub-  
18 sections (c)–(h) and inserting a new subsection (b)  
19 to read as follows:

20 “(b) KNOWING VIOLATIONS.—In this section, a per-  
21 son acts knowingly when—

22 “(1) the person has actual knowledge of the  
23 facts giving rise to the violation; or

1           “(2) a reasonable person acting in the cir-  
2           cumstances and exercising reasonable care would  
3           have that knowledge.”;

4           (3) in subsection (c), as redesignated, by strik-  
5           ing the first sentence and inserting the following:  
6           “The Secretary of Transportation may find that a  
7           person has violated this chapter, or a regulation,  
8           order, special permit or approval issued under this  
9           chapter, only after notice and an opportunity for a  
10          hearing.”;

11          (4) by revising subsection (e), as redesignated,  
12          to read as follows:

13          “(e) CIVIL ACTIONS TO COLLECT.—The Attorney  
14          General may bring a civil action in an appropriate district  
15          court of the United States to collect a civil penalty under  
16          this section and any accrued interest on that penalty cal-  
17          culated in the manner described under section 2705 of  
18          title 33. In such action, the validity, amount, and appro-  
19          priateness of the civil penalty shall not be subject to re-  
20          view.”.

21          (b) Section 5124 is revised to read as follows:

22          “**§ 5124. Criminal penalty**

23          “(a) GENERAL.—A person knowingly violating sec-  
24          tion 5104(b) of this title or willfully or recklessly violating  
25          this chapter or a regulation, order, special permit, or ap-

1 proval issued under this chapter, shall be fined under title  
2 18, imprisoned for not more than 5 years, or both.

3 “(b) AGGRAVATED VIOLATIONS.—A person know-  
4 ingly violating section 5104(b) of this chapter, or willfully  
5 or recklessly violating this chapter or a regulation, order,  
6 special permit, or approval issued under this chapter, and  
7 thereby causing the release of a hazardous material, shall  
8 be fined under title 18, imprisoned for not more than 20  
9 years, or both.

10 “(c) KNOWING VIOLATIONS.—In this section, a per-  
11 son acts knowingly when—

12 “(1) the person has actual knowledge of the  
13 facts giving rise to the violation; or

14 “(2) a reasonable person acting in the cir-  
15 cumstances and exercising reasonable care would  
16 have that knowledge.

17 “(d) WILLFUL VIOLATIONS.—In this section, a per-  
18 son acts willfully when—

19 “(1) the person has knowledge of the facts giv-  
20 ing rise to the violation; and

21 “(2) the person has knowledge that the conduct  
22 was unlawful.

23 “(e) RECKLESS VIOLATIONS.—In this section, a per-  
24 son acts recklessly when the person displays a deliberate

1 indifference or conscious disregard for the consequences  
2 of that person's conduct.

3       “(f) KNOWLEDGE OF REQUIREMENTS.—Knowledge  
4 by a person of the existence of a statutory provision, or  
5 a regulation or requirement prescribed by the Secretary,  
6 is not an element of an offense under this section.

7       “(g) SEPARATE VIOLATIONS.—A separate violation  
8 occurs for each day the violation, committed by a person  
9 who transports hazardous material or who causes haz-  
10 ardous material to be transported, continues.”.

11       (c) Section 46312 is amended—

12           (1) in subparagraph (a), by striking “under this  
13 part” and inserting “under this part or under chap-  
14 ter 51 of this title”; and

15           (2) in subparagraph (b), by striking “by the  
16 Secretary” and inserting “by the Secretary under  
17 this part or under chapter 51 of this title”.

18       (d) Section 3663, title 18 United States Code, is  
19 amended in subparagraph (a)(1)(A) by striking “or sec-  
20 tion 46312, 46502, or 46504 of title 49” and inserting  
21 “or section 5124, 46312, 46502, or 46504 of title 49.”.

22 **SEC. 7311 EMERGENCY WAIVER OF PREEMPTION.**

23       “Section 5125 of title 49, United States Code, is  
24 amended by adding new subsections (h), (i), and (j) to  
25 read as follows:

1 “(h) EMERGENCY WAIVER OF PREEMPTION.—

2 “(1) The Secretary, upon a finding of good  
3 cause, may waive preemption on an expedited basis  
4 without notice and public procedure. Good cause ex-  
5 ists when there is a possible threat that hazardous  
6 material being transported in commerce may be used  
7 in an attack on people or property, and notice and  
8 public procedure are impracticable or contrary to the  
9 public interest.

10 “(2) An emergency waiver of preemption shall  
11 remain in effect for no more than 6 months unless,  
12 prior to its expiration, the Secretary determines that  
13 a possible threat that hazardous material being  
14 transported in commerce may be used in an attack  
15 on people or property continues to exist.

16 “(3) An action of the Secretary under para-  
17 graphs (1) and (2) of this subsection shall be in  
18 writing and shall describe the standards and proce-  
19 dures for seeking reconsideration of the Secretary’s  
20 action.

21 “(4) After taking action under paragraphs (1)  
22 or (2) of this subsection, the Secretary shall provide  
23 an opportunity for review of that action if a petition  
24 for reconsideration is filed within 20 calendar days

1 after the Secretary issues or extends an emergency  
2 waiver.

3 “(5) If a petition for reconsideration is filed  
4 and the review is not completed by the end of the  
5 30-day period beginning on the date the petition was  
6 filed, the emergency waiver will cease to be effective  
7 at the end of that period unless the Secretary deter-  
8 mines, in writing, that a possible threat that haz-  
9 ardous material being transported in commerce may  
10 be used in an attack on people or property continues  
11 to exist.

12 “(i) INDEPENDENT APPLICATION OF EACH STAND-  
13 ARD.—Each preemption standard in subsections (b),  
14 (c)(1), (d), and (e) of this section and in section 5119(b)  
15 of this chapter is independent in its application to a re-  
16 quirement of any State, political subdivision of a State,  
17 or Indian tribe.

18 “(j) NONFEDERAL ENFORCEMENT STANDARDS.—  
19 This section does not apply to procedure, penalty, or re-  
20 quired mental state or other standard used by a State,  
21 political subdivision of a State, or Indian tribe to enforce  
22 a requirement applicable to transportation of a hazardous  
23 material.”.

1 **SEC. 7312. JUDICIAL REVIEW.**

2 Chapter 51 of title 49, United States Code, is amend-  
3 ed by redesignating section 5127 as section 5128, and by  
4 inserting after section 5126 the following new section:

5 **“§ 5127. Judicial review**

6 “(a) **FILING AND VENUE.**—Except as provided in  
7 section 20114(c) of this title, a person suffering legal  
8 wrong or adversely affected or aggrieved by a final action  
9 of the Secretary of Transportation under this chapter may  
10 petition for review of the final action in the United States  
11 Court of Appeals for the District of Columbia or in the  
12 court of appeals for the United States for the circuit in  
13 which the person resides or has its principal place of busi-  
14 ness. The petition must be filed not more than 60 days  
15 after the Secretary’s action becomes final.

16 “(b) **JUDICIAL PROCEDURES.**—When a petition is  
17 filed under subsection (a) of this section, the clerk of the  
18 court immediately shall send a copy of the petition to the  
19 Secretary. The Secretary shall file with the court a record  
20 of any proceeding in which the final action was issued,  
21 as provided in section 2112 of title 28.

22 “(c) **AUTHORITY OF COURT.**—The court has exclu-  
23 sive jurisdiction, as provided in the Administrative Proce-  
24 dure Act, 5 U.S.C. 551 et seq., to affirm or set aside any  
25 part of the Secretary’s final action and may order the Sec-  
26 retary to conduct further proceedings. Findings of fact by

1 the Secretary, if supported by substantial evidence, are  
2 conclusive.

3 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-  
4 viewing a final action under this section, the court may  
5 consider an objection to a final action of the Secretary  
6 only if the objection was made in the course of a pro-  
7 ceeding or review conducted by the Secretary or if there  
8 was a reasonable ground for not making the objection in  
9 the proceeding.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-  
11 ysis for chapter 51 is amended by striking the item related  
12 to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

13 **Subtitle D—Sanitary Food**  
14 **Transportation**

15 **SEC. 7401. SHORT TITLE.**

16 This Subtitle may be cited as the “Sanitary Food  
17 Transportation Act of 2003”.

18 **SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF**  
19 **HEALTH AND HUMAN SERVICES.**

20 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-  
21 TION.—Section 402 of the Federal Food, Drug, and Cos-  
22 metic Act (21 U.S.C. 342) is amended by adding at the  
23 end the following new subsection:



1       “(i) If it is transported under conditions that are not  
2 in compliance with the sanitary transportation practices  
3 prescribed by the Secretary under section 416.”.

4       (b) **SANITARY TRANSPORTATION REQUIREMENTS.**—  
5 Chapter IV of the Federal Food, Drug, and Cosmetic Act  
6 (21 U.S.C. 341 et seq.) is amended by adding at the end  
7 the following new section:

8       **“§ 416. Sanitary transportation of food**

9       “(a) **SANITARY TRANSPORTATION PRACTICES.**—The  
10 Secretary shall establish by regulation sanitary transpor-  
11 tation practices which shippers, carriers, receivers, and  
12 other persons engaged in the transportation of food shall  
13 be required to follow to ensure that the food is not trans-  
14 ported under conditions that may render it adulterated,  
15 including such practices as the Secretary may find appro-  
16 priate relating to—

17               “(1) sanitation;

18               “(2) packaging, isolation, and other protective  
19 measures;

20               “(3) limitations on the use of vehicles;

21               “(4) information to be disclosed—

22                       “(A) to a carrier by a person arranging for  
23 the transport of food, and

24                       “(B) to a manufacturer or other persons  
25 arranging for the transport of food by a carrier

1 or other person furnishing a tank or bulk vehi-  
2 cle for the transport of food; and

3 “(5) recordkeeping.

4 “(b) LIST OF UNACCEPTABLE NONFOOD PROD-  
5 UCTS.—The Secretary, by publication in the Federal Reg-  
6 ister, may establish and periodically amend—

7 “(1) a list of nonfood products that the Sec-  
8 retary determines may, if shipped in a tank or bulk  
9 vehicle, render adulterated food transported subse-  
10 quently in such vehicle; and

11 “(2) a list of nonfood products that the Sec-  
12 retary determines may, if shipped in a motor or rail  
13 vehicle (other than a tank or bulk vehicle), render  
14 adulterated food transported simultaneously or sub-  
15 sequently in such vehicle.

16 “(c) WAIVER AUTHORITY.—

17 “(1) IN GENERAL.—The Secretary may waive  
18 all or part of this section, or any requirement under  
19 this section, with respect to any class of persons, of  
20 vehicles, of food, or of nonfood products, if the Sec-  
21 retary determines that such waiver—

22 “(A) will not result in the transportation  
23 of food under conditions that would be unsafe  
24 for human or animal health; and

1           “(B) will not be contrary to the public in-  
2           terest or this Act.

3           “(2) PUBLICATION.—The Secretary shall pub-  
4           lish in the Federal Register any waiver and the rea-  
5           sons for the waiver.

6           “(d) PREEMPTION.—

7           “(1) IN GENERAL.—No State or political sub-  
8           division of a State may directly or indirectly estab-  
9           lish or continue in effect, as to any food in interstate  
10          commerce, any authority or requirement concerning  
11          that transportation of food that is not identical to  
12          the requirement of this section.

13          “(2) EFFECTIVE DATE.—The provisions of this  
14          subsection apply only with respect to transportation  
15          occurring on or after the effective date of regulations  
16          prescribed under subsection (a).

17          “(e) ASSISTANCE OF OTHER AGENCIES.—The Sec-  
18          retary of Transportation, the Secretary of Agriculture, the  
19          Administrator of the Environmental Protection Agency,  
20          and the heads of other Federal agencies, as appropriate,  
21          shall provide assistance upon request, to the extent re-  
22          sources are available, to the Secretary of Health and  
23          Human Services for the purposes of carrying out this sec-  
24          tion.

25          “(f) DEFINITIONS.—For purposes of the section:

1           “(1) The term ‘transportation’ means any  
2 movement of property in commerce by motor vehicle  
3 or rail vehicle.

4           “(2) The term ‘tank or bulk vehicle’ includes  
5 any vehicle in which food is shipped in bulk and in  
6 which the food comes directly into contact with the  
7 vehicle, including tank trucks, hopper trucks, rail  
8 tank cars, hopper cars, cargo tanks, portable tanks,  
9 freight containers, or hopper bins.”.

10 (c) INSPECTION OF TRANSPORTATION RECORDS.—

11           (1) REQUIREMENT.—Chapter VII of the Fed-  
12 eral Food, Drug, and Cosmetic Act (21 U.S.C. 371  
13 et seq.) is amended by inserting after section 703  
14 the following new section:

15 **“§ 703A. Food transportation records**

16           “Shippers, carriers by motor vehicle or rail vehicle,  
17 and other persons subject to section 416 shall, upon re-  
18 quest of an officer or employee duly designated by the Sec-  
19 retary, permit such officer or employee, at reasonable  
20 times, to have access to and to copy all records that the  
21 Secretary requires them to make or retain under section  
22 416(a)(5) of this Act.”.

23           (2) CONFORMING AMENDMENT.—Section 703  
24 of the Act (21 U.S.C. 373) is amended by striking  
25 “in the usual course of business as carriers.” and in-

1       serting “in the usual course of business as carriers,  
2       unless otherwise explicitly provided.”.

3       (d) PROHIBITED ACTS.—

4           (1) RECORDS INSPECTION.—Section 301(c) of  
5       the Federal Food, Drug, and Cosmetic Act (21  
6       U.S.C. 331(e)) is amended—

7           (A) by striking “or 703” and inserting “,  
8       703, or 703A”; and

9           (B) by inserting “416,” before “504”.

10          (2) UNSAFE FOOD TRANSPORTATION.—Section  
11       301 of the Act (21 U.S.C. 331) is further amended  
12       by adding at the end the following new subsection:

13       “(gg) The failure, by a shipper, carrier, receiver, or  
14       any other person engaged in the transportation of food,  
15       to comply with the sanitary transportation practices pre-  
16       scribed by the Secretary under section 416.”.

17       **SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIRE-**  
18       **MENTS.**

19       Chapter 57 of title 49, relating to sanitary food trans-  
20       portation is revised to read as follows:

21                   **“CHAPTER 57—SANITARY FOOD**  
22                   **TRANSPORTATION**

“Sec.

“5701. Food transportation safety inspections.

23       **“§ 5701. Food transportation safety inspections**

24       “(a) INSPECTION PROCEDURES.—

1           “(1) The Secretary of Transportation, in con-  
2           sultation with the Secretaries of Health and Human  
3           Services and Agriculture, shall establish procedures  
4           to be used in performing transportation safety in-  
5           spections for the purpose of identifying suspected in-  
6           cidents of contamination or adulteration of food that  
7           may violate regulations issued under section 416 of  
8           title 21, United States Code, and of meat and poul-  
9           try products subject to detention under section 402  
10          of the Federal Meat Inspection Act (21 U.S.C. 672)  
11          and section 19 of the Poultry Products Inspection  
12          Act (21 U.S.C. 467a), and shall train personnel of  
13          the Department of Transportation in the appro-  
14          priate use of such procedures.

15           “(2) The procedures established under para-  
16          graph (1) of this subsection shall apply, at a min-  
17          imum, to the Department of Transportation per-  
18          sonnel who perform commercial motor vehicle and  
19          railroad safety inspections.

20          “(b) NOTIFICATION OF SECRETARIES OF HEALTH  
21          AND HUMAN SERVICES AND AGRICULTURE.—The Sec-  
22          retary of Transportation shall promptly notify the Sec-  
23          retary of Health and Human Services or the Secretary of  
24          Agriculture, as applicable, of any instances of potential

1 food contamination or adulteration of a food identified  
2 during transportation safety inspections.

3 “(c) USE OF STATE EMPLOYEES.—The means by  
4 which the Secretary of Transportation carries out sub-  
5 section (b) of this section may include inspections con-  
6 ducted by State employees using funds authorized to be  
7 appropriated under sections 31102 through 31104 of this  
8 title.”.

9 **SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.**

10 Unless otherwise specified, the provisions of this title  
11 are effective October 1, 2003.

12 **Subtitle E—Sport Fishing and**  
13 **Boating Safety**

14 **SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMEND-**  
15 **MENTS.**

16 (a) IN GENERAL.—Section 4 of the Act entitled “An  
17 Act to provide that the United States shall aid the States  
18 in fish restoration and management projects, and for other  
19 purposes” (August 9, 1950)(16 U.S.C. 777c) is amend-  
20 ed—

21 (1) in subsection (b),

22 (A) by striking “2003” each place it ap-  
23 pears and inserting “2009”; and

1 (B) by striking “Secretary of Transpor-  
 2 tation” each place it appears and inserting  
 3 “Secretary of Homeland Security”; and  
 4 (2) in subsection (e)(5), by striking “fiscal year  
 5 2003” and inserting “fiscal years 2003 through  
 6 2009”.

7 (b) CLEAN MARINA INITIATIVES.—To further en-  
 8 hance the natural environment, Federal agencies admin-  
 9 istering programs funded under the Aquatic Resources  
 10 Trust Fund should promote, to the extent practicable,  
 11 “Clean Marina Initiatives” in each of the following pro-  
 12 grams:

- 13 (1) Clean Vessel Act “Pumpout” Program.  
 14 (2) Boating Infrastructure Grant Program.  
 15 (3) National Outreach and Communications  
 16 Program.  
 17 (4) Recreational Boating Access Facilities.

18 **TITLE VIII—TRANSPORTATION**  
 19 **DISCRETIONARY SPENDING**  
 20 **GUARANTEE AND BUDGET**  
 21 **OFFSETS**

22 **SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.**

23 (a) DEFINITION OF HIGHWAY CATEGORY AND MASS  
 24 TRANSIT CATEGORY.—



1           (1) Section 250(c)(4)(B) of the Balanced Budget  
2           and Emergency Deficit Control Act of 1985 is  
3           amended by—

4                   (A) striking “Transportation Equity Act  
5                   for the 21st Century” and inserting “Safe, Ac-  
6                   countable, Flexible, and Efficient Transpor-  
7                   tation Equity Act of 2003”; and

8                   (B) adding after item (iv) the following  
9                   new clauses:

10                           “(v) 69–8158–0–7–401 (Motor Car-  
11                           rier Safety Grants).

12                           “(vi) 69–8159–0–7–401 (Motor Car-  
13                           rier Safety Operations and Programs).”.

14           (2) Section 250(c)(4)(C) of the Balanced Budget  
15           and Emergency Deficit Control Act of 1985 is  
16           amended to read as follows:

17                   “(C) The term ‘mass transit category’ re-  
18                   fers to the following budget accounts or por-  
19                   tions thereof that are subject to the obligation  
20                   limitations on contract authority provided in the  
21                   Safe, Accountable, Flexible, and Efficient  
22                   Transportation Equity Act of 2003 or for which  
23                   appropriations are provided pursuant to author-  
24                   izations contained in that Act:

1                   “(i) 69-1120-0-1-401 (Administra-  
2                   tive Expenses).

3                   “(ii) 69-1134-0-1-401 (Capital In-  
4                   vestment Grants).

5                   “(iii) 69-8191-0-7-401 (Discre-  
6                   tionary Grants).

7                   “(iv) 69-1129-0-1-401 (Formula  
8                   Grants).

9                   “(v) 69-8303-0-7-401 (Formula  
10                  Grants and Research).

11                  “(vi) 69-1127-0-1-401 (Interstate  
12                  Transfer Grants—Transit).

13                  “(vii) 69-1125-0-1-401 (Job Access  
14                  and Reverse Commute).

15                  “(viii) 69-1122-0-1-401 (Miscella-  
16                  neous Expired Accounts).

17                  “(ix) 69-1139-0-1-401 (Major Cap-  
18                  ital Investment Grants).

19                  “(x) 69-1121-0-1-401 (Research,  
20                  Training and Human Resources).

21                  “(xi) 69-8350-0-7-401 (Trust Fund  
22                  Share of Expenses).

23                  “(xii) 69-1137-0-1-401 (Transit  
24                  Planning and Research).

1                   “(xiii) 69–1136–0–1–401 (University  
2                   Transportation Research).

3                   “(xiv) 69–1128–0–1–401 (Washington  
4                   Metropolitan Area Transit Authority).”.

5           (b) CONTINUATION OF SEPARATE CATEGORIES.—  
6 Section 251(c) of the Balanced Budget and Emergency  
7 Deficit Control Act of 1985 is amended by adding at the  
8 end the following new paragraphs:

9                   “(8) with respect to fiscal year 2004—

10                   “(A) for the highway category:  
11                   \$29,990,000,000 in outlays; and

12                   “(B) for the mass transit category:  
13                   \$6,909,000,000 in outlays.

14                   “(9) with respect to fiscal year 2005—

15                   “(A) for the highway category:  
16                   \$30,589,000,000 in outlays; and

17                   “(B) for the mass transit category:  
18                   \$6,462,000,000 in outlays.

19                   “(10) with respect to fiscal year 2006—

20                   “(A) for the highway category:  
21                   \$31,249,000,000 in outlays; and

22                   “(B) for the mass transit category:  
23                   \$6,070,000,000 in outlays.

24                   “(11) with respect to fiscal year 2007—

1           “(A) for the highway category:  
2           \$32,402,000,000 in outlays; and

3           “(B) for the mass transit category:  
4           \$5,843,000,000 in outlays.

5           “(12) with respect to fiscal year 2008—

6           “(A) for the highway category:  
7           \$33,358,000,000 in outlays; and

8           “(B) for the mass transit category:  
9           \$6,374,000,000 in outlays.

10          “(13) with respect to fiscal year 2009—

11          “(A) for the highway category:  
12          \$34,109,000,000 in outlays; and

13          “(B) for the mass transit category:  
14          \$6,470,000,000 in outlays.”.

15          (c) HIGHWAY FUNDING REVENUE ALIGNMENT.—

16 Section 251(b)(1)(B) of the Balanced Budget and Emer-  
17 gency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B))  
18 is amended—

19           (1) in clause (i),

20           (A) by inserting “for fiscal year 2006,  
21           2007, 2008, or 2009” after “submits the budg-  
22           et”;

23           (B) by inserting “the obligation limitation  
24           and outlay limit for” after “adjustments to”;

1 (C) by striking “provided in clause  
2 (ii)(I)(cc).” and substituting “follows:”; and

3 (D) by inserting the following at the end:

4 “(I) OMB shall calculate the  
5 change in the obligation limitation for  
6 the highway category for the budget  
7 year by taking the actual level of  
8 highway receipts for the year before  
9 the current year and subtracting the  
10 sum of the estimated level of highway  
11 receipts in clause (iii) plus any  
12 amount previously calculated under  
13 clause (ii) for that year.

14 “(II) OMB shall take the amount  
15 calculated under subclause (I) and  
16 add that amount to the obligation lim-  
17 itation set forth in section 8102(a) of  
18 the Safe, Accountable, Flexible, and  
19 Efficient Transportation Equity Act  
20 of 2003 for the highway category for  
21 the budget year, and calculate the  
22 outlay change resulting from that  
23 change in obligations relative to that  
24 amount for the budget year and each  
25 outyear using current estimates. After

1 making the calculation under the pre-  
2 ceding sentence, OMB shall adjust the  
3 obligation limitation set forth in that  
4 section for the budget year by adding  
5 the amount calculated under sub-  
6 clause (I).”;

7 (2) by striking clause (ii) and substituting the  
8 following:

9 “(ii) When the President submits the  
10 supplementary budget estimates for fiscal  
11 year 2006, 2007, 2008, or 2009, under  
12 section 1106 of title 31, United States  
13 Code, OMB’s Mid-Session Review shall in-  
14 clude adjustments to the obligation limita-  
15 tion and outlay limit for the highway cat-  
16 egory for the budget year and each outyear  
17 as follows:

18 “(I) OMB shall take the current  
19 estimate of highway receipts for the  
20 current year and subtract the esti-  
21 mated level of highway receipts in  
22 clause (iii) for that year.

23 “(II) OMB shall take the amount  
24 calculated under subclause (I) and  
25 add that amount to the amount of ob-

1                   ligations set forth in section 8102 of  
2                   the Safe, Accountable, Flexible, and  
3                   Efficient Transportation Equity Act  
4                   of 2003 for the highway category for  
5                   the budget year, and calculate the  
6                   outlay change resulting from that  
7                   change in obligations relative to that  
8                   amount for the budget year and each  
9                   outyear using current estimates. After  
10                  making the calculation under the pre-  
11                  ceding sentence, OMB shall adjust the  
12                  amount of obligations set forth in that  
13                  section for the budget year by adding  
14                  the amount calculated under sub-  
15                  clause (I).”; and

16                  (3) by inserting the following at the end:

17                         “(iii) The estimated level of highway  
18                         receipts for the purposes of this subpara-  
19                         graph are—

20                                 “(I) for fiscal year 2004,  
21                                 \$30,119,000,000;

22                                 “(II) for fiscal year 2005,  
23                                 \$31,109,000,000;

24                                 “(III) for fiscal year 2006,  
25                                 \$32,191,000,000;

1                   “(IV) for fiscal year 2007,  
2                   \$33,146,000,000;

3                   “(V) for fiscal year 2008,  
4                   \$34,018,000,000; and

5                   “(VI) for fiscal year 2009,  
6                   \$34,844,000,000.

7                   “(iv) In this subparagraph, the term  
8                   “highway receipts” means the govern-  
9                   mental receipts credited to the highway ac-  
10                  count of the Highway Trust Fund.”.

11               (d) TRANSIT FUNDING REVENUE ALIGNMENT.—Sec-  
12               tion 251(b)(1)(C) of the Balanced Budget and Emergency  
13               Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C)) is  
14               amended to read as follows:

15                       “(C) ADJUSTMENT TO ALIGN MASS TRAN-  
16                       SIT SPENDING WITH REVENUES.—

17                       “(i) When the President submits the  
18                       budget for fiscal year 2006, 2007, 2008, or  
19                       2009, under section 1105 of title 31,  
20                       United States Code, OMB shall calculate  
21                       and the budget shall include adjustments  
22                       to the obligation limitation and outlay limit  
23                       for the mass transit category for the budg-  
24                       et year and each outyear as follows:



1           “(I) OMB shall calculate the  
2 change in the obligation limitation for  
3 the mass transit category for the  
4 budget year by taking the actual level  
5 of mass transit receipts for the year  
6 before the current year and subtract  
7 the sum of the estimated level of mass  
8 transit receipts in clause (iii) plus any  
9 amount previously calculated under  
10 clause (ii) for that year.

11           “(II) OMB shall take the amount  
12 calculated under subclause (I) and  
13 add that amount to the amount of ob-  
14 ligation limitation set forth in section  
15 8102 of the Safe, Accountable, Flexi-  
16 ble, and Efficient Transportation Eq-  
17 uity Act of 2003 for the mass transit  
18 category for the budget year, and cal-  
19 culate the outlay change resulting  
20 from that change in obligations rel-  
21 ative to that amount for the budget  
22 year and each outyear using current  
23 estimates. After making the calcula-  
24 tion under the preceding sentence,  
25 OMB shall adjust the obligation limi-

1           tation set forth in that section for the  
2           budget year by adding the amount  
3           calculated under subclause (I).

4           “(ii) When the President submits the  
5           supplementary budget estimates for fiscal  
6           year 2006, 2007, 2008, or 2009, under  
7           section 1106 of title 31, United States  
8           Code, OMB’s Mid-Session Review shall in-  
9           clude adjustments to the obligation limita-  
10          tion and outlay limit for the mass transit  
11          category for the budget year and each out-  
12          year as follows:

13                   “(I) OMB shall take the current  
14                   estimate of mass transit receipts for  
15                   the current year and subtract the esti-  
16                   mated level of mass transit receipts in  
17                   clause (iii) for that year.

18                   “(II) OMB shall take the amount  
19                   calculated under subclause (I) and  
20                   add that amount to the obligation lim-  
21                   itation set forth in section 8102 of the  
22                   Safe, Accountable, Flexible, and Effi-  
23                   cient Transportation Equity Act of  
24                   2003 for the mass transit category for  
25                   the budget year, and calculate the

1 outlay change resulting from that  
2 change in obligations relative to that  
3 amount for the budget year and each  
4 outyear using current estimates. After  
5 making the calculation under the pre-  
6 ceding sentence, OMB shall adjust the  
7 obligation limitation set forth in that  
8 section for the budget year by adding  
9 the amount calculated under sub-  
10 clause (I).

11 “(iii) The estimated level of mass  
12 transit receipts for the purposes of this  
13 subparagraph are—

14 “(I) for fiscal year 2004,  
15 \$4,793,000,000;

16 “(II) for fiscal year 2005,  
17 \$4,926,000,000;

18 “(III) for fiscal year 2006,  
19 \$5,050,000,000;

20 “(IV) for fiscal year 2007,  
21 \$5,164,000,000;

22 “(V) for fiscal year 2008,  
23 \$5,270,000,000; and

24 “(VI) for fiscal year 2009,  
25 \$5,377,000,000.

1                   “(iv) In this subparagraph, the term  
2                   “mass transit receipts” means the govern-  
3                   mental receipts credited to the Mass Tran-  
4                   sit Account of the Highway Trust Fund.”.

5           (e) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1)  
6 of the Balanced Budget and Emergency Deficit Control  
7 Act of 1985 (2 U.S.C. 901(b)(1)) is further amended—

8                   (1) by redesignating subparagraphs (D) and  
9                   (E) as subparagraphs (E) and (F), respectively;

10                   (2) in subparagraph (E)(i) as redesignated—

11                           (A) by striking “1999” and substituting  
12                           “2005;

13                           (B) by striking “2000” and substituting  
14                           “2006”;

15                           (C) by striking “2003” and substituting  
16                           “2009; and

17                           (D) by striking “section 8103 of the  
18                   Transportation Equity Act for the 21st Cen-  
19                   tury” and substituting “section 8102 of the  
20                   Safe, Accountable, Flexible, and Efficient  
21                   Transportation Equity Act of 2003”;

22                   (3) in subparagraph (E)(ii) as redesignated—

23                           (A) by striking “2000, 2001, 2002, or  
24                           2003” and substituting “2006, 2007, 2008,  
25                           and 2009; and

1 (B) by striking “by subparagraphs (B) and  
2 (C)” and substituting “made by subparagraphs  
3 (B), (C), and (D)”;

4 (4) in subparagraph (F) as redesignated, by  
5 striking “(B) and (C)” and substituting “(B), (C),  
6 and (D)”;

7 (5) by inserting the following after subpara-  
8 graph (C):

9 “(D) In addition to the adjustments re-  
10 quired by subparagraphs (B) and (C), when the  
11 President submits the budget for fiscal year  
12 2006, 2007, 2008, or 2009, under section 1105  
13 of title 31, United States Code, OMB shall cal-  
14 culate and the budget shall include for the  
15 budget year and each outyear an adjustment to  
16 the limits on outlays for the highway category  
17 and the mass transit category equal to—

18 “(i) the outlays for the applicable cat-  
19 egory calculated assuming obligation levels  
20 consistent with the estimates prepared pur-  
21 suant to subparagraph (E), as adjusted,  
22 using current technical assumptions; minus

23 “(ii) the outlays for the applicable cat-  
24 egory set forth in the subparagraph (E) es-  
25 timates, as adjusted.”.

1 (f) ENFORCEMENT OF GUARANTEE.—Rule XXI of  
2 the Rules of the House of Representatives is amended by  
3 striking “section 8103 of the Transportation Equity Act  
4 for the 21st Century” in clause 3 and substituting “sec-  
5 tion 8102 of the Safe, Accountable, Flexible, and Efficient  
6 Transportation Equity Act of 2003”.

7 **SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.**

8 (a) HIGHWAY CATEGORY.—For the purposes of sec-  
9 tion 251(b) of the Balanced Budget and Emergency Def-  
10 icit Control Act of 1985, the level of obligation limitations  
11 for the highway category is—

- 12 (1) for fiscal year 2004, \$30,280,000,000;  
13 (2) for fiscal year 2005, \$31,270,000,000;  
14 (3) for fiscal year 2006, \$32,352,000,000;  
15 (4) for fiscal year 2007, \$33,307,000,000;  
16 (5) for fiscal year 2008, \$34,179,000,000; and  
17 (6) for fiscal year 2009, \$35,005,000,000.

18 (b) MASS TRANSIT CATEGORY.—

19 (1) For the purposes of section 251(b) of the  
20 Balanced Budget and Emergency Deficit Control  
21 Act of 1985, the level of obligation limitations for  
22 the mass transit category is—

- 23 (A) for fiscal year 2004, \$5,936,000,000;  
24 (B) for fiscal year 2005, \$6,054,720,000;  
25 (C) for fiscal year 2006, \$6,180,659,000;

1 (D) for fiscal year 2007, \$6,319,723,000;

2 (E) for fiscal year 2008, \$6,475,820,000;

3 and

4 (F) for fiscal year 2009, \$6,633,183,000.

5 (2) For purposes of this subsection, the term  
6 “obligation limitations” means the sum of budget  
7 authority and obligation limitations.

8 **SEC. 8103. EFFECTIVENESS OF TITLE.**

9 This title, and the amendments made by this title,  
10 become effective on the day that section 251 of the Bal-  
11 anced Budget and Emergency Deficit Control Act of 1985  
12 comes into effect after the enactment of this Act.

13 **TITLE IX—AMENDMENTS OF IN-**  
14 **TERNAL REVENUE CODE OF**  
15 **1986**

16 **SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.**

17 (a) **SHORT TITLE.**—This title may be cited as the  
18 “Surface Transportation Revenue Act of 2004”.

19 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
20 wise expressly provided, whenever in this title an amend-  
21 ment or repeal is expressed in terms of an amendment  
22 to, or repeal of, a section or other provision, the reference  
23 shall be considered to be made to a section or other provi-  
24 sion of the Internal Revenue Code of 1986.

1 **SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND**  
2 **TRUSTFUND.**

3 (a) **EXTENSION OF TAXES.—**

4 (1) **IN GENERAL.—**The following provisions are  
5 each amended by striking “2005” each place it ap-  
6 pears and inserting “2011”:

7 (A) Section 4041(a)(1)(C)(iii)(I) (relating  
8 to rate of tax on certain buses).

9 (B) Section 4041(a)(2)(B) (relating to rate  
10 of tax on special motor fuels).

11 (C) Section 4041(m)(1)(A) (relating to  
12 certain alcohol fuels).

13 (D) Section 4051(e) (relating to termi-  
14 nation of tax on heavy trucks and trailers).

15 (E) Section 4071(d) (relating to termi-  
16 nation of tax on tires).

17 (F) Section 4081(d)(1) (relating to termi-  
18 nation of tax on gasoline, diesel fuel, and ker-  
19 osene).

20 (G) Section 4481(e) (relating to period tax  
21 in effect).

22 (H) Section 4482(c)(4) (relating to taxable  
23 period).

24 (I) Section 4482(d) (relating to special  
25 rule for taxable period in which termination  
26 date occurs).



1           (2) FLOOR STOCKS REFUNDS.—Section  
2           6412(a)(1) (relating to floor stocks refunds) is  
3           amended—

4                   (A) by striking “2005” each place it ap-  
5                   pears and inserting “2011”, and

6                   (B) by striking “2006” each place it ap-  
7                   pears and inserting “2012”.

8           (b) EXTENSION OF CERTAIN EXEMPTIONS.—The fol-  
9           lowing provisions are each amended by striking “2005”  
10          and inserting “2011”:

11                   (1) Section 4221(a) (relating to certain tax-free  
12                   sales).

13                   (2) Section 4483(g) (relating to termination of  
14                   exemptions for highway use tax).

15           (c) EXTENSION OF DEPOSITS INTO, AND CERTAIN  
16           TRANSFERS FROM, TRUST FUND.—Subsections (b),  
17           (c)(2), and (c)(3) of section 9503 (relating to the Highway  
18           Trust Fund) are amended—

19                   (1) by striking “2005” each place it appears  
20                   and inserting “2011”, and

21                   (2) by striking “2006” each place it appears  
22                   and inserting “2012”.

23           (d) EXTENSION AND EXPANSION OF EXPENDITURES  
24           FROM TRUST FUND.—

1           (1) HIGHWAY ACCOUNT.—Section 9503 is  
2 amended by striking subsection (e)(1) and inserting  
3 the following:

4           “(1) FEDERAL-AID HIGHWAY AND SAFETY PRO-  
5 GRAMS.—Except as provided in subsection (e),  
6 amounts in the Highway Trust Fund shall be avail-  
7 able, as provided by appropriation Acts, for making  
8 expenditures authorized by law to be paid out of the  
9 Highway Trust Fund before October 1, 2011, to  
10 meet those obligations of the United States here-  
11 tofore or hereafter incurred under the following  
12 Acts, as in effect on the date of enactment of the  
13 last Act listed:

14                   “(A) The Highway Revenue Act of 1956.

15                   “(B) The Surface Transportation Assist-  
16 ance Act of 1982.

17                   “(C) The Surface Transportation and Uni-  
18 form Relocation Assistance Act of 1987.

19                   “(D) The Intermodal Surface Transpor-  
20 tation Efficiency Act of 1991.

21                   “(E) The Transportation Equity Act for  
22 the 21st Century.

23                   “(F) The Motor Carrier Safety Improve-  
24 ment Act of 1999.

1           “(G) The Safe, Accountable, Flexible, and  
2           Efficient Transportation Equity Act of 2003.”.

3           (2)    MASS    TRANSIT    ACCOUNT.—Section  
4           9503(e)(3) is amended to read as follows:

5           “(3)   EXPENDITURES   FROM   ACCOUNT.—  
6           Amounts in the Mass Transit Account shall be avail-  
7           able, as provided by appropriation Acts, for making  
8           capital or capital-related expenditures before October  
9           1, 2011 (including capital expenditures for new  
10          projects) in accordance with the following Acts and  
11          provisions of law, as in effect on the date of enact-  
12          ment of the last Act listed:

13               “(A) Section 5338(a)(1) or (b)(1) of title  
14               49.

15               “(B) The Intermodal Surface Transpor-  
16               tation Efficiency Act of 1991.

17               “(C) The Transportation Equity Act for  
18               the 21st Century.

19               “(D) The Safe, Accountable, Flexible, and  
20               Efficient Transportation Equity Act of 2003.”.

21   **SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL**  
22               **FUELS.**

23           (a) EXTENSION OF TAX BENEFITS.—

1           (1) EXTENSION.—The following provisions are  
2 each amended by striking “2007” each place it ap-  
3 pears and inserting “2014”:

4           (A) Section 4041(b)(2)(C)(ii) and (D) (re-  
5 lating to termination of reduction in tax for  
6 qualified methanol and ethanol fuel).

7           (B) Section 4041(k)(3) (relating to termi-  
8 nation of rates relating to fuels containing alco-  
9 hol).

10          (C) Section 4081(c)(8) (relating to termi-  
11 nation of special rate for taxable fuels mixed  
12 with alcohol).

13          (D) Section 4091(c)(5) (relating to termi-  
14 nation of reduced rate of tax for aviation fuel  
15 in alcohol mixture, etc.).

16          (E) Section 40(h) (relating to termination  
17 of credit for ethanol blenders).

18           (2) EXTENSION OF REFUND AUTHORITY.—  
19 Paragraph (4) of section 6427(f) (relating to refund  
20 for gasoline, diesel fuel, and aviation fuel used to  
21 produce certain alcohol fuels), as amended by the  
22 Taxpayer Relief Act of 1997, is amended by striking  
23 “2007” and inserting “2012”.

24           (3) CREDIT FOR ALCOHOL USED AS A FUEL.—  
25 Paragraph (1) of section 40(e) (relating to termi-

1 nation of credit for alcohol used as a fuel) is amend-  
2 ed—

3 (A) by striking “December 31, 2007” in  
4 subparagraph (A) and inserting “December 31,  
5 2014”, and

6 (B) by striking “January 1, 2008” and in-  
7 serting “January 1, 2015”.

8 (4) TARIFF SCHEDULE.—Headings 9901.00.50  
9 and 9901.00.52 of the Harmonized Tariff Schedule  
10 of the United States (19 U.S.C. 3007) are each  
11 amended in the effective period column by striking  
12 “10/1/2007” each place it appears and inserting  
13 “10/1/2014”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) AMOUNT OF REDUCED CREDIT FOR ETH-  
16 ANOL BLENDERS.—The table in paragraph (2) of  
17 40(h) is amended by striking “2005, 2006, or 2007”  
18 and inserting “2005 through 2014”.

19 (2) APPLICABLE BLENDER RATE FOR EXEMPT-  
20 ED QUALIFIED METHANOL AND ETHANOL FUEL.—  
21 Section 4041(b)(2)(C) is amended by striking  
22 “2001” and inserting “2008”.

1 **SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE TRANS-**  
 2 **PORTATION INFRASTRUCTURE.**

3 (a) EXEMPT FACILITY BONDS.—Section 142 is  
 4 amended—

5 (1) in subsection (a) by—

6 (A) striking “or” at the end of paragraph  
 7 (12);

8 (B) striking the period at the end of para-  
 9 graph (13) and inserting a comma; and

10 (C) adding after paragraph (13) the fol-  
 11 lowing new paragraphs:

12 “(14) highway facilities, or

13 “(15) surface freight transfer facilities.”; and

14 (2) by adding new subsections (l), (m), and (n)  
 15 at the end, as follows:

16 “(l) HIGHWAY FACILITIES.—For purposes of sub-  
 17 section (a)(14), the term ‘highway facilities’ means—

18 “(1) a surface transportation project eligible for  
 19 Federal assistance under title 23, United States  
 20 Code (as in effect on the date of enactment of this  
 21 subsection), or

22 “(2) a project for an international bridge or  
 23 tunnel for which an international entity authorized  
 24 under Federal or State law is responsible.

25 “(m) SURFACE FREIGHT TRANSFER FACILITIES.—  
 26 For purposes of subsection (a)(15), the term “surface

1 freight transfer facilities” means facilities for the transfer  
2 of freight from truck to rail or rail to truck (including  
3 any temporary storage facilities directly related to such  
4 transfers).

5 “(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT  
6 FINANCING FOR HIGHWAY FACILITIES AND SURFACE  
7 FREIGHT TRANSFER FACILITIES.

8 “(1) IN GENERAL.—The aggregate face amount  
9 of bonds issued pursuant to subsections (a)(14) (re-  
10 lating to highway facilities) and (a)(15) (relating to  
11 surface freight transfer facilities) shall not exceed  
12 \$15,000,000,000, determined without regard to any  
13 bond the proceeds of which are used exclusively to  
14 refund a bond issued pursuant to either of such sub-  
15 sections (or a bond which is a part of a series of  
16 refundings of a bond so issued) if the amount of the  
17 refunding bond does not exceed the outstanding  
18 amount of the refunded bond.

19 “(2) ALLOCATION.—The Secretary of Trans-  
20 portation shall allocate the amount described in  
21 paragraph (1) among eligible projects satisfying the  
22 requirements of subsection (a)(14) or (a)(15).”.

23 (b) VOLUME CAP, EXCEPTION FOR CERTAIN  
24 BONDS.—Section 146(g) is amended in paragraph (3),  
25 by—

1           (1) striking “(12), or (13)” and inserting  
2           “(12), (13), (14), or (15)”; and

3           (2) striking “and qualified public educational  
4           facilities” and inserting “qualified public educational  
5           facilities, highway facilities, and surface freight  
6           transfer facilities”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to bonds issued after the date of  
9           the enactment of this Act.

10 **SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO**  
11 **HIGHWAY TRUST FUND.**

12           (a) IN GENERAL.—Section 9503(b)(4) (relating to  
13           certain taxes not transferred to Highway Trust Fund) is  
14           amended—

15           (1) by adding “or” at the end of subparagraph

16           (C);

17           (2) in subparagraph (D)(iii), by striking “,  
18           and” after “2005” and inserting a period; and

19           (3) by striking subparagraphs (E) and (F).

20           (b) EFFECTIVE DATE.—The amendments made by  
21           this section shall apply to taxes imposed after September  
22           30, 2003.



1 **SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO**  
2 **BOAT SAFETY ACCOUNT.**

3 (a) IN GENERAL.—Section 9503(c)(4)(A) is amended  
4 by striking “2005” and inserting “2011”.

5 (b) CONFORMING AMENDMENTS TO LAND AND  
6 WATER CONSERVATION FUND.—Section 201(b) of the  
7 Land and Water Conservation Fund Act of 1965 (16  
8 U.S.C. 4601–11(b)) is amended—

9 (1) by striking “2003” and inserting “2009”,  
10 and

11 (2) by striking “2004” each place it appears  
12 and inserting “2010”.

13 (c) TECHNICAL CORRECTION TO HOMELAND SECU-  
14 RITY ACT.—Section 1511(e)(2) of the Homeland Security  
15 Act of 2002 (Public Law No. 107–296) is amended by  
16 striking “and to any funds provided to the Coast Guard  
17 from the Aquatic Resources Trust Fund of the Highway  
18 Trust Fund for boating safety programs”, and inserting  
19 “and any funds provided to the Coast Guard from the  
20 Highway Trust Fund and transferred into the Boat Safety  
21 Account of the Aquatic Resources Trust Fund for boating  
22 safety programs.”.

23 (d) EXPENDITURES FROM BOAT SAFETY AC-  
24 COUNT.—Section 9504(c) is amended by striking “2003”  
25 and inserting “2009”.

1 **SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES**  
2 **TRANSFERRED TO SPORT FISH RESTORA-**  
3 **TION ACCOUNT.**

4 Section 9503(c)(5)(A) is amended by striking the  
5 year “2005” and inserting “2011”.

6 **SEC. 9008. TECHNICAL CORRECTION.**

7 The last sentence of paragraph (2) of section 9504(b)  
8 is amended by striking “subparagraph (B)”, and inserting  
9 “subparagraph (C)”.

10 **SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL,**  
11 **OR BARGE REQUIRED FOR FUEL TAX EXEMP-**  
12 **TION OF BULK TRANSFERS TO REGISTERED**  
13 **TERMINALS OR REFINERIES; DISPLAY OF**  
14 **REGISTRATION REQUIREMENT.**

15 (a) **IN GENERAL.**—Section 4081(a)(1)(B) (relating  
16 to exemption for bulk transfers to registered terminals or  
17 refineries) is amended by inserting “, bulk carrier,” after  
18 “the taxable fuel”.

19 (b) **CIVIL PENALTY FOR CARRYING TAXABLE FUELS**  
20 **BY NONREGISTERED PIPELINES OR VESSELS.**—

21 (1) **IN GENERAL.**—Part II of subchapter B of  
22 chapter 68 (relating to assessable penalties) is  
23 amended by adding at the end the following new sec-  
24 tion:

1 **“§ 6717. Failure to register under section 4101**

2       “(a) FAILURE TO REGISTER.—Any person who fails  
3 to register with the Secretary as required by regulations  
4 under section 4101 shall pay a penalty of \$1,000 for each  
5 day during the period of such failure in which such person  
6 engages in an activity for which registration is required.

7       “(b) JOINT AND SEVERAL LIABILITY.—

8           “(1) IN GENERAL.—If a penalty is imposed  
9 under this section on any business entity, each offi-  
10 cer, employee, or agent of such entity or other con-  
11 tracting party who willfully participated in any act  
12 giving rise to such penalty shall be jointly and sever-  
13 ally liable with such entity for such penalty.

14           “(2) AFFILIATED GROUPS.—If a business entity  
15 described in paragraph (1) is part of an affiliated  
16 group (as defined in section 1504(a)), the parent  
17 corporation of such entity shall be jointly and sever-  
18 ally liable with such entity for the penalty imposed  
19 under this section.”.

20           “(2) CONFORMING AMENDMENT.—The table of  
21 sections for part II of subchapter B of chapter 68  
22 is amended by adding at the end the following new  
23 item:

“6717. Failure to register under section 4101.”.

24       “(c) DISPLAY OF REGISTRATION.—

1           (1) IN GENERAL.—Section 4101 (relating to  
2 registration and bond) is amended by adding at the  
3 end the following new subsection:

4           “(e) DISPLAY OF REGISTRATION.—Every vessel oper-  
5 ator required by the Secretary to register under this sec-  
6 tion with respect to the tax imposed by section 4081 shall  
7 display proof of such registration in such manner as the  
8 Secretary may prescribe.”.

9           (2) CIVIL PENALTY FOR FAILURE TO DISPLAY  
10 REGISTRATION.—

11           (A) IN GENERAL.—Part II of subchapter  
12 B of chapter 68 (relating to assessable pen-  
13 alties) is amended by adding at the end the fol-  
14 lowing new section:

15 **“§ 6718. Failure to display proof of registration by**  
16 **vessels or barges**

17           “(a) FAILURE TO DISPLAY PROOF OF REGISTRA-  
18 TION.—Every vessel operator who fails to display proof of  
19 registration when required to do so pursuant to section  
20 4101(e) shall pay a penalty of \$500 for each such failure.  
21 With respect to any vessel, only one penalty shall be im-  
22 posed by this section during any calendar month.

23           “(b) MULTIPLE VIOLATIONS.—In determining the  
24 penalty under subsection (a) on any person or operator,  
25 subsection (a) shall be applied by increasing the amount

1 imposed in subsection (a) by the product of such amount  
 2 and the number of prior penalties (if any) imposed by this  
 3 section on such person (or a related person or any prede-  
 4 cessor of such person or related person).”.

5 (B) CONFORMING AMENDMENT.—The  
 6 table of sections for part II of subchapter B of  
 7 chapter 68 is amended by adding at the end the  
 8 following new item:

“6718. Failure to display proof of registration by vessels or barges.”.

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall take effect 90 days after the date of en-  
 11 actment of this Act.

12 **SEC. 9010. RETURNS FILED ELECTRONICALLY.**

13 (a) INFORMATION REPORTING.—Section 4101(d)  
 14 (relating to information reporting) is amended to read as  
 15 follows:

16 “(d) INFORMATION REPORTING.—

17 “(1) The Secretary may require—

18 “(A) information reporting by any person  
 19 registered under this section, and

20 “(B) information reporting by such other  
 21 persons as the Secretary deems necessary to  
 22 carry out this part.

23 “(2) Information reporting required by the Sec-  
 24 retary under paragraph (1) of this subsection shall

1 be by electronic format for any person having at  
2 least 25 reportable transactions in a month.”.

3 (b) USE TAX ON CERTAIN VEHICLES.—Section  
4 4481(b) is amended by adding the following new sentence  
5 at the end: “Any return of tax imposed by this section  
6 reporting at least 25 vehicles shall be filed by electronic  
7 format.”.

8 (c) ELECTRONIC FORMAT.—The Secretary of the  
9 Treasury shall describe the electronic formats for filing  
10 under subsections (a) and (b) not later than 90 days after  
11 the date of the enactment of this Act.

12 (d) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall apply to returns due after the date  
14 the Secretary of the Treasury describes the electronic for-  
15 mat for filing under subsection (a) and the amendment  
16 made by subsection (b) shall apply to returns due after  
17 the date the Secretary of the Treasury describes the elec-  
18 tronic format for filing under subsection (b).

19 **SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.**

20 (a) Section 4083(c)(3) is amended by adding at the  
21 end a new sentence as follows: “For purposes of this sub-  
22 section, the penalty provided by section 7342 shall be  
23 treated as an assessable penalty and assessed in accord-  
24 ance with section 6671.”.

1 (b) EFFECTIVE DATE.— The amendments made by  
2 this section shall take effect 90 days after the date of en-  
3 actment of this Act.

4 **SEC. 9012. REQUIREMENT OF TAX PAYMENT DECAL; ELIMI-**  
5 **NATION OF INSTALLMENT PAYMENTS OF**  
6 **HIGHWAY USE TAX.**

7 (a) DISPLAY OF PROOF OF PAYMENT OF TAX.—Sec-  
8 tion 4481(b) (relating to imposition of tax on use of cer-  
9 tain highway motor vehicles) is amended by adding a sen-  
10 tence at the end as follows: “Every person, agency, or in-  
11 strumentality who has paid the tax imposed by this section  
12 shall display proof of such payment in a manner as the  
13 Secretary may prescribe.”.

14 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY  
15 PROOF OF TAX PAYMENT DECAL.—

16 (1) IN GENERAL.—Part II of subchapter B of  
17 chapter 68 (relating to assessable penalties) is  
18 amended by adding at the end the following new sec-  
19 tion:

20 **“§ 6719. Failure to display proof of tax payment decal**

21 “(a) IMPOSITION OF PENALTY.—Each person, agen-  
22 cy, or instrumentality who fails to display proof of pay-  
23 ment of tax when required to do so pursuant to the last  
24 sentence of section 4481(b) (relating to the display of  
25 proof of payment of tax) shall pay a penalty of \$50. With

1 respect to any vehicle, only one penalty shall be imposed  
2 by this section during any calendar month.

3 “(b) MULTIPLE VIOLATIONS.—In determining the  
4 penalty under subsection (a) on any person, agency, or  
5 instrumentality, subsection (a) shall be applied by increas-  
6 ing the amount imposed in subsection (a) by the product  
7 of such amount and the number of prior penalties (if any)  
8 imposed by this section on such person, agency, or instru-  
9 mentality. ”.

10 (2) CONFORMING AMENDMENT.—The table of  
11 sections for part II of subchapter B of chapter 68  
12 is amended by adding at the end the following new  
13 item:

“6719. Failure to display proof of tax payment decal.”.

14 (c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY  
15 USE TAX IN INSTALLMENTS.—

16 (1) REPEAL.—Section 6156 (relating to the  
17 privilege to pay in installments the tax imposed  
18 under section 4481 of such Code on use of highway  
19 motor vehicles) is repealed.

20 (2) CONFORMING AMENDMENT.—The table of  
21 sections for subchapter A of chapter 62 is amended  
22 by striking the item relating to section 6156.

23 (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable periods beginning after  
25 the date of the enactment of this Act.



1 **SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS**  
2 **OF RECORDS.**

3 (a) **PROVISION OF COPIES OF RECORDS.**—Section  
4 4102 (relating to inspection of records by local officers)  
5 is amended by inserting “, and copies shall be furnished  
6 upon request of,” after “inspection by”.

7 (b) **INSPECTION BY OTHER ENFORCEMENT AGEN-**  
8 **CIES.**—Section 4102 of the Internal Revenue Code of  
9 1986, as amended by subsection (a), is amended by insert-  
10 ing “; such records and information on returns required  
11 to be filed with respect to taxes under section 4481 shall  
12 be open to inspection by officers of any State agency  
13 charged with the registration and licensing of vehicles de-  
14 scribed in such section and officers of any other Federal  
15 or State agency charged with the enforcement of Federal  
16 or State law regarding taxable fuels or criminal activities  
17 regarding taxable fuels” after “section 4083)”.

18 (c) **EFFECTIVE DATE.**—The amendments made by  
19 this section shall take effect on the date of the enactment  
20 of this Act.

○